

THE METHODS USED IN THE ZAZI INVESTIGATION

I've been focusing on how Section 215 of the PATRIOT Act may have been used to investigate Najibullah Zazi, but Dina Temple-Raston had a great story yesterday cataloging the range of techniques (though she doesn't name Section 215 specifically).

Intelligence Tip

I've seen a number of vague suggestions for when investigators first focused on Zazi. While she doesn't describe it as the first thing that made investigators focus on Zazi, Temple-Raston does reveal that Pakistani intelligence gave the US information about Zazi's actions in Pakistan.

Sources say officials acted after Pakistani intelligence allegedly told them that Zazi had met with al-Qaida operatives there.

From the context, it appears the US may have gotten this tip shortly after Zazi returned to the US in January.

FISA Roving Wiretap

From there, it appears the FBI applied for an got a roving FISA wiretap. Temple-Raston provides a detailed explanation of what a FISA wiretap is, noting that it can be used for emails as well (remember that investigators had identified three email addresses Zazi used).

In his case, officials tell NPR they asked a judge for what's called a roving FISA wire tap.

[snip]

Law enforcement officials close to the Zazi case tell NPR that the FBI applied to a special court for the wiretap

months ago.

And note, since they already had intelligence from the Pakistanis, it would presumably have been easy to justify a traditional FISA warrant—not to mention establish reasonable cause for any of the other FISA or PATRIOT Act tools in question.

Physical surveillance

After they got contacts from Zazi about developing bombs (perhaps in July or August?), it appears they started tracking Zazi more closely. The FBI followed Zazi all the way from Denver to NY—and staged a drug stop on the George Washington Bridge.

FBI agents followed him on the 27-hour drive. And, just to make sure they tracked Zazi closely, they asked local law enforcement for help along the way. Zazi was pulled over several times for speeding. He apparently got a ticket in Kentucky. And the FBI knew about it.

When Zazi neared New York City on Sept. 10, the New York police pulled him over on the George Washington Bridge. Officials familiar with the case tell NPR that was an orchestrated operation between the FBI and NYPD. They wanted to make sure there weren't any chemicals or a bomb in Zazi's car. They told Zazi it was a routine search and, just to underscore the point, pulled over other cars on the bridge as well.

Sneak and Peek

The following day, the FBI conducted a sneak and peek search of Zazi's car and laptop (this is the search when they found the bomb-making instructions on his computer).

Authorities got a better look at Zazi's car a day later, using a special provision of the Patriot Act known as a

"sneak and peek." They broke into the car and swabbed it for chemicals. They found Zazi's laptop in the car and mirrored the hard drive.

Section 215?

And finally, there is information that was either collected using Section 215 before Zazi knew he was under suspicion, or using regular warrants afterwards: the details on Zazi's purchases of acetone and hydrogen peroxide.

They have surveillance video from a Denver-area beauty supply store, which they claim shows Zazi pushing a shopping cart full of bomb-making ingredients – such as hydrogen peroxide and acetone – up and down the store aisles.

Note, they also have receipts from this shopping trip.

One thing Temple-Raston doesn't mention, but we know from other reporting, is that the FBI also showed Ahmad Wais Afzali—the imam at a Queens mosque Zazi had attended while still living in NY—a picture of Zazi. Afzali had given law enforcement officers information in the past, but in this case, the government accuses him of lying about having warned Zazi that investigators were asking about him and tapping his calls.

A number of Temple-Raston's sources make the point that this was a remarkably good use of all the tools available for terrorism investigations. And I agree—what we know of the investigation shows how law enforcement can combat alleged terrorism. If the alleged facts are true, then this is a hugely important success.

Meanwhile, note how even the known elements of this investigation serves as a backdrop for the discussions around PATRIOT renewal: roving wiretaps, sneak and peek, and Section 215 have

all been discussed in the last two weeks.

But as I pointed out, it appears that the authorities had evidence (a tip from Pakistan) tying Zazi directly to al Qaeda before they started using all these tools. DiFi says requiring investigators to show similar ties to al Qaeda (or even to Zazi himself) would end this investigation. But at least from what Temple-Raston's article shows, this investigation started with that kind of tie to terrorism.