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## Ronald Reagan Library

**Collection Name** NORTH, OLIVER: FILES

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**File Folder** NSDD ON VICE PRESIDENT'S TASK FORCE (9 OF 13)

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
13380	PAPER	ISSUE PAPER NO. 3, CREATING A NATIONAL COORDINATOR TO COMBAT TERRORISM <i>R 3/5/2007 F99-008/2</i>	6	ND	B1
13381	PAPER	ISSUE PAPER NO. 6 <i>R 10/1/2008 NLRRF99-008/2</i>	1	ND	B1
13382	PAPER	ISSUE PAPER NO. 9 <i>R 2/2/2012 F1999-008/2</i>	1	ND	B1
13383	PAPER	ISSUE PAPER NO.11 <i>R 10/1/2008 NLRRF99-008/2</i>	1	ND	B1
13384	PAPER	ISSUE PAPER NO. 14 <i>R 2/2/2012 F1999-008/2</i>	1	ND	B1
13385	PAPER	ISSUE PAPER NO. 16	1	ND	B1
13386	PAPER	ISSUE PAPER NO. 17 <i>R 10/1/2008 NLRRF99-008/2</i>	1	ND	B1
13387	PAPER	ISSEU PAPER NO. 19 <i>R 10/1/2008 NLRRF99-008/2</i>	1	ND	B1
13388	PAPER	ISSUE PAPER NO. 20 <i>PAR 7/12/2006 F99-008/2</i>	1	ND	B1 B3

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
13389	PAPER	ISSUE PAPER NO. 21 <b>R 10/1/2008 NLRRF99-008/2</b>	1	ND	B1
13390	PAPER	ISSUE PAPER NO. 22	1	ND	B1
13391	PAPER	ISSUE PAPER NO. 23 <b>R 10/1/2008 NLRRF99-008/2</b>	1	ND	B1 B3
13392	PAPER	ISSUE PAPER NO. 31 <b>R 10/1/2008 NLRRF99-008/2</b>	2	ND	B1

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(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve a violation of chapter 105 of Title 18, or that would involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information,



OFFICE OF THE VICE PRESIDENT

WASHINGTON

SENIOR REVIEW GROUP MEETING

OF

VICE PRESIDENT'S TASK FORCE ON COMBATTING TERRORISM

7 NOVEMBER 1985

3 p.m. - 4:30 p.m.

ROOM 208, OEOB

PARTICIPANTS

CHAIRMAN: Vice President George Bush

EXECUTIVE DIRECTOR: Admiral J. L. Holloway, USN (Ret.)

SENIOR REVIEW GROUP:

STATE: Ambassador Robert Oakley  
Ambassador Parker W. Borg  
J. Robert McBrien

TREASURY: Noel Koch

DEFENSE: Lowell Jensen

JUSTICE: Matthew Z. Scocozza

TRANSPORTATION: Charles Allen

CIA: LTGEN John H. Moellring

JCS: Oliver Revell

FBI: VADM John Poindexter

NSC: Oliver North

WHITE HOUSE: Richard Hauser for Fred Fielding

OMB: Robert Howard for Dr. Alton Keel

WORKING GROUP

Ambassador Edward L. Peck (Deputy Director)

Lou H. Boink

David L. Cole

Craig P. Coy

Patrick F. Daly

Robert L. Earl

Burton Hutchings

David J. McMunn

LIAISON GROUP

FBI: Charles Stapleton

FAA: Billie Vincent

OMB: Arnold Donahue

JUSTICE: David Bouvinger



OFFICE OF THE VICE PRESIDENT  
WASHINGTON

SENIOR REVIEW GROUP MEETING  
OF  
VICE PRESIDENT'S TASK FORCE ON COMBATTING TERRORISM  
NOVEMBER 7, 1985  
3:00 p.m. - 4:30 p.m.  
Room 208, OEOB

AGENDA

Opening Remarks -- Admiral Holloway  
Presentation of Draft Recommendations  
Discussion of Draft Recommendations  
Discussion of Nov 12 Agenda for Task Force Principals Meeting

## LIST OF ISSUES FOR INITIAL DISCUSSION

Issue Paper No. 1	National Program for Combatting Terrorism
Issue Paper No. 2	National Policy for Combatting Terrorism
Issue Paper No. 3	National Organization for Combatting Terrorism
Issue Paper No. 4	Definition of Terrorism
Issue Paper No. 6	Policy for Active Response to Terrorist Threats and Incidents
Issue Paper No. 7	International Agreements for Combatting Terrorism
Issue Paper No. 11	Intelligence Fusion Center for Terrorism
Issue Paper No. 17	Current Policy regarding the Operational Security of JSOC/DELTA
Issue Paper No. 22	Multilateral Counterterrorist (CT) Strike Force
Issue Paper No. 24	Increased Coordination with Law Enforcement Elements Domestically and Overseas
Issue Paper No. 25	Rewards
Issue Paper No. 27	Terrorism as a Crime
Issue Paper No. 29	Freedom of Information Act (FOIA)
Issue Paper No. 30	Terrorism Intelligence Analysts
Issue Paper No. 42	Deployment Policy of JSOC

ISSUE PAPER NO. 2

COGNIZANT ACTIVITY: All Department and Agencies

SUBJECT: National Policy for Combatting Terrorism

ISSUE: There should be a national policy on terrorism clearly expressed to serve as guidance for the program for combatting terrorism, the counterterrorism strategy, and the tactics for dealing with terrorists incidents. There could be both public and classified versions of this policy statement. Currently statements of U.S. Government policy toward terrorism are included in several national security documents. These existing policy statements may be sufficient and suitable for the purpose, but they should be reviewed to ensure that they provide the necessary guidance for both the development of the national program for combatting terrorism and a strategy to implement the national program.

PROPOSAL: A policy statement along the following lines should be expressed by the appropriate national security directive to serve as guidance in all national matters concerning terrorism.

"The U.S. Government is opposed to domestic and international terrorism and is prepared to act in concert with other nations or unilaterally when necessary to prevent and/or respond to terrorist acts." (NSDD 179 and NSDD 180).

"The USG considers the practice of terrorism by any person or group in any cause a threat to our national security and will resist the use of terrorism by all legal means available." (NSD 138)

"Terrorism is a problem shared by all nations. We will work intensively with others to eliminate the threat of terrorism to our way of life. States that practice terrorism or actively support it, will not be allowed to go so without consequence. (NSD 138)  
State-sponsored terrorist activity or directed threats of such action are considered to be hostile acts and the U.S. will hold sponsors accountable. Whenever we have evidence that a state is mounting or intends to conduct an act of terrorism against us, we have a responsibility to take measures to protect our citizens, property, and interests." (NSD 138)

"The U.S. Government will make no concessions to terrorists. It will pay no ransoms, nor permit releases of prisoners or agree to other acts which might encourage additional terrorism. It will make no changes in its policy because of terrorists, threats, or acts. The U.S. is determined to act in a strong manner against terrorists without surrendering basic freedoms or endangering democratic principles. The USG encourages other governments to take similar strong stands against terrorism." (Ambassaur Oakley's speech)

STAFF CONTACT: LTCOL R. L. Earl, 395-4950



ISSUE PAPER NO. 1

COGNIZANT ACTIVITY: All Agencies

SUBJECT: National Program for Combatting Terrorism

ISSUE: The Vice President's Task Force on Combatting Terrorism was directed by NSDD 179 to review and evaluate the effectiveness of current U.S. policy and programs on combatting terrorism. In the process of this review it was found that elements of the overall national capability for combatting terrorism were distributed throughout a number of departments and agencies within the Executive Branch. This in itself is not inappropriate, as each office has assumed responsibilities for combatting terrorism appropriate to the mission or objectives of their department or agency. However, it is not currently possible to go to any one single source to determine where all components of the national effort repose.

