

DID THE US COERCE A MIRANDA WAIVER (AGAIN) BY THREATENING FAMILY MEMBERS?

The NYT reveals that the lawyer for Manssor Arbabsiar has suggested she will challenge the voluntary nature of Arbabsiar's 12 days of waiving his Miranda rights.

Mr. Arbabsiar's lawyer, Sabrina Shroff, said in a recent interview that she intended to seek a hearing on whether the "consent was freely given, or whether it was unlawfully extracted," given the gap in time between her client's arrest and his initial court appearance on Oct. 11. "There has to be a deep concern about the voluntariness of consent to that long a period of detention," she said.

Her comments provide an early look at the defense's legal strategy in a case that has gained widespread attention because of questions over Iran's alleged role, and because of the wealth of information that prosecutors said they obtained from Mr. Arbabsiar after he waived his Miranda rights.

[snip]

The interrogation of Mr. Arbabsiar was cited in a sealed, four-page letter that the office of Preet Bharara, the United States attorney in Manhattan, sent to the court on Oct. 6, while questioning was under way. The letter said Mr. Arbabsiar had "without counsel, knowingly and voluntarily waived his Miranda rights and his right to a speedy presentment" each day, and had signed

waivers to that effect.

The letter, now public, described how agents were “vigorously and expeditiously pursuing leads relating to the defendant’s statements,” and said “regular access” to Mr. Arbabsiar had allowed them “to promptly verify with him the accuracy of information developed in the investigation.”

The story led me to check the docket, only to discover they’ve unsealed Arbabsiar’s first complaint. I’ll have much more to say about the unsealed complaint (including the weaknesses it shows in the US case that this was an attack primarily directed against the US).

But for now, the complaint suggests one means they used to coerce a man who had insisted on legal representation in at least four prior brushes with the law to waive his Miranda rights in a case that risks putting him away for life: by threatening to take action against his brother.

As I have long noted, the fact that the person described as “Individual 1” in Arbabsiar’s amended complaint was not charged is a puzzle. After all, that person allegedly served as a middleman in a conspiracy to kill the Saudi Ambassador. So why wasn’t he charged or sanctioned by the Treasury?

Well, this original complaint may provide a hint why the person wasn’t charged and also why Arbabsiar waived his right to a lawyer even though he had never done so in the past.

CS-1 and ARBABSIIAR then discussed how ARBABSIIAR would pay CS-1. ARBABSIIAR asked CS-1 what bank he planned to use, and CS-1 stated that he would give ARBABSIIAR “an account number.” At a later time during the same conversation, ARBABSIIAR stated that the “money is [in] Iran,” and that he [ARBABSIIAR] had received a call indicating that the

money would be at his brother's house. When ARBABSIAR called his brother, "he [ARBABSIAR's brother] said he [ARBABSIAR's brother] had received "the money at nine in the morning."

As I've speculated might be one possibility, in other words, the FBI had evidence that put Arbabsiar's brother squarely in the middle of the alleged conspiracy. And that fact is one of the things the government tried to hide with its unusual sealing. {Update: as I'll explain later, I think Arbabsiar's brother wired the money through Europe, which would seem to implicate him to a greater degree.}

While we don't know for sure that Arbabsiar "cooperated" to protect his brother, we do know that is the government's favored tactic for making people cooperate. To get Najibullah Zazi to cooperate, they charged his father. To get the UndieBomber to cooperate, they got his family involved (using who knows what kind of coercion over Abdulmutallab's father, the banker). To get Faisal Shahzad to cooperate, the Pakistanis rounded up first Shahzad's father-in-law, and then his father and (presumably) his wife and child.

And frankly, this is just a continuation of the tactics the government used when they discovered waterboarding Khalid Sheikh Mohammed 183 times wouldn't coerce cooperation, but kidnapping his sons and threatening to kill them would.

Now, we will only see whether the civilian legal system believes coercing someone to testify by threatening their family members amounts to a Miranda waiver if this case goes to trial: with everyone else, Zazi, Abdulmutallab, and Shahzad, the government got plea deals before any evidence about why the accused person "waived" his Miranda rights.

But we do seem to have more and more evidence that this is a favored tactic of our own government.

CONFIRMED: THE GOVERNMENT HID-AND IS STILL HIDING-MANSSOR ARBABSIAR'S FIRST DOCKET

I first raised questions of why the government had charged Manssor Arbabsiar—the Scary Iran Plotter—with an amended complaint almost two weeks ago. As I noted then, the obvious existence of an earlier sealed complaint might suggest the possibility that Arbabsiar was charged with something entirely different than the murder-for-hire charges he got charged with on October 11.

First (and this is what got me looking at the docket in the first place), the complaint is an amended complaint. That says there's a previous complaint. But that complaint is not in the docket. Not only is it not in the docket, but the docket starts with the arrest on September 29 (notice the docket lists his arrest twice, on both September 29 and October 11), but the numbering starts with the amended complaint (normally, even if there were a sealed original complaint, it would be incorporated within the numbering, such that the docket might start with the amended complaint but start with number 8 or something).

Two things might explain this. First, that there was an earlier unrelated complaint—say on drug charges, but the charges are tied closely enough to this

op such that this counts as an amended complaint. Alternately, that Arbabsiar was charged with a bunch of things when he was arrested on September 29, but then, after at least 12 days of cooperation (during which he waived Miranda rights each day), he was charged with something else and the new complaint incorporated Ali Gholam Shakuri's involvement, based entirely on Arbabsiar's confession and Shakuri's coded conversations with Arbabsiar while the latter was in US custody. [emphasis original]

If Arbabsiar were originally charged with something different than he was charged with on October 11—for example, if he were charged with drug charges that might put him away for hard time—it might explain why he waived Miranda rights for 12 days in a row, when he had, on 5 different occasions in his past, hired lawyers to represent him when he got in legal trouble.

