

AT FREEDOM'S EDGE: LIBERTY , SECURITY AND THE PATRIOT ACT

The two sides of one law, the two lives of one man

Part three of an occasional series

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PORTLAND, Ore. -- They came for Mike Hawash early in the morning, as the software engineer arrived for work at Intel. Federal agents in flak jackets, armed with assault weapons, scooped him up in the parking lot, pushed him into a car and sped away.

At the same time, a dozen other agents served a search warrant on his suburban home. They roused his wife Lisa and their three children from bed, then carted away computer equipment and financial records. When they left, four hours later, Lisa called Mike's best friend and colleague, Rohan Coelho, and burst into tears.

"It was terrifying," Coelho said. "I thought this has to be a terrible mistake."

The news rippled quickly through the Intel community. Why, friends and coworkers wondered, would the FBI's Joint Terrorism Task Force be interested in Hawash, a 39-year-old Palestinian American more involved in coaching his stepson's soccer team than in religion or politics?

That puzzlement turned to outrage when federal authorities refused even to confirm they had Hawash in custody, much less explain why he was being held.

And so Coelho and two Intel colleagues -- Debbie Burke and Steven McGeady -- launched the Free Mike Hawash movement, a staunch defense of their friend that briefly galvanized this liberal Northwest city.

Their effort, in the end, would fail dramatically, as details of the government's case became known.

At the heart of the debate over the USA Patriot Act, signed into law by President Bush just 45 days after the terrorist attacks of 9/11, is a fundamental tension between national security and individual liberty.

This conflict, which at times can seem abstract, boils down to a single, basic question in the case of Mike Hawash: Is America safer with this man behind bars?

The prosecution of Hawash and six others, a group that came to be known as the Portland Seven, almost certainly would not have been possible without the Patriot Act. The act enabled investigators to conduct secretive searches of the men's homes, to access personal e-mail accounts and, ultimately, to charge Hawash with providing "material support" to terrorists.

The charges against Hawash stemmed from a secret trip he made to China six weeks after the 9/11 attacks. According to prosecutors, Hawash and his compatriots intended to take up arms with the Taliban in Afghanistan, but were stymied by visa problems. After 24 days, Hawash returned home to his family and his work, hoping to put the whole thing behind him.

The material support provision, like many parts of the Patriot Act, essentially strengthened an existing law. In this instance it was a federal statute, enacted after the 1995 bombing in Oklahoma City, that targeted those who supplied money or equipment to terrorist groups. A conviction carried a maximum prison term of five years.

The definition of material support was expanded under the Patriot Act to include "expert advice and assistance" to any of the groups on the Department of State's terrorism watch list. The change made it far easier for

investigators to link individuals to potential terrorist activity. The penalty was also increased, to a maximum of life in prison.

Before 9/11, the material support law was invoked just three times. Since then, federal authorities have used it in at least three dozen cases, including the high-profile prosecutions of arms merchant Hemant Lakhani, New York defense attorney Lynne Stewart and John Walker Lindh, nicknamed "the American Taliban."

Prosecutors have brought cases in 15 states, from New Jersey to Texas to Idaho. But the statute's main utility, according to federal authorities, has been in revealing home-grown terrorist conspiracies and cracking so-called al Qaeda "sleeper cells" like the Detroit Four and the Lackawanna Six -- and the Portland Seven.

The Department of Justice has called the material support provision "an essential tool" in the war on terror; critics argue the broad definition of "support" has infringed on civil liberties in unpredictable ways.

Twice, federal courts have ruled the material support law is unconstitutionally vague. According to the rulings, the law fails to differentiate between those, for instance, who might donate to tsunami-stricken Sri Lankans living under the thumb of the insurgent Tamil Tigers and those who would supply missiles to al Qaeda. The cases are under appeal.

The story of Mike Hawash provides an unusually clear focus for the ongoing debate, which raises complex and emotional questions about who ought to be classified as a terrorist.

The government called Hawash a dangerous jihadist.

His friends described him as a misguided and repentant soul.

Which was it?

Maher Mofeid Hawash was the third of six children born to a Palestinian cabinetmaker and his wife in Nablus, on the West Bank of the Jordan River. He was born Dec. 12, 1964, the same year the Palestine Liberation Organization was established.

