

SCARY IRAN PLOT: MAKING AN INTERNATIONAL CASE BEFORE PASSING THE HAM SANDWICH TEST

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;

I want to return to something Manssor Arbabsiar's attorney, Sabrina Shroff, said the other day. "If he is indicted, he will plead not guilty."

I've suggested Shroff may have reason to believe Arbabsiar will get a plea deal before this ever goes to the grand jury. Which would mean no one would ever challenge the government on the many holes in this case [oh hey! that's me at Atlantic.com]: the claimed lack of taped conversations, the explanation why Arbabsiar cooperated, some holes in the government's money trail (at least as it appears in the complaint), the remarkable coinkydink Arbabsiar just happened to ask a DEA informant to help him kidnap the Saudi Ambassador, and some perhaps incorrect interpretations of existing tape transcripts.

It would be very convenient for the government if this never went to trial.

But think, for a moment, about the government's actions in this affair. It rolled out a splashy press conference. Joe Biden has declared no options off the table; Susan Rice is "unit[ing] world opinion" against Iran. And if that doesn't work, Hillary Clinton will make personal calls

followed by onsite teams to persuade allies that this whole plot isn't a bunch of bupkis.

We have rolled out a giant campaign to use this plot to do ... something ... with Iran.

But it has yet to pass the ham sandwich test.

Our government has had eleven business days now to subject its amended case to the scrutiny of a grand jury, it had two and a half months to subject its original case to the scrutiny of a grand jury, and it hasn't yet bothered to do so. We're sharing our case with the rest of the world before we're subjecting it to the most basic level of oversight enshrined in our Constitution. Instead of using the legal process laid out in our founding document, we've gotten the signature of a Magistrate Judge and run off with it to the rest of the world. And while I have no doubt of the competence of Magistrate Judge Michael Dolinger, the judge who signed the complaint in this case, that's simply not the way our judicial system is supposed to work. Average citizens are supposed to review the work of the government when it makes legal cases, not just Magistrates.

All of which ought to raise real questions why our government has decided to share these details with the rest of the world, but bypassed the step where they're supposed to share them with its own citizens.