

# Plausible deniability

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**Plausible deniability** is a term coined by the CIA in the early 1960s to describe the withholding of information from senior officials in order to protect them from repercussions in the event that illegal or unpopular activities by the CIA became public knowledge.

The term most often refers to the capacity of senior officials in a formal or informal chain of command to deny knowledge of and/or responsibility for any damnable actions committed by the lower ranks because of a lack of evidence that can confirm their participation, even if they were personally involved or at least willfully ignorant of said actions. In the case that illegal or otherwise disreputable and unpopular activities become public, high-ranking officials may deny any awareness of such act in order to insulate themselves and shift blame on the agents who carried out the acts, confident that their doubters will be unable to prove otherwise. The lack of evidence to the contrary ostensibly makes the denial plausible, that is, credible. The term typically implies forethought, such as intentionally setting up the conditions to plausibly avoid responsibility for one's (future) actions or knowledge. In some organizations, legal doctrines such as command responsibility exist to hold major parties responsible for the actions of subordinates involved in heinous acts and nullify any legal protection that their denial of involvement would carry.

In politics and espionage, deniability refers to the ability of a "powerful player" or intelligence agency to "pass the buck" and avoid "blowback" by secretly arranging for an action to be taken on their behalf by a third party ostensibly unconnected with the major player. In political campaigns, plausible deniability enables candidates to stay "clean" and denounce third-party advertisements that use unethical approaches or potentially libellous innuendo.

More generally, "plausible deniability" can also apply to any act that leaves little or no physical evidence of wrongdoing or abuse. Examples of this are the use of electric shock, waterboarding or pain-compliance holds as a means of non-invasive torture or punishment, leaving few or no tangible signs that the abuse ever took place.

Plausible deniability is also a legal concept. It refers to lack of evidence proving an allegation. Standards of proof vary in civil and criminal cases. In civil cases, the standard of proof is "preponderance of the evidence" whereas in a criminal matter, the standard is "beyond a reasonable doubt." If an opponent lacks incontrovertible proof (evidence) of their allegation, one can "plausibly deny" the allegation even though it may be true.

## Overview

Arguably, the key concept of plausible deniability is plausibility. It is fairly easy for a government official to issue a blanket denial of an action, and it is possible to destroy or cover up evidence after the fact, and this might be sufficient to avoid a criminal prosecution, for instance. However, the public might well disbelieve the denial, particularly if there is strong circumstantial evidence, or if the action is believed to be so unlikely that the only logical explanation is that the denial is false.

The concept is even more important in espionage. Intelligence may come from many sources, including human sources. The exposure of information to which only a few people are privileged may directly implicate some of those people in the exposure. Take for example a scenario where an official is travelling secretly and only one of his aides knows the specific travel plans. The official is assassinated during his travels, and the circumstances of the assassination strongly suggest that the assassin had foreknowledge of the official's travel plans. The probable conclusion is that the official has been betrayed by his aide. There may be no direct evidence linking the aide to the assassin, but collaboration can be inferred on the facts alone, thus making the aide's denial implausible.

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## History

The expression "plausibly deniable" was first used publicly by Central Intelligence Agency (CIA) director Allen Dulles.<sup>[1]</sup> The idea, on the other hand, is considerably older. For example, in the 19th century, Charles Babbage described the importance of having "a few simply honest men" on a committee who could be temporarily eliminated when "a peculiarly delicate question arises" so that one of them could "declare truly, if necessary, that he never was present at any meeting at which even a questionable course had been proposed."<sup>[2]</sup>

## Church Committee

A U.S. Senate committee, the Church Committee, in 1974-1975 conducted an investigation of the intelligence agencies. In the course of the investigation, it was revealed that the CIA, going back to the Kennedy administration, had plotted the assassination of a number of foreign leaders, including Cuba's Fidel Castro. But the president himself, who clearly was in favor of such actions, was not to be directly involved, so that he could deny knowledge of it. This was given the term **plausible denial**.<sup>[3]</sup>

Non-attribution to the United States for covert operations was the original and principal purpose of the so-called doctrine of "plausible denial." Evidence before the Committee clearly demonstrates that this concept, designed to protect the United States and its operatives from the consequences of disclosures, has been expanded to mask decisions of the president and his senior staff members.