Hawash's family was displaced in 1967, during the Six Day War, when Israel seized control of the West Bank from Jordan. They lived in squalor in Kuwaiti refugee camps. Eventually they were allowed to return to the Israeli-occupied West Bank. Hawash's elderly mother still lives in Nablus. Tanks are often parked outside her home.

Amid the political upheaval of his youth, young Maher excelled in school. His secondary school test scores won him a scholarship to study at the University of Texas at Arlington, where he earned degrees in computer science and engineering. After school, he worked for three years at Compaq, in Houston, and became a U.S. citizen. Friends said he asked them to call him "Mike," because it was easier than Maher.

In 1992, Hawash took a job with Intel and moved to Portland.

One of the first people he met was another first-generation immigrant recently hired at Intel. Hawash found he had much in common with Rohan Coelho -- the son of a tea farmer in India -- whose intelligence and hard work had won him a scholarship to the University of Massachusetts.

"We both thought we had been given a tremendous opportunity," Coelho said recently, over an immense mug of coffee at a Starbucks on a drizzly afternoon.

They wrote a technical book together. They wanted to call it "Screaming Pixels," Coelho said, but Addison-Wesley Professional, the prestigious technical publisher, thought it trivialized the content. The book, "DirectX, RDX, RSX and MMX Technology: A Jumpstart Guide to High Performance APIs," never made a bestseller list, but seven years later it remains in stock at Amazon.com

The men also shared a passion for soccer and a taste for beer, often meeting in area taverns to hoist a few while watching an overseas match.

It was Coelho who introduced Hawash to Lisa Ryan, a friend of his fiancée's.

Ryan was born in Roseburg, a logging town in southern Oregon. Christian by birth, Ryan had moved to the city and lived a largely secular life. According to friends, she was drawn to Hawash's intelligence, his love of active sports; he was taken by her quick smile and wit, and was not bothered that she had a child from a previous relationship.

They married in 1995, when Hawash was working on a temporary assignment for Intel in Israel. Coelho was best man, a favor Hawash would return when Coelho married.

A year later, the Hawashes and Coelhos were living in neighboring subdivisions, in well-kept four-bedroom homes like those in a thousand other upscale American suburbs. They rode the dot-com boom, bringing home six-figure salaries and fat bonuses. Hawash sent his stepson to private school.

"We were living a good life," Coelho said. "We were all very happy."

Four years after they married, Mike and Lisa had their first child together, a baby girl. Lisa soon became pregnant with their second child. The joy of children, however, was tempered by mourning for Hawash's father, who died early in 2000 after a long struggle with diabetes.

It was a difficult year for Hawash, according to his friends, and he returned to his Muslim faith as a way to cope.

"Mike became much more introspective," Coelho said. "He wasn't a person to speak about his personal feelings, but between his father passing and becoming a father himself, he just seemed to realize that there was a lot more to life than grabbing a beer on the weekend."

Signs of Hawash's spiritual struggle soon became obvious.

He grew a beard and covered his head with a prayer cap. He asked those who had known him for years as Mike to, please, call him Maher. He paid off the mortgage on his house, because Islam forbids paying interest on loans. And he became a regular at Masjed as-Saber, the Islamic Center of Portland, a more fundamentalist place of worship than the Bilal Mosque, which he previously attended and which was closer to his home.

The changes caught his friends off-guard. "I was surprised when I saw his picture in the paper. He looked very different from the Mike that I knew," Debbie Burke said.

Burke first met Hawash at Intel. She was the human resources director for the division that McGeady oversaw. Among the 200 people in that division, she said, Hawash and Coelho stood out for their cutting-edge work in computer video graphics.

Burke spent considerable time with Hawash in the Middle East when he worked at Intel's plant in Haifa from 1994 to 1996. Hawash had transferred there to be nearer his family and his ailing father. At the time, Burke was working in Jerusalem as a human resources specialist for Intel.

Hawash's main interest outside of work was in setting up an Internet Service Provider for Palestinians, the first in Nablus. He hired some unemployed cousins to run the operation. It was one of the ways he felt that he could give back to the family and community he left behind, Burke said.

Although Hawash occasionally attended prayer services and fasted during Ramadan, he was not otherwise particularly devout. "He was not very religious," Burke said. "The only remotely political thing I saw him do was stop along a highway once to observe a moment of silence for Israeli bombing victims."

