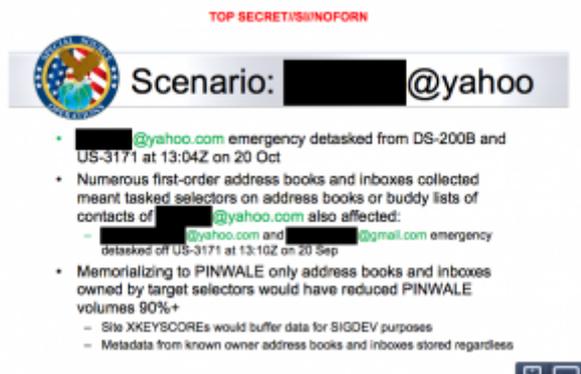


REMARKABLY TIMED SPAMOUFLAGE, SCARY IRAN PLOT EDITION

WaPo
has
its
latest
Snowde
n
scoop
out,
descri
bing

how the NSA collects hundreds of thousands of
email contact lists daily.



The National Security Agency is harvesting hundreds of millions of contact lists from personal e-mail and instant messaging accounts around the world, many of them belonging to Americans, according to senior intelligence officials and top secret documents provided by former NSA contractor Edward Snowden.

I'll come back to this part of the story later.

But further down in the story, it describes how a hack-spam attack on a member of Iran's Quds Force overwhelmed NSA, forcing it to conduct emergency detasking of that person and several others between September 20 and October 20, 2011.

Spam has proven to be a significant problem for NSA – clogging databases with data that holds no foreign intelligence value. The majority of all e-mails, one NSA document says, “are SPAM from ‘fake’ addresses and never ‘delivered’ to targets.”

In fall 2011, according to an NSA

presentation, the Yahoo account of an Iranian target was “hacked by an unknown actor,” who used it to send spam. The Iranian had “a number of Yahoo groups in his/her contact list, some with many hundreds or thousands of members.”

The cascading effects of repeated spam messages, compounded by the automatic addition of the Iranian’s contacts to other people’s address books, led to a massive spike in the volume of traffic collected by the Australian intelligence service on the NSA’s behalf.

After nine days of data-bombing, the Iranian’s contact book and contact books for several people within it were “emergency detasked.”

This means that this target and “several people” within this Quds Force target’s contact books (and possibly the primary target’s email) were detasked in precisely the same time period as our informant, Narc, was entrapping Manssor Arbabsiar, of Scary Iran Plot fame.

Remember, if you read the plain language of some of the transcripts and other materials, it appears possible the money for this op involved another government.

There’s a similarly odd passage in the quotations purportedly showing that Shahlai was being funded for this by Iran.

[Arbabsiar] this is politics, ok
... it’s not like, eh, personal
... This is politics, so these
people they pay this
government ... [Shahlai’s] got
the, got the government behind
him ... he’s not paying from his
pocket. [ellipses original]

Now this passage, unlike the last two

(which are translations from Farsi), might best be explained by Arbabsiar's less than perfect English. With that caveat, though, the bolded passage appears to suggest not that Iran was paying QF, but that QF was paying some other government (or someone else was paying Iran).

There are later details that also don't make sense if this was an Iranian op.

In other words, during precisely the period when the most bizarre, improbable plot to hit Hollywood in years happens, some of the potential targets have their surveilled communications spamouflaged by an outside entity. (h/t to Frank N Furters for first calling this spamouflage.)

But I think our Intelligence Community is too dull to find that worthy of more consideration.

SCARY IRAN PLOTTER GETS 25 YEARS

The prosecutors in Manssor Arbabsiar's case succeeded in convincing Judge John Keenan that his was a real plot that must meet a harsh sentence to deter others from being entrapped in a US scheme involving fake drug cartel members. He got the full 25 years the government sought.

U.S. prosecutors sought the statutory maximum sentence of 25 years for Arbabsiar, saying in a court filing May 2 that the "seriousness of this offense and importance of deterrence in this context cannot be overstated."

Manhattan U.S. Attorney Preet Bharara in a statement called Arbabsiar "an enemy

among us” and a “key conduit for, and facilitator of, a nefarious international plot” to kill the ambassador and as many innocent bystanders needed to finish the job.

Lawyers for Arbabsiar had sought a lower sentence of 10 years, contending he had provided assistance to U.S. authorities after his arrest and citing purported mental health issues.

But Keenan emphasized the need to send a message to those who might consider future crimes like Arbabsiar’s “will not be tolerated” in the United States.

“In a case like this, deterrence is of extreme importance,” Keenan said.

Once all the relevant transcripts have been docketed, I’ll circle back to this issue. But for the moment, I wanted to point to three paragraphs in the government’s sentencing memorandum.

