

In a Texas Feud, a Plane Tale of Intrigue

U.S. Role in GOP Hunt for Democratic Lawmakers is Still Murky

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Texas Rep. James E. "Pete" Laney thought he was taking a secret trip to Oklahoma on the morning of May 12. He flew on a private plane from his northwest Texas home to Ardmore, where he joined 50 other state Democratic legislators at a Holiday Inn. It was a mass boycott designed to prevent a quorum in the Texas House, where the GOP majority was poised to enact a congressional redistricting plan certain to send more Republicans to Congress.

By the day's end, however, officials in at least three federal agencies had been pressed, under murky circumstances, into helping track Laney's plane, checking on the lawmakers' whereabouts or giving legal advice to Republicans. The goal was to help Texas police who, acting on orders from state GOP leaders, were trying to locate, arrest and forcibly return the Democratic legislators to Austin for a vote.

The police efforts were lawful under Texas rules, and Republicans have denounced the Democrats for fleeing to a state with a Democratic governor to ensure they would be beyond the reach of the police. Both parties, in Texas and other states, regularly try to redraw congressional boundaries to concentrate or dilute blocs of voters to favor their own candidates.

But several Democrats, editorialists and privacy experts have said that in the Texas episode, federal agencies were improperly drawn into what should have remained a purely partisan spat in the Lone Star State. Citing roles played by House Majority Leader Tom DeLay (R-Tex.) and the three U.S. agencies, they argue that federal officials with wide-ranging capabilities to track and monitor the movement of private citizens abused their authority for political purposes.

"I was shocked when we learned the feds might be involved, because this is a state matter," said Texas Rep. Kevin Bailey (D), chairman of the General Investigating Committee. "But what is really troubling to me is the use of the Homeland Security Department, which is supposed to be fighting terrorism, in a domestic political dispute. . . . It's a real serious abuse of government power."

The saga of the Republican search for the missing Democrats remains clouded by unanswered questions, tight-lipped government officials and unfinished federal investigations. But U.S. and Texas officials have acknowledged that an "air interdiction"

center, based in Riverside, Calif. -- responsible for tracking down potential terrorists and drug traffickers -- used its anti-smuggling powers to try to locate Laney's plane.

The center's search was triggered by Republican suspicions that the plane was on its way from Oklahoma to pick up more Democrats seeking to escape Texas on the evening of May 12. In fact, it fell below the radar when the pilot made a detour to visit his mother in Graham, Tex., west of Fort Worth, according to Laney.

Justice Department spokeswoman Barbara Comstock said in a statement last week that "we did not deploy our federal law enforcement resources" in the dispute. But the FBI acknowledged this week that an agent in Corpus Christi -- David Troutman -- tried to help Texas police track down several lawmakers on May 12 and 13.

"There was no . . . official case or request made of us in any way," said FBI spokesman Robert Doguim in Houston. He described Troutman's role as the act of a lone agent trying to help his friends in the Texas police.

The U.S. Department of Transportation and DeLay have confirmed that the Federal Aviation Administration gave DeLay's staff information about the past movements of Laney's plane. Officials have said the information was available to the public, but according to two industry experts, the only data the public can get concerns the location of planes in mid-flight.

The U.S. attorney in San Antonio -- acting at the request of DeLay and other Texas Republicans -- examined whether Justice had the authority to order the FBI or U.S. marshals to join the search for the missing legislators, according to Texas officials. A DeLay aide asked a similar question of the Justice Department's legislative office in Washington.

In Texas, the Department of Public Safety ordered the destruction of documents related to the hunt on the day the federal officials' involvement was first disclosed, citing a reluctance to retain data unrelated to a criminal probe. U.S. House Democrats have cited the shredding as evidence of a possible coverup and demanded access to federal records in the case.

In a brief statement, the Bureau of Immigration and Customs Enforcement -- an arm of Homeland Security -- said the air interdiction center was motivated by safety concerns. "From all indications, this request . . . [from Texas was related to] a missing, lost or possibly crashed aircraft," the statement said. But at least three officials involved in the May 12 search said safety issues were not raised by the air interdiction center, which has no safety-related responsibilities.