Well, this filing not only confirms that an earlier complaint exists—the earlier complaint is dated September 28—but it confirms my suspicion the complaint is in an different docket that is entirely sealed.

On September 28, 2011, Magistrate Judge James C. Francis IV authorized a complaint bearing docket number 11 Mag. 2534 (“Sealed Complaint”), charging the above-listed defendant. The Sealed Complaint is attached hereto as Exhibit A.

On October 11, 2011, Magistrate Judge Michael H. Dolinger authorized an Amended Complaint (11 Mag. 2617) charging the defendant and Gholam Shakuri (“Amended Complaint”). By order of the Honorable Loretta A. Preska, dated October 11, 2011, the Sealed Complaint was ordered to remain sealed. On October 11, 2011, the defendant was

presented on only the Amended Complaint.

The Government respectfully requests that the Court enter a limited unsealing order permitting the Government to produce the Sealed Complaint in redacted form to defense counsel as part of the discovery process. The Sealed Complaint would otherwise remain sealed.

First, compare the docket numbers:

First Complaint: 11-mg-2534

Amended Complaint: 11-mg-2617

Criminal Indictment: 11-cr-897

These are three entirely different docket numbers.

Search: Criminal Case Search 11-mg-2534 New York Southern Page: 1
No records found



A search for criminal magistrate docket 11-2534 returns nothing. Which means the docket—the entire docket—is and remains sealed.

This increases the likelihood that the first complaint charges entirely different charges—such as opium charges—than the amended complaint does.

Indeed, the language of this letter appears to suggest that only Arbabsiar was charged in the first complaint. Even if this earlier complaint pertained to murder-for-hire charges, this might make sense—as I have pointed out, most of the current charges are conspiracy charges that would involve at least two defendants. But the letter suggests—by stating only that “the defendant was presented on only the Amended Complaint”—that there may be charges unique to Arbabsiar, completely unrelated charges that hang over him still—that weren’t charged because of his 12-day cooperation to implicate Shakuri.

And here's the kicker. The government isn't even telling Arbabsiar's defense counsel all of what was in that first complaint. They are asking that she receive the complaint in redacted form.

So not only are they hiding the original basis of his arrest from us-US citizens and the world community, to whom the government claimed this is an international incident. But they're hiding parts of this earlier complaint even from the public defender tasked to actually represent this guy.

THE INFORMANT RACKET AND THE SCARY IRAN PLOT

Jeralyn Merritt has been focusing closely on the DEA's use of informants of late. And as part of a discussion of how much the DEA informant in the Viktor Bout case, Carlos Sagastume, has made off his lucrative informant career (\$8 million and counting, with much of that coming in the Monzer al Kassar case), she wondered whether Sagastume might be Narc, the informant in the Scary Iran Plot. [Update: Jeralyn now thinks Narc can't be Sagastume.]

A prior "catch" of informant Sagastume was Monzer al Kassar, (Indictment [here](#).)who was convicted and sentenced to 30 years following a sting very much like the one used on Bout. Al-Kassar's conviction was upheld last month, and the Second Circuit ruled lies by the DEA to to those it is trying to trap in order to get jurisdiction in the U.S. are okay. The opinion is [here](#). An interesting sidenote: one of the three judges affirming al-Kassar's conviction was District Court Judge Shira A.

Scheidlin, sitting by designation. She is the trial judge in Viktor Bout's case.

As for why Sagastume has received \$8 plus million for his informant work, I suspect it's likely that he's getting a percentage of property ordered forfeited. In cases of criminal forfeiture, like al-Kassar and Viktor Bout, the Government must get a conviction on the criminal charge in order to succeed on the forfeiture. So if Bout were to be acquitted, there would be no forfeiture. That gives the informant a personal stake in seeing Bout convicted.

[snip]

One last note on Sagastume and Al Kassar. Al-Kassar sold weapons in a lot of countries over his 30 year career, including Iran. Was Sagastume involved in the recent sting involving the alleged plot to kill the Saudi Ambassador? While Sagastume is not the only informant the DEA used in al-Kassar, Bout and similar arms cases, he speaks Spanish, is experienced in the world of Mexican drug smuggling and could play the role of a Zeta as easily as a FARC operative, and could probably convincingly claim to have Iranian connections. It seems likely to me there must be a limited number of DEA informants with the savvy to bridge such disparate groups as the Zetas and Iranian secret forces. It's not like the DEA just calls Central Casting.

Mind you, Jeralyn is just speculating, but I find it interesting speculation for several reasons.

First, because Jeralyn points to the Circuit decision in the al Kasser case. It held that the

US government could charge non-Americans in stings conducted entirely outside of the United States so long as the government had demonstrated a clear intent to hurt the US.

In an opinion on Wednesday, the 2nd U.S. Circuit Court of Appeals in New York affirmed the increasingly prevalent government tactic of using sting operations to trap arms and drug traffickers worldwide.

[snip]

Kassar's attorneys argued on appeal that U.S. prosecutors were not allowed to charge non-U.S. citizens caught in a sting operation abroad. The appeals court conceded that Kassar "never came close to harming any U.S. person or property," but concluded that was "irrelevant for conspiracy offenses, which often result in no palpable harm." Instead, the court said the government had clearly established Kassar's intent to harm the U.S.

The circuit also found the government had not "manufactured" jurisdiction by creating the chance for Kassar to break the law.

"While it is true the DEA agents lied to the defendants, this does not make the nexus (to the U.S.) artificial or invalid."

