

**Case 8: Lodi**

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As with the Lackawanna situation (Case 3), the charges in Lodi, California, in 2005 concerned someone going to a terrorist training camp abroad and then lying about it. In both cases, there is no evidence that the returnees had any plans whatever to commit violence in the United States.

In Lackawanna, however, the six disillusioned returnees admitted they had attended the camp and described their experiences there in some detail. In Lodi, there is perhaps some question as to whether the lone defendant ever actually did attend the camp, though he did confess to it at one point.

The cases differ importantly in the sentences dealt out. Perhaps because they went to and returned from the camp before 9/11, none of the Lackawanna group received more than nine years in prison for attending the camp and thus tendering “material support” to terrorism. The Lodi guy—who, however, did seem at times to subscribe more to radical views than the Lackawanna boys—got 24.

As Andrew Ashbrook notes, the informant in the Lodi case deserves special attention. A much older man, as is common in quite a few cases, he seems to have nudged, even bullied, the Lodi man into attending the overseas camp. He was also rather well compensated for his work over several years, cumulating a total of \$230,000. One FBI agent points out, however, that most of this money was for living expenses and not for profit—rather like, presumably, the agent’s own salary. A reasonable concern is whether the FBI was overly zealous in its prosecution of this case in order to justify both.

## Case 8: Lodi

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### 1. Overview

In June of 2005, Hamid Hayat and his father, Umer Hayat, were arrested on terrorist related charges. Hamid Hayat spent two years in Pakistan from 2003 to 2005. Upon returning to the United States, Hamid and his father were asked to be interviewed by the FBI. They were arrested and Hamid was later found guilty for providing support to a terrorist organization. According to the FBI, during his time in Pakistan, Hamid had attended a terrorist training camp. The FBI and the press used this case as an affirmation that terrorist activities were still targeting the United States, and that the FBI was doing a good job of stopping them. According to Brian Jenkins, an expert from the Rand Corporation, this case showed that “Al Qaeda is still communicating with, recruiting, training, and sending people ... to carry out major operations worldwide, as they have steadily since 9/11.”<sup>1</sup> However, this case is much more complicated than it first seems. It involves years of surveillance, a questionable informant, and sparse evidence during the trial, which suggests that there might never have been a terrorist connection.

In December of 2001, Naseem Khan moved to Lodi, California and worked as an FBI informant. He was hired after he told officials, probably mistakenly, that while in Lodi in the 1990s, he had seen Ayman al Zawahiri, Osama Bin Laden’s second in command, at a mosque. He was hired by the FBI to watch two individuals in Lodi. The first was Mohammed Adil Khan, a Lodi imam who was linked to radical elements in Pakistan. Khan’s father ran a madrassa, or religious school, in Pakistan, and in 1998 Osama Bin Laden specifically stated that the intellectuals at this madrassa supported his fatwa against the west.<sup>2</sup> The second was Shabbir Ahmed, another Pakistani imam. The FBI wanted him watched because of an anti-American speech he gave before coming to the United States.<sup>3</sup> Ultimately, the FBI’s efforts in linking these two imams to any terrorist related charges would prove fruitless in court, and in July of 2005 they were instead deported.<sup>4</sup>

While Khan was befriending and spying on the two imams, he also began to make friends within the Lodi Muslim community. One was 19-year-old Hamid Hayat. Khan became very close to the Hayat family, spending a lot of time with Hamid and even calling Umer “dad.”<sup>5</sup> Khan secretly taped his conversations with

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<sup>1</sup> Daniel B. Wood, “US Arrests Renew Terror Concerns,” *Christian Science Monitor*, June 10, 2005.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Maria La Ganga and Tempest, Rone, “2 Lodi Men to Be Deported; U.S. Will Drop Charges,” *Los Angeles Times*, July 16, 2005.

<sup>5</sup> Frontline, *The Enemy Within*, pbs.org, October 10, 2006.

Hamid. On several of these tapes Hamid talks about his hatred for America and the need for Muslims to participate in jihads<sup>6</sup>.

On April 19, 2003 Hamid and Umer traveled to Pakistan for Hamid's arranged marriage. In June of 2003, Umer returned to the United States. After his marriage, Hamid remained in Pakistan to study the Quran. However, he spent much of his time visiting friends and socializing. It was during this time, between 2003 and 2004, that Hamid allegedly attended a terrorist training camp.<sup>7</sup>

On May 27, 2005, Hamid departed from Pakistan on a flight headed to the United States. While on a plane from Korea to San Francisco, it was determined that Hamid was on the "no fly" list.<sup>8</sup> Charles DeMore, the agent in charge from Immigration and Customs Enforcement, declined to comment as to why Hamid was on the "no fly" list.<sup>9</sup> However, since Hamid was on the list, the plane was diverted and landed in Tokyo, Japan on May 29. While in Tokyo, Hamid was interviewed by an FBI agent. After stating that he had not attended terrorist camps, Hamid was moved off the "no fly" list and on to the "Selectee list," which allowed him to travel to the United States.<sup>10</sup>

Hamid arrived in the United States on May 29, 2005. On June 3, the FBI interviewed him and he denied any connection with terrorists. Hamid and his father were asked to visit the Sacramento FBI office the following day. When they went to the Sacramento office, Hamid underwent a polygraph examination to "resolve questions about his possible involvement with terrorist activities."<sup>11</sup> During this interview, the polygraph machine indicated that Hamid was lying on two questions that implicated him of having some connection to terrorist activities. He was further questioned and two hours later, Hamid admitted that he had attended a terrorist training camp. Following this interview, Umer was interviewed separately. When shown the video of Hamid's confession, Umer confirmed Hamid's story.