In order that national priorities can be set; to eliminate overlap, redundancy, and duplication; to provide the necessary resources for combatting terrorism; and to be certain that no necessary elements of such a program are neglected; all of the component parts of the national program for combatting terrorism should be collected into a single set of documents, where the various components can be identified as to purpose, responsible agency, resources available and assets required. Such a formal statement of a national program for combatting terrorism is required if the total effort is to be properly coordinated and managed at the national level. Today the national program is not properly expressed in such a way that it can be efficiently managed in order to identify shortfalls, eliminate redundancies, generate requirements for resources, and justify legislative and fiscal requests.

PROPOSAL: A programming document should be established that incorporates all of the diverse elements and components of the national program for combatting terrorism. This document should be so constructed as to facilitate the management and coordination of the total interagency program at the national level, identifying shortfalls, eliminating redundancies, generating requirements for resources, and justifying legislative and fiscal requests.

The programming document prepared by the Task Force to establish the baseline of the existing national program for combatting terrorism should serve as the interim programming document. The Task Force should refine and complete the program document so that it can serve as a ready reference document to decisionmakers in counter-terrorism.

The programming document for combatting terrorism will be maintained by the Ambassador-at-Large for Counterterrorism at the Department of State.

SECRET/SENSITIVEISSUE NO THREE

## CREATING A NATIONAL COORDINATOR TO COMBAT TERRORISM

Introduction

The proposal to establish a National Coordinator for Combatting Terrorism within the NSC who will chair the IG/T, serve as Executive Director of the TIWG and be responsible for a number of other specifically stated functions has important implications for the State Department in its conduct of foreign affairs and for the NSC both in terms of its current responsibilities and its relations with other agencies. Although not specifically stated, the proposal shifts to the NSC and the National Coordinator responsibilities for foreign policy aspects of counter-terrorism that are presently assigned to the State Department by NSDD 30 and various U.S. statutes and executive orders. We believe this is inappropriate in light of the Secretary of State's primary responsibility for foreign policy matters and the considerable foreign policy expertise and resources of the State Department. We believe this proposal would result in less effective consideration of the foreign policy dimensions of international terrorism problems, among which is the impact of counterterrorism proposals on important bilateral and other foreign policy interests of the United States. Therefore, as presently formulated, the State Department strongly opposes the proposal.

We believe that the proposal stems in part from ambiguities and confusion in the issues papers concerning the distinction between crisis management, long-term coordination and major policy decisions; as well as between the respective roles of the TIWG and the IG/T. By clarifying these, we may be able to reach a more satisfactory approach to the central problem of organization and cooperation for interagency action to counter terrorism.

Implications for the State Department

The creation of a permanent National Coordinator at the NSC and the consolidation into his hands of decision-making and operational functions relating to U.S. foreign policy aspects of counter-terrorism will take from the State Department responsibilities that are presently assigned to it by NSDD 30 and various U.S. statutes and executive orders (See attachment for a summary of some of these statutes,

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executive orders and NSDDs). The proposal overlooks the Secretary of State's primary responsibility for foreign policy matters and will tend to subordinate foreign policy concerns to counter-terrorism actions. If a "National Coordinator" under NSC auspices is created, there will be an inevitable tendency for terrorism to dominate other foreign policy issues/interests with respect to U.S. relations with other governments, risking serious damage to these interests. Priority is also likely to be given to specific USG actions, often unilateral, against terrorists on the basis of a specific incident, sometime at the expense of increasing long term cooperation with other governments in countering terrorism--which we are convinced is the real key to success in this effort.

The lead role currently played by the State Department with respect to international terrorism is particularly important in light of the character of international terrorist incidents and the resources needed to deal with them. As the TWA 847 and Achille Lauro events demonstrate, effective responses to such incidents require, first and foremost, expertise on the likely reactions of the governments and international organizations involved, and the mobilization of diplomatic resources to obtain cooperative action by those governments and organizations. Only the State Department has the resources essential to such efforts: the specific expertise of M/CTP on international terrorism; the expertise of the regional bureaus and country desks involved; the comparable expertise of the IO bureau where international organizations are involved; the worldwide network of embassies, consulates and missions needed to carry out any course of diplomatic action; the officials and their staffs who often serve as the channel of communication to foreign governments through their embassies in Washington; the intelligence resources and expertise of the INR bureau; the specialized expertise of such functional bureaus as PM and EB when issues within their competence are involved; and the expertise of the Legal Adviser's office to deal with international legal issues and (in conjunction with Justice) domestic legal issues.

#### Implications for the NSC

According to the proposal, the "National Coordinator," working at the level of a senior Deputy for National Security, would serve as Chairman of the IG on Terrorism and as Executive Director of the Terrorist Incident Working

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Group. He would coordinate "the entire national program for combatting terrorism" (Issue Paper 3); maintain a "programming document" to incorporate all elements of the U.S. program (Issue Paper 1); prepare and oversee statements of policy, options and exercises for responses to terrorist threats or incidents (Issue Papers 6, 9 and 10); chair an interagency working group to develop legislative proposals for consulting and reporting to Congress on counter-terrorist operations (Issue Paper 19); and the lead agency responsibility for public affairs management during terrorist incidents would be shifted to him from the State Department (Issue Paper 5). This list omits all of the other coordinating tasks which the Chairman of the IG/T currently undertakes, but which the Task Force did not raise apparently because there were no perceived problem areas. These tasks would have to be added to the responsibilities of the "National Coordinator."

The Chairman of the IG/T is already involved in a wide-range of coordination activities. Among the formal working groups established under the IG/T to coordinate inter-agency concerns in a systematic manner are: the Technical Support Working Group (counter-terrorism R & D issues), the Public Diplomacy, Counter-terrorism Exercises, Counter-terrorism Training programs, the Central American initiative, rewards, and most recently Maritime Security. Other informally organized inter-agency groups have worked out arrangements for such activities as the debriefing of hostages after an incident, the deployment of inter-departmental emergency support teams at the time of an incident, legislative proposals, intelligence coordination, improving security at key airports, etc. While different agencies take the lead on the separate working groups, it is necessary to have staff members participate in the meetings and push from time to time on the more reluctant participants.