Now, this decision is unnecessary to ensure the government could convict Manssor Arbabsiar. He's an American citizen (though the only overt act he committed in the US was a money transfer). But they're on shakier ground with Gholam Shakuri. At least given what the government has presented in the complaint, there's zero evidence that the Quds Force set out to assassinate Adel al-Jubeir in the US. I've noted that Narc invented all the most spectacular elements of the plot—including the civilian

casualties, the dead Senators, and apparently the WMD. And while you might assume soliciting a North American cartel to carry out the kidnapping (or assassination) of a US-based Ambassador would imply an attack in the US, there is no evidence in the complaint that Arbabsiar's handlers specifically asked for that. None. But by charging this in NY, you can rely on the al Kasser decision, point to the fictional dead Senators, and worry less about including Shakuri in the sting.

None of that has to do with the possibility that Sagastume was the Narc in this case. But Jeralyn's comments about Sagastume's effectively working on spec does. As I noted, there was almost nothing new in the indictment presented on Thursday.

Almost.

Except a forfeiture provision, calling for Arbabsiar and Shakuri to forfeit any property tied to a terrorist attack on the US.

That's still not a tie to Sagastume, necessarily. And given the money already transferred—just \$100,000, as far as we know—that's chump change for someone like Sagastume, who has already made millions for his narc work. But who knows? Maybe there are big proceeds from the opium deal the government doesn't want to tell us about.

That still doesn't say anything interesting about Sagastume.

But the timing might.

I've been trying to figure out why the government decided to spring this sting on October 11. After all, it has had the most critical pieces of evidence since August 9. Narc first raised the possibility that Arbabsiar would have to fly to Mexico to guarantee payment on August 28. And yet the sting waddled along, as Shakuri's urgency increased, but with no resolution. And what dictated the timing after Arbabsiar was arrested on September 29? Why wait

until October 11, four days after the last (mentioned) unsuccessful attempt to get Shakuri to send more money, before you announce the charges? And given that the government had had all this evidence for months, why had, according to Preet Bharara, “None of the people that have been mentioned by me and others [who investigated the case] [] gotten much sleep lately”?

If Sagastume were Narc, it might explain the government’s (though not Shakuri’s) urgency. The government announced the charges on October 11. On October 12, Viktor Bout’s trial started. I can see how the Bout trial date would serve as an artificial endpoint to the Scary Iran Plot investigation. And if I’m reading the reports from the trial correctly, Sagastume testified on Tuesday and Wednesday of last week. Then the trial broke for the week, as opposed to on Thursday, which might be more normal. On Thursday, the fairly simple Indictment (one that might take just a few hours to present) came out. And yesterday and today, Sagastume’s back on the witness stand in Bout’s case. In other words, the Scary Iran Plot and the Bout trial coincide in ways that would make it very easy to manage the star Narc’s testimony across both cases, in one tidy trip to the US before he goes off to whatever swank retirement the government has arranged for him.

Again, both Jeralyn and I are speculating, nothing more (though her comments about informants are worthwhile reading and applicable more generally). But it all would fit rather nicely. And if Sagastume stands to make millions—as he has from prior stings—it might add another layer of intrigue to the Scary Iran Plot.

MODO'S CAMELS AND PONIES

Having MoDo vouch for the “sangfroid” of Saudi Ambassador Adel al-Jubeir (who, she notes, once saved her from being punished by Saudi religious police for dressing inappropriately) is about as amusing as having David Ignatius announce the Scary Iran Plot must be true because the CIA is involved.

Jubeir stayed cool even when American officials informed him several months ago about the latest stunning chapter in the Saudi Arabia-versus-Iran Great Game for supremacy in the Middle East: an outlandish plot by an Iranian-American used-car dealer in Texas who said his cousin was a senior member of the Iranian Quds Force.

MoDo's piece seems to do little but foster the illusion that a real plot had developed, as she describes al-Jubeir straining in secret to hide the news that a DEA Narc completely directed by the US government proposed bombing his favorite restaurant.

He had to force himself to live a normal existence for months, not telling family or staff, until a criminal complaint was unveiled and the Texas car dealer was before a judge.

MoDo's piece also allows al-Jubeir to rebut a detail about him that the US Government's own plot has emphasized—that he practically lives at Cafe Milano.

Over lunch at the embassy in his first interview since then, he told me in his whispery voice that he was surprised the plotters had assumed he'd be hanging at modish restaurants. These days, the slender, smartly tailored ambassador is

more of a nester, spending time with the twins and his 9-month-old son.

“I work so much, I enjoy sitting at home doing nothing,” said the diplomat with the rough commute – 12-hour flights to Riyadh several times a month.

No wonder al-Jubeir chose this—rather than an interview with a real journalist—to be his first interview after the revelation of the plot.

Though there is this close for the piece.

As I left, I asked the ambassador about the painting in his office of Arab tribesmen riding horses and camels.

“It’s artistic license,” he noted with amusement. “Camels don’t ride with horses. They ride separately. Horses go faster and camels go longer.”

It’s as if, in addition to countering the common knowledge he lives at Cafe Milano, al-Jubeir also wants people to know that both Arabian ponies and camels can survive by eating aspen leaves that grow connected at the root.

DOJ OFFERS NO MORE DETAIL ON SCARY IRAN PLOT IN INDICTMENT

I had this naive hope that DOJ would use the opportunity of an indictment to fill in some of the holes in their case.

Like I said, naive hope.

The indictment appears to be the amended complaint, without the affidavit, with an arrest warrant for Gholam Shakuri.

SCARY IRAN PLOT: FBI HAD NO NEED TO INVESTIGATE ARBABSIAR'S CORPUS CHRISTI PAST

So imagine this scenario.

A DEA informant calls up his handler out of the blue and says,

Omigod! Some crazy Iranian just approached me to arrange some kind of hit on behalf of this Iranian terror organization. He asked about explosives (I bragged about my C4 expertise.) He found me through my aunt in Corpus Christi. She says she knows him from when he used to be a used car salesman.