Hamid Hayat and Umer Hayat were arrested on June 5, 2005 for terrorism related charges. Later that month, both Hamid and Umer were indicted for lying to federal agents. On September 21, 2005, the grand jury added a charge of providing material support to terrorism to Hamid's case. On April 25, 2006, Hamid Hayat was convicted by a jury on one count of providing material support or resources to terrorists and three counts of making false statements to the FBI in matters related to terrorism.<sup>12</sup> He was sentenced to 24 years of imprisonment followed by ten years of supervised release. However, the jury deadlocked on Umer's case. On May 31, 2006, Umer Hayat plead guilty to one count of lying to federal authorities about the amount of money he took to Pakistan in April of 2003, and the more severe terrorism related charges were dropped. He was sentenced to "time served" and three years of supervised release. Before and

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<sup>6</sup> Ibid.

<sup>7</sup> "United States of America v. Hamid Hayat" June 3, 2005. Affidavit, 4.

<sup>8</sup> Ibid., 2

<sup>9</sup> Michael Isikoff and Mark Hosenball, "Terror Watch: New Terror Camp?" *Newsweek*, June 2005.

<sup>10</sup> "U.S. v. Hayat" Affidavit, 2.

<sup>11</sup> Ibid, 3.

<sup>12</sup> Department of Justice. Hamid Hayat Sentenced to 24 Years in Connection with Terrorism Charges, Justice.gov, September 10, 2007.

during the trial he served approximately 330 days in jail and four months of home confinement.<sup>13</sup>

## 2. Nature of the adversary

Umer Hayat was born in Pakistan in 1958 and emigrated to the United States in 1976 and became a naturalized U.S. citizen by 1994.<sup>14</sup> Umer worked as an ice cream truck driver. According to Frontline, the Hayats kept very close ties with Pakistan, which was typical of the Muslim community in Lodi.<sup>15</sup> Before this case, Umer had pled guilty to one count of battery in 2001.<sup>16</sup> In this case, Umer was charged for chasing and grabbing two boys who had harassed him while driving his ice cream truck. Umer later stated that he had not touched the kids, but had pleaded guilty to lesser charges in order to avoid a trial.

Hamid Hayat was born in the United States in 1983. He attended public school in the United States until the sixth grade. At that time his parents removed him from school because they protested co-ed secondary education.<sup>17</sup> This was a common occurrence in the Lodi Muslim community. Instead, Hamid went to Pakistan and lived with his grandparents to receive a religious education. He spent close to ten years in Pakistan for this education.<sup>18</sup> After returning to the United States Hamid showed little ambition. He worked in a cherry cannery and spent most of his time watching cricket and wrestling<sup>19</sup>.

Hamid had very few friends within the Lodi Muslim community. One member of the community, Taj Khan, seemed to condemn Hamid for being a “sixth grade dropout.”<sup>20</sup> According to Max Abrahms, social outcasts are more likely to join terrorist groups in order to feel solidarity with other people.<sup>21</sup> Hamid Hayat seemed to fit this mold, which could have possibly led him to be more interested in terrorist organizations.

Even if a search for social solidarity did not lead Hamid into terrorist organizations, it surely played a role in his befriending of Naseem Khan. In the short time from when Hamid met Khan to when Hamid left for Pakistan in 2003, the two men became close friends. Khan was considered part of the Hayat family, and Hamid considered him his best friend. It was in conversations with Khan that Hamid revealed some of his radical views. For example, in a secretly recorded conversation between the two men, Hamid tells Khan that “jihad is the duty of every Muslim,”<sup>22</sup> and that the two should personally go anywhere in the world to participate in a jihad. He does not specifically state intentions of violent jihad, but because he is speaking of responding to Muslims being attacked, there are violent

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<sup>13</sup> Department of Justice, Hamid Hayat Sentenced.

<sup>14</sup> Frontline, The Enemy Within, “Interview with Umer Hayat.”

<sup>15</sup> Frontline, The Enemy Within, “Hamid Hayat: A ‘Jihadi Heart and a Jihadi Mind’?”

<sup>16</sup> Jeff Hood, “Longtime Investigation Led to Arrest of Lodi Men” recordnet.com, June 9, 2005.

<sup>17</sup> Frontline, The Enemy Within, “Hamid Hayat.”

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Max Abrahms, “What Terrorists Really Want: Terrorist Motives and Counterterrorism Strategy,” *International Security*, Spring 2008.

<sup>22</sup> Frontline, The Enemy Within.

connotations to his statements. While there are clearly some radical elements to Hamid's thinking, it is unclear as to how much of this was a result of Khan Khan's influence. It is quite possible that Hamid, looking for social solidarity, conformed his views to what he thought Khan wanted to hear. This is supported by a telephone conversation during Hamid's Pakistan visit (between 2003 and 2005) when Khan tells Hamid he is being lazy for not attending a terrorist camp. When Hamid responds that he cannot attend a camp, Khan said that he would go to Pakistan and force Hamid to attend a training camp. Even after this attempted coercion, Hamid appeared to have refused to attend a camp.<sup>23</sup> This shows that Hamid may not have been as radical as his earlier conversations with Khan might suggest. Instead, it is possible that he was bluffing and committing to hypothetical jihads in order to fit in with Khan, but when an actual opportunity arose he was at the very least hesitant.

