STINGS, STOOLIES, AND AGENTS PROVOCATEURS: EVALUATING FBI UNDERCOVER COUNTERTERRORISM OPERATIONS

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I. Introduction

After the September 11, 2001 terrorist attacks, the Federal Bureau of Investigation (FBI) dramatically expanded its domestic counterterrorism operations. To meet the Department of Justice’s (DoJ) stated goal of preemting future terrorist attacks, the FBI aggressively sought to infiltrate and disrupt terrorist plots before they came to fruition.\(^1\) In the last decade, these increased efforts have yielded a series of high-profile arrests and convictions. The DoJ has trumpeted its success, emphasizing that apprehending dangerous terrorist plotters made Americans safer. Following the conviction of a group of four men for plotting to destroy synagogues and attack a military base in New York, US Attorney Preet Bharara stated:

> homegrown terrorism is a serious threat, and today’s convictions affirm our commitment to do everything we can to protect against it. The defendants in this case agreed to plant bombs and use missiles they thought were very real weapons of terrorism. We are safer today as a result of these convictions.\(^2\)

While the DoJ and FBI used these cases as evidence of victories against a persistent threat, a number of newspapers and blogs, as well as some Muslim-American rights organizations, began to question the validity of the convictions. They argued that the interrupted plots were largely or entirely the work of government agents, preying on and entrapping vulnerable Muslims who otherwise would lack the capability and motivation to carry out an attack.\(^3\) In an article in the online magazine *Salon*, Stephan Salisbury summarized the criticism of some of the most high profile cases:

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None of these plots ever came close to happening. How could they? All were bogus from the get-go: money to buy missiles or cell phones or shoes or fancy duds; plans for how to use the bombs and cell phones – provided by the authorities; facilities for carrying out the transactions – leased by those same authorities. Played out on landscapes manufactured by federal imagineers, the climax of each drama was foreordained. The failure of the plots would then be touted as the success of the investigations and prosecutions.⁴

What, then, is the true nature of the FBI’s domestic undercover counterterrorism operations? Is the FBI protecting American citizens by effectively identifying, infiltrating, and disrupting the plots of dangerous would-be terrorists? Are “federal imagineers” acting as a terrorist Disney, creating elaborate plots and in the process entrapping and arresting essentially harmless individuals? Or does the answer lie in-between?

In this paper, I examine the FBI’s domestic counterterrorism operations in order to answer these questions. First, I review the existing literature surrounding the topic – a literature that, largely, fails to address the conduct of undercover counterterrorism operations. Second, I discuss the entrapment defense as a legal construct and examine current scholarship relating to categorizing and assessing undercover operations. Third, I introduce a method for analyzing cases drawn from this literature and discuss data sources and case selection. Fourth, I provide analysis of the cases. I conclude by arguing that, while the FBI’s undercover counterterrorism operations, with one possible exception, clearly do not meet the legal criteria for the entrapment defense, a number of the practices involved in these operations provide cause for serious concern. I then provide recommendations for the future conduct of undercover counterterrorism operations.

⁴ Salisbury, “The FBI: Foiling its Own Plots Since 2001.”
II. Literature Review

The existing literature does not provide a comprehensive, rigorous examination of undercover counterterrorism operations since 9/11. Despite this gap, a number of authors have discussed the issues surrounding the use of undercover agents (UCs) and confidential informants (CIs). In a 2010 report focused on “jihadist terrorist radicalization,” Brian Michael Jenkins addresses criticisms of domestic counterterrorism operations. Citing the bombers in the July 7, 2005 terrorist attacks in London, he argues that capabilities are irrelevant, committing an act of terrorism requires neither unusual intelligence nor particular expertise, that intent matters far more than capabilities when assessing threats, and that theoretical plots can quickly become operational. Much about this argument is compelling; however, Jenkins does not thoroughly interrogate any individual cases and does not account for other possible negative effects of these operations – an area that I examine further in a later section of this paper. A 2010 Congressional Research Service (CRS) examines in more detail America’s domestic counterterrorism effort, providing a useful appendix that includes summaries of a large number of cases of homegrown terrorism. In a section devoted to the use of agents provocateurs, the CRS report argues that the FBI successfully used undercover operatives to prevent plots by Michael Finton and Hosam Smadi. They also identify the central bind for the FBI mentioned in the introduction to this paper – that the undercover techniques that it considers most effective also leave it open to criticism. The CRS authors discuss two of the most criticized cases, those involving James Cromitie.

5 Throughout this paper, the term “undercover agent” refers to FBI agents or officers of a cooperating law enforcement agency who serve as undercover operatives. The term “confidential informant” refers to non-law enforcement personnel in the same capacity. Many CIs receive financial compensation or reduced sentencing for pending criminal charges in return for their work.


7 Ibid., 6.

(commonly called the Newburgh Four case) and Narseal Batiste (the Liberty City Seven),
highlighting that CIs in these cases provided monetary incentives, led planning efforts, and gave
material assistance to the plots. While a useful resource, the CRS paper does not employ a
uniform methodological approach for examining cases, and it does not attempt to make
recommendations about the conduct of undercover operations. Other reports that examine trends
in terrorism cases and legal outcomes – such as the NYU Center on Law and Security’s
Terrorism Trial Report Card and Anti-Terror Lessons of Muslim Americans, by David Schanzer,
Charles Kurzman, and Ebrahim Moosa – obliquely discuss the role of informants without
attempting to rigorously examine individual cases.

This review demonstrates that the direct literature concerning counterterrorism operations
in the United States has focused on specific themes – radicalization, the experience of Muslim
Americans, and the role of the US legal system. Despite the prominence of the debate
concerning the use of undercover operations, this topic has received only partial coverage in
these documents and requires a more comprehensive treatment.

III. Background Information

This section seeks to explain two of the main subjects that feature prominently in this
paper: the legal use of the entrapment defense and the evaluation and analysis of undercover
operations.

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9 Ibid., 46-50.
10 Center on Law and Security and New York University School of Law, Terrorism Trial Report Card: September
A. The Entrapment Defense

The entrapment defense is largely an American invention, originating in case law established in the 20th century. The defense emerged from a series of cases in which justices found that individuals could not be guilty of offenses that were instigated by government agents. The precise test to determine that instigation, however, has been the subject of some debate. Legal scholars and courts have proposed two tests for determining entrapment, the subjective and objective tests. Federal courts including the Supreme Court, to the extent that it has addressed the subject, employ the subjective test, which focuses on the defendant’s predisposition to commit a crime – his intent and mental state before the crime. This test requires the defense to prove that the idea for committing the crime did not emerge from the mind of the defendant – that his words and actions indicated no willingness to commit the crime prior to the introduction of government agents. Since making this argument requires defendant to admit to criminal activity and makes the defendant’s beliefs and ideology fodder for courtroom analysis, defense attorneys in terrorism trials may avoid claiming entrapment.

Several state courts utilize the objective test, originally proposed in a concurring opinion in the Supreme Court case that formally established the entrapment defense. Rather than focusing on the defendant’s predisposition to commit the crime, the objective standard analyzes the behavior of the government agents involved. The objective test determines if the agents created crime where none would have happened without their actions – if their actions would have enticed even a law-abiding citizen to commit a crime. While the subjective standard

predominates, there is legal precedent for considering more than simply the background and willingness of the defendant in entrapment cases.

