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NOTCHING A “WIN”

A self-professed “sleeper agent” is (legally) flimflammed by the FBI

By Julius (Jay) Wachtel. Ten years ago, in “[Damned if They Do](#),” we reported on the “[Sears Tower Plot](#)” and the “[Fort Dix Six](#)” (aka, the “Fort Dix Five”), two FBI anti-terrorism cases that used informers and undercover agents to dupe would-be Jihadists into joining fictitious, Government-constructed plots.

As America’s premier law enforcement organization, the FBI takes pride in making criminal cases, and the bigger the better. That’s how the agency and its agents have always measured their worth. But while there are lots of fraudsters, robbers and gangsters for agents to corral, terrorists are much less plentiful, and developing actionable, case-producing leads against them is far more difficult. [In written testimony](#) delivered to a Senate committee one year after the 9-11 attacks, Stephen Push, co-founder of “Families of September 11” expressed concern that the FBI had devalued intelligence work and urged that America “establish a new domestic intelligence agency similar to Britain's MI-5.”:

This agency would have no law enforcement powers, and would work with the FBI when criminal investigations and arrests were necessary. The FBI would retain a small intelligence unit to serve as a liaison with the Intelligence Community. Domestic intelligence professionals can not flourish in a culture that rewards people for the number of cases solved or the number of arrests made.

Senator Rockefeller’s remarks echoed that view:

...the FBI is an outstanding law enforcement agency. But I have serious questions about whether it is the right place to do intelligence work necessary in our country. Law enforcement is not necessarily compatible with intelligence gathering; in fact, it is not. It's not the same skills, not the same mission. Going forward, we must not undermine the FBI's ability to carry out its fundamental responsibilities, because they're very important, and they do it very well.

Faced with the possibility that his agency could lose its intelligence portfolio, [Director Robert Mueller conceded](#) that “we need a different FBI, one that does not just think in terms of cases and prosecutions.” Still, changing a proud law enforcement agency’s DNA proved no easy task. To demonstrate tangible results, just like their peers working

conventional crimes, counter-terrorism agents turned to luring in wannabees – what cops cynically call “[roping in dopes](#).” Here are a few examples from past posts:

- In 2009 the FBI [made arrests in three cases](#) where agents and informers supplied self-styled terrorists with (fake) bomb-laden cars. Their intended targets included a Jewish synagogue, an office tower and a Federal courthouse.
- In 2010 [the FBI filed charges](#) against Mohamed Osman Mohamud, whom an informer enticed to bomb a Christmas-tree lighting in Portland, and Antonio Martinez, who accepted a fake bomb to blow up a Maryland military recruitment office.
- In 2012 [agents arrested an illegal alien from Morocco](#) after the unsuspecting dupe donned an inert FBI-supplied explosive vest he intended to set off at the Capitol. Amine El Khalifi had already practiced detonating explosives with an informer and an undercover agent. As we then noted, “the only thing he didn’t rehearse was his own arrest.”

As one might expect, objections to the FBI’s facilitative approach soon arose. [In its 2014 report](#), “Illusion of Justice: Human Rights Abuses in US Terrorism Prosecutions,” Human Rights Watch complained that “in some cases the Federal Bureau of Investigation may have created terrorists out of law-abiding individuals by conducting sting operations that facilitated or invented the target’s willingness to act”:

According to multiple studies, nearly 50 percent of the more than 500 federal counterterrorism convictions resulted from informant-based cases; almost 30 percent of those cases were sting operations in which the informant played an active role in the underlying plot. In the case of the “Newburgh Four,” for example, a judge said the government “came up with the crime, provided the means, and removed all relevant obstacles,” and had, in the process, made a terrorist out of a man “whose buffoonery is positively Shakespearean in scope.”

Even so, make-believe “bombs” continued to be offered to self-professed soldiers of the Islamic state. Dupes arrested in 2017 include [Jerry Varnell](#), a 23-year old schizophrenic who said he wished to murder Government officials and [Robert Hester Jr.](#), a Kansas man who sought to target public transportation facilities. (For the DOJ news release on Varnell click [here](#). For the one about Hester click [here](#).)

Legally, the FBI ops seem to be on firm ground. As a somewhat skeptical Ninth Circuit [ruled in the Mohamud case](#), it’s not entrapment to lend a hand to the predisposed. That rule is well known to your blogger, who participated in stolen

property stings in the seventies. Yet as one pores through news accounts, many terrorists “stung” by the FBI bear no resemblance to the tried-and-true, profit-seeking targets of traditional police undercover work. Indeed, they seem much more like candidates for a mental ward.

So when we came across [the case of Ali Kourani](#), we thought that the FBI had finally nailed a “real” terrorist. According to the [detailed DOJ press release](#) Kourani, who emigrated to the U.S. from Lebanon in 2003 while in his late teens, admitted that he had been a secret member of Islamic Jihad (IJO) all along. Years later, while earning degrees in biomedical engineering and business, Kourani said he met with his “handler” and participated in military training during a visit to Lebanon. On returning to the U.S. the now full-fledged American citizen admitted he began collecting information for the IJO about “weapons suppliers in the U.S. who could provide firearms to support IJO operations, identifying individuals affiliated with the Israeli Defense Force, gathering information regarding operations and security at airports in the U.S. and elsewhere, and surveilling U.S. military and law enforcement facilities in Manhattan and Brooklyn.”

Yet not all may be as it seems. According to [a recent piece](#) in the *New York Times*, Kourani originally rebuffed the FBI when, for reasons as yet undisclosed, they approached him in 2016 and asked that he become an informant. So they supposedly hounded family and friends, frightening his wife and leading her to leave for Canada with their two children. Desperate to get his kids back, and under decidedly questionable counsel from a law professor, Kourani eventually agreed to help the FBI. In a highly detailed account, which later served as the template for his prosecution, he admitted working for the IJO and specifically identified his recruiter and handler.

While Kourani spilled the beans he had, he lacked prosecutable associates in the U.S. In May 2017, after apparently finding him of little further use, the Feebs turned on their man, filing [a detailed criminal complaint](#) that accuses Kourani of providing material support to a terrorist organization, alone and in concert with the foreign contacts whose identities he had so helpfully provided.

Kourani’s law professor friend conceded that he didn’t think belonging or training with the IJO was a crime, so he never counseled Kourani to obtain immunity in writing. Oops. “I never thought of it,” the lawyer told a judge. “I did no research. I believed that to be the case. If I’m wrong, I’m wrong.” A legal scholar who reviewed what happened said the FBI took advantage of his counterpart’s naïveté: “They just let him dig a hole for his client. And that’s their job — to help convict the guilty, not to educate the lawyers.”

Thanks to his own very many words, Kourani confirmed his technical “guilt.” Yet in a way he also seems as much a dupe as those who accepted bombs from strangers.

Kourani was hardly clueless, but whether hammering him really makes us safer is equally questionable. Still, it let an FBI counter-terrorism squad notch a tangible “win.” And isn’t that what it’s all about?