Despite the doubts that this conversation may raise about Hamid's commitment to the jihad, it is clear that he had radical Islamic beliefs and hated the United States to an extent. Hamid's statements to Khan that he would fight against America if there were a jihad showed his radical views. Perhaps more revealing of Hamid's views was his scrapbook, which was introduced as evidence by the federal prosecutors in his trial. This scrapbook contained clippings from Pakistani newspapers, which praised the Taliban and advocated a violent interpretation of Islam.<sup>24</sup> For example, a 1999 article stated, "If America dared to attack Afghanistan then we will retaliate sharply: Guns will be answered with missiles. We will not let America police us, and we will neither accept its policing over humanity nor will we accept its monopoly."<sup>25</sup> Other articles within the book similarly propagated violence against enemies of Islam. This makes it fairly evident that Hamid generally followed a fairly radical and militant version of Islam that believed Islam was being attacked and it was the duty of Muslims to retaliate.

Hamid had no prior criminal record before these charges. This was noted by U.S. District Judge Garland E. Burrell Jr. who sentenced Hamid to 24 years in federal prison instead of the maximum sentence of 39 years.<sup>26</sup>

Thus, Hamid was a poorly educated social outcast who harbored militant and jihadist beliefs. In taped conversations with Khan he clearly indicated his desire to wage jihad. However, when the opportunity arrived to participate in training for such a jihad, Hamid expressed hesitancy to carry out his words. This raises the question as to whether Hamid truly was committed to militant Islam or bluffing in order to befriend Khan.

### 3. Motivation

It seems that the two significant motivators for Hamid Hayat were Naseem Khan and his belief in jihad. To begin, Khan seemed to encourage Hamid to attend a training camp in Pakistan. This was shown by their phone conversation

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<sup>23</sup> Ibid

<sup>24</sup> Frontline, *The Enemy Within*, "Hamid Hayat."

<sup>25</sup> Ibid.

<sup>26</sup> Layla Bohm, "Hamid Hayat Sentenced," *Lodi News-Sentinel*, September 10, 2007.

while Hamid was in Pakistan. Hamid told Khan that “I’m not going to go . . .”<sup>27</sup> but Khan tried to convince him by threatening to go to Pakistan and forcing Hamid. While this threat did not seem to be credible, it shows that Khan was trying to convince Hamid to go to a camp. Furthermore, in the conversations between the two before Hamid left for Pakistan, it often seemed that Khan was leading Hamid and encouraging jihadist activity. Therefore, Khan was one of the primary motivators for Hamid to go to a terrorist camp.

Secondly, Hamid’s apparent belief in militant Islam could have motivated him to attend the Pakistani terrorist training camp. It seems that from Hamid’s conversations with Khan and the scrapbook in his home, Hamid believed that Islam needed to be defended, especially from the United States. These beliefs could have motivated Hamid to attend a training camp. However, there was no specific event or policy identified by any of these sources that Hamid felt particularly strong about or offended by.

#### **4. Goals**

The court in Hamid Hayat’s case found that Hamid “returned to the U.S. ready and willing to wage violent jihad when directed to do so . . .”<sup>28</sup> The federal prosecution initially identified the Hayats as an al-Qaeda sleeper cell. However, prosecutor McGregor Scott retreated from this language in an interview with Frontline, saying that a connection with al-Qaeda should never have been made.<sup>29</sup> It is clear though, that the FBI and the federal prosecution believed that Hamid Hayat’s goal was to wage violent jihad against the United States. This view was further supported by Hamid’s confession to the FBI on June 5, 2005. In this confession, Hamid told of how he was trained in weapons and explosives and taught ideological rhetoric aimed against the United States and other non-Muslim countries.<sup>30</sup> These pieces of evidence all suggest that Hamid’s goal was to wage jihad against the United States. However, this is a very abstract goal.

#### **5. Plans for violence**

What Hamid intended to accomplish by waging a jihad was never approached in the interrogation. He did not have any specific plans for violence, but if he was beginning to plan something, the FBI apprehended him before any concrete—or even any not-so-concrete—plans were formed. Since these plans were not present, Hamid’s goals were only referred to in a hypothetical and abstract capacity.

#### **6. Role of informants**

Naseem Khan was the only informant in the Lodi case. He had lived in Lodi during the late 1990s. He was working as a convenience store clerk in 2001 when he informed federal officials that he had seen Ayman al Zawahiri in a Lodi mosque while he was living there. This directly led to Khan’s recruitment as an

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<sup>27</sup> Frontline, *The Enemy Within*.

<sup>28</sup> Department of Justice, *Hamid Hayat Sentenced*.

<sup>29</sup> Frontline, *The Enemy Within*.

<sup>30</sup> “U.S. v. Hayat” Affidavit.

FBI informant because the FBI was beginning to investigate the two Lodi Imams around the same time.<sup>31</sup>

In December 2001, Khan moved into an apartment behind the Lodi mosque, and began to infiltrate the Muslim community. As noted, he was specifically ordered to befriend the two Imams. Posing as a computer engineer, he claimed he would help the imams build a website for the madrassa, or religious school, that they planned to build in Lodi. He secretly searched their computers and recorded his conversations with them. The FBI was afraid that these imams would use their madrassa as a front to send Muslims to Pakistan to become radicalized and receive terrorist training. The FBI's investigation of these two individuals would continue until they were deported in 2005.