Legal scholars have discussed several ways of interpreting and implementing entrapment law in post-September 11th terrorism cases. Dru Stevenson argues that, given the enormity of terrorism as a crime, its devastating consequences, and the unlikelihood that any non-predisposed individual would ever agree to commit a terrorist act, the predisposition requirement for the subjective standard should be relaxed.\textsuperscript{15} Essentially, Stevenson believes that any willingness to commit a terrorist act is so damning that further evidence of a defendant’s predisposition is unnecessary. Jon Sherman disputes this claim and argues that the entrapment defense must be more robust in the current environment. He claims that Stevenson’s thesis ignores the role that government agents can play in instigating and furthering nascent plots.\textsuperscript{16} If government agents have been involved in a case for months or years, if they repeatedly pressure reluctant targets to commit a terrorist act, or if they provide the capability to commit a crime to individuals who would have otherwise lacked it, courts should more closely consider the entrapment defense.

Since the 9/11 attacks, in 97 cases related to terrorism that involved informants, 28 defendants have argued entrapment. None were successful. Legal scholars disagree about whether this indicates that the entrapment defense should be made more or less robust. Given this debate and the differences between the subjective and objective tests, this paper’s examination of undercover operations cannot simply attempt to second-guess the courts’ rulings – an assessment that, in any event, the author is unqualified to make. Rather, a more productive

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examination focuses on the actions of the agents and the overall threat posed by a plot absent government intervention.

B. Undercover Operations

Undercover law enforcement differs from standard police work because of its covert and deceptive nature.\(^{17}\) Law enforcement seeks to hide its identity from the target of the investigation, and the undercover operatives may begin their work before or during the commission of a crime rather than investigating after the fact. Traditionally, law enforcement has used undercover operations to counter vice crimes, corruption, and organized crime, and the use of such operations has steadily increased over the past century.\(^{18}\)

Criminal justice and legal writers propose several different ways of classifying undercover operations. The Center on Law and Security and Sanford Levinson both propose schemes that focus on the identity and role of the agent – whether they were criminal conspirators who later flipped to work for the police or agents whose involvement was always deceptive.\(^{19}\) Gary Marx’s excellent and comprehensive work on undercover operations, *Undercover: Police Surveillance in America* provides a more in-depth examination of the types of undercover operations based on the goals of the operations, identifying three categories:\(^{20}\)

- **Intelligence operations** are relatively passive attempts to gather information on past, present, or future crimes.

- **Preventative operations** aim to halt crimes before they occur or to reduce the harm to victims if the crime is not preventable. Arrest is not always the main goal. Preventative

\[^{18}\] Ibid., 14.
\[^{20}\] Marx, *Undercover*, 46.
operations have included an agent replacing harmful explosives with an inert substance, or plants in the crowd of a potentially violent rally shouting slogans to diffuse the situation.

- **Facilitative operations** attempt to cause a crime to take place. Marx identifies two subtypes: operations where an agent becomes a “target of opportunity” – such as a female police officer posing as a prostitute - to tempt a crime into occurring, and operations where an agent is a co-conspirator and willing partner. Bruce Hay identifies a similar dichotomy.\(^{21}\) According to Marx, facilitative operations provide the highest degree of government deception and the greatest danger for entrapment of targets.

These operations are not mutually exclusive, although their goals often conflict, and an operation begun merely to collect information may become preventative or facilitative if action is deemed necessary.

**Positive and Negative Aspects of Undercover Operations**

At the crux of the criticism of the FBI’s undercover operations is the assumption that undercover operations are a tool that should be used sparingly, to disrupt only serious, legitimate threats. Undercover operations can be an effective and valuable tool, but they also bear certain costs and risks for society. The literature provides a strong framework for understanding both the positive and negative aspects of undercover operations.

The main benefit of undercover operations is their utility. Put simply, they work, and they deliver substantial bang for the buck. Marx argues that undercover operations are a necessary evil – that increasingly sophisticated criminal conspiracies make such police work an essential tool.\(^{22}\) Richard McAdams argues that certain crimes, such as terrorism and corruption,


\(^{22}\) Marx, *Undercover*, 34.
are so destructive or costly that prevention is critically important. For such crimes, undercover operations are far too valuable and effective a tool for law enforcement to abandon.\(^\text{23}\) This is at least partially because the alternatives are inordinately expensive and intrusive. As Bruce Hay argues, to prevent terrorism without targeting and infiltrating specific potential perpetrators would require massive panoptic surveillance, a measure that would likely be unacceptable both for its cost and the necessary degradation of privacy rights involved.\(^\text{24}\) Undercover operations can have the additional benefit of deterring would-be criminals. In a study of the use of informants against the Irish Republican Army, Kiran Sarma found that informants played a key role in generating paranoia and degrading the IRA’s organizational integrity.\(^\text{25}\) While potential terrorists in the US do not form a cohesive organization like the IRA, the fear that fellow conspirators are on the government payroll could discourage individuals from pursuing an attack.

According to a number of authors, undercover operations are fundamentally of concern because they represent a betrayal in trust between citizen and government, altering the allocation of power in that arrangement and possibly violating the central values of a liberal society.\(^\text{26}\) Marx foresees the possible development of “surveillance creep” as more sophisticated technology and techniques develop, privacy diminishes and surveillance intrudes into every day lives, opening the door for a future where suspiciousness and mistrust are standard.\(^\text{27}\) While the threat of


\(^{25}\) Kiran Sarma, “Informants and the Battle Against Republican Terrorism: A Review of 30 Years of Conflict,” *Police Practice and Research* 6, no. 2 (May 2005): 165-180. Eventually, a large number of high-ranking leaders in the IRA were actually revealed to be British informants.


\(^{27}\) Marx, *Undercover*, 2.
terrorism likely justifies deceptive preventative practices for many Americans, this remains an important argument for the limited, responsible use of undercover operations. If the government is going to infiltrate the confidence of citizens, deceive them, and facilitate terrorist plots, the threat of attack absent government intervention must be real.

Undercover counterterrorism operations have even greater negative effects on Muslim-American communities. In a qualitative study of Muslim-American reactions to the USA PATRIOT Act, Tony Gaskew found that many Muslims reported feeling harassed and unfairly targeted by law enforcement since September 11, 2001.28 A Pew Research Center study found that 54% of Muslims feel that they are being singled-out by the government, and 74% reported that this bothered them either some or a lot.29 In a similar study, Schanzer, et al. found that the use of infiltrators in counterterrorism operations was a substantial source of tension between Muslim-Americans and law enforcement organizations.30 Muslim-American civil society groups have begun to draw attention to the prevalence of undercover operations.31 The CRS report argues that undercover operations must be weighed with the knowledge that their unpopularity in Muslim-American communities could conflict with other counterterrorism methods such as community-based policing.32

Undercover operations frequently involve the use of CIs, a practice that can prove problematic. CIs often have criminal backgrounds, work for financial reward, and lack the training and obligation to uphold departmental regulations possessed by law enforcement officials. In a report on radicalization in America, Jenkins points out that CIs in counterterrorism

30 Schanzer, Kurzman, and Moosa, Anti-Terror Lessons of Muslim-Americans, 45.
31 The FBI’s Use of Informants, Recruitment, and Intimidation within Muslim Communities.
32 Bjelopera and Randol, American Jihadist Terrorism: Combating a Complex Threat, 44.
investigations are often determined to prove their value to police handlers and may display extreme zeal in order to appeal to potential jihadists.\textsuperscript{33} CIs can be unreliable and volatile partners for law enforcement.

As McAdams argues, another negative effect of undercover operations is the possibility that they will cause an increase in crime by attracting opportunistic rather than regular offenders.\textsuperscript{34} If undercover operatives increase the benefit of crime, reduce its risk, or provide previously unattainable capabilities, they can create crime that otherwise would not have likely occurred, making law-abiding citizens feel less safe.\textsuperscript{35} This is particularly troubling and costly if the crime is terrorism, which causes devastatingly high casualties, economic damages, and garners a great deal of media attention. A society in which law enforcement officials are constantly foiling dangerous terrorism plots lives under the constant threat of a successful attack, feels less safe, and may be willing to sacrifice greater civil liberties. If those foiled plots are in reality the products of the undercover operations themselves there is cause for substantial concern.