Defense counsel also argues that Arbabsiar’s assistance to the Government following his arrest demonstrates his “sincere remorse,” that because he is remorseful he will not re-offend and therefore that a sentence of ten years is sufficient. (Def. Mem. at 23). To the contrary, Arbabsiar’s assistance to the Government does not warrant a sentence below the 25-year statutory maximum. First, Arbabsiar’s cooperation, at best, was incomplete. While Arbabsiar spent approximately ten days describing to law enforcement agents his involvement and that of his Iranian military co-conspirators in the assassination plot, and placed several recorded telephone calls to his co-conspirator Shakuri at the direction of the agents, Arbabsiar thereafter abruptly refused to cooperate further despite the Government’s request

that he continue to do so.³ Nor was Arbabsiar available to the Government as a testifying witness against his coconspirators. Therefore, Arbabsiar's assistance to the Government was ultimately of limited usefulness in connection with the prosecution of other wrongdoers.

Second, and perhaps more importantly for these purposes, Arbabsiar's limited cooperation did not represent a determination to make a clean break with his past or to dramatically change his life in a manner that reflects true remorse. Indeed, Arbabsiar not only decided to cease his proactive assistance prematurely, he never followed through thereafter by proffering with the Government or by making a full and complete admission to the Government about his criminal activities. To the contrary, he filed a false affidavit in connection with his suppression motion in which he lied about the circumstances in which he came to provide information to the agents – the very circumstances he now casts as evidence of his sincere remorse.

Arbabsiar's limited cooperative efforts therefore do not call for a sentence below the 25 years of imprisonment called for by the Guidelines, because they do not reflect true remorse or otherwise suggest a lessened necessity for individual deterrence, a greater likelihood of rehabilitation or any other basis for a non-Guidelines sentence.

³ Defense counsel asserts that the Government declined Arbabsiar's efforts to work in an undercover capacity in part because it "no doubt realiz[ed] [the defendant] was mentally ill" (Def. Mem. at 22). This assertion is baseless and inaccurate and should be

disregarded. The agents working with Arbabsiar following his arrest had no concerns about his mental health. As set forth in the October 2012 report of Dr. Gregory Saathoff, none of the agents who were with Arbabsiar consistently for nearly two weeks ever observed behavior suggesting that Arbabsiar suffered from a mental illness.

While Arbabsiar's lawyer's filing is not yet docketed, these paragraphs suggest several things:

- The government wanted Arbabsiar to continue cooperating, but refused his offer to serve in an undercover capacity.
- The government claims Arbabsiar lied in his still sealed affidavit describing why the confession he gave during the 12 days he had no legal representation should be thrown out.

Ultimately, the 25 year sentence is largely punishment for these two presumed insults to the FBI.

Should it be?

I've raised questions about Arbabsiar's treatment here and here. Even just the substantive claims his lawyer, Sabrina Shroff made, seem somewhat substantive. And the ~~lawyer~~ psychiatrist FBI brought in to refute claims of Arbabsiar's impairment, Gregory Saathoff, is increasingly serving as the Bureau's go-to hack for such functions.

More interestingly, the plea deal happened after Shroff started raising questions about the

report a High Value Detainee Group scientist made about Arbabsiar's interrogation. Boom. Plea deal, Arbabsiar's allegedly deceitful affidavit never gets unsealed, and he goes away for long enough to prevent anyone from learning his side of the story.

Then there's the question of cooperation (which hopefully will be made more clear in the future). They wanted him to keep cooperating (perhaps making calls to Iran that were not producing the desired effect), but didn't want him to serve in an undercover capacity (remember, there was a deconfliction issue that came up in Arbabsiar's naturalization application that suggests he may have done something similar in the past).

Again, we need more detail, but it suggests certain things about what the government needed Arbabsiar for – to tell a scary story – and what it didn't need Arbabsiar for – to infiltrate IRGC. Which is interesting, given that Arbabsiar's cousin isn't on this list of top Iranians involved in international terrorism.

AFTER HAVING LET OFF HSBC WITH AN INADEQUATE FINE, REGULATORS PREPARE TO LET JPMC OFF WITH NO FINE

It has been less than 18 months since JP Morgan Chase was fined \$88.3 million for—among other things—sending a ton of gold bullion to Iran.

Yet JPMC's regulators are about to scold JPMC—and demand it improve the compliance

programs it promised to improve 18 months ago—again.

Only, having found JPMC didn't implement the promised compliance programs after being fined, JPMC's regulators this time will not fine the bank for violating US law.

A U.S. regulatory probe of JP Morgan Chase & Co is expected to result in an order that the bank correct lapses in how it polices suspect money flows, in an action expected as soon as Friday, people familiar with the situation said.

The action would be in the form of a cease-and-desist order, which regulators use to force banks to improve compliance weaknesses, the sources said.

The order is expected to be issued by the Office of the Comptroller of the Currency and the Federal Reserve.