Khan was important to the Lodi case because he initially raised suspicion about Hamid Hayat. Khan befriended Hamid and secretly recorded their conversations. Not only was this critical to the prosecution's case against Hamid, but it is also the most likely reason why the FBI began to watch the Hayats. While officials have not released why Hamid was on the "no fly" list when he tried to return to the United States from Pakistan in 2005, it is probable that it had something to do with the investigation being conducted by Khan and the FBI.

Additionally, Khan's role as an informant was important because he appeared to lead Hamid in many instances. For example, in an excerpt from the pair's conversation highlighted by Frontline, Khan asked Hamid if he would participate in a jihad if the opportunity arose. He raised the issue and led Hamid to comment on it.<sup>32</sup> Perhaps more indicative of Khan's role in this case was the phone conversation between the two while Hamid was in Pakistan. As previously stated, in this conversation Khan tried to force Hamid to attend a terrorist camp, but Hamid hesitated to do so.

Therefore, Khan played two important roles as an informant in this case. First, by befriendng Hamid Hayat and identifying him as having militant and jihadist ideas, he more than likely initiated the FBI's investigation into the Hayats. Second, in his conversations with Hamid, Khan often leads Hamid to talk about jihads and terrorism. This could have motivated Hamid to attend a terrorist training camp. Ultimately, the investigation conducted by Khan on the Hayats was a critical piece of evidence in Hamid's conviction. Without him, the FBI would probably never have prosecuted the Hayats. Furthermore, if Hamid actually did attend a training camp, he might never have done so without Khan's encouragement.

While Khan played a crucial role in this case, his credibility was questionable. To begin, the FBI only recruited Khan because of his statement claiming to have seen Ayman al Zawahiri in Lodi in the late 1990s. According to Lawrence Wright's *The Looming Tower*, al Zawahiri did appear at several California mosques in 1993.<sup>33</sup> In an interview with PBS' Frontline, U.S. attorney McGregor Scott doubted Khan's claim as a "situation of mistaken

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<sup>31</sup> Frontline, *The Enemy Within*.

<sup>32</sup> *Ibid.*

<sup>33</sup> Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*. New York: Knopf, 2006, 203 (paperback edition).

identification.”<sup>34</sup> Therefore, it is unclear as to whether al Zawahiri ever did attend a mosque in Lodi. Lowell Bergman has suggested that this all raises questions about Khan’s credibility as he could just have been saying what he thought the FBI wanted to hear. However, Drew Parenti, the FBI agent in charge of the Sacramento field office, argued that Khan was hired not only for this claim, but also because he “clearly was familiar with the Lodi area.”<sup>35</sup>

By attempting to lead Hamid and convince him to go to a camp, Khan undermined his integrity and at the same time portrayed Hamid as reluctant to commit to terrorist activities. Some argue that Khan appeared to be trying to force Hamid into admitting terrorist connections or was seeking to please the FBI. In his interview with Frontline, prosecutor Scott acknowledges this failing and states that he wished that some of Khan’s interviews had gone differently. However, Khan was not a trained agent but a civilian informant, and Scott defends him as trying to do his best.<sup>36</sup> Furthermore, Parenti stated that the tapes that showed Khan “bullying” Hamid into jihadist activities were “very small snippets” of the conversations between the two men.<sup>37</sup> When taken in context and in their entirety, the conversations between the two men show that Hamid was fully aware and fully committed to participation in jihadist activities.

The FBI paid Khan approximately \$230,000 for his work from 2001 until 2005. Parenti noted that most of this money was for living expenses and not profit for Khan.<sup>38</sup> Critics however, cite this sum as an incentive for Khan and the FBI to prosecute the Hayats. James Wedick, a retired FBI officer who looked at this case as a favor for a friend, argued that the Hayats were prosecuted because the FBI “had to bring about charges concerning someone.”<sup>39</sup> In other words, Wedick suggests that the FBI launched an investigation that took about four years and millions of dollars to try and convict the two Lodi imams. When there was not enough evidence to prosecute these leaders, they needed to find a scapegoat in order to prevent the investigation from looking like a waste of resources.

Therefore, while Khan’s role as an informant was critical in the apprehension and conviction of the Hayats, several strands of evidence undermine his credibility and cast doubts on the validity of the FBI’s case against the Hayats: his claims to have seen al Zawahiri, his leading questions to Hamid, and his large pay.

## 7. Connections

When Hamid and Umer were arrested in June of 2005, the FBI accused them of attending a terrorist training camp run by al-Qaeda.<sup>40</sup> Shortly afterwards, the authorities confirmed that the camp was run by al-Qaeda<sup>41</sup> and the media began speculating about al-Qaeda sleeper cells operating within the United

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<sup>34</sup> Frontline, *The Enemy Within*.

<sup>35</sup> Frontline, *The Enemy Within*, “The FBI’s Response.”

<sup>36</sup> Frontline, *The Enemy Within*.

<sup>37</sup> Frontline, *The Enemy Within*, “The FBI’s Response.”

<sup>38</sup> *Ibid*.

