

**Case 12: Herald Square**

John Mueller

June 3, 2011

In Brooklyn in 2004 a mercurial slow-witted and hot-tempered Pakistani immigrant, Siraj, and a schizophrenic homegrown American, both outraged at American foreign policy in the Middle East, teamed up with a police informant much older than they. He claimed to represent a spooky terrorist organization upstate run by “Brother Nazeem,” who would provide them with a bomb (perhaps as small as a soda bottle, they speculated, and designed to look like something innocent like a clock) to be planted in the Herald Square subway station by the conspirators (cleverly disguising themselves, perhaps, as Jews, with “ponytails” and all). The idea was that the little bombs might also somehow bring down the 13-level Manhattan Mall (formerly Gimbels) above the station, inflicting in consequence considerable economic harm. Preferably (depending on the mood of the talkative Siraj) this could be accomplished without killing anybody (except the homeless sleeping in the station), especially themselves.

There was no timetable for the attack (nor, of course, were there bombs or for that matter Brothers upstate). But at the point when the plot may have been falling apart, and concerned that the plotters might show up “with an AK-47 or something” (which they didn’t possess), the police arrested them.

In reviewing the evidence, Surili Sheth suggests that, absent the informant’s leadership and constant nudging, the two young and malleable conspirators would likely have continued dreaming up plans and animatedly expressing grievances simply because they liked having each other as friends, liked feeling important, and had common outrage against American policy.

The schizoid pled guilty, struck a deal, testified against his buddy, and got five years. The talkative Siraj didn’t and is scheduled to be released from jail in 2037.

## Case 12: Herald Square

Surili Sheth

June 3, 2011

typographical and other minor corrections November 18, 2011

### 1. Overview

On August 27, 2004, Shahawar Matin Siraj, 22, of Queens and the mentally unstable James Elshafay, 19, of Staten Island were arrested and charged the next day in Federal District Court in Brooklyn for conspiring to set off a bomb in the 34th Street subway station at Herald Square.<sup>1</sup> The arrest happened three days before the Republican National Convention, which was scheduled to occur only a couple of blocks away from the Herald Square Station. However, according to the New York Police Department, the arrest happened not because of any supposed connection between the plot and the Convention, but rather because of the unpredictable natures of the plotters.<sup>2</sup>

A confidential informant, alias Osama Eldawoody,<sup>3</sup> was involved in the case and recorded hours of tapes of conversations with Siraj and Elshafay. An undercover officer also recorded contacts with Siraj, though he was involved to a lesser extent and only in the beginning of the NYPD's investigation. Eldawoody made up the core of Siraj's defense case for entrapment.

The trial for Siraj started on April 24, 2006, after pretrial hearings. Siraj was offered a plea deal of 10 years but rejected it. After a trial that lasted one month, he was indicted on May 24, 2006 on four conspiracy charges including conspiring to blow up the subway station and conspiring to blow up a subway car.<sup>4</sup> He ended up being sentenced to 30 years on January 8, 2007.<sup>5</sup>

Elshafay pled guilty immediately after arrest and agreed to cooperate with the government. He was a witness for the prosecution during Siraj's trial. He was indicted after Siraj, and was sentenced to 5 years in jail on March 2, 2007 for conspiring to blow up the Herald Square subway station.<sup>6</sup>

### 2. Nature of the adversary

The 22 year-old Siraj is a Pakistani immigrant. In school in Pakistan, he had struggled to keep up with other students and had a very low IQ of 78, which falls within the borderline range of intellectual functioning and is surpassed by 93% of the general population. Although school officials at St. Paul's English High School in Karachi described him as "hard working," Siraj struggled very

---

<sup>1</sup> Alan Feuer and William Rashbaum, "2 Charged With Plotting To Bomb Train Station," *New York Times*, August 29, 2004.

<sup>2</sup> Christopher Dickey, *Securing the City*. New York: Simon & Schuster, 2009, 197-98.

<sup>3</sup> He testified with his real name, Osama Daoudi. William K. Rashbaum, "Subway Bomb Plot Suspect Tells of Confusion at Arrest," *New York Times*, January 25, 2006.

<sup>4</sup> William K. Rashbaum, "Terror Case May Offer Clues Into Police Use of Informants," *New York Times*, April 24, 2006.

<sup>5</sup> Dickey, *Securing the City*, 198; William K. Rashbaum, "Man Gets 30 Years in Subway Bomb Plot," *New York Times*, January 9, 2007.

<sup>6</sup> Associated Press, "Manhattan: Man Gets Five Years in Plot to Bomb Subway," *New York Times*, March 3, 2007.

consistently academically, with grades mainly in the 60's. He performed similarly at Karachi's St. Andrew's High School. According to the psychologist who evaluated him, Siraj's "skills are significantly limited. His thinking tends to be overly concrete, superficial, and overly simplistic." Siraj immersed himself in paying videogames and watching cricket until he was 17, when he finally left Pakistan. He claimed to have killed two people when living in Pakistan, but that assertion has not been confirmed. Siraj entered the United States illegally in 1999, perhaps from Canada, to join his parents and sister who had already immigrated to America legally. Siraj held various jobs in the U.S., including working as a Blimpie's deliveryman, a sandwich-maker at a grocery store, and a cell phone salesman. He also went to computer technician classes at the A-Technical Institute in Forest Hills, New York.<sup>7</sup>

Siraj's family are part of a religiously moderate sect of Islam called Ismailis, who are the followers of the Aga Khan and normally known for their hard work and moderation. This sect is "rarely if ever associated with violent jihad in modern times." However, strictly religious Sunnis and Shiites regard Ismailis as heretical. Siraj was mocked by his teachers in Pakistan. He was also sometimes beaten up by other children who called him an "Aga Khanna" and made fun of him for not being able to read or understand the Qur'an.<sup>8</sup> His family immigrated to the U.S. seeking asylum from politically radical Muslims who had been attacking them in Pakistan.

Siraj's parents said that he never seemed to be very devout and seemed to have little interest in Islam. However, in Bay Ridge, Siraj's uncle, Saleem Noorali, encouraged him to embrace Sunni beliefs and pray at the Islamic Society of Bay Ridge mosque.<sup>9</sup> His uncle also owned a store, Islamic Books & Tapes, next to the Bay Ridge Mosque, where he hired Siraj to work. It was here that Siraj started "poring over the tracts that lined the shelves or listening to tapes and watching videos, arguing with customers, praying in the mosque."<sup>10</sup> He became more like the Muslims that had tormented him back in Pakistan, becoming closer and closer to what could be called a self-taught fanatic.<sup>11</sup>

This was when Kamil Pasha, an undercover officer, met him. Siraj has been described as slow-witted and hot tempered, often expelling rants. When he described his personality to the psychologist, he said, "I get angry and upset...I used to get angry over small stuff. I would drink cold water and lay down for a few minutes..."<sup>12</sup> His mother, Shahina Parveen, said "My son is confused—too much pressure...he's like a small child. He's not grown up in his mind."<sup>13</sup> She said that her son was "immature based on his age." The psychologist said that he is "a relatively naïve, suggestible person." The Islamic Society of Bay Ridge's Zein Ramawi said he was "somewhat gullible and immature." Another associate

<sup>7</sup> NEFA Foundation, "The Herald Square Plot," March 2008.

<sup>8</sup> Dickey, *Securing the City*, 188.

<sup>9</sup> Robin Shulman, "The Informer: Behind the Scenes, or Setting the Stage?" *Washington Post*, May 29, 2007.

<sup>10</sup> Dickey, *Securing the City*, 188.

<sup>11</sup> Dickey, *Securing the City*, 188.

<sup>12</sup> NEFA.

<sup>13</sup> Shulman, "The Informer."

of his wrote to the court that he "...is a grown up child; he looks big in size but [is] substantially immature...naïve, and most of all trusting of others." Letters from Siraj's parents and sister to judge assert he is honest, sincere and non-violent.<sup>14</sup> During his trial, the defense portrayed him as a dupe that was very trusting, with his attorney referring to him as "not the brightest bulb in the chandelier."<sup>15</sup> They argued that he was fooled into embracing a plan that was hatched and driven by the NYPD's confidential informant for this case, Osama Eldawoody.<sup>16</sup> Footage from the tapes of conversations recorded by Eldawoody also demonstrated the limited extent of Siraj's capacity, comprehension, and analytical skills: On one recording, Eldawoody "makes a half-hearted attempt to explain the difference between neutron and biological weapons [to Siraj]. On another, Siraj asks if atomic weapons and nuclear weapons are the same." At one point, Siraj tried to explain to Eldawoody how they can alert their comrades that a bomb has been placed in the subway. "You have to call the brother, 'Hello, brother, I did my job, that's it. I deliver the pizza, O.K.'?"<sup>17</sup>

Siraj had been arrested on assault charges twice before the Herald Square Plot arrest.<sup>18</sup> The most recent occurred two months before the arrest. He had gotten into a fight with a customer at the bookstore where he was employed in a dispute over a phone card.<sup>19</sup>

Siraj can be described as socially marginalized, a born loser, lonely, unhappy, humiliated from his past, somewhat politically tuned-in, uneducated, outraged, and extremely malleable. In need of friendship and camaraderie, he became religiously fanatical, radicalized and self-recruited, though the informant certainly played a role in this process. Siraj, however, was without the skills, forethought, or really the capacity needed to perform any kind of a successful planned attack, though he saw himself as the planner of the Herald Square operation. Indeed, Siraj may have just been searching for a friend, or acceptance from an older mentor to whom he could relate. Eldawoody would have filled this void.

