

# CAN WHITE PEOPLE BE CHARGED WITH USE OF A WMD?

Let's look at the following two examples of men arrested in the last week to see how the federal crime "Use of a Weapon of Mass Destruction" is used.

Mohamed Osman Mohamud: Mohamud was arrested Friday on charges of "attempting to use a weapon of mass destruction" for trying to detonate what he believed to be a car bomb in the crowd attending Portland, OR's Christmas tree-lighting ceremony. Here's how the FBI described that bomb:

The bomb was contained in the back of a late-model, white full-size van. The bomb was inert and constructed by FBI bomb technicians. It consisted of six 55 gallon drums containing inert material, inert detonation cord, inert blasting caps, and approximately one gallon of diesel fuel which gave off a strong odor. In the front seat of the van agents placed a detonation mechanism which consisted of a cellular telephone, a 9volt battery, an arming switch and a phone-jack plug.

The FBI set up this sting possibly because of a tip from Mohamud's family, and definitely because of some emails Mohamud sent to a friend in Yemen and-later-Pakistan, and some pathetically unsuccessful attempts to email someone he allegedly believed could help him join Jihad.

George Djura Jakubec: After Jakubec's gardener tripped off an explosion in his back yard last week, local authorities tried to search Jakubec's house, which was said to have "the largest quantity of homemade explosives found in one location in the history of the United

States,” including PETN (the explosive the TSA agents are searching for when they grope you) and HMTD (which has been used by al Qaeda and other Islamic terrorists). But authorities withdrew, twice, after determining Jakubec’s house too cluttered and dangerous to search. Jakubec is being held in county custody on 12 state charges of possession of a destructive device in public (one of which is tied to the injuries suffered by his gardener), 14 state charges of possession of the ingredients to make a destructive device, and two charges of robbery tied to bank robberies on June 25 and July 17 of this year.

So Jakubec—who had apparently large quantities of the explosives that terrorists favor and the ability to make more—is in San Diego County custody on state charges. Mohamud—who never had contact with a live bomb—is in federal custody on a charge that carries a life sentence.

Now, as odd as it may seem, explosives do qualify as WMD under this law, which includes chemical, biological, and radioactive weapons, as well as “destructive devices” including things like bomb, grenades, and missiles. The FBI is charging Mohamud with the following:

A person who, without lawful authority, uses, threatens, or attempts or conspires to use, a weapon of mass destruction against any person or property within the United States, and the mail or any facility of interstate or foreign commerce is used in furtherance of the offense shall be imprisoned for any term of years or for life.

I guess they’re arguing this constitutes an “attempt” to use a WMD (the car bomb), even though no WMD existed. And I assume they’re claiming an interstate or foreign commerce because they first contacted Mohamud pretending to respond to his unsuccessful emails to an alleged al Qaeda recruiter, though the bomb site

is also in front of the US Appeals Court which they presumably could define as a federal target if pressed, though they don't seem to be doing that.

Now, as compared to Mohamud, there may be reasons why they can't or haven't charged Jakubec with use of a WMD. Quite simply, they don't know if Jakubec planned to use this arsenal, and if so, on what. Mind you, they appear to have decided they couldn't construct an elaborate plot to find out because if they did they risked having him blow up southbound I-15 by mistake; they had to arrest him right away because his explosive were such a threat.

Which is not dissimilar to a pair of guys from last year. Najibullah Zazi, because his overseas contacts got him targeted for surveillance, got busted before his efforts to bomb the NY subway could develop completely. Zazi now appears to be cooperating with prosecutors. But Benjamin Kuzelka, who was developing the same TATP explosive as Zazi was, and who had white supremacist literature at his house when he set off an explosion, got off with a four year sentence.

Mind you, I think Zazi is a great person to charge with using a WMD (as is Faisal Shahzad, who was also charged with using a WMD). But I bet Kuzelka's associates weren't cross-checked for their hydrogen peroxide purchases, as Zazi's appear to have been.

That's my biggest concern: that the quickness with which the government slaps a WMD charge on someone experimenting with explosives reflects its interest or disinterest in fully investigating that person's goals and associates. One of the more notable cases of a white supremacist plotting to use WMD—with actual chemical weapons, in fact—died in prison without ever being charged with WMD charges and before authorities discovered what he intended to do with his chemical weapons.

That said, we do have at least one very notable

case where white people got charged with using  
and conspiring to use WMD: the Hutaree militia.  
Mind you, the FBI found them before they  
exploded themselves or their gardener.