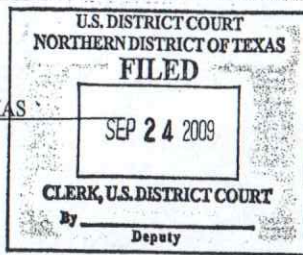


United States District Court

NORTHERN DISTRICT OF TEXAS



UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

HOSAM MAHER HUSEIN SMADI

CASE NUMBER: ~~M-3:09-MJ-286~~

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 24, 2009, in Dallas County, Dallas, Texas, in the Northern District of Texas, defendant(s) did,

knowingly, and without lawful authority, attempted to use a weapon of mass destruction against any person and property within the United States, and a facility of interstate or foreign commerce was used in furtherance of the offense

in violation of Title 18, United States Code, Section(s) 2332a(a)(2)(A).

I further state that I am a(n) Supervisory Special Agent of the Federal Bureau of Investigation and that this complaint is based on the following facts:

See attached Affidavit of Supervisory Special Agent Thomas D. Petrowski, Federal Bureau of Investigation, which is incorporated and made a part hereof by reference.

Continued on the attached sheet and made a part hereof:  Yes  No

Signature of Complainant THOMAS D. PETROWSKI Supervisory Special Agent Federal Bureau of Investigation

Sworn to before me and subscribed in my presence, on this 24th day of September, 2009, at Dallas, Texas.

HONORABLE IRMA C. RAMIREZ UNITED STATES MAGISTRATE JUDGE Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT

I, Thomas D. Petrowski, a Supervisory Special Agent with the Federal Bureau of Investigation (FBI), being duly sworn, deposes and states:

INTRODUCTION

1. I am a federal law enforcement officer within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is a government agent engaged in enforcing criminal laws. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since 1995. I currently supervise the Counterterrorism - 2 (CT-2) squad of the Dallas FBI office. Your affiant currently investigates and supervises terrorism matters, among other violations of Federal law, and participates on the Joint Terrorism Task Force. I have experience in and utilized various methods of investigation, including, but not limited to, electronic and visual surveillance, general questioning of witnesses and subjects, the use of search warrants, the use of confidential human sources, and the use of undercover employees.

2. I submit this affidavit in support of an application for a federal arrest warrant for HOSAM MAHER HUSEIN SMADI, date of birth June 5, 1990, Alien Registration Number A097683198. For reasons set forth below, I believe there is probable cause that SMADI, knowingly and intentionally committed the following offense against the United States, to wit: 18 U.S.C. § 2332a(a)(2)(A), attempting to use a weapon of mass destruction.

3. I have personally participated in the investigation set forth below. I am familiar with facts and circumstances of the investigation through my personal participation, from discussions with other Special Agents of the FBI, language analysts, and other law enforcement officers, and from my review of records and reports relating to the investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another FBI agent, law enforcement officer or language analyst who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken or whose reports/records I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated.

INVESTIGATION TO DATE

4. SMADI was discovered by the FBI within an online group of extremists; an FBI undercover employee (hereafter "FBI UCE1") was part of that group. Among many others in the group who espoused and endorsed violence, SMADI stood out based on his vehement intention to actually conduct terror attacks in the United States. After SMADI

repeated these comments, FBI UCE1 made contact with him. FBI UCE1 had more than 10 communications with SMADI over approximately two months. During those interactions, SMADI made clear his intention to serve as a soldier for Usama Bin Laden and al-Qa'ida, and to conduct violent Jihad (acts of terrorism in the name of Islam). After assessing SMADI to likely be a legitimate threat, FBI UCE1 introduced SMADI to a second FBI undercover employee (hereafter "FBI UCE2") who was acting in the undercover role of a senior member of an al-Qa'ida "sleeper" cell. From early March to the present, FBI UCE2 has communicated with SMADI more than 40 times. In those communications, SMADI has continued to indicate his intention to commit an act of terrorism in the United States. To further support this undercover operation, a third FBI undercover employee (hereafter "FBI UCE3") was introduced to SMADI in the undercover role of a lower level operational soldier in the "sleeper" cell. FBI UCE3 has communicated with SMADI more than 15 times.

5. During communications with all three FBI UCEs, SMADI has repeated common themes. Your affiant believes that SMADI's statements indicate SMADI's wish to commit violent jihad within the United States. All conversations or other communications with SMADI have been in Arabic; SMADI's native language. All three FBI undercover employees are native Arabic speakers.<sup>1</sup> Examples of translated statements made by SMADI include the following:

- SMADI stating his desire and intention to commit Jihad, to FBI UCE2 in March 19, 2009:

"I truly say it that my dream is to be among God's soldiers, first for the support of Islam and my beloved Sheik Usama, may God give him long life. I don't know what is in me, but I love him as I love my father. I don't want to add to this.

Now my brother, the point is that thousands of Muslims have been killed in Gaza at the hand of Jews-the dogs-and the silent disloyal backsliders. Those are the Arab kings and, God willing, their end will be the hanging rope and hell.

Their silence and fight against the Sheik mean that they are backsliders along with the enemy in a world plan to destroy Islam, Muslims and to seize their lands for the benefit of the Jews and for the love of infidelity.

<sup>1</sup> Information in brackets, within quote, are translator comments added for informational purposes.

By God who created me, there will not be a retreat at all, even if they take me to Guantanamo for the rest of my life. I will never forget Iraq, Palestine, Afghanistan, or any land where the call of, 'there is no God but God, Muhammad is God's Messenger' is raised.

Who will assist the brothers, the infants, the women who became widows and their orphan children? Who would return these lands before religion and blessing disappear? Who would cause these tyrants to fall?

In the name of God, the Gracious and Merciful, this is my vow to you, my brother, that I am ready. And if you were a lover of Jihad as I am, then, by God, I am ready for the Jihadi life. What you will see of me will please you and your Commander.

The reign is only for the living and powerful God. I ask Him that he would be our Caliph and ruler."

- SMADI stating his desire to attack Romans [Christians] and Jews, to FBI UCE2 in March 29, 2009:

"My brother in God, God and His angels are with us. With the permission of the Almighty Lord of the Worlds, we will have victory and allies from God Almighty. He is the powerful and helpful. Victory is coming, is coming to defeat the Romans and for the destruction of the Jews. God is Most Great. We shall attack them in their very own homes. Brother, by God, we shall attack them in a manner that hurts, an attack that shakes the world. Oh Brother, let the backsliders know that the time for their destruction has come."

6. SMADI has repeatedly indicated to both FBI UCE2 and FBI UCE3 that he came to the United States with the purpose of committing "Jihad for the sake of God." For example, on April 22, 2009, after telling FBI UCE3 of his purpose in coming to the United States, SMADI clarified to FBI UCE3 that "to sacrifice in person is the best type of Jihad." Based on your affiant's experience and training, your affiant believes that SMADI is interested in violent jihad against those he deems to be enemies of Islam; SMADI views the United States as an enemy of Islam.

7. FBI UCE2 and FBI UCE3 each have repeatedly encouraged SMADI to reevaluate his interpretation of Jihad, counseling him that the obligations a Moslem has to perform Jihad can be satisfied in many ways. Every time this interaction occurred, SMADI aggressively responded that he was going to commit significant, conspicuous violence as his Jihad. The following is a specific exchange between UCE2 and SMADI detailing this interaction.

• UCE2 counseling SMADI on Jihad in April 4, 2009:

"You know that your desire for Jihad is a serious and top secret matter. It requires great effort and preparation. The operation that we are planning will be, with God's help, a big and painful attack that requires the participation of many brothers like you that God placed in a unique and wonderful place, that is, their presence in the very home of the enemy and behind the ranks of infidels. Brother, do you have any doubt, hesitation, or fear of what you are doing? I beg you and I make God Almighty your witness and I ask you to swear by the Almighty and by your respected mother who is with God, may God forgive her, that you tell me frankly. Tell me now before we entrust you with what is important, secret, dangerous, and may lead to harming other brothers...."

Therefore, tell me if you have any hesitation, doubt, or fear. If that is the case, we would depart now as friends and brothers in Islam without any anger at all. In this case, you may perform Jihad in a less dangerous way, such as Jihad using your money or in training yourself to avoid sins, indignities, and desires. If that is your choice, we would have known you enough, and we trust that you are a true Muslim and would not reveal our secrets and what you have discovered about us and our methods of communication. Then, my question to you is, what Jihad do you seek? Is it the Jihad using your person in the battle against the infidels and the enemies of Islam or the Jihad of giving money and assistance, or the Jihad of a soul that seeks perfection?"

• SMADI's response to UCE2's counseling in April 7, 2009:

"Just as I said in the beginning, my way is with you to paradise, the way of the righteous people. Oh my brothers! O how I love, my brothers, to perform Jihad with you in the same rank, in the same field, against the same enemy. I have chosen to be a Mujahid with my self, blood, soul, and body. [That is] more precious to me than this world and its money, women, and amusements. By God, I shall support Osama, Abu Mus'ab al-Zarqawi [the leader of al-Qa'ida in Iraq from late 2004 until his death in June, 2006], al-Rantisi [the founder of HAMAS], and all who performed Jihad in this world. I shall expel the Jews from the land of holy Jerusalem, land of the two tributaries [Iraq], and Iraq. We shall destroy all the Romans and all the religion's enemies. I shall kill and behead the backslider operatives in the Levant and land of Muslims. Do you know what my reward is? It is the reward from God the King, God Almighty. Woe and misery to him who would not run for it. His mother would have cursed him the day she carried him in her womb."

8. On May 12, 2009, while meeting with FBI UCE3 in a hotel in Dallas, SMADI was asked what he would do if he had never met the al-Qa'ida "sleeper" cell that FBI UCE3 supposedly represented. SMADI replied that he would keep looking for such an entity to be part of, even if it meant him having to leave the United States and go to Palestine and join Hamas or go back to Pakistan and join the Taliban. SMADI specified that he prayed when he came to the United States that he would "join the Mujahidin...and they struck it, ['it' refers to the United States]...Osama's group...because I feel that all Osama's group and everyone around them are a righteous group..." SMADI told UCE3: "I want to destroy...targets...everything that helps America on its war on Arabs will be targeted..."

9. On June 24, 2009, while meeting with FBI UCE3 in a hotel in Dallas, Texas, SMADI stated he had a new idea to target the buildings belonging to the biggest credit card companies such as American Express or Visa. SMADI stated the credit card is what drives America and he desired to attack one of the main locations where the building accommodates the management and the administration. When asked by UCE3 how he would do the attack, SMADI responded "timed explosives ... or remote detonation." SMADI further stated "we will take it inside the building...and with God's permission...it will be a strike to the economy." SMADI addressed the topic of physical security at the buildings by giving the example: "we will have a clever idea...I have a car...this car will be the bomb...but there will be a routine before this car...I would have entered the building prior...to see how the security is, how they search ...what type of security...so if a bomb is planted, for instance, in the car, timed or to detonate remotely...a very fast operation, smart, and decisive."

10. During the same meeting on June 24, 2009, SMADI utilized his newly purchased Dell laptop computer to identify and map possible targets, including military recruitment centers. The targeting of recruitment centers was based upon discussion of the recently reported Little Rock, Arkansas attack. As such, SMADI identified the address of a National Guard Armory, located in Dallas, Texas. SMADI and UCE3 traveled by car to conduct a visual surveillance of the Armory, which was deemed an unacceptable target. Subsequently, while continuing to drive and discuss potential targets, SMADI asked UCE3: "what do you think of the airports?" UCE3 asked SMADI what he wanted to do, to which SMADI stated, "The Dallas airport, for example...I expect it to be very easy...the restroom is always the best thing...if I go up on...and put a case in the ventilation place...it will not be visible until the explosion time." SMADI further stated, "...if we have two timed bombs...we took the first one...to the bank...and the timing between the two bombs...you can say 15 minutes." While traveling to the airport to conduct visual surveillance, UCE3 and SMADI discussed several financial institutions they saw along the way. After seeing a bank near the airport, SMADI stated, "we'll go to the airport...it will be two operations...they will be devastated over there, then they will be devastated over here, after the second explosion...there will be 10-15 minutes difference between them." When specifically discussing the bank, SMADI

stated, "...it's a big bank...it's very successful...if we bring it to the ground, it will be a powerful hit...it will be a perfect strike...." SMADI detailed his idea for the bombing attacks at the airport and the bank by stating, "...there will be a tactic to have one explode before the other, and the second one to explode after it so that we create chaos...and it is better that the bomb in the bank explodes [second]...the bomb at the airport, to explode first."

11. On July 4, 2009, UCE2 again counseled SMADI to reevaluate his interpretation of Jihad, offering to SMADI that the obligations a Moslem has to perform Jihad can be satisfied in many ways. SMADI, again, communicated his continuing commitment for violent Jihad to UCE2. The following is a specific exchange between UCE2 and SMADI detailing this interaction.

- UCE2 again counseling SMADI on Jihad on July 4, 2009:

"...it is my duty to emphasize to you what I clarified earlier. If you have any hesitation in this path, now is the time to change your mind. If you went forward, there would not be going back afterwards. And as I discussed with you previously, there are different types of Jihad that are accepted by the Almighty and supported by Muslim scholars, other than the Jihad by soul and person. You know that I love you as a brother in God and I need to make it clear to you, just like a father and a leader does. There are many Muslims who, God willing, will be granted paradise by performing Jihad through good deeds or by purifying their souls. I would like to learn from you one more and final time if you are truly and definitely determined on Jihad with your person. If your response is positive, the necessary supplies will definitely reach you. Otherwise, our relationship would change to brotherhood in Islam. And then, we would always love you as a brother in Islam and you will be able to help us and the cause in many different ways. Please clarify your final decision to us."

- SMADI's response to UCE2's counseling on July 8, 2009:

"Thank you for your advice and your reiteration the question one more time about my desire in going forward towards this path. Thanks to God, I have relied on Him in going through this path sooner or later. Thanks to God that he facilitated this to me through you. Thanks to God, I am happy and proud to be one of your hands. This is my decision. I hope you accept me as a brother amongst you as our path is one."

12. On July 16, 2009, SMADI contacted UCE2 and made it known that he had changed his mind regarding the targets he previously discussed with UCE3. SMADI remarked that the security at the airport was too strong and he decided it was not a viable target. SMADI directed UCE2 to a larger building containing a bank. SMADI stated:

"... I have decided to change the target. Let us make it the big fish instead of the smaller fish; they are all fish in one sea - the main bank for the city and not the branch that we had identified. God willing, the strike will be certain and strong. It will shake the currently weak economy in the State and the American nation because this bank is one of the largest banks in this city.

Name of the city: DALLAS  
Name of the state: TEXAS  
Name of the bank: Wells Fargo

...The bank's exterior is made of glass. The bank has billions of dollars. Let's say that the bank has collapsed and they took the money out. The losses will be excessive in credit card information. Millions of people would incur losses: unemployment, poverty, hunger, and a strike to the head of the government. Don't forget the psychological impacts for the loss of this beautiful building ...Of course, our joy will be in the success of this operation."

13. During the same July 16, 2009 communication to UCE2, SMADI advised that he (SMADI) has been doing research from his home and also expressed the necessity for research prior to the attack:

"But now, it is your decision. I present to you a small research for the location and place from my own home. The big research, such as examining the interior of the building, the security systems, and the entry ways to execute and plant has not started."

14. On July 21, 2009, UCE3 traveled to Italy, Texas and picked up SMADI. SMADI directed UCE3 to drive to a Wells Fargo bank located in downtown Dallas, Texas. SMADI and UCE3 then drove to 1445 Ross Avenue, Dallas, Texas, where the Fountain Place office building is located. The Wells Fargo bank is co-mingled within the large office building at Fountain Place. While at this location, SMADI was dropped off by UCE3 and SMADI then conducted his own reconnaissance of the building. SMADI subsequently communicated to UCE3 that he had located a bathroom on the basement level which would be a good location to "plant a bomb." SMADI specified the bathroom had a locking door and a drop-ceiling he accessed by standing on the toilet seat.

15. Subsequent to the July 21, 2009 meeting with UCE3, SMADI communicated multiple times with UCE2 regarding the Fountain Place target as well as a potential second target he researched. SMADI identified the second target as another bank located in downtown Dallas, Texas. In an August 22, 2009 communication to UCE2, SMADI specified his final decision for selecting a target to attack:

"The second target consists of a large bank but the first target [Fountain Place building] is a commercial center and contains bank branches. I like both targets but the first target is more suitable for the operation even though I would have preferred that the attack be accomplished on both targets. However, God helped us to choose the first target that contains five banks and is made of glass according to the international standards. Let us rely on God. Lord, give us success and overshadow our enemy. Amen.

As for both targets, the casualty figures will be high because both targets have about the same size but different shapes. And since I examined the first target and identified the suitable location for the planting [of the bomb] in that building, we shall not waste this opportunity, God willing. Lord, give us success and achievement of our aim from yours. Amen."

16. On August 26, 2009, while meeting with FBI UCE3 in a hotel in Dallas, Texas, SMADI discussed the logistics and timing of the bombing of the Fountain Place building. SMADI stated he would have preferred to do the attack on "11 September", but decided to wait until after the month of Ramadan. SMADI confirmed with UCE3 that Ramadan ended on September 20, 2009 and he would "go ahead" with the attack after Eid.<sup>2</sup> SMADI showed UCE3 what he described as a building plans and stated "...What I discovered was that this building, my dear sir, is the same building as September 11 in New York...That it is a trade building." SMADI further informed UCE3 that the building was approximately 60 stories and contained about five banks. SMADI and UCE3 discussed the size of the bomb to be utilized and SMADI's expectations of the explosion. When the subject of using a vehicle to deliver the bomb was discussed SMADI stated "...a wonderful thing...like you say, I thought of it...I want to enter to plant the bomb...I will plant it in the...foundations...exactly under the building...when it explodes, it will shake the foundations so that the building, if it is heavy in weight, tons, all that will come down." SMADI further confirmed his intentions by stating "I want to bring down the building, God willing. I mean, like you say, we are strivers and mujahidin." By the conclusion of this meeting, it was decided that a vehicle born improvised explosive device would be used.

17. The vehicle born improvised explosive device (VBIED) will function as designed when a person turns a clock timer and then disengages the safe-arm switch. When the timer expires, those actions close the electrical circuit allowing current to travel from the power source to the blasting caps. The blasting caps have been placed within C-4 explosive blocks. The blasting caps will initiate the C-4 explosive which will in turn act as a booster charge to initiate bulk ammonium nitrate fertilizer. All of the

<sup>2</sup>Eid is a Muslim holiday that marks the end of Ramadan, the Islamic holy month of fasting.

components of the VBIED are contained within a 2001 Ford Explorer Sport Trac. The VBIED has been designed to be readily adaptable, but is inert for public safety purposes.

