

CHENEY'S ASSASSINATION SQUADS AND IRAN- CONTRA AND FINDINGS

Sy Hersh's recent discussion at University of Minnesota included a number of tidbits, two of which are pertinent to this post. Hersh explained that the Joint Special Operations Command was doing operations that directly reported to Cheney, up to and including assassination. And Hersh revealed that Cheney had convened a meeting not long after 9/11 where he and other alumni of Iran-Contra brainstormed how to avoid the legal problems they had with Iran-Contra. A recent Congressional Research Service article on covert ops and presidential findings helps to show how these two revelations relate to each other.

The Assassination Squads Were Revealed Because CIA Demanded a Finding

While the assassination revelation got all the press, much of what Hersh said was not new. Hersh had described much of what was going on in a July 2008 article describing operational tensions between JSOC and CIA surrounding a presidential finding authorizing covert ops in connection with Iran's alleged nukes program. The Gang of Eight had reviewed (to the extent they do) the finding, but the JSOC went beyond the scope of that finding.

United States Special Operations Forces have been conducting cross-border operations from southern Iraq, with Presidential authorization, since last year [2007]. These have included seizing members of Al Quds, the commando arm of the Iranian Revolutionary Guard, and taking them to Iraq for interrogation, and the pursuit of "high-value targets" in the President's war on terror, who

may be captured or killed. But the scale and the scope of the operations in Iran, which involve the Central Intelligence Agency and the Joint Special Operations Command (JSOC), have now been significantly expanded, according to the current and former officials. Many of these activities are not specified in the new Finding, and some congressional leaders have had serious questions about their nature.

Under federal law, a Presidential Finding, which is highly classified, must be issued when a covert intelligence operation gets under way and, at a minimum, must be made known to Democratic and Republican leaders in the House and the Senate and to the ranking members of their respective intelligence committees—the so-called Gang of Eight. Money for the operation can then be reprogrammed from previous appropriations, as needed, by the relevant congressional committees, which also can be briefed.

“The Finding was focussed on undermining Iran’s nuclear ambitions and trying to undermine the government through regime change,” a person familiar with its contents said, and involved “working with opposition groups and passing money.” The Finding provided for a whole new range of activities in southern Iran and in the areas, in the east, where Baluchi political opposition is strong, he said. [my emphasis]

There were two ways in which the JSOC operations went beyond the finding: they involved offensive lethal action that Cheney argued was authorized under the AUMF (which is where you get to assassination squads, as I pointed out when the article first came out).

Senior Democrats in Congress told me

that they had concerns about the possibility that their understanding of what the new operations entail differs from the White House's. One issue has to do with a reference in the Finding, the person familiar with it recalled, to potential defensive lethal action by U.S. operatives in Iran. (In early May, the journalist Andrew Cockburn published elements of the Finding in *Counterpunch*, a newsletter and online magazine.)

The language was inserted into the Finding at the urging of the C.I.A., a former senior intelligence official said. The covert operations set forth in the Finding essentially run parallel to those of a secret military task force, now operating in Iran, that is under the control of JSOC. Under the Bush Administration's interpretation of the law, clandestine military activities, unlike covert C.I.A. operations, do not need to be depicted in a Finding, because the President has a constitutional right to command combat forces in the field without congressional interference. But the borders between operations are not always clear: in Iran, C.I.A. agents and regional assets have the language skills and the local knowledge to make contacts for the JSOC operatives, and have been working with them to direct personnel, matériel, and money into Iran from an obscure base in western Afghanistan. As a result, Congress has been given only a partial view of how the money it authorized may be used. One of JSOC's task-force missions, the pursuit of "high-value targets," was not directly addressed in the Finding. There is a growing realization among some legislators that the Bush Administration, in recent years, has conflated what is an intelligence operation and what is a military one in

order to avoid fully informing Congress about what it is doing.

“This is a big deal,” the person familiar with the Finding said. “The C.I.A. needed the Finding to do its traditional stuff, but the Finding does not apply to JSOC. The President signed an Executive Order after September 11th giving the Pentagon license to do things that it had never been able to do before without notifying Congress. The claim was that the military was ‘preparing the battle space,’ and by using that term they were able to circumvent congressional oversight. Everything is justified in terms of fighting the global war on terror.” He added, “The Administration has been fuzzing the lines; there used to be a shade of gray”—between operations that had to be briefed to the senior congressional leadership and those which did not—“but now it’s a shade of mush.” [my emphasis]

The second expansion beyond the finding seems to pertain to the dissident groups we worked with in Iran and elsewhere.