James Elshafay, 19 years old when arrested, is the American-born son of an Egyptian father and an Irish Catholic mother. His parents separated when he was two years old and he was raised primarily by his mother and aunt after that. His mother, aunt, and uncle all suffered from depression. Elshafay was taking medications prescribed for depression and schizophrenia.

When testifying Elshafay was questioned alternately about the plot and a life of sniffing glue, taking drugs and drinking as a young teenager.<sup>20</sup> He also

---

<sup>14</sup> NEFA.

<sup>15</sup> NEFA.

<sup>16</sup> Craig Horowitz, "Anatomy of a Foiled Plot," *New York Magazine*, May 21, 2005.

<sup>17</sup> William K. Rashbaum, "Reporter's Notebook; At Trial on Subway Bomb Plot, Informer Finishes Star Turn," *New York Times*, May 9, 2006.

<sup>18</sup> NEFA.

<sup>19</sup> Andrea Elliott, "A Terror Case That Resonates Close to Home," *New York Times*, March 6, 2006.

<sup>20</sup> William K. Rashbaum, "S.I. Man Describes Shattered Life, Then a Plot to Bomb a Subway Station," *New York Times*, May 10, 2006.

testified that a male relative had sexually abused him as a child.<sup>21</sup> He had delusions and was in a psychiatric ward in June 2004—just two months before his arrest for the Herald Square Plot.<sup>22</sup> He dropped out of school after failing to complete the ninth grade three times.<sup>23</sup> Elshafay tried to join the U.S. army, even getting a G.E.D. because it was a requirement, but he was rejected because the Army concluded that he had a personality disorder and was emotionally disturbed. He also failed a hearing test.<sup>24</sup> Cops described him as lost: “not in school, not working, and in some state of turmoil about his identity. His only friend other than Siraj seemed to be his mother, who, cops say, coddled him and drove him everywhere.”<sup>25</sup> “Big, ugly, awkward, and unstable, he didn’t fit in anywhere as he grew up on Staten Island.”<sup>26</sup>

Elshafay converted to Islam at the age of twelve at the insistence of his father.<sup>27</sup> In 2002, when he was 17, Elshafay went to Egypt to spend time with his father’s family and “came back to the States much more interested in learning about Islam than ever before.”<sup>28</sup> So, he had begun to develop a vague interest in his Islamic heritage about a year and a half before his arrest, growing a beard and starting to pray regularly.<sup>29</sup> He went to the Bay Ridge mosque and the bookstore next to it, where Siraj worked. Siraj was watching a tape that purported to show that the 9/11 attacks were really a plot by the United States government to justify a crusade against Arabs and Muslims in the fall of 2002.<sup>30</sup> Soon, according to the NYPD, “Elshafay regularly visited Siraj at the bookstore, looking to him for religious guidance. They would watch jihadi videos. Also, Siraj would give Elshafay books that claimed Jews were conspiring to take over the world economically.”<sup>31</sup> The informant, Eldawood, also nourished Elshafay’s growing piety.<sup>32</sup>

Elshafay was confused about his identity, did not have a job, and had virtually no friends other than Siraj.<sup>33</sup> He was socially marginalized, became religiously fanatical, and was uneducated. A born loser, he was lonely, in need of friendship and camaraderie, unhappy, psychologically unbalanced, determined, and malleable. The group he became a part of with Siraj and Eldawood may have filled a void for him, too. There was a significant age difference between Eldawood, who was over the age of 50, and the boys, who were 22 and 19, respectively, and a definite mentor-mentee relationship formed between Eldawood and the two young men. Siraj was probably “impressed by his

---

<sup>21</sup> Rashbaum, “S.I. Man.”

<sup>22</sup> Rashbaum, “S.I. Man.”

<sup>23</sup> Rashbaum, “S.I. Man.”

<sup>24</sup> Rashbaum, “S.I. Man”; NEFA.

<sup>25</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>26</sup> Dickey, *Securing the City*, 189.

<sup>27</sup> Mitchell Silber and Arvin Bhatt, *Radicalization in the West: The Homegrown Threat*, NYPD Intelligence Division, 2007.

<sup>28</sup> Dickey, *Securing the City*, 189.

<sup>29</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>30</sup> Dickey, *Securing the City*, 190.

<sup>31</sup> NEFA.

<sup>32</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>33</sup> NEFA.

[Eldawoody's] education, and clearly he liked the time and attention this fifty-year-old man devoted to him."<sup>34</sup> Siraj called Eldawoody "brother" at various times on the tape, and Eldawoody sometimes referred to him as "son."<sup>35</sup>

### 3. Motivation

Siraj and Elshafay seemed largely motivated by U.S. foreign policies in the Middle East and what they saw to be reprehensible treatment of Muslims by America. Some of their beliefs and notions of America targeting Muslims are also beliefs held by many in the Muslim community of Bay Ridge.

Siraj was deeply disturbed by wars in the Middle East and reports of abuses by US soldiers.<sup>36</sup> The news on television about former President Bush's war in Iraq only served to make him more enraged, as did documentaries like *Fahrenheit 9/11* and *Illuminazi 9-11*. "While American coverage was all about victory, what Siraj could read and see from Muslim sources was all about victims."<sup>37</sup> Siraj was especially angered by reports of American support for Israel, the invasion of Iraq, and prisoner abuse at Abu Ghraib. He was haunted and angered by a story he had heard about the sexual abuse of a 13-year-old Muslim girl by U.S. troops.<sup>38</sup> A picture of a dog purportedly raping a handcuffed Iraqi girl particularly tormented him. He admitted to his psychologist, "I exploded and I couldn't take it. I couldn't take it. I couldn't see the rapes." He told Eldawoody, the confidential informant, that "if we do not attack the Americans, they will keep on harming Muslims." Siraj testified in court that he "was just trying to save the people who were dying in Iraq."<sup>39</sup>

Kamil Pasha, the undercover detective who had become acquainted with Siraj, testified that he and Siraj had discussed news reports warning that al-Qaeda operatives were entering the US illegally from Canada, and Siraj said that he was happy they were here and hoped they blew up the city and the American people. Siraj also defended the suicide bombings in Palestine, saying they were acts of revenge committed by people whose family members had been raped and killed. Pasha further reported that Siraj had stated that if anyone did that to his family, he would "do the same thing, meaning a suicide bomb."<sup>40</sup> Throughout the tapes that Eldawoody recorded later and were played during Siraj's trial, Siraj praised Osama bin Laden and the 9/11 attacks and repeatedly talked about killing Jews.<sup>41</sup> According to the NYPD, as Siraj's fundamentalism deepened, the Islamic bookstore "became his venue for transferring his Salafi-like mindset to his perception of global issues."<sup>42</sup> Siraj's motivations for committing an act that he

<sup>34</sup> Dickey, *Securing the City*, 189.

<sup>35</sup> Dickey, *Securing the City*, 189.

<sup>36</sup> Shulman, "The Informer."

<sup>37</sup> Dickey, *Securing the City*, 190.

<sup>38</sup> Shulman, "The Informer."

<sup>39</sup> NEFA.

<sup>40</sup> William K. Rashbaum, "Undercover Officer Testifies in Bomb Plot Trial," *New York Times*, May 18, 2006.

<sup>41</sup> William K. Rashbaum, "Closing Arguments in Trial of Subway Bombing Case," *New York Times*, May 23, 2006.

<sup>42</sup> NEFA.

saw harmful to America are therefore clear. While he was becoming more and more extremist in his religious thought, he was hearing and reading more and more about American ill treatment of Muslims. He was angered by American policies toward Muslims and the Middle East.

After September 11, Elshafay attacked protesters on Staten Island who were carrying signs that he claimed read “Kill Arabs” and “Kill Arab Babies,” written on the back of God Bless America signs, and was angered that the Feds did not do anything about it.<sup>43</sup> Elshafay was also a schizophrenic and was on medication for anxiety. Eldawoody nourished Elshafay’s religiousness on his path to extremism. Thus, Elshafay’s mental instability coupled with his growing religiousness and views about America’s attack on Muslims drove his motivations to plan a terrorist plot against America.

Together, Siraj and Elshafay were motivated by anger over American foreign policy in the Middle East, the war in Iraq, and abuse by American soldiers of Iraqi prisoners at Abu Ghraib.<sup>44</sup> Siraj and Elshafay seemed to hate America because of what they believed to be its actions, rather than hating the society and people in general. They also had a mentor with whom they both seemed to identify and from whom they received religious guidance and affirmation.