Both during a crisis and between crises, there are too many details in too many separate areas which need to be managed for a small staff to handle or coordinate. Based upon the experience of present State coordinating responsibilities, plus those additional ones suggested in the Task Force report, a staff numbering 25-30 members would be necessary for the "National Coordinator" to carry them out effectively. Without lead agency responsibility, the State Department could not be expected to continue its

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present policy coordinating activities or maintain such a sizeable staff in a single office to serve as a de facto staff for the National Coordinator. A 25-30 person operational counter-terrorism staff at the NSC might create internal problems of the NSC, even assuming the idea of operational responsibility were accepted in principle.

There are other potential problems. Public and Congressional reactions are important responsibilities that the "National Coordinator" must consider. The demands of Congress for information about what we are doing to combat terrorism, generally and particularly immediately following a crisis, will require that the "National Coordinator" or an informed designee be available for frequent testimony and questioning. Congress (or certain parts of it) may also object to the transfer of operational responsibility to the NSC.

#### The Ambassador-at-Large and the National Coordinator

The State Department's Office of Counter-terrorism and Emergency Planning (M/CTP) has had the responsibility for both counter-terrorism diplomatic initiatives and fulfilling State's lead agency counter-terrorism responsibilities. Effective November 4, the State Department will be establishing an Ambassador-at-Large for Counter-Terrorism to upgrade and replace M/CTP. There are compelling arguments for keeping the two functions in the same office.

International terrorism from the U.S. perspective is a foreign policy issue, but for other governments such activities pose questions of domestic concern. This means first, that effective action against terrorism will require international cooperation, and second, that the Ministries of Foreign Affairs are not the principal centers of action in other countries. If the U.S. is to pursue successful initiatives overseas, these are not exclusively foreign ministry to foreign ministry questions. Interior and Justice Ministries, law enforcement and intelligence agencies must also be actively involved. The State Department must successfully coordinate the resources of all USG agencies. We must promote enhanced sharing of information through the channels of the CIA, Defense, FBI and Customs as well as State. Improved civil aviation security requires close cooperation with the Department of Transportation and the FAA. One of the strengths that the U.S. has presently in dealing with other governments is the inter-agency approach which permits State to lead inter-agency delegations to discuss problems and possible actions with ministries and agencies of foreign governments,

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such as the Ministries of Justice and Interior, besides the Ministry of Foreign Affairs.

#### The IG/T and the TIWG

In connection with the apparent ambiguity and confusion over crisis management, major policy decisions and long-term management and coordination, there appears to be similar ambiguity as to the role of the IG/T and the TIWG, and the role of the "National Coordinator." Although the IG/T would be continued in form, the substantive and operational arrangements are in fact drastically altered. Rather than a true coordinating role, the Chairman/National Coordinator appears to become in effect the sort of czar for anti-terrorism which has so intrigued people over the past five years. While the proposal assigns several specific responsibilities to the TIWG, it assigns none to the IG/T, possibly because of the focus on crisis management.

The roles of the IG/T, TIWG and Coordinator need to be spelled out clearly so that all concerned agencies understand what is at stake. The IG/T's role is policy coordination on a continuous basis among the many agencies which have separate responsibilities in dealing with terrorism. It has no role at the time of a crisis, although the IG/T members are generally the heads of each agency's crisis management center and are able to establish easy informal liaison. The TIWG, although a permanent structure, meets during each crisis, then adjourns until the next significant terrorist incident. During a crisis, the TIWG and other NSC bodies may meet daily, several times a week or less frequently. Between such meetings the separate agencies manage their separate parts of the crisis based upon the general guidelines NSC. In crises such as the TWA 847 and Achille Lauro hijackings, events moved more rapidly than meetings of the TIWG could be held, obliging each of separate action offices to make frequent decisions without TIWG coordination. What is needed for better incident management is an interagency policy body in the NSC system which is constantly available to consider the continuously changing options for action. At present each agency too often makes decisions based upon its own criteria and occasional discussions with and guidance from the NSC and other agencies. Improved coordination during crises requires a better definition of TIWG responsibilities for the TIWG and other NSC bodies, particularly between meetings on a single crisis. It also requires a small staff for liaison purposes. The TIWG should also be publicly identified as the crisis body.

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The changes proposed in the issue papers to the current system laid out in NSDD 30 are not necessary to ensure an appropriate role for either the NSC or other agencies. NSDD 30 already provides that the Assistant to the President for National Security Affairs may: convene the Special Situation Group to advise the President with respect to serious terrorist incidents; resolve any uncertainty about the designation of the lead agency or agency responsibilities; convene the Terrorist Incident Working Group, which would be chaired by a senior NSC representative; and approve any multiple agency exercises of counter-terrorist capabilities. This ensures that the traditional NSC roles of advising the President, managing crisis situations, and resolving interagency disputes are fully preserved in the terrorism area. However, the NSC should not assume the ongoing responsibility for formulation, implementation and coordination of policies and programs that is inherent in the issue papers. The NSC is not suited or staffed to handle such ongoing responsibilities, and they should be left (as is traditionally the case) in the hands of one or more lead agencies that would act in coordination with other agencies involved. In the case of international terrorism, the Lead Agency needs to be the State Department, as NSDD 30 currently provides:

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#### Issue Paper 4: Definition of Terrorism

Experience has shown that the attempt to arrive at a universal definition of the sort proposed here inevitably creates intellectual, legal, political, and possibly even operational problems without producing any corresponding benefit. In the international context, efforts in the early 1970s to arrive at a common definition of terrorism as a basis for a multilateral convention foundered on deep political differences between states involved. Therefore (contrary to the statement in the issue paper) existing international agreements on terrorism do not require or contain any definitions of "terrorism" as such. Rather, they focus on specific types of terrorist acts, an approach that (despite evident weaknesses in implementation) has been found more workable. In the U.S. context, several individual statutes contain definitions of "terrorism" or "international terrorism". Each such definition, however, is specific to the statute containing it. There is no overall definition of "terrorism" in U.S. law, nor would such a definition necessarily be useful, as what would work well in one context -- for instance, as a basis to authorize electronic surveillance of terrorist suspects -- might be irrelevant in another context, such as provision of benefits to victims of terrorist acts.

The definition proposed in this Issue Paper reflects these difficulties. For example, "the use or threat of violence for political purposes to create a state of fear which will cause individuals, groups, or governments to alter their behavior or policies" could be argued to apply to past or present uses of force or deterrence policies of the U.S. or friendly governments. The proposed definition suffers from several other specific weaknesses of which lack of space does not permit detailed treatment. Nor does there appear to be any reason to attempt to define "insurgency" in this context; in any event, the definition of that term proposed here has no recognizable basis in international law or common usage, and the statements in the definition about insurgents are not at all necessarily accurate.