<sup>39</sup> Frontline, *The Enemy Within*, “Interview With James Wedick.”

<sup>40</sup> “U.S. v. Hayat” Affidavit, 4.

<sup>41</sup> Frontline, *The Enemy Within*, “Interview With McGregor Scott.”

States.<sup>42</sup> However, Scott later clarified that the Hayats were not an al-Qaeda sleeper cell within the United States.<sup>43</sup>

Even without a direct link to al-Qaeda, however, there were many connections to suspected terrorists within this case. To begin with, Hamid's grandfather and Umer's father-in-law, runs a madrassa in Rawalpindi, Pakistan. According to Scott, this madrassa teaches a radical form of Islam that is "antithetical to the [security of the] United States."<sup>44</sup> While this information did not seem to play a critical part in the prosecution of the Hayats, it might explain Hamid's radical beliefs.

Second, the reason that the FBI wanted an informant in the Lodi community was because Mohammed Adil Khan and Shabbir Ahmed, the two Lodi imams, were suspected of having terrorist connections. As Scott said in his interview with Frontline, the FBI suspected that the Imams wanted to establish a madrassa to recruit young men and send them to Pakistan for terrorist training.<sup>45</sup> Adil Khan's father runs a radical madrassa in Pakistan, and when bin Laden issued a fatwa against the West in 1998, he specifically mentioned this madrassa as having scholars that supported him.<sup>46</sup> Ahmed was also watched because of an anti-American speech he made while in Pakistan. While these connections do not link the Lodi community to al-Qaeda, they do show that there were some ties between the imams and the radical Islamic community.

The last connection to terrorist organizations was the camp that Hamid was said to have gone to in Pakistan between 2003 and 2005. Satellite photos were taken of a compound outside of Balakot Pakistan, which closely resembled the description given by Hamid in his confession to the FBI.<sup>47</sup> In Hamid's trial, the prosecution labeled this compound as a "probable militant training camp." Furthermore, a Pakistani police chief testified that a militant author runs a training camp around the area where the compound was photographed. Books written by this author were found in the Hayat residence.<sup>48</sup> Federal agents thus deduced that Hamid had attended this terrorist training camp and thus had connections with terrorist organizations in Pakistan. However, as the Frontline documentary points out, there was no attempt to verify the existence of this camp from the ground. Instead, the satellite photographs were the sole proof of the camp's existence in the Hayat trial.<sup>49</sup>

Thus, some of the Muslim community in Lodi did have tenuous connections with militant Muslims in Pakistan. Relatives of Hayat and the Imam, Adil Khan, were known radicals in Pakistan. Furthermore, the description that Hamid gave to authorities matched that of a suspected terrorist camp in Northeast Pakistan. This suggests that some links may have existed between the Lodi community and Islamic jihadists in Pakistan. However, officials' original claims

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<sup>42</sup> Isikoff, "New Terror Camp."

<sup>43</sup> Frontline, *The Enemy Within*, "Scott Interview."

<sup>44</sup> *Ibid.*

<sup>45</sup> Frontline, *The Enemy Within*.

<sup>46</sup> Frontline, *The Enemy Within*, "Scott Interview."

<sup>47</sup> Rone Tempest, "Prosecutors Rest Case in Terrorism Trial," *Los Angeles Times*, March 29, 2006.

<sup>48</sup> *Ibid.*

<sup>49</sup> Frontline, *The Enemy Within*, "Scott Interview."

that the Hayats were an al-Qaeda sleeper cell were proven to be unfounded. Any relations to al-Qaeda were not substantiated during the investigation process. The court did find Hamid guilty of planning to wage a jihad when so instructed, but who was going to instruct him was not clarified. Therefore, while the Hayats may have had connections with militant Muslims, there did not appear to be a terrorist network operating within Lodi.

### **8. Relation to the Muslim community**

The Muslim community in Lodi was important because it was through this community that Naseem Khan met and identified Hamid Hayat. Furthermore, the FBI suspected the imams, two leaders in this community, of terrorist activities.

That being said, the Muslim community in Lodi was not supportive of the terrorist activities that the Hayats and the imams were being investigated for. Disbelief was the main reaction by this community. They felt shocked that Hamid would be accused and convicted of these charges,<sup>50</sup> and felt as if the U.S. government unjustly accused them.<sup>51</sup> According to one member of the community, nobody believed that the Hayats were terrorists.<sup>52</sup> In his interview with Frontline, Umer stated that no one in the Muslim community in Lodi would support terrorism, but instead would report suspicious activities to the authorities.<sup>53</sup> Therefore, the charge of terrorism against the Hayats was not met with support in the Lodi community, but with disbelief. This case damaged the relationship between the federal government and the Lodi Muslim community, who felt they were being unjustly targeted.<sup>54</sup>

### **9. Depiction by the authorities**

Throughout the investigation in Lodi, the FBI believed that there was a significant threat of terrorism. As McGregor Scott explained, they felt that the threat posed by the Imams was not immediate, but rather a long-term threat. They suspected that Adil Khan's planned madrassa would be a front for radicalizing Muslims.<sup>55</sup> Therefore, the decision to simply monitor the community was appropriate. However, the FBI's assessment of the case changed when Hamid returned from Pakistan. At this instance they felt that there was an immediate threat and that action needed to be taken.

