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It took patience to set the trap in terror sting

Agents took their time, worried that too much information too soon would alert their targets

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ALBANY - In the eyes of the FBI, Yassin Aref was cunning and cautious. If the bureau's undercover informant was too aggressive and pulled out a shoulder-fired missile in front of him, Aref might see through the trap and the sting would be over.

So the agents were patient. They reeled him in slowly, ordering their informant to engage Aref in discussions on Islam and terrorism, and the profits it could bring, before flashing a less-sinister-looking missile-triggering device during a secretly videotaped meeting. That meeting took place in January 2004, six months after the FBI launched an undercover investigation that ensnared Aref and co-defendant Mohammed M. Hossain, 51, in a fictitious plot to launder money from the sale of the shoulder-fired missile.

On Tuesday, after a federal jury convicted both men of terrorism-related charges, questions lingered about the FBI's decision to never show Aref the missile launcher that was at the heart of its case.

"The whole thing unsettles me completely," said Aref's attorney, Terence L. Kindlon, who contends the FBI's informant never disclosed that the money he was loaning the two men came from the sale of a missile to terrorists. "There's never a connect between those two things," Kindlon said. "I had been hopeful that the jury was getting it. I really don't think they did."

FBI officials said their plan, by design, was to bait Aref with an opportunity to support a terrorism plot, but to do so cautiously. In a world where terrorists are trained to keep their sinister plots secret even from their mothers, an informant who is too obvious, too brazen, might be transparent. Aref was their "ultimate target," the person whose name was

discovered in terrorist encampments in Iraq and who the FBI believed could be a terrorist sympathizer. Yet not once during the yearlong sting was Aref ever shown the missile tube, easily recognizable to the average citizen as a potential weapon of mass destruction.

"There was a lot of debate on that issue," said an FBI agent, who spoke to the Times Union this week on the condition he not be identified. "You've read the transcripts." He said Aref told the informant to be careful not to talk to anyone.

If Aref saw the missile, the agent said, he may have been "spooked."

Another FBI official in Albany, who also spoke on the condition of anonymity, said whether Aref was shown the missile is meaningless to the case.

"If they didn't see a missile, even if they just believed they were doing this in furtherance of a terrorism plot, that's enough," the official said.

But whether Aref might run because he sensed danger or because he wanted no part of a plot to sell shoulder-fired missiles to terrorists is a question that might never be answered.

"I think that was the theme throughout it, throughout any of the discussions, the informant refused to state squarely that what he did was illegal," said Kevin A. Luibrand, Hossain's attorney. "He refused to say that and he always danced around it and gave different responses when he got close to describing what he was doing."

Aref was acquitted on 18 of the 27 counts related to the sting. According to the verdicts, his acknowledgment of the plot did not occur until about June 2004, when the informant had already met with him dozens of times, and months after Aref had been shown a missile triggering device the size of a shoe box.

Hossain, whom authorities said was targeted primarily because of his close relationship with Aref - and under a belief by FBI agents he would pull Aref into the plot - had been shown the shoulder-fired missile. The informant pulled it out in November 2003, several weeks before Aref was pulled into the scheme.

A grainy black-and-white photograph of that meeting, with the informant hoisting the weapon onto his shoulder, was shown to jurors and became an arguably insurmountable

hurdle for Hossain's defense.

The photo, in part, sparked Luibrand's decision to invoke an entrapment defense.

Hossain, who had no criminal history, was not predisposed to engage in such a sinister plot unless prodded by the FBI, Luibrand argued.

Aref's attorneys, meanwhile, contend he only witnessed a loan for Hossain, who co-founded the Central Avenue mosque where Aref had been the spiritual leader. Aref, they said, was unaware the \$50,000 cash being loaned to Hossain by the informant was coming from the sale of a missile launcher to terrorists.

Aref, a Kurdish refugee who spoke broken English, also testified he did not know what the word "missile" meant.

Assistant U.S. Attorney William Pericak, the lead prosecutor, said federal authorities are justified to call the shots on how blatantly a crime of opportunity is presented in a sting.

