

Tape of Noriega Lawyer's Call Missing

Attorney's Work as Informant Said to Be Key in Hearing on Rights

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MIAMI, Sept. 27—A federal prosecutor said today that the government has lost a crucial tape recording of a telephone call by Manuel Antonio Noriega's former lawyer to the Vatican Embassy in Panama City during the time that Noriega had taken sanctuary there after the U.S. invasion of Panama in December 1989.

The conversation emerged as a central issue in an unusual judicial inquiry into whether Noriega's constitutional rights were violated because Raymond Takiff, his chief lawyer at the time of the invasion, was secretly working for the Justice Department as an undercover informant in an unrelated judicial-corruption probe.

The hearing is separate from Noriega's drug-trafficking and racketeering trial, which is to resume Monday. But some lawyers said the government's use of Takiff could form the basis for a motion to dismiss the indictment or for an appeal if Noriega is convicted.

At a hearing three weeks ago, Noriega's current chief lawyer, Frank Rubino, charged that Takiff had called the Vatican Embassy after the invasion and urged Noriega to surrender. Rubino contended

that this abridged Noriega's right to independent legal advice since the former Panamanian leader had never been told that his lawyer was a U.S. government informant.

At a special hearing called by U.S. District Judge William M. Hoeveler, also the Noriega trial judge, Takiff acknowledged today that he had never told Noriega or any of his co-counsel in the case that he had been under criminal investigation by the Internal Revenue Service since 1985 and began cooperating secretly with the U.S. attorney's office to resolve the matter in August 1989, about 18 months after Noriega retained him.

But Takiff disputed Rubino's account of the telephone call to the embassy, testifying that he never reached Noriega and instead spoke only to the papal nuncio. In addition, he said, his only recommendation was that the Vatican not turn Noriega over to "the screaming mob" outside the embassy.

Hope of resolving the conflict, however, quickly disappeared when Assistant U.S. Attorney Norman Moscovitz acknowledged that prosecutors could not produce an exact transcript of Takiff's conversation because it had disappeared. Moscovitz said the government had been recording all calls into the embassy at the time and had a "summary" of Takiff's call.

When Noriega lawyer Jon May demanded that prosecutors produce the actual tape, Moscovitz replied: "This summary, your honor, is all we can locate."

The lost tape was the latest in a series of unusual twists in the Noriega case, but it was unclear whether it will have any bearing on the outcome of Noriega's trial. Hoeveler did not rule on the issue today.

Moscovitz insisted that Noriega was never harmed because Takiff, who withdrew as Noriega's lawyer when the general surrendered Jan. 3, 1989, never shared information about Noriega with prosecutors working on his case.

When he agreed to cooperate with the U.S. attorney's office, Takiff testified today, "I knew and the government knew that one thing I would not do is divulge any confidential information with respect to his [Noriega's] defense."

Since withdrawing from the Noriega case, Takiff has surfaced as the chief informant in Operation Court Broom, an undercover investigation in which he posed as the lawyer for a Central American drug dealer, paying out \$266,000 in alleged bribes to fix cases. Three Florida state judges and a local defense lawyer were indicted this week on bribery charges stemming from the probe.