#### 4. Goals

Siraj and Elshafay eventually settled on the goal of bombing the Herald Square subway station in order to economically harm America. Siraj specifically stated that he wanted to kill as few people as possible.<sup>45</sup> However, at another point, he said, “I want at least 1,000 to 2,000 to die in one day.”<sup>46</sup>

#### 5. Plans for violence

The Herald Square plot came about after many discussions between the three men. When he was introduced to the informant, Eldawoody, by Siraj in April 2004, Elshafay had a handwritten wish list of possible targets to attack. In addition to the 34th Street subway station, the list included the station at 59th and Lexington, a 42nd Street station, the Verrazano Bridge, a Staten Island jail, and three police precincts on Staten Island—the 123rd in Tottenville, the 120th in St. George, and the 122nd in New Dorp. He also had a crudely drawn map of the targets and gave this to Siraj, who then showed it to Eldawoody. “Are you crazy?” Eldawoody said, “You’d better get rid of that.” Siraj stuck the map between some volumes on a shelf in the bookstore.<sup>47</sup> He had this map in his pocket when he was arrested.

Elshafay had earlier conceived a plot to blow up the four bridges linking Staten Island to Brooklyn and New Jersey and had drawn a map. He abandoned his plan, however, when Eldawoody told him that the fictional terrorist group he had a connection with found it to be too complicated. Eldawoody steered the plot

<sup>43</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>44</sup> Rashbaum, “S.I. Man.”

<sup>45</sup> Elliott, “A Terror Case That Resonates Close to Home.”

<sup>46</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>47</sup> Horowitz, “Anatomy of a Foiled Plot.”

in its final direction.<sup>48</sup>

Siraj admitted upon arrest that the plan to bomb the subway station was his.<sup>49</sup> He also hoped possibly to bring down the Manhattan Mall above it, thus causing more economic damage. This particular location came after many other targets and plans were discussed, and it was decided upon after considerable nudging from the informant. Whether or not this “nudging” was sufficient to claim entrapment is worth considering.

Eldawoody started recording tapes in June 2004, six or seven months after he had befriended Siraj and a couple of months after he had befriended Elshafay. During Siraj’s trial, these tapes showed a jury the extent of the plans for bombing the Herald Square subway station. How much of Siraj’s intent was urged or planted by informant Eldawoody before incriminating tapes were recorded is debatable.<sup>50</sup> Furthermore, the recorded conversations between Eldawoody and Siraj also show Siraj’s hesitation in going through with the plot.

The men twice conducted the surveillance of the subway station, drawing diagrams of the entrances and exits.<sup>51</sup> Siraj told Eldawoody that he had masqueraded before as a homeless man to examine the security in the subway station and look for surveillance cameras. “I cannot find no security over there, it’s impossible,” he says in one of the recordings. “If there is no security, it means there is high security over there. No security means high security. That’s a trap.” Siraj then said he would shave his beard and wear New York Yankee apparel to disguise himself for a later surveillance mission.<sup>52</sup>

On the tapes, Siraj also told Eldawoody that he expected that a blast in the subway station would bring down Manhattan Mall on street above. However, in another tape, Siraj suggests that the bomb could be as small as a bottle of soda tossed into a garbage can on subway station’s platform—this could either indicate that he was not planning a bomb that would create an explosion large enough to bring down the Manhattan Mall, or that he simply did not realize bombs that small would not have enough power to bring down the Mall. Siraj also said that he only wanted to bomb the station in the early morning hours so as to cause only economic damage and kill as few people as possible—although he was willing to let the explosion kill homeless people who spend the night there.<sup>53</sup>

Siraj had “sometimes rambling, disjointed, and often angry statements, which also suggested that he has a grandiose view of his own talents as a terrorist plotter. In fact, he offered a critical assessment of al-Qaeda, saying its members carry out suicide attacks because they are poor planners.”<sup>54</sup>

The tapes demonstrate, then, a lot of contradictions in the “plan” and they also may demonstrate how much Siraj liked to talk about and discuss these plans. It is possible that he just loved discussing these master plans, being seen as a

---

<sup>48</sup> Rashbaum, “S.I. Man.”

<sup>49</sup> Rashbaum, “S.I. Man.”

<sup>50</sup> On this issue, see also the discussion for Case 38.

<sup>51</sup> William K Rashbaum, “Terror Jury Hears Talk of Bombing Subway Stop,” *New York Times*, April 27, 2006.; Feuer and Rashbaum, “2 Charged.”

<sup>52</sup> Rashbaum, “Terror Jury.”

<sup>53</sup> Rashbaum, “Police Informer.”

<sup>54</sup> Rashbaum, “Terror Jury.”



planner, having the respect and attention of an older, educated man, and being included in a group of friends—an experience which he had never had before.

On August 21, 2004, Eldawoody picked up Elshafay and Siraj in his beige Toyota to take them on this reconnaissance mission. During the car ride, the three men talked about the Verrazano-Narrows Bridge, and they decided it would be better to blow it up at another time. In anticipation, they spent time “in a lively back-and-forth about the best place to plant explosives on the bridge to ensure the destruction of the entire span.”<sup>55</sup> They arrived at Madison Avenue and 30th Street and decided to split up to avoid detection, and each entered the 34th Street station using a different entrance.<sup>56</sup> Siraj “disguised” himself by wearing a do-rag and baggy jeans. He did not want to “look Arabic.” Instead, he decided he wanted to “look hip-hop, like a Puerto Rican.”

Two days later, the three men got together to give shape to attack plan. This was one week before the Republican National Convention. Eldawoody told Siraj and Elshafay that the made-up “Brotherhood” he had told them he was in contact with would provide backpacks and bombs, and that they were “very, very happy, very impressed” with the plans. However, the idea of blowing up the Verrazano Bridge was “a little bit complicated,” he said, and “needs a nuclear bomb, not a regular bomb.” Since those weren’t available around the area, the bridge destruction “will be later.” However, “Thirty-fourth Street is on.”<sup>57</sup>

At this point, when the plans had finally started to seemingly go in the direction of becoming more concrete, Siraj very clearly started to back out. On the tapes, he said “Hmmm, tell him [the Brotherhood contact] that we are very careful about people’s lives. Have you told him this?” He also said, “No killing, only economy problems. I’m going to work as a planner.” When the informant asked him if he was okay with it, Siraj responded, “I have to, you know, ask my mother’s permission.” Finally, Eldawoody asked, “are you willing to do jihad?” And Siraj responded again that he would think about being a planner for the Brotherhood, but “dropping the bomb? I’m not sure. I have to think about it. Give me some time to feel comfortable with it.” Eldawoody said in response, “Okay, I’ll tell them that, because they were depending on you the most at Thirty-fourth Street station.” The informant went on to reassure Siraj that he would not be alone—there would be two people placing the bomb in a garbage can. The informant’s nudging to Siraj can clearly be seen in this conversation. At the end of the reassurance, however, Eldawoody added, “whatever makes you comfortable.” This was the point when Siraj backed out of placing the bombs completely. “I already gave the brothers the idea. They liked it, right? But the thing is, I will not be the person who puts it in the garbage can. Because if somebody dies, then the blame will come on me. Allah doesn’t see those situations as accidents.” In response, Eldawoody asked, “So you are out of jihad?” Siraj responded, “Planning is also jihad, brother.”

At this point, Elshafay stepped in and asked, “am I going to do Thirty-fourth Street?” Eldawoody said, “yes.” Elshafay started to back out of the plan at

<sup>55</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>56</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>57</sup> Dickey, *Securing the City*, 194.

this point as well. “Can they [the Brotherhood] maybe get someone who is more trained to do this?” Siraj chimed in, “we’re new. We don’t even know what we are doing. We only know that I made the plan and we are working on the plan.” Elshafay said, “If I’m going to do Thirty-fourth Street, I want to go there a few more times. I want to check it out a little more. And if they can get someone better qualified than me to do it, then I think they should, because I’m not really experienced in this and might not know what to do. Is that okay?” Finally, Eldawoody backed down, saying, “Okay. Whatever you feel. Whatever.” This, however, apparently prompted Elshafay to step up again, perhaps feeling guilty about letting the mentor down: “I’ll do it,” he said. He detailed how he would “dress as a Jew” to avoid suspicion. Finally, when Eldawoody asked Siraj if he wanted any part in the Thirty-fourth Street plot, Siraj changed the subject.<sup>58</sup>

On August 27, 2004, Siraj and Elshafay were arrested. This was three days before the start of the Republican convention, though whether there was any relationship between these two events is unclear. Siraj was “quietly picked up a couple of blocks from Islamic Books and Tapes.” Since he had an assault case pending against him, the police used it as a lure, calling him and asking him to come to the 68th precinct in Bay Ridge at three o’clock to get the case closed out. Siraj said fine, but when he left work at the bookstore that Friday afternoon, he was heading in the opposite direction, so the cops grabbed him, not taking any chances.<sup>59</sup> Elshafay was sitting on the steps of the Noor Al mosque on Richmond Terrace when he was arrested.<sup>60</sup> Eldawoody had already left town because he had been notified of the men’s arrest beforehand.<sup>61</sup>

Though there was no timetable for the attack, Police Commissioner Raymond W. Kelly gave the reason for the date of the arrest of the two men after the trial: “These guys went out, they drew maps of the police stations in Staten Island, in Fort Wadsworth, they go to the Forty-second Street subway station, they go to Herald Square subway station...then he [Siraj] doesn’t want to kill people. And then he wants to kill people. We didn’t know if this guy was going to show up with an AK-47 or something, so we grabbed him.”<sup>62</sup>

When arrested, Siraj and Elshafay had diagrams of the subway station and two maps of police precincts and bridges on Staten Island.<sup>63</sup> Siraj admitted after his arrest that the plan to bomb Herald Square station—one of many targets discussed during several conversations recorded by informant—was his idea.<sup>64</sup> When testifying in federal court, however, Siraj said that when he was being interviewed by two federal prosecutors, an FBI agent, and two New York police detectives, he talked to the prosecutors because he thought one of them was his own lawyer and he didn’t understand his Miranda rights even though he signed a form waiving them.<sup>65</sup> He also said that he was not allowed to make a phone call

<sup>58</sup> For the transcript of this conversation, see the Appendix.