"There was never any inference that the plane might be down, or something like that," said Marvin Miller, an airport official in Plainview, Tex. -- near Laney's home -- who said he was contacted by an "air interdiction" official on the evening of May 12. "There was never any safety concern, or indication that it was

missing or overdue," Miller said. "The guy said at the end, 'This is just somebody looking for politicians they can't find.' "

The Republican plan for redistricting Texas was hatched in the offices of DeLay's political action committee, Americans for a Republican Majority, and DeLay traveled to Austin May 8 to kick off the legislative drive. But that same week, Texas Democrats devised a plan to block its passage by staying away from the capital in sufficient numbers to prevent a 101-person House quorum, which is required in order to conduct business.

On May 11, a Sunday, 47 Democratic legislators boarded buses in Austin bound for Ardmore, 35 miles north of the Texas border. Four more arrived separately by Monday morning, including Laney on his plane, and they issued a collective statement of defiance.

Texas House Speaker Tom Craddick, a Republican closely allied with DeLay, rapidly organized a crisis center in his conference room in Austin. He ordered the House chambers locked and summoned state troopers, Texas Rangers and members of the state special crime squad to enforce his quorum call by dragooning lawmakers into returning to work.

The effort eventually involved more than 300 police from the state Department of Public Safety (DPS), Texas police Lt. A. William Crais said in a deposition taken Monday as part of a probe into the destroyed documents. Crais was one of several Texas officers who spent the day in the crisis center.

Files released this week under the Texas open records act show that police were pulled off criminal and narcotics probes to participate in the search. They also show that Texas Gov. Rick Perry (R) ordered surveillance of some lawmakers' homes and instructed police to try to find one lawmaker at a hospital where his newborn twins were being treated.

"FAA involved," said a diary of crisis center activities made by Texas Ranger Howard D. Henderson and released Tuesday. The DPS "is attempting to effect arrests via federal authorities, if possible."

By late afternoon on May 12, however, the Republicans were desperate: The dragnet had snagged only one Democratic lawmaker, who had remained in Austin. In his deposition, Crais said that at one point, Perry chewed him out and urged a more aggressive search. A spokeswoman for the governor, Kathy Walt, confirmed that Perry "did urge the DPS to follow the speaker's call and round up the missing Democrats."

State Rep. Juan M. Escobar (D), a former member of a federal crime task force who was elected to the House this year in a special election, said FBI agent Troutman called him twice -- on May 12 and 13 -- to learn whether he and Rep. Gabi Canales (D) were in Oklahoma. Escobar said he admitted they were. He said Troutman responded, "Good. We can call surveillance off and stop spending money" on it.

Reached by phone, Troutman declined to comment on Escobar's account.

Meanwhile, in Washington, DeLay was trying to help. He spoke by phone with Craddick, who had contacted the U.S. attorney in San Antonio, seeking federal help.

A DeLay aide -- whom his office declined to name -- contacted the Justice Department's legislative office to discuss "the appropriate role of the federal government" in helping the Texas Republicans, DeLay later told reporters. An aide -- also unnamed -- called the FAA, read out the tail number of Laney's Piper Cheyenne II -- N711RD -- and learned where the plane had taken off and landed that day, DeLay said.

"I was told at the time that that plane was in the air coming from Ardmore . . . back to Georgetown, Texas, and I relayed that information to Tom Craddick," DeLay said. Craddick later said this was how state officials learned where the Democrats were hiding. The police dispatched narcotics officers in four unmarked cars to Ardmore in an unsuccessful bid to persuade the lawmakers to return.

Laney's plane dropped off the radar screen west of Fort Worth, and Republican leaders suspected it was trying to rendezvous with more Democratic legislators. "We started wondering what happened to it," Republican House member Mike Krusee, who was in Craddick's crisis center, said in an interview. "I was asking DPS [police] over and over again, where is that plane?"

