ON THE LEAK CRACKDOWN: DONALD SACHTLEBEN WAS A CONVENIENT SCAPEGOAT

I'm reading Charlie Savage's *Power Wars*. While I disagree with some parts of it and have additional information that isn't included in others (the book *is* already 700 pages, so it's possible they were left out because of length), it is absolutely worth reading and provides a ton of insight about what Obama's legal insiders were willing to share with Savage. Here's a long interview with Glenn Greenwald about it.

As it happens, last year I wrote but never finalized a post on an area that is misleading in Savage's chapter on the Obama Administration's serial prosecution of leakers, about the prosecution of Donald Sachtleben, the retired FBI guy who, after being busted for kiddie porn, ultimately got prosecuted for being the leaker behind the AP's UndieBomb 2.0 story. I'm tweaking it and posting it now. This post explains his bust.

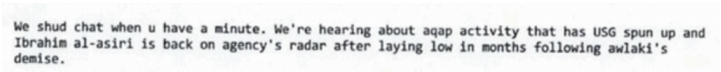
Savage claims that Sachtleben never got IDed because he didn't access any classified documents about the bomb and hadn't signed the sign-in sheet of the room where it was being investigated — which is all stuff claimed in a Statement of Offense that is obviously designed to be misleading (though Sachtleben's FBI badge *did* show him entering the examination space where the bomb was being examined; the Statement doesn't say whether the specific room tracked badge entries). Savage states, Sachtleben "had visited the Quantico lab where the new underwear bomb was being examined on May 1, 2012, a few hours before Goldman and a colleague, Matt Apuzzo, first called government officials to say they knew the FBI had intercepted a new

underwear bomb from Yemen" [that date of the call in the Statement is May 2]. That suggests (again, as the statement does) that Sachtleben was therefore the source for the things the AP told the government it knew on May 2.

As I've noted, Sacthleben contested this claim at his sentencing, which is actually consistent with what the text messages with him show: Goldman and Apuzzo were looking for confirmation of something they already knew.

> "I was neither the sole nor the original source of information to 'Reporter A' about the suicide bomb," Sachtleben said in a statement sent by his law firm. "The information I shared with Reporter A merely confirmed what he already believed to be true. Any implication that I was the direct source of a serious leak is an exaggeration."

But in CIA Public Affairs emails obtained by FOIA by *The Intercept* last year, there's further support for this. The emails reveal that by April 25, 2012 — *5 days before talking to Sachtleben* — Goldman was already asking roughly the same questions about Ibrahim al-Asiri asked of Sachtleben. (PDF 548-9)


We shud chat when u have a minute. We're hearing about aqap activity that has USG spun up and Ibrahim al-asiri is back on agency's radar after laying low in months following awlaki's demise.

"We're hearing about aqap activity that has USG spun up and Ibrahim al-asiri is back on agency's radar." None of that's surprising, of course, since AP sourced the initial story to numerous officials, and it's unlikely two Pulitzer Prize winners would single source a story.

The Statement misleadingly suggests that the when Goldman and Apuzzo called the government on May 2, two and a half hours after speaking with Sachtleben (and a full week after Goldman's email to the CIA Public Affairs office), they stated for the first time that "they believed, but had not confirmed, that the bomb was linked to AQAP's premier bomb-maker, Ibrahim al-Asiri."

Except the government knew, but did not reveal in the Statement, that the AP reporters had already reached out via official government channels a week earlier with some of that information. Contrary to what Savage suggests, the call on May 2 was not the "first" that government officials learned the AP was working on the story, though it may have been the first time they claimed to have confirmed details about the bomb.

The emails also show the extent of AP's efforts to provide CIA an opportunity to weigh in on the story.

After several exchanges the week before (including a "chat" between Deputy CIA Director Mike Morell and an AP editor in which the AP agreed to hold the story), CIA's press office set up a meeting between Goldman, Apuzzo, and Morell at 9:30 on the morning they released their story, May 7. An Apuzzo email describes the purpose. "[T]his meeting is just the one the DDCIA [Morell] suggested, to offer some details to the story we agreed to hold for a few days." (PDF 308)

This confirms a point the AP long insisted on — that they heeded an administration request for a few days before they published the story. And in response, Apuzzo's email makes clear, Morell had offered to provide further details on the plot. That of course means that *Mike Morell was himself a source for the story*, probably including for the detail that CIA had just drone-killed Fahd al-Quso. Last I checked, Morell is not in prison for leaking to the AP (though of course his influence on the story would be considered official declassification and therefore cool).

Apuzzo followed up on the meeting and the story later that day. "I know that there were some strained conversations between our bosses this evening, but as far as Adam and I are concerned, I hope you found the story fair, accurate and responsible." (PDF 308)

Of course, CIA had no reason to be pissed, given that the AP story celebrated their successful interception of a plot. Indeed, there is a very high likelihood that the CIA talked the AP reporters out of including more sensitive details — such as that the plot was really a sting run by a Saudi asset — that detail came out in other outlets, thanks in part to John Brennan and Peter King (the latter of whom was in turn blabbing about something the CIA had just briefed him), within a day. Or, something implied by the story but not stated directly, that the Administration had deployed a bunch of Air Marshals to Europe to protect against a threat that had never really been a threat and that they had already neutralized anyway. *Those* are the damning details of the story, but they weren't in the AP's version of it.