JP Morgan is not expected to pay a monetary penalty, according to one person familiar with the situation.

This is what counts as seriousness from US bank regulators—ever quieting peeps when American banks openly flout the law (they're a bit harsher with European banks, though still believe in forgiving such banks for things like material support to terrorism).

A teenager busted for shoplifting would pay more in fines than JPMC reportedly will pay for helping crooks—even alleged assassins—do their crime.

█

SCARY IRAN PLOTTER PLEADS GUILTY

Manssor Arbabsiar has reportedly plead guilty to the plot to kill the Saudi Ambassador.

I look for a more detailed description of the plea deal.

But if he has indeed plead guilty we'll never get the answer to a question I've had: whether the government withheld cigarettes from Arbabsiar—who smoked 4 packs a day when he was arrested—until he waived his Miranda rights. He was due in court on Monday to determine whether his confession would be deemed consensual, The hearing would have covered details about his early captivity—including whether he had his glasses to read the waiver and, I suspect, whether the cigarette he had right before he signed it was tied to its signing.

One more note: last we heard, Arbabsiar's lawyer had submitted a sealed brief responding to a report the head of the High Value Interrogation Group had done while observing Arbabsiar's interrogations. At least according to the docket, the government has not responded to that brief.

Update: Here's the plea. He clearly confesses to attempting to assassinate the Ambassador and states that the \$100,000 transferred to the US supported that purpose.

Update: According to the AP, Arbabsiar said he only understood about half of what was said in English at his plea hearing. That was another of the complaints Arbabsiar had about his Miranda waivers: that they were presented in English and he didn't understand all of them. The corrupt doctor for the government claimed his English was fine, even while admitting he sometimes had to ask Arbabsiar to repeat himself.

WHAT KIND OF CUSTODY IS IT WHEN YOU SECRETLY HOLD AN AMERICAN AT A MILITARY BASE?

Here's a fairly minor point about the Gregory Saathoff report on Manssor Arbabsiar, the Scary Iran Plotter.

For the 12 day period when he was being secretly interrogated without a lawyer, he was being held at a military base.

Although at times Mr. Arbabsiar smoked inside the room, he often was escorted outside and on at least one occasion took a walk with agents around the military base.

Let me be clear: Arbabsiar's arrest was approved by a US Magistrate. He was clearly arrested under civilian law.

And I'm not surprised the government held the cousin of a Quds Force member on a military base while they prepared to make an international incident out of his case. I'm sure Arbabsiar was nowhere near the first American citizen interrogated while in civilian custody at a military base.

But it's coupled with the other part of this where it begins to get unsavory: the part where Arbabsiar had no lawyer and his legal team is now contesting whether he legally waived his right to a lawyer and presentment (and as I'll explain if I ever get around to writing that post, I think their claim may have more merit than I originally did). And the part where the government didn't check in with the Magistrate

or have Arbabsiar medically examined until a week after he had been arrested.

So if the defense arguments about coerced waivers hold up (remember, we're still seeing just part of what they're complaining about), while a busy Magistrate knew he was in custody, Arbabsiar was otherwise in a black hole on a military base (though likely a quite pleasant one, with his own apartment) for a week to 12 days.

During the debate about the NDAA, people insisted we would never see a hybrid kind of detention where US citizens get indefinitely held, but in civilian custody. That's not what happened to Arbabsiar; again, his detention had been approved by a Magistrate. But we are clearly inching closer to that kind of hybrid.

WHY WOULD THE US GOVERNMENT HAVE DECONFLICTION ISSUES WITH MANSSOR ARBABSIIAR IN 2010?

Before I look at the other ways Gregory Saathoff's report opining that Manssor Arbabsiar is not manic hurts the government's case, I want to discuss a rather curious citation Saathoff includes.

Troutman, D. (2010, January 13). Email to Virginia Villareal re: Deconfliction (in reference to a national security concern regarding Manssor Arbabsiar), p. 1.

As you'll recall, the government claims that

Arbabsiar first came on their radar in May 2011 when a DEA Informant claimed that Arbabsiar contacted him to arrange a kidnapping.

And yet, according to this, someone was emailing Virginia Villareal (there's a Customs and Border Patrol Officer currently in San Antonio by that name) in January 2010 about a national security issue involving Arbabsiar?

Deconfliction is the term used for when agencies with overlapping interests sort out their turf—particularly if the agencies are using weapons or informants. The timing indicates that it came during—and probably was part of—Arbabsiar's naturalization process in 2009-2010.

DHS: U.S. Citizenship and Immigration Services (USCIS). (2009, June 24). Memorandum subject: IBIS hit resolution for applicant: Manssor Arbabsiar, p. 1.

DHS: USCIS. (2010, April 23). N 652, naturalization interview results, pp. 1-8.