Even if the entire government were to agree on an official definition of "terrorism", it is difficult to envision any resulting benefits. Has there ever been a case in which the lack of an official definition hindered counter-terrorism efforts? Would the handling of an incident by the USG, such as the setting up of special task forces, depend on whether the incident fit the definition? Who would make such a determination? Would it be possible to fashion a definition



that would not in some cases at least plausibly apply to acts of the U.S. or friendly governments and thus foster embarrassing, diversionary debates? (For example, just such a debate occurred during Congressional consideration of assistance to the contras in Nicaragua, over the question of whether U.S. support of the contras was "terrorism" under a similar general definition that had appeared in an Administrative report.)

In situations where the use of a definition appears necessary, we would suggest that the shorter definition at the end of the paper be employed, always with the caveat that it is a working definition only and has no official or legal status.

Issue Paper No. 5

COGNIZANCE: STATE, DEFENSE, USIA, TRANSPORTATION, NSC, CIA, CHIEF OF STAFF TO THE PRESIDENT, CHIEF OF STAFF TO THE VICE PRESIDENT

SUBJECT: Coordination of Public Diplomacy During Terrorist Incidents.

ISSUE: Public statements by U.S. Government officials during a terrorist incident are an integral tool in our management of the incident, as important as other policy tools, such as the deployment of military force. Indeed, communication between the government and the terrorists through the media, or among governments during an incident, usually has a direct bearing on its outcome.

Our handling of past incidents has been hampered by not giving enough thought and attention to the central role of public diplomacy during incidents. U.S. officials have spoken all too often without enough guidance, or gone beyond cleared guidance, sometimes unintentionally sending false signals to the terrorists, or leading astray other governments attempting to deal with the incident. Different statements by different departmental spokesmen have given an impression at home and abroad of disarray in the government, which ironically meets one of terrorism's objectives. The U.S. Government has been slow to respond to damaging media stories, or to false statements by other governments, again with negative results domestically and internationally.

PROPOSAL: The basic elements of U.S. policy during a terrorist incident should be made clear throughout a crisis situation to all U.S. Government policymakers and spokesmen. The process for issuing specific guidance during an incident needs to be strengthened. The coordination and speed with which we adjust our public diplomacy during an incident need to be dramatically improved. Specifically:

1. The Public Diplomacy Working Group of the IG/T should update for NSC approval and circulation to all concerned agencies and their press offices general U.S. Government policy guidelines for public diplomacy aspects of dealing with terrorism. (See existing guidelines of June 24, 1982.)

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Issue Paper No. 7

COGNIZANT ACTIVITY: STATE, JUSTICE, DEFENSE, NSC, CIA

SUBJECT: International Agreements for Combatting Terrorism

ISSUE: A general principal seems to hold in approaching international agreements for combatting terrorism: The more comprehensive the approach, the more general the final document. Various sorts of general resolutions, agreements and treaties, however, have their utility, as well as more specific ones. The watchword, as in so many aspects of gaining international cooperation, is flexibility.

There are a number of broad international conventions on terrorism, concentrated on, but not limited to, civil aviation. There are also a number of resolutions in the UN and other international bodies, as well as declarations, etc. in smaller groups (e.g. the EC, Economic Summit Seven, Council of Europe, etc.). These declarations and agreements are either not specific enough, or not binding upon those governments who signed them, or they have no enforcement provisions. Such agreements, resolutions, etc. are useful if only for symbolism and consciousness-raising, they can lead to meaningful action over time, often on a bilateral basis. The debates at the UN and in other international organizations over the past 2-3 years have shown what can and cannot be achieved in terms of specific and binding agreements. Broad educational efforts are useful; efforts to achieve specific agreements need to be very carefully selected and focussed--e.g., the successful move to reinforce ICAO. The two should not be confused. State is pursuing such efforts in many different international and multilateral agencies; State should continue to do so.

We do not favor a major initiative for a broad multilateral treaty against terrorism. It would be so broad and so fraught with differences of opinion and interpretation (who is a terrorist, who is a guerrilla, who is a freedom fighter?), so hard to achieve (what is the definition of terrorism?), and eventually so general as to divert attention of other governments and the American people from the importance the U.S. Government attaches to serious action against terrorism.

Specific bilateral treaties on cooperation for combatting terrorism also appear unwise in the present political climate. But there should be more systematic, regularized cooperation on a bilateral or carefully-focussed multilateral basis. Informal agreements, or status reports on cooperation to date and agreement on next steps, can serve the useful purpose of enhancing and systematizing cooperation in specific areas, cooperation which already takes place without treaties or formal agreements of any

kind. This alternative avoids both the need for formal ratifications by Congress and foreign parliaments and avoids attempting to negotiate such tricky questions as intelligence sharing.

Bilateral treaties are useful in the extradition and mutual legal assistance areas, and the Departments of State and Justice have had underway for some time active programs aimed at strengthening and expanding our network of such agreements. Our efforts at this time should be spent on attempting to strengthen observance and enforcement of existing obligations, and possibly to broaden them incrementally.

PROPOSAL: The Department of State, in coordination with the Department of Justice, should continue to pursue a flexible policy of international resolutions, agreements and treaties, bilaterally and multilaterally, as necessary to gain international cooperation in combatting terrorism.

ISSUE PAPER NO. 8

COGNIZANT ACTIVITY: STATE

SUBJECT: Extradition Treaties

ISSUE: The spread of international terrorism, involving frequent travel across borders on the part of terrorists to commit violent acts abroad or to escape prosecution at home requires us to reexamine the intent of the "political offense" exception in our extradition treaties. As it presently stands, the language of our law can be used, and is on occasion being used, as a safehaven for terrorists. The United States may extradite fugitives to foreign countries only pursuant to a treaty. Our extradition treaties preclude extradition if the fugitive is wanted for a "political offense." Current interpretations of the political offense exception by the courts and by defense attorneys is that anything goes as long as the crime was political in nature. These interpretations are frustrating U.S. efforts to gain the cooperation of other governments in closing legal loopholes that help terrorists. When terrorists are apprehended, there must be an effective means of extraditing them to the nation with jurisdiction to bring them to trial. This is particularly justifiable when that nation is a democratic regime which offers a fair judicial system. Extradition treaties should exclude specified crimes of violence from the scope of the political offense exception to extradition. These include such serious offenses as aircraft hijacking and sabotage, hostage taking, murder and manslaughter. Truly "political" offenses such as treason and espionage would continue to be excepted. The 1971 European Convention of the Suppression of Terrorism contains such a provision.

PROPOSAL: The State Department should continue its program of opening negotiations on extradition treaties with countries with democratic regimes and fair judicial systems with a view to limiting the scope of the political offense exception. To achieve this goal, Senate approval of the first such revision that we have concluded is a must. The State Department appropriately has the lead in the effort to secure Senate approval. However, assistance from the Vice President and other U.S. Government agencies may be essential to making the Administration's anti-terrorism case.

STAFF CONTACT: COL D. L. Cole, 395-4950

2. The TIWG, at its initial meeting in reaction to a terrorist incident, should issue specific guidance to be followed by all U.S. Government spokesmen during the incident.

