

Canadian terrorism trials reveal use of entrapment by police and intelligence agencies

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Two ongoing Canadian terrorism trials provide fresh evidence of the state's use of informants and undercover agents to implicate vulnerable and often mentally unstable individuals in alleged terrorist plots.

In Toronto, the sentencing stage in what has been dubbed the VIA Rail terrorist trial is set to begin. The case involves Raed Jaser and Chiheb Esseghaier, who were arrested in 2013 and accused of planning to blow up a passenger train travelling from New York to Toronto.

Both were found guilty on multiple terrorism charges by a jury in March, amid claims from the prosecution and law enforcement authorities that a significant terrorist plot had been thwarted. The decisive evidence in the trial was provided by a Federal Bureau of Investigation (FBI) undercover agent, who went by the alias Tamer el-Noury.

However, the entire proceeding has been called into question following the determination of a psychiatrist that Esseghaier, a Tunisian national who came to Canada to study, is mentally unfit to participate in his sentencing hearing. Lisa Ramshaw testified in court that Esseghaier was "actively psychotic" and possibly even schizophrenic. "As a consequence of [Esseghaier's] psychosis—that is, his loss of touch with reality and his delusional beliefs—it is my opinion that he is not able to communicate and participate in the court proceedings," said Ramshaw.

While limiting her comments to the sentencing hearing, Ramshaw's finding calls into question the entire prosecution.

Esseghaier and Jaser were convicted largely on the basis of evidence supplied by the FBI undercover informant, who posed as a wealthy Egyptian with extremist views. He reportedly bought the two accused meals, drove them to scout potential targets, gave them cash and took them to a safe-house where he recorded conversations with them. This produced over 25 hours of audio which were presented at trial.

Esseghaier's behavior from the moment of his arrest and charge has been "erratic," as a Global News report puts it. He refused any legal representation at the trial, preferring to

defend himself. He then offered no defence whatsoever, proclaiming that he didn't recognize the court and he wished to be judged by the *Koran*. He later issued a statement to the jury advising them to prepare for Judgement Day and that the end of the world was close.

Jaser's lawyer has argued his client had no interest in extremism and was merely trying to extract money from the FBI informer.

No explanation has been provided as to why the state of Esseghaier's mental health was not raised at an earlier point in the proceedings despite what news reports have repeatedly termed his "bizarre" behavior. This is made even more peculiar by the fact that Esseghaier was homeless when he was arrested, and described by those who knew him as increasingly isolated socially.

Judge Michael Code has dismissed Ramshaw's psychiatric report, describing its approach as "erroneous." He has requested that a second doctor assess Esseghaier in prison.

Steps were taken throughout the trial to shield the FBI informant and prevent a critical examination of his version of events. In an unprecedented move, Judge Code barred the media from the courtroom during el-Noury's two-and-a-half weeks of testimony. The media was further barred from saying anything about el-Noury's testimony until the jury began deliberation and even forbidden to report the bans that had been placed on their reporting, including the media's exclusion from the court proceedings.

A CBC article made the following damning admission about the media's acquiescence to these bans: "These measures had been imposed by Judge Code at a pre-trial hearing last May (2014). Media were alerted beforehand, but none objected to the measures imposed."

Code adopted such measures on the basis of affidavits provided by senior Canadian and US police officials, who argued that the steps were necessary in the interests of ongoing terrorism investigations.

Citing the "sensitivity" of his work, el-Noury repeatedly avoided answering a question from the judge on how he met the accused pair.

In a separate case currently underway in British Columbia, John Nuttall and Amanda Korody were convicted of plotting a Canada Day 2013 bomb attack on the provincial legislature in Victoria.

However, defense lawyers are challenging the conviction, arguing that Royal Canadian Mounted Police (RCMP) officers entrapped Nuttall and Korody over several months. Korody's lawyer, Mark Jette, said in court that the RCMP officer involved in the case had the couple removed from their Richmond home because otherwise "they weren't motivated to do much of anything except play video games."

Vaz Kassam, the RCMP officer who took over the case a week prior to the couple's arrest, stated in court that other officers appeared frustrated because Nuttall and Korody were not making preparations for the alleged attack.

Jette argued further that Nuttall and Korody's poverty, social isolation, status as recovering heroin addicts and recent conversion to Islam were factors which had been exploited and manipulated by the RCMP.

The exploitation of vulnerable individuals by police and intelligence services has become common practice in recent years. Last year, a Human Rights Watch report identified what it described as a disturbing pattern of "discriminatory investigations, often targeting particularly vulnerable individuals (including people with intellectual and mental disabilities and the indigent), in which the government—often acting through informants—is actively involved in developing the plot, persuading and sometimes pressuring the target to participate, and providing the resources to carry it out."

Earlier this year, a study found that fully 60 percent of FBI-led terrorism charges in the US relied on the work of undercover informants. (See: Six Minneapolis Somali-Americans arrested in FBI terror "sting")

The Conservative government led by Prime Minister Stephen Harper is fully on board with such methods, as shown by its praise for the close collaboration between US FBI agents and Canadian authorities in the Via Rail case. This cooperation goes well beyond specific investigations. It includes the entire national security apparatus and military, as demonstrated by Canada's close integration into the US National Security Agency's global spying operations and US military interventions around the globe.

The fabrication and exaggeration of terrorist threats serves the political purpose of intimidating the population into acquiescing to the further erosion of basic democratic rights.

Esseghaier and Jaser were convicted in March, as parliament was debating Bill C-51, legislation now enshrined in law that, in the name of fighting terrorism, greatly expands the coercive powers of the state. The Via terror trial was cited as proof of the threat posed by

terrorism, which is critical to the government's narrative that Canada is a country under siege from Islamic extremism.

Among a vast array of new police state powers, Bill C-51 grants Canadian Security and Intelligence Service (CSIS) agents the right to break the law and violate Canada's Charter of Rights and Freedoms when disrupting the activities of individuals or groups deemed to be a threat to Canada's economic stability, national security, diplomatic interests, territorial integrity, or constitutional order.

CSIS's disruption powers are limited solely by the stipulation that in operations involving illegal acts they must obtain a judicial warrant from a secret court and cannot intentionally harm or kill anyone or violate their "sexual integrity."

The kind of entrapment operations used against alleged terrorists could therefore easily be expanded to cover a broad array of social and political opposition to the government's unpopular right-wing policies of militarism abroad and sweeping attacks on democratic and social rights at home. That this is not mere speculation is shown by the government's inclusion of threats to "economic stability" among those that CSIS is authorized to "disrupt." Repeatedly in recent years, the government has justified criminalizing strikes on the grounds they were the threatening Canada's "economic stability."

Bill C-51's vast powers are being wielded by organizations that have proven time and again their readiness to flout all legal restrictions on their activities. Beyond the use of sting operations, Canadian and US intelligence agencies play a leading role in the global spying network of the "five eyes," were complicit in the torture and rendition of so-called enemy combatants under the guise of the "war on terror," and in the case of CSIS, have systematically lied to the courts over a period of several years to cover up illegal and unconstitutional practices. (See: Canada's spy agencies lied to the courts)



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