—Church Committee<sup>[4]</sup>

Plausible denial involves the creation of power structures and chains of command loose and informal enough to be denied if necessary. The idea was that the CIA (and, later, other bodies) could be given controversial instructions by powerful figures—up to and including the President himself—but that the existence and true source of those instructions could be denied if necessary; if, for example, an operation went disastrously wrong and it was necessary for the administration to disclaim responsibility.

## Legislative barriers after the Church Committee

The Hughes-Ryan Act of 1974 sought to put an end to plausible denial by requiring a Presidential finding that each operation is important to national security, and the Intelligence Oversight Act of 1980 required that Congress be notified of all covert operations. But both laws are full of enough vague terms and escape hatches to allow the executive branch to thwart their authors' intentions, as the Iran-Contra affair has shown. Indeed, the members of Congress are in a dilemma: when they are informed, they are in no position to stop the action, unless they leak its existence and thereby foreclose the option of covertness.<sup>[5]</sup>

## Media reports

The (Church Committee) conceded that to provide the United States with "plausible denial" in the event that the anti-Castro plots were discovered, Presidential authorization might have been subsequently "obscured". (The Church Committee) also declared that, whatever the extent of the knowledge, Presidents Eisenhower, Kennedy and Johnson should bear the "ultimate responsibility" for the actions of their subordinates.<sup>[6]</sup>

CIA officials deliberately used Aesopian language<sup>[7]</sup> in talking to the President and others outside the agency. (Richard Helms) testified that he did not want to "embarrass a President" or sit around an official table talking about "killing or murdering." The report found this "circumlocution"<sup>[8]</sup> reprehensible, saying: "Failing to call dirty business by its rightful name may have increased the risk of dirty business being done." The committee also suggested that the system of command and control may have been deliberately ambiguous, to give Presidents a chance for "plausible denial."<sup>[9]</sup>

What made the responsibility difficult to pin down in retrospect was a sophisticated system of institutionalized vagueness and circumlocution whereby no official - and particularly a President - had to officially endorse

questionable activities. Unsavory orders were rarely committed to paper and what record the committee found was shot through with references to "removal," "the magic button"<sup>[10]</sup> and "the resort beyond the last resort." Thus the agency might at times have misread instructions from on high, but it seemed more often to be easing the burden of Presidents who knew there were things they didn't want to know. As former CIA director Richard Helms told the committee: "The difficulty with this kind of thing, as you gentlemen are all painfully aware, is that nobody wants to embarrass a President of the United States."<sup>[11]</sup>

## Iran–Contra affair

In his testimony to the congressional committee studying the Iran–Contra affair, Vice Admiral John Poindexter stated: "I made a deliberate decision not to ask the President, so that I could insulate him from the decision and provide some future deniability for the President if it ever leaked out."<sup>[12]</sup>

## Declassified government documents

- Pentagon papers October 25, 1963 <sup>[13]</sup> Telegram from the Ambassador in Vietnam Henry Cabot Lodge, Jr. to Special Assistant for National Security Affairs McGeorge Bundy on US Options with Respect to a Possible Coup, mentioning the term plausible denial Alternative link (See Telegram 216) <sup>[14]</sup>
- CIA and White House documents on covert political intervention in the 1964 Chilean election declassified. The CIA's Chief of Western Hemisphere Division, J.C. King, recommended that funds for the campaign "be provided in a fashion causing (Eduardo Frei Montalva president of Chile) to infer United States origin of funds and yet permitting plausible denial"
- Training files of the CIA's covert "Operation PBSUCCESS," for the 1954 coup in Guatemala. According to the National Security Archive: "Among the documents found in the training files of Operation PBSUCCESS and declassified by the Agency is a CIA document titled 'A Study of Assassination.' A how-to guide book in the art of political killing, the 19-page manual offers detailed descriptions of the procedures, instruments, and implementation of assassination." The manual states that to provide plausible denial, "no assassination instructions should ever be written or recorded."