<sup>59</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>60</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>61</sup> Shulman, “The Informer.”

<sup>62</sup> Dickey, *Securing the City*, 198.

<sup>63</sup> Rashbaum, “Confusion at Arrest.”

<sup>64</sup> Rashbaum, “Terror Case May Offer Clues Into Police Use of Informants.”

<sup>65</sup> Rashbaum, “Confusion at Arrest.”

until the questioning was over.<sup>66</sup>

Elshafay began cooperating with prosecutors shortly after his arrest and testified against Siraj.

Siraj and Elshafay clearly had no idea what they were doing, even admitting this fact during their conversations with Eldawoody, who certainly nudged forward many of the plans, including the final location decision. Siraj and Elshafay never actually got to the point of committing violence, and there was definitely no prospect of suicide—on one recording, Siraj said he didn’t want to make a martyr of himself because he wanted to be able to keep carrying out attacks.<sup>67</sup> However, after Siraj’s sentence was handed down prosecutors Todd Harrison and Marshall L. Miller said that “he knew exactly what was going on and was the initiator of all the steps.” Harrison added that Siraj came up with the plan, conducted surveillance of the station on his own and directed how the bombers should dress, where the bomb should be placed, and what their escape route should be.<sup>68</sup>

Whether or not these plans would have eventually come to fruition could have depended on whether Siraj and Elshafay could have recruited someone competent, skilled, and trained. Then perhaps an attack, however idiotically planned, could have happened. There are many factors that make this possibility highly dubious. Siraj and Elshafay could have reached out to befriend someone else who had radical thoughts, much in the same way that they did with each other. It seems very unlikely, however, that a skilled terrorist planner would seek either Siraj or Elshafay out, as they had no skills and no capacity. Siraj also had a high propensity to back out, and Elshafay also seemed to consider backing out. They had no training and there was a very low prospect of suicide, also evidenced by the last recording in which Siraj said he had no intention of getting killed.

Elshafay, who was mentally unstable, was unpredictable. The tapes recorded by Eldawoody illustrated that he was willing to place the bombs in the subway station when Siraj showed signs of backing down. If this particular plan had not worked, it is possible that he could have found other means of terrorism, as the NYPD was concerned about. However, it seems highly unlikely that the plans for terrorism involving Siraj and Elshafay would have gotten to the point that they did without the informant’s hand in egging them on. It is also highly plausible that the men would have just continued “discussing” plans simply because they liked having each other as friends, liked feeling important, and had common grievances against America.

## 6. Role of informants

There two informants in this case.

Kamil Pasha was an undercover Muslim cop who first came across Siraj’s anti-American rants during his work on other cases. He reported these and provided testimony that undercut the defense argument that Siraj was not

---

<sup>66</sup> Rashbaum, “Confusion at Arrest.”

<sup>67</sup> Rashbaum, “Reporter’s Notebook.”

<sup>68</sup> Rashbaum, “Man Gets 30 Years.”

predisposed to violence before he met Eldawoody.<sup>69</sup>

Kamil Pasha is a pseudonym, and he never revealed his real name in court because he was still working undercover during the time that he testified. His appearance in the trial against Siraj was the first court testimony that he had ever provided.

He was born in Bangladesh and was 23 years old when he met Siraj. He moved to America at the age of seven. He graduated from John Jay College of Criminal Justice and was halfway through the police academy in October 2002 when he was pulled out for an assignment with the Special Services Unit, the undercover operatives of the Intelligence division of the NYPD. He was assigned to live in Bay Ridge, get to know people, and to be a kind of walking surveillance camera; he was to “observe, be the ears and eyes” of the NYPD in the community, and his contact with the police department was kept to an absolute minimum. He moved into a neighborhood full of Muslims in Bay Ridge in the fall of 2002. Pasha fit right into the community—“he looked and talked and pretty much thought like a lot of other people there. He prayed like them. He believed like them. And they found it easy to believe in him as an innocuous neighbor. He was an easy fit.”<sup>70</sup>

Approximately three weeks after he moved to Bay Ridge, Pasha started hanging out at the mosque and bookstore and getting to know Siraj, after the terrorism hotline run by the police had gotten calls about Siraj mouthing off about wanting revenge for what was happening to Muslims in other parts of the world.<sup>71</sup> The police thought Siraj was worth keeping an eye on because he was apparently careful about when he spoke his mind, only venting in front of people he believed he could trust.<sup>72</sup> Siraj started to think of Pasha as a friend.

In the course of their conversations, Siraj said it was good that there were suicide bombers in Israel, and that he would do the same thing if anyone treated his family badly. He said the U.S. had to feel the pain it inflicted on the rest of the world, which was why Osama Bin Laden was such “a talented brother and a great planner.” He told Pasha that he hoped Bin Laden was planning “something big for America.”<sup>73</sup> Pasha also testified that Siraj said that America would be attacked again soon, saying “the mission was not completed on 9/11” because “Wall Street was not attacked.”<sup>74</sup> Over the course of many months, Pasha wrote up seventy-two contacts with Siraj.<sup>75</sup>

Osama Eldawoody, 50 years old in 2006, was a paid informant who regularly attended the Bay Ridge mosque on assignment from the NYPD. He has a bachelor’s degree in nuclear engineering from Alexandria University in Egypt and came to the United States in the mid-1980s. Unable to find work as an

---

<sup>69</sup> William K. Rashbaum, “Trial Spotlights Undercover Contact With Bomb Plot Suspect,” *New York Times*, May 17, 2006.

<sup>70</sup> Dickey, *Securing the City*, 187.

<sup>71</sup> Dickey, *Securing the City*, 187.

<sup>72</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>73</sup> Dickey, *Securing the City*, 188.

<sup>74</sup> William K. Rashbaum, “Undercover Officer Testifies in Bomb Plot Trial,” *New York Times*, May 18, 2006.

<sup>75</sup> Dickey, *Securing the City*, 189.

engineer, he struggled, first as an ice cream vendor and taxi driver and later in the restaurant business and real estate in New Jersey.<sup>76</sup> He has “small, pale eyes, badly yellowed teeth and a tendency to gesture wildly and wander conversationally.”<sup>77</sup> These tendencies seemed to jibe quite well with those exhibited by Siraj and Elshafay, as suggested by conversations between them and Eldawoody.

Eldawoody’s career as an informant began after he was first questioned himself by the FBI and later by the police. An anonymous caller had identified him as a threat after 9/11, then someone else called the police when eight boxes were delivered to his house on Staten Island. Eldawoody said that he was discriminated against by the authorities but ended up volunteering to help NYPD conduct more effective investigations inside New York City’s Muslim community.<sup>78</sup> He claims that he began working as an informant to protect his new country.<sup>79</sup>

Eldawoody officially became paid informant in Bay Ridge in July 2003 for the NYPD’s Intelligence Division. He had shown before that he was willing to work with authorities—he wore a wire and helped bust a corrupt building inspector who had demanded bribes in New Jersey.<sup>80</sup> At first, Eldawoody was dispatched to mosques and cafes and told to keep his “eyes and ears open for any radical thing.”<sup>81</sup> He did this for several months.<sup>82</sup>

The imam of the Bay Ridge mosque said that Eldawoody claimed that his father was a famous Egyptian sheik, and he was known at the mosque for his passion for his beliefs. He was known for weeping when he prayed and openly complaining when strangers came to the mosque, especially those that were not Muslim. He also smoked—a habit that Siraj encouraged him to quit. According to the imam, Eldawoody said that Americans might fear him because he had a PhD in nuclear engineering and complained that FBI wanted to search his home. He introduced himself to people by saying, “my name is Osama, like Osama bin Laden.”<sup>83</sup>

Zein Rimawi, a member of the board of the Islamic Society of Bay Ridge, believes that Eldawoody’s original “target” was actually the imam. Eldawoody told the imam that he was a real-estate developer, but because he was new to the community, people did not trust him and asked the sheik to be his partner, saying that he would not have to do anything except let Eldawoody use his name and they would split the profits.<sup>84</sup> This shows that Eldawoody obviously needed money, and was very possibly trying to entrap the imam. According to Rimawi, it

---

<sup>76</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>77</sup> Shulman, “The Informer.”

<sup>78</sup> Elliott, “A Terror Case that Resonates Close to Home.”

<sup>79</sup> Rashbaum, “Terror Jury.”

<sup>80</sup> Shulman, “The Informer.”

<sup>81</sup> William K. Rashbaum, “Informer in Bomb Plot Trial Tells of His Visits to Mosques,” *New York Times*, May 2, 2006.

<sup>82</sup> Shulman, “The Informer.”

<sup>83</sup> Andrea Elliott, “Between Two Worlds in Brooklyn; To Lead the Faithful in a Faith Under Fire,” *New York Times*, March 6, 2006.