- the guidance should be communicated to the President through the White House Press Office.

- the Deputy White House Press Secretary should be responsible for detailed and timely implementation of the guidance, including any restrictions on state ments by other agency spokesmen, circulating throughout the government updated TIWG guidance as the incident develops, and statements setting the U.S. Government line in the absence of TIWG guidance.

3. The Public Diplomacy Working Group should propose through the IG/T to the NSC a system for rapid coordination of information among concerned U.S. Government press offices, a system for real time monitoring of media during an incident and integration of our public diplomacy activities during a crisis with our diplomatic posts abroad and communications to foreign governments.

~~SECRET~~ISSUE PAPER NO. 9

COGNIZANT ACTIVITY: STATE, DEFENSE, NSC.

SUBJECT: Response Options to Terrorism

Issue: There has been a publicly expressed concern that at the time of a terrorist incident, the National Command Authority (NCA) does not have available an extensive list of pre-planned options for response alternatives. The popular perception is that given the unique and individual nature of terrorist incidents, the planners commence their development of alternative actions without the benefit of extensive pre-planned research.

The unique nature of terrorism, and the often one-of-a-kind character of a terrorist act, drastically limits the opportunity for set solutions or pre-planned options. Nevertheless, it would appear to be useful to establish an encyclopedia of options that could be reviewed in the development of the USG's plan of action. Clearly such a list of options would serve as an aide memoire rather than as a specific course of action in most cases. It would provide an additional tool which would expedite the development of a plan of action.

Proposal: The Director of the TIWG will maintain a list of current options for response to terrorist threats or incidents. There should also be a checklist of criteria to be examined in each case during the TIWG deliberations about which actions to take. This checklist and collection of options will be developed by the Vice President's Task Force Coordinator both through his capacity and submitted to the Chairman of the Interdepartmental Group on Terrorism and as Executive Director of the TIWG, through the consultation with the other representatives on both the IG/T and the TIWG. These options should represent the widest range of actions imaginable, covert as well as overt, in order to give our nation the ability to act with a reasonable change of success when and if required, in an infinite variety of possible scenarios. No options should be excluded because of a low likelihood of employment. This range of capabilities should better prepare the USG to respond appropriately to terrorist incidents more promptly and hopefully with better preparation.

Staff Contact: Mr. B. Hutchings, 395-4950, (Secure via WH switch)

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ISSUE PAPER NO. 10

COGNIZANT ACTIVITY: STATE, DEFENSE, CIA, JCS, FBI

SUBJECT: Counterterrorism Exercises and Simulations

ISSUE: Those who participate in the decision making process during terrorist incidents often may not be completely familiar with the capabilities and limitations of CT military forces and the time constraints under which these forces operate. On the other hand, action officers do not always appreciate the political and diplomatic constraints that affect the decisions of officials at the national command level. The result is (increasing) frustration on both sides which is counter productive to the national effort to combat terrorism.

PROPOSAL: The Director of the IG/T should prepare for NSC considering a program of interagency exercises simulating various realistic terrorist problems that will afford a basis for improved contingency planning. The program should include regular exercises for the top levels of the USG. The Exercise committee of the IG/T should be strengthened to expand its role from that of interagency coordinator of exercises per NSDD 30 to that of prime mover of a more extensive interagency CT exercise effort by each agency which will test more regularly both Washington and field capabilities. Some exercise should include selected foreign governments. The Director of the TIWG should support the Director of the IG/T to ensure that there is direct high-level participation in the exercises. Post exercise debriefs and lessons learned should be widely circulated, but without attributing fault to specific individuals for failures during the exercise.

STAFF CONTACT: Mr. B. Hutchings (395-4950)

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ISSUE PAPER NO. 12

COGNIZANT ACTIVITY: STATE, DEFENSE

SUBJECT: Hostage Family Liaison

ISSUE: Different Government agencies have dealt with the sensitive question of liaison with the families of their employees who are taken hostage in different ways with somewhat uneven results. Responsibilities for the necessary contacts, information flow and guidance have generally gravitated to the relevant geographic bureau in the State Department, or to the affected service in Defense, for example. This process is effective and should continue.

At the same time, however, there should be a clear-cut delineation of who is responsible, staffed and equipped to perform the function on a permanent agency-wide basis to handle liaison with the families of persons who are not civilian or military employees of the Government, but for whom the Government assumes some responsibility when they become hostages. At the present time, this is done in State's Bureau of Consular Affairs which has the manpower and general responsibility for the protection of Americans overseas. At present there are American citizens being held hostage in Lebanon, Colombia and the Philippines. Each hostage situation in its circumstances and the amount of family liaison necessary. Because of the heightened concern about US hostages in Lebanon, the State Department recently created a special working group to follow Lebanese developments and ensure that families are better informed. Participants in this Working Group represent the Office of Combatting Terrorism, the Bureau of Middle Eastern Affairs, Consular Services and Medical Services. The point of contact remains the Office of Consular Affairs.

PROPOSAL: State should evaluate the effectiveness of this working group after an appropriate period of time to determine whether further modifications in its approach are necessary. Similar, but separate working groups should be considered for any future long-term hostage situation.

STAFF CONTACT: LTCOL R. L. Earl, 395-4950.

COGNIZANT ACTIVITY: STATE, USIA, NSC, CHIEF OF STAFF TO THE  
PRESIDENT, CHIEF OF STAFF TO THE VICE PRESIDENT

SUBJECT: Monitoring and Influencing Foreign and Domestic Attitudes  
Toward Terrorism and U.S. Counter-Terrorism Policy

ISSUE: An important facet of America's ability to deal effectively with terrorism is the extent to which the closely inter-related domestic and foreign publics understand the nature of the threat and support the policies necessary to counter it.

In the long struggle against terrorism, one of the government's most important responsibilities is to maintain public confidence in its abilities to cope with contingencies. If the U.S. is to be successful in combatting terrorism while concurrently pursuing goals to maintain international peace and security, it must persuasively communicate with world audiences to gain public support for its policies.

The methods and the agencies required to address domestic and foreign public opinion overlap, but they also have important differences. The requirement for policymakers is to balance between the two publics if difficult choices are required during a terrorist incident. Concurrently, there is a national requirement to create a more sophisticated public understanding of the nature of the threats to the nation posed by protracted terrorism.

PROPOSAL: The Interdepartmental Working Group on Public Diplomacy should propose a long-range strategy for approval by the IG/T on improving public understanding of international terrorism and policies required to combat it. Ideas to be considered by the Working Group should include:

- the formation of a high level panel, to include representatives from media organizations, religious and ethnic groups, civic groups, national, state and local legislatures, bar associations law enforcement agencies and other appropriate interested groups to sensitize the American public to the dangers of terrorism ..and reinforce public preparedness and will to deal with the risks necessary to combat this threat.
- the State Department should monitor U.S. media and public opinion polls to provide insights on how the U.S. public perceives and reacts to various aspects of terrorism and the counter-measures taken against it. USIA should conduct a similar monitoring operation abroad.