"They showed him the trigger mechanism and you saw how cool Aref was with the whole thing. He's calculating here, that's my belief," Pericak said. "He's trying to figure it out. He searched the informant twice for recording devices."

On Feb. 12, 2004, during a meeting when the informant's recording device had fallen off, one of the informant's most critical disclosures came when he warned Aref and Hossain about an impending missile attack in New York City. He told the men the missile launcher he had shown to Hossain, armed with the triggering device shown to Aref a month earlier, would be used by terrorists to assassinate a Pakistani diplomat outside the United Nations.

Aref claims he thought the informant was "crazy" so he didn't report it to the FBI. But a bystander who witnessed the exchange, and had been at Aref's house for dinner that night, testified Aref immediately patted down the informant looking for a recording device.

"He heard about the attack and did nothing," Pericak said, questioning what would happen if "a real terrorist showed up in Albany. ... I'm convinced that if one did, they both would have helped them."

Pericak said while sting cases might unsettle some people, authorities have to send a message.

"It's not just these guys, it's what happens tomorrow when a guy is somewhere and overhears someone talking about an attack," he said. "We want that person to call the FBI. If they call the FBI because they're a good citizen that's great, but if they call the FBI because they think this is a sting and they might get caught up in it, that's OK, too."

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WILLIAM PERICEK [11:32]: I think that uh again he was uh a senior member of the Mosque and if a real terrorist had come to Albany then he was just as likely to do what he did with Malik as he would have done with a real terrorist. So the percentage, would he have done that if somebody showed up? I think yes. Uh, how likely would it be that somebody would show up, I can't answer that.

REPORTER: What about Mr. Aref? Do you think, uh he was a terrorist or not?

WILLIAM PERICEK [11:59]: Well again you say was he a terrorist? Well, I think he had that ideology, I think he expressed the ideology that he supported Islamic causes, fundamentalist Islamic causes, he supported groups that would engage in terrorism. Did he actually himself engage in terrorist acts? Well we didn't have the evidence of that, but he had the ideology and I believe similarly to Mr. Hossain. If the opportunity were to have presented itself as a real terrorist instead of Malik, then certainly I think he would have availed himself of that opportunity to help too.

REPORTER: But when you started investigating and you found his name in the camps were you thinking then that he was an actual terrorist and did your investigation bare that out or not?

WILLIAM PERICEK [12:32]: Uh, our investigation was concerned with what he was gonna do here and in order to preempt any, anything else, we decided to to take the steps that we did take. So, I I don't know what woulda happened if we would have done some other course. As the SAC said if we had just put the information in the desk what woulda happened I don't know.

GLENN SUDDABY [19:23]: Hey, you can after I'm done. We'd be safer, how, sir? If if these individuals, if these individuals, had come into contact with the appropriate, you know, terrorists or people with the bent to do that in this country, today, we'da had a missile attack in New York City. There is no question about that. They assisted in that and they participated in that. Now, what would you have us do? Sit on our hands?

REPORTER: No sir. The argument they are making is that you need to find those, those people actually have means to get to get the weapons, not only weapons and would carry out this as opposed to a pizza shop owner and an imam who don't have those weapons and even if they are sympathetic, you know, are not actively plotting to bring down our government and tear down buildings.

GREG WEST [20:16]: That question presupposes that the only people who will help with a terrorist attack are the people who are going to participate in it directly. It fails to recognize that the terrorist organizations send people to countries in advance to lay the ground work. They they have a vast, vast network of people that they trust who can carry out whatever part of the operation necessary at whatever time they are asked to do that. Our job is to figure out who all of these people are in the United States and prevent that from happening.

REPORTER: Do you claim that Aref was one of those people or not?

WILLIAM PERICEK [20:47]: I would say that there is a concern that he is one of those people based on all the evidence that was uncovered in Iraq and all the additional evidence that was uncovered subsequently and that the sting preempted anything that might have happened later on.

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