<sup>84</sup> Horowitz, “Anatomy of a Foiled Plot.” See also Elliott, “Between Two Worlds.”

was after the imam turned him down twice and told Eldawoody to not come see him anymore, that Eldawoody “turned his attention to Siraj.”<sup>85</sup>

After getting reports about Siraj for months, the NYPD began to investigate the location.<sup>86</sup> After Eldawoody became a regular at the Bay Ridge Mosque prayers, he started visiting the bookstore next to it where Siraj worked, and the two started to become friends.<sup>87</sup> The “odd seduction” began around Ramadan.<sup>88</sup> Eldawoody often gave Siraj a ride home to Queens, and they talked for hours. They attended prayers at the Islamic Society of Bay Ridge mosque together and had several conversations in Eldawoody’s car. “They talked about the world, Islam, conspiracies against Muslims, and more and more about jihad.”<sup>89</sup> Over time, Siraj asked him about making bombs and provided him with a CD-ROM that had instructions on how to make conventional explosives.<sup>90</sup> When the talk turned toward the idea of planting a bomb, Eldawoody said, “I told them, ‘I believe it’s time to record.’”<sup>91</sup>

After Siraj introduced Elshafay to Eldawoody, the latter found that religion was an easy way for them to bond, and Eldawoody nourished Elshafay’s growing piety. They went to the mosque and prayed together. Eldawoody took him to a shop on Atlantic Avenue to buy his first kufi. He bought him an English translation of the Koran. He recommended books for Elshafay to read, like those by Abu Hanifah, a seminal Islamic scholar who died in 767 and is considered one of the greatest imams in Muslim history.<sup>92</sup> Furthermore, Eldawoody told Elshafay that his imam gave him a fatwa—a religious ruling that would allow the killing of soldiers. During the trial, Elshafay admitted that it was partly because of this fatwa that he agreed to get involved with the plot.<sup>93</sup> Eldawoody very plausibly aided in the radicalization of the younger men, who saw him as their leader.

Eldawoody only started wearing a wire and recording all conversations with Elshafay and Siraj in June 2004, six to eight months after he started to get to know Siraj, and a couple of months after he started to get to know Elshafay.<sup>94</sup> Secretly, Eldawoody recorded audio and/or video footage of roughly 24 conversations—over 30 hours worth—about the plot during summer 2004.

The nature of Eldawoody’s involvement in this case as an informant was unusual. Police Commissioner Raymond Kelly said, “usually you have a CI [Confidential Informant] who makes the first contact, and the CI introduces a cop, because the cop is able to give better testimony and it’s usually less dangerous for him. But here we had the cop, undercover, basically turning it over to the CI...Eldawoody had a kind of avuncular style that I think just kind of blended with this kid. And he had a relationship with the mosque, and it was just a more

<sup>85</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>86</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>87</sup> NEFA.

<sup>88</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>89</sup> NEFA.

<sup>90</sup> Rashbaum, “Police Informer.”

<sup>91</sup> Shulman, “The Informer.”

<sup>92</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>93</sup> Rashbaum, “S.I. Man.”

<sup>94</sup> Horowitz, “Anatomy of a Foiled Plot.”

comfortable fit.”<sup>95</sup>

Eldawoody met Siraj in September 2003 at the bookstore; however, there are no recordings of their early conversations—the only evidence that preserves any of it is in the NYPD’s Terrorist Interdiction Unit files.<sup>96</sup> There was very possible entrapment and encouragement on Eldawoody’s part of Siraj’s extremism and terrorist tendency. Eldawoody testified that when he told Siraj about his bachelor’s degree in nuclear engineering from Egypt, Siraj began to ask him whether he knew how to design a nuclear bomb or a “dirty” bomb, and whether he could obtain nuclear materials.<sup>97</sup> However, Siraj’s lawyer, referring to police notes in court, suggested that Siraj had just asked Eldawoody why he did not work as a nuclear engineer, and Eldawoody told Siraj that he was capable of creating a dirty bomb.<sup>98</sup> In another incident, Eldawoody allegedly showed Siraj inflammatory pictures, including photographs of American soldiers abusing inmates at Abu Ghraib prison in Iraq—one of Siraj’s major motivations for wanting to plot something against America.<sup>99</sup> Siraj’s mother, Shahina Parveen, said that he had shown Siraj the pictures. However, Eldawoody says Siraj actually showed him the pictures. Finally, according to Mrs. Parveen, he claimed to be battling liver cancer and told Siraj that Jewish doctors at a hospital in New York had refused him treatment because he was Muslim.<sup>100</sup>

Siraj obviously looked up to Eldawoody. Siraj referred to the informant as “brother” many times, and Eldawoody referred to Siraj as “son” on tapes. Eldawoody’s handler wrote in his notes that the informer found Siraj to be “impressionable.”<sup>101</sup> It was Eldawoody who suggested getting uranium-235 and using a remote-controlled detonation. He was also the one who suggested obtaining nuclear materials from the Russian mafia. “Oh, we can’t find it over here, like in Florida?” asked Siraj, who then suggested looking for nuclear materials near the Rocky Mountains, or calling Pakistani nuclear scientist Abdul Qadeer Khan for advice.<sup>102</sup>

In particular, Eldawoody led Siraj and Elshafay to believe that he was a member of a fictional Muslim “Brotherhood” that would provide them with the explosives for the attack. Eldawoody very plausibly aided in the radicalization of the younger men, who saw him as their leader.

Martin Stolar, Siraj’s lawyer, said in arguing for entrapment, “the problem here is the firebrand who stirred the pot is a government agent, not some stranger or imam. And the law does not allow the government to create a crime; it is just not permitted. That is why the defense of entrapment exists.”<sup>103</sup> He also made the

---

<sup>95</sup> Dickey, *Securing the City*, 191

<sup>96</sup> Shulman, “The Informer.”

<sup>97</sup> William K. Rashbaum, “Police Informer in Terror Trial Takes Stand,” *New York Times*, April 25, 2006.

<sup>98</sup> Shulman, “The Informer.”

<sup>99</sup> Elliott, “Between Two Worlds”.

<sup>100</sup> Elliott, “Close to Home”

<sup>101</sup> Shulman, “The Informer.”

<sup>102</sup> Shulman, “The Informer.”

<sup>103</sup> William K. Rashbaum, “Closing Arguments in Trial Of Subway Bombing Case,” *New York Times*, May 23, 2006.

point that just because Siraj said that he could understand suicide bombings in Israel does not mean that “he is predisposed to blowing up a subway station in New York...It’s his First Amendment right to have and express that opinion. It does not mean that it makes him disposed toward killing or a violent crime.”<sup>104</sup> After Siraj’s guilty sentence was handed out, Stolar said, “The NYPD was able to create a crime in order to solve it, and claim a victory in the war on terror, and that’s what he was sentenced as, rather than a dimwit who was manipulated.”<sup>105</sup>

Eldawoody says that had he not intercepted Siraj, the younger man eventually would have joined a real terrorist sleeper cell.<sup>106</sup> Prosecution attorney Marshall Miller argued that the jurors had heard many conversations “of the defendant spouting violent jihad and describing his own violent activities, and this was long before he met Eldawoody, and agreed that “if there are people out there who are ready and willing to bomb the subway system, then law enforcement should be out there trying to arrest them before attacks happen.”<sup>107</sup> The prosecutors maintained that Siraj “knew exactly what was going on and was the initiator of all the steps.” Siraj came up with the plan, conducted surveillance of the station on his own, and directed how the bombers should dress, where the bomb should be placed, and what their escape route should be.<sup>108</sup>

At the end of Siraj’s trial, some jurors said that they believed entrapment could have happened in this case, but that the defense just did not provide clear evidence that the plot “was initiated by the informant, that he persuaded the person to do this, and the person was not ready and willing to do this.”<sup>109</sup> Before his sentence was handed down, Siraj addressed the court and said: “Before his sentence was handed down, he said, “your honor I want to apologize about whatever I said in the tapes—I wish I could take those words back but it already happened, I already said those things...I’m taking responsibility for 34th Street but I was manipulated by this person.” After his sentence was handed down, Siraj’s mother, Ms. Parveen, said “The N.Y.P.D., through a paid informant, tricked my son and got him stuck in this...He didn’t do anything. I didn’t get any justice. It was not a fair sentence.” She said he would appeal his sentence.<sup>110</sup>

Being an informant was economically extremely helpful for Eldawoody and his family (a wife and daughter) who were struggled on the money they were making. Eldawoody was paid nearly \$100,000 by the department over the course of almost 3 years.<sup>111</sup> The department paid him about \$25,000 over the 13 months he spent befriending Siraj and Elshafay.<sup>112</sup> He was paid \$75,000, including relocation costs, over 20 more months leading up to the trial.<sup>113</sup> He remained unemployed in 2007 even though police helped him look for a job. The NYPD

<sup>104</sup> Rashbaum, “Closing Arguments.”

<sup>105</sup> Rashbaum, “Man Gets 30 Years.”

<sup>106</sup> Shulman, “The Informer.”

<sup>107</sup> Rashbaum, “Closing Arguments.”

<sup>108</sup> Rashbaum, “Man Gets 30 Years.”

<sup>109</sup> Jennifer Lee, “Entrapment Evidence Lacking, Jurors Say,” *New York Times*, May 25, 2006.

<sup>110</sup> Rashbaum, “Man Gets 30 Years.”