18. In response to Smadi's question about when to execute his plan, FBI UCE2 responded on September 18, 2009 as follows: "This holiday celebration [the planned attack] that you prepared for along with Brother Hussain shall occur on Thursday, the 24th of this current month. Brother Hussain will bring to you the gift [VBIED] that you requested him to prepare for you...."

19. On September 20, 2009, Smadi indicated to FBI UCE2 that he (Smadi) is ready:

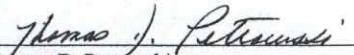
"Let the drums of victory be struck in our holiday. We know that Allah is with us. We ask Him to bless our gift with His angels protecting protecting and assisting us. On this day, I tell you that I am ready to receive the gift. I thank you. May Allah bless you all for what you have offered until the victory time. I send holiday wishes to the Commander and prince, may Allah give him a long life and success in his path, and to the successful heroes who are in our ranks. May this be only the beginning, and what is coming will be greater...."

20. On September 24, 2009, Smadi drove to Dallas, Texas, where he met FBI UCE3. Smadi and FBI UCE3 then drove to the location where the VBIED had been left for Smadi to use in his Jihad operation. Smadi inspected the VBIED with the FBI UCE3, and conducted surveillance of the target location again.

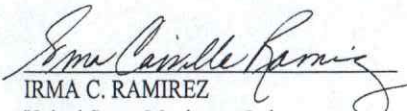
21. SMADI, alone and believing himself to be in possession of a weapon of mass destruction, did drive a vehicle containing the VBIED through the streets of downtown Dallas toward his planned target location. He entered the parking garage directly beneath the Fountain Place building and parked the vehicle. Smadi then attempted to ignite and detonate the explosive device by setting the device's timer and flipping the power switch on the explosive device. Smadi then exited and locked the vehicle, and left the parking garage on foot. Smadi walked to where FBI UCE3 was parked and got into the vehicle. UCE3 drove several blocks away, so they could watch as Smadi remotely detonated the VBIED via cell phone. FBI UCE3 offered Smadi ear plugs, but Smadi declined indicating that he wanted to hear the blast. Smadi then dialed the cell phone which he believed would detonate the explosive device parked under his selected target. The phone number Smadi dialed rang to a phone in the possession of law enforcement. Smadi was then placed under arrest by agents of the FBI, Joint Terrorism Task Force, and other assisting law enforcement officers.

22. Interstate commerce was used to further this offense. An interstate carrier was used to facilitate communications between FBI UCE2 and SMADI, namely MSN Hotmail, a commercial electronic communication service company located in California.

23. Based on the facts of this investigation as outlined in this affidavit, your affiant believes that there is probable cause to believe that HOSAM MAHER HUSEIN SMADI knowingly and intentionally committed the following offense against the United States, to wit: 18 U.S.C. § 2332a(a)(2)(A), attempting to use a weapon of mass destruction.

  
Thomas D. Petrowski  
Supervisory Special Agent  
Federal Bureau of Investigation  
Dallas, Texas

Sworn to and subscribed before me this 24th day of September, 2009.

  
IRMA C. RAMIREZ  
United States Magistrate Judge

PART A. THE OFFENSE

Charge and Conviction

1. The defendant, **Hosam Maher Husein Smadi**, was named in a two count Indictment filed in the Northern District of Texas, Dallas Division, on October 7, 2009. Count 1 of the Indictment charged the defendant with **Attempted Use of a Weapon of Mass Destruction**, in violation of 18 USC § 2332a(a)(2)(A), (B), and (D). Count 2 of the Indictment charged the defendant with Bombing of a Place of Public Use, in violation of 18 USC § 2332f(a)(1)(A) and (B), (a)(2), and (b)(1)(E).
2. The defendant was arrested by agents of the Federal Bureau of Investigation (FBI) on September 24, 2009. On September 25, 2009, he was brought before U.S. Magistrate Judge Irma C. Ramirez for an initial appearance hearing. The defendant waived his rights to a detention hearing and was ordered detained. On October 5, 2009, a preliminary hearing was held before Magistrate Judge Ramirez, and she found probable cause and continued the defendant in custody.
3. On October 26, 2009, the defendant appeared for arraignment before U.S. District Judge Barbara M. G. Lynn and pleaded not guilty to the Indictment. Jury trial was initially scheduled for December 7, 2009, but was subsequently continued.
4. The defendant subsequently entered into a Plea Agreement with the government and, on May 26, 2010, he was brought before Judge Lynn for rearraignment. At that time, the defendant pleaded guilty to Count 1 of the Indictment.
5. Pursuant to the written Plea Agreement, the defendant stipulated to the accuracy of the Factual Résumé, acknowledged his plea of guilty was freely and voluntarily made, and stated he is satisfied with his attorney's legal representation.
6. Pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P., the parties agreed the appropriate disposition of the case is a sentence of not more than 360 months imprisonment. If the court accepts the Plea Agreement, this provision is binding on the court. Other than the agreed maximum sentence of 360 months, the court remains free to determine the appropriate sentence under the advisory guidelines. According to Rule 11(c)(5), if the court rejects this Plea Agreement, the defendant will have the opportunity to withdraw his plea.

The Offense Conduct

11. The following information was obtained through a review of the Indictment, Factual Résumé, and investigative materials provided by the Federal Bureau of Investigation (FBI). Much of this offense involved communications in the Arabic language. A literal translation of these communications have been provided by employees of the FBI. Information regarding this investigation was corroborated through interviews with FBI Special Agent Michael Howell. All of the information contained herein is based upon evidence considered reliable by this probation officer.
12. The defendant, **Hosam Maher Husein Smadi (Smadi)**, was discovered by the FBI within an online group of extremists. An FBI undercover employee (UCE1) was part of that group. Among many others in the group who espoused and endorsed violence, **Smadi** stood out based on his vehement comments indicating his intention to actually conduct terror attacks in the United States. For example, on January 12, 2009, **Smadi**

posted the following, "I am currently in America and I am able to strike their interests in their own home however I only need help with the tools as the targets are easy but there are no tools." Based on this comment and approximately 3 other similar website postings, UCE1 made contact with the defendant. The contact between UCE1 and Smadi was done to ascertain his actual threat level and his identity.

13. The defendant's emails and web postings continued in this vein for several months and flowed in a very reciprocal pattern with each email from the defendant followed by an email from the UCE. Information and quotes of note from these back and forth conversations are included throughout this Offense Conduct portion of the Presentence Report.
14. For example, on March 7, 2009, Smadi wrote the following to UCE1, "...by Allah if my soul is to be sacrificed for the sake of the mujahidin, then let it be...I want another request which is if I can join the ranks of those who fight with Usamah [Usama Bin Laden] for by Allah I love him and want to be with him and to execute his orders"
15. UCE1 continued to engage in online and email conversations with Smadi in which the defendant made clear his intention to serve as a soldier for Usama Bin Laden (Bin Laden) and al-Qa'ida, and to conduct violent acts of terrorism (jihad) in the name of Islam. After determining Smadi to be a legitimate threat, on March 8, 2009, UCE1 introduced Smadi to a second FBI undercover employee (UCE2) who was acting in the undercover role of a senior member of an al-Qa'ida "sleeper" cell.
16. From early March through September 2009, Smadi continued communication with UCE2, and continued to indicate his intention to commit an act of terrorism in the United States. For example, on March 19, 2009, Smadi sent an email to UCE2 which read, "Sheikh Osama [Bin Laden]...I love him as I love my father...there will not be a retreat at all even if they took me to Guantanamo the rest of my life...So I am truly ready by Allah for the jihadi life...I hope you are not Intelligence."
17. During his ongoing conversations with Smadi, UCE2 offered alternatives to actual acts of terrorism and asked questions to ascertain Smadi's intent. For example, on April 4, 2009, UCE2 sent Smadi an email which read, "My brother, do you have any doubt or hesitation or fear of what you are doing?...tell me with candor. Therefore, if you have any hesitation or doubt or fear then tell me. If the matter is as such then we depart now as friends and brothers in the Islam without hard feeling at all. And in this case you may perform jihad in a less dangerous way such as the jihad with your money or in training yourself in distancing from sins and indignities and desires."

18. Based on these conversations, in which Smadi assured UCE2 he was intent on a physical, violent form of jihad, a third FBI undercover employee (UCE3) was introduced to the defendant. UCE3 was in the undercover role of a lower level operational soldier in the "sleeper" cell who lived in the U.S. Smadi and UCE3 made contact via telephone, and on April 22, 2009, they met in person. During this meeting, Smadi told UCE3 that, "to sacrifice in person is the best type of jihad." For the duration of the offense, the defendant and UCE3 would speak on the telephone briefly, but these conversations were primarily to arrange for face-to-face meetings.
19. On April 25, 2009, Smadi sent an email to UCE2 stating the following, "I indeed give you a pledge there will not be any-kind of the kinds of the information leak even if my capture took place one of these days and my placement in Guantanamo took place and cutting me to pieces and cutting my father and my brother to pieces took place in front of my eyes so indeed...sq the victory is coming Allah willing we will strike America the fatal blow..." The defendant subsequently had a visit from his father. Following this visit, UCE2 asked the defendant, "So did the visit of the father change anything in your determination or your views? For it is very important that you take this decision or that by yourself only without any outside pressures." Smadi responded to UCE2, "I already clarified to him that it is my wish in the jihad...he already understood it truly was my will...success in our jihad operations that will break the back of America and Israel and their allies."
20. On May 12, 2009, Smadi and UCE3 had another face-to-face meeting. During this meeting, UCE3 asked Smadi what he would do if he had never met the al-Qa'ida "sleeper" cell that UCE3 represented. Smadi replied that he would keep looking for such an entity to be part of, even if it meant him having to leave the U.S. and go to Palestine and join Hamas or go back to Pakistan and join the Taliban. Smadi told UCE3 "I want to destroy...targets...everything that helps America on its war on Arabs will be targeted..."
21. On May 30, 2009, UCE2 emailed the defendant and asked if he had heard of some individuals suspected of terrorism being arrested in New York. He informed Smadi that telephone calls, air travel, and preparation must be reduced based on the increased suspicion of terrorism. He urged Smadi to have patience.
22. On June 8, 2009, Smadi sent UCE2 an email in which he stated, "there is a good idea that already occurred in my head it will be of the strongest strikes Allah willing it will hit the domestic and world economy of their partners." Throughout the month of June, Smadi continued to discuss his plans. On June 15, 2009, Smadi wrote, "our



strikes will not be like these strikes which take place without thinking or consulting or even the intention as the actions are by the intentions and we do not aspire to harm a person or two persons we aspire to destroy the infrastructure and who is in charge of it for this satanic nation..."

23. On June 24, 2009, **Smadi** and UCE3 had another face-to-face meeting. During this meeting, **Smadi** stated he had a new idea to target the buildings belonging to the biggest credit card companies such as American Express or Visa. **Smadi** said the credit card is what drives America and that he desired to attack one of the main locations where the building accommodates the management and the administration. When asked by UCE3 how he would do the attack, **Smadi** replied "timed explosives...or remote detonation." **Smadi** further stated, "we will take it inside the building...and with Allah's permission...it will be a strike to the economy. We will have a clever idea...I have a car...this car will be the bomb...but there will be a routine before this car...I would have entered the building prior...to see how the security is, how they search...what type of security...so if a bomb is planted, for instance, in the car, timed or to detonate remotely...a very fast operation, smart, and decisive."
24. During this same face-to-face meeting, **Smadi** discussed potential targets, such as a National Guard Armory located in Dallas, Texas, the Dallas airport, or a financial institution. That same day, **Smadi** and UCE3 traveled by car to conduct surveillance at the National Guard Armory, Love Field Airport, and various banking institutions along the route between the targets. **Smadi** narrowed his potential targets to two specific locations. He discussed striking two institutions back to back, saying "there will be a tactic to have one explode before the other, and the second one to explode after it so that we create chaos...and it is better that the bomb in the bank explodes [second]...the bomb at the airport, to explode first."
25. On July 4, 2009, UCE2 wrote **Smadi**, saying, "you particularly impressed me with your idea about the two consecutive operations to airport and the bank that is near it.... Your idea about accomplishing two operations instead of one shows that you are a Muslim warrior with distinction." During this same email, UCE2 wrote, "But my dear, it is my duty to stress to you what I clarified in the past that if you have any hesitation...for now the time has come to change your mind...then there is no chance after now for retreat. And as I discussed with you in the past there are other kinds of the jihad that are acceptable by Him be He exalted and are supported by the scholars other than the jihad by the soul and the person."

26. To this, **Smadi** responded, "you are thanked for your advice and your reiteration of the question once again about my desire in going forward towards the path...I truly will go in this path sooner or later...so I will never stop until the moment of my martyrdom...if martyrdom was destined for me while I am in this road of mine so welcome to the great reward...I am truly Allah willing on this course until the Day of Judgment...I am now in their very home so I will not leave their home before striking them inside it and outside of it...I prefer to be disguised in their midst using their way better than hiding from them...and this means we defeated them economically and we shook the infrastructure and planted the horror in their hearts...we defeated them mentally and practically and we are still alive to another appointed time."
27. Based on the defendant's continued statements about committing a terrorist act, the UCE2 instructed **Smadi** to "send us any of your completed researches." By doing so, the investigative agents were assured to be aware of the defendant's plans and intentions.
28. On July 17, 2009, **Smadi** contacted UCE2 and stated he changed his mind about the targets discussed previously. **Smadi** sent the following email, "we will change the world and agitate the people...one army under the banner...of Al-Qa'ida under the command of the commander Usama bin Laden. I already decided to change the target, let us make it the big fish instead of the smaller fish for they are all fish in one sea. The main bank for the city and not the branch that we had already specified. It will be an definite strong strike Allah willing it will shake the currently shaken economy now in the state and the American nation because this bank is of the biggest of this city - Dallas Texas Wells Fargo...the bank is made of glass from the outside...the bank contains billions of dollars...the losses will be heavy in the information the credit card millions of people will have already lost unemployment poverty hunger a strike on the head of the government and do not forget the psychological effects for the loss of this beautiful building...and the effects on the infrastructure..." During this same communication to UCE2, **Smadi** acknowledged he (**Smadi**) had been doing research on the target from his home.
29. On July 21, 2009, UCE3 traveled to Italy, Texas, to meet with **Smadi**. **Smadi** directed UCE3 to drive to a Wells Fargo bank located in downtown Dallas, Texas. They then drove to 1445 Ross Avenue, where the Fountain Place office building is located. Fountain Place is a 60-story, 1.2 million square foot office tower. The Wells Fargo bank is co-mingled within the large office building at Fountain Place. UCE3 dropped off **Smadi**, and **Smadi** conducted his own reconnaissance of the building. Later UCE3 picked the defendant up, and **Smadi** communicated to UCE3 he had located a bathroom on the basement level which would be a good location to "plant a bomb." **Smadi** specified the bathroom had a locking door and a drop-ceiling he accessed by standing on the toilet seat.

30. **Smadi** and UCE3 then traveled to a hotel where **Smadi** was given the opportunity to compose a video-taped message about his desired and planned attack on the U.S. to Bin Laden. UCE3 observed **Smadi** use his laptop to research Qur'an passages and to compose his message to Bin Laden. During this time, **Smadi** encountered technical difficulties with his laptop computer. The UCE3 then drove **Smadi** back to his home in Italy, Texas, and left him there for approximately one hour. After the hour, UCE3 drove back to **Smadi**'s residence, picked him up, and drove him back to Dallas, Texas, where he completed his video recording to Bin Laden. Following the video message to Bin Laden, UCE3 drove **Smadi** back to his residence located at 301 Morgan Road, L-4, Italy, Texas.
31. On July 29, 2009, **Smadi** emailed UCE2 photos of Fountain Place. Also during this email, **Smadi** shared his thoughts about remaining in the United States after the operation as opposed to his prior idea about returning to the middle east to join Bin Laden. Within the email, **Smadi** revealed he could continue serving as a "disguised agent" if he remains in the U.S.
32. On August 9, 2009, **Smadi** emailed detailed plans to UCE2. Within this email **Smadi** wrote the following, "Already the selection of the building is done because it is a strategic location in the middle of the city a large tower seen by all...And it consists of a commercial building it contains branches of the largest banks in the city and restaurants and hotels and but is made of the glass high top and the internal security is very high because the bank contains the enormous monies and information...Allah willing I will enter the building and destroy it and exit from it safely and they will never have any idea about me because Allah willing I will use the disguise technique...The operation will be a success and but all this depends on what we possess so if I wanted to plant something in the inside...and already the suitable place has been specified and but it must be strong in the impact and small in the size so that it shakes all that is around it and it devours it...it will be timed or uses high frequencies from a distance...allow enough time to exit...security teams will be in an emergency state everywhere..."
33. On August 12, 2009, **Smadi** sent eight photos of Fountain Place to UCE2. From this date until August 24, 2009, **Smadi** and UCE2 continued to exchange emails in which the defendant assured UCE2 the "casualty rates will be high," and in which they discussed that the date of attack needing to be after September 19, 2009, due to the observation of Ramadan, the Islamic month of fasting.