--USIA, as the lead agency in the international information effort, and working in coordination with the Public Diplomacy Working Group of the IG/T, should continue its efforts to monitor and influence foreign opinion on terrorism. (NOTE: USIA will present new more comprehensive proposals in this area in November.)

Additionally, the State Department should consider creating a Public Diplomacy office for terrorism, similar to the Office of the Coordinator for Public Diplomacy for Latin America and the Caribbean, which would be charged specifically with explaining our counter-terrorism policies at home and abroad.

STAFF CONTACT: LTCOL P. F. Daly (395-4950)

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13384

COGNIZANT ACTIVITY: STATE, USIA, NSC, CHIEF OF STAFF TO THE  
PRESIDENT, CHIEF OF STAFF TO THE VICE  
PRESIDENT

SUBJECT: Government-Media Relations During a Terrorist Incident

ISSUE: Terrorist acts project the media into the middle of an incident. During a fast-moving, stressful and emotion-laden incident, conflicts often develop between how the media perceives its obligations and how policymakers perceive theirs. The First Amendment is clear; attempts at somehow restricting the press would fail or worse.

Two viable courses of action are open to the government:

--to organize its public diplomacy efforts better during a terrorist incident;

--to seek voluntary restraints from the media in reporting while a terrorist incident is underway.

One objective of terrorists is usually to goad governments into taking actions that are viewed as illegal by public opinion, thus undermining the government's credibility. The policy requirement is to combat terrorism while preserving democratic liberties.

As both the government and the media have acquired more experience with terrorism, self-correcting mechanisms on the part of the media have come into play.

PROPOSALS: U.S. Government officials should systematically meet with media officials to discuss the government's explicit concerns about the role of the media during terrorist incidents. This should be done quietly, but in open consultation with media leaders as a contribution to their process of self-examination and responsible coverage.

The Public Diplomacy Working Group of the IG/T should develop a mechanism to bring representatives determined by the media and appropriate U.S. Government officials together quickly at the onset of a terrorist event for discussion of the national interest in the case, so that U.S. Government considerations could be a factor in the media's own determination of how it proceeds in fulfilling its own responsibilities to the public.

U.S. Government officials responsible for dealing with the media during a terrorist event should bear firmly in mind that efforts to coerce or restrict the media, directly, or indirectly, such as through advertisers, is likely to provoke negative and resentful responses.

STAFF CONTACT: LTCOL P.F. Daly, 395-4950

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ISSUE PAPER NO. 15

COGNIZANT ACTIVITY: STATE, JUSTICE

SUBJECT: Murder of U.S. Citizens Outside of U.S.

ISSUE: Murder of U.S. citizens outside our borders, other than of specially designated Government officials and diplomats, is not a crime under U.S. law. Existing U.S. law punishes only those who assault our diplomats outside our borders. It then follows that those responsible for the murder of the Marines in Lebanon and El Salvador are not guilty of any U.S. crime for their murder. International law recognizes broad criminal jurisdiction. If an alleged crime occurs in a foreign country, a nation may still exercise jurisdiction over the defendant if the crime has a potential adverse effect on security or governmental functions. Legislation is required which provides authority to prosecute international terrorists for the murder of U.S. nationals. The current law protecting diplomats should be extended to include all U.S. nationals who are victims of international terrorism. Current legislation has been introduced (Terrorist Prosecution Act of 1985, S1429).

PROPOSAL: The Departments of State and Justice should continue their efforts in support of legislation which makes the murder of U.S. citizens outside our borders a federal crime under U.S. law.

STAFF CONTACT: Col D. L. Cole, 395-4950

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ISSUE PAPER NO. 18

COGNIZANT ACTIVITY: STATE, TREASURY, JUSTICE

SUBJECT: Prohibition of Training and  
Support/Counterterrorism/Mercenary Training Camps

ISSUE: In 1984 the Administration supported four counterterrorism bills, three of which were enacted into law. The fourth bill concerned the proscription of certain military training in the U.S. and other actions which might assist nations, groups, organizations and factions which would be designated as "terrorists." This bill failed because the language was considered overly broad and because of many concerns regarding the proscription of protected speech, voluntary cash contributions and associations. The Department of State amended the International Trafficking in Arms Regulation (ITAR) to address a major part of the problem. Additionally, the Omnibus Crime Bill of 1984 addressed other elements of the problem. The revised ITAR (1 January 1985) now provides that the approval of the State Department Office of Munitions Control must be obtained, in the form of a license, before any training of foreign persons, whether in the U.S. or by U.S. persons abroad in the manufacture, use, operation, repair, maintenance or modification of defense articles on the Munitions List. The Munitions List includes such categories as firearms, artillery, ammunition, explosives, incendiary agents, missiles, bombs and mines. The purpose of the change is to regulate carefully the development of any skills which would be of use to terrorists. Congress recently amended the Arms Export Control Act to provide for a fine of up to \$1 million or imprisonment up to ten years or both for any willful violation of Section 38 or the regulations issued under it. Any willful untrue statement in the required license application is also punishable. In spite of the changes to the ITAR and other federal criminal and regulatory statutes, it is still possible for individuals to operate mercenary/survival training camps and remain within the law.

PROPOSAL: An interagency review of the ITAR has not been carried out, with the result that new legislation will not be sought at this time instead, an effort will be made to employ the expanded ITAR to control the provision of defense services, including training in the use of defense articles such as firearms and explosive, to foreign nationals foreign terrorist at mercenary camps in this country. This effort is now underway in cooperation with the Department of Justice and the FBI. It should be allowed to proceed, and the results be assessed, before making proposals for new legislation.

STAFF CONTACT: COL D. L. Cole, 395-4950.

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ISSUE PAPER NO. 20

COGNIZANT ACTIVITY: CIA

SUBJECT: Expanded HUMINT Capability Against Terrorism

ISSUE: With the emergence of terrorism as an issue of national concern, our intelligence agencies shifted increased attention and assets to collection, analyses and dissemination of information on this threat. The nature of the small, fanatical, close-knit terrorist groups that have become very active in the recent past makes them difficult targets to collect against, particularly using the traditional or high technology methods on which we rely for collection against the strategic threat.

The objective, to pinpoint the plans and targets of terrorist grounds, will not easily be attained under the circumstances. It will be a long and costly effort which may not be entirely successful, but which nonetheless must be undertaken. The effort will of necessity be based heavily on HUMINT, the method most likely to provide the type of timely, specific information which can be of utility in terrorist situations. The U.S. will have to redevelop its capabilities in this field, focusing on high-threat areas, and

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STAFF CONTACT: CAPT D. J. McMUNN, 395-4950

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Staff Contact: Mr. B. Hutchings, [REDACTED]



ISSUE PAPER NO. 24

COGNIZANT ACTIVITY: STATE, DEFENSE, DCI, FBI

SUBJECT: Increased Coordination with Law Enforcement Elements  
Domestically and Overseas

ISSUE: A terrorist act is by definition a crime. In combatting terrorism (that is anticipating, preempting, managing, resolving, punishing), classic intelligence disciplines and liaison relationships must be supplemented by close relations with local police and law enforcement elements. CIA officers are seldom trained or experienced in police matters, and tend to feel more comfortable with intelligence counterparts. FBI legal attaches tend to deal primarily with the highest echelons of police in their areas of responsibility, and seldom deal on a continuing basis with working level officers with counterterrorist responsibilities.