**Evaluating Undercover Operations**

Three authors have attempted to create models or evaluation criteria for use in assessing undercover operations. Marx proposes ten dimensions for comparing and evaluating undercover operations that address many of the concerns addressed above.\textsuperscript{36} Marx argues that these criteria can help to answer several important questions that go beyond legal debates about entrapment. He is more interested in when undercover operations have a clear goal, when they are effective,


\textsuperscript{34} McAdams, “The Political Economy of Entrapment.”

\textsuperscript{35} Ibid.; Wachtel, “From morals to practice,” 143.

\textsuperscript{36} Marx, *Undercover*, 67-75. The ten categories are: grounds for initiation, specificity in target selection, degree of self-selection, correspondence to real-world criminal behavior, natural and artificial criminal behavior, intent and autonomy, carrying out an offense or not, who plays the undercover role, deep and light cover, and use of the results.
and when they are ethical. The other evaluation models explored in this section do not explicitly consider the capability and autonomy of the target – presumably because most crimes investigated using undercover operations, unlike terrorism, do not require particular training, knowledge, or specialized materials. Marx’s criteria provide a solid and fairly comprehensive framework, but several of the criteria are designed with counter-drug or fencing operations in mind and are difficult to apply to terrorist cases.

Wachtel proposes two dimensions for evaluation in order to minimize the amplification of crime as the result of undercover operations: targeting and opportunity structure. Targeting refers to whether law enforcement selected a target with focused or diffused methods, while opportunity structure evaluates the context in which the operation took place, including the setting, inducements offered, and notice given to the target that the activity is illegal. Wachtel’s classification of the elements of opportunity structure is particularly helpful and illuminates factors that are important for evaluating terrorism cases.

This paper incorporates Marx’s and Wachtel’s understanding of legal treatment of entrapment, the positive and negative aspects of undercover operations, and how scholars have attempted to evaluate undercover operations in order to produce a system for comparing and analyzing undercover counterterrorism operations.

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37 Wachtel, “From morals to practice,” 151.
38 Hay proposes third method of evaluation that compares the ratio of the number of offenses that would be prevented by a sting to the number of non-offenders convicted in a sting to the ratio of the harm of convicting a non-offender to the harm of an actual offense. If the former is greater than the latter, the operation is worth pursuing. As Hay admits, determining these values and unwinding their complex relationships is a daunting task, and he provides insufficient guidance on how precisely to examine a case and ascertain these ratios. For those reasons, Hay’s method is not incorporated in this paper. Hay, “Sting Operations, Undercover Agents, and Entrapment,” 406.
III. Data and Methods

This section details the criteria I used for selecting cases, discusses the available data sources, and details the method used to analyze cases.

I selected cases with the following criteria:

- **Domestic** – This includes both conspirators and targets. The conspirators must be located within the US, residing as citizens, residents, or illegal aliens. The target of the plot must be within the US as well. Presumably, terrorist plots against domestic targets are more troubling to American citizens and have greater potential negative side effects.

- **Islamist** – The conspirators must be motivated by Islamist ideology. Since the 9/11 attacks, the specter of jihadist terrorists conducting more attacks has driven the growth in counterterrorism operations. For this reason, I do not examine plots from other ideologies, including anarchist, anti-abortion, or environmentalist.

- **Operational Plots** – I examine only plots with the direct goal of inflicting violence or destruction within the US. This eliminates a large majority of cases classified as “terrorism-related” in other literature, including those involving individuals attempting to travel overseas to terrorist training camps or to provide aid or monetary assistance to foreign terrorist groups.

- **Facilitative Undercover Operations** – Cases in which the government assists in causing a crime to take place are of greatest interest. The outcry over the FBI’s actions focused strongly on the conduct of operatives in furthering terrorist plots; cases in which informants merely gathered intelligence and acted as witness are less controversial.
I identified cases from the universe of indicted counterterrorism cases in the US, a list developed from two main sources: In Pursuit of Justice, a 2010 report published by Human Rights First that tracks the status of terrorism trials in the US, and the Investigative Project on Terrorism, a website devoted to tracking “radical Islamist terrorist groups.” Both of these sources have strong content biases; however, because I use only the lists of US terrorism cases they provide, their bias should not affect this paper. Using only indicted cases naturally excludes what is likely a large number of undercover operations: those that were initiated but later abandoned or that failed to produce indictments. Because these cases do not have associated public documentation, there is no reasonable means of obtaining enough information to evaluate them. I examined all of the cases in both lists, looking at indictments, complaints, and news reports to determine if they met the criteria outlined above. Ten cases fit. Listed chronologically by date of initial indictment with the common name of the case, they are:

July, 2005 - US v. Siraj (Herald Square Plot)
December, 2005 – US v. Shareef (Detroit Mall Plot)
November, 2006 – US v. Batiste, et al. (Liberty City Seven)
June, 2009 – US v. Cromitie, et al. (Newburgh Four)
October, 2009 – US v. Finton (Springfield Plot)
October, 2009 – US v. Smadi (Dallas Skyscraper Plot)


40 Obviously, examining only indicted cases excludes any undercover operations that did not progress to this state. Such operations are impossible to investigate, since documentation remains confidential.

41 Court documents are available online from the US government’s Public Access to Court Electronic Records (PACER) system.
Next, I closely read the indictments, affidavits, transcripts and relevant newspaper articles for each case. Affidavits, typically written by the FBI Special Agent overseeing the case, provided the bulk of the information for analyzing the conduct of the undercover operative. These documents are unsealed and available in their entirety for all of the cases except for US v. Siraj.\footnote{Siraj was initiated prior to PACER’s archival limit, so documentation is unavailable. I gathered information on this case from media sources and documents available from other public sites.} Use of these affidavits as the main source of information requires a significant caveat: the authors write to prove the validity of their case, and the affidavits cannot be expected to provide a critical evaluation of the actions of the undercover operative. This is particularly important when trying to determine, for example, the extent to which an operative encouraged a plot or who first selected a target. To gain a more complete perspective, I also analyzed newspaper media accounts of the cases and where available, the transcripts of recordings made by undercover operatives and briefs and memoranda submitted by defense attorneys. Despite the caveat associated with the data, the affidavits generally provide a detailed account of the operation and much information for analysis.

I then analyzed the cases across the following five categories derived from Wachtel and Marx’s work, asking the following questions of each case:

1. **Identity of the Agent**
   a. Was the agent an undercover officer or confidential informant? Did the agent have particular incentive to produce a prosecutable case for the FBI due to financial rewards or reduced criminal sentences?
2.) **Autonomy**

   a. **Planning** – Did the conspirators initiate planning? Did they select a target?
   
   b. **Encouragement** - Did the undercover agent make statements or initiate conversations that encouraged the conspirator to attack? If the conspirator wavered or was unsure about the attack, did the undercover encourage them to carry on?

3.) **Capabilities**

   a. **Training** – Did the conspirator have military or overseas terrorism training?
   
   b. **Knowledge** - Did the conspirator have knowledge of or access to a critical infrastructure system or technical expertise that would allow them to conduct an attack?
   
   c. **Materials** - Did the conspirator have access to weapons or explosives? Did they have the ability to produce them?
   
   d. **Money** - Did the conspirator have the financial means to conduct an attack? What were their jobs?
   
   e. **Connection to global jihadists** – Did the conspirator know or interact with al-Qaeda or other established terrorist organizations?

4.) **Inducements**

   a. **Monetary** – Was money offered as a reward for conducting an attack?
   
   b. **Services** – Were services offered to the conspirator, such as employment or assistance to family members?