But the government came after them anyway. And, after members of Congress — including Peter King, who had served as a source for journalists!! — demanded a head, Donald Sachtleben served as a convenient one to offer up.

The story the government has told about Sachtleben — that they found he had a Secret CIA cable among his kiddie porn but didn't pursue it any further until they exposed the sources of the entire AP newsroom — has never made sense. But as a guy who had already confessed to kiddie porn charges and had actually only served as the confirming source for some of the least sensitive information in the leak, he was convenient.

And while Savage appropriately lays into the Administration for the damage they did to journalism with their pursuit of leakers, the back story behind the scapegoating of Sachtleben suggests DOJ has been far more cynical about leaks and who gets prosecuted for them than suggested in Savage's chapter.

Here’s an updated version of the timeline that appeared in this post.

1993: Sachtleben works on aftermath of first World Trade Center bombing

1998: Sacthleben works on aftermath of African Embassy bombings

2000: Sacthleben works on aftermath of Cole bombing

2001: Sacthleben works on aftermath of 9/11 attack

November 2, 2006: Date of CIA intelligence report specifically charged

2008: Sachtleben retires from FBI, begins contracting on same or closely related work

Fall 2009: Sachtleben starts serving as source for Matt Apuzzo or Adam Goldman

January 2010: Sachtleben provides AP information on terrorist plots, presumably (especially given text referring to Ibrahim al-Asiri) UndieBomb 1.0

September 12, 2010: Special Agent finds images tied to pedodad36569 (AKA Jason Nicoson)

September 2011: Paragraph 29 of Kiddie Porn charges dates back to September 2011—why? New laptop?

October 7, 2011: Obama orders Insider Threat Detection program

October 25.2011: pedodave69 (AKA Sachtleben) emails pedodad36569 offering to share porn; this is FBI’s explanation for the investigation into Sachtleben

December 27, 2011: Sprint identifies pedodad36569 as Jason Nicoson

Undated: FBI searches Nicoson’s email account, finds October 25, 2011 email from pedodave69 [I’ve placed this in different position than

government because something must have justified the Nicoson warrant and there must be some reason DOJ doesn't give this date — it may well be even earlier]

January 9, 2012: FBI searches Nicoson's house; he admits to trading kiddie porn

February 20, 2012: Last use of pedodave69 email "observed"

March 29, 2012: FBI serves administrative subpoena on AT&T for pedodave69's IP

April 1, 2012: Possible start date for seizure of AP records

April 11, 2012: AT&T informs FBI pedodave69's IP belongs to Donald Sachtleben

Around April 20, 2012: UndieBomb recovered

April 24, 2012: Robert Mueller reportedly in Yemen

April 25, 2012: Adam Goldman emails CIA (PDF 548-9) making it clear he and Apuzzo are chasing Asiri story. "We're hearing about aqap activity that has USG spun up and Ibrahim al-asiri is back on agency's radar."

April 30, 2012: FBI conducts wireless survey of Sachtleben's vicinity and finds his secure wireless; an NCIC search comes back negative, an open source check reveals Sachtleben lives there, **search of "law enforcement sensitive database" reveals he lives there**

April 30, 2012, 6:30PM: ABC reports on scores of Air Marshals deploying to Europe to watch for cavity bombs

April 30, 2012, 7:14PM: AP journo and Sachtleben started texting. [Note, the statement of offense says they got this from Sachtleben's devices.]

> AP: Al-Asiri is up to his old tricks. I wonder if ur boys got a hold of a cavity bomb. :)
>
> Sacthleben: Yikes. Remind me to bring

> sum purell to the lab
>
> AP: Not totally sure though

May 1, 2012: Anniversary of Osama bin Laden killing

May 1, 2012, AM: AP journo and Sachtleben continue texting.

> Sachtleben: Hmm. Methinks the 10am news conf may be related. 9:48AM
>
> AP: Ah! 9:51AM
>
> Sachtleben: Just abt to take off. Will be curious to c coverage when I land at dulles. Hope that tsa doesnt get out the rubber gloves and ky 9:52AM

May 1, 2012: **Search of (apparently) same law enforcement sensitive database** reconfirms Sacthleben lives there (?)

May 1, 2012, 10:00AM: At press conference, FBI announces arrest of 5 Occupy-tied activists in bombing plot

May 1, 2012, 12:49PM: Sachtleben corrects his earlier guess.