The State Department's Regional Security Officers are law-enforcement trained, and deal on a day-to-day basis with host country law-enforcement officials on matters including protection of our overseas missions and the collection of threat intelligence for use by the State Threat Analysis Group and the intelligence community as a whole. In this work the RSOs have the advantage of not being identified with the collection of political or military intelligence and of being already recognized in many countries as the Embassy's representative for security and investigative matters. The RSO will work with host-country law-enforcement officials as on-site manager for the Anti-Terrorism Assistance and Central American Police Assistance programs. RSOs and the Bureau of Diplomatic Security work with foreign and domestic law-enforcement officials in the protection of dignitaries. The State Department sponsors international cooperation between law enforcement officials through the International Association of Chiefs of Police, through briefings and visits overseas for US police officials concerned with anti-terrorist protection of foreign diplomats resident in the United States, through terrorism briefings for domestic law-enforcement officials, and through execution of the Anti-Terrorism Assistance program which involves training foreign civilian officials in the US, with the involvement of US and Federal and state and local enforcement agencies. This effort needs to be strengthened to give more specific attention to overseas police relations, and to expose the broad network of US law enforcement professionals to the plans and requirements of the national counterterrorism program.

PROPOSAL: State should ~~be~~ continue to work closely with Justice, the FBI, and other agencies with law enforcement interests abroad to strengthen the capabilities of overseas missions to realize the potential anti-terrorism benefits through exchange of information with host-country law-enforcement officials, to include measures as follows: (1) Ambassadors, regional bureaus, INR, M/CTP and BDS select and designate in the next two months key posts as critical counter-terrorism posts; with one or more positions (primarily RSO

positions, but taking into account particularly the interests of Justice and the FBI) designated as counterterrorist specialists and officers given the necessary prior training for assignment thereto; (2) selected Regional Security Officers and political officers receive thorough training on the national counterterrorism program; (3) RSOs for critical counterterrorism assignments be selected to specialize in a given geographical area, achieve language proficiency, be trained in the counterterrorism program and serve a minimum of six years on overseas assignment in the area; (4) principal RSO at selected post be designated "Security Attache" to enhance his representational dealings with host country officials; (5) RSOs and other selected officers assigned to critical counterterrorism posts be selected from those who have completed an "exchange tour" working on counterterrorism intelligence within the intelligence community.

All Ambassadors at critical counterterrorist posts should be instructed to designate the DCM as counterterrorist coordinator, with another officer (primarily but not exclusively the RSO) as his/her assistant. The Ambassador and the two coordinators should ensure that all the counterterrorist capabilities of the post are properly coordinated internally and that they are assigned liaison functions with key host government agencies in order to ensure full coverage and match post capabilities and experience with the political preferences of the host government in order to maximize effectiveness.

The IG/T should be tasked with developing an interagency approach, involving State, Justice, the FBI, Treasury, the DCI and others as necessary, to assure coverage of the across the board police liaison and terrorism intelligence requirement in all key countries and regions.

STAFF CONTACT: Mr. B. Hutchings, 395-4950

ISSUE PAPER NO. 25

COGNIZANT ACTIVITY: STATE

SUBJECT: Rewards

NOTE: This issue paper should be eliminated since its recommendations have been adopted independently. Detailed policy guidance on offering rewards has been promulgated in the Foreign Affairs Manual, with interagency coordination. Rewards have been offered in the TWA 84/ and Kuwaiti 221 cases, and are under consideration, according to current policy, for the Achille Lauro and Rhein-Main incidents.

ISSUE PAPER NO. 26

COGNIZANT ACTIVITY: STATE, JUSTICE

SUBJECT: International Informant Incentives

ISSUE: Sections 101 and 102 of the 1984 Act to Combat International Terrorism (P.L. 98-533) establish authority for the Attorney General and Secretary of State to pay rewards of up to \$500,000 for information in cases of domestic and international terrorism. A number of sources have applauded the legislation as a meaningful, practical piece of the combatting terrorism puzzle. These same sources however, have concluded that additional incentives should be formulated to stimulate and protect informants, particularly on the international front.

The United States must examine all legal means to supplement our limited overseas HUMINT capabilities and. An effective informant incentive program could be a useful adjunct to ongoing collection efforts.

PROPOSAL: The State Department, in concert with the Department of Justice, should take the lead in an interdepartmental effort to develop a unilateral and/or bilateral program of informant incentives and, initiate requisite legislative action to support such a program. Examples of incentives which might be offered (in addition to monetary rewards) are: immunity from prosecution for previous offenses; relocation, change of identify and long-term physical protection; and, granting of U.S. (or other) citizenship to the informant and immediate family.

STAFF CONTACT: CAPT L. H. Boink, 395-4950

ISSUE PAPER NO. 27

COGNIZANT ACTIVITY: STATE, JUSTICE, FBI

SUBJECT: Terrorism as a Crime

ISSUE: There is a considerable body of opinion that terrorism should not be referred to as "war" nor terrorists as "soldiers". Doing so bestows a certain degree of credibility to the terrorists. War is generally regarded as hostilities between nations and more importantly, it is governed by a set of rules which guide one's conduct and the treatment of prisoners. Terrorism knows no rules and is the ultimate violation of human rights, it is criminal action. Terrorism should be treated as crime -- not as war. At the present time terrorism itself is not a crime in the U.S., as it is in many Western industrialized nations (Greece, Ireland, Israel, Italy, Japan, UK, and West Germany). Heretofore, terrorists have been prosecuted under state or federal statutes for such crimes as robbery, grand larceny, assault, murder, bombing, etc. ... whatever common crime statute covered the technical nature of their act. Terrorism, because it is designed to attack the state itself, the very foundation of ordered society and the protection of all individual rights, is a particularly heinous crime. Because it intentionally and cruelly victimizes innocent, defenseless civilians in pursuit of its objectives, it has a viciousness unmatched by any other crime.

Nevertheless, a statute making terrorism itself a crime could actually increase the difficulties of prosecuting terrorists as it would inevitably require proof of "political motivation" or some similar element, which is extremely difficult, and could in addition cause constitutional problems. Further, a prosecution on charges of "terrorism", as opposed to murder, arson, etc., would have unavoidable overtones of a political trial, would tend to lend credence to terrorists' claims of political offense, and would provide the accused terrorist with a "judicial forum" for political theater with attendant press coverage.

PROPOSAL: The USG should not refer to terrorism as war but rather as crime.