5.) **Carry out Attack**

   a. Did the conspirator actually carry out an attack (place dummy explosives, etc.)
The analysis for each case is included in a table as Appendix A.

**IV. Analysis**

No two cases examined are identical. However, in analyzing the cases using the above criteria, certain groupings became apparent. In order to effectively and efficiently discuss the cases, I divide them into four categories based on the degree of the operative’s involvement in the plot and the amount of encouragement and inducements used. I provide a narrative and direct analysis of one example case for each category and discuss the issues presented by the undercover operatives for all cases in that category.

1) **The Model Sting – Smadi**

_Hosam Smadi – The Dallas Skyscraper Plot_\textsuperscript{43}

In early 2009, an undercover FBI agent participating in an online group for Islamist militants encountered Hosam Smadi, a Jordanian national living in northern Texas. Smadi’s vehement rhetoric and zeal for performing terrorist attacks prompted the UC to initiate contact, and over the course of the next two months the two communicated extensively about Smadi’s desire to serve Osama bin Laden and commit terrorism in the US. Eventually, Smadi met with a UC who he believed to be a member of an al-Qaeda sleeper cell. In a June 2009 meeting with the UC, Smadi proposed and mapped a number of targets on his computer, including the Dallas airport, an army recruiting center, and office buildings containing credit card companies, before settling on the Fountain Place office tower in Dallas. The UC drove Smadi from his Italy, Texas residence to Dallas, where Smadi conducted a reconnaissance on the target and identified possible bomb locations. After Smadi completed his preparations, the UC provided him with an

inert, vehicle-born improvised explosive device. On September 24, Smadi drove the vehicle into a parking garage beneath the target building, exited the building, and attempted to detonate the bomb using a cell phone trigger. He was then arrested by law enforcement personnel.

**Analysis**

**Identity of the Agents:** Eventually, three UCs, all Federal agents working undercover, participated in the operation and made contact with Smadi.

**Autonomy:** While the UCs initiated contact, Smadi’s internet postings claiming that he had come to America to commit jihad originally drew the attention of the FBI. When asked what he would have done if he had not met with the UCs (whom he believed to be al-Qaeda operatives), Smadi stated that he would have continued to look for an al-Qaeda cell in America or would have traveled to Pakistan or Palestine to join the Taliban or Hamas. In his interactions with the UCs, Smadi drove the plot forward, performing online research on potential targets, taking the primary role during the reconnaissance mission, and generating most of the details of the plot. The UCs encouraged Smadi to reconsider violent jihad on multiple occasions, informing him that his duties could be discharged in non-violent ways and that the UC and Smadi would “part as brothers” if he decided to back out of the plot.

**Capabilities:** Smadi lacked training, knowledge of explosives, or, given his job as a gas station attendant, access to substantial funds. He did not have special access to any proposed target location.

**Inducements:** There is no evidence that the UCs offered any inducements to Smadi.

**Carry Out Attack:** Smadi conducted surveillance of the target, drove the bomb to the location, and attempted to detonate it.
If the FBI conducted all of its undercover counterterrorism operations like the Smadi case, there would likely be little cause for criticism. Certainly, Smadi’s lack of training, knowledge, and access to materials opened the FBI to speculation that Smadi could have never implemented the plot without the FBI’s help. However, despite his lack of capabilities, Smadi was a clear threat: a man determined to find a way to commit terrorism, so resolute that he repeatedly turned down offers from the UCs to back out of the plot. The FBI could not risk him finding the means to commit an act on his own, even if the probability of that occurring was remote. By limiting the involvement of the UCs to providing materials and nominal planning assistance, the agents supervising the case ensured that Smadi drove the plot forward. Providing the means to commit a crime to an individual who had the predisposition and was ardently seeking to do so is a standard use of undercover tactics.

2) The Redirected Jihadists – Finton, Mohamud, Ahmed

In all three cases, the plotters sought to travel overseas – typically to Afghanistan, Pakistan, or Yemen – to train and wage jihad against American forces. Notified of their intentions, the FBI intercepted their communications and sent UCs, posing as members of a global jihad group, to meet with the plotters. The UCs asked the plotters to consider attacks in the US, met with them after they conducted surveillance, and, in two of the cases, provided fake bomb materials which the plotters placed and attempted to detonate. The case of Michael Finton exemplifies this kind of operation:

Michael Finton – The Springfield Bomb Plot

In the course of serving nine years in prison for aggravated assault, Michael Finton converted to Islam, moving to Springfield, IL after his release. A parole violation led to a search of his property and revealed a letter written to John Walker Lindh, an American member of the Taliban. Finton admitted to writing the letter and stated that he idolized Lindh in an interview with FBI agents around this time. After his release, Finton, now employed as a cook at a chicken and fish restaurant, received $1,375 from a Saudi Arabian account and traveled to that country for a month. The FBI sent a CI, an individual with a prior felony drug conviction who received monetary compensation for his part in the operation, to gain Finton’s trust and report on his actions and statements. Over the course of several conversations that took place from November to December, 2008, Finton revealed that he found the Muslims in Springfield less militant than those in prison, had traveled to Saudi Arabia to meet with a potential future wife, and had previously owned a copy of *The Anarchist’s Cookbook*, a bomb making guide. According to the CI, the Israeli offensive in the Gaza Strip in December, 2008 had a profound effect on Finton, who began to speak of contacting individuals he knew in Saudi Arabia or Egypt to arrange travel to Gaza to fight the Israelis. At this point, the CI told Finton that some of his friends from prison could assist and gave Finton contact information for a UC posing as a member of an unidentified jihadist organization. The UC and Finton met several times over the course of the next six months, with the UC frequently asking Finton if he was sure he wanted to proceed on a path of violence and reassuring him that he could leave the plot at any point. Finton affirmed that he wanted to travel overseas, train, and fight. The UC then revealed that he was an agent of al-Qaeda and wanted to perform an operation inside America. By July, 2009, Finton and the UC

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were discussing targeting. Finton initially proposed an operation in Chicago, but when the UC asked him to consider Springfield Finton readily suggested a number of targets, including a police station, the FBI building, and the Findley Federal Building. At the end of July, Finton performed reconnaissance of the Findley Federal Building, entering the building and testing the security arrangements. He returned to the UC and outlined an attack involving two vehicle bombs, the second to detonate after first-responders arrived in order to maximize casualties, with the goal of destroying both the Findley Building and the Congressman’s office across the street.

On September 23, 2009, a date chosen by the UC, Finton drove a van he believed to contain an explosive device into the position he had previously chosen, exited the vehicle, and got into a car with the UC. After driving a few blocks away, the UC handed Finton a cell phone, which he twice used to attempt to detonate the bomb. He was then arrested by Federal agents.

**Analysis:**

**Identity of the Agents:** Two agents were involved: a CI with a criminal past, operating for financial gain (while possibly dealing drugs), and a UC from the FBI. The CI, however, played only an informational role, relaying Finton’s actions to the FBI and ultimately putting him in touch with the UC, the agent who facilitated the operation.

**Autonomy:** Finton did not initiate the planning of the attack. His original intention was to travel overseas to wage jihad against the Israelis. However, once prompted by the UC to consider domestic operations, Finton was an enthusiastic partner, selecting targets, discussing the impact the attack would have on the US, and claiming that he had been thinking of performing such an attack for some time. He performed surveillance on his own, chose the method of attack, and selected a location for the bomb to cause maximum destruction. The UC did not encourage
or pressure Finton to commit an attack; rather, he repeatedly told Finton to carefully consider whether he wanted to go forward and assured Finton that he could change his mind at any point.