The DEA calls the FBI. What's one of the first things the FBI would do?

Maybe look him up in the FBI's own files (they find he doesn't have a federal record). And just after that, you'd think they'd start investigating him in Corpus Christi, where Narc knew him to have connections. Maybe call the cops there and see if they knew this crazy Iranian. Which, since Arbabsiar has a pretty consistent record of petty arrests and lawsuits, they do.

Which is why it's sort of odd that the FBI never contacted the Corpus Christi cops—they first talked to them the day after Arbabsiar was charged.

Arbabsiar had previous arrests in Nueces County during nearly 20 years living in the area.

That meant arrest records and personal details were on file in the county's warehouse. But no one from any federal agency ever asked for the folder, Kaelin said.

"From an intelligence-gathering standpoint, even the tiniest bits of information could have a connection to something bigger," he said. "They never asked to see it."

In fact, FBI agents never contacted the sheriff's office or the police department about their investigation into Arbabsiar.

That's all the more weird given that some of the criminal files on Arbabsiar were on dead tree files in a warehouse from back in the day when the FBI itself didn't really use computers (you know, like last year).

Now, my scenario sounds weird, almost impossible, particularly in the age of information sharing between local cops and national counterterrorism investigators. Even if they were worried about keeping Narc's identity secret—which I'm sure is particularly critical so close to the border in South Texas—you'd think they'd at least go and make discreet investigations about Arbabsiar (particularly given the claims that, by the end of the investigation, FBI officers seemed to be going out of their way to make their presence known.

Neighbors, however, said it had been years since Arbabsiar lived in the stucco house he once shared with his wife on a suburban cul-de-sac. They said it appeared that as many as 10 people were living in the house, and lately there had been some signs of suspicious activity: When residents looked for available Wi-Fi networks, networks with names like "FBI Van 1" would pop up.

Unless ...

Unless they didn't need to do that background research on Arbabsiar when Narc purportedly came to them out of the blue to tell them about this crazy Iranian seeking an assassin purportedly out of the blue.

The FBI's seeming disinterest in learning about Arbabsiar from the law enforcement officials who ostensibly knew him best suggests they already knew about him when he approached Narc.

(As a number of media outlets have reported, the Grand Jury has indicted the plotters, a mere nine days after the Administration started making an international incident about this. I'll update or do a post once the indictment is in the docket.)

SPY V. SPY, TERRORIST V. TERRORIST: ALL THE USUAL SUSPECTS NOW IMPLICATED IN SCARY IRAN PLOT

Here in the Midwest, we've got lions and tigers and bears running around today, and even other animals, like monkeys, that aren't members of the NFC North.

In the Middle East, it seems everyone's rolling out the usual suspects to impugn in the Scary Iran Plot. The most humorous is Bahrain's use of David Ignatius to send Obama a message. Not only did Bahrain's Foreign Minister Sheikh Khalid Al-Khalifa warn that, "This is really serious. It's coming to your shores now" and repeat Saudi allegations that Gholam Shakuri had a role in opposition to the Bahraini King (though, in

calling Shakuri only an “important ‘Iranian interlocutor’,” the Foreign Minister actually sounded more measured than the Saudis).

But then the Foreign Minister throws in a jab at Ahmad Chalabi.

Khalifa mentioned one more name of interest to American observers of the Middle East – the Iraqi Shiite politician Ahmed Chalabi. Lobbying by Chalabi played an important role in mobilizing the Bush administration to invade Iraq in 2003; since then he’s been jockeying for power in Baghdad and, increasingly, tilting toward Iran on regional issues.

The peripatetic Chalabi has now taken up the cause of Bahrain’s Shiite community, pressuring the government in Manama and even, at one point last spring when the political confrontation was intense there, proposing to organize a rescue “flotilla” to deliver aid, on the model of the Turkish flotilla that tried to enter Gaza last year.

“We would regard him as an Iranian agent, no doubt,” said Khalifa.

To be fair, this sounded like a throwaway, not a direct response to Scary Iran Plot. Except to the extent that Scary Iran Plot is about the Sunni-Shiite fight for hegemony in the Middle East, the one we first disturbed by going to war on Chalabi’s say-so.

Still, I was waiting for someone like Chalabi or Manucher Ghorbanifar or Michael Ledeen to show up in this tale, so I’m please to find Chalabi here, like an old friend.

The far more interesting development—as MadDog and lysias pointed out here—is the Iranian propaganda announcement that Gholam Shakuri is actually an MEK member.

Interpol has found new evidence showing that the number two suspect in connection with the alleged Iranian government's involvement in a plot to assassinate the Saudi ambassador to Washington is a key member of the terrorist Mojahedin Khalq Organization (MKO), the Mehr News Agency has learnt.

Gholam Shakuri was last seen in Washington and Camp Ashraf in Iraq where MKO members are based.

The person in question has been travelling to different countries under the names of Ali Shakuri/Gholam Shakuri/Gholam-Hosseini Shakuri by using fake passports including forged Iranian passports. One passport used by the person was issued on 30/11/2006 in Washington. The passport number was K10295631.

The accusation got picked up by the NYT, which in turn got a denial from the MEK.

The opposition group itself dismissed the Mehr report as nonsense. Shahin Gobadi, a spokesman, said in an e-mailed response that "this is a well-known tactic that has been used by the mullahs in the past 30 years where they blame their crimes on their opposition for double gains."

So after we had the United States lecturing other countries about illegal assassinations and rule of law, we've got one terrorist organization (albeit one whose material supporters in the US rather remarkably aren't treated like the material supporters of other terrorist organizations) accusing another terrorist organization of crimes.

There are times I'm really comforted that my neighborhood has nothing but Lions and Tigers and Bears running around.

