

FBI's 'Kidnap' Power Is Double-Edged Sword

Your Aug. 8 editorial "Politics and Justice" implicitly endorses lawless behavior by our government. The subpoena issued to Attorney General Richard Thornburgh by the House Judiciary Committee on July 25 asked for an *unclassified* 1989 legal opinion by then-Assistant Attorney General William Barr. This opinion, the gravamen of which was leaked to the press by someone in the executive branch, states that the FBI could go to any foreign country and arrest people without the consent or knowledge of that country and whether or not there was an extradition treaty.

This assertion of "kidnap" authority caused general concern, and the subcommittee I chair, which has jurisdiction over the FBI, held a public hearing, receiving testimony from the FBI and the Justice and State departments. State and FBI witnesses testified the "kidnap" provision had brought worried inquiries from other nations. Justice refused to give us a copy of the opinion even though the FBI, the subject of the opinion, had no objection to our receiving it.

Since then both Chairman Jack Brooks and I repeatedly have asked the attorney general for the legal opinion. If the U.S. uses "kidnap" authority, then other countries such as Libya, Cuba or Iraq could unilaterally invoke a similar license.

Chairman Brooks intended to make his last request for the legal opinion to Mr. Thornburgh at a public hearing July 18. The attorney general refused to show up at the hearing and his staff again refused to produce the document, even though it's unclassified. Accordingly, the subpoena was issued. The attorney general himself initiated action to forestall contempt proceedings by offering to produce the document for perusal by committee members. So far, that hasn't happened.

Mr. Brooks did not "blink." The subpoena remains in effect until the attorney general complies or the committee dissolves it. Unless an arrangement for receipt of the document is made before Congress returns, I expect contempt proceedings will be pursued.

REF. DON EDWARDS (D., Calif.)
Chairman
Subcommittee on Civil
and Constitutional Rights
Washington
Journal 9/19/91 P A 11 col 2.