**Capabilities:** Finton did not have military or terrorist training. It is possible although unlikely that his previous ownership of *The Anarchist’s Cookbook* could have helped him to create a bomb. He had no knowledge of or access to the Findley Building that would make him a particular threat, no known access to explosives or weapons, and his job as a part-time fry cook likely did not provide him with the financial means to acquire much material. Finton did have connections to, as he described them, more militant Muslims from prison and a Saudi Arabian overseas, although there is no indication that these individuals were jihadists.

**Inducements:** The UC offered neither financial reward nor services for conducting the attack. He gave Finton $10 for cigarettes, a pre-paid cell phone with $380 of minutes on it to facilitate their communication, gas money, and paid for his meals when they met.

**Carry out Attack:** Finton attempted to detonate the fake bomb twice before being arrested.

Finton’s case exemplifies the messy process of examining entrapment, undercover operations, and the danger of the plots absent government intervention. Finton, Mohamud, and Ahmed were all dedicated jihadists who appear to have been resolute in their determination to inflict harm on American interests. There is little doubt that they were dangerous men who could not be allowed to continue their plans unmolested. However, none of them were engaged in a plot to commit terrorism within the US until they met undercover agents, and none of them possessed the capability or training to prepare and detonate a large bomb. Once inspired to consider domestic plots, they all readily participated in surveillance and were willing to conduct
attacks. None of the UC’s in these cases provided encouragement or inducements to the plotters – the plotters’ desire to perform violence needed no additional fuel. Given their fiery rhetoric before meeting the UCs and their willingness to participate in devastating terrorist attacks, the subjective test of entrapment would almost certainly not apply. But it is difficult to argue that America was made safer by diverting their violent urges into artificial domestic plots.

Since Finton, Mohamud, and Ahmed were preparing to travel overseas to train with and aid terrorist organizations, why not simply arrest them for that crime? Even when the violent intentions of the conspirators are clear and the conduct of the undercover agents restrained, the FBI has, at least in some cases, sought to escalate the scale of the attacks through its undercover operatives.

3) Infiltrated Plots – Defreitas, Siraj, Shnewer, and Shareef

The cases in this category involve agents who infiltrated the plot of an individual or group. In all cases, the plotters developed their own plans, but the agents appear to have been heavily involved. They either provided a large amount of direction, helped with target selection, or provided motivation and momentum for the disorganized plotters. In all of the cases, the agents provided or promised to provide the primary weapons and material for the plot.

Russell Defreitas et al. – The JFK Bomb Plot

Russell Defreitas is a Guyanese-American retired cargo handler who had worked at John F. Kennedy International Airport (JFK) until approximately 1993. Beginning in early 2006 while

residing in Guyana, Defreitas began to conspire with several other individuals to destroy the fuel tanks and underground gas lines servicing JFK. In July 2006, a CI befriended Defreitas and eventually infiltrated the plot after Defreitas returned to the US. The plotters planned to travel to Trinidad to meet with Abu Bakr, the leader of Jamaat al Muslimeen, a Trinidadian group that attempted a coup in 1990. The group hoped that Abu Bakr could get them in touch with Adnan Shukrimjumah, an alleged al-Qaeda leader and one of the FBI’s most wanted terrorists. Although the conspirators continued to meet, the plan appears to have stalled due to insufficient funds, an expired passport that prevented the trip to Trinidad, and a lack of organization. In January, 2007, the CI purchased a digital video camera and drove with Defreitas to JFK airport, where Defreitas performed video surveillance and identified fuel tanks and access roads. Defreitas did not demonstrate current knowledge of the JFK facilities, had no access to the facilities, and did not claim to know any person currently working at the airport who could assist with the plot.\(^{47}\) Defreitas and the CI showed the tape to a number of conspirators in Guyana, including Abu Kadir, an engineer and Guayanese politician and an indicted member of the plot, who they hoped could get them in touch with Abu Bakr. The CI and Defreitas ultimately traveled to Trinidad, where an associate of Abu Kadir’s presented the plan to Abu Bakr. While Abu Kadir and his associates considered the plan, the CI and Defreitas returned to the US where Defreitas was arrested.\(^{48}\)

\(^{47}\) It appears that Defreitas also did not know how to operate the camera, since he could not turn it on or off and did not know that he could watch what he was recording in the view screen. *United States v. Russell Defreitas, et al.* Case No. 07-CR-543, U.S. District Court, Eastern District of New York, January 20, 2011, sentencing memorandum.

Analysis:

**Identity of the Agent:** The operation involved one primary CI, a convicted drug dealer working for monetary compensation and a reduced sentence.

**Autonomy:** Defreitas and his associates had already discussed a general plan to destroy the fuel tanks and fuel lines at JFK prior to meeting the CI; Defreitas claimed to have wanted to implement the idea for many years. However, their plan does not appear to have been well thought-out – Defreitas did not conduct surveillance prior to meeting the CI, did not know how the tanks were constructed or the best way to destroy them, and the conspirators’ attendance at meetings was sporadic. The CI appears to have been the most energetic person involved in the operation, taking the initiative to conduct surveillance with Defreitas and arrange meetings with overseas contacts when the plot stalled. Defreitas did not demonstrate the ability to effectively coordinate the conspirators or handle the details of the plot. The defense claimed that Defreitas is illiterate, and he relied upon the CI to locate JFK airport on Google Maps for further reconnaissance because Defreitas did not know how to use a computer.

**Capabilities:** Defreitas claimed to have known how to make a bomb as a young man in Guyana. He and the other conspirators did not have any formal weapons training and had not attended a terrorist training camp. Defreitas’ prior work experience at JFK gave him knowledge of the facilities and the location of the fuel tanks, but he did not possess access to the facilities and at least some of his information about the location of access roads and escape routes was obsolete. The conspirators did not possess any bombs or bomb making materials and did not appear to have known how to acquire them. Defreitas struggled to pay for airfare for his frequent flights to and from Guyana, although one of the individuals they came in contact with paid for one of his flights and described himself as a jihadist financier. He did not give further aid. The

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49 *United States v. Defreitas*, sentencing memorandum.
conspirators established a connection with Jamaat al Muslimeen, a Trinidadian organization, and through that group hoped to become connected with Adnan Shukrimjumah, a dangerous terrorist, although they never actually succeeded in making that connection.

**Inducements:** The CI did not provide any payment or services to the conspirators in return for their participation in the plot, although he did purchase a camera for use in surveillance and provided Defreitas a place to live in New York.

**Carry out Attack:** The plot did not become operational.

As the JFK plot demonstrates, these are perhaps the most difficult cases to assess because the degree to which the undercover agents contributed to the planning of the attacks is unclear. CIs infiltrated the Defreitas and Shnewer plots after the groups selected a target. Siraj and Shareef developed their plots while working with a CI. In all four cases the conspirators seemed unable to develop and follow through with coherent plans without the CI’s assistance. While their capabilities were lacking, at least some of the conspirators in all of the plots were resolute in their desire to harm or assist in harming the US. The FBI clearly faces a difficult situation when confronting plots such as these. The conspirators may appear incompetent or unlikely to actually conduct an attack, but the possibility that the attack could unexpectedly become operational and the devastating consequences of such a development make the costs of inaction by law enforcement very high.

These cases also show the importance of strict oversight of CIs during long operations, ensuring that they do not serve as the primary drivers or planners of plots. In the cases of Defreitas, Siraj, and Shnewer, the CI’s were likely the most competent and driven individuals involved; on top of providing the resources for the plot, they served as a trusted source of
experience, guidance, and motivation. This made the cases less autonomous and reinforces the criticisms of the FBI.

4) The Problem Cases – *Cromitie and Batiste*

The two cases in this category provide the main fodder for criticism of the FBI’s undercover counterterrorism operations. Both involve CIs who pushed the plots forward and offered huge monetary incentives. The conspirators in both cases were groups of poor, African-American men who do not appear to have had any realistic ability or strong motivation to plan an attack prior to meeting the CIs. The case of James Cromitie and the Newburgh Four is perhaps the most troubling.