## Flaws

The doctrine has six major flaws:

- It was an open door to the abuse of authority; it required that the parties in question could be said to have acted independently, which in the end was tantamount to giving them license to act independently.<sup>[15]</sup>
  - It rarely worked when invoked; the denials made were rarely plausible and were generally seen through by both the media and the populace.<sup>[16]</sup> One aspect of the Watergate crisis is the repeated failure of the doctrine of plausible deniability, which the administration repeatedly attempted to use to stop the scandal affecting President Richard Nixon and his aides.
  - "Plausible denial" only increases the risk of misunderstanding between senior officials and their employees.<sup>[17]</sup>
  - It only shifts blame, and generally, constructs rather little.
  - If the claim fails, it seriously discredits the political figure invoking it as a defense.
  - If it succeeds, it creates the impression that the government is not in control of the state.
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## Other examples

Another example of plausible deniability is someone who actively avoids gaining certain knowledge of facts because it benefits that person not to know.

As an example, an attorney may suspect that facts exist which would hurt his case, but decide not to investigate the issue because if the attorney had actual knowledge, the rules of ethics might require him to reveal those facts to the opposing side. Thus his failure to investigate maintains plausible deniability.

## Council on Foreign Relations

"...the U.S. government may at times require a certain deniability. Private activities can provide that deniability."  
--Council on Foreign Relations, an American foreign policy think tank, in the 2003 report, "Finding America's Voice: A Strategy for Reinvigorating U.S. Public Diplomacy"

## Murder of Thomas Becket

King Henry II of England is often said to have stated of Archbishop of Canterbury Thomas Becket, "Who will rid me of this meddlesome priest?" Becket was indeed murdered, although the king denied that his plea was to be taken in such a way.

## BC Hydro smart meter program

In 2012, having been over-billed for electricity usage in British Columbia, customers were told by representatives from BC Hydro that they had consumed excessive amounts of electricity during the previously mild winter, when in fact the newly installed smart meters had malfunctioned. Minister of Energy and Mines, Rich Coleman had previously called overcharging smart meters "an urban myth".

According to Hydro's director of Customer Care, it's because nobody in the highest ranks of the company and government were aware that a smart meter had malfunctioned at the Kamloops home of Trapper Cameron, who was sent a bill for over \$1,000. "Only parts of the organization knew there was a problem with this meter in February," Hydro's Jim Nicholson told me. "It did not get escalated to me." He said the information also did not get "escalated" to Coleman or to Reid or to Hydro's media-relations department. "We should have heightened awareness," Nicholson said. "It should have made its way to people who are communicating [to the media]."

## Use in computer networks

In computer networks, deniability often refers to a situation where a person can deny transmitting a file, even when it is proven to come from his computer.

Normally, this is done by setting the computer to relay certain types of broadcasts automatically, in such a way that the original transmitter of a file is indistinguishable from those who are merely relaying it. In this way, the person who first transmitted the file can claim that his computer had merely relayed it from elsewhere, and this claim cannot be dis-proven without a complete decrypted log of all network connections to and from that person's computer.

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## Freenet file sharing

The Freenet file sharing network is another application of the idea. It obfuscates data sources and flows in order to protect operators and users of the network by preventing them (and, by extension, observers such as censors) from knowing where data comes from and where it is stored.

## Use in cryptography

In cryptography, deniable encryption may be used to describe steganographic techniques, where the very existence of an encrypted file or message is *deniable* in the sense that an adversary cannot prove that an encrypted message exists. In this case the system is said to be Fully Undetectable, FUD.

Some systems take this further, such as MaruTukku, FreeOTFE and (to a much lesser extent) TrueCrypt, which nest encrypted data. The owner of the encrypted data may reveal one or more keys to decrypt certain information from it, and then deny that more keys exist, a statement which cannot be disproven without knowledge of all encryption keys involved. The existence of "hidden" data within the overtly encrypted data is then *deniable* in the sense that it cannot be proven to exist.

## Programming

The Underhanded C contest is an annual programming contest involving the creation of carefully crafted defects, which have to be both very hard to find and plausibly deniable as mistakes once found.