STAFF CONTACT: COL D. L. Cole, 395-4950

ISSUE PAPER NO. 28

COGNIZANT ACTIVITY: JUSTICE

SUBJECT: Death Penalty for Hostage Taking

NOTE: Senate Bill 1508, currently before Congress, would impose the death penalty for hostage taking. STATE has indicated strong support for the bill in principle, subject to the working out of any technical problems in conjunction with the Department of Justice.

## Issue Paper 29: Freedom of Information Act

NOTE: We are not convinced that there is a need, as suggested in this paper for an amendment to the FOIA to restrict requesters to U.S. citizens. The FOIA provides agencies discretion to withhold records if they are classified (5 U.S.C. 552(b)(1) or relate to law enforcement (5 U.S.C. 552(b)(7))). Records concerning terrorism and foreign counterintelligence (except of course for press releases and other public documents) would fall within one of these two exemptions, and there would thus be ample legal basis to withhold them under the Act. In addition, contrary to the implication in the paper that hostile intelligence services and terrorists have used the FOIA to "tie up U.S. Government resources responding to their requests," it is actually (at least in State Department experience) media requests and the most likely to litigate. In addition, US groups could be found to front for foreign intelligence services--just as occurs with the export of forbidden technology, if such legislation existed. Consequently, we are unable to agree that there are "loopholes in the law that allow terrorist and foreign intelligence operatives access to information they should not have," and perceive no need for amendments as suggested in the Issue Paper.

COGNIZANT ACTIVITY: DCI, FBI

SUBJECT: Terrorism Intelligence Analysts

ISSUE: As the focus on terrorism intensifies and 24-hour anti-terrorist alert centers and watch desks are created, collection requirements expand and the demand for timely and accurate analysis grows proportionately. Yet analysts specializing in terrorism remain relatively few. In some offices, they rotate in and out of this speciality, and tend to limit their view to their own organization's perspective of the terrorist problem. There is a distinct need to increase the number and the qualifications of terrorism analysts.

PROPOSAL: The National Intelligence Officer for Terrorism should establish and oversee an interdepartmental career development program that will encourage a core of intelligence analysts to devote themselves to addressing terrorism as a specialty. Training, plans and resources, interagency rotations, exchanges with friendly governments, and participation in various agency and CINC gaming evolutions should be included in the program.

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### Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

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B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

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B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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ISSUE PAPER NO. 32

COGNIZANT ACTIVITY: STATE

SUBJECT: Controlling Cross-Border Travel of  
Known or Suspected Terrorists

ISSUE: Increased international cooperation is required to control cross-border travel of known or suspected terrorists. These individuals or groups are currently able to travel from country to country with seeming impunity. Further, individuals expelled from, or denied entry into one country may be unwittingly allowed entry into another. What appears needed is a computerized system designed to monitor and control people movements across international borders. Further, there is a need for a back-up information exchange program between embassies and countries to share data on expelled individuals including known or suspected terrorists.

PROPOSAL: The State Department should take the lead in an interagency effort to upgrade existing systems or recommend development of a new computerized system to monitor cross-border people movements. Upgrading of the State Department's Automated Visa Outlook System (AVLOS) may have application in this area.

Treasury(Customs), State and Justice (INS) should look at the possible expansion of the Treasury Enforcement Computer Systems (TECS), particularly the terrorist category (TECS-T), used by Customs and INS officials at ports of entry.

State should pursue the development of its improved visa lookout system CLASS (Consular Lookout and Support System), which will be able to interact with other countries' lookout systems.

State should also continue to urge other countries to establish visa lookout systems and to share the results with us. Efforts such as those already being undertaken by State and CIA with selected friendly governments, inter alia to associate the United States with European Community systems for controlling cross-border movements of terrorists, should be emphasized.

STAFF CONTACT: CAPT L. H. Boink, 395-4950

ISSUE PAPER NO. 33

COGNIZANT ACTIVITY: STATE

SUBJECT: Review of Provisions of Vienna Convention

ISSUE: Any abuse of diplomatic privileges and immunities to support or carry out terrorist acts is a matter of grave concern and must be countered forcefully. Clearly, the spirit and intent of the diplomatic privileges and immunities specified in the Vienna Convention is grossly violated by such abuse. We have reviewed this situation carefully, in coordination with our major allies, in the wake of the particularly heinous incident involving the Libyan People's Bureau in London in April 1984, and concluded that any re-opening of the text of the Convention to deal with this problem was unwarranted for two primary reasons: There is ample room for States to take necessary steps to counter terrorist-related abuse of diplomatic privileges and immunities within the framework of the Convention as it now stands; and re-opening the Convention would be at least as likely to result in changes that would be detrimental from the point of view of control of terrorism (e.g., increased protections for the pouch). In light of this situation, it is difficult to see what benefit would be gained from an "international review and reaffirmation of the spirit and intent" of particular articles of the Convention; any final document that emerged from such a review would be so hedged in order to achieve consensus as to be useless, or worse.

PROPOSAL: We do not agree that an effort should be undertaken to amend the Vienna Convention. Efforts already underway with selected other governments to tighten the interpretation and application of the Convention should continue. An alternative to formal revision of the Convention that might have some prospect of success would be to prepare a resolution for presentation to the U.N. General Assembly condemning use of the facilities, privileges and immunities provided to diplomats pursuant to the Vienna Convention or customary international law to support or protect terrorist action. Such a resolution would help to provide political and moral impetus to our efforts to counter this abuse.

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ISSUE PAPER NO. 34

COGNIZANT ACTIVITY: STATE, TRANSPORTATION

SUBJECT: Preventing Flyaway of Hijacked Aircraft

ISSUE: A crucial tactic employed by hostage negotiators is the lengthy process of wearing down the terrorists both physically and psychologically prior to taking appropriate crisis resolution actions. However, as noted during the hijacking of TWA 847 in June 1985, this technique was not possible due to Algeria's refusal to stop the aircraft at Algiers thus enabling the original two hijackers to be relieved by a fresh group of terrorists in Beirut. It is probable that future hijackings will attempt to follow this same kind of scenario.

The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, to which the overwhelming majority of States are party, includes obligations to make aircraft hijacking a crime and to extradite hijackers or submit their cases for prosecution, to take offenders into custody "upon being satisfied that the circumstances so warrant," and "to take all appropriate measures to restore control of the aircraft to its lawful commander." Most states that have a detailed anti-hijacking policy support the principle of deterring the flyaway of hijacked aircraft except where lives are threatened. Turning this policy into an explicit legal commitment would add little to the existing obligations in the Hague Convention and would not significantly alter state behavior. As judgements of the danger to crew and passengers are necessarily subjective, proving a violation of such an agreement would be practically impossible.

Any internally controlled device to make a plane appear temporarily at risk would perhaps work for one hijacking, but the device would quickly become known to hijackers, causing a greater threat to crew and passengers.

PROPOSAL: The Department of State should continue to urge states to live up to their obligations under the Hague Convention.

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