<sup>111</sup> Rashbaum, “Police Informer.”

<sup>112</sup> Shulman, “The Informer.”

<sup>113</sup> Shulman, “The Informer.”



covered his rent, plus he received \$3,200 a month. A police spokesman said direct payments were to continue indefinitely.<sup>114</sup> He publicly criticized the police department for paying him too little.<sup>115</sup>

Eldawoody moved to an undisclosed location with his family before Siraj and Elshafay were arrested, but came back to testify. After the trial was over, his wife said in an interview in 2007 how the summer before, the lease on the family's Pennsylvania apartment was about to run out, and they feared becoming homeless. She said that their daughter, Marwa, "needs to go to school; I will do any job to protect her." So, she moved with Marwa back to Staten Island and left Eldawoody to his own devices. She talked openly about divorce to a reporter while she and Eldawoody were standing in line at Wal-Mart, but then dismissed it, saying "what can we do? I want my daughter to live with her father." Eldawoody had no reaction as he paid for the groceries. She eventually negotiated with Eldawoody's police contacts and returned to live with him and go with him cross-country when he learned of Siraj's arrest. Eldawoody planned to buy a house with a down payment from his wife's savings. He had dreams to sell film rights to his story, someday start his own organization, take off on a national speaking tour of mosques, and train other Muslims to become informers like him.<sup>116</sup>

It is highly unlikely that the Herald Square plot would have happened if the informant, Osama Eldawoody had not been involved.

## 7. Connections

Siraj and Elshafay had no real connections to other terrorists or terrorist groups, though they thought that informant Eldawoody had a connection to a "Brotherhood" in Upstate New York.<sup>117</sup> Eldawoody told the boys that this Brotherhood would supply explosives, but the Brothers needed Siraj's knowledge of the subway to place the bombs.<sup>118</sup> Siraj and Elshafay were essentially self-motivating, lone-wolf terrorists.<sup>119</sup> However, an entrapment argument can also be made.

## 8. Relation to the Muslim community

The Arab Muslim community that Siraj and Elshafay were part of was the largest in the city of Bay Ridge, with approximately 30,000 members. The turnout for Friday-afternoon prayers at the Islamic Society of Bay Ridge mosque regularly went above 1000 men. These numbers filled the mosque, so others would participate via loudspeaker outside the mosque, on the street.<sup>120</sup>

The imam of this Bay Ridge mosque, which Siraj and Elshafay attended regularly was Mr. Shata, age 37. He was spotlighted in the media due to his position in the Muslim community that Siraj and Elshafay had been part of. He

---

<sup>114</sup> Shulman, "The Informer."

<sup>115</sup> Dickey, *Securing the City*, 198.

<sup>116</sup> Shulman, "The Informer."

<sup>117</sup> Shulman, "The Informer."

<sup>118</sup> Shulman, "The Informer."

<sup>119</sup> Horowitz, "Anatomy of a Foiled Plot."

<sup>120</sup> Horowitz, "Anatomy of a Foiled Plot."

said that Muslims feel increasingly alienated from American society since 9/11. A *New York Times* story highlighted the pressure that imams in America are increasingly facing in balancing relations between police and Muslim communities, using the example of Mr. Shata, who likened his situation to walking a tightrope. Mr. Shata himself has been described very positively by the authorities, who speak highly of him. He saw cooperation with them as his Islamic duty. After 9/11, he even called a press conference with other Muslim leaders to condemn the attacks. No press came.<sup>121</sup>

The imam said that those who did not come in the past to mosque very often, especially youngsters, attend much more frequently now, and he is worried about a sense of alienation since 9/11 among the Islamic men who attend his mosque. Before 9/11, there were two social camps—one of Arab pioneers and one of teenagers; the groups rarely mingled, but now many of the younger group attend prayers at the mosque regularly. They have been passed over for jobs, want to learn how to defend their religion at work or school, have been questioned by authorities too many times, and some no longer feel at home anywhere else. Mr. Shata indicated that he was “saddened to see so many Muslims leave America, pushed out by new immigration policies, intimidation or despair. He also fears for those who have remained: for the teenage boy in his mosque who is suddenly praying at dawn, having drifted from a high school that left him alienated.” However, this sense of alienation that Shata sees the men in his congregation increasingly facing is what most worries him. He and the authorities agreed that young Muslims are the most susceptible to the messages of militant sheiks.<sup>122</sup>

In testimony, the informant, Eldawoody, said that he found hatred of America and its policies commonplace at the first two mosques he visited during the course of his work, but there were no calls to violence. When he began to visit the mosque at the Islamic Society of Bay Ridge, Brooklyn, he said that initially “while many people ‘cursed America,’ there was no talk of attacking the United States.”<sup>123</sup>

When information about the NYPD’s use of informants started to come out during Siraj’s trial, the media reported, “undercover work deepens police-Muslim tensions.”<sup>124</sup> It said, “in the years since September 11, diplomacy has given way to defensiveness.”<sup>125</sup> The Muslim community was outraged that a secret informant had been attending their mosque, and they can recite a list of cases where Muslims in America have been falsely accused of terrorism.<sup>126</sup> Many in the Muslim community see that police tactics have been aggressive and underhanded.<sup>127</sup> One of the founders of the Islamic Society of Bay Ridge, Zein

<sup>121</sup> Elliott, “Between Two Worlds.” This article does a very good job of showing the nuances of relationships between Muslim communities in America and authorities. It also deals with some of the more complex issues, such as Arab-Israeli conflicts and American foreign policy in the Middle East, a motivator for many of the terrorist conspirators, including Siraj and Elshafay, after 9/11.

<sup>122</sup> Elliott, “Between Two Worlds.”

<sup>123</sup> Rashbaum, “Police Informer.”

<sup>124</sup> Rashbaum, “Undercover Work Deepens Police-Muslim Tensions.”

<sup>125</sup> Elliott, “Between Two Worlds.”

<sup>126</sup> Elliott, “Between Two Worlds.”

<sup>127</sup> Rashbaum, “Undercover Work.”

Rimwai, was asked by the imam to help Siraj's family when he was arrested. He said of the Muslim community, "of course we are angry; we have been targeted...Put on the TV and you get sick from it. You see Afghanistan, and it's a war against the Muslims. Iraq, it's a war against the Muslims. Palestine, it's a war against the Muslims. Chechnya, a war against the Muslims. Everywhere you look, it's the same thing. Now even in the Sudan." According to *New York Magazine*, Rimawi reflects the general feeling in the community when he argues that the case against Siraj and Elshafay is merely one more example of law-enforcement officials' unjustly arresting Muslims for public-relations value. He said, "The Bush administration needs to keep arresting Muslims...they must be able to say, 'See we stopped another terrorist, we found another sleeping cell. We are protecting you from the terrorists.'" He believes that as long as the government keeps telling people over and over that the terrorists are going to strike again soon, the arrests will continue: "if later it turns out they're not guilty, who cares? It's the idea of it. I believe in that. We are being targeted. The first cell they arrested in Detroit, they are free now. In Albany, free now. They said there was a mistake in the translation. Gimme a break."<sup>128</sup>

Some Muslim leaders also remained convinced Siraj was entrapped, including the imam, who knew the informer and had found him to be suspicious. "If Matin [Siraj] had really been a criminal, and had really been planning on carrying out a bombing operation and Osama [Eldawoody] had discovered it, I would consider Osama a hero," said Imam Shata, who believed at one point Eldawoody may have tried to set a trap for him. "But he was a young, ignorant, emotional kid."<sup>129</sup> Speaking about Elshafay, Rimawi said, "if you take a young man like that and tell him you are religious and you are experienced and clever and you work him for a year and you keep talking to him and telling him 'We have to do this,' it's easy for that young man to say, 'Yes let's do it.' Of course that would happen. Doing this, they could arrest most young Muslim people."<sup>130</sup>

## 9. Depiction by the authorities

The NYPD investigated the Herald Square plot. It was the first case in which a terrorism inquiry by its Intelligence Division led to a prosecution in federal court, and much was revealed to the public for the first time about the department's tactics during this case. The NYPD hailed the sentence, calling it "a milestone in the safeguarding of NYC." Commissioner Raymond Kelly said in a statement praising the Intelligence Division that the sentence "says that those who conspire against New York will pay a severe price," and the division "uncovered a murderous plot in its infancy and stopped it before lives were lost."<sup>131</sup> However, the authorities came under quite a lot of criticism in the media after some methods of police tactics came out during Siraj's trial.

The chief spokesman for the department, Paul J. Browne, defended the NYPD's tactics, saying the department employed the informer and the undercover

<sup>128</sup> Horowitz, "Anatomy of a Foiled Plot."

<sup>129</sup> Shulman, "The Informer."

<sup>130</sup> Horowitz, "Anatomy of a Foiled Plot."

