

EVAN KOHLMANN: GARBAGE IN, GARBAGE OUT

Trevor Aaronson has an important piece on one of DOJ's several "terrorism experts," Evan Kohlmann. He has long been mocked, to no avail, by defense attorneys working terrorism cases for his lack of credentials and his hack theories about "radicalization;" Aaronson replays some of Kohlmann's most embarrassing moments on the stand. Even in spite of that, judges keep accepting him as an expert witness. But Aaronson describes how Josh Dratel obtained discovery about another role Kohlmann plays with the FBI.

While representing at trial Mustafa Kamel Mustafa, of the Finsbury Park Mosque in London, New York lawyer Joshua Dratel, who has security clearances, was given classified materials about Kohlmann, a witness in the Mustafa prosecution. "It was the integrity of a prosecutor who learned of [the materials] some way," Dratel said, crediting a single Justice Department employee for providing a rare full disclosure about Kohlmann.

Dratel has reviewed the classified materials in full, but he is prohibited from discussing their contents publicly. "It's hard to talk about it without *talking about it*," he said.

However, the judge in the Mustafa case allowed very limited references to the contents of the classified materials during Dratel's cross-examination of Kohlmann – providing a clue to what the government is hiding about its star terrorism expert.

"You have done more than consulting for the FBI, correct?" Dratel asked Kohlmann.

“Correct,” Kohlmann said from the witness stand.

“You have done more than act as an expert for the government, correct?” Dratel followed.

“That’s correct, yes,” Kohlmann admitted.

That’s as far as the judge would allow.

Dratel asked Kohlmann whether he had told Tarek Mehanna prosecutors (Carmen Ortiz’ office) of his “precise” relationship with the FBI, but the judge prevented Dratel from obtaining a specific answer.

“In that case, in preparing for that case, or at any time during that case, did you inform the prosecutors in that case of your precise relationship with the FBI?” Dratel continued.

“I don’t know what you mean by ‘precise,’ but the prosecutors in that case I had worked with on a previous case, and they were fully aware of the nature of my work with the FBI,” Kohlmann answered.

“No, the precise nature of your relationship with the FBI,” Dratel said, speaking cryptically due to the classified material and the limits the judge had placed on his questions.

“Objection, your Honor,” the prosecutor interrupted.

“Did you inform them?” Dratel asked Kohlmann

Aaronson doesn’t guess, but I would guess that Kohlmann gets paid by the FBI to troll jihadist forums and identify potential sting targets.

A lot of counterterrorism cases include some evidence about online discussions (sometimes in

forums, sometimes on more public sites), which gets turned over as an “unsolicited tip” to FBI officers, who then engage, and – on seemingly thin evidence – obtain a FISA warrant, which then leads to further evidence to support the sting. The judge in the case may never learn the details of this unsolicited tip, particularly if she is never asked to review a FISA warrant.

Defense attorneys never learn the details of those unsolicited tips – that’s part of what the whole FISA process hides – but they would be used in the materials to the FISC.

In other words, I’m guessing that Dratel got evidence that Kohlmann is providing the raw material for FBI’s stings, based on his whackjob theory of radicalization (the reference to Mehanna’s case may mean – and this is purely speculation – Kohlmann took part in some of the same kinds of online discussions that were used to incriminate Mehanna.

If I’m right, though, it would confirm what observers – starting with former FBI Agent Mike German – have long talked about: that the government is funding an echo chamber of “experts” who create the approach to terrorism we use, then reinforce it with their purported expertise.

This insight is crucial to understanding the government’s continuing embrace of radicalization theories. Simply put, the government continues to be the primary sponsor of radicalization studies because they justify counterterrorism policies that maximize its policing powers. As Kundnani has written, “[s]cholarship that associates a particular kind of ‘disposition’, be it ‘cultural,’ ‘psychological’..., with terrorist violence enables intelligence gatherers to use that disposition as a proxy for terrorist risk and to structure their surveillance accordingly.”

Treating terrorism as the spread of an ideological infection within a vulnerable community also allows the government to put aside difficult questions about the role U.S. foreign and national security policies play in generating anti-American grievances, which the Defense Department raised in this 2004 report. Studies supporting government radicalization theories rarely mention U.S. military actions in Muslim countries, lethal drone strikes, torture, or the Guantanamo Bay prison as radicalizing influences, though many terrorist reference them in attempting to justify their actions.

The reliance on radicalization theory also provides benefits to those who support the current political, social, and financial status quo, particularly in regard to U.S. foreign policy. The support for these theories comes from a broad array of organizations.

[snip]

Neo-conservative think-tanks, private terrorism investigators, and cyber vigilantes that typically support the maintenance of interventionist Middle East policies and aggressive counterterrorism measures also stand to benefit from the government's reliance on radicalization theory. These self-styled experts have the appearance of independent researchers, but often serve as echo-chambers for government theories of extremist organizations and behavior. As a defense attorney explained to *The Nation*, "[t]hey all work for the government or they work for government-funded agencies or government-contracted projects... [a]nd so when the government calls them, they are ready sources of government-approved information."

If Kohlmann is one of the “private terrorism investigators” German mentions – and he certainly fits the bill – then he very likely is dumping garbage of whackjob theory picked targets into the system, and then validating the same whackjob theories on the stand.

I don't know the precise specifics of what Dratel has been alerted to, but it sure does seem like we're closer to proving that Kohlmann and his ilk are providing Garbage In Garbage Out that drives the war on terror.