34. On August 25, 2009, **Smadi** and the UCE3 exchanged telephone calls and on August 26, 2009, they had their fifth face-to-face meeting. During this meeting, **Smadi** discussed the logistics and timing of the bombing of Fountain Place. **Smadi** stated he would have preferred to do the attack on "11 September" however, this date fell during Ramadan. **Smadi** further stated, "what I discovered was that this building, my dear sir, is the same building as September 11 in New York...that it is a trade building. **Smadi** also informed UCE3 the building was approximately 60 stories and contained about five banks. **Smadi** and UCE3 discussed the size of the bomb to be utilized and **Smadi**'s expectations of the explosion. When the subject of using a vehicle to deliver the bomb was discussed **Smadi** stated, "...a wonderful thing...like you say, I thought of it...I want to enter to plant the bomb...I will plant it in the...foundations...exactly under the building...when it explodes, it will shake the foundations so that the building, if it is heavy in weight, tons, all that will come down."
35. By the conclusion of the meeting, it was decided that a vehicle borne improvised explosive device (VBIED) would be used. **Smadi** and UCE3 discussed that UCE3 would provide the VBIED. According to the case agent, the VBIED was designed so that a person turns a clock timer and then disengages the safe-arm switch to arm the device. When the timer expires, those actions close the electrical circuit allowing current to travel from the power source to the blasting caps. The blasting caps are placed within C-4 explosive blocks. The blasting caps initiate the C-4 explosive which will in turn act as a booster charge to initiate bulk ammonium nitrate fertilizer. According to the case agent, the offense is complete and the bomb is set to detonate when the clock timer is set and the safe-arm switch is disengaged.
36. On August 28, 2009, surveillance agents observed **Smadi** driving his vehicle into the underground parking facility of Fountain Place.
37. On August 29, 2009, **Smadi** sent UCE2 an email discussing possible dates of the operation, in which he proposed, Tuesday, September 29, 2009. He stated, "I visited the place once again...then we want the disappearance of the entire building...in the method of the TALIBAN vehicle. It will be very powerful for bringing down the building but upon my visit to the site I encountered a small and easy problem and thank Allah for the entrance to the garage in the building it is necessary to subscribe monthly with them and request the magnetic card which opens the gates of the garage while entering and exiting...if we are not able to obtain it...I will break through the gate by driving on the sidewalk because there is space that allows me to pass through it and through the gate and the gate is underground under the building directly... We shall do what is necessary to wipe them from the map; not to interfere in the affairs of the Arab nations at all. O American people, the choice is yours." Ultimately, undercover agents set the date for September 24, 2009, and informed the defendant.

38. On September 3, 2009, UCE2 wrote **Smadi**, "what indeed is important to me now as the date of the execution nears is to be sure that the decision is your decision. I would like to know more than more what is in your soul and make sure of your comfort and to be certain that the coming operation with its details is your own choice. Please my brother, clarify for me what I asked you and assure me that you are determined and comfortable and that you indeed feel that the case is yours and that you are the decision maker and the intrepid in the mentioned operation."
39. On September 8, 2009, **Smadi** emailed UCE2 with more details in which he stated, "I thank you for asking me another time about this and be advised and sure that there will not be any retreat...truly when I park the blessed car the duration between my parking and my leaving the car should be small because I truly want the execution before someone sees it that it is not parked in the proper place."
40. On September 11, 2009, UCE2 informed **Smadi** the "the equipment is almost ready for the accomplishment of your goal which you often said that indeed you came to the enemy's country for its sake...attempt to have the operation be safe for you one hundred percent and not attracting to the looks. And that is why beware not to carry the arms or the knives or anything dangerous that shows what you will do."
41. On September 15, 2009, **Smadi** informed UCE2 he had been stopped and arrested on September 11, 2009, for driving without a license. During this email, **Smadi** expressed concern that his arrest may have compromised their operation. However, toward the end of the email, **Smadi** pointed out the date of this event and its coincidence with September 11, 2001. He writes, "it increases in me nothing but power and steadfastness and endorsement for what I am in and also my arrest was done on the same date already I remembered that it was the day in which the blessed attack took place." Following his arrest, he moved from Italy, Texas, to Hillsboro, Texas.
42. On September 24, 2009, **Smadi** drove to Dallas, Texas, where he met UCE3 in the parking lot of the Renaissance Hotel located on Stemmons Freeway. **Smadi** and UCE3 then drove to the location where the VBIED had been left for **Smadi**. All of the components of the 555 pound VBIED were contained within a 2001 Ford Explorer Sport Trac vehicle. The VBIED was designed by employees of the FBI to be readily convertible, but was inert for public safety purposes. This means the device appeared to be a fully functional bomb, but in reality, was one to two steps away from being used as an actual explosive device. This ensured the public was never at any significant risk of the bomb detonating. **Smadi** inspected the VBIED with UCE3 and conducted surveillance of the target location.

43. **Smadi** and UCE3 discussed the details of the bomb and went over the instructions for detonation. UCE3 explained to the defendant that he should "move the rotating timer until it reads between the two and four hours... After that, move the cover next to the activator...to prevent the activation of the switch by accident...after that, a blue light will appear – a blue light which indicates that the bomb will detonate at the expiration of the time...This is the guaranteed method of detonation when the timer expires. In case detonating by the mobile phone fails...When you are at a safe distance from the building...Dial the number that is written on the back of the phone...The telephone will detonate the bomb. This is the primary method to detonate the bomb."
44. **Smadi** and UCE3 continued to discuss the offense. In particular, **Smadi** asked UCE3, "how much do you expect the shock wave to be? The crater. Is it going to be huge?" They continued to discuss how the timer is a redundant backup and that it is actually the telephone that will immediately detonate the bomb. If the telephone does not function correctly, the bomb will explode when the timer expires.
45. Subsequently, **Smadi**, alone and believing himself to be in possession of a weapon of mass destruction, drove the vehicle containing the VBIED through the streets of downtown Dallas, Texas, toward his planned target location. He entered the parking garage directly beneath the Fountain Place building at 11:56 a.m. and parked the vehicle. **Smadi** then attempted to ignite and detonate the explosive device by setting the device's timer and flipping the power switch on the explosive device. **Smadi** then locked the vehicle and left the parking garage on foot. **Smadi** walked to where UCE3 was parked and got into UCE3's vehicle. Once inside UCE3's vehicle, the defendant expressed concern regarding the location of the bomb. In particular, **Smadi** expressed a desire to go and "bring it closer...for it to be more under the building...when I went out to the exit, I noticed from above that it is not under the building exactly...I must get it closer...I want – I want to get it closer and put it under the building exactly so that the whole building would go down." After several moments of discussion, UCE3 convinced the defendant the "whole building will go down, by the will of Allah," and the defendant and UCE3 drove several blocks away, so they could watch as **Smadi** remotely detonated the VBIED via his cell phone. UCE3 offered **Smadi** ear plugs, but **Smadi** declined indicating he wanted to hear the blast. **Smadi** then dialed the cell phone which he believed would immediately detonate the explosive device parked under Fountain Place. The phone number **Smadi** dialed rang to a phone in the possession of law enforcement and **Smadi** was placed under arrest at 12:19 p.m.

Hosam Smadi's video message to Usama Bin Laden

Also contained within GEX 240, p129-131.

May peace, Allah's mercy and blessings be upon you. I take refuge in Allah from the cursed devil. "Say, if your fathers and sons and your brethren and your wives and your kinsfolk and the wealth you have acquired and the trade whose dullness you fear and the dwellings which you love are dearer to you than Allah and His Messenger and striving in His cause, then wait until Allah brings about His judgment; and Allah guides not the disobedient people." And Allah sayeth the truth. To proceed. From the midst of the tyrant, the American apostate, we are here, the soldiers of the blessed al-Qa'ida Organization. I declare my belonging to you, my master The Commander. O venerable Shaykh, I swear by Allah Almighty to defend our faith, our Messenger, may Allah bless him, our unity, our security, our religion, our women, and our children, and we will not forget the forcefully seized land.

O Commander, this is my oath to you and it is an honor for me to be granted this opportunity to send to your honor this quick message of glad tidings, joy, and happy celebration of our victory over the international and Arabic, Zionist and American union. And I give you good news, my beloved, of "Gardens with rivers flowing beneath; therein are they to dwell for ever." Allah has facilitated it for me to join your organization from inside the enemy's midst, and it is not a coincidence; Allah facilitates affairs, "He knoweth the unseen as well as that which is open..." He is Lord of the Throne of Glory. Therefore I tell you, you people of steadfastness, under the leadership of our beloved, the Shaykh, Commander Usama, may Allah keep him: be patient, the generations are coming and I am, Allah willing, of these promised generations under the leadership of Shaykh Usama Bin-Laden, may Allah keep him. I hope that you are delighted by what you see now, and the greatest joy will be after the success of the operation. Let the smile be on your faces, my brothers along with my beloved and my Shaykh, Commander Usama Bin Laden.

I take refuge in Allah from the cursed devil. "Fighting is prescribed for you, and ye dislike it. But it is possible that ye dislike a thing which is good for you, and that ye love a thing which is bad for you. But Allah knoweth, and ye know not."

My sole dream was to join your brave organization, and this has been achieved by Allah's will. Oh, how delighted I am for what I gained in my earthly life, thanks be to Allah, Allah is Great, Allah is Great, so let the word of Allah be exalted to the heights. And we will never forget...we will never forget your promise, my Shaykh and Commander, when...when you vowed, and I repeat and reiterate the vow, "By Allah, we will support you regardless of how hard the conditions are, or if we are to get a taste of what Hamza



Ibn 'Abd al-Muttalib has suffered." And we are with you, O our Shaykh, so my beloved Commander, pray for our success and accomplishment from here, from the enemy's midst. May Allah bless those good deeds that you do for the sake of Allah Almighty's face, and the Gardens of Paradise will be yours, Allah willing. We are all on the same path; we are with you and you are with us, Allah willing, on the path to Paradise.

I thank you from my heart. You are more beloved to me than my father and mother, second to my Lord and Messenger, may Allah bless him. We will not accept humiliation as those dogs in our nations did; they sold our land on account of our religion. I seek Allah's forgiveness because of them. But there is still a truthful nation which is still fighting, still bleeding, and it went out to fight-- it is your nation my Commander-- under your leadership, you Commander of the Faithful, of this nation in our present time. We are due to meet soon in the Gardens of Eden with rivers flowing beneath. The Messenger of Allah was truthful when he said, "Nations are about to fall upon you like the beast which falls on its bowl." And he said, "My nation will be faced with years of deception where one who utters the truth will be labeled as a liar, and one who tells lies will be called an honest person, and the traitor will be trusted and...be mistrusted."

The date of the blessed strikes, September 11, was a celebration for us. So, let us make another date become a celebration for us that history will mark for us. Now it has come. Now, O Commander, a moment has come. Hold up your head, smile, be assured about what you ask, because victory is coming. It is time, and we have put our trust in Allah, always and forever.

I do not want to talk for long. There is a lot in my heart. Talk is talk but actions are actions. You have taught us that. My brothers, let this Ramadan be a blessed Ramadan for all of you. I can not wait to be with you in this war on the same land, Allah willing. The moment of joining you after these operations is near. Be waiting for me.

Your beloved and brother Aba al-Ayyubi from the enemy's land, from the Levant's land, Jordan's land.

May Allah have mercy on our deceased and relatives everywhere, and may He help us in liberating Palestine, Iraq, and every forcefully seized land from- by the tyrants, Allah willing, and in breaking the American thorn in their own homes. And may Allah help us against the apostate agents whose Allah's curse is upon them. It is lawful to behead them along with their kings, kings of the apostate, kings of the countries...tyrant kings of the Arabs who sold us, our blood, and our land on account of their souls. May Allah's curse be on all of them.

: Al-Hussein Bin Ya'cub Bin Yusuf al-'dl informed us, Yahya Bin Abi Talib informed us ,  
'Abd-al-Wahab Bin 'at'a informed us , Khalid al-Hidha' informed us , about Abi Qalabah ,  
about Abi 'Asma' , about Thawban may Allah be pleased with him said

The Messenger of Allah Allah's blessing and peace be upon Him said :If you saw the black  
banners coming out from the side of Khurasan so come to them even if crawling for truly in it  
is Al-Mahdi Allah's Caliph

And as for my message to the Sheikh and the commander and the caliph and the believer and  
the truthful and the beloved

[UI] Peace be on you O the beloved commander

. So from the Levant already Allah be He exalted facilitated for me a path from Him to join  
your ranks ranks of the truth and raising in our hearts the banner of Allah is the greatest there  
is no god but Allah Muhammad is Allah's Messenger.....

In the heart of the enemy and thank Allah be He exalted I truly am happy for this with  
happiness I was not in it before except after the victory with a bigger happiness and the  
joining to you to respond to you with allegiance Allah willing and the coming is greater so I  
am not able to write to you the loyalty and the love and the sacrifice to you who raised the  
banner of Islam from anew and you started in defeating the enemy forces and the apostates in  
every place..... so already you sacrificed in all you possess in this world for the sake of  
Allah's word becoming the most high and the returning of our honorable Al-Aqsa and  
restoring the honor of our Beloved Allah's blessing and peace be upon Him and recovering  
every land already looted or the unjust became in it

So I truly give you a promise that you truly are more cherished to me than myself and there  
truly was no energy like this in my soul before already it was bestowed upon me by [UI] be  
He exalted for [UI] He truly is the Omnipotent Lord of the great throne so the victory  
is coming Allah willing and I am truly longing to execute the coming operations which will  
be in consultation with you and in execution on our part until the victory time I want you  
when you go to for the dawn's prayer in this coming Friday to pray [UI] for me a special  
prayer to Allah [UI] and be He exalted that Allah gives me success in my path with you and  
to facilitate for me to join you after the blessed strikes and to pray [UI] for all my relatives  
.....so from here

O the commander I am not able to describe to you the extent of my loyalty to your side and I  
truly long to be with you on one land [UI] let the history write your name until the Day of  
Judgement and that Allah builds for you gardens from [UI] and make you a companion to the  
beloved and the beloved ones in the highest ranks and destine for you the success and the  
victory and the strength and the prosperity from Allah be He exalted I ask Allah to protect

you from everything and humans and demons and devil and evil and cunning and an apostate  
to the victory and to give you what you ask and to compensate you for what you lost and  
gather you with your relatives and grant you victory upon the unjust people there is no Allah  
[sic] but Allah Muhammad is Allah's Messenger always and forever until the appointed  
meeting time

Allah willing these are my few words

And what is coming is more thus the words and the messages are not [UI] but simple and but  
the act and the coming and the person are greater Allah willing from here in the enemy's heart

Al-Hussam Aba al-Ayyubi.. ...Peace and Allah's mercy and [UI] be on you

So let the same ranks be for you my brother Rafiq you and those with you

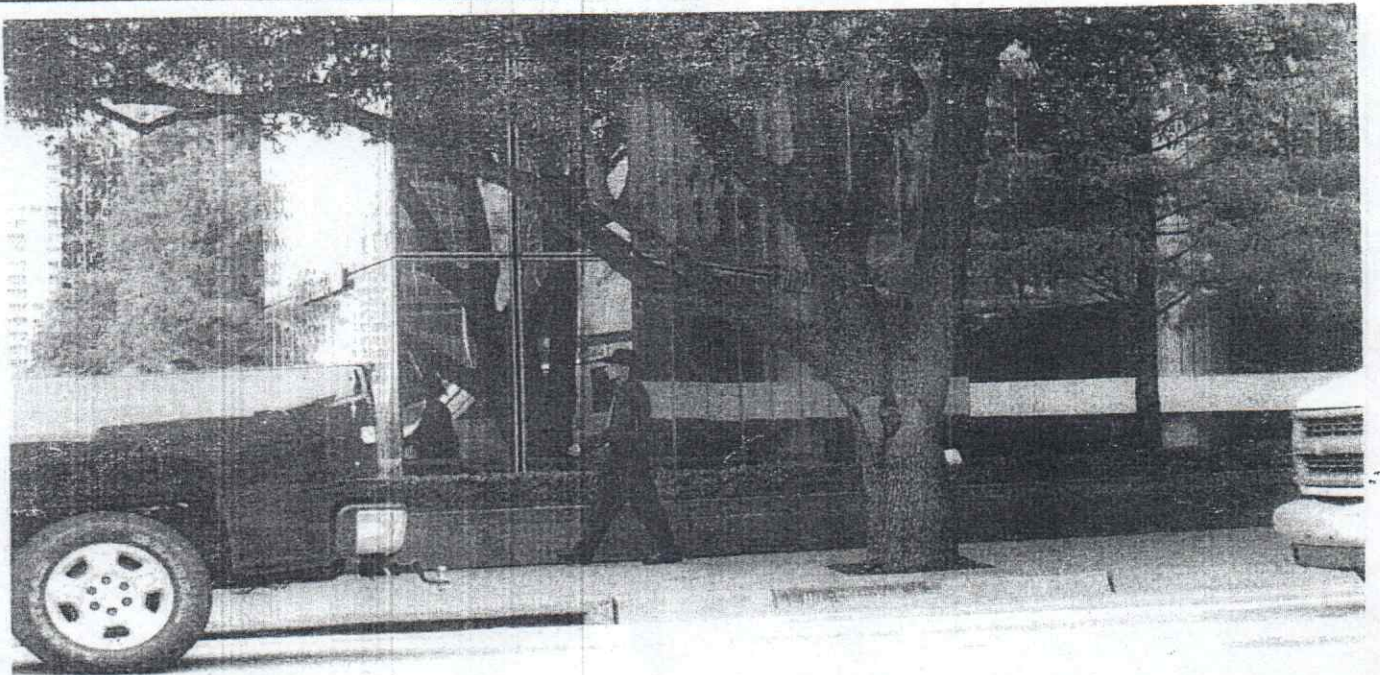
May Allah bless you, my Commander. Until a coming meeting, I send you greetings  
from the people of The Levant. And I plead with you not take it against us that our kings  
are oppressors. May glory be to Allah, Lord of heavens and earth. The Opening on the  
nation of the Muslim Mujahideen. And Allah sayeth the truth.

"In the name of Allah, Most Gracious, Most Merciful. Praise be to Allah, The Cherisher  
and Sustainer of the Worlds, Most Gracious, Most Merciful, Master of the Day of  
Judgement. Thee do we worship, and Thine aid we seek. Show us the straight way, the  
way of those on whom Thou hast bestowed Thy Grace, those whose portion is not wrath,  
and who go not astray."

May peace, Allah's blessings and mercy be upon you.