WHY DID THE SCARY IRAN PLOTTER SPEAK DIRECTLY FROM A CONTESTED TREASURY DEPARTMENT SCRIPT?

As I noted on Friday, Manssor Arbabsiar's cousin, Abdul Reza Shahlai, who purportedly directed him to arrange a plot with Los Zetas, was sanctioned by the Treasury Department in 2008, in part for involvement in an attack in Karbala.

Iran-based Abdul Reza Shahlai—a deputy commander in the IRGC—Qods Force—threatens the peace and stability of Iraq by planning Jaysh al-Mahdi (JAM) Special Groups attacks against Coalition Forces in Iraq. Shahlai has also provided material and logistical support to Shia extremist groups—to include JAM Special Groups—that conduct attacks against U.S. and Coalition Forces. In one instance, Shahlai planned the January 20, 2007 attack by JAM Special Groups against U.S. soldiers stationed at the Provincial Joint Coordination Center in Karbala, Iraq. Five U.S. soldiers were killed and three were wounded during the attack.

But as Gareth Porter pointed out yesterday, there are reasons to doubt the US has proof of Shahlai's role in that attack. Porter's original report on this from 2007 describes Michael Gordon trying, unsuccessfully, to get Brigadier General Kevin Bergner to provide real evidence of Iranian involvement in the plot. And he describes David Petraeus specifically denying

the claim.

Another indication that the command had no evidence of Iranian involvement in the attack was the statements of the top commander in Iraq, Gen. David Petraeus, on the issue in an April 26 **press briefing**. Petraeus had referred to a 22-page memorandum captured with the Shiite prisoners that he said “detailed the planning, preparation, approval process and conduct of the operation that resulted in five of our soldiers being killed in Karbala.” But he did not claim that either the document or the interrogation of Khazali had suggested any Iranian or Hezbollah participation in, much less direction of the planning of the Karbala assault.

Later in that briefing, a reporter asked whether Petraeus was “saying that there was evidence of Iranian involvement in that [Karbala] operation?” Petraeus responded, “No. No. No. That—first of all, that was the operation that you mentioned, and we do not have a direct link to Iranian involvement in that particular case.”

At the time Petraeus made this statement, Khazali, the chief of the militia group that had carried out the attack, had been in U.S. custody for more than a month. Despite nearly five weeks of intensive interrogation of Khazali, Petraeus’s comments would indicate that U.S. officials had not learned anything that implicated Iran or Hezbollah in the planning or execution of the Karbala attack

Porter’s post yesterday describes officers subsequently reiterating that the Iraqis, not the Iranians, launched this plot.

In a news briefing in Baghdad Jul. 2,

2007, Gen. Kevin Bergner confirmed that the attack in Karbala had been authorised by the Iraqi chief of the militia in question, Kais Khazali, not by any Iranian official.

Col. Michael X. Garrett, who had been commander of the U.S. Fourth Brigade combat team in Karbala, confirmed to this writer in December 2008 that the Karbala attack “was definitely an inside job”.

Now, perhaps Treasury had additional evidence by the time it sanctioned Shahlai, perhaps not. But suffice it to say the claim that Shahlai had a role in that plot is at least contested, and there is reason to believe it is outright false.

Which is why I find it so interesting that, among the other things Manssor Arbabsiar repeats to Narc about Shahlai, is that he had ties to a bombing in Iraq.

ARBABSIAR further explained that his cousin was “wanted in America,” had been “on the CNN,” and was a “big general in [the] army.” ARBABSIAR further explained that there were a number of parts to the army of Iran and that his cousin “work[s] in outside, in other countries for the Iranian government[.]” ARBABSIAR further explained that his cousin did not wear a uniform or carry a gun, and had taken certain unspecified actions related to a bombing in Iraq. Compare supra ¶ 17. [my emphasis]

That reference back to paragraph 17? It’s a reference to the complaint’s background on the Qods Force. Note the content carefully:

[T]he IGRC is composed of a number of branches, one of which is the Qods Force. The Qods Force conducts sensitive covert operations abroad, including terrorist attacks, assassinations, and

kidnappings, and provides weapons and training to Iran's terrorist and militant allies. Among many other things, the Qods Force is believed to sponsor attacks against Coalition Forces in Iraq, and in October 2007, the United States Treasury Department designated the Qods Force, pursuant to Executive Order 13224, for providing material support to the Taliban and other terrorist organizations.

Note, the Treasury designation the FBI Agent refers to is not the 2008 designation naming Shahlai directly in connection to the Karbala plot, but instead an earlier one first designating Qods Force for material support to the Taliban. And even though that earlier designation included a laundry list of Qods Force proxies, it includes Iraq almost as a footnote.

IRGC-Qods Force (IRGC-QF): The Qods Force, a branch of the Islamic Revolutionary Guard Corps (IRGC; aka Iranian Revolutionary Guard Corps), provides material support to the Taliban, Lebanese Hizballah, Hamas, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP-GC).

The Qods Force is the Iranian regime's primary instrument for providing lethal support to the Taliban. The Qods Force provides weapons and financial support to the Taliban to support anti-U.S. and anti-Coalition activity in Afghanistan. Since at least 2006, Iran has arranged frequent shipments of small arms and associated ammunition, rocket propelled grenades, mortar rounds, 107mm rockets, plastic explosives, and probably man-portable defense systems to the Taliban. This support contravenes Chapter VII UN Security Council obligations. UN Security Council resolution 1267

established sanctions against the Taliban and UN Security Council resolutions 1333 and 1735 imposed arms embargoes against the Taliban. Through Qods Force material support to the Taliban, we believe Iran is seeking to inflict casualties on U.S. and NATO forces.

[snip]

In addition, the Qods Force provides lethal support in the form of weapons, training, funding, and guidance to select groups of Iraqi Shi'a militants who target and kill Coalition and Iraqi forces and innocent Iraqi civilians.

