By Scott Stewart and Fred Burton

On Aug. 24, Scottish Justice Secretary Kenny MacAskill addressed a special session of the Scottish Parliament. The session was called so that MacAskill could explain why he had decided to release Abdel Basset Ali al-Megrahi, the former Libyan intelligence officer convicted of terrorism charges in connection with the bombing of Pan Am Flight 103, and who had been expected to spend the rest of his life in prison. MacAskill said he granted al-Megrahi a compassionate release because al-Megrahi suffers from terminal prostate cancer and is expected to live only a few months.

The Aug. 20 release of al-Megrahi ignited a firestorm of outrage in both the United Kingdom and the United States. FBI Director Robert Mueller released to the press contents of an uncharacteristically blunt and critical letter he had written to MacAskill in which Mueller characterized al-Megrahi's release as inexplicable and "detrimental to the cause of justice." Mueller told MacAskill in the letter that the release "makes a mockery of the rule of law."

The flames of outrage over the release of al-Megrahi were further fanned when al-Megrahi received a hero's welcome upon his arrival in Tripoli — video of him being welcomed and embraced by Libyan leader Moammar Gadhafi was broadcast all over the world.

For his part, Gadhafi has long lobbied for al-Megrahi's release, even while taking steps to end Libya's status as an international pariah. Gadhafi first renounced terrorism and his nuclear ambitions in 2003, shortly after the U.S. invasion of Iraq. In October 2008 he completed the compensation agreement with the families of the U.S. victims of the December 1988 bombing of Pan Am 103 and of an April 1986 Libyan attack against the La Belle disco in Berlin.

Yet despite the conviction of al-Megrahi, the 2003 official admission of Libyan responsibility for the Pan Am bombing in a letter to the United Nations, and the agreement to pay compensation to the families of the Pan Am victims, Gadhafi has always maintained in public statements that al-Megrahi and Libya were not responsible for the bombing. The official admission of responsibility for the Pan Am bombing, coupled with the public denials, has resulted in a great deal of ambiguity and confusion over the authorship of the attack — which, in all likelihood, is precisely what the denials were intended to do.

The Pan Am 103 Investigation

At 7:03 p.m. on Dec. 21, 1988, an improvised explosive device (IED) detonated in one of Pan Am Flight 103's cargo containers, causing the plane to break apart and fall from the sky. The 259 passengers and crew members aboard the flight died, as did 11 residents of Lockerbie, Scotland, the town where the remnants of the jumbo jet fell.

Immediately following the bombing, there was suspicion that the Iranians or Syrians had commissioned the Popular Front for the Liberation of Palestine General Command (PFLP-GC) to conduct the bombing. This belief was based on the fact that German authorities had taken down a large PFLP-GC cell in Frankfurt in October 1988 and that one member of the cell had in his possession an IED concealed inside a Toshiba radio. Frankfurt is the city where Pan Am 103 departed before stopping in London. Indeed, even today, there are still some people who believe that the PFLP-GC was commissioned by either the Iranian or the Syrian government to conduct the Pan Am bombing.

The PFLP-GC theory might eventually have become the officially accepted theory had the bomb on Pan Am 103 detonated (as planned) while the aircraft was over the North Atlantic Ocean. However, a delay in the plane's departure from London resulted in the timed device detonating while the aircraft was still over land, and this allowed authorities to collect a great deal of evidence that had been scattered across a wide swath of the Scottish countryside. The search effort was one of the most complex crime-scene investigations ever conducted.

Through months of painstakingly detailed effort, investigators were able to determine that the aircraft was brought down by an IED containing a main charge of Semtex, that the IED had been placed inside a Toshiba radio cassette player (in a macabre coincidence, that particular model of Toshiba, the RT-SF 16, is called the "BomBeat radio cassette player"), and that the radio had been located inside a brown Samsonite hard-side suitcase located inside the cargo container.

Investigators were also able to trace the clothing inside the suitcase containing the IED to a specific shop, Mary's House, in Sliema, Malta. While examining one of the pieces of Maltese clothing in May 1989, investigators found a fragment of a circuit board that did not match anything found in the Toshiba radio. It is important to remember that in a bombing, the pieces of the IED do not entirely disappear. They may be shattered and scattered, but they are not usually completely vaporized. Although some pieces may be damaged beyond recognition, others are not, and this often allows investigators to reconstruct the device

In mid-1990, after an exhaustive effort to identify the circuit-board fragment, the FBI laboratory in Washington was able to determine that the circuit board was very similar to one that came from a timer that a special agent with the U.S. Diplomatic Security Service had recovered from an arms cache while investigating a Libyan-sponsored coup attempt in Lome, Togo, in 1986. Further investigation determined that the company that produced the timers, the Swiss company MEBO, had sold as many as 20 of the devices to the Libyan government, and that the Libyan government was the company's primary customer. Interestingly, in 1988, MEBO rented one of its offices in Zurich to a firm called ABH, which was run by two Libyan intelligence officers: Abdel Basset Ali al-Megrahi and Badri Hassan.