When the Hayats were arrested in June of 2005, the FBI and the Department of Justice initially "claimed they had shattered a trained Al Qaeda sleeper cell in California's agricultural Heartland."<sup>56</sup> This idea was repeated in Hamid's trial when a U.S. attorney stated that Hamid was "'awaiting orders' to commit a terrorist attack in the United States."<sup>57</sup> This shows that from the time of

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<sup>50</sup> "Lodi Muslim Community Shocked at Hayat's Sentence," *American Muslim Perspective*, September 11, 2007.

<sup>51</sup> Frontline, The Enemy Within, "Lodi Muslims: Under the 'Eye of Suspicion.'"

<sup>52</sup> Frontline, The Enemy Within, "Hamid Hayat."

<sup>53</sup> Frontline, The Enemy Within, "Hayat Interview."

<sup>54</sup> Frontline, The Enemy Within, "Lodi Muslims."

<sup>55</sup> Frontline, The Enemy Within, "Scott Interview."

<sup>56</sup> Tempest, "Prosecutors Rest."

<sup>57</sup> Ibid.

the Hayats' arrests until at least after Hamid's trial, the authorities either believed that they had broken a major terrorist network operating within the United States or were trying to create positive publicity about the case. Either way, they clearly did not have the evidence to support these claims.

Later, in his interview with Frontline, prosecutor Scott indicated that the federal government had misspoken about the connection of the Hayats and al-Qaeda. However, Scott did portray the incident as a success for the new approach to handling terrorism in a post 9/11 world:

[W]hen we look at a situation like Hamid Hayat, who gets off an airplane and within 100 hours admits, "I've been to a terrorist training camp in Pakistan, and I came back here with the intent to kill Americans," that's where we're going to take that case, and we're going to prosecute him for the crime of providing material support to terrorists as opposed to waiting until after his intent to come back here and kill Americans [is] carried out. That's the paradigm, and that's the shift that's happened since 9/11.<sup>58</sup>

However, there does not seem to be any time when Hamid stated that he came here to harm Americans. Scott seems to be interpreting Hamid's confession of attending a terrorist camp very broadly.

Scott is thus defending the actions of the FBI, which could have been construed as alarmist. The federal government believed that there was a significant threat of terrorism, and that it was better to remove that threat before any actual acts of terrorism materialized.

Therefore, the assessment of this case by the authorities changed when Hamid returned to the United States in 2005. Prior to this event, the FBI had a cautious and responsible approach to investigating possible terrorist activity in a small Californian city. After Hamid returned however, the investigation drastically shifted. The FBI arrested the Hayats and eventually deported the two imams, claiming that it had broken up a terrorist cell within the United States. While this language may have been extreme and alarmist, Scott defends the state's actions, believing that it was better to act with possibly too little evidence than to wait until after a terrorist act occurred.

## 10. Coverage by the media

The Lodi investigation first went public in June of 2005 when Hamid and Umer Hayat were arrested. Initially, the media took an alarmist stance about this case. Local and major news sources reported that al-Qaeda was operating within the United States and speculated on what this case implied for the safety of Americans.<sup>59</sup> In retrospect, these claims by the media seem rather alarmist as it was later determined that the Hayats were not operating as an al-Qaeda sleeper cell in Lodi. However, this approach by the media is understandable as the federal prosecution made similar claims shortly after the Hayats were arrested.<sup>60</sup> Therefore, the media was simply reporting the information that was being released to it by the federal government.

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<sup>58</sup> Frontline, *The Enemy Within*, "Scott Interview."

<sup>59</sup> For example see: Wood, "US Arrests."

<sup>60</sup> Frontline, *The Enemy Within*.

After the trial and sentencing though, the local and national media approached the Lodi case with more caution. For example, the *Los Angeles Times*,<sup>61</sup> the *New York Times*,<sup>62</sup> and the *Lodi News-Sentinel*<sup>63</sup> each reported the trial and sentencing, but also expressed many of the criticisms and doubts that were being raised by the defense and the Muslim community. This shows a more cautious and balanced approach to the case.

Perhaps the most extensive coverage of this case came from PBS Frontline's documentary "The Enemy Within" televised on October 10, 2006. This documentary not only reported on the Lodi case, but it also raised numerous doubts about the FBI and federal government's methods and credibility. An integral part of this documentary was an interview with retired FBI agent James Wedick who, as noted, criticized the FBI for their lack of evidence and poor interrogation techniques and even went as far as to suggest that the federal government prosecuted so that the resources spent in the Lodi investigation did not seem wasted.<sup>64</sup> The Frontline documentary is a very comprehensive report on this case. Although it may lean to the side of Wedick and the defense, it offers the federal government a chance to respond and provides extensive details about the case.

Finally, the online community continued to report on the Lodi case ever since it went public in 2005. Fringe groups both supporting and attacking the Muslim community continually commented on this case. For example, groups such as the American Muslim Perspective and CAIR expressed their disbelief and skepticism of the arrests and trial.<sup>65</sup> Meanwhile, other sites such as *Jihad Watch* supported the prosecution entirely and criticized the defense.<sup>66</sup> While these examples show a polarization on the Lodi case, the mission of these groups dictated their stance on these issues. The mainstream media is a better indication of the press coverage on this case.