In fact, the complaint rather neatly avoids mentioning those allegations about Karbala at all, in spite of the fact that one of the people discussed (though not by name) in the complaint was specifically sanctioned by Treasury for that. Then, after choosing not to mention the Karbala allegations in the complaint, within hours of its release, the government was anonymously pushing journalists like Mike Isikoff to talk about that later designation. If they had wanted people to look at that later designation, why hadn't they included it in the complaint?

So to review, the complaint doesn't point to the Treasury sanction of the guy who purportedly directed this plot. But it does feature the star plotter mentioning the allegation behind that Treasury sanction, presented from the interpretation the US government has spun. And then, within hours of rolling out this show, the government then points journalists to that Shalal-specific Treasury sanction.

Now, Arbasiar's allusion to what appears to be the Karbala plot is not fatal to this story. It's possible he really did learn of the Shalal's purported role from CNN (I can't find their report of the 2008 sanction on Google),

though that presumably would have been explicit about his role. It's possible that, in spite the fact that the government doesn't necessarily have proof on Shahlai, Shahlai was boasting of it to his cousin.

But I find it mighty curious that the only mention of the sanctions on Shahlai—ultimately, our government's target in the investigation—come from the star plotter and not the FBI itself.

TELLING STORIES ABOUT WHAT IRAN IS CAPABLE OF

As I've mused on twitter and in comment threads, I've started wondering who paid more for Scary Iran Plot, the US Government or (allegedly) Quds Force?

After all, it's clear that Narc offered up the idea to attack Adel al-Jubeir at a restaurant with explosives rather than, say, shooting him or poisoning him. Narc invented the fictional 150 civilians who would be at the restaurant. Narc invented the fictional Senators who might be killed in the blast. Narc said he could, "blow him up or shoot him," and Arbabsiar said, "how is possible for you." When Narc warned about those fictional casualties, Arbabsiar said, "if you can do it outside, do it" (though he clearly okayed collateral damage if necessary). Thus, even assuming there is nothing else funny about the plot, it's clear that Narc authored the most spectacular details of it, the ones that resulted in a terrorism and WMD charges rather than just murder-for-hire, and quite possibly the ones that made this an alleged act of war against the US, rather than just an attack on Saudi Arabia.

Even assuming the Iranians dreamt up this plot, the US wrote the screenplay for it.

So how much did each side pay to create this plot?

I'd put the Quds force tab at \$175,000. They allegedly advanced \$100,000 for some kind of plot—but refused to send any more money. And on July 17, Arbabsiar describes asking Shahlai for “another \$15.” Given that that happened in month 6 of a 9 month plot, I think it fair to estimate he was paid three installments of \$15,000, or \$45,000. Add in \$30,000 for Shukari's time, and you've got \$175,000. (It's not clear whether Arbabsiar paid for his international flights out of his advance, but I'll also leave out the much greater travel costs on the American side. Further, all this assumes we haven't paid in the past or agreed to pay Arbabsiar in the future for his part in the plot.)

The government, for its part, paid Narc to work Arbabsiar for at least four months. They paid Craig Monteilh \$11,800 a month to run around safe mosques to try to entrap aspirational terrorists in LA; I presume they'd pay more for an actual cartel member to risk his life as an informant in Mexico. But let's assume they paid the same rate they paid Monteilh, which would work out to \$47,200, remarkably, about what Quds Force allegedly seems to have paid Arbabsiar. In addition, we've got at least the time of Robert Woloszyn, the FBI Agent who wrote the complaint. He doesn't seem to have been Narc's handler, so you've got Narc's handler working long hours. In the press conference rolling out this case, Preet Bharara said two prosecutors, their two supervisors, the Deputy US Attorney, and the Acting Criminal head in NY “have [not] gotten much sleep lately.” In addition to SDNY, there was involvement from the Houston US Attorney and FBI offices, Houston DEA (which may be where Narc's handler worked), NY's JTTF. And all those intelligence personnel who played a critical role that we can't discuss (except in anonymous leaks to journalists). Now clearly, many of

these people were probably not personally involved in the crafting of a story that took alleged Quds Force intent to attack Saudi Arabia and turned it into the spectacular attack on a fictional restaurant in DC. But it's probably safe to say that the US Government paid as much to craft this plot as the Quds Force allegedly did, even before you account for the money spent surveilling Arbabsiar, Shahlai, and Shakuri before the plot as well as the money spent stopping it.

With that in mind, check out the language State Department Spokesperson Victoria Nuland uses to describe how other countries are receiving the State Department's efforts to persuade them to treat this plot as real.

Other countries are buying the basic idea of the plot, Nuland said, despite fairly widespread skepticism among Iran watchers about the likelihood the Quds Force would put such a clumsy plan into place.

"Countries may find it quite a story, but they're not surprised that Iran would be capable of something like this," she said.

It seems that our allies may be just as skeptical as many American observers that the Quds Force planned the precise plot that—it is clear—Narc's handlers wrote the screenplay for. But, Nuland says, they buy the basic idea of it—"they're not surprised that Iran would be capable of something like this."

We had to invent this entire screenplay—perhaps investing as much money or more as Quds Force allegedly did—to get our allies to agree that the Quds Force might engage in terrorism? Didn't they already know that?

(I sort of wonder whether our representatives are also asking our allies whether they think we're capable of assassinating nuclear scientists?)

Therein lies the problem with the American practice of using stings to craft the scariest terror story possible. If the sheer improbability of it makes the story less credible, if all it does is reinforce a widely held belief, then doesn't the theatricality of it work against the government?

SCARY IRAN PLOT: FOLLOW THE MONEY

A number of people—from MadDog to the Administration—have claimed that the money trail in the Scary Iran Plot is what makes it credible.