**James Cromitie – The Newburgh Four**\(^{50}\)

A CI working for the FBI began attending the Masjid al-Ikhlas mosque in Newburgh, NY, where he attempted to gather information on possible Islamist activity. The CI met James Cromitie, a 44-year old career criminal and drug dealer, in June 2008.\(^{51}\) The two began to meet regularly to speak about Islam and their frustration with America and Jews. Over the course of the next year, Cromitie and the CI developed a plan to bomb the Riverdale Synagogue and Riverdale Jewish Center and to use a missile launcher to attack aircraft at a National Guard base in Newburgh. As the plot developed, Cromitie contacted three other individuals to serve as lookouts and to help carry out the attack. On May 20, 2009, the conspirators placed bags that they believed contained bombs outside the two synagogues. They were then arrested by law enforcement personnel.

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Analysis

Identity of the Agent: The primary agent was a CI who had previously worked for the FBI during an undercover counterterrorism operation in Albany.\textsuperscript{52}

Autonomy: Cromitie frequently spoke to the CI about his desire to perform violence against Jews and the American government, but he did not have any specific operational plans. The CI pressured Cromitie to think of targets for an attack. Cromitie named a number of possible targets, including bridges, dams, and a utility plant in Liberty, NY, but the CI consistently proposed attacks on synagogues and Steward Army base, the eventual targets of the attack. Cromitie initially claimed to have a team in place, but ultimately revealed that he did not know anyone who would be willing to assist and made no effort to recruit anyone until shortly before the day of the attack. The CI suggested that Cromitie contact several other mosque attendees about participation in the plot. When the CI left town for over a month, he returned to find that Cromitie had done nothing to further the plot. Cromitie’s inability to operate on his own appears to have exasperated the CI, who repeatedly encouraged him to speed up his preparations.\textsuperscript{53} The CI initiated all surveillance, driving Cromitie to the target locations and telling him what to photograph.\textsuperscript{54} Transcripts of Cromitie and the CI discussing the details of the operation reveal that the CI planned every element of the attack, with Cromitie merely affirming the CI’s plans.\textsuperscript{55} While testifying in the case, an FBI agent admitted that the CI was “pretty much in control of


\textsuperscript{54} In a comic moment, Cromitie admitted that he had broken the digital camera purchased for him by the CI so he could conduct his own surveillance when he accidentally sat on it. Government Exhibit 112-E1-T, 60, 79.

\textsuperscript{55} Government Exhibit 112-E1-T, 114-116.
what the defendants were doing.”56 When Cromitie expressed reservations about his desire to continue with the plot, the CI pressured him to continue, stating that they were very far along and that he would be disappointed or put in danger if Cromitie backed down.57

**Capabilities:** It is difficult to determine how much experience with explosives Cromitie had; as in other aspects of the case, he seems to have exaggerated his own knowledge and capabilities. Cromitie initially claimed that he had worked with his brother, who had been in the army, with explosives and was comfortable working with bombs. When the CI pressed him on the subject, Cromitie admitted that he did not have any direct experience with explosives, had no knowledge of how to acquire them, and did not know the amount of C4 that would be needed to make a bomb.58 Beyond this dubious claim, Cromitie did not have any training, knowledge of the targets, access to materials, or a connection to global jihadists. Cromitie lacked financial resources, and the CI provided money for expenses during the planning of the operation.

**Inducements:** The CI provided money to Cromitie throughout the operation. According to Cromitie and the other defendants, he offered $250,000 and a BMW for the completion of the attack. One of the conspirators, David Williams, later claimed that he participated in the operation in order to get money for his brother’s liver transplant.59

Although both the Cromitie and Batiste cases resulted in convictions, the FBI should avoid these types of operations in the future. They represent the most controversial and least responsible use of undercover operations. The FBI successfully proved that, by offering enough

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58 Government Exhibit 101-E1-T 144, 154; Government Exhibit 112-E1-T, 44, 45.
money to disaffected, financially impoverished individuals, they could convince them to participate in and, in the case of Cromitie, attempt to carry out terrorist attacks. But there is little reason to think that these operations made America safer. Cromitie and Batiste were both unhappy men who talked about terrorism without demonstrating any capabilities or intention to follow through. Unlike the other conspirators examined in this paper, they displayed no motivation to select targets, conduct reconnaissance, or plan operational details without the leadership and motivation of the CIs. That both plots involved groups of poor, African-American Muslin men introduces at least the appearance that the FBI is preying on a traditionally underprivileged group.

V. Conclusions and Recommendations

According to US Attorney General, the goal of domestic counterterrorism operations is to preempt the efforts of individuals who wish to harm US citizens. The FBI is not in the business of entrapping innocent Muslims, and it is not fabricating terrorist plots out of thin air. Given a difficult job, the FBI’s operations demonstrate an overall understanding of the need to balance preemption with fair and just undercover policies. At the same time, the ten cases examined in this paper demonstrate a number of problems that weaken the FBI’s argument that its cases involve individuals who would, unmolested, cause grievous harm to the US. In several cases, the FBI’s operations seem to have the goal of ensuring that plots occur, rather than identifying and undermining dangerous plots. This conclusion uses the analysis made earlier to give an assessment of the FBI’s undercover operations and the criticisms of them, making recommendations for future action.
1) The FBI has not committed entrapment.

None of the cases represent a clear case of entrapment according to the predominant subjective test. In every case, the conspirators displayed willingness and resolve to engage in jihad that, given the enormity of the crime, makes the entrapment defense difficult to prove. Even in *Cromitie*, the most questionable case, the conspirators eventually placed bombs with the intention to murder innocent American citizens, and Cromitie frequently spoke of his desire to commit violence prior to the attack. It is difficult to argue that someone not predisposed to commit such an act would consent to do so.

Rather than excusing the FBI from questionable conduct in these cases, however, this finding highlights the need for the organization to consider a higher standard than the viability of getting convictions in court. Terrorism is a devastating crime, and courts have shown considerable deference to law enforcement’s prevention efforts. The FBI should not advance undercover operations based solely on the likelihood of gaining a headline-grabbing conviction; rather, it should consider whether the individuals involved represent enough of a threat to justify the expenditure of resources and the societal costs associated with nurturing a terrorist plot.

2) Capabilities matter, but criticisms based on the capabilities of the conspirators are overstated. When writers such as Salisbury, quoted in the introduction to this paper, criticize FBI undercover operations, they frequently emphasize the plotters’ lack of material capabilities as a unifying theme across all cases. Indeed, in every case the plotters ultimately looked to the infiltrators in their midst to provide the required weapons or bombs and do not appear to have had the means to acquire them from other sources. On the surface, this appears to be a damning
pattern showing the FBI creating dangerous plots. But this criticism misses the mark on two related fronts.

First, one of the FBI’s primary goals in infiltrating a nascent terrorist plot is certainly to ensure that the conspirators never possess the weapons and bombs necessary to carry it out. The agents in charge will determine what capabilities the conspirators possess and, where possible, make them dependant on the infiltrators to provide the material – material that the FBI can ensure is non-functional and harmless.

