

“Preemptive Prosecution”: FBI Entrapment of Muslims in the US

New York City Forum denounces persecution of Muslims and opponents of US foreign policy.

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A panel discussion held March 25 at New York University Law School, entitled “FBI Entrapment: Personal Stories of Preemptive Prosecution,” drew attention to the US government’s use of agents provocateurs to persecute Muslims and opponents of American foreign policy.

Beginning under the Bush administration, the Federal Bureau of Investigation (FBI) has been using paid informants to implicate their targets as accessories to largely fabricated terrorist acts or as supporters of terrorist organizations. The policy has continued unaltered under Barack Obama.

The forum was sponsored by the National Lawyers Guild, the American Civil Liberties Union, and other legal defense groups devoted to exposing the harassment and imprisonment of Muslims, as well as Islamic student organizations and other Islamic groups.

Just as “preemptive war” has become the Bush-Obama doctrine in foreign policy, “preemptive prosecution” has become the de facto legal doctrine of dealing with domestic opposition to the policy of the American government, particularly among Muslims.

Hundreds of Muslims in the US, largely immigrants or the children of immigrants, have been presumed guilty of support for terrorism simply because of their religion or political beliefs, and entrapped by government operatives who provided the opportunity and means for their alleged crimes. Often, they receive long sentences and serve them under onerous conditions.

Elizabeth McWilliams, the mother of David Williams, a defendant in the Newburgh 4 case, and his aunt, Alicia McWilliams, described the role of the FBI informant, an individual named Shahed Hussain, in entrapping Williams.

The Newburgh 4—Williams, James Cromitie, Onta Williams (no relation to David) and Laguerre Payen—are accused of conspiracy for planting packages last year at the Riverdale Jewish Center in the Bronx. Hussain obtained the packages and told the four that these were bombs, although in fact they were fakes. The four are also accused of seeking to acquire antiaircraft missiles to be used to shoot down US military aircraft at Stewart International Airport, about 60 miles north of New York City.

The four defendants are African-Americans from economically deprived backgrounds who

converted to Islam in prison and attended the same mosque in Newburgh, New York.

Newburgh, a city of some 60,000 people, is one of the most impoverished communities in New York State. Both sisters spoke of the way in which Hussain, whom they had met in the parking lot of the mosque, sought to ingratiate himself by assisting with basic necessities—money and food—and promising help with jobs and medical bills.

Alicia McWilliams said, “They must pick the most vulnerable county in the state where there’s no jobs, where there’s no training. [Newburgh] is where the unskilled live. You can’t tell me these individuals masterminded anything. Since the Patriot Act came out, we are targets, communities are targets. Nobody from the FBI interviewed David Williams’s family. Why is that? Because they had their own script.”

McWilliams emphasized that the Newburgh 4 are not an isolated case. “There are large numbers of the entrapped in the United States.”

Elizabeth McWilliams told the forum, “My son David is a humble young man. They knew the bombs were dummies.” She said she had already lost one job because of this case. “It’s hard for you when you still think the FBI is watching you.”

Lejla Duka, the daughter of Dritan (Tony) Duka of the Fort Dix 5, also spoke of the suffering of the families of those framed up. Her brothers, ethnic Albanians who had grown up in New Jersey, along with Jordanian-born Mohammed Shnewer and Turkish immigrant Serdar Tatar, were convicted in 2008 in a federal court of conspiracy charges for allegedly planning an attack on the US military’s heavily fortified Fort Dix in New Jersey.

The five were entrapped by two different FBI informants, Besnik Bakalli, who was awaiting deportation to Albania—where he faced murder charges—and Mahmoud Omar, an undocumented immigrant who faced bank fraud charges.

The two provocateurs recorded inflammatory statements, and Omar organized “reconnaissance” trips around the base and eventually encouraged two of the Duka brothers to purchase weapons illegally. As with the case in Newburgh, the informants were entirely responsible for the plot.

“Can anyone tell me why?” Lejla Duka asked. “There are so many cases like this all over the country. All my brothers and sisters have pain inside of them. We have to stop this torture. We came to this country because it’s free. But it’s not free.”

Lejla’s uncle Burim described the innocent beginnings of the case. “We went out to the Poconos for a vacation. We were having fun.” Then a video made on the vacation, which included a scene of the young men shouting “Allahu Akbar!” (God is great!), while brandishing weapons, was viewed by a clerk at the store where it was being processed, who reported it to the authorities. “Then along comes Mohmoud Omar who keeps trying to push Mohammed Shnewer into downloading jihadist videos.

Speaking of the trial and the aftermath of the convictions, Burim Duka noted, “The judge says, ‘We spent millions of dollars in this case.’ As if that was a reason to convict them. [The FBI] came to my house, they’re following me. They told me straight up: ‘We want you in jail.’ The jury was all from the army or had relatives in the army. Juror #3 had a son in Iraq and she threw down the evidence book.”

Lynne Jackson, a volunteer and one of the co-founders of Project SALAM – Support And Legal Advocacy for Muslims, raised the issue of entrapment in the Albany case of Yassin Aref and Mohammed Hossein, who were convicted in 2006 of conspiring to aid a terrorist group and money laundering.

“These two men,” Jackson said, “were entrapped by the same informant that entrapped the Newburgh 4, although he called himself Malik at the time. Hossein accepted a loan from the man, and he is now serving time in Marion, Illinois. The two men have 10 children between them.”

Project SALAM, she told the forum, has written seven letters to President Barack Obama and Attorney General Eric Holder about the illegal entrapment of Muslims. None of them have been answered.

Kathy Manley, an attorney for Yassin Aref and a co-founder of Project SALAM, told the NYU meeting that Aref had been placed in one of the federal government’s two Commutations Management Units (CMUs) in Terre Haute, Indiana (the other is in Marion, Illinois). These, she said, were quickly becoming special prison units for Muslims and for political prisoners. She noted that the Center for Constitutional Rights was about to file a motion to get CMUs shut down.

The Center website describes the CMUs in the following terms: “[I]ndividuals detained in the CMU are completely banned from any physical contact with visiting family members and friends and other types of communication are severely limited, including interactions with other prisoners and phone calls with friends and family members.

“Individuals detained in the CMU receive no explanation for their transfer to the unit or for the extraordinary communications restrictions to which they are subjected. Upon designation to the unit, there is no meaningful review or appeal process that allows CMU prisoners to be transferred back to general population. Many CMU prisoners have neither significant disciplinary records nor any communications-related infractions.”

Attorney Steve Downs, also one of Aref’s lawyers and a co-founder of Project SALAM, noted that cases described at the forum were part of a disease called “Preemptive Prosecution.” He quoted from a fact sheet that he had prepared for the audience:

“The government is very clever at taking statements of a defendant out of context to convince a jury of Americans, unsophisticated in the nuances of Middle Eastern thought and politics, that the defendant has the terrorist ideology. Any past mention by the defendant of the word ‘jihad’ for example, is repeatedly paraded before the jury as a sign of the defendant’s radicalism, even though the word means essentially ‘struggle’ and can be used in many innocent contexts.”

Other speakers included Noor Elashi, the daughter of Ghassan Elashi, who was first arrested in 2002 and, after a 2007 mistrial, was convicted at a 2008 retrial on the bogus charge of providing funds to support the Palestinian Islamist group Hamas through the Holy Land Foundation, a charitable organization he had founded. He is now serving a 65-year sentence at a federal prison in Seagoville, Texas.

“My father is a political prisoner,” Elashi said. “We live in a twisted time. A time when humanitarians are pursued relentlessly.”

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