DHS: USCIS. (2010, August 6). N-400, application for naturalization, pp. 1-10.

DHS: USCIS. (2010, August 30). Form N-445, notice of naturalization oath ceremony, pp. 1-2.

And at one level, it's not all that surprising that there would be a national security concern as Arbabsiar applied for citizenship: his cousin is a high ranking Quds Force member. Indeed that—plus Arbabsiar's criminal background—is one of the reasons it's hard to believe he even got citizenship, given that equivalent issues can get a Green Card holder deported. And he appears to have done that without paying for an immigration attorney (he complained to Saathoff he had to pay for an attorney for his son during this period, but not an immigration attorney, though they can be inexpensive).

So at the very least, this suggests at least one other agency was aware of Arbabsiar as he went through the immigration process.

But I do find the timing rather interesting given the way Saathoff describes Arbabsiar's actions that year. He was taking many trips to Iran—purportedly to bring cash back from real estate investments there and he was living in Corpus Christi, away from his wife. (Note, IBIS is the database the government uses to check people as they cross borders to make sure they're not terrorists or drug runners, which is presumably why the entry above and a 2012 one were listed as sources.)

In my interviews with Mr. Arbabsiar and in reviewing documents that were not cited by Dr. First at the time of his declaration, Mr. Arbabsiar acknowledged that this was in fact a period of significant international activity. In addition to attaining his United States citizenship, during early 2010 he spent most of his time apart from his wife living mostly in Corpus Christi or travelling overseas. In 2010, he flew to Iran on four separate occasions in order to secure and bring back rental money from his Iranian property holdings. He estimated that during these trips he brought back up to \$8,000-\$9,000 on each trip.

[snip]

In his August 4, 2012 interview, he recalled a 2009 trip to Iran where he obtained hair transplant surgery in Iran because it was less expensive than in the U.S. With decreasing revenues in the U.S., he made four separate trips to Iran in 2010 in order to bring back funds from his Iranian investment properties.

[snip]

In fact, 2010 was a year of significant

international activity for Mr. Arbabsiar with more international air travel for him than was recorded for any other year in the previous decade. He took four separate flights to Iran during 2010 and also attained his U.S. citizenship and passport. In his interviews with me, he reported that he would bring back money from Iranian investments as well as Iranian goods for his wife and son.

Then his business partner died and yet, in spite of the fact he was financially strapped, he dropped (or rather, lost) the car business.

By late 2010, following the death of his business partner in July, he had moved from Corpus Christi to Austin in order to live at home with his wife. In our September 26 interview, he recalled: "After Steve died, my life changed a lot. Up until that point I was spending some time in Austin and some time in Corpus. But after he died, I didn't want to do the car business [in Corpus Christi] any more.

[snip]

Living in both Austin and Corpus Christi during that year, it was only late in the year and following his friend's death in July that he finally moved to Austin to live with his wife where he engaged in activities including landscaping around the home and planting fruit trees.

His wife described him during as depressed, sitting at home, in this later period.

For this example, he relies on Ms. Arbabsiar's wife's report that "for roughly one year around approximately 2010, Mr. Arbabsiar was severely depressed, isolating himself in his bedroom and rarely getting out of bed

except to pace around his bedroom and chain smoke.”

It was after that depression and a period when he was in medical treatment in late 2010 that Arbabsiar reached out to his cousin to build an “export business.”

My life was going bad – I had lost my friend and my dad – my cousin, he took advantage of me. I hate to say that, and I trusted him – my whole family, they should help me. I wanted to do a good business, an export business.

Remember, in addition to talking to Narc about killing the Saudi Ambassador, Arbabsiar was also talking about dealing drugs.

Again, all of this might suggest nothing more than an appropriate awareness of Arbabsiar’s cousin’s identity (but even so, that suggests the myth that Arbabsiar approached Narc out of the blue is just that—a myth).

But Arbabsiar was a very unlikely person to have gotten his citizenship when and how he did, particularly without the apparent assistance of an immigration lawyer. And between the time the government presumably identified Arbabsiar as an Iranian with ties to Quds Force and the time he ultimately got his citizenship, he made a lot of trips to Iran to get cash. Then, once he got citizenship, he lost his business and went into a funk and then—went to, or went back to, his cousin to launch “a good business, an export business,” and once again he returned to the States with thousands of dollars in cash, just like in 2010. During the entire time the FBI was purportedly watching him set up an assassination attempt, according to the Corpus Christi cops, they never once contacted those cops, not even to check the criminal record that their dead tree files showed.

It sure sounds like the government was following Arbabsiar a lot longer than the 18 months they

claim.

But then the report also reveals how Arbabsiar first found Narc.

Mr. Arbabsiar stated that the Mexican woman that he contacted to help identify someone to carry out the assassination attempt on the Saudi Ambassador had a younger sister with whom he had a sexual relationship in 1992, while he was married to his third wife.