I'd like to lay out what the Administration showed in the complaint—as opposed to in its predictable trail of anonymous leaks that the Administration apparently believes can replace actual evidence—regarding the money trail. I actually find their anonymous claims that the money trail shows more damning details to be more believable than some of the other things they've said about this. But the most solid evidence described in the complaint—as I described here—shows money being delivered with no explanation into the hands of a person, Individual #1, and from there being sent to the US. Yet Individual #1 doesn't even appear to be Quds Force and was neither charged in the complaint nor sanctioned by Treasury.

Money was exchanged, but for *what*?

Before I lay out what the money details show, though, let's lay out the many possible operations the money paid for. According to Manssor Arbabsiar's confession, his cousin Abdul Reza Shahlai told him to go get drug traffickers to kidnap the Saudi Ambassador. Arbabsiar's confession says it evolved into a capture or

kill deal (though says it did so in conversations with Gholam Shakuri and Hamed Abdollahi, not Shahlai). The complaint also mentions plans of “attacking an embassy of Saudi Arabia” (Narc’s account of the May 24 meeting with Arbabsiar), for “a number of violent missions” (Narc’s account of purportedly unrecorded June-July meetings), “the murder of the Ambassador” (Narc’s account of purportedly unrecorded June-July meetings), and targeting foreign government facilities located outside of the United States, associated with Saudi Arabia and with another country [reported to be Israel]” (footnote 6 describing what Narc reported from these earlier meetings). The quotes from July 14 are ambiguous whether they refer to kidnapping or assassination of al-Jubeir. The quotes from July 17 include clear reference to killing what is presumably (thought not specified as) al-Jubeir. And note what the complaint rather damningly doesn’t mention, though Administration leakers admit?

The plotters also discussed a side deal between the Quds Force, part of Iran’s Islamic Revolutionary Guards Corps, and Los Zetas to funnel tons of opium from the Middle East to Mexico, the official said.

In other words, several things were being negotiated: the kidnapping and/or assassination of al-Jubeir, hits on embassies in Argentina, possibly some other horrible things, and drug deals. So we need to be careful to tie any payments to specific ops.

The use of two different codes in the taped conversations doesn’t make tying payments to specific ops any easier—the complaint mentions “painting,” or “doing” a building (September 2, 20, and October 4), which the FBI Agent interprets without stated confirmation in Arbabsiar’s confession as the murder, as well as the “Chevrolet” (October 5 and 7), which Arbabsiar’s confession says also referred to the murder (syntactically, though, the Chevrolet

sounds like a drug deal, while the building seems more closely connected to the murder).

Finally, a conversation on September 12 seems to suggest (though the FBI Agent doesn't interpret it this way) that Arbabsiar had presented Narc several choices of operations, and the plotters just wanted them to pick one to carry out. After insisting the price would be "one point five," Arbabsiar told Narc, for example, that he could "prepare for those too [two] ... but we need at least one of them" [ellipsis original]. He went on to say that if Narc did "at least one ... I'll send the balance for you" [ellipsis original]. Particularly given the two different codes—building and Chevrolet—it seems possible there were still at least two different operations (both Arbabsiar and Shakuri offer up the building, not the Chevrolet, when they are not being coached as the operation they're most anxious about). At the very least, this means that two months after the two meetings supposedly finalizing the plan for the assassination, both the price and the objective remained unclear.

No quoted passage ties the \$100,000, the \$1.5 million, and the assassination

Those two meetings—which do tie money to an attack on the Saudis—took place on July 14 and July 17. Before those meetings even started, however, the \$100,000 that was purportedly the down-payment for the al-Jubeir assassination had already been transferred to a middleman; Arbabsiar tells Narc that Individual #1 (who is not described in the same way the Quds officers are, and appears not to have been sanctioned with everyone else) got the "money at nine in the morning." The quoted passages definitely tie what appears to be the \$1.5 million to doing something with Saudi Arabia. "Take the one point five for the Saudi Arabia." That might be doing something with the Saudi embassy, though later in the same conversation Arbabsiar does confirm Narc's question that "you just want the main guy." Given the number of plots they were

discussing, that's not definitive that the \$100,000 was tied to the al-Jubeir plot at all, nor is it definitive that the "one point five" was the agreed upon payment for assassinating—as opposed to kidnapping—al-Jubeir. There is no quote that ties all these things together; but assuming the FBI Agent's interpretation is not really wacko, it does seem this conversation ties the money to some kind of attack on al-Jubeir.

The July 17 conversation—which with the July 14 conversation, includes one of two discussions of bank account numbers for the transfer—makes the focus on assassination much more clear. Narc pretends his guys are in Washington (meaning there's no doubt the attack in discussion was al-Jubeir rather than the Saudi Embassy in Argentina). And—in the sole quotations in the entire complaint that make it clear Arbabsiar was talking about assassination—in response to Narc's cue, "I don't know what exactly your cousin wants me to do," Arbabsiar says his cousin "wants you to kill this guy" and goes on to say that if necessary, collateral damage of citizens is acceptable.

Consider how laughable this deal-making is. On July 14, Narc gives his price for the job. Then on July 17, he's still looking for clarification about what the task really is! Nevertheless, the FBI seems to use the July 14 quotation as the definitive proof that a deal was done. I assume if Arbabsiar were really talking to Los Zetas, such sloppy deal-making would have already gotten him shot.

The whole connection between the money and the assassination here would be a lot stronger if the actual deal-making were shown, if the complaint explained how Arbabsiar came to ask for the \$100,000 in the first place, particularly given that the conversations at least appear to show that the final deal and even the ultimate target seem to have been decided after the down payment got sent to Individual #1 (and I'll suggest the later money

issues may derive from lack of clarity even among the parties). That said, these two conversations—if the conversation had indeed come to focus just on the assassination, though we don't know that it had—do seem to have tied the money to that killing.