Many of the activities may be being carried out by dissidents in Iran, and not by Americans in the field. One problem with “passing money” (to use the term of the person familiar with the Finding) in a covert setting is that it is hard to control where the money goes and whom it benefits. Nonetheless, the former senior intelligence official said, “We’ve got exposure, because of the transfer of our weapons and our communications gear. The Iranians will be able to make the argument that the opposition was inspired by the Americans. How many times have we tried this without asking the right questions? Is the risk worth it?” One possible consequence of these operations would be

a violent Iranian crackdown on one of the dissident groups, which could give the Bush Administration a reason to intervene.

[snip]

The Administration may have been willing to rely on dissident organizations in Iran even when there was reason to believe that the groups had operated against American interests in the past. The use of Baluchi elements, for example, is problematic, Robert Baer, a former C.I.A. clandestine officer who worked for nearly two decades in South Asia and the Middle East, told me. "The Baluchis are Sunni fundamentalists who hate the regime in Tehran, but you can also describe them as Al Qaeda," Baer told me. "These are guys who cut off the heads of nonbelievers—in this case, it's Shiite Iranians. The irony is that we're once again working with Sunni fundamentalists, just as we did in Afghanistan in the nineteen-eighties." Ramzi Yousef, who was convicted for his role in the 1993 bombing of the World Trade Center, and Khalid Sheikh Mohammed, who is considered one of the leading planners of the September 11th attacks, are Baluchi Sunni fundamentalists.

Now, one thing Hersh said about this article in particular is that the only reason there was a finding was because CIA "refused to do a joint operation without money from Congress." He also described the budget tied to the finding: up to \$400 million.

The JSOC Activities Appear to Violate the Law on Findings

As it happens, the CRS recently did an article discussing the issues with presidential findings. It describes how the requirement for

presidential findings arose in response to Iran-Contra—and was negotiated over the span of the time that Dick Cheney went from being a member of Republican leadership and the ranking member of the Iran-Contra Select Committee through the time he served as Poppy's Secretary of Defense.

In 1988, acting on a recommendation made by the Congressional Iran-Contra Committee, the Senate approved bipartisan legislation that would have required that the President notify the congressional intelligence committees within 48 hours of the implementation of a covert action if prior notice had not been provided. The House did not vote on the measure.

Still concerned by the fall-out from the Iran-Contra affair, Congress in 1990 attempted to tighten its oversight of covert action. The Senate Intelligence Committee approved a new set of statutory reporting requirements, citing the ambiguous, confusing and incomplete congressional mandate governing covert actions under the then-current law. After the bill was modified in conference, Congress approved the changes.

President George H.W. Bush pocket-vetoed the 1990 legislation, citing several concerns, including conference report language indicating congressional intent that the intelligence committees be notified "within a few days" when prior notice of a covert action was not provided, and that prior notice could only be withheld in "exigent circumstances." The legislation also contained language stipulating that a U.S. government request of a foreign government or a private citizen to conduct covert action would constitute a covert action.

In 1991, after asserting in new

conference language its intent as to the meaning of “timely fashion” and eliminating any reference to third-party covert action requests, Congress approved and the President signed into law the new measures. President Bush noted in his signing statement his satisfaction that the revised provision concerning “timely” notice to Congress of covert actions incorporates without substantive change the requirement found in existing law, and that any reference to third-party requests had been eliminated. Those covert action provisions remain in effect today.

Though the committee’s language regarding what “routine military operations” were not included in its definition of covert actions did include restrictions on military clandestine operations with foreign nationals.

The report accompanying the Senate bill states:

The committee considers as “routine support” unilateral U.S. activities to provide or arrange for logistical or other support for U.S. military forces in the event of a military operation that is to be publicly acknowledged. Examples include caching communications equipment or weapons, the lease or purchase from unwitting sources of residential or commercial property to support an aspect of an operation, or obtaining currency or documentation for possible operational uses, if the operation as a whole is to be publicly acknowledged.