"He's not serious, but not silly," Burke said. "He made friends easily and never took things personally. He was smart. He learned to speak Hebrew. ... He was warm and soft-spoken, not boisterous and talkative."

Five years after completing his assignment in Israel, in the grip of his newfound religious convictions, Hawash made a pilgrimage to the holy city of Mecca, Saudi Arabia. The journey, required of all Muslims who are physically and financially able, is considered the pinnacle of Islamic spirituality.

Making the hajj seemed to bring Hawash a measure of contentment, according to Coelho. Marital tensions that had developed between Mike and Lisa -- who friends said was not enthusiastic about embracing the role of dutiful Muslim wife -- seemed to ebb.

The attacks on 9/11 shattered what peace they might have found.

Hawash would later say, in a letter to the court, that he could not believe Muslims were responsible. He believed the U.S. retaliation against the Taliban for harboring al Qaeda in Afghanistan was wrong. In his mind, the war would result in the deaths of thousands of innocent Muslims.

"As my feelings remained against the war as unjust and unjustified, my feeling of responsibility in front of Allah had started to grow," Hawash wrote. "I was torn, and had never felt such pressure in my life. I've never wandered in such a state of confusion and indecision."

Those ideas, contrary to the prevailing public view, were welcomed, even nurtured, at the Masjed as-Saber mosque.

A modern, blocklike building that looks more like a school than a church, the mosque is perched on a steep residential street on the southwest fringe of Portland. It attained some notoriety after 9/11 when authorities identified it as one of the largest donors in the nation to the Global Relief Fund, a Muslim charity that was shut down in late 2001 over allegations of fund-raising and money-laundering for terrorist groups.

The imam, Mohammed Kariye, is the very picture of conservative Islam, with his embroidered skull cap, graying beard, flowing robe and floppy sandals. Arriving for evening prayers one night last month, he showed no interest in talking to a reporter, but kindly promised someone from the center would call. No one did.

It was at this mosque, according to federal authorities, that Hawash met Habis al Saoub, a Jordanian with permanent residency in the United States. Saoub stood 6-foot-3, weighed 210 pounds and had emerald green eyes. A veteran of the Afghan war against the Soviets, he was revered by many at the mosque.

Hawash also met Muhammad and Ahmed Bilal, American-born brothers of Saudi descent. Hawash helped them start a landscaping business. And he came to know two African-American Muslims, Jeffrey Battle and Patrice Lumumba Ford.

Battle was a ne'er-do-well, a one-time Mark Kay cosmetics representative who was trying to wriggle out of his commitment to the U.S. Army reserves after washing out in boot camp. Ford was erudite, fluent in Chinese, and had done post-graduate work in international studies at Johns Hopkins University in Baltimore. His father, Kent Ford, had been the president of the Portland Black Panthers during the 1970s.

The six men, little more than acquaintances before 9/11, would later say in court that they coalesced around the anger and fear they felt after that day.

Saoub fed them tales from his past, stories of brave Afghan fighters taking on the oppressive Soviet regime. Authorities contend that it was Saoub who convinced all of them that it would be an honor to die as martyrs for Islam and be welcomed into heaven by 72 black-eyed virgins.

The men began calling themselves muhajid and referring to Saoub as their emir. They adopted the name Katibat al Mawt -- The Squad of Death.

On Oct. 24, 2001 -- six weeks after the 9/11 attacks -- Hawash boarded a plane from Portland to Hong Kong. He planned to rendezvous with his five brothers from the mosque and travel overland across China into Pakistan. There, they would join the Taliban to fight U.S. forces in Afghanistan.

Hawash paid for his ticket to jihad, according to federal prosecutors, with Northwest Airlines WorldPerks miles.

Court documents and an FBI affidavit provide a chronology of the trip, which is at the core of the government's case against the group. Hawash and the others, in their plea agreements, confirmed most of the details.

Less than 24 hours after President Bush signed the Patriot Act into law on Oct. 26, the group entered China through Guangzhou. On tourist visas, the six men traveled to Urumqi and then to Kashgar, a city near the Pakistan border renowned for its Sunday market. They were barely 200 miles from Afghanistan.