So maybe his relationship with the DEA goes back to 1992, when he fucked his way into the family?

FBI'S SHRINK-FOR-HIRE UNDERMINES THEIR CASE WHILE TRYING TO REBUT MANIC DEFENSE

When last we heard from Dr. Gregory Saathoff, he suggested doing and managed production of a thoroughly hackish report trying to argue that the anthrax case against Bruce Ivins was solid. (See also this post, and Jeff Kaye's post laying out what other hacks Saathoff recruited for it.) That report took all the FBI's theories about Ivin's alleged acts as a factual baseline—even the ones undermined by the National Academy of Science's scientific review—but then claimed it was not predisposed to support the FBI case.

All that suggests a certain desperation on the part of the FBI, which called on Saathoff to rebut Manssor Arbabsiar's defense argument that he was manic during the period when he was confessing to the Scary Iran Plot. Yet, in his attempt to do so, Saathoff reveals several new problems with the case against Arbabsiar.

Two things to lay out before I review how Saathoff's report makes the government case worse. First, here are some of the symptoms that both Saathoff and defense expert Psychiatrist Michael First used in diagnosing whether or not Arbabsiar was bipolar:

1. Inflated self-esteem or grandiosity
2. Decreased need for sleep
3. More talkative than usual or pressure to keep talking
4. Flight of ideas or subjective experience that thoughts are racing
5. Distractibility
6. Increase in goal-directed activity
7. Excessive involvement in pleasurable activities that have a high potential for painful consequences

Now, in just one way, Saathoff's report does make the government's case stronger: an FBI Agent named Mustafa Shalabi (Shalabi was replaced as Arbabsiar's night guard by Damon Flores the following night for the remainder of his pre-presentment custody; Flores says he would cut off Arbabsiar when he talked about his crime) had a conversation with Arbabsiar in the middle of his third night in US custody. Among the other things Shalabi said Arbabsiar told him was,

He said that his cousin was a "big general", [who] was "senior" with decision-making powers. [He was] Approached by cousin to then give money to kill the Saudi Ambassador. As he was telling me this, he reflected back on the whole situation. As he told me the story, [as] he said that, he looked

upset and [said that he] had been used by his cousin.

This is as clear as any statement in the complaints in this case that Arbabsiar's cousin, Abdul Reza Shahlai, did ask him to hire someone to kill Saudi Ambassador Adel al-Jubeir (though Arbabsiar's comment that he had been used may suggest far more). As with all the evidence in the complaint, it in no way supports that that's what the money transferred was about (elsewhere the report repeatedly cites Arbabsiar emphasizing no one got killed), but it does provide one more witness implicating Shahlai in a conspiracy to assassinate al-Jubeir. But note, even there,

Shalabi described this brief ten-minute period when Mr. Arbabsiar had chain-smoked several cigarettes and washed his shirt in the bathroom sink using the term "erratic" as defined by "deviating from what is ordinary or standard."

Shalabi insisted Arbabsiar wasn't crazy multiple times, but provided clear evidence that Arbabsiar was exhibiting sleeplessness, poor judgment, and grandiosity at the time he offered up a confession, just days after his capture.

The treatment of Shalabi's interview comes among abundant evidence that Arbabsiar was describing his shitty used car dealership as one of the best dealership in Corpus Christi and being "narcissistic" or a "braggart" (according to jail personnel) about other issues, dealing with insomnia until drugged to treat it, and fighting depression. Saathoff also dismisses Arbabsiar's practice of bringing lovers to his home as simple long-term "hypersexuality," not that of a manic. That is, there's plenty here that to my totally untrained eye sounds like could be symptoms of bipolar, and each Saathoff dismisses (I expect Jeff Kaye will bring a more professional analysis to this shortly). My favorite is the way Saathoff dismisses Arbabsiar

gifting airline staffers with duty free
fragrance and getting himself a tour of the
cockpit.

Around 2004, while on a Lufthansa flight
from Europe to Iran, Mr. Arbabsiar spoke
with the flight attendant and suggested
that he would like to buy her some
cologne from the duty-free catalogue.
“She was beautiful, and I told her I
would do something for her.” When she
declined, Mr. Arbabsiar stated that he
would also like to do something for the
pilot and express his gratitude for
their dedication in maintaining a safe
flight during the increased flight
security following September 11, 2001.
He purchased duty-free cologne costing
approximately \$30 each for only the
flight attendant and the pilot, who then
both expressed their appreciation for
what the pilot termed “the nice
gesture.” In fact the pilot, with 25
years of flight experience, personally
escorted Mr. Arbabsiar from his economy
seating to the cockpit, where he was
allowed to sit in the co-pilot’s seat
for approximately five minutes as the
pilot described and showed Mr. Arbabsiar
the controls for operating the plane.