Second, the FBI cannot afford the luxury of only pursuing plotters who already possess the overt means to carry out an attack. Unlike journalists and analysts reviewing the case years later, the FBI does not have the benefit of the hindsight gained from poring over court documents to determine that the conspirators were actually completely harmless. Agents must work on imperfect information gained from their infiltrators and surveillance, always concerned that they are out of the loop, that another conspirator has eluded their eyes, that the plot will become operational without their knowledge. Given this uncertainty, it is understandable that the FBI is reluctant to wait and see if conspirators develop the means to conduct an attack on their own. Once the conspirators possess an explosive device or the ability to make one, the likelihood that they will be able to use that device before the FBI can intervene increases dramatically. The consequences for relaxing vigilance – for assuming that a harmless-appearing plot will remain so – would be catastrophic if that assumption is wrong even once. The FBI must counter individuals who possess the intent to harm the US and are dedicated to that pursuit, even if those individuals do not immediately have the capability to make good on those intentions. An individual with the knowledge and means to produce a bomb is far more of a threat than one who does not, but the lesser threat still must be investigated.
This does not mean, however, that government informants should arm and aim every possible terrorist plot. Beyond material capabilities, the FBI should consider the commitment and planning abilities of the conspirators. Given their energetic planning and desire to commit jihad, individuals like Smadi and Mohammed had the potential to become operational threats despite their lack of experience and access to explosives. Conversely, Cromitie was unlikely to ever advance a terrorist plot on his own. Different circumstances require different responses.

3) CIs were heavily involved in the most problematic cases for the FBI. In Siraj, Shnewer, Defreitas, Batiste, and Cromitie, CIs actively pushed the plots forward. To varying degrees, they served as planners, motivators, and even leaders. When Cromitie and Batiste showed signs of wavering in their resolution, the CIs offered more money, more materials, and pressured the conspirators to follow through. This is contrasted by the conduct of UCs in Finton, Smadi, Mohamud, and Ahmed. In those cases, the UCs allowed the plotters to drive the operation forward and made clear that they could leave at any time. The cases reviewed reinforce the findings of the existing literature – that CIs can be overzealous partners.

The FBI will continue to use CIs in the future. They are a potentially valuable resource, able to convincingly play roles and gain access to groups that FBI agents may be ill-equipped to infiltrate. However, the FBI should consider moving away from using CIs as the primary agents in cases. In Finton, a CI initially investigated the case and then introduced UCs. The UCs, with their greater discipline and professionalism, conducted an excellent sting operation. When CIs are used, the FBI must carefully adhere to the Attorney General’s guidelines, which clearly state
that undercover operatives should not instigate any illegal behavior. The FBI should expand their interpretation of this guideline to ensure that CIs do not pressure conspirators to advance the plot or work to drive a stalled plot forward. CIs should not operate under the belief that their role is to advance a plot as far as possible. The FBI’s best and most justified cases allow the conspirators to lead the plot while the undercover operatives provide assistance and materials. This allows the targets of the investigation to demonstrate their will and ability to conduct a terrorist act.

4) Large monetary inducements make for problematic cases.

The FBI should avoid offering large sums of money or providing a steady stream of income to the targets of counterterrorism investigations, particularly if those individuals are financially disadvantaged. In *Cromitie* and *Batiste*, the CIs represented a steady stream of income to men who had few financial opportunities. Even if the conspirators were, as the government argued, strongly motivated to commit terrorism without the possibility of monetary reward, the possibility that some of the conspirators were going along with the plot merely to collect a paycheck clouds the legitimacy of the case. Unless the FBI has intelligence that indicates that global jihadists are trolling mosques in low-income areas, offering large sums of money to disaffected individuals in return for their participation in terrorist attacks, this tactic represents the worst example of creating terrorist plots where they would not otherwise exist. Especially given the weak motivation, planning, organizational abilities, and resources of the conspirators in the *Cromitie* and *Batiste* cases, the FBI’s conduct in these operations could easily be characterized as preying on the weak.

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These conclusions point to the need for more thoughtful and careful use of undercover operations. The possibility of a successful domestic terrorist plot is a truly chilling prospect. The FBI is justified in claiming that facilitative undercover operations are a necessary tool to preempt such an attack from occurring. And in some cases, particularly Smadi, the FBI deftly utilized undercover operations to that end. But the cases examined in this report indicate that the FBI does not always demonstrate an appreciation for the serious negative consequences of undercover operations. They are a tool to be used against serious threats: individuals who are committed to harming America and who cannot be left to advance their plots without government interference. They should not be used to escalate plots beyond the intentions of the suspects, to provide all of the will and capabilities to stagnant, bumbling would-be-terrorists, or to trawl low-income areas offering large financial rewards to individuals desperate enough to participate in a plot. The FBI should remember that the ultimate goal of these operations is not to produce flashy convictions, but to ensure that Americans feel – and are – safer.
Appendix: Glossary of Cases
<table>
<thead>
<tr>
<th>Case</th>
<th>Identity of Agent</th>
<th>Autonomy</th>
<th>Capabilities</th>
<th>Inducements</th>
<th>Carry out Attack</th>
</tr>
</thead>
</table>
| Smadi | 3 UCs pretending to be AQ agents | **Planning:** Smade proposed possible targets. UCs did not influence selection of eventual target. Conducted surveillance, reported results to UC. UC drove him to building, but Smadi independently entered building to scope security  
**Encouragement:** UCs multiple times told Smadi that he could back out, could discharge jihad duties in non-violent manner. Promised they would part as brothers | **Training:** No known explosives or weapons training  
**Knowledge:** No special knowledge of targets  
**Materials:** No apparent access to explosives or weapons  
**Money:** Illegal alien who worked at gas station, unlikely to have much money  
**Connection to Global Jihadists:** None, although came to attention of FBI while posting on jihadist message board. Stated that he would attempted to travel overseas if he did not find UCs | None | Conducted surveillance, drove van with fake explosive device to target and called cell phone trigger to detonate |
| Siraj | 1 CI without a criminal background, volunteered to work with police and received monetary compensation | **Planning:** CI and other conspirators collaborated to plan the attack. The CI was the oldest member of the conspiracy and operated as a voice of experience. Siraj and Elshafy initiated the planning and selected targets, two subway stations in New York City.  
**Encouragement:** Siraj backed out of the plot as it neared the operational phase, claiming that he did not want to plant the bomb but would support the operation. Elshafy agreed to plant the bomb in his stead, apparently without encouragement from the CI | **Training:** No known explosives or weapons training  
**Knowledge:** No special knowledge of targets  
**Materials:** No known access to explosives or weapons  
**Money:** Siraj worked as a clerk at an Islamic bookstore and the other conspirator, James Elshafy, was unemployed and lived with his mother. Neither had substantial financial assets  
**Connections to global jihadists:** None | None | No: performed a “test run” with an empty backpack |
<table>
<thead>
<tr>
<th>Finton</th>
<th>1 CI with prior felony drug conviction, worked for compensation 1 UC agent</th>
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| **Planning:** | Finton told CI he wanted to do jihad, contacted UC through email given by CI.  
- Finton initially wanted to travel overseas to train/fight in Gaza; UC asked him to consider operation in US.  
- Finton first proposed an operation in Chicago, when prompted named several targets in Springfield, IL, including Findley Federal Building, the ultimate target selected by Finton.  
- Finton conducted surveillance, tested security, proposed that carbomb rather than backpack bomb be used, and chose location of bomb to maximize damage and harm nearby congressman’s office |
| **Encouragement:** | UC and CI both stated numerous times that Finton could stop whenever he wanted, asked if he was sure about proceeding |
| **Training:** | No known explosives or weapons training |
| **Knowledge:** | No special knowledge of targets |
| **Materials:** | UC provided explosives and vehicle. Finton did not appear to have access to any explosives |
| **Money:** | Finton was a part-time fry cook at a small restaurant with minimal financial assets |
| **Connections to global jihadists:** | None |