## 11. Policing Costs

The investigation and prosecution of the Hayats was a long and expensive process. It began in 2001, when the FBI hired Khan as an undercover agent in Lodi, and ended in September of 2007 when Hamid Hayat was sentenced by the federal court system. The surveillance of the Hayats by Khan and the FBI began sometime in late 2001 or early 2002, and ended with their arrest in June of 2005. As noted, Khan was paid approximately \$230,000 for these four years of work.<sup>67</sup> However, that was only a fraction of the cost to the FBI of this case. Wedick estimated that a four-year operation like this would cost millions of dollars. Not

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<sup>61</sup> Tempest, "Prosecutors Rest."

<sup>62</sup> Carolyn Marshall, "24-Year Term for Californian in Terrorism Training Case," *New York Times*, September 11, 2007.

<sup>63</sup> Bohm, "Hamid Sentenced."

<sup>64</sup> Frontline, The Enemy Within, "Wedick Interview."

<sup>65</sup> AMP, "Lodi Community Shocked."

<sup>66</sup> Username: Marisol. "Hamid Hayat Sentenced to 24 Years for Attending Pakistani Jihad Training Camp," Jihad Watch. Posted September 15, 2007. [www.jihadwatch.org/2007/09/hamid-hayat-sentenced-to-24-years-for-attending-pakistani-jihad-training-camp.html](http://www.jihadwatch.org/2007/09/hamid-hayat-sentenced-to-24-years-for-attending-pakistani-jihad-training-camp.html)

<sup>67</sup> Frontline, The Enemy Within, "FBI's Response."

only is the informant paid, but there is a support staff of FBI that would have been needed to monitor Khan, analyze the tapes, handle administrative matters, pursue leads, and conduct an overseas investigation.<sup>68</sup> While there is no detailed list of the agents working on the Lodi case available, it can be assumed that there was a large support staff to aid this undercover investigation.

In addition to the cost of the investigation, the trial of the Hayats lasted for a significant length of time in court. The Hayats were held in custody until the trial began on February 14, 2006, which lasted until April 25, 2006.<sup>69</sup> Over the next year, Hamid's appeal was denied, and Umer pled guilty to lesser charges in order to drop the terrorist related charges. Hamid's sentence was announced on September 10, 2007.<sup>70</sup> This trial was lengthy and costly for the U.S. government.

The great expense of this case raises questions about its validity. Wedick argues that the main reason that the Hayats were prosecuted was because the FBI had spent so much money on the investigation, and did not have enough evidence to prosecute their initial targets, the two Imams: "They had paid more than almost [\$230,000] to a government informant. ... They had to bring about charges concerning someone."<sup>71</sup> This raises the question as to whether the FBI prosecuted with a legitimate case, or if they prosecuted in order to avoid having the investigation look like a waste of money.

## **12. Relevance of the internet**

None in this case.

## **13. Are we safer?**

As a result of the Lodi investigation, Hamid Hayat is in prison, Umer Hayat is on probation, and the two Imams, Mohammed Adil Khan and Shabbir Ahmed, were deported. Were these actions necessary to the security of the United States? The answer to this question is controversial. On the one hand, the FBI and federal prosecution argue that they prevented jihadists and terrorists from performing acts of violence and recruiting members within the United States. On the other hand, skeptics like Wedick argue that the case was not vital to the security of the United States, but rather that these actions were a way to make the expensive operation seem like a good investment.

To begin, the FBI claimed that the Hayats were part of a terrorist organization here in the United States. According to the FBI, Hamid at least received training on how to kill Americans and recruit others to his cause.<sup>72</sup> This made the Hayats a threat to national security, even without a specific plan to carry out violence. FBI agent Parenti states, "We caught it extremely early, we were questioning the Hayats within a couple of days of Hamid returning from Pakistan and the terrorist training camp. So what may have been afoot we may never

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<sup>68</sup> Frontline, The Enemy Within, "Wedick Interview."

<sup>69</sup> Department of Justice, Hamid Hayat Sentenced.

<sup>70</sup> Ibid.

<sup>71</sup> Frontline, The Enemy Within, "Wedick Interview."

<sup>72</sup> "U.S. v. Hayat" Affidavit.

know.”<sup>73</sup> The FBI therefore believes that by catching these terrorists early, they were able to protect American lives. The courts agreed with the FBI, stating in Hamid’s sentencing, “Hamid Hayat attended a terrorist training camp, returned to the U.S. ready and willing to wage violent jihad . . .”<sup>74</sup> To that degree, Americans are safer because the federal agents were able to remove the terrorist threat before any violence occurred.

Additionally, by deporting Mohammed Adil Khan and Shabbir Ahmed, the federal government claims to have prevented a long-term threat to the United States. As discussed, prosecutor Scott stated that they felt that Khan was a “long-term” threat to the United States because he planned to establish a madrassa, which would preach a form of Islam that was “antithetical to the best interests of the United States.”<sup>75</sup> This, he feared, would “serve as a recruiting ground to eventually dispatch young men over to Pakistan for training, with the potential to come back here and do some very bad things.”<sup>76</sup> If these fears were justified, we are safer because of the deportation of these two men. The FBI stopped a terrorist recruitment center from forming in the United States and creating future terrorists. However, the FBI had little evidence against the Imams, which suggests that this scenario was likely exaggerated.

Critics of this case however, argue that there was not enough evidence to convict the Hayats or support the FBI’s claims against the imams. Therefore, the United States is not safer by the arrest of the Hayats and the deportation of the imams because there was no real terrorist threat.