## References

### Notes

- [1] p. 213
- [2] p. 261-262
- [3] , pg 16
- [4] Church Committee Reports United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Senate, Nov. 20, 1975, II. Section B Covert Action as a Vehicle for Foreign Policy Implementation Page 11
- [5] New York Times Under Cover, or Out of Control? November 29, 1987 Section 7; Page 3, Column 1 (*Book Review of 2 books: The Perfect Failure and Covert Action*)
- [6] New York Times Castro Study Plot finds No Role by White House, November 21, 1975, page 52
- [7] Definition: Using or having ambiguous or allegorical meanings, especially to elude political censorship: "They could express their views only in a diluted form, resorting to Aesopian hints and allusions" (*Isaac Deutscher*).
- [8] Definition: The use of unnecessarily wordy and indirect language, Evasion in speech or writing, An indirect way of expressing something
- [9] New York Times How Fantasies Became Policy, Out of Control, The Honorable, Murderous Gentlemen of A Secret World, November 23, 1975, page 199.
- [10] Definition of the "Magic Button" from the Los Angeles Times Article: The Search for a 'Magic Button' In American Foreign Policy; October 18, 1987; (*Review by David Aaron of the book Covert Action*) *I recall during my days as a Senate investigator finding a piece of yellow note pad with jottings from a meeting with White House officials during the Kennedy Administration that discussed an "Executive Action" or, in plain English, an assassination capability. The notes referred to it as the "magic button."*
- [11] Newsweek The CIA'S Hit List, December 1, 1975, page 28
- [12] p. 86
- [13] <http://www.mtholyoke.edu/acad/intrel/pentagon2/doc148.htm>
- [14] <http://www.state.gov/r/pa/ho/frus/kennedyj/iv/12652.htm>
- [15] Church Committee II. Section B Page 11; IV. Findings and Conclusions Section C Subsection 1 Page 261:

*An additional possibility is that the President may, in fact, not be fully and accurately informed about a sensitive operation because he failed to receive the "circumlocutious" message...The Committee finds that the system of Executive command and control was so inherently ambiguous that it is difficult to be certain at what level assassination activity was known and authorized. This creates the disturbing prospect that assassination activity might have been undertaken by officials of the United States Government without its having been incontrovertibly clear that there was explicit authorization from the President of the United States.*

[16] Church Committee IV. Findings and Conclusions Section C Subsection 5 Page 277:

*It was naive for policymakers to assume that sponsorship of actions as big as the [Bay of Pigs] invasion could be concealed. The Committee's investigation of assassination and the public disclosures which preceded the inquiry demonstrate that when the United States resorted to cloak-and-dagger tactics, its hand was ultimately exposed.*

[17] Church Committee IV. Section C Subsection 5 Page 277:

*"Plausible denial" increases the risk of misunderstanding. Subordinate officials should describe their proposals in clear, precise, and brutally frank language; superiors are entitled to, and should demand, no less*

### Further reading

- Campbell, Bruce B. (2000). *Death Squads in Global Perspective : Murder With Deniability*. Palgrave Macmillan. ISBN 0-312-21365-4.
- Shulsky, Abram N; Gary James Schmitt (2002). *Silent Warfare: Understanding the World of Intelligence*. pp. 93–94, 130–132. ISBN 1-57488-345-3.
- Treverton, Gregory F. (1988). *Covert Action: The CIA and the Limits of American Intervention in the Postwar World*. Palgrave Macmillan. ISBN 1-85043-089-6.

### External links

- Sections of the Church Committee about plausible denial on wikisource.org
  - Church Committee reports (Assassination Archives and Research Center) (<http://www.aarclibrary.org/publib/church/reports/contents.htm>)
  - Church Report: Covert Action in Chile 1963-1973 (U.S. Dept. of State) (<http://foia.state.gov/Reports/ChurchReport.asp>)
  - Original 255 pages of Church Committee "Findings and Conclusions" in pdf file ([http://www.history-matters.com/archive/church/reports/ir/pdf/ChurchIR\\_4\\_Findings.pdf](http://www.history-matters.com/archive/church/reports/ir/pdf/ChurchIR_4_Findings.pdf))
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