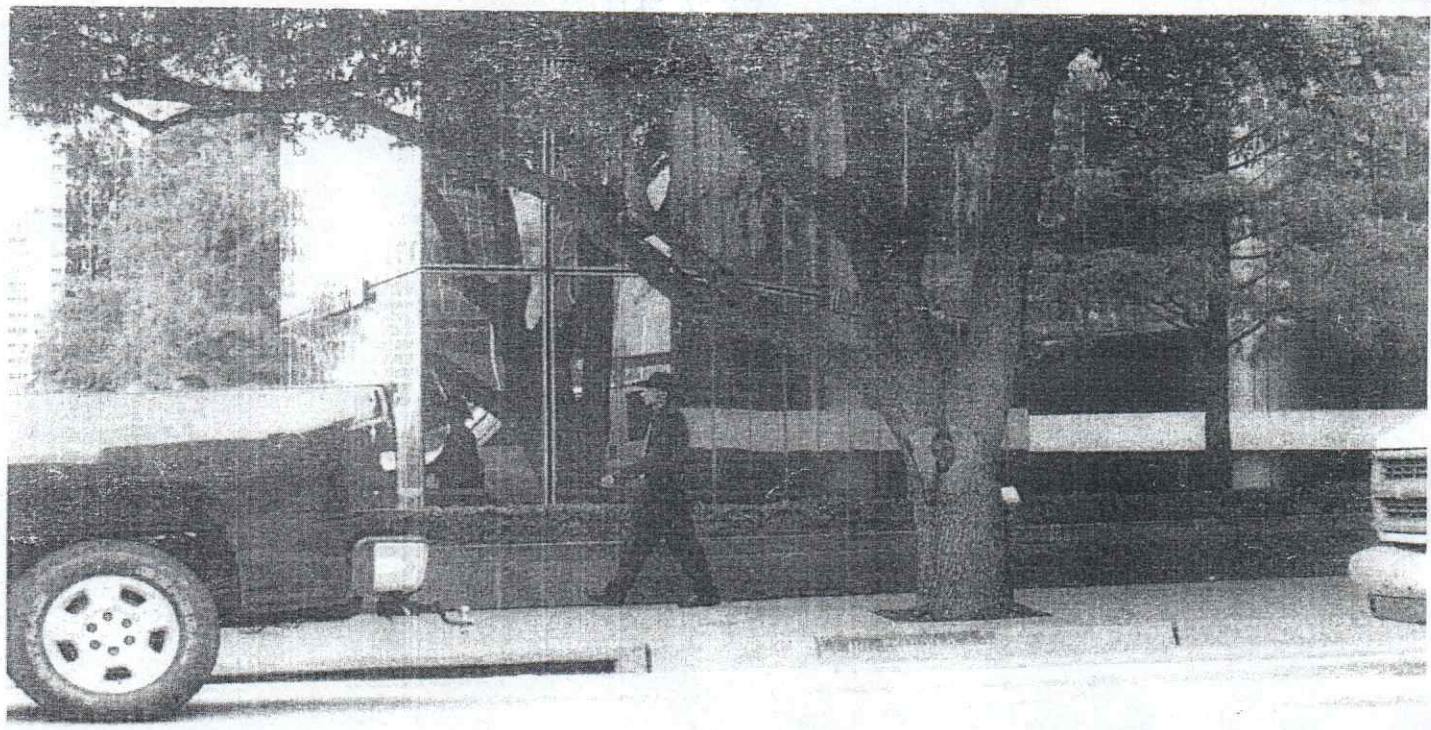
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EXHIBIT  
351  
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GOVERNMENT  
EXHIBIT  
352  
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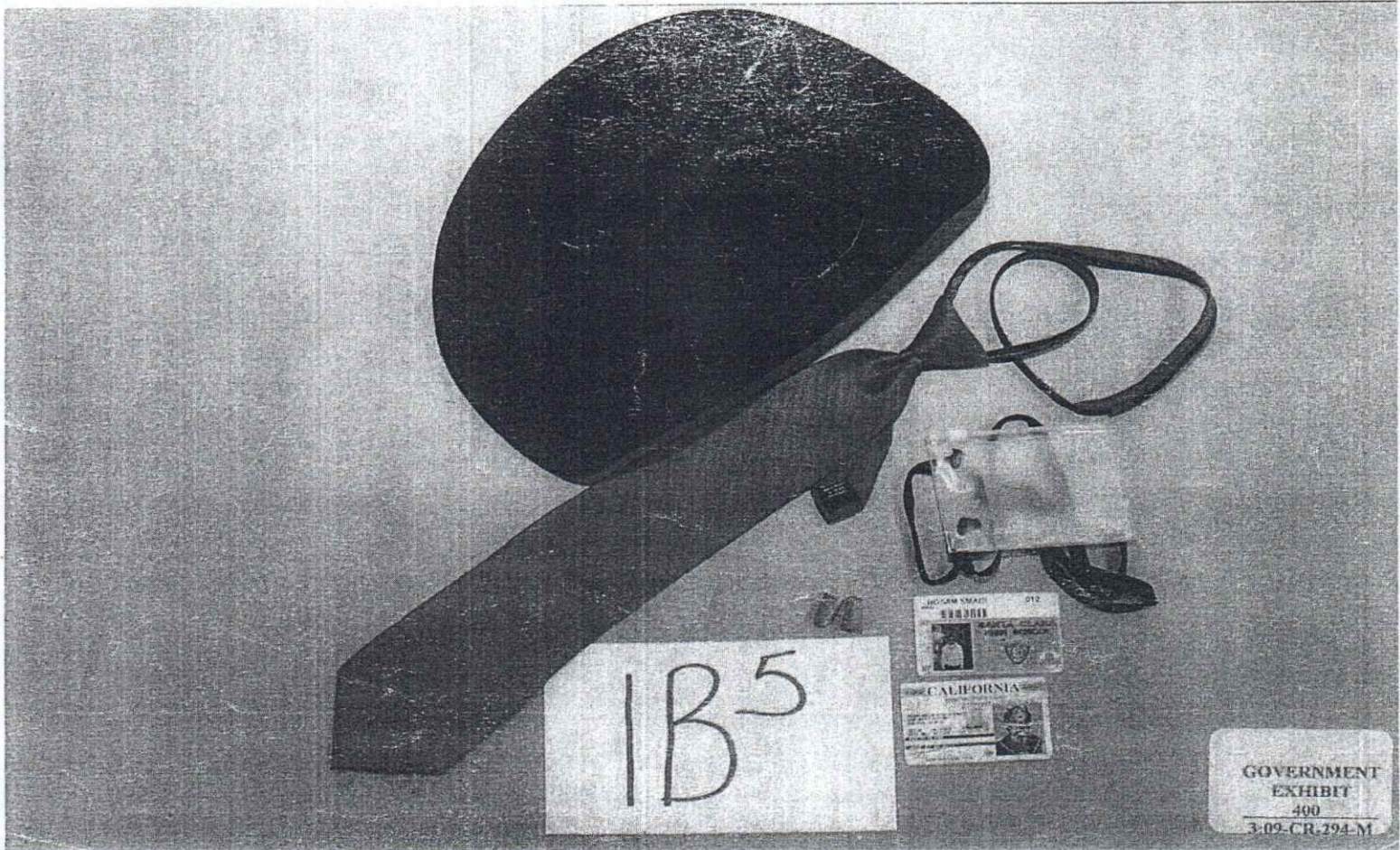




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Bank Customers Only

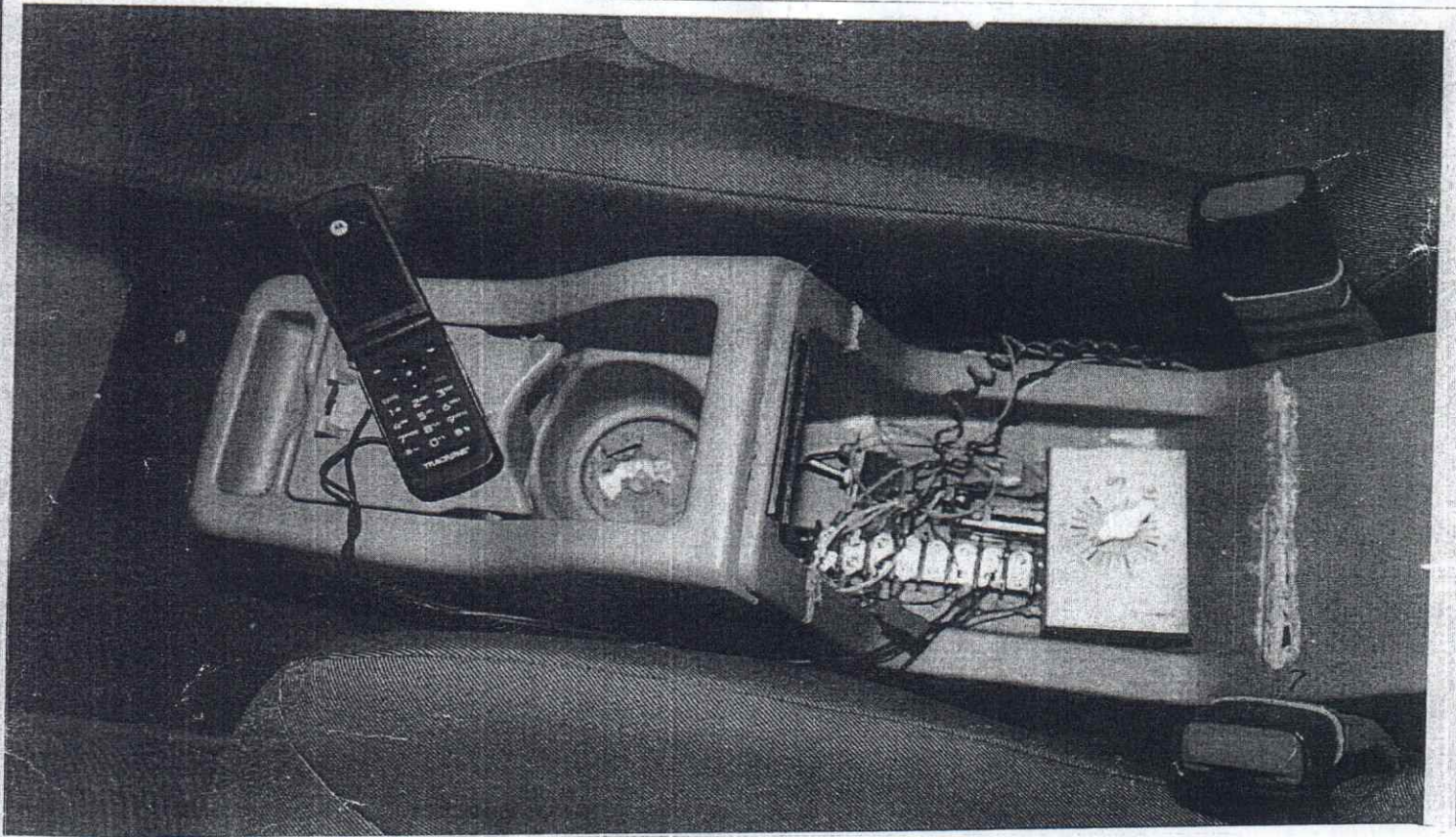




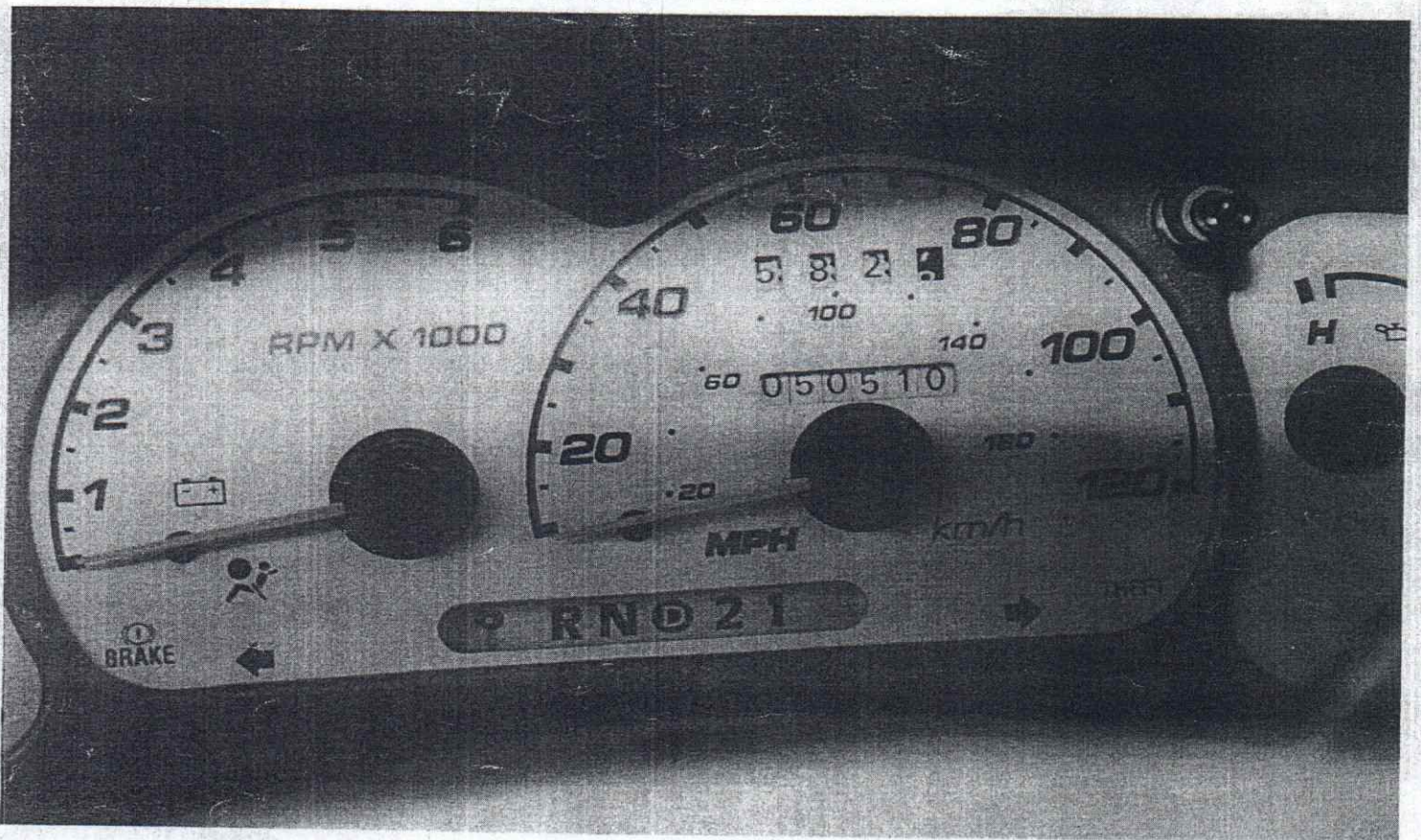
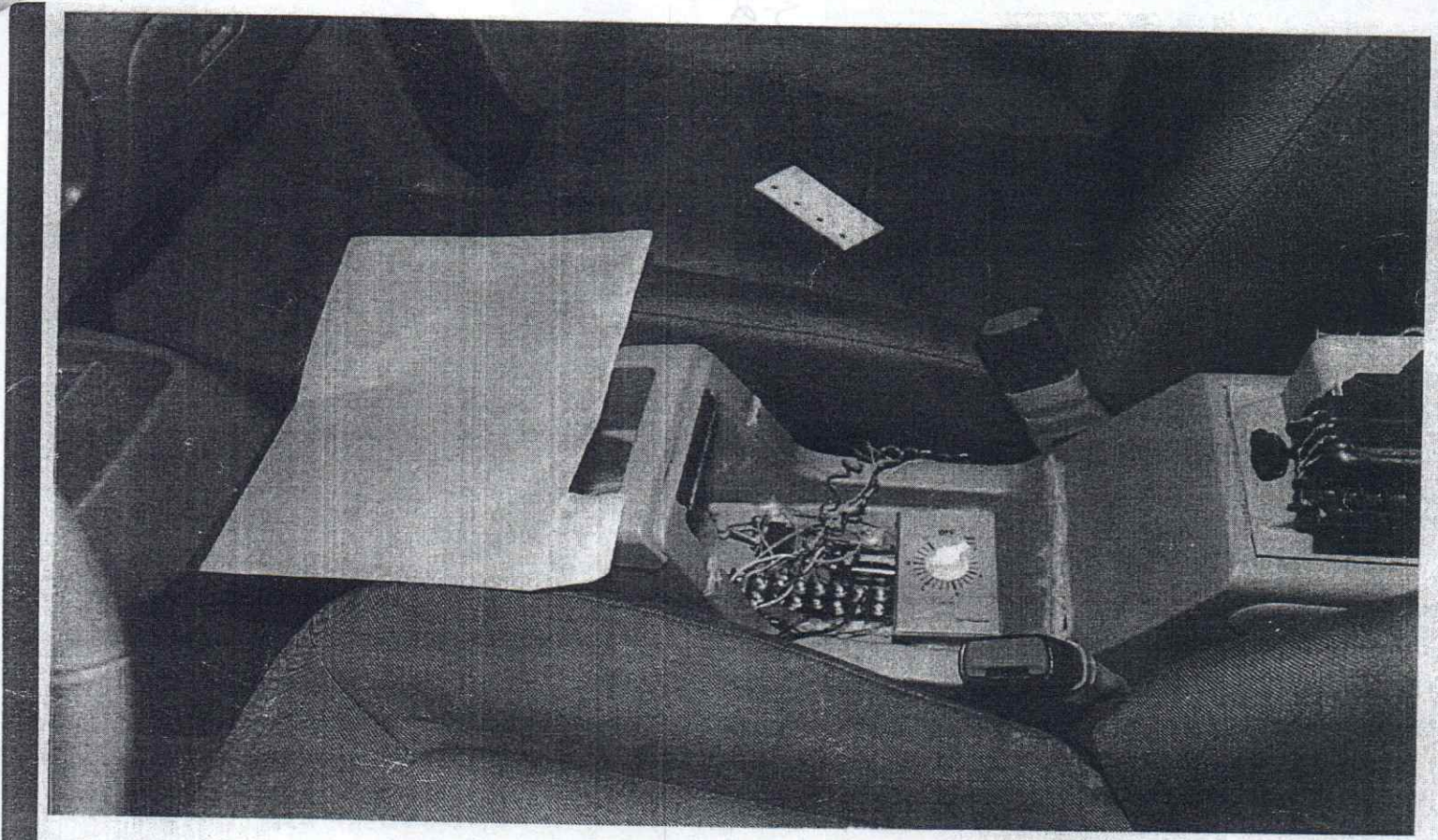