The MEBO timer, model MST-13, is very different from the ice-cube timer in the PFLP-GC device found in Frankfurt in October 1988. Additionally, the ice-cube timer in the PFLP-GC device was used in conjunction with a barometric pressure switch, and the IED used a different main charge, TNT, instead of the Semtex used in the Pan Am 103 device.

Perhaps the fact that does the most damage to the PFLP-GC conspiracy theory is that the principal bombmaker for the PFLP-GC Frankfurt cell (and the man who made the PFLP-GC Toshiba device), Marwan Khreesat, was actually an infiltrator sent into the organization by the Jordanian intelligence service. Kreesat not only assisted in providing the information that allowed the Germans to take down the cell, but he was under strict orders by his Jordanian handlers to ensure that every IED he constructed was not capable of detonating. Therefore, it is extremely unlikely that one of the IEDs he created was used to destroy Pan Am 103.

One of the Libyans connected to MEBO, al-Megrahi, is an interesting figure. Not only was he an officer with Libyan intelligence, the External Security Organization, or ESO, but he also served as the chief of security for Libyan Arab Airlines (LAA) and had visited Malta many times. The owner of the Mary's House clothing shop in Sliema identified al-Megrahi as the man who purchased the clothing found in the suitcase, and Maltese immigration records indicated that al-Megrahi was in Malta on Dec. 7, 1988, the time that the clothing was purchased. Al-Megrahi left Malta on Dec. 9, 1988, but returned to the country using a false identity on Dec. 20, using a passport issued by the ESO in the name of Ahmed Khalifa Abdusamad. Al-Megrahi left Malta using the Abdusamad passport on Dec. 21, 1988, the day the suitcase was apparently sent from Malta aboard Air Malta Flight KM180 to Frankfurt and then transferred to Pan Am 103.

On Nov. 13, 1991, the British government charged al-Megrahi and Lamin Khalifah Fhimah, the LAA station manager at Luqa Airport in Malta, with the bombing. One day later, a federal grand jury in the United States returned an indictment against the same two men for the crime. In March 1995, the FBI added the two men to its most wanted list and the Diplomatic Security Service's Rewards for Justice Program offered a $4 million reward for their capture. Al-Megrahi and Fhimah were placed under house arrest in Libya — a comfortable existence that, more than actually confining them, served to protect them from being kidnapped and spirited out of Libya to face trial.

After many years of boycotts, embargos, U.N. resolutions and diplomatic wrangling — including extensive efforts by South African President Nelson Mandela and U.N. Secretary-General Kofi Annan — a compromise was reached and all parties agreed to a trial in a neutral country — the Netherlands — conducted under Scottish law. On April 5, 1999, al-Megrahi and Fhimah were transferred to Camp Zeist in the Netherlands to stand trial before a special panel of Scottish judges.

On Jan. 31, 2001, after a very long trial that involved an incredible amount of technical and detailed testimony, the judges reached their decision. The Scottish judges acquitted Fhimah, finding that there was not proof beyond a reasonable doubt that he was involved in the plot (the British government had charged that he had been the person who stole the luggage tags and placed the suitcase on the Air Malta flight), but they did find al-Megrahi guilty of 270 counts of murder. He was sentenced to life in prison, with a minimum sentence of 27 years.

Although the case against al-Megrahi was entirely circumstantial — there was no direct evidence he or Fhimah had placed the device aboard the aircraft — the Scottish judges wrote in their decision that they believed the preponderance of the evidence, including al-Megrahi's knowledge of airline security measures and procedures, his connection to MEBO, his purchase

of the clothing in the suitcase that had contained the IED and his clandestine travel to Malta on Dec. 20 to 21, 1988, convinced them beyond a reasonable doubt that al-Megrahi was guilty as charged.

In a December 2003 letter to the United Nations, Libya accepted responsibility for the Pan Am 103 bombing. (In the same letter, Libya also took responsibility for the September 1989 bombing of UTA Flight 772, a French airliner destroyed by an IED after leaving Brazzaville, Congo, and making a stop in N'Djamena, Chad. All 170 people aboard the aircraft died when it broke up over the Sahara in Niger.) Nevertheless, the Libyan government continued to maintain al-Megrahi's innocence in the Pan Am bombing, just as al-Megrahi had done throughout the trial, insisting that he had not been involved in the bombing.

Al-Megrahi's reluctance to admit responsibility for the bombing or to show any contrition for the attack is one of the factors singled out by those who opposed his release from prison. It is also one of the hallmarks of a professional intelligence officer. In many ways, al-Megrahi's public stance regarding the bombing can be summed up by the unofficial motto of the CIA's Office of Technical Services — "Admit nothing, deny everything, make counter-accusations."

Shadows

In the shadow world of covert action it is not uncommon for the governments behind such actions to deny (or at least not claim) responsibility for them. These governments also often attempt to plan such attacks in a way that will lead to a certain level of ambiguity — and thereby provide plausible deniability. This was a characteristic seen in many Libyan attacks against U.S. interests, such as the 1986 La Belle Disco bombing in Berlin. It was only an intercept of Libyan communications that provided proof of Libyan responsibility for that attack.