To begin, there was a notable lack of evidence in Hamid’s trial. The major pieces of evidence brought forth by the prosecution were his confession to the FBI, the tapes of conversations between Hamid and Khan Khan, Hamid’s scrapbook and prayer, and the aerial photos of the suspected terrorist training camp in Pakistan. However, the validity of each of these pieces of evidence was questionable.

First, the confession given by Hamid to the FBI was problematic. To begin, it took several hours of questioning after Hamid failed the polygraph test before he confessed.<sup>77</sup> This raises doubts because the lengthy interrogation process could have caused Hamid and Umer to confess to something that they were not guilty of. Furthermore, at times the FBI agents conducting the interrogation project seemed to lead the Hayats, clearly looking for a specific answer. When Hamid gave details of the camp in his own words, it often seemed ridiculous. For example, he speaks about practicing pole vaulting in a basement with masks like the Ninja Turtles.<sup>78</sup> Wedick argues that,

They [Hamid and Umer] were attempting to return home, to go back to their house. . . . They had repeatedly denied attending any camp, being associated with any terrorist activities, but then finally at some point, if

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<sup>73</sup> Frontline, *The Enemy Within*, “FBI’s Response.”

<sup>74</sup> Department of Justice, *Hamid Hayat Sentenced*.

<sup>75</sup> Frontline, *The Enemy Within*, “Scott Interview.”

<sup>76</sup> Frontline, *The Enemy Within*.

<sup>77</sup> “U.S. v. Hayat” Affidavit.

<sup>78</sup> Frontline, *The Enemy Within*.

you look at the tape-recorded confessions, you'll see that they more or less answered the way the bureau wanted them to answer. Most of the answers were just short bursts of agreement of whatever was proposed. Other times it doesn't make any sense.<sup>79</sup>

This criticism suggests that the FBI mishandled the interrogation process. By leading the Hayats, they got the answer they wanted to hear from a pair of individuals who were desperate to tell the FBI what they wanted to hear and go home.

Second, the role of the informant was questionable at best. As noted, he often tried to convince Hamid to attend a terrorist camp, and his credibility was doubtful.<sup>80</sup>

Finally, Wedick criticizes the lack of an investigation on the supposed terrorist camp in Pakistan. He claimed that the prosecution should have tried to validate the facts given in Hamid's confession.<sup>81</sup> However, there was no investigation of the camp in Pakistan, instead the prosecution simply introduced aerial photos as evidence that it existed and that it matched Hamid Hayat's description.

In addition to these reservations about the evidence produced by the prosecution, critics of this case have problems with the amount of money spent by the FBI. As Wedick said, the FBI spent so much money on this case that it had to convict somebody.<sup>82</sup>

Therefore, critics of this prosecution believe that the evidence produced by the FBI was not significant enough to link Hamid and Umer Hayat to terrorism. If the Hayats were not terrorists, their prosecution did not protect the security of the United States and we are not safer. It is thus debatable as to whether the federal government acted correctly in handling this case and whether they protected the United States from terrorism.

#### **14. Conclusions**

As in Lackawanna (Case 3), there were no plans for violence and little or no evidence that linked the supposed terrorists to any terrorist acts. The FBI acted extremely early in this case, prosecuting Hamid and Umer Hayat even before Hamid could tell Naseem Khan whether he had attended a terrorist camp. While there have been other cases in which the terrorists were apprehended before they created concrete or manageable plans of violence, the FBI always waited until they had significant evidence before acting. Even in the Albany case (Case 6), although the FBI suspected the pair of terrorist activities before any plans of violence were formed, it did not act on these suspicions until it had concrete evidence that could be used to argue that the two men were involved in illegal activities. In Lodi, by contrast, the FBI acted so early that it did not have a solid case to prosecute the accused terrorists. Instead, as Wedick suggests, the FBI

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<sup>79</sup> Frontline, *The Enemy Within*, "Wedick Interview."

<sup>80</sup> Frontline, *The Enemy Within*.

<sup>81</sup> Frontline, *The Enemy Within*, "Wedick Interview."

<sup>82</sup> *Ibid.*

relied on “hysteria” in the United States to convict the Hayats and not the facts of the case.<sup>83</sup>

The FBI had initially launched an investigation into the Muslim community of Lodi in order to examine two imams that they suspected were radicalizing the community. However, when little evidence emerged that implicated the imams, the FBI began focusing on the Hayats. The investigation lasted for several years, and in the end Hamid Hayat was sentenced to 24 years in prison for attending a terrorist camp and lying to the authorities.

This case was anything but clear. Many critics have claimed that there was not enough evidence to link the Hayats to terrorist activities. Instead, the FBI may have prosecuted the Hayats in order to make their investigation seem like a worthwhile endeavor.

The controversy created by these arguments highlights the careful balance that counter-terrorism efforts need to have. On the one hand, counter-terrorist organizations, such as the FBI, need to act before any acts of violence occur. On the other hand, these organizations need to insure that the people they are prosecuting are actually terrorists. In this case, the FBI seemed to have acted before they could prove the Hayats’ terrorist connections without a doubt. As such, their credibility, especially within the Muslim community, has surely declined. This case should be used as a learning experience, so the FBI can repeat what it did correctly, and make sure it does not make the same mistakes in the future.

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<sup>83</sup> Frontline, *The Enemy Within*, “Wedick Interview.”