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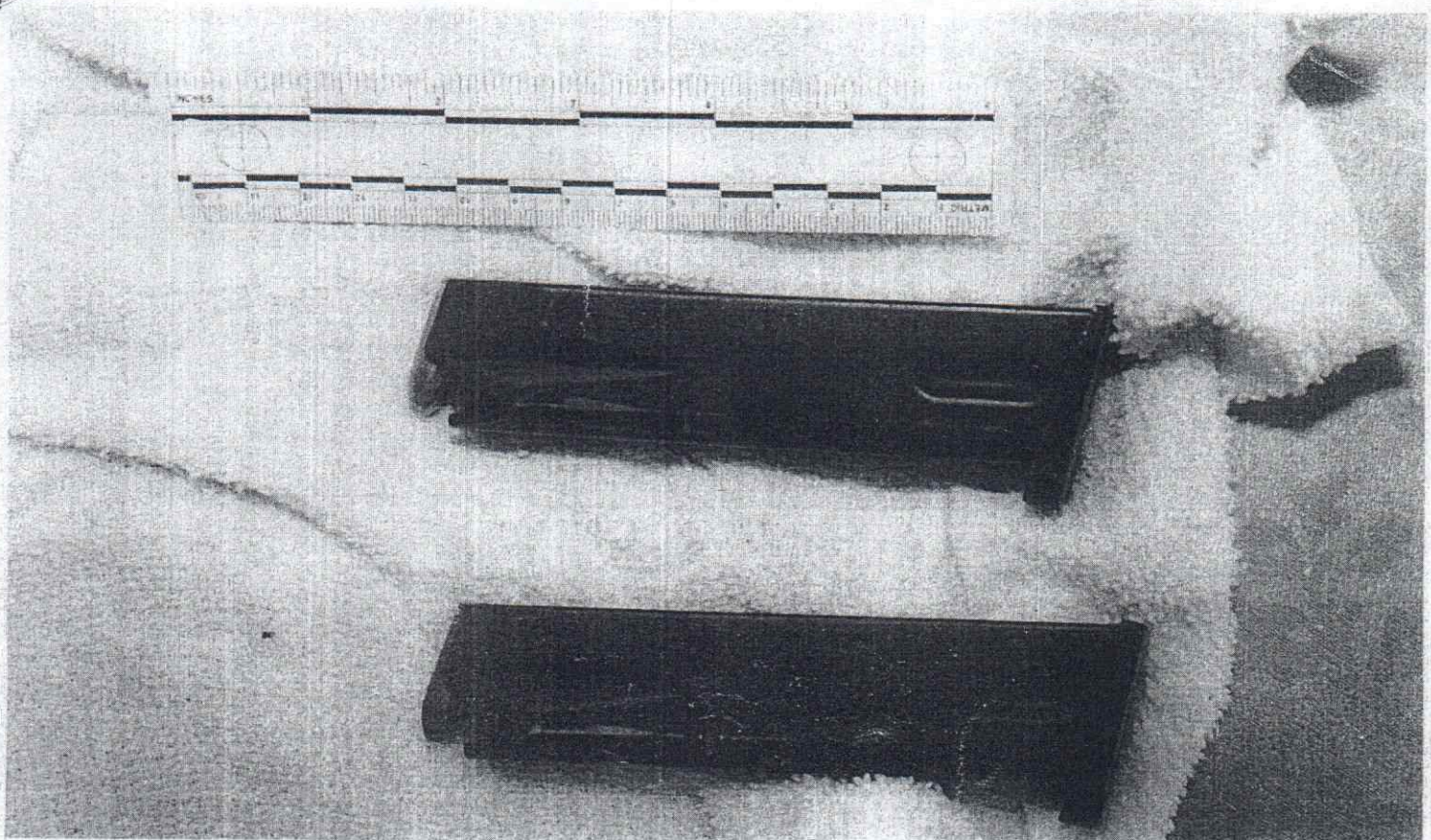
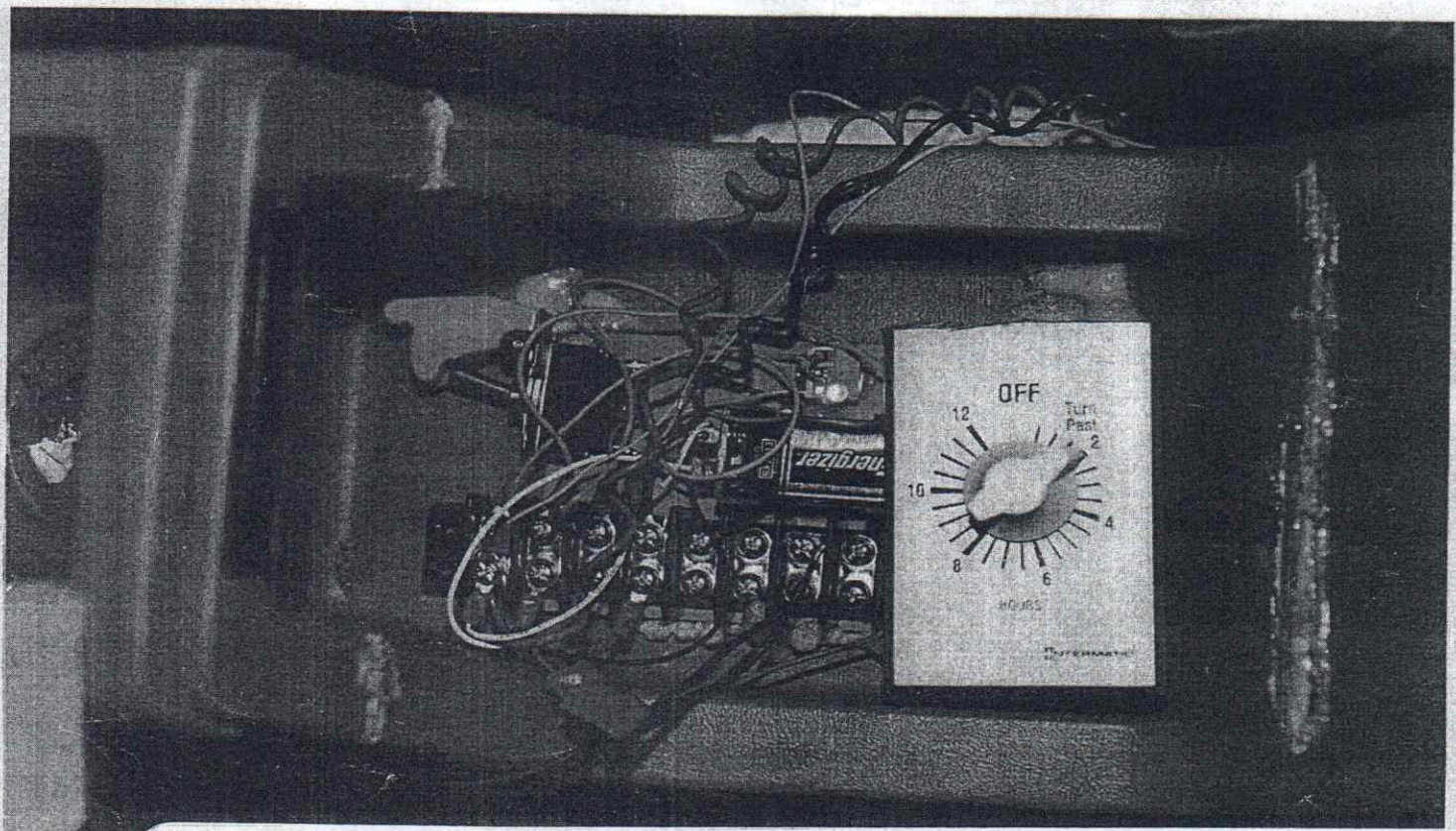
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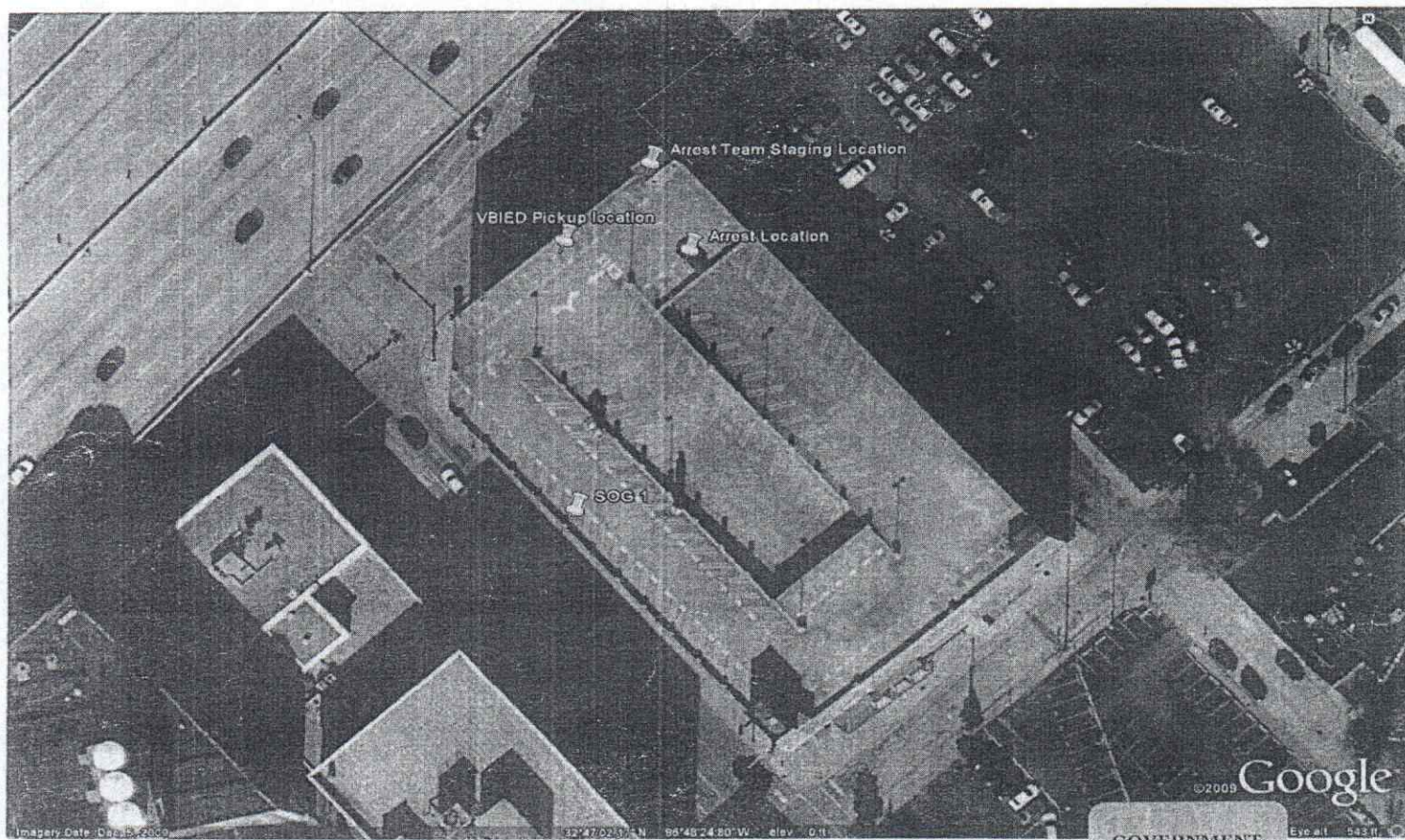
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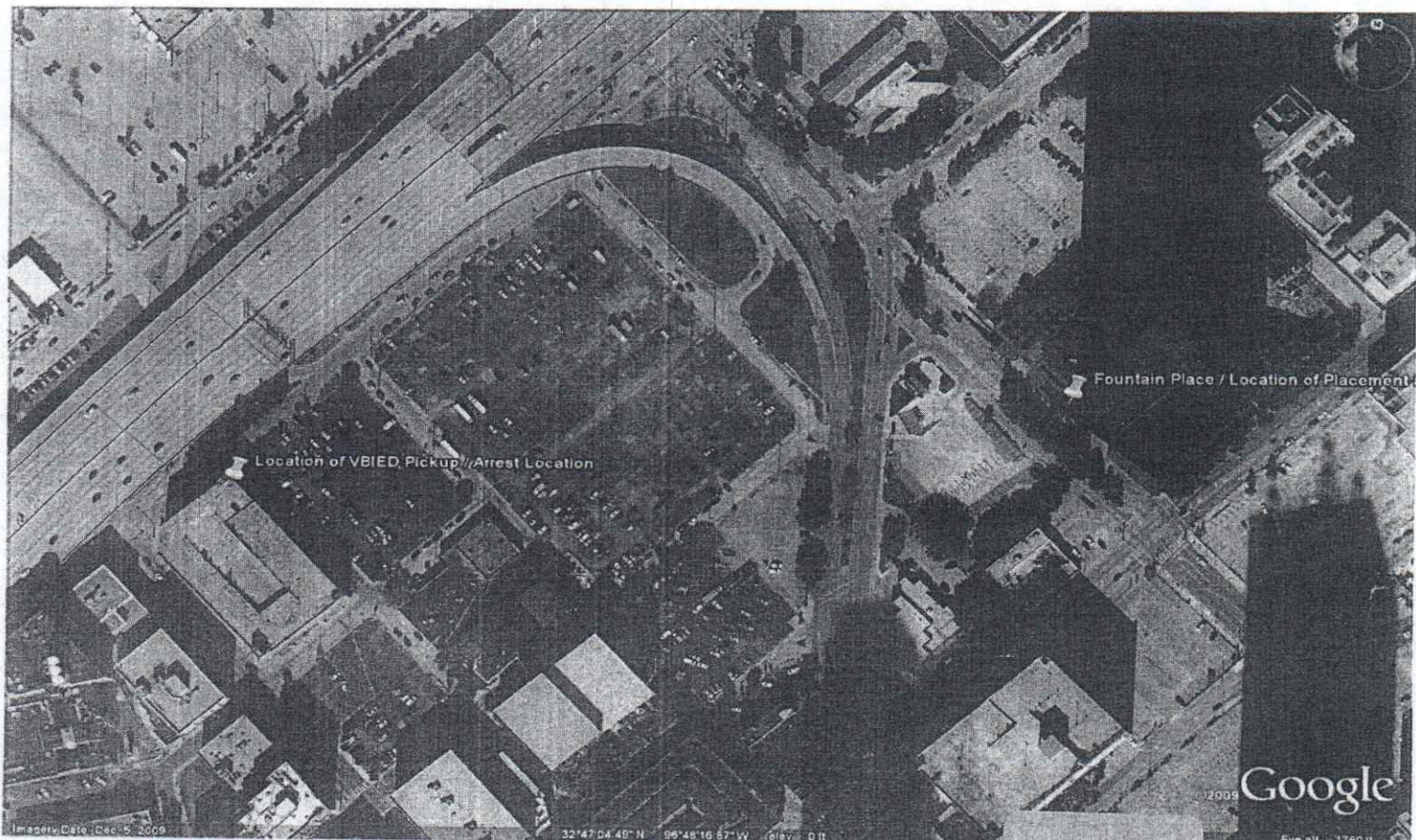
GOVERNMENT  
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3:09-CR-294-M



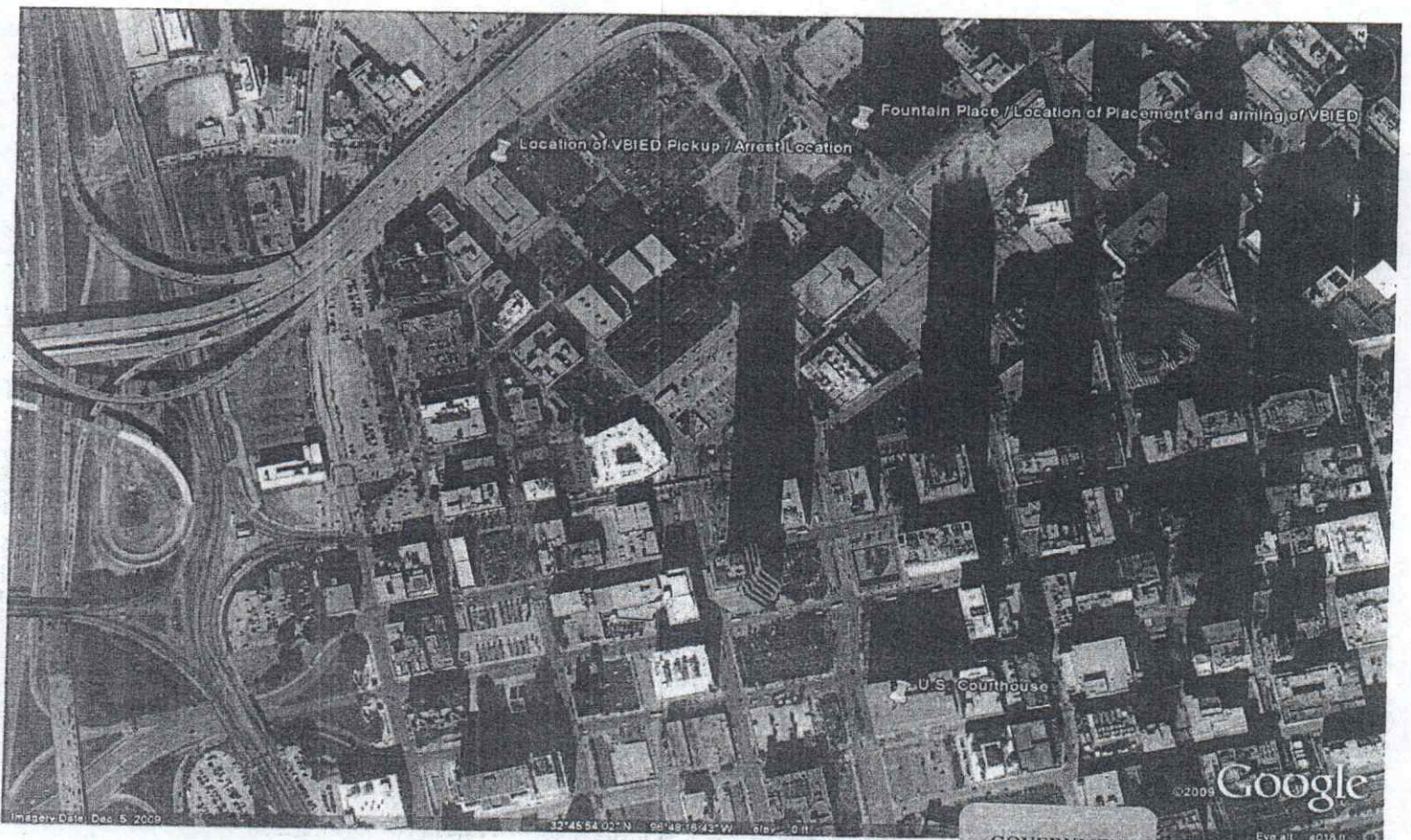
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EXHIBIT  
431  
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GOVERNMENT  
EXHIBIT  
384  
7:00 CD 204 M