Many attacks that the Libyans sponsored or subcontracted out, such as the string of attacks carried out against U.S. interests by members of the Japanese Red Army and claimed in the name of the Anti-Imperialist International Brigade, were likewise meant to provide Libya with plausible deniability. Gadhafi did not relish the possibility of another American airstrike on his home in Tripoli, like the one that occurred after the La Belle attack in April 1986. (A number of Libyan military targets also were hit in the broader U.S. military action, known as Operation El Dorado Canyon.) Pan Am 103 is considered by many to be Gadhafi's retribution for those American airstrikes, one of which killed his adopted baby daughter. Gadhafi, who had reportedly been warned of the strike by the Italian government, was not injured in the attack.

During the 1980s, the Libyan government was locked in a heated tit-for-tat battle with the United States. One source of this friction were U.S. claims that the Libyan government supported terrorist groups such as the Abu Nidal Organization (ANO), which conducted several brutal, high-profile attacks in the 1980s, including the December 1985 Rome and Vienna airport assaults. There was also military tension between the two countries as Libya declared a "line of death" across the mouth of the Gulf of Sidra. The U.S. Navy shot down several Libyan fighter aircraft that had attempted to enforce the edict. But these two threads of tension were closely intertwined; the U.S. Navy purposefully challenged the line of death in the spring of 1986 in response to the Rome and Vienna attacks, and it is believed that the La Belle attack was

retribution for the U.S. military action in the Gulf of Sidra. The Libyan ESO was also directly implicated in attacks against U.S. diplomats in Sanaa, Yemen, and Khartoum, Sudan, in 1986.

Because of the need for plausible deniability, covert operatives are instructed to stick to their cover story and maintain their innocence if they are caught. Al-Megrahi's consistent denials and his many appeals, which often cite the PFLP-GC case in Frankfurt, have done a great deal to sow doubt and provide Libya with some deniability.

Like Osama bin Laden's initial denial of responsibility for the 9/11 attacks, al-Megrahi's claims of innocence have served as ready fuel for conspiracy theorists, who claim he was framed by the U.S. and British governments. However, any conspiracy to frame al-Megrahi and his Libyan masters would have to be very wide ranging and, by necessity, reach much further than just London and Washington. For example, anyone considering such a conspiracy must also account for the fact that in 1999 a French court convicted six Libyans in absentia for the 1989 bombing of UTA Flight 772. The six included Abdullah al-Sanussi, Gadhafi's brother-in-law and head of the ESO.

Getting two or more governments to cooperate on some sort of grand conspiracy to frame the Libyans and exonerate the Iranians and Syrians is hard to fathom. Such cooperation would have to involve enough people that, sooner or later, someone would spill the beans — especially considering that the Pan Am 103 saga played out over multiple U.S. administrations. As seen by the current stir over CIA interrogation programs, administrations love to make political hay by revealing the cover-ups of previous administrations. Surely, if there had been a secret ploy by the Reagan or Bush administrations to frame the Libyans, the Clinton or Obama administration would have outed it. The same principle applies to the United Kingdom, where Margaret Thatcher's government oversaw the beginning of the Pan Am 103 investigation and Labour governments after 1997 would have had the incentive to reveal information to the contrary.

While the U.S. and British governments work closely together on a number of intelligence projects, they are frequently at odds on counterterrorism policy and foreign relations. From our personal experience, we believe that it would be very difficult to get multiple U.S. and British administrations from different political parties to work in perfect harmony to further this sort of conspiracy. Due to the UTA investigation and trial, the conspiracy would have to somehow involve the French government. While the Americans working with the British is one thing, the very idea of the Americans, British and French working in perfect harmony on any sort of project — much less a grand secret conspiracy to frame the Libyans — is simply unimaginable. It is much easier to believe that the Libyans were guilty, especially in light of the litany of other terror attacks they committed or sponsored during that era.

Had the IED in the cargo hold of Pan Am 103 exploded over the open ocean, it is very unlikely that the clothing from Malta and the fragment of the MEBO timer would have ever been recovered — think of the difficulty the French have had in locating the black box from Air France 447 in June of this year. In such a scenario, the evidence linking al-Megrahi and the Libyan government to the Pan Am bombing might never have been discovered and plausible deniability could have been maintained indefinitely.

The evidence recovered in Scotland and al-Megrahi's eventual conviction put a dent in that deniability, but the true authors of the attack — al-Megrahi's superiors — were never formally charged. Without al-Megrahi's cooperation, there was no evidence to prove who ordered him to undertake the attack, though it is logical to conclude that the ESO would never undertake such a significant attack without Gadhafi's approval.

Now that al-Megrahi has returned to Libya and is in Libyan safekeeping, there is no chance that any death-bed confession he may give will ever make it to the West. His denials will be his final words and the ambiguity and doubt those denials cast will be his legacy. In the shadowy world of clandestine operations, this is the ideal behavior for someone caught committing an operational act. He has shielded his superiors and his government to the end. From the perspective of the ESO, and Moammar Gadhafi, al-Megrahi is indeed a hero.

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