> Sachtleben: Got that one wrong. A lil surprised they r wrkin 24 hr shifts cuz of those mutts. **Still mght b sumthin else brewin. Will find out tomorrow** [emphasis FBI's]

May 2, 2012, 8:39AM: Sachtleben goes to work at Quantico. He's working in Explosives Unit, which is where they are investigating the UndieBomb. He accesses the room where they are investigating it (the documents don't say whether he was supposed to be working on it, though given his earlier probable work on UndieBomb 1.0 you'd think he'd at least be consulted).

May 2, 2012, 10:25AM: Sachtleben calls AP,

speaks for 2 minutes. Discloses information he believes to be at least Secret and presumably involves the CIA.

> FBI was then engaged in an ongoing, secretive, and sensitive analysis of the bomb; analysis which involved other parts of the United States government besides the FBI.

May 2, 2012, approximately 1PM: AP calls "multiple United States Government officials" and stated,

1. US had intercepted a bomb from Yemen
2. FBI was analyzing the bomb
3. They believed AQAP's bombmaker Ibrahim al-Asiri linked to bomb

Government asks AP to delay reporting UndieBomb 2.0 story.

May 2, 2012: FBI claims to conduct physical surveillance of Sachtleben's house

May 3, 2012: FBI obtains search warrant (it doesn't appear in Sachtleben's docket)

May 6, 2012: Fahd al-Quso killed; CIA sets up May 7 AM meeting between Goldman and Apuzzo and Mike Morell to get additional information on operation

May 7, 2012: 9:30AM meeting with Morell, government tells AP national security concerns have been allayed

May 7, 2012, afternoon: AP publishes story including the following additional details:

- The bomb was an upgraded design from UndieBomb 1.0 (sourced to "US officials") that did not contain metal

and might not be IDed by Rapiscan machines
- The bomber had not yet picked a flight
- White House and DHS officials said they knew of no Osama bin Laden raid anniversary attacks (see this post)
- AP learned about plot "last week" but held off on request from White House and CIA; concerns now allayed
- Details from Caitlin Hayden statement
- "Authorities" suspect al-Asiri made the bomb
- Fahd al-Quso killed

Note, several of these details are not specifically sourced; the anonymous ones that are are sourced to "US government officials" and "authorities"—both plural.

May 7, 2012: John Brennan briefs former CT Czars, indicates we had inside source, which leads to disclosure of British/Saudi infiltrator

May 7, 2012, before 9:29: Peter King briefs journalists and provides details that lead Scott Shane to figure out this was an insider job

May 8, 2012: ABC reveals UndieBomb inside job

May 10, 2012: Peter King calls for investigation of AP's (but not ABC's) sources (he also claims Speaker Boehner hadn't been briefed and "very few in the FBI" knew about it)

May 11, 2012: Sachtleben returns to Indianapolis from Quantico; FBI Special Agents observed him carrying a laptop as he arrived at the airport, suggesting they were tailing him already; he drives his Chevy Surburban (not the red truck

in the Google surveillance) from the airport; FBI and local law enforcement execute the May 3 search warrant as he arrives; FBI did a “limited on scene triage” of the computer and found images tying him to pedodad36569; Sachtleben’s contract with FBI terminated; (presumably same date) FBI also seizes November 2, 2006 SECRET/NOFORN CIA intelligence report charged in leak case

May 7 to May 15, 2012 (presumably): Sachtleben continues to provide AP information on UndieBomb

May 15, 2012: CBS reports Sachtleben’s Kiddie Porn arrest

May 17, 2012: At bail hearing, government introduces two sealed exhibits supporting continued detention, but magistrate releases Sachtleben on bail

May 21, 2012: Peter King formally asks Robert Mueller to investigate UndieBomb 2.0

May 23, 2012: Patrick Fitzgerald resigns (Nicoson investigation was in NDIL, western district)

June 11, 2012: Government files for extension on indictment with Sacthleben agreement

July 19, 2012: DOD rolls out Insider Threat program

August 7, 2012: Jason Nicoson indicted

August 10, 2012: Information in lieu of indictment

September 5, 2012: Status hearing

October 1, 2012: Continuance of trial

November 7, 2012: Motion to change plea, extend time, anticipating plea by December

Around February 9, 2013: DOJ obtains AP records

April 3, 2013: Status hearing set for April 23

April 18, 2013: Status hearing vacated

May 10, 2013: Ronald Machen informs AP it took 20 phone lines worth of call records; the seizure was probably 90 days earlier

May 13, 2013: Plea agreement on kiddie porn; AP reveals DOJ phone record seizure

May 20, 2013: Jason Nicoson plea agreement

July 7, 2013: Because of his attorney's scheduling conflict, Sachtleben asks to continue plea and sentencing to August 13

July 9, 2013: Sachtleben stops possessing classified documents at his house (no search warrant described)

Between August 7 and 28, 2013: Government submits two motions (one is for revocation of pretrial release) that are sealed on August 28

August 30, 2013: In hearing, government argues for change of conditions of release; filed under separate (now sealed) order

September 4, 2013: Superseding plea agreement on kiddie porn also requires guilty plea on leak

September 23, 2013: Leak plea agreement