GOVERNMENT  
EXHIBIT  
383

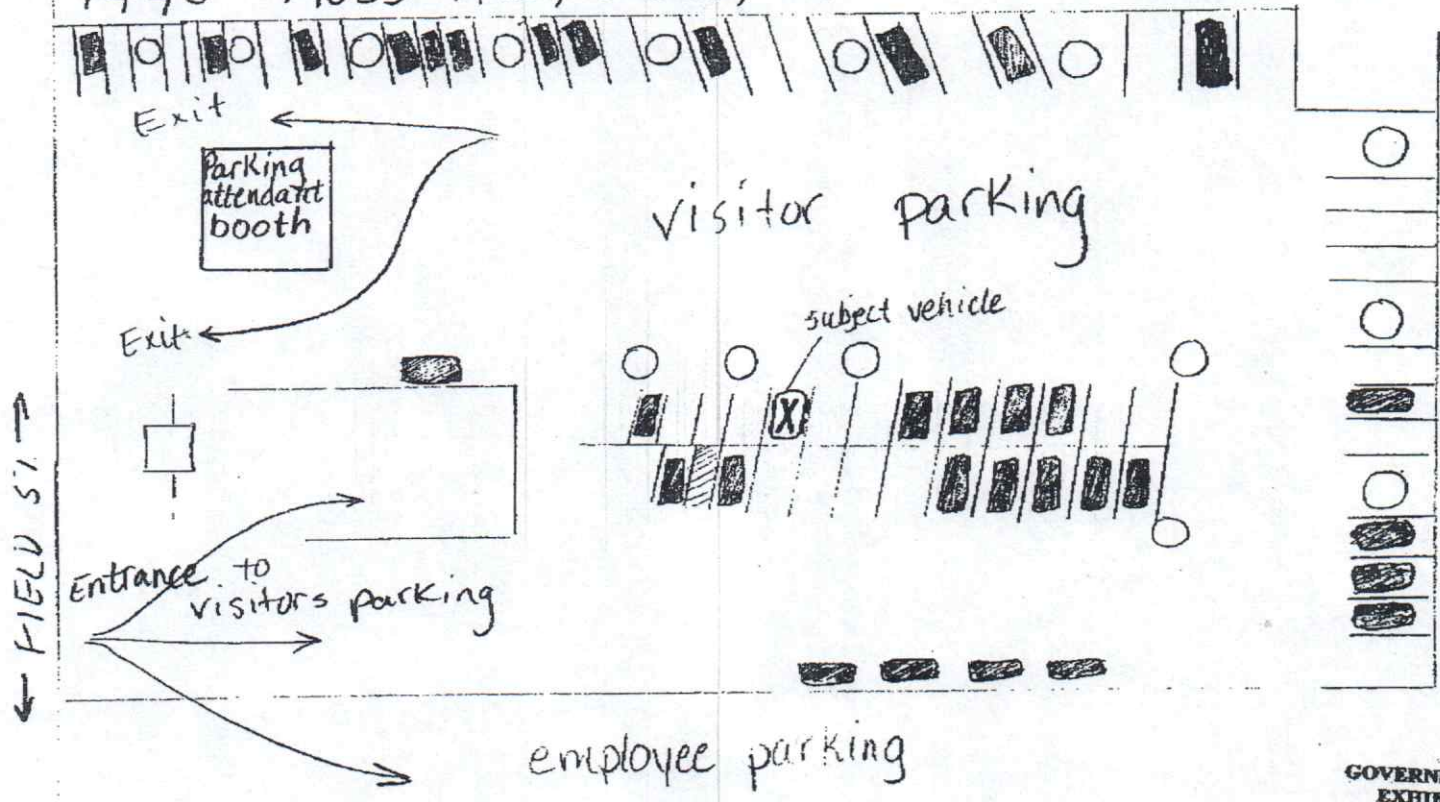


GOVERNMENT  
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382  
3:09-CR-294-M



1445 Ross Ave, Dallas, TX

415M-DL-108447

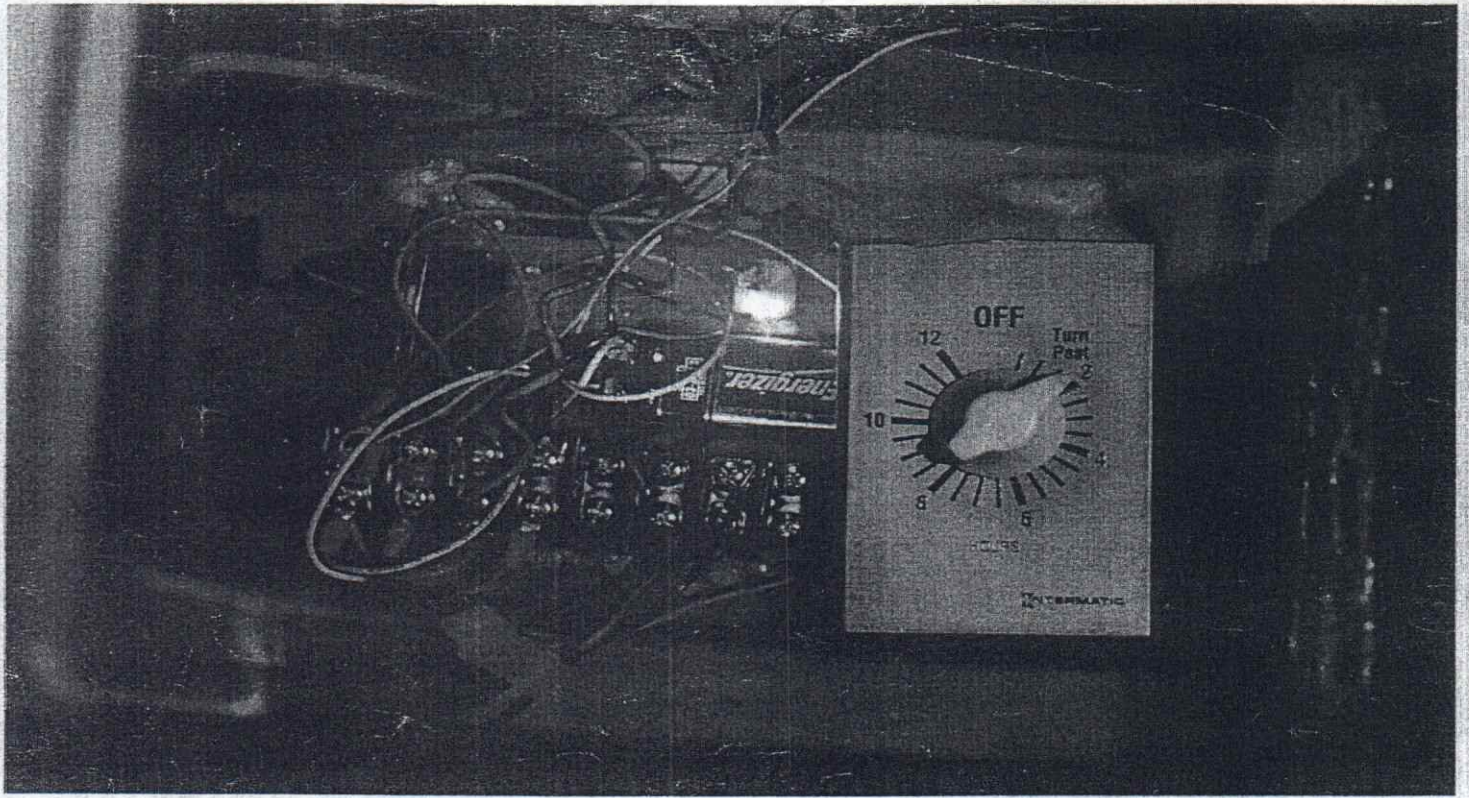


- - various vehicles parked
- ⊗ - subject vehicle - black Ford Expedition Sport trac, lic plate 726P2P (TX)
- - post structure

GOVERNMENT  
EXHIBIT  
381  
3:09-CR-294-M

Not to scale  
AW 9/24/09





GOVERNMENT  
EXHIBIT  
371  
3-09-CR-294-M

*downtown dallas places you should visit*

Without ever... Keep your life in sync. Check it out.



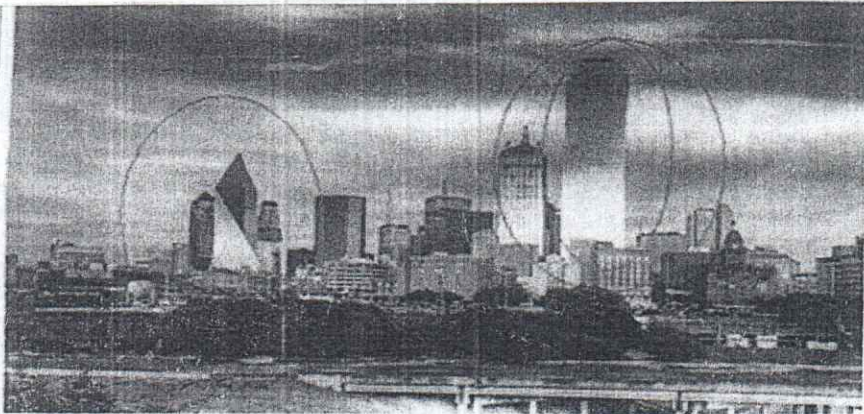
1 of



2 of



GOVERNMENT  
EXHIBIT  
311  
3:09-CR-294-M



7.jpg

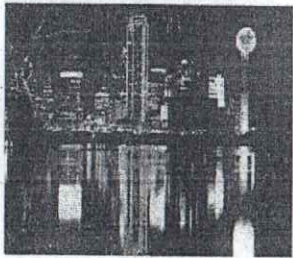


8.jpg

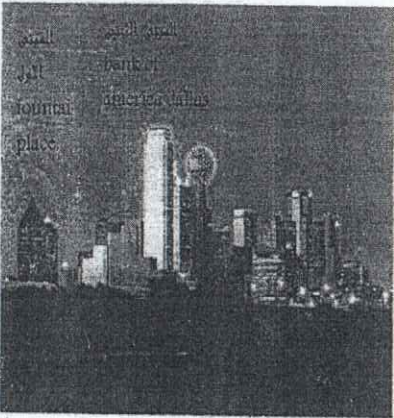


1.jpg

The commercial center and five banks



4.jpg



5.jpg

The first building fountain place

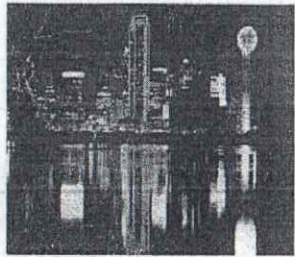
The Second building bank of america dallas



6.jpg

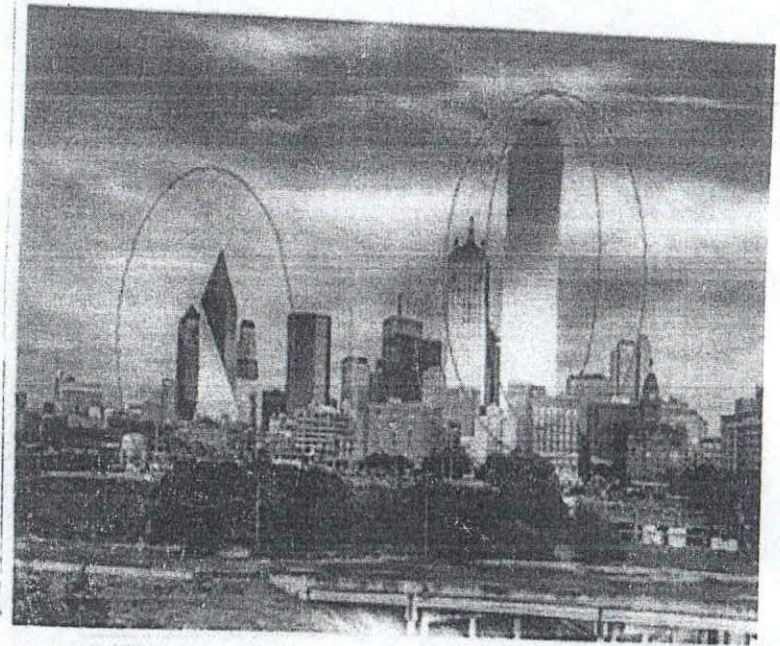


The commercial  
center  
and five  
banks



The first  
building  
*fountain  
place*

The Second building  
*bank of  
america dallas*



7.jpg



WFAA  
Posted on March 19, 2013 at 6:50 PM  
Updated Tuesday, Mar 19 at 10:10 PM

NEWS 8 EXCLUSIVE

DALLAS Three-and-a-half years after being convicted of plotting to blow up the Fountain Place office tower downtown, Hosam Smadi called News 8 from a federal prison in Indiana to profess his innocence, arguing that he was "psychologically tortured" by the FBI.

The evidence against Smadi is overwhelming. He thought he was remotely detonating a fake truck bomb parked at the Fountain Place building in an attempt to kill thousands. Smadi plead guilty and is currently serving a 24-year sentence. Smadi told Schechter on the phone that he confessed to the crime only after being "psychologically tortured" in solitary confinement and "manipulated" into participating in the mock bombing.

He is now serving as his own attorney and recently filed paperwork to overturn his prison sentence, which he is serving in Terre Haute, Indiana.

Former US Attorney John Ratcliffe says it is common for a federal prisoner to claim his or her innocence, but it rarely leads a jury to overturn a case.

"What Mr. Smadi is claiming is claimed by literally every federally incarcerated prisoner," said Ratcliffe, now a partner with Ashcroft, Sutton & Ratcliffe.

The conditions in Terre Haute are the harshest allowed under federal law. There, Smadi is housed with about 200 men, mostly Arab Muslims all convicted on terror charges. He lives in what's called the Communications Management Unit with other high-profile terrorists, like John Walker Lindh, known as the American Taliban.

All of his outside communication is severely restricted, managed and monitored live, in real-time.

"It's the most severe, the most harsh, the most unpleasant conditions allowed under American law," Ratcliffe said.

When he called Schechter, Smadi said the call would last fifteen minutes. But after five minutes, he was cut off mid-sentence.

The Federal Bureau of Prisons told News 8 Smadi was authorized to call Schechter, but was not authorized to be interviewed.

When Schechter started asking questions of Smadi, the person monitoring the call cut it off. Ratcliffe says the government has a standard for cutting a prisoner's communication.

"Presents a substantial risk of death or bodily injury to the American public. Now, again, I didn't hear the conversation but that is the standard by which those communications are to be monitored," Ratcliffe said.

Schechter has previously requested an interview with Smadi but been denied by the prison. This phone call was unplanned.

Smadi has also sent Schechter four packets of information. Mostly they are lengthy claims of innocence, despite the evidence against him, and statements of his deepening devotion to Islam.

E-mail dschechter@wfaa.com

# Uncle Sam's Personal Terror Factory

Trevor Aaronson's new book *The Terror Factory* documents how the Federal Bureau of Investigation has built a vast network of informants to infiltrate Muslim communities and cultivate phony terrorist plots.

By John Tiffany

Are most terrorists created by government agents provocateurs? How about nearly all? Agencies such as the FBI have been busily creating terrorists out of what had been law-abiding individuals. The system features entrapment, sting operations, provocations and denial of due process, with anonymous juries, secret evidence and extensive pretrial detentions.

In the new book *The Terror Factory: Inside the FBI's Manufactured War on Terrorism*, author Trevor Aaronson documents hundreds of Americans who have been hassled by the government as if they were terrorists. But how many actual terrorists have been caught by this grand effort? Aaronson was able to look at the data from 2001 to August 2011, a database of 508 defendants whom the government considered terrorists. Of the 508, 243 had been targeted due to an FBI informant. One hundred fifty-eight had been caught in sting operations, and 49 had been manipulated by an agent. The number of actual terrorists? Fewer than half a dozen.

In those scores of sting operations, almost every "terrorist" was uneducated, unsophisticated and economically strapped—hardly people likely to plan and launch terrorist operations without major help from the government. It's called "creating crimes to solve crimes so they can claim a

victory in the war on terror."

The practice, started under President George W. Bush, has mushroomed under President Barack Obama, with more than 75 sting prosecutions in his first three years in office.

To catch a handful of dangerous hombres and a slew of patsies, the government has built the largest network of spies ever to exist in America, with 10 times as many "shoes on the street" today as during the heyday of J. Edgar Hoover. It spends \$3 billion a year "fighting terrorism" and needs results to show to the media and Congress.

While the defendants may be broke, it's not uncommon for informants to make \$100,000 or more on a case—plus tens of thousands more if the case results in a conviction. Not surprisingly, the ranks of informants has grown explosively.

James J. Wedick, a retired FBI agent with 34 years of service, ventured to say that 90% of the cases seen in the last 10 years "are garbage," and informants are unreliable sources and "the most dangerous individuals on the planet."

He says it is not uncommon for the FBI to send well-heeled informants (with taxpayer money) into poor Muslim communities to try to trick cash-starved men into going along with their jihad-related entrapment schemes, knowing that these men are desperate for a job, a loan, free meals—anything that will help them support their families.

Writes Aaronson:

Congress allocates billions to the FBI to find terrorists and prevent the next attack. The FBI in



turn focuses thousands of agents and informants on Muslim communities in sting operations that pull easily influenced fringe members of those communities into terrorist plots conceived and financed by the FBI. The Justice Department then labels those targets, who have no capacity on their own to commit terrorist acts and no connections to actual terrorists, as terrorists and includes them in data intended not only to justify how previous dollars were spent but also to justify the need for future counterterrorism funding.

*The Terror Factory*, by Trevor Aaronson (soft-cover, 284 pages, \$18 plus \$4 S&H in the U.S.) is available from AMERICAN FREE PRESS, 16000 Trade Zone Avenue, Unit 406, Upper Marlboro, MD 20774. Call 1-888-699-6397 toll free to charge. Visit [www.americanfreepress.net](http://www.americanfreepress.net) to purchase. When responding by mail, use the handy form on page 27 of this issue of AFP. For S&H outside the U.S. please email [shop@americanfreepress.net](mailto:shop@americanfreepress.net). \*

## 30 Years in Prison For Saying the Wrong Thing? How The FBI Entraps US Citizens To Feign Success Against Terror

By Rehanna Jones-Boutaleb, Foreign Policy in Focus

Posted on July 11, 2011, Printed on July 29, 2011

<http://www.alternet.org/story/151597>

[/30\\_years\\_in\\_prison\\_for\\_saying\\_the\\_wrong\\_thing\\_how\\_the\\_fbi\\_entraps\\_us\\_citizens\\_to\\_feign\\_success\\_against\\_terror](#)

On August 28, 2008, two childhood-friends from Midland, Texas, Bradley Crowder and David McKay, traveled north to join thousands of protesters at the 2008 Republican National Convention (RNC). In the company of six Austin activists, Crowder and McKay were ready for adventure, and prepared, in Crowder's words, to protest to "change the world." What began as a journey of hope, however, ended in sudden catastrophe. Crowder and McKay's efforts to mark their opposition to the Republican administration and the U.S. involvement in Iraq resulted in multiple charges of domestic terrorism and a high-stakes entrapment defense in federal court. What the "Texas Two" hadn't realized in Minnesota was that their trusted comrade, Brandon Michael Darby - the very activist to whom they had looked for inspiration and guidance - was in fact an FBI informant.