Crais, a former counter-narcotics agent who specialized in apprehending fugitives, telephoned the Texas desk at the Homeland Security Department's Air and Marine Interdiction Coordination Center, according to his deposition. In a written statement, the department said Crais told the center: "We got a problem, and I hope you can help me out. We had a plane that was supposed to be going from Ardmore . . . to Georgetown, Texas. It had state representatives in it, and we cannot find this plane."

Opened in 1988, the interdiction center is the place to go for tracking private planes. It has the nation's "most modern air surveillance system," capable of watching 12,000 targets, according to a fact sheet posted on the Internet. Information from 88 radar sites, including special aerial balloons, is fed into a command post with large screens displaying digitized topographical maps.

Its computers have access to "detailed information on the movement, registration and criminal histories of aircraft, vessels, vehicles and individuals," enabling the staff to identify and track "high-priority targets" around-the-clock, the center's fact sheet says. One of its jobs is to help coordinate anti-terrorist air patrols over the Washington area, but mostly it looks for suspected drug-smuggling flights.

The Department of Homeland Security statement said the center "routinely responds to requests for assistance from law enforcement agencies." But Joseph A. Bendig, the center's director for the past two years, in a phone interview could not recall

other instances in which a state law enforcement official had made a request like the one from Texas.

"Usually that doesn't happen," Bendig said. "Normally we call them" to request help in inspecting suspicious planes once they land. Bendig said he could not talk about the call from Austin without approval from Homeland Security headquarters in Washington. Press officials in Washington declined further comment and said a reporter could not visit the California facility.

Asked if the Homeland Security Department had ways of ensuring that requests for information were not politically motivated, spokesman Dean Boyd said, "When law enforcement calls us asking us to find a missing plane, we take their statements at face value."

The department's written statement said: "Believing that the aircraft may have crashed or be lost," one of its officials made multiple phone calls to Texas to help find the plane. He called the FAA's district office in Fort Worth as well as airport officials in Mineral Wells and Plainview, asking them to check on whether the plane had landed nearby, the statement said.

The California-based federal official also requested the intervention of local police in both jurisdictions, asking them to check the airports, according to the policemen who received the calls.

Crais, reached at home, declined to comment. But in his deposition, he said he remembered telling the interdiction center only that the plane was missing, not that it might have crashed. Anthony Todd Hopkins, an airport manager in Mineral Wells -- near where the plane dropped off the radar -- said the "customs" official who called him that evening never raised any safety concerns.

"They just said some government officials were on the plane," Hopkins said in an interview. The Homeland Security Department has declined to give a full account of its official's conversations.

Crais testified that he obtained new details of the plane's movement from the interdiction center, which he said had in turn obtained the data from the FAA. But the center's official eventually suggested that Crais pursue the matter directly with the FAA, which urged a more thorough search of airports. Texas police subsequently located the plane in Graham, where the pilot's mother lives, and ordered around-the-clock surveillance of it.

Privacy experts have questioned the federal agency's involvement in the search. "I think it's extraordinary," said Mark Rotenberg, executive director of the Electronic Privacy Information Center. "This tracking ability was established to protect the country from terrorists, not to put political opponents under a microscope. We've kind of

anticipated that this kind of abuse would arise, but it's remarkable in the sense that it's so blatant."

Like the search itself, the state and federal inquiries into its legality hinge on surveillance methods. Information about who was present in Craddick's crisis center has come mostly from tapes made by a surveillance camera outside his office, which Bailey obtained a week ago. Audiotapes were also made of relevant calls to and from the interdiction center totaling at least 20 minutes, according to Boyd, of Homeland Security. Those tapes were given to the department's Office of Inspector General.

"This is now potentially a criminal investigation," Homeland Security Secretary Tom Ridge told a U.S. House hearing May 22. "The tapes are part of the evidentiary chain. . . . Who knows what the outcome will be? But it's just not appropriate to be passing that information out right now."

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