<table>
<thead>
<tr>
<th>Ahmed</th>
<th>2 UCs</th>
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<tbody>
<tr>
<td><strong>Planning:</strong></td>
<td>Ahmed initiated contact with UCs hoping to wage jihad in Afghanistan and provide financial support to mujahideen - UCs suggested a domestic operation, said that they were planning to bomb 4 DC metro stations and needed surveillance assistance - Ahmed later suggested an additional metro station target in order to kill as many military personnel as possible - Ahmed amended the plan, suggesting that a wheeled suitcase instead of backpack be used to allow for a bigger bomb</td>
</tr>
<tr>
<td><strong>Encouragement:</strong></td>
<td>Ahmed never wavered, no encouragement</td>
</tr>
<tr>
<td><strong>Training:</strong></td>
<td>None; claimed to have purchased and used various firearms, including rifles and a shotgun, and to be familiar with martial arts and “disarming” techniques</td>
</tr>
<tr>
<td><strong>Knowledge:</strong></td>
<td>No special knowledge of targets</td>
</tr>
<tr>
<td><strong>Materials:</strong></td>
<td>No access to explosives for an attack</td>
</tr>
<tr>
<td><strong>Money:</strong></td>
<td>UCs promised Ahmed $10,000 to support jihad</td>
</tr>
<tr>
<td><strong>Connection to global jihadists:</strong></td>
<td>None</td>
</tr>
</tbody>
</table>

UCs promised Ahmed opportunity to fight in Afghanistan in return for cooperation
<table>
<thead>
<tr>
<th>Shnewer</th>
<th>2 CIs- primary CI received $238,000 for work with the FBI, felon convicted for counterfeit checks</th>
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<tr>
<td><strong>Planning:</strong></td>
<td>Conspirators developed plan to attack Ft. Dix with automatic weapons and RPGs prior to meeting CIs. One CI, a former member of the Egyptian military, assisted with the planning and was looked to as a source of military experience and expertise. The conspirators conducted surveillance with CIs and later on their own, unclear if they had conducted prior surveillance.</td>
</tr>
<tr>
<td><strong>Encouragement:</strong></td>
<td>Shnewer was resolute in performing the attack; other conspirators less so. CI pressured Serdar Tartar, a conspirator, to produce a map of Ft. Dix that he claimed to have (he turned the map over). Tartar called the police to report the CI's actions, but later lied to the FBI about handing the map over. CI does not appear to have pushed the conspirators beyond this.</td>
</tr>
<tr>
<td><strong>Training:</strong></td>
<td>Conspirators conducted firearms training in Pennsylvania, played paintball for tactical training. One conspirator who was not planning on participating in the attack was supposedly a sniper in Serbia. Had access to jihadist propaganda films and at least one video showing how to make a hand grenade.</td>
</tr>
<tr>
<td><strong>Knowledge:</strong></td>
<td>One conspirator had delivered pizzas in Ft. Dix and possessed a laminated delivery map of base. No other knowledge or access to the facility.</td>
</tr>
<tr>
<td><strong>Materials:</strong></td>
<td>Owned several weapons – a shotgun, a semi-automatic rifle, several handguns. Did not have access to automatic weapons or RPGs without CI, who claimed to be arranging for the purchase of AK rifles.</td>
</tr>
<tr>
<td><strong>Money:</strong></td>
<td>Possessed enough money to purchase weapons from CI's supposed contact.</td>
</tr>
<tr>
<td><strong>Connection to global jihadists:</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Cromitie</strong></td>
<td>1 CI who previously worked on a case in Albany. Had been convicted of identity fraud</td>
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<td>---------------</td>
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**Planning:** Cromitie proposed targets (bridges, utility plant in Liberty, NY). CI consistently pushed for attacks on synagogues and Stewart Airport, which were eventual targets of plot.
- Cromitie did not work on plot at all when CI was away.
- CI initiated plan for surveillance, selected day of operation, planned details. Minimal input from Cromitie.
- Cromitie unable to assemble team until very close to actual attack

**Encouragement:** Cromitie vocal about desire to hurt Jews, do jihad. Often spoke of attacks he'd like to conduct; reluctant when talking about actual action. CI frequently impatient with Cromitie's reluctance, pressured him by saying his word had to have meaning when Cromartie said he wasn't sure he wanted to proceed

**Training:** Cromitie claimed to have some knowledge of explosives; later revealed he had no knowledge of how to construct or handle a bomb

**Knowledge:** no special knowledge of or access to targets

**Materials:** informant provided vehicles, cameras, bombs, promised a missile launcher for attack on airport

**Money:** All of the conspirators were very poor

**Connection to global jihadists:** None

**Informant offered $250,000 for completion of attack. One defendant, David Williams, claimed the informant offered him money and health care for his brother who needed a liver transplant

**Conspirators planted what they believed were armed bombs at a synagogue and Jewish community center**
<table>
<thead>
<tr>
<th>Batiste</th>
<th>2 CIs – One had previous arrests for assault and marijuana possession and received $10,500. The second was a long-time informant and received $17,000 and approval of a petition for asylum to the US</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Planning:</strong> Batiste initiated contact with one of the CIs, telling him that he wanted to create an army to wage jihad and overthrow the government - Batiste suggested the Sears Tower as a target and requested boots, uniforms, machine guns, radios, vehicles, $50,000 cash, bulletproof vests - No indication that any actual detailed plan existed to attack Sears Tower - A CI later proposed that Batiste and his conspirators do surveillance of the FBI building in Miami to assist a multi-city AQ plot to bomb FBI buildings</td>
<td><strong>Training:</strong> Batiste and conspirators trained in martial arts and marching in military formation. No explosives training or firearms training beyond use of handguns</td>
</tr>
<tr>
<td><strong>Encouragement:</strong> Batiste twice questioned the plot. The first time the CI told him that a recently-released Osama bin Laden tape that mentioned attacks in the US referenced their Miami plot. The second time, the CI devised an oath-swearing ceremony in which Batiste and conspirators swore fealty to AQ</td>
<td><strong>Knowledge:</strong> No particular knowledge of any potential target</td>
</tr>
<tr>
<td><strong>Materials:</strong> CIs provided all materials, including vehicles and cameras to perform surveillance</td>
<td><strong>Money:</strong> Conspirators held construction jobs, had little money. CIs had to provide $3500 to have an associate of Batiste flown in from Chicago</td>
</tr>
<tr>
<td></td>
<td><strong>Connection to global jihadists:</strong> None</td>
</tr>
<tr>
<td></td>
<td>Informants promised requested materials and $50,000</td>
</tr>
<tr>
<td></td>
<td>Conducted surveillance, did not carry out attack</td>
</tr>
<tr>
<td>Mohamud</td>
<td>1 CI put Mohamud into touch with 2 UCs who were primary agents</td>
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<td>1 CI was the primary agent. 2 UCs pretended to be arms dealers</td>
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Drove van with bomb to target location, twice called cell phone trigger to detonate.
| Defreitas | CI with extensive drug trafficking background | Planning: Defreitas selected the target and brought together other conspirators. Conducted surveillance with the CI and discussed the location of targets, security, and potential entry and escape routes. CI served as a driver for the plot, initiating surveillance and overseas travel when conspirators stalled over disagreement & disorganization. Encouragement: The CI did not directly encourage the conspirators to conduct the attack. | Training: Defreitas claimed to have explosives training in his youth. No other weapons training. Knowledge: Defreitas had worked at JFK and had outdated knowledge of the access roads and security procedures. No knowledge of targeted fuel tanks beyond location. No access. Materials: No weapons or explosives. CI provided car and camera for surveillance. Money: Low monetary resources. One contact promised to finance jihadist mission, does not appear he provided meaningful amount of funds. Connection to jihadists: Met with Jamaat al Muslimeen, a Trinidadian organization that attempted to overthrow that government. Meeting was inconclusive. Hoped to get in touch with AQ operative through JM, did not do so. | None | Conducted surveillance, did not carry out attack. |
Bibliography