The group checked into the Chini Bagh hotel, a former British consulate transformed into a guesthouse. The men ate together, prayed together, practiced martial arts and exercised together (even doing chin-ups on the rafters). They didn't seem worried about keeping a low profile, according to witnesses interviewed by the FBI.

The six men spent much of their time in Kashgar trying to obtain visas, but Pakistan was not issuing them.

They also tried to hire a driver to make a perilous six-day trip through high mountain passes to Afghanistan. But with the Chinese army stationed at the border, and no visas in hand, the group had no success. They even persuaded a Pakistani to buy them bus tickets, but the Chinese driver refused to let them board.

Frustrated at the edge of the desolate Taklamakan Desert, far from home, Hawash began to question himself. As his compatriots discussed traveling to Indonesia or beyond, Hawash made a decision.

"I'm out of here," he told the group, according to FBI reports.

The six of them traveled to Beijing, where they split up. Battle and the Bilal brothers set out for Indonesia, apparently to find "good Muslim wives." Saoub disappeared, and the Justice Department has reported that a man believed to be Saoub was later killed in a firefight with U.S. forces in Afghanistan. Ford and Hawash, separately, headed back to Oregon.

On Nov. 18, 2001, Hawash landed in Portland. He had been the last to leave, and he was the first to return.

It's not clear what led federal agents to Hawash. When he was snatched from Intel's parking lot in March of 2003, it had been 16 months since he returned from China and six months since his compatriots were charged with material support for terrorists.

Hawash was detained only as a material witness, but he declined to testify before a grand jury about his associates, citing his Fifth Amendment right against self-incrimination.

An indictment later claimed that Hawash conspired with the others to travel to China and join the Taliban. Beyond that, there were few specific allegations of criminal acts. Under the Patriot Act's new material support statute, however, that was enough.

"The fact that they didn't make it (to Pakistan) doesn't impress me," said Charles Gorder, the assistant U.S. attorney who prosecuted the case. "Clearly these charges are appropriate -- they conspired to supply personnel to the Taliban. Whatever constitutional issues there are at the outer edges of the statute, there is no issue as to whether or not it was constitutional as applied in this case."

Gorder, who was forthcoming about the case in general, declined to elaborate specific points. Still, an interview with Gorder and a review of the official record illuminated several key events that helped the government move forward with its investigation of the Portland Seven (Battle's wife, October Martinque Lewis, was the seventh defendant).

The case relied in part on Khalid Mustafa, a small-time but habitual criminal who agreed to become a confidential FBI informant after being charged with drug and weapons offenses.

Mustafa infiltrated the Masjed as-Saber mosque, where he befriended Battle after he returned to the United States in February, 2002. Mustafa wore a body wire to record their conversations.

Mustafa's wire picked up details of the group's trip to China, as well as some of the most chilling detail in the indictment -- Battle talking about retaliating against Jews in Portland. "So if every time they hurt or harm a Muslim over there, you go into that synagogue and hurt one over here," Battle said on tape.

The most damning evidence, however, was a cache of e-mail exchanges, hundreds of them, between Battle and other members of the Portland Seven that allowed agents to draw a clearer picture of the conspiracy. The e-mails were obtained through provisions of the Patriot Act that allow prosecutors broad access to the data files of Internet service providers.

Without the Patriot Act, Gorder said, "this case would have been the Portland One instead of the Portland Seven."

In court documents, prosecutors acknowledged having taped at least 271 conversations and obtained 31 separate orders from the Foreign Intelligence Surveillance Act court, a secret tribunal whose powers to approve government surveillance were expanded under the Patriot Act.

"This was an important case in the battle against terrorism. It's one example of a number of cases around the country where a small group of people are enamored of the concept of violent jihad. These people are dangerous. They need to be stopped," Gorder said.

A secret grand jury indictment against six of the defendants -- everyone but Hawash -- was unsealed on Oct. 4, 2002, nearly a year after the trip to China and with all of the men except for Saoub back in the United States. That same day, John Walker Lindh was sentenced to 20 years in prison and federal agents in Michigan arrested a small group of suspected terror cell members who would become known as the Detroit Four.

Attorney General John Ashcroft declared it a "defining day in America's war against terrorism" during a news conference in Washington, D.C. The statement made virtually every evening newscast and morning newspaper in America.