Tracing Crowder and McKay's saga from its very origins, the 2011 documentary *Better this World* cunningly unveils the intricacies of the two protestors' federal trials, as well as the media sensation they precipitated. The film, which is scheduled to air nationally on PBS's "POV" series, not only provides a nuanced perspective of two alleged cases of domestic terrorism but also cuts to the heart of the "war on terror" and its effect upon civil liberties.

Aiming to go beyond the "nice-kids-turned-domestic-terrorists" narrative propagated by mainstream media sources, film-makers Kelly Galloway and Kelly Duane de la Vega have turned their attention to the viewpoints of the key players themselves: Crowder, McKay, and Darby. Although both directors are clearly sympathetic toward the convicted Texas youths, they take care to interview multiple FBI agents and prosecutors, providing viewers with conflicting approaches to the trials. The result is a documentary thriller that stands as both a compelling character study and a necessary reminder of the broader themes behind McKay and Crowder's testimony, namely the post-9/11 security apparatus and the use, and abuse, of informants in the government's "war on terror." David v. Goliath

Playing out against the backdrop of the RNC in St. Paul, Minnesota, *Better this World* opens with visceral footage from the 2008 protests. These recordings, alongside testimonies detailing McKay and Crowder's involvement with Austin's progressive scene, reveal that both youths were not only newcomers to the activist community but also indisputably shocked by what they encountered in St. Paul. There was, in Crowder's words, a "pervasive sense of occupation...it was a war zone...a police state." Indeed, police searched the group's rented white van without a warrant on its arrival in St. Paul and seized their homemade shields constructed for the protests.

Unnerved by this illegal bust and inspired by Darby's militant polemics, Crowder and McKay walked into a Walmart on August 31 and bought provisions to construct Molotov cocktails. Although they proceeded to make eight bottled gasoline bombs, the next morning the two protestors realized, in McKay's words, that they "didn't know what they were doing." Leaving the Molotovs behind, they joined other protestors in St. Paul only to be arrested soon after for disorderly conduct. Due to lack of identification on his person, Crowder was held in jail.

At this point, the narrative takes its tragic turn. Incensed that Crowder had not been released, McKay foolishly announced to Darby that he was planning to throw his homemade bombs on police cars in a nearby parking lot. His conversation with Darby, held in a moment of hotheadedness, was in fact being transmitted to the FBI through electronic surveillance gear. Although McKay and Darby agreed to meet once more at 2 a.m. to use the Molotovs, McKay decided against this plan and ceased contact with Darby. Nevertheless, several hours later, just before McKay was due to leave for the airport, the FBI arrested him at gunpoint.

When McKay took his case to trial, arguing that he'd walked into an FBI trap, he was facing up to 30 years in federal prison.

As his father appeared in a phone conversation prior to his trial, the case was that of "David against Goliath." An entrapment defense had no precedent of success in the United States. Crowder, in contrast, found himself in a more secure position; he had never conversed with Darby on employing firebombs. The prosecution offered him a two-year plea deal for accepting one charge of possession of unregistered firearms. In the belief that this would exempt him from testifying against McKay, Crowder agreed to these terms.

The two friends nonetheless found themselves pitted against each other as their cases played out. As *Better this World* critically reveals, when McKay's trial resulted in a hung jury, the prosecution crawled back to Crowder, effectively blackmailing him for information on McKay. Although the latter still had a chance to prove entrapment, when he was offered a plea-deal of four years in prison, he accepted, thus allowing Darby and the FBI to wash their hands of the case. Faced with the decision to accept four years in prison, or risk 30 in proceeding with a second trial, McKay backed down.

As Crowder explained in an interview on June 23, he and McKay were simply "pawns in somebody else's game." A paid FBI informant - once respected for his involvement with Common Ground Relief, the post-Katrina recovery effort - directly influenced their progression to more radical activism. More importantly, the machinery of the U.S. judicial system constrained and shaped their decisions following arrest. Broader Implications

Crowder and McKay's experience serves as a crucial reminder of broader and more disquieting government trends, such as the tendency to amplify minor offences as cases of "homegrown" domestic terrorism and employ pre-emptive counterterrorism strategies on U.S. soil. "Going on the offense," as former Attorney General John Ashcroft once dubbed it, has worked to push the boundaries of civil privacy to their limit. Since 9/11, Ashcroft and his successor Michael Mukasey have steadily weakened rights protections and relaxed appropriate checks put in place for FBI investigations. In recent years, the Attorney General Guidelines, first promulgated in 1976 to eradicate the forms of investigative abuse that marked the COINTELPRO program, have markedly eroded. As documented in a study by the Brennan Center for Justice at NYU School of Law, Mukasey's 2008 guidelines continue to permit the FBI to authorize intrusive surveillance techniques, such as the dissemination of untrained informants, without any factual predicates to suspected criminal conduct.

The relaxation of criteria required to engage in investigative activity has been a recurrent feature of the post-9/11 world. Mukasey's Guidelines, for instance, allow the FBI to conduct preliminary "assessments" on the activities of individuals or organizations without any prior allegations indicating criminal activity or threats to national security. In these assessment stages that occur prior to preliminary investigations - which themselves can last up to six months! - FBI agents are also permitted to "assess individuals who may have value as human sources," effectively enabling the premeditated recruitment of informants. Crucially, the Guidelines refrain from imposing "supervisory approval requirements in assessments."

Taking advantage of this dearth of checks and balances, the U.S. Department of Justice has heretofore brought charges against just over 400 individuals in "terrorism-related investigations," since 9/11. As noted by David Cole, a professor of law at Georgetown University, this figure is widely regarded as inflated in that it incorporates a vast number of cases that relate to minor offences, such as immigration fraud, rather than actual terrorism. Entrapment and Surveillance

Brandon Darby's recognized collaboration with the FBI also hints of a larger reality: government entrapment. As the FBI's focus, in the counterterrorism context, has steadily shifted to a preventative model, it has increasingly emphasized the use of paid and untrained informants in the "fight against terrorism." In 2009 alone there were the high-profile cases of Maher Husein Smadi, 19, and Michael Finton, 29, both of whom were convicted on charges of domestic terrorism when their crimes were, in no small part, shaped by the work of FBI informants. FBI agents posing as al-Qaeda members frequently approached Smadi, who was arrested for plotting to bomb a downtown Dallas skyscraper. Undercover U.S. agents also provided inert explosives to Finton, convicted of attempting to bomb the Paul Findley Federal Building and the offices of Congressman Aaron Schock in Illinois.

These cases are only two of hundreds that raise questions about the dividing line between covert operations and government entrapment. Have government informants been given too much leeway? In the eyes of James Weddick, one of several FBI veterans interviewed in Galloway's film, the answer is yes: "Before 9/11 it was eyes and ears only. Now it's eyes, ears, and the informant's mouth." In recent years, these surveillance techniques have become ominously extreme.

Indeed, one of the more shocking realities *Better this World* brings to light is the fact that the FBI was preparing for the 2008 RNC at least two years prior to its opening. In the words of one agent interviewed in the film, authorities treated the RNC as a 100% security threat. To that end, the FBI relied on informants in neighboring jurisdictions to track the activities of allegedly threatening activist groups, such as the RNC Welcoming Committee, which coordinated discussions and preparations for the 2008 protests. McKay and Crowder themselves had actually been on the FBI's radar for more than a year when they travelled to St. Paul. Given the enormous funds spent on RNC security operations, the FBI was under considerable pressure to produce results, to effectively press charges against the alleged terrorists whom they had been tracking.

Hosam  
Maher  
Al-Smadi

3

For those convicted on dubious charges of domestic terrorism, the probability of mounting a successful entrapment defense is slim to nil. According to the Center for Law and Security, from 2001 to 2007, ten defendants charged with "terrorism-related" crimes have formally issued an entrapment defense. None, however, has prevailed. Although Brandon Darby, currently a right-wing political commentator, now refers to Crowder and McKay as "American-hating Americans," the reality is that the two boys' progression to militant activism was undeniably influenced by his words and actions. In an effort to "better this world," a phrase taken from Darby himself, government informants are taking suspects to the edge of the pool and pushing them in.

*Rehanna Jones-Boutaleb is a contributor to Foreign Policy In Focus.*

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[w1]

3

Then there's the systematic infiltration of American Muslim communities, mosques and other groups by the U.S. Government. Just today, the Associated Press won a well-deserved Pulitzer Prize for exposing the pernicious surveillance program of the NYPD aimed at Muslims suspected of no wrongdoing whatsoever (except for being Muslim). Also today, *The Washington Post* has a very good article detailing the FBI's chronic use of informants to target young Muslims and use every conceivable inducement — money, psychological manipulation, peer pressure — to cajole them into joining the FBI's manufactured Terrorist plots. This is all done so that the FBI can swoop in at the last minute, praise themselves for stopping a Terror attack, keep fear levels among the American population high, and then send the targeted Muslim to prison for decades (and not just any prison, but usually to the uber-repressive wing at the federal prison in Terre Haute, Indiana — "GITMO North" — a living, inhumane hell). The federal judge who presided over the most recent of these FBI-concocted cases — the tough-on-crime, former federal prosecutor Colleen McMahon — said in open court: "I believe beyond a shadow of a doubt that there would have been no crime here except the government instigated it, planned it and brought it to fruition."

This constant government surveillance, infiltration, and use of informants — many who are paid large sums of money by the FBI and who themselves have a history of violent behavior and lying — predictably create extreme levels of fear and suspicion in American Muslim communities. They are instantly suspicious of any new person they meet. Because so many of these prosecutions have relied on the political statements and views of the accused Terrorist supporters, they are petrified to express their views about American foreign policy, let alone to engage in meaningful activism around those views. They fear speaking out when they are targeted or otherwise victimized by state injustices.

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In sum, these are American citizens whom the rest of us have allowed to be subject to such an intense, limitless climate of fear and intimidation that any Constitutional guarantees are purely illusory for them. And they know it: they know that if the U.S. Government acts unjustly against them — if government agents even utter the word Terrorist in their direction — huge numbers of their fellow citizens will automatically assume that there must be some justification for the accusations. As *Mother Jones'* Kevin Drum recently explained, he simply assumes that when the Obama administration accuses someone of involvement in Terrorism that there must be some solid basis for the accusation — even if they don't reveal what that basis is — because President Obama is too good of a person to be involved in the baseless, bad faith punishment of someone on Terrorism allegations.

Many of the Muslims with whom I spoke know that many of their fellow citizens — the ones who are never subjected to these abuses — "reason" in a similar manner. Most are wallowing in the authoritarian assumption that the U.S. Government, while not infallible, is well-motivated and honest. Many Muslims thus know that they will stand almost entirely vulnerable if they are so targeted; few others will object or even care. That the Obama administration — in concert with Peter King — has been repeatedly insisting that the primary threat is now "homegrown Terrorism," and has thus been importing War on Terror framework onto U.S. soil, means that citizenship is no longer any shield from even the most egregious abuses. So they are afraid, and are tempted to avoid doing anything, including exercising their most basic rights of free speech and assembly, to avoid attracting attention.

As is always the case, the government abuses justified in the name of Terrorism have expanded far beyond the Muslim community to which they were first applied. Domestic peace activists have been targeted by abusive applications of the Patriot Act; American advocates of WikiLeaks have been legally harassed in all sorts of ways; and just last week I detailed the persecution of filmmaker Laura Poitras for the crime of producing documentaries that reflect poorly on U.S. policy.

But American Muslims have borne the brunt of these assaults for a full decade now, and — more than a full decade after 9/11 — continue to bear them in increasingly oppressive ways. And it's worthwhile, really necessary, to be reminded of the very personal ways that these actions harm the lives of innocent human beings. Blame undoubtedly lies first and foremost with the U.S. Government for perpetrating these attacks. But it lies as well with the American citizenry that — convinced that they will not be affected — permits and even cheers them.

4

Exhibit 4

Former Dallas FBI agent gets two years in prison for plan to kill boss  
FILED UNDERNEWS AT MAR 2011 SHARE  
FACEBOOK  
TWITTER  
EMAIL  
Print This Story  
Written by  
Profile image for Jason Trahan  
Jason Trahan  
Connect with Jason Trahan Email  
Don't miss a story. Like us on Facebook.

LIKE DALLAS NEWS' FACEBOOK PAGE

A former FBI agent sentenced to two years in prison Friday for plotting to kill his wife and the current head of the Dallas FBI office used to be a good agent, a former Dallas FBI boss told a judge.  
Guadalupe Gonzalez, who ran the Dallas FBI office from 2002 to 2006, called Carlos Ortiz Jr. a "valuable asset" to the bureau when he supervised him.  
"He went through some issues," Gonzalez told U.S. District Judge Sidney Fitzwater at Ortiz's sentencing hearing Friday. "We all have issues."  
Ortiz, 49, was arrested in August on charges of trying to acquire a .50-caliber rifle in order to assassinate Dallas Special Agent in Charge Robert E. Casey Jr. Casey had suspended Ortiz months earlier on suspicion of domestic violence toward his estranged wife, a bureau analyst.  
In his 21-year career in the FBI, Ortiz was involved in armed standoffs twice in 1992 and 2004. Former Dallas FBI boss Oliver "Buck" Revell recommended that Ortiz be fired after the 1992 incident but was overruled by his superiors in Washington. The second standoff occurred under Gonzalez, who allowed Ortiz to keep his job. Casey succeeded Gonzalez in 2006.  
After Gonzalez finished his defense of Ortiz, federal prosecutor Chad Meacham asked permission to question Gonzalez about why he didn't fire Ortiz after the 2004 incident. Fitzwater pointed out that Gonzalez was not testifying under oath, so cross-examination would not be proper.  
But later, when Meacham argued to Fitzwater that Ortiz should be given the maximum 10-year sentence, he revisited the issue of whether Gonzalez should have fired Ortiz in 2004.  
"How many other employees has Gonzalez had with almost three decades of erratic behavior?" Meacham told the judge. "It's a dark day for law enforcement."  
Gonzalez, who described Ortiz as a friend, declined to answer questions after the hearing.  
Casey was in Washington, D.C., on Friday and did not attend.  
In the year before his arrest, authorities say, Ortiz was broke and applying for food stamps. Despite a \$140,000 annual salary, his finances had been drained by a costly divorce and custody battle over his young son. He was also abusing his anti-anxiety medication. In August, he began telling friends that Casey was in an "illicit relationship" with his estranged wife, a contention the FBI denies.  
Ortiz asked one of his friends, a former law enforcement officer and a licensed firearms dealer, if he could get him a .50-caliber gun, capable of shooting a mile. That friend called the FBI, which had him record subsequent threats by Ortiz.  
"Yeah, I'm definitely gonna [expletive] on his grave," Ortiz said of Casey. "I might just put a .308 down his [expletive]"  
After Ortiz was arrested, agents searched the Red Oak home he shared with his father. They found more than three dozen weapons, including a .22-caliber rifle with a silencer and two .308-caliber rifles.  
They also found an envelope meant for his father marked, "DAD TAKE TO THE PRESS."  
"Mr. Casey has broken me as a man and human being, with his constant threats and follow through terminating me leaving with no way to sustain my son," a statement inside the envelope bearing Ortiz's signature read. "Mr. Casey never listened to me and has left me no options."  
Fitzwater said Ortiz's writings were significant. "This suggests that he did not think he would be alive to take it to the press himself," the judge said. "We who are given much power are held to a high standard."  
Earlier in the hearing, a longtime friend of Ortiz told the judge that his buddy was merely "venting" about Casey.  
"He never intended to hurt anyone," said retired Army Staff Sgt. Edwin Garcia Casiano, who grew up with Ortiz in Puerto Rico.  
"He was taking a lot of medication that made him say the wrong things."

①

Meacham rejected that argument. "He always blames the medication," he said.  
Colleen Dunbar, Ortiz's attorney, said the two-year sentence is "what we expected," adding that her client will get credit for the seven months he has been in custody. "He's very sorry for what happened. Life goes on. It could have been a lot worse."  
Meacham said that the investigation of the ex-agent had a "demoralizing effect" on the entire Dallas FBI office and that the actions of Ortiz were a stain on federal agents everywhere.  
"He's gone from being the best the United States government has to offer, to the worst," Meacham said.  
DALLAS Carlos Ortiz, Jr., 49, of Red Oak, Texas, was sentenced this morning by Chief U.S. District Judge Sidney A. Fitzwater to two years in federal prison following his guilty plea in December 2010 to one count of retaliating against a federal official, announced U.S. Attorney James T. Jacks of the Northern District of Texas. Ortiz has been in federal custody since his arrest in late August 2010 on a related charge outlined in a federal criminal complaint.

According to documents filed in the case, since 1988, Ortiz worked as an FBI special agent in the Dallas Division. In May 2010, he was placed on leave without pay, pending termination proceedings. He was terminated on August 25, 2010, at the time of his arrest. He has verbally expressed his anger with the Dallas Division Special Agent in Charge, Robert E. Casey, Jr., for terminating his employment. On August 16, 2010, Ortiz retrieved approximately 29 weapons, one AR-15 rifle, one .22 caliber rifle with silencer and two .308 caliber weapons, from a close friend..

From late evening on August 19, 2010, to the early morning hours of August 20, 2010, Ortiz telephoned this long-time close friend. Because of the nature of the communication, this friend contacted another friend of Ortiz's, who had also been telephoned by Ortiz during the same time period. This friend then reported Ortiz's behavior to a special agent with the FBI in the early morning hours of August 20.

That afternoon, Ortiz contacted the friend from whom he had received the weapons, and on a recorded call, stated that he wanted a .50 caliber gun. During the conversation the friend asked Ortiz why he didn't want to meet at the police station to exchange his child with his ex-wife, Ortiz replied, "No, cause that son of a [expletive] (Casey) told me if I got anywhere near a police department he was gonna do something else, cause God knows what else he'd put on my [expletive]." The friend asked if Ortiz was referring to the Dallas Division SAC. Ortiz replied, "Yeah, I'm definitely gonna [expletive] on his grave, I might just put a .308 down his [expletive] (unintelligible)." During the call, Ortiz expressed anger at losing his job with the FBI, saying "and what do I have for 26 years, one more year away from retirement? [expletive]. And an OPR." Throughout the weekend of August 21-22, Ortiz continued his calls to these two friends and continued to request assistance in acquiring a handgun with a silencer.