The report goes on to state:

The committee would regard as “other-than-routine” support activities undertaken in another country which involve other than unilateral activities. Examples of such activity include clandestine attempts to recruit or train foreign nationals with access to the target country to support U.S. forces in the event of a military operation; clandestine [efforts] to influence foreign nationals of the target country concerned to take certain actions in the event of a U.S. military operation; clandestine efforts to influence and effect [sic] public opinion in the country concerned where U.S. sponsorship of such efforts is concealed; and clandestine efforts to influence foreign officials in third countries to take certain actions without the knowledge or approval of their government in the event of a U.S. military operation. [my emphasis]

Now, I can imagine Cheney saying simply that he didn't expect the Baluchis and MEK to prepare for a military operation—their role was different. But it seems clear that Congress (and Poppy) envisioned CIA engaging in such third party actions, but not the military.

Cheney's Lessons Learned Meeting

Of course, given his intimate role in the history of presidential findings, Cheney would know that. Cheney would know all the details about the requirements on presidential findings (indeed, much of what he wrote in the minority dissent on Iran-Contra objected to that kind of Congressional oversight over covert ops.

Which is why Hersh's description of Cheney's meeting to discussion "lessons learned" from Iran-Contra is so fascinating [this is about 1/4 to 1/3 of the way through the MP3--and the following is my imperfect transcription].

They set about and talking about how to sabotage oversight. And what is the model for sabotaging oversight? The model turned out to be the Bill Casey model. The Congress' hold, in the Constitution, over the executive is about money. Everything that's being spent must be approved by the Congress--even the most secret operation, there are secret committees in Congress that review it. And so the answer was, "let's run operations off the books. Let's find money elsewhere and the hell with Congress." And it was talked about as "this is the way to finally put those creeps in place." The contempt for Congress in the Bush-Cheney White House was extraordinary, just extraordinary. And it came out of Iran-Contra.

[Hersh deferred to Mondale here to explain what Iran-Contra was]

The critical thing about Iran-Contra is that they were specifically barred from using money, and they went around. They were selling arms--the Israelis were involved in this--they were selling arms for a profit, taking the profit and the thought was to invest it.

[snip]

Elliott Abrams was also involved, he became a key player in the Bush-Cheney White House.

So what makes Bush-Cheney so interesting is that at some point, they had a meeting after 9/11 of the people who were in, in the White House, who worked in Iran-Contra--that would be Abrams and Cheney, and there were others involved

who were also in the White House and they had a meeting of lessons learned, I'm telling you literally took place. They had a meeting with a small group of people who worked for Reagan and for George Bush when he was Vice President, his father, George Herbert Walker Bush, anyway.

And at the meeting, here were some of the conclusions: that the Iran-Contra thing, despite the disasters, proved you could do it, you could run operations without Congressional money and get away with it.

The reason they got exposed, and this is what was said in the White House, there were too many people that knew too much—too many people in the military knew in '85 and '86, and too many people in the CIA knew, and Oliver North who you might remember what a great witness he was, was the wrong person to be running that. So what you do is you tell nobody. One of things Cheney wrote in his dissent to the Iran-Contra committee, Cheney said, "my god, Reagan was telling too many people too much, don't tell Congress anything. You don't tell the CIA much, you don't tell the military much, and YOU, Mr. Vice President, you're the Ollie North for this. We're going to run operations off the books and you're going to honcho them." And this is what they did. And this is what is still left to be reported, this kind of stuff, this kind of extraordinarily contemptuous attitude towards the Constitution. [my emphasis]

I've been talking about how Cheney had clearly integrated lessons learned from all his previous scandals and I'm glad that Hersh has now confirmed that.

But consider what this means in regards to the disclosure that the covert ops going on in Iran and the rest of the Middle East. The "lessons learned" meeting concluded that:

- It is desirable to run covert ops off the books by finding funding from non-congressional sources
- To succeed such ops must avoid any revelations to Congress and most revelations to the CIA and Defense
- Such ops should be run out of the VP's office directly

(And I'll remind you that we learned the Saudis were using the bribes they received from BAE to fund covert ops.)

There's a lot more these three pieces, taken in conjunction, suggest. But for the moment, they show how well Cheney gamed the restrictions put into place after Iran-Contra.