The person who forwarded the money appears to be neither Quds Force nor sanctioned

Then there's the question of whether Quds fronted the money. The complaint goes to some length to describe that Shahlai and Shuktari were paying Arbabsiar's expenses, but given the general range of deals that got discussed and given that this whole process purportedly started in February, three months before the first conversation with Narc, I'm not sure that is a definitive tie to an assassination (particularly not the earlier chunk of money from Shahlai). And even the quote from the July 17 meeting describing Arbabsiar asking Shahlai for more money—which the FBI agent claims was tied to the assassination—includes no identification of it as tied to the assassination attempt.

I tell [Shahlai], give me just another fifteen. Just ... next morning they send one guy, you know, that work for [Shahlai]. He's like a colonel, the guy.

In fact, the passage doesn't even include a description of when Arbabsiar asked for and got this money, which is pretty telling given that Narc was still trying to clarify what was the intended operation on that day.

The description of the \$100,000 is more specific. The complaint describes the original transfer to Individual #1 (who as I noted above, is not described the same as the Quds Force figures and was not sanctioned by Treasury with the others) this way:

ARBABSIAR stated that the "money is [in] Iran," and that he [ARBABSIAR] had received a call indicating the money

would be at the house of a certain individual ["Individual #1"]. When Arbabsiar called Individual #1, "he [Individual #1] said he had it there" and that he [Individual #1] had received "the money at nine in the morning."

The quoted passages go on to describe what almost certainly constitutes a clear intent to launder the money (though it's not clear those methods were used in the actual money transfer, which seems to have been accomplished in two \$49,960 chunks).

Not only does this passage not tie the \$100,000 to QF, but even the person who called Arbabsiar to tell him Individual #1 would get the money was not described at all, and not in any way to tie him or her to QF. The complaint also doesn't say the the two different "Foreign Entities" from which the money was transferred have any tie to QF. Likewise, in the quoted discussions of Arbabsiar making sure Narc received the money, there's no indication of a tie to QF, to the assassination, or even to Shakuri. And even the complaint's description of Arbabsiar's confession (which does confirm these things) does not identify who approved the \$100,000, instead using the passive voice: "A down-payment of \$100,000 to [Narc] for the murder of the Ambassador was approved."

Passages showing Shakuri aware of down payment don't make sense

Now, in two of the three calls recorded while Arbabsiar was in custody, Shakuri seems aware that money has passed hands. But the tie of it to any murder relies on the syntactically odd treatment of Chevrolet as code for the murder. More importantly, the references are just bizarre (and since these are translations from Farsi, the confusion shouldn't derive from the speakers using a second language—English—as is possible in conversations between Narc and Arbabsiar).

Arbabsiar: This boy wants, uh, some money, he wants some expenditure. What do you say, should we give him some more? He wants another 50.

Shakuri: With you, no, you ... that amount is fine, [unintelligible] brought me another car. Tell him to finish his work, then we'll give him the rest.

[snip]

Arbabsiar: ...this Mexican ... keeps on insisting on the thing. He says, 'If-I need money, 50. I won't do the job if you don't pay.' And everything's ready.

Shakuri: Okay.

Arbabsiar: What do you say now?

Shakuri: I don't know. You guaranteed this yourself ... of course, if we give it, we'll give it to you. Okay? If he gives it, fine; if not we must provide the 100 [or] 50. Tell him [unintelligible] [emphasis mine, ellipses original]

Shakuri at first seems to approve another \$50,000, then seems to suggest they've already taken delivery of a different car—for whatever car means (Arbabsiar said it was code for the assassination, but given that there have been no known assassinations [update: this one, which the Saudis blame on QF, would be too early], this passage seems to raise questions about that). The next passage is even weirder: at first Shakuri suggests that if they were to give more money, they'd give it to Arbabsiar, not Narc. How would that help things? Then Shakuri suggests that if Narc doesn't "give it," which contextually should mean if Narc doesn't kill the Ambassador, then "we must provide provide the 100 or 50."

Now, in all the conversations where Arbabsiar (surely at the instruction of the FBI) is trying to get Shakuri to agree to more money, he only

says Narc wanted another \$50,000. So in spite of the fact that one explanation for this is Shakuri saying that if Narc held out, they might have to meet his demand, it doesn't explain why he'd have to pay Narc twice what he was demanding (unless Arbabsiar was being paid at a 100% cut on any job).

Another possibility is they've promised someone else to do the job or borrowed the money from someone. In which case, in response to a request for more money purportedly as a further down payment, Shakuri would be talking about paying some fourth party. In short, while Shakuri does seem to know some amount of money was forwarded, his discussion of it makes it sound less clear that QF provided the funding and that it was for the assassination, as opposed to one of the other deals being negotiated.

Is QF getting money from Iran ... or giving it to 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). QF is, as I understand it, the part of the Iranian government that bribes people like Hamid Karzai and the Taliban and presumably Shiite factions in Iraq. So while I consider this passage to be as unclear as the Shakuri passages, it at least

provides a hint that some third entity sponsored whatever happened here (and given the possibility this includes an opium deal, Afghans are a possible explanation).

Why was the FBI so intent on getting additional money transferred?

Finally, I'll leave you with this question. After the initial \$100,000 was transferred on August 1 and 9, Narc is described as making at least three requests that more money get sent: on September 20, October 5, and October 7 (plus a conversation on August 28 where providing a guarantee first came up, and a conversation on September 12 where Arbabsiar insists the number would remain the same).

The FBI went to great lengths—but failed—to get the plotters to send more money.

If the one transfer, the \$100,000, was such solid evidence, then why were they trying so hard to get another transfer?