On the date of his arrest, during the execution of a federal search warrant at Ortiz's residence and vehicle, a "signed sworn statement" by Ortiz was found. In this statement Ortiz writes, ". . . Mr. Casey has broken me as a man and human being, with his constant threats and follow through terminating me leaving with no way to sustain my son. Mr. Casey never listened to me and has left me no options." Additionally, Ortiz wrote, "Finally that if Mr. Casey was not allowed to have so much power unchecked this would have never happened . . ." This "signed sworn statement" was left in Ortiz's residence in an envelope, which bore the following notation: "DAD TAKE TO THE PRESS." Included in the firearms seized were .308 caliber firearms, the caliber that Ortiz specified in his threat against the FBI Dallas Division Special Agent in Charge.

The case was investigated by the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Criminal Chief Assistant U.S. Attorney Chad E. Meacham was in charge of the prosecution.

— God's revenge from dirty agents on Smardi Case.

②



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Saturday, August 28, 2010

[US] [TX] Dallas FBI Agent Carlos Ortiz spoke of brutal plans to murder FBI wife and FBI boss  
...FBI agent Carlos Ortiz was fired Wednesday before being taken into custody... Ortiz is accused of making "extreme-type" threats against his wife, an FBI analyst whom he is divorcing, planning to kill her, and also planning to kill his boss... Authorities assigned security to Ortiz's wife... The affidavit also says Ortiz was seen as a threat to himself or others on two previous [armed standoffs] occasions... On both occasions, the affidavit says law enforcement officers convinced Ortiz "to check himself into a "health facility for evaluation and/or treatment"...

JUDGE: SAD DAY IN LAW ENFORCEMENT

FOX 4 News  
Natalie Solis  
Adapted for Web by Tracy DeLatte  
Thursday, 26 Aug 2010

[Excerpts] The former FBI agent accused of plotting to kill his estranged wife and threatening to kill his boss made his first appearance in federal court Thursday. Carlos Ortiz, Jr., 49, is accused of making "extreme-type" threats against his wife, who is an FBI analyst. The two are in the process of getting a divorce... According to court documents, he told the agent he wanted to shoot his wife. And in desperation asked the agent, "What do I do, stab her in the heart?" Ortiz also allegedly made statements about wanting to shoot Special Agent in Charge of the Dallas FBI Office Robert Casey. He said he wanted to deface his grave... Judge Irma Ramirez called it "a very sad day for law enforcement".... Ortiz father told FOX 4 his son s getting pushed out of the FBI. "Everything that s happening here is on her word. They have never asked him is this true? Is this a lie? Justice has a balance and it s supposed to be both ways, not just one way," said Carlos Ortiz Valles. [Full article here]

Video:

COURT PAPERS SHOW FBI AGENT'S ALLEGED THREATS

DALLAS (CBS 11 / TXA 21)

By Kent Chapline  
Aug 26, 2010

[Excerpts] The FBI agent [Carlos Ortiz, Jr.] arrested for threatening to kill his supervisor also threatened to kill his estranged wife because their son had lice in his hair, according to court documents released Thursday... The arrest warrant affidavit released Thursday listed disturbing details about how he allegedly intended to kill his wife and the FBI agent in charge of the Dallas office, Robert Casey. According to the affidavit, Ortiz asked a friend for a long-range sniper rifle that he could use to shoot his wife. Language in the affidavit indicates that the friend is also an FBI agent... The affidavit says that on August 20, Ortiz was supposed to meet his wife in the parking lot of the Ovilla police station to exchange their son. On the 19th, the affidavit says, Ortiz told the same friend that he was going to shoot his wife in that parking lot... The affidavit also says Ortiz was seen as a threat to himself or others on two previous occasions. The first was in 1992 and the second in 2004. On both occasions, the affidavit says law enforcement officers convinced Ortiz "to check himself into a "health facility for evaluation and/or treatment." Ortiz is charged with threatening to kill a federal law enforcement officer. Any charges for the alleged threats against his wife would be state charges, which would have to be brought against him separately... [Full article here]

FBI AGENT ACCUSED OF PLANNING TO KILL ESTRANGED WIFE, ANOTHER AGENT

The Dallas Morning News  
By Jason Trahan

August 26, 2010

[Excerpts] A financially distressed former Dallas FBI agent was arrested Wednesday after allegedly plotting to kill his estranged wife, who is also an FBI employee, as well as the special agent in charge of the Dallas FBI field office. Carlos Ortiz, 48, of Red Oak, who performed technical functions for the bureau, was fired Wednesday before being taken into custody at the FBI offices in Dallas... Ortiz allegedly told a friend recently that he was planning to kill his wife, an FBI analyst whom he is divorcing, and Dallas FBI Special Agent in Charge Robert E. Casey Jr.... Casey had placed Ortiz on leave earlier this year pending an investigation into allegations of domestic violence. Ortiz, a 21-year veteran of the bureau, was summoned to the FBI offices Wednesday and fired... Authorities recently assigned security to Ortiz's wife while they investigated the threat... "He's being treated like a criminal," said Ortiz's girlfriend, Rosa Martinez, 39. "He's given his life to the United States government... They suspended him without pay because of something she said," Martinez said. "They've never heard his side." Ortiz's father, Carlos Ortiz Valles, who lives with him in Red Oak, said he and his son could barely afford to feed themselves while Ortiz was on unpaid leave from his job... "He was retiring next year," Valles said. "He's not going to throw away his career" by making threats. Valles said his son was devastated when he had to ask for government assistance recently. "He said, 'Dad, I have never had to do this,' " his father recalled. "He cries because he has to ask for coupons to eat." Valles acknowledged that a local police SWAT team responded to his son's house a few years ago but said the matter was a "family dispute" and that "nothing happened"... County records show that in July 2009, Ortiz filed for divorce... Bankruptcy records show that he surrendered a \$161,000 house... Ortiz also gave up a 2004 BMW 530i... Bankruptcy records also indicate that Ortiz claimed to be expecting a \$1.2 million settlement from the government relating to an Equal Employment Opportunity Commission complaint.... [Full article here]

Video:

OFFICIALS SAY FBI AGENT ACCUSED IN MURDER PLOT WAS STOCKPILING WEAPONS

The Dallas Morning News

By Jason Trahan

August 26, 2010

[Excerpts] A former Dallas FBI agent arrested this week after he was accused of a plot to kill his estranged wife and the head of the Dallas FBI field office had tried to obtain a silencer and a rifle with a mile-long range... Carlos Ortiz, who was fired from the bureau and arrested Wednesday, had stockpiled 37 weapons in his Red Oak home... According to the documents and testimony, Ortiz's personal life was in shambles as he fought financial ruin, a prescription drug addiction and a third failing marriage. Agents say the 21-year FBI veteran had been on unpaid leave since May because of allegations of spousal abuse... On one recording, Ortiz said he planned to shoot his wife and "cut her eyes out." He said he planned to do it the evening of Aug. 20 when he and his wife were to meet in Ovilla so he could turn their 6-year-old son over to her for the weekend... Agents quickly assigned security to Ortiz's wife. He did not show up for the child exchange as scheduled but asked his wife by phone to come to his Red Oak home to get the child. Instead, a bureau counselor picked up the child from Ortiz's home and brought him to his mother... On Wednesday, Casey summoned Ortiz to the FBI offices in northwest Dallas and fired him. "It is apparent that your conduct has been erratic and dangerous for years," the bureau's dismissal letter to Ortiz stated in part. "Your latest bout of aggression is simply further evidence of your unsuitability to remain an FBI agent." Moments after he was terminated, Ortiz was arrested. When investigators searched his home Wednesday, they found a letter he had written, with the words, "Dad, take to the press," on the envelope. The letter accused Casey of being involved with his wife. "Casey has broken me as a man and a human being," the letter read... Ortiz's Bible was open to a passage in the book of Psalms that alluded to God dealing with one's enemies... The agent also testified that after his arrest, Ortiz told him that he takes eight Xanax anti-anxiety pills a day. [Testifying agent] also detailed Ortiz's various assignments in the bureau over the years, including his time as a SWAT team member, sniper and undercover agent with training in surveillance and covert techniques... Prosecutor Chad Meacham walked [testifying agent] through Ortiz's long history of erratic behavior, which included two armed standoffs with police in 1992 and 2004. Both ended peacefully. After Thursday's 90-minute hearing, Ortiz's father, Carlos Ortiz Valles, expressed anger over the treatment of his son. He accused his daughter-in-law of lying about the spousal abuse and said Casey was trying to rid the bureau of "Spanish" agents. "Those people had it in for my son," said Valles, who lived with Ortiz.. [Full article here]

COMMENT EXCERPTS:

...I pray for her because as a victim of something similar, I know how scary daily life can be after something like this. You live life looking over your shoulder even when the perpetrator is incarcerated...

...Guy should have been fired and given a prison record after the first standoff...

...Sounds like he got a lot of his attitude from his father...

3

4

...Jeepers this guy was involved in two different armed standoffs with swat teams and still they didn't fire him. That is beyond ridiculous, how obviously unsuitable for employment with the FBI they should have had the common sense to let him go years ago. This idea that Federal people cannot ever be fired has got to change... Federal employees should have the same protections that everyone else does, it should be possible for their bosses to fire them and it shouldn't take two years... In the federal setting your boss isn't really your boss. He can't fire you all he can do is stop you from getting promoted. And if he thinks you are going to engage in this long complicated EEOC process where the deck is stacked dramatically in favor of the complainant he may actually be intimidated by his own employees.

#### FIRED FBI AGENT ACCUSED OF PLOTTING TO KILL BOSS

AOL News

Hugh Collins

Aug. 27

[Excerpts] A former FBI agent in Texas has been arrested and accused of plotting to kill his boss. Carlos Ortiz, who worked for the agency for 21 years in Dallas, was talking openly about shooting his boss, Special Agent in Charge Robert Casey Jr., and defacing his grave, according to a complaint filed against Ortiz in district court. The complaint states that Ortiz, who was arrested Wednesday, was "extremely agitated and angry"... Authorities said they found a letter in which Ortiz accused Casey of being involved with Ortiz's wife, who also works for the FBI. "Casey has broken me as a man and a human being," the letter read, according to The Dallas Morning News. An FBI spokesman told the newspaper that there was no truth to Ortiz's accusation. Ortiz was placed on unpaid leave in May 2010, pending termination proceedings. Ortiz repeatedly bemoaned the fact that his superiors were interfering in his private life and in his marriage in particular... He had apparently become enraged upon discovering that the couple's son had head lice. Ortiz had planned to use an appointment for his wife to pick up the boy as an opportunity to kill her, the complaint states... After the hearing, Ortiz's father, Carlos Ortiz Valles, complained that Casey was working to remove "Spanish" agents from the office and that his daughter-in-law was lying about abuse. "These people had it in for my son.... My son is more sane than I am," Valles told the Dallas-Fort Worth Fox affiliate... [Full article here]

Video:

#### THE FBI IS THE MOST TOLERANT EMPLOYER IN DALLAS

Aug 26, 2010

Jacquielynn Floyd/Columnist

jfloyd@dallasnews.com

Yow, what does it take for a G-man to get fired in this town? Agent Carlos Ortiz has been accused of and investigated for a laundry list of dubious behaviors - threatening people, waving weapons around, beating his wife, barricading himself in a bathroom because neighborhood kids messed with his rose bushes - for years. His ex-wife had to call a SWAT team to deal with him in 1992; he was again officially rung up for weird behavior in 2004.

But the feds didn't get around to cutting him loose 'til yesterday, when they notified him that he as been "erratic and dangerous for years." The last straw, it seems, was when he told a friend he intended to kill both his estranged wife and his boss, the Dallas FBI Special Agent in Charge.

For a law enforcement agency, they've got an awfully long fuse. [LINK]

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A fired FBI agent in Dallas was sentenced Friday to two years in federal prison for making death threats against his boss. Carlos Ortiz Jr. of Red Oak pleaded guilty in December to retaliating against a federal official.

Fired FBI Agent Sentenced to Two Years[DFW] Fired FBI Agent Sentenced to Two Years

A fired FBI agent in Dallas is sentenced to two years in federal prison for making death threats against his boss. (Published Friday, March 25, 2011)

Prosecutors said Ortiz was put on leave in May, pending termination and then proceeded to amass more than two dozen guns and make threats against Special Agent in Charge Robert Casey Jr.

Ortiz's attorney, Colleen Dunbar, said her client's family was having a hard time.

"Family and friends are having a hard time considering his exemplary performance as an FBI agent and ... in the United States Army to come, to fall this far," she said.

Prosecutors hoped for a 10-year sentence.

"It could have been a lot worse, and we anticipated this," Dunbar said. "We talked about this."

The testimony of family and friends painted a picture of a man who quickly spiraled out of control.

"For a man that's spent nearly 30 years of his life serving the United States government, both in the Army and the Federal Bureau of Investigation, to have this happen to him is awful," Dunbar said.

The 49-year-old former lawman had worked for the FBI since 1988. He has been in custody since his arrest last August.

Ortiz was fired at the time of his Aug. 25 arrest. Nobody was injured.

NBC DFW's Ashanti Blaize contributed to this report.

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Source: Ex-FBI Agent Gets Two Years for Threats | NBC 5 Dallas-Fort Worth <http://www.nbcdfw.com/news/local/Ex-FBI-Agent-Gets-Two-Years-for-Threats-118687864.html#ixzz4OKPwHE1t>

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*Case of Hosam Smadi:* The FBI first identified Smadi on a website promoting terrorism in January 2009.<sup>73</sup> Undercover FBI agents initiated correspondence with him, first online and then later in person. During their written correspondence, Smadi repeatedly emphasized that he did not know much about Islam, did not want to hurt innocents, and wanted to learn more about Islam before proceeding with any violence.<sup>76</sup> Yet rather than encourage these views, the FBI appears to have encouraged him to pursue violence.

Throughout the government's correspondence with Smadi, an FBI behavioral analyst assessed his progress along the "radicalization spectrum." For example, on April 28, 2009, the analyst noted that Smadi was "experiencing anger displacement" from his mother's death, and that he was "motivated to please his father."<sup>77</sup> The analyst further noted, "[h]is mother's death places him at the first stage of the radicalization process known as pre-radicalization."<sup>78</sup> The analyst also noted Smadi's discussions on "jihadist" websites, noting that Smadi's "singular nature of Internet use, affirms a hypothesis—SMADI is acting as a lone wolf exhibiting three of the four stages of the radicalization process 1) pre-radicalization, 2) identification and 3) indoctrination."<sup>79</sup>

In May, after viewing a video tape of Smadi's first in-person meeting with a government agent, the FBI analyst recommended that the government

agent should act more like a facilitator than a leader, noting that the agent was dominating the interaction. The agents encouraged Smadi to select a target and make plans for an attack, and praised him any time there was a move toward violence.<sup>80</sup>

After months of correspondence and meetings with government agents, Smadi agreed to take an explosive device (built by the government agents) to a parking garage under Fountain Place in Dallas, a large building which contained five banks and was made of glass. Smadi drove what he believed to be an explosive to the parking garage and then met an undercover agent in a waiting car.<sup>81</sup> From the car, he dialed a number on his cell phone that he believed was a code to detonate the explosive.<sup>82</sup> Smadi was charged with attempted use of a weapon of mass destruction and bombing a place of public use.<sup>83</sup> In May 2010, he pleaded guilty to attempted use of a weapon of mass destruction, and the government dropped the bombing charge.<sup>84</sup> He was sentenced to 24 years in prison.<sup>85</sup>

<sup>80</sup> Motion for Downward Departure and or Variance and Memorandum in Support at 22-25, United States v. Smadi, No. 3:09-CR-0294-M-(01) (N.D. Tex. Oct. 28, 2010), *app. dism. as frivolous per curiam*, No. 10-1162, 446 Fed. Appx. 679 (5th Cir. 2011).

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> "Man Who Admitted Attempting to Use a Weapon of Mass Destruction to Bomb a Downtown Dallas Skyscraper Is Sentenced to 24 Years in Federal Prison," US Department of Justice press release, October 19, 2010, [http://www.justice.gov/usao/txn/PressRel10/smadi\\_sen\\_pr.html](http://www.justice.gov/usao/txn/PressRel10/smadi_sen_pr.html) (accessed June 20, 2014).

<sup>86</sup> "I was seeing things, I was downstate before I came up and I seen all kinds of stuff because I guess the drugs were still stimulant in my body," James Cromitie, response to question during his Initial Parole Board Hearing, Fishkill Correctional Facility, New York, August 6, 1991, transcript at <http://www.thrnewmedia.com/assets/terror/cromitie91.pdf> (accessed June 20, 2014), p. 8, line 14.

<sup>87</sup> Objection to Presentence Investigation Report at 2, United States v. Cromitie, No. 7:09-cr-0558-CM-1 (S.D.N.Y. July 8, 2011), *aff'd*, 727 F.3d 194 (2d Cir. 2013) ("He [Laguerra Payen] has been diagnosed as schizophrenic by several doctors over the last 10 years, and no doctor has ever repudiated that diagnosis."); Chris Dolmetsch and

JULY 2014

# Sting ops challenged as 'fictitious crime'

Brad Heath  
@bradheath  
USA TODAY

Two federal judges have ruled that widely used sting operations designed to ensnare suspects with the promise of a huge payday for robbing an imaginary drug stash house are so "outrageous" that they violate the Constitution. One judge was so disturbed that he threw out all charges against three men who had already pleaded guilty.

Each of those men was facing years in prison. But instead of sending them there, U.S. District Court Judge Manuel Real declared that federal agents had "created the fictitious crime from whole cloth" and that their conduct was unconstitutional. Then he dismissed the charges and ordered them freed.

Real's unusual decision this month is the latest indication of a growing backlash against undercover operations that have become a central part of the U.S. Bureau of Alcohol, Tobacco, Fire-

arms and Explosives' efforts to target violent crime. Until now, federal courts have largely signed off on the practice. As the stings proliferate, judges increasingly are pushing back against the government's tactics.

"Judges are getting really frustrated with not having sufficient answers on how these people were targeted or how they came to be the subject of the sting," said Katharine Tinto, a professor at the Benjamin N. Cardozo School of Law who has studied government stings.

Nowhere has that frustration played out more dramatically than in Los Angeles, where Real is the second judge in two months to throw out charges in a stash-house case after concluding that the scheme violated suspects' constitutional due process rights. Another judge there, Otis Wright, dismissed the charges in a similar case in March.

The U.S. Justice Department has appealed both decisions. In court filings, prosecutors dismissed Real's order as "barely defensible."