<sup>131</sup> Rashbaum, "Man Gets 30 Years."

officer to follow up on leads of suspected terrorist activities, just like it does when it deploys undercover narcotics detectives. He said, “in both instances, placement is dictated by the reported activity, not the community, ethnicity, or religion.”<sup>132</sup> He also said, “there’s this idea that we just sort of willy-nilly have put informants out there because it’s a Muslim community,” but in reality the department places in response to threats.<sup>133</sup> David Cohen, the NYPD’s deputy commissioner for the Intelligence Division, was adamant that this was not “in any way about leading a horse to water. Our C.I. was very careful to let the suspects take the lead and do the talking.” He also said, “there’s no question in our mind that they would have played this out completely...if they couldn’t get explosives or if they just got frustrated, they had other options. All it takes is an AK-47 and a desire to become a martyr. Well, they have no options now.”<sup>134</sup>

Police Commissioner Raymond Kelly said, “This is New York City. Running a program like this is sensitive.”<sup>135</sup> A senior police official said during Siraj’s trial that though the focus of the department’s efforts used to be on mosques, it has broadened since then—“we don’t investigate mosques, we investigate people. We’re not in every mosque—that’s not where we need to be. That’s Intel 101. We’re in the graduate program. The bad guys aren’t hanging around the water cooler after Friday prayers anymore.” A counterterrorism official also said that the Intelligence Division operated under the close supervision of two lawyers who are both former federal prosecutors to ensure that everything is done “to the most stringent interpretations of the decree [that provides surveillance guidelines].”<sup>136</sup>

The Herald Square case also served other purposes for the NYPD. Police Commissioner Raymond Kelly, according to the Times, has frequently cited Siraj’s case as an example of the department’s ability to halt terrorists, especially the “lone-wolf attackers” who are not affiliated with any groups and therefore harder to monitor and track. He said that the arrests of Siraj and Elshafay are proof that the investment made in the Intelligence Division of the NYPD has paid off. “These kinds of homegrown, lone-wolf incidents start way below the level the federal government would focus on,” said David Cohen, the NYPD’s deputy commissioner for intelligence, “if we weren’t doing it, nobody would be.”<sup>137</sup> The NYPD has come up with stages of radicalization that it believes many homegrown terrorists go through, and used the Herald Square plotters as a case study for these stages.<sup>138</sup>

## 10. Coverage by the media

During and after the Herald Square plot case, the media covered human interest pieces, especially focusing on Muslim communities and leaders in America and their feelings about terrorism, as well as police tactics, behavior of

<sup>132</sup> Rashbaum, “Window Opens.”

<sup>133</sup> Shulman, “The Informer.”

<sup>134</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>135</sup> Dickey, *Securing the City*, 198.

<sup>136</sup> Rashbaum, “Window Opens.”

<sup>137</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>138</sup> NYPD, “Radicalization in West, The Homegrown Threat.”

the informants, and the trials and people involved in them. The *New York Times* wrote at least 22 articles connected to the Herald Square plot. The *Post* and *New York Magazine* also published pieces about the Herald Square Plot and confidential police informant Osama Eldawoody. In general, the media's reporting seemed to be competent, responsible, and critical.

The media focused especially on the fact that Siraj's trial is the first involving the NYPD's Intelligence Division since a judge granted the police expanded surveillance powers in 2003. The *Times* reported that this case marked the first time since the September 11 attacks that a terrorism investigation was largely conducted by the Intelligence Division and prosecuted in federal court.<sup>139</sup> In the past, terrorism cases had been investigated by the F.B.I. or the Joint Terrorist Task Force, made up of agents, detectives, and other investigators.<sup>140</sup>

In a piece written on the first day of Siraj's trial, the *New York Times* reported, "little is publicly known about the practices of the Intelligence Division in such investigations and how its detectives navigate their potentially complex and dangerous legal shoals."<sup>141</sup> The newspaper also reported that though it is well known that the NYPD has "sought to create a wide network of informants in the Muslim community, details on the program have been closely held."<sup>142</sup> So, the trial marked the first time that an informant testified in open court about his work in and around a mosque. This was especially important because there were significant restrictions on the Intelligence Division's work in mosques until February 2003, when a Manhattan federal judge, Judge Charles S. Haight Jr., handed down a decision that gave the police department new antiterror surveillance powers.<sup>143</sup> This decision was based on an affidavit by the department's deputy commissioner for intelligence and former senior official in the Central Intelligence Agency, David Cohen.<sup>144</sup> He said that there were "changed circumstances" since 9/11, including that American mosques were largely radicalized and had been used along with other Islamic institutes "to shield the work of terrorists from law enforcement scrutiny by taking advantage of restrictions on the investigation of First Amendment activity."<sup>145</sup> This was significant, the article highlighted, because of the way that the law enforcement agencies "have worked to infiltrate their community during terrorist investigations." It was especially important in the Siraj trial, because of Kamil Pasha, the undercover detective who recorded 72 contacts with Siraj, testified at Siraj's trial saying that he had been told "never to push for information," but instead to "take a back seat" and "observe, be the ears and eyes."<sup>146</sup> Pasha started

---

<sup>139</sup> William K. Rashbaum, "Terror Case May Offer Clues into Police Use of Informants," *New York Times*, April 24, 2006.

<sup>140</sup> William K. Rashbaum, "Police Informer in Terror Trial Takes Stand," *New York Times*, April 25, 2006.

<sup>141</sup> Rashbaum, "Police Use of Informants."

<sup>142</sup> Rashbaum, "Police Use of Informants."

<sup>143</sup> Rashbaum, "Police Use of Informants."

<sup>144</sup> Rashbaum, "Police Use of Informants."

<sup>145</sup> Rashbaum, "Police Use of Informants."

<sup>146</sup> William K. Rashbaum, "Detective Was 'Walking Camera; Among City Muslims, He Testifies," *New York Times*, May 19, 2005.

hanging around the Bay Ridge mosque in 2002, before the guidelines on surveillance had been loosened. The *Times* reported that it was “unclear if those guidelines had been followed.”<sup>147</sup>

The media reported on the tactics used by the NYPD to infiltrate communities for terrorism investigations. The Terrorist Interdiction Unit in the Intelligence Division of the NYPD is devoted to using informers as “listening posts” in Muslim communities—detectives cultivate informers, place them in communities, and oversee their work, collect and compile information they generate.<sup>148</sup> Over 13 months, Eldawoody attended 575 prayer services at Bay Ridge mosque and another mosque in Staten Island, sometimes four or five a day.<sup>149</sup> He provided information almost daily and sometimes twice a day to his handler, who wrote more than 350 reports based mainly on the visits to mosques and the Islamic bookstore Siraj where worked.<sup>150</sup> The Special Services Unit oversaw Kamil Pasha, who was instructed “to be a member of the community,” to hang out with the young men there, and to collect information.

The media thus provided a lot of scrutiny about expanded police powers implying their effect on privacy. They focused on the fact that Eldawoody recorded mundane details like how many people attended a service, how long it lasted, small talk among worshipers, and the name of the imam who spoke.<sup>151</sup> He wrote down license plate numbers of worshipers, talked to imams, prayed alongside other Muslims and reported back to a detective handler after each visit.<sup>152</sup> One of Siraj’s lawyers, Martin Stolar, suggested during the trial that he planned to put the department’s tactics on trial. He said, “what we wind up with is worshipers being in Police Department files because of the way the Police Department conducts itself.”<sup>153</sup> The associate legal director of the New York Civil Liberties Union, Christopher Dunn, was quoted in the *Times* saying, “The Police Department’s indiscriminate monitoring of Muslim communities assures that most of its surveillance will be of lawful activity. This contrasts sharply with traditional law enforcement work, which typically and rightly focuses on unlawful activity. You don’t see the F.B.I hanging out in churches and bookstores in Little Italy hoping to run into the mob, yet that’s what the N.Y.P.D. is doing in Muslim communities in its search for Muslim extremists.”<sup>154</sup>

Police Commissioner Raymond Kelly and David Cohen, the department’s deputy commissioner for intelligence and a former senior official in the CIA, took a lot of criticism about the Herald Square case, since “the press rarely failed to point out how ineffectual the conspirators had been and how much money the confidential informant Eldawoody had been paid.”<sup>155</sup>

---

<sup>147</sup> Rashbaum, “‘Walking Camera’.”

<sup>148</sup> William K. Rashbaum, “Window Opens On City Tactics Among Muslims,” *New York Times*, May 28, 2006.

<sup>149</sup> Shulman, “The Informer.”

<sup>150</sup> Rashbaum, “Window Opens.”

<sup>151</sup> Rashbaum, “Informer.”

<sup>152</sup> Horowitz, “Anatomy of a Foiled Plot.”

<sup>153</sup> Rashbaum, “Police Informer.”

<sup>154</sup> Rashbaum, “Window Opens.”

<sup>155</sup> Rashbaum, “Police Use of Informants.”

The media also covered some information about Siraj's family. His parents and sister were detained by immigration authorities one day after Siraj was sentenced to 30 years in jail. Authorities said his father had been arrested because final deportation order had been filed against him, but their lawyer said that the appeal was still pending. His mother and sister were arrested on immigration violations and were supposed to receive due process.<sup>156</sup>

### 11. Policing costs

The police spent over a year investigating the Herald Square plot case, and additional time in prosecuting and defending it in the media. Newspaper articles and some literature shows that, at a minimum, they used an undercover officer (Kamil Pasha), a handler for the officer, an informant (Osama Eldawoody), and his handler. Eldawoody had over 30 hours of recorded conversations and befriended Siraj for approximately one year, spending a lot of time with him. Pasha wrote up 72 contacts with Siraj during the beginning of this time period, though he only made himself an acquaintance to Siraj.