Note, Saathoff doesn’t say he interviewed the
pilot (and he doesn’t cite how he learned the
pilot had 25 years of experience). But he would
have you believe that a man gifting his way into
a cockpit after 9/11 is perfectly normal because
once he got there he didn’t do anything crazy.

Because coach class passengers manage to gift
their way into cockpits during flights all the
time.

I’m more interested, though, in two specific
details that show Arbabsiar treated his
interrogation as grandiose.

First, Saathoff doesn’t find it at all grandiose

that Arbabsiar believed his personal interrogator was President Obama's right-hand man.

Because the crime he is charged with involves the planned assassination of a Saudi official, he felt that it would have the attention of top U.S. leadership, including President Obama. In my interview with FBI Special Agent (SA) # 1, he affirmed that one of the agents told Mr. Arbabsiar that FBI SA # 1 knew the president. This impressed Mr. Arbabsiar, who would then ask the agent about the president's involvement following the case. Another FBI agent who questioned him, FBI SA # 2, stated to me that, "we portrayed [the other agent] as the president's right hand man. That impressed him. He wants to be important."

"He wants to be important" sure sounds like grandiose.

And then Saathoff dismisses Arbabsiar's references to starting World War III as a joke.

Mr. Arbabsiar made references to World War III (WWIII) that were sarcastic in nature, according to FBI SA# 1. Exasperated with his Iranian handlers and their directives to him to avoid sending emails, Mr. Arbabsiar would say, "If I start WWIII, I start WWIII." In fact, Mr. Arbabsiar indicated to the agents that he believed that the Iranian handlers were overcautious and was confident that even if sending incriminating emails from his address was wrong: "One mistake will not start WWIII."

One curious detail about this passage: Saathoff doesn't describe whether this was a reference to sent email before he was arrested or after. But

there's no reference to email in the complaint, suggesting the FBI may have been trying to get Arbabsiar to exchange email with Gholam Shakuri while he was in custody. If so, that would suggest Arbabsiar "joked" about starting WWII for the actions he was doing while in custody, not before.

In any case, this exhibits the same lack of caution Arbabsiar used when first talking about avoiding transferring large sums, but then transferring two almost \$50,000 sums.

And note that elsewhere, Saathoff insists on contextualizing Arbabsiar's comments in the interrogation techniques the FBI Agents were using. Yet, having laid out Arbabsiar's seeming flouting of his handler's caution about email (and also money laundering, which Saathoff doesn't mention), Saathoff makes this claim.

In fact, Mr. Arbabsiar's ability to successfully and appropriately engage his Iranian contact during three phone conversations, using prearranged code words at times, on three separate days demonstrates an absence of mania in that he demonstrated the ability to interact appropriately in a novel situation. To conduct three separate phone calls and converse in code without arousing the suspicion of his Iranian contact required a significant amount of emotional and cognitive control.

Now, I'm not sure why Saathoff claims that Arbabsiar's calls didn't arouse his Iranian contact—Shakuri's—suspicion. In spite of FBI efforts, Arbabsiar never succeeded in getting Shakuri to transfer additional money (and therefore almost the only evidence against Shakuri the FBI has is Arbabsiar's confession), which suggests either the plot(s) weren't all that important to Shakuri or he was suspicious (though he may have been already, since he advised Arbabsiar not to go to Mexico in the first place). Moreover, the FBI's claims about

the codes never matched the actual syntax of the calls as quoted in the complaint (the FBI conflates “the building” and “the Chevrolet”—though I still suspect that suggests there was a drug deal that may have been a priority), so it’s totally unclear Arbabsiar did get the codes right. That is, Saathoff’s claim reflect a very flimsy reading of the complaint, which he cites among his sources.

And note one more detail about Saathoff’s review. Among the other resources he relied on, he cites this:

Walsh, J. F. (2011, October 10). FBI post arrest statements made by Manssor Arbabsiar from September 29-October 10, 2011, pp. 558-633

James F. Walsh Jr is the FBI Agent who wrote the first of two complaints in this case. Saathoff may have interviewed Walsh, but he did, it’s sekrit (he lists interviews with Special Agent 1 and 2, but not interviews with Walsh or Robert Woloszyn, the author of the other complaint; but it’s almost certain that’s just a dumb ruse to hide Walsh and Woloszyn’s identities as Arbabsiar’s interrogators).

But it seems that Saathoff has only referred to 75 pages out of at least 633 recording Arbabsiar’s statements. If that’s right, not only does Saathoff not deal with the bulk of First’s evidence, Arbabsiar’s speech (though it seems likely the references to Obama and WWII were among the redacted citations First included), but he never looked at at least 88% of Arbabsiar’s comments.

Now all these details just assess Saathoff’s interpretations about people who think they’re going to start WWII. His report damns the government’s claims that this was a consensual interview in some other ways, which I’ll describe in a follow-up post.