Shortly after the indictments were revealed publicly, Hawash hired a lawyer.

Five months later, when federal agents grabbed him at the Intel campus, they reported that he told them, "I've been expecting you."

Hawash's arrest became an instant cause célèbre in the liberal bastions of technologically hip Portland. Within hours there was a Web site -- www.freemikehawash.org -- started by Hawash's friends Coelho, Burke and McGeady.

The focus of the group was always to win due process for Hawash, who was held incommunicado as a material witness in the Portland Seven case for five weeks before he was charged. It was a controversial tactic the government employed in many cases to detain and isolate alleged terrorists.

"I was pissed off," McGeady said later. "My understanding of the justice system is that people who are arrested are supposed to have charges brought in order to hold them. Why wasn't there an arraignment? Why was this all a secret?"

The group believed Hawash was being held simply to compel his testimony. They were convinced it had more to do with his ethnicity than any complicity in a terrorist plot.

Hawash's supporters tapped every media contact they had to draw attention to the case. The story made a national splash in the New York Times, Newsweek and the Wall Street Journal. During one three-day stretch, CNN had a satellite truck parked in front of McGeady's house to deliver live reports.

Then, on April 29, 2003, Hawash made his first appearance in court.

Cleanshaven and in a suit coat, he was formally charged with conspiracy to provide material support to al Qaeda and the Taliban, and conspiracy to levy war against the United States, a Civil War-era law prosecutors dusted off for the indictment.

The charges shocked even Hawash's closest friends.

"As much as I hate to say it, I remember sitting in court and thinking, man, there really must be something to this after all," Burke said. "I thought, the government wouldn't prosecute him if there wasn't, would they."

At a news conference the day before, the FBI had released a 41-page affidavit that had been sealed in support of Hawash's indictment. It detailed the wild-eyed trip to China by Muslim radicals from Portland, including Hawash, in convincing detail.

Public support quickly evaporated, even in Portland's most liberal neighborhoods. The media disappeared. Donations dried up. The group offered to refund any of the \$25,000 that had been collected earlier, and a few donors took them up on it.

Hawash pleaded guilty on Sept. 6, 2003. He agreed to cooperate completely with federal prosecutors.

Within six weeks, the other defendants pleaded guilty, too.

Ashcroft, who had personally signed off on Hawash's agreement, called a news conference in Washington, D.C., to highlight the Department of Justice's success. "The plea agreements in the Portland case would have been more difficult to achieve, were it not for the legal tools provided by the USA Patriot Act," he said.

Since that time, Ashcroft has often pointed to the Portland group as a prime example of how the provisions of the Patriot Act help to uncover and wipe out terrorist "sleeper" cells.

The lightest sentence went to Lewis, Battle's wife, for wiring money to the group in China. She is serving three years at a federal prison camp.

Ahmed and Muhammad Bilal was sentenced to eight and 10 years in prison. Ford and Battle were sentenced to 18 years each. Battle last year had two years added to his sentence for refusing to testify before a grand jury. Ford is serving his time at the maximum-security prison in Leavenworth, Kansas.

Ford and Battle pleaded guilty the same day the court was scheduled to hear their motions challenging the evidence gathered under provisions of the Patriot Act. The pleas made such a hearing moot.

Both men faced the possibility of life sentences. The case against them was largely circumstantial. However, with Hawash's testimony a conviction seemed far more likely. For Ford, a young man with an infant son, it was not a risk he was willing to take.

"It's one of the worst pleas I've ever taken," said Stanley Cohen, a prominent New York defense lawyer who represented Ford and who was the only defense lawyer involved in the Portland Seven case willing to talk about it.

Cohen said the entire case was an over-reaction by the government to a misguided, but harmless, effort by young men swept up in the romantic notion of going off to fight a war in defense of their Islamic brothers.

"It was part of a desperate need by the government to find bogeymen to justify their failures in Afghanistan and Iraq," Cohen said. "It's a terrible case that served its purpose for the Bush administration."

Gorder scoffs at that idea. "These guys are terrorists and traitors," he said, "not political pawns."

At his sentencing on February 9, 2004, Hawash was contrite.

"I do not blame anyone else but myself. This action was done by me, based on a misguided judgment at the time, a high emotional time for me in