As noted earlier, Eldawoody was paid nearly \$100,000 by the department over the course of almost 3 years.<sup>157</sup> The department continues to cover his rent and gives him \$3,200 per month, payments that are to continue indefinitely.<sup>158</sup>

After pretrial hearings, Siraj's trial lasted one month, and Elshafay pled guilty immediately after arrest and testified against Siraj. Siraj was sentenced in late 2006 and Elshafay in 2007.

### 12. Relevance of the internet

The internet does not seem to have been very relevant to this case in terms of connections, as Siraj and Elshafay met at the Bay Ridge mosque. The internet may have played a part, however, through access to media, in Siraj's radicalization. He reportedly looked at Muslim media sites that had conspiracy theories, etc. However, the majority of his extremist theories came from books and tapes that he listened to in his uncle's bookstore where he worked. In terms of intelligence and information, Siraj had a CD of instructions on how to make explosives, which he may have downloaded from the internet. However, the majority of the "intelligence" the two gathered seems to have been more from scouting and conducting surveillance in areas of New York in person.

### 13. Are we safer?

Though Siraj and Elshafay were unsophisticated and would probably have been unable to carry out a successful attack, it can be argued that public safety has perhaps improved due to their arrests but only marginally. The main argument here is that dumb people can blow things up, too.<sup>159</sup> Most likely,

---

<sup>156</sup> William K. Rashbaum, "3 Relatives Of Plotter Are Held By Officials," *New York Times*, January 10, 2007.

<sup>157</sup> Rashbaum, "Police Informer."

<sup>158</sup> Shulman, "The Informer."

<sup>159</sup> The El-Nosair group of the early 1990s shows the dangers of even unskilled but motivated terrorists, "even when some were morons." The group had been inept and infiltrated. They were mentored by another Egyptian working for the FBI, but he was dropped by the Feds "because they

however, it seems highly unlikely that Siraj and Elshafay would ever have actually settled on a location that they would ever have sought to carry out an attack without the informant's constant nudging.

#### 14. Conclusions

There does not seem to have been much forethought about the real consequences of the attack Siraj and Elshafay were plotting. They had no idea about what the strength of the bomb(s) would be, and the bottle-sized bombs they were talking about at one point certainly would not have had the strength to bring down the Manhattan Mall as they sometimes anticipated. Siraj also specifically said that he did not want to kill people, in which case the fictitious types of bombs they were talking about detonating in Herald Square would not have achieved the results that the "planners" wanted, as they may have harmed people but probably not brought down a vast amount of economic infrastructure. The transcript of the last conversation (see the Appendix) points to the very real possibility that they would have been fine just staying in the discussion stage and never actually moving to the implementation stage of the terrorist plot.

The Herald Square case, especially through media scrutiny, highlights the alienation of Muslims, especially younger Muslims, in American society since 9/11. Their xenophobia and isolation encourages extremist and fundamentalist thought. However, it is important to point out that there is a definite gap between fundamentalist thought and terrorist behavior, and the police tactics involved in this case draw out the importance of this gap. When are NYPD antiterrorist tactics preemptive, and when do they indicate entrapment? What kind of behavior constitutes propensity for terrorism and, on the other hand, what kind of behavior indicates extremist thought but not terrorist behavior? How much are informants and undercover agents legally allowed to further a plot, or the ideas behind a plot? Finally, at what point should authorities stop a plot from playing out?

Although the jury's finding of Siraj as guilty on some counts seems fair, the sentencing of Shahwar Matin Siraj to 30 years in jail seems unfair, due to what has been brought out about Eldawood's furthering of the plot and Siraj's hesitation to actually go through with the plot.

---

thought he was costing too much and not delivering enough prosecutable terrorism." Needing another member, the conspirators replaced the informant with a real terrorist, Ramzi Yousef, and less than 6 months later they set off a bomb in the World Trade Center parking lot—which, however, did only limited damage. Dickey, *Securing the City*, 198-99.



**Appendix: Transcript of a tape played during the trial<sup>160</sup>**

OSAMA ELDAWOODY: Brother Nazeem upstate is very, very happy, very impressed. He says about the Verrazano, it's a little bit complicated. We are not that big, that strong, it's too heavy for us, things like that. He says, "in time." The plan is perfect, but it needs a nuclear bomb, not a regular bomb. So he says that will be later. 34th Street is on.

SHAHAWAR MATIN SIRAJ: Hmm? Tell him that we are very careful about people's lives. Have you told him this?

ELDAWOODY: We've spoken of many things.

SIRAJ: I don't want to be the one who drops it and have people die.

ELDAWOODY: No, no. He agrees, he agrees about lots of things. Because that's the principle, you know? No suiciding, no killing.

SIRAJ: No killing. Only economy problems. I'm going to work as a planner.

ELDAWOODY: Are you okay with it?

SIRAJ: I have to, you know, ask my mother's permission. Every single thing matters.

ELDAWOODY: Okay, here is the point. Are you willing to do jihad?

SIRAJ: I will work with those brothers as a planner or whatever. But dropping the bomb? I'm not sure. I have to think about it. Give me some time to feel comfortable with it.

ELDAWOODY: You don't want to put it there?

SIRAJ: No.

ELDAWOODY: Okay, I'll tell them that, because they were depending on you the most at 34th Street Station.

SIRAJ: I know about 34th Street. I can go with the brother, whatever, but I will not be the one who drops it.

ELDAWOODY: There will be two people.

SIRAJ: I will be the second person, if the other guy is dropping. No problem.

ELDAWOODY: It's not dropping. It's putting the stuff in a garbage can. Whatever makes you comfortable.

SIRAJ: I already gave the brothers the idea. They liked it, right? But the thing is, I will not be the person who puts it in the garbage can. Because if somebody dies, then the blame will come on me. Allah doesn't see those situations as accidents.

ELDAWOODY: So you are out of jihad?

SIRAJ: Planning is also jihad, brother.

JAMES ELSHAFAY: Am I going to do 34th Street?

ELDAWOODY: Yes.

ELSHAFAY: Can they maybe get someone who is more trained to do this?

SIRAJ: We're new. We don't even know what we are doing. We only know that I made the plan and we are working on the plan.

ELSHAFAY: If I'm going to do 34th Street, I want to go there a few more times. I want to check it out a little more. And if they can get someone better qualified than me to do it, then I think they should, because I'm not really experienced in this and might not know what to do. Is that okay?

ELDAWOODY: Okay. Whatever you feel. Whatever.

ELSHAFAY: I'll do it.

SIRAJ: The time to check out the station is in the morning from three o'clock to five o'clock. When the train stops, how many people get out? Find out which car is empty, so people have a chance to survive, you know. That way, it will be nice.

<sup>160</sup> "Band of Brothers," *Harper's Magazine*, October 2006.

ELSHAFAY: I have an idea. If I go in to do it, I'll dress like a Jew. I'll have the bomb on me so it looks like a belly. I'll take it out and put it in the garbage can. I'll tuck in my shirt and walk out the 34th Street entrance.

SIRAJ: Don't put it in the belly.

ELSHAFAY: But I'm going to dress like a Jew. That way no one will check me.

SIRAJ: Jews do carry bags. See what bags they carry. What kinds of things they carry. Maybe it could be a Macy's bag.

ELSHAFAY: They'll never check a Jew, 'cause they know Jews aren't the ones doing it.

ELDAWOODY: Okay, are you going to be with him, Matin?

SIRAJ: Yeah, I can be with him.

ELSHAFAY: No. It's better if I just go in myself. Walk down there, *inshallah*, and everything will go the way Allah planned it. But I gotta get Jewish garb.

SIRAJ: The ponytails too?

ELSHAFAY: Yeah, those curls too. I gotta have 'em. Is there any way they can make the bomb look like something different?

ELDAWOODY: I don't know, but I don't think so.

ELSHAFAY: Could they make it look like a clock?

ELDAWOODY: A clock?

ELSHAFAY: 'Cause if they make it look like something different and I get checked, they just won't see that it's a bomb. They don't have X rays there in the subway.

ELDAWOODY: I know that.

ELSHAFAY: So, yeah, definitely. If they can get the bomb to look like something different, I'll get dressed up like a Jew and go put the bomb there.

ELDAWOODY: So, Matin, what's your part? Your part is out? You don't want nothing?

SIRAJ: With the 34th thing?

ELDAWOODY: Yeah, 34th?

SIRAJ: I see you've started smoking again. You have to control yourself. It's not good for your health. Plus you have a daughter.

ELDAWOODY: No, no, no. It's under control. I'm playing with cigarettes. I was a heavy smoker, and I don't smoke now. I'm totally under control with cigarettes.

SIRAJ: It can hurt your liver, right? Cirrhosis, the nicotine.

ELDAWOODY: Smoking has nothing to do with the liver.

SIRAJ: But you cannot let that thing control you.

ELDAWOODY: Smoking is not good, but did I say that smoking is good?

ELSHAFAY: It hurts the lungs.

ELDAWOODY: But I don't inhale the smoke.

ELSHAFAY: Then you can get tongue cancer.

ELDAWOODY: Tongue?

ELSHAFAY: Tongue cancer.

ELDAWOODY: If I am dying, I am not going to die from cigarettes. I would die from other things.

ELSHAFAY: I miss Egypt.

ELDAWOODY: I do too. I really do.