SCARY IRAN PLOT: BIPOLAR DISORDER AND OTHER REASONS TO DISMISS

As the NYT and TPM have reported, Manssor Arbabsiar—the accused plotter in the Scary Iran Plot—has moved to have his indictment dismissed because he is bipolar. His lawyers are basing that motion on the diagnoses of Clinical Neuropsychologist Joel Morgan and Psychiatrist Michael First. First cites six passages from his interrogation (all redacted) to support his assertion that Arbabsiar was likely cycling in and out of manic episodes during his confession.

And while I highly doubt a judge is going to dismiss the case against the Scary Iran Plotter because he is bipolar, it is worth noting that the confession given—First says—while he was probably manic, is central to four out of five charges against Arbabsiar.

But I'm more interested in the other documents filed in the last few days. In addition to the doctors' declarations, there are declarations addressing the other reasons—Arbabsiar's team argues—why some of the evidence and possibly the entire indictment against him should be thrown out. A declaration from his public defender, Sabrina Shroff, references 5 exhibits (all redacted) describing why the judge should “dismiss the Indictment, or, in the alternative, to suppress statements made by Mr. Arbabsiar and other evidence improperly obtained by the government.” And then there's a declaration from Arbabsiar himself, though its 29 paragraphs remain entirely sealed; it's unlikely that Arbabsiar would submit a declaration to support his own bipolar diagnosis (and the declarations don't reference any comments he made, though it

does reference comments from his family). So it must offer other reasons to throw out the charges or some of the evidence.

So it's not just that Arbabsiar's lawyers are saying he's mentally ill, and that illness influenced both his decision to waive his Miranda rights but also the confession that is critical to most of the charges against him. But there seem to be around 5 other reasons or pieces of evidence that Arbabsiar's team alleges were improperly collected.

Of course, we're not allowed to know what they are, cause that would make it more clear whether the government invented Scary Iran Plot entirely or just made a big deal out of another aspirational plot.

WAPO FORGETS THE SCAREQUOTES FOR THE WORD "PLOT"

I'm agnostic about how many of the plots attributed to Iran in this WaPo story are real. Certainly, there are hints, even from Joby Warrick's sources, that the insinuation that "Iran and Hezbollah" are behind the attacks—which were reportedly led by criminal gangs, not by actual Hezbollah or Quds Force members—might be overblown.

"The idea that Iran and Hezbollah might have worked together on these attempts is possible," said a senior U.S. official who has studied the evidence, "but this conclusion is not definitive."

But the entire story loses credibility with this sentence.

U.S. intelligence officials believe that Americans would probably have been killed if an alleged Iranian plot to kill Saudi Arabia's ambassador to Washington last year had succeeded.

That's because the outlines of that "plot"—the Scary Iran Plot hatched by bumbling car salesman Manssor Arbabsiar—were dreamt up by our own DEA informant. The explosives in the "plot" were fictional C4 that may well have been offered up by the informant when Arbabsiar suggested guns.

So if this "plot" with its hypothetical American dead is treated seriously, then how real are the other "plots" described in the article, particularly the "plots" targeting Americans in Azerbaijan that are the centerpiece of the article?

The whole article reads very differently if you consider the possibility that the previously unreported "plots" might be, like the Scary Iran Plot, stings led by our—or another country's—intelligence services.

Two more questions about this story. First, it makes no mention of Atris Hussein, the Lebanese-Swedish fan and fertilizer merchant arrested in January in Bangkok—based on Israeli intelligence—as an alleged terrorist. Hussein plead not guilty in March. Have the fear-mongers since decided that shipping fertilizer might not be a good terrorism story?

Also, on May 18, the House passed an Amendment to the NDAA mandating an investigation into the people who leaked—among other things—the allegations in this article, describing "Israel's secret staging ground" in Azerbaijan. The story (which presumably must be true if senior Israeli officials are complaining to Congressional delegations that the US is leaking "classified operational information and capabilities" about the Israelis) describes how Israel is "buying airbases" in Azerbaijan.

In particular, four senior diplomats and military intelligence officers say that the United States has concluded that Israel has recently been granted access to airbases on Iran's northern border. To do what, exactly, is not clear. "The Israelis have bought an airfield," a senior administration official told me in early February, "and the airfield is called Azerbaijan."

Senior U.S. intelligence officials are increasingly concerned that Israel's military expansion into Azerbaijan complicates U.S. efforts to dampen Israeli-Iranian tensions, according to the sources. Military planners, I was told, must now plan not only for a war scenario that includes the Persian Gulf – but one that could include the Caucasus. The burgeoning Israel-Azerbaijan relationship has also become a flashpoint in both countries' relationship with Turkey, a regional heavyweight that fears the economic and political fallout of a war with Iran. Turkey's most senior government officials have raised their concerns with their U.S. counterparts, as well as with the Azeris, the sources said.

If one of the key pieces of evidence in this plot is some criminal moving weapons across the Iranian border, why are we so sure it's the Iranians and not the Israelis—whom Iran has accused of targeting its nuclear scientists from Azerbaijan?

The Iranians may well have sent out a bunch of incompetent terrorists to avenge the Israeli attacks on their scientists (if so, why aren't we hailing the shocking decline in skills of Hezbollah?). Or maybe we're getting disinformation.

But at the very least, we ought to distinguish between the details of "plots" that come from

real intelligence and the details that were invented by our own informants.

ERIC HOLDER SUGGESTS SCARY IRAN PLOT WAS LEGAL

I'm sure that Eric Holder didn't mean to suggest that the assassination plots purportedly planned by Iran's Quds Force and Manssor Arbabsiar with the assistance of a DEA informant targeting the Saudi Ambassador to the US, Adel al-Jubeir, as well as Israeli and Saudi figures in Argentina, are legal.

But given the debate between the ACLU's Anthony Romero and Jack Goldsmith over whether assassinations in this country would be legal, I wanted to look at what he did say.

In their debate on WBUR's On Point, Romero said something to the effect of Holder's argument for targeted killing would serve as justification for other countries to target their own "terrorists" in our country. Goldsmith objected, saying such assassinations would only be legal in failed states (implicitly, like Yemen and Pakistan) where a state was unable to apprehend such a figure.

That's not what Holder said. Here's what he did say:

Over the last three years alone, al Qaeda and its associates have directed several attacks – fortunately, unsuccessful – against us from countries other than Afghanistan. Our government has both a responsibility and a right to protect this nation and its people from such threats.

This does not mean that we can use military force whenever or wherever we want. International legal principles, including respect for another nation's sovereignty, constrain our ability to act unilaterally. But the use of force in foreign territory would be consistent with these international legal principles if conducted, for example, with the consent of the nation involved – or after a determination that the nation is unable or unwilling to deal effectively with a threat to the United States.

Furthermore, it is entirely lawful – under both United States law and applicable law of war principles – to target specific senior operational leaders of al Qaeda and associated forces. [my emphasis]

Strip this passage of its American exceptionalism, and here's what it justifies:

- Attacks in countries from which attacks have been planned or launched
- Targeted killings in countries where the home country had assented to the assassination attempt
- Targeted killings in countries that were unable to eliminate the threat against a third country
- Targeted killings in countries that were unwilling to eliminate the threat against a third country
- Targeted killings of senior

operational leaders

As a threshold matter, Holder does not limit assassinations to failed states—those states that, according to Goldsmith, do not have the ability to apprehend a person who is a threat. (Note, I think Goldsmith overestimates the degree to which Yemen in this case was unable to get Awlaki and underestimates the degree to which Ali Abdullah Saleh didn't want to take responsibility for doing so.)

Holder also says assassinations in countries that are unwilling to eliminate such a threat would be legal.

Let me be clear: I don't support this argument, from a practical standpoint, in any case. But Iran surely could argue that Israel poses an imminent threat to it right now (Israel is, of course, arguing the reverse right now, and appears to be conducting assassinations on just that logic). And it could argue—less credibly, but with some justification—that Saudi Arabia does too.

And one of the key figures trying to broker efforts to curtail Iran's sphere of influence in the Middle East, whether by sanctions or asymmetrical treatment of Shiite protestors or in support of a strike on Iran, would be Saudi Arabia's Ambassador to the US, Adel al-Jubeir, precisely the person allegedly targeted by Iran's Quds Force last year.

Mind you, I suspect Iran couldn't make the case that Jubeir, himself, presented an imminent threat (there are a long line of Israelis, though, starting with Bibi Netanyahu, against whom such a case would be a cinch). But Holder doesn't believe anyone should be able to review these decisions: not a judge, and especially not the international community. So according to the practice the US embraced with the Anwar al-Awlaki killing, Iran could just declare that Jubeir or Bibi are senior operational leaders in a plot to attack Iran. It could make some assessment that there would be no way the US

would help it arrest these figures. So, voila, according to Holder's logic, Iran could assassinate these figures in the US.

It's a terrible argument. And the only thing preventing such interpretations from being invoked by Iran and any number of other countries is US might, which effectively limits the ability to make such arguments to the US and countries, like Israel and its presumed assassination of Iranian scientists, we protect.

Now, I'm still agnostic whether Scary Iran Plot existed outside of the well-rehearsed lines of a DEA informant. As of February 1, the government had not yet even given Arbabsiar's defense counsel all his post-arrest statements on which so much of the case rests (the trial is conveniently scheduled for the weeks leading up to the election).

But the Scary Iran Plot is a perfect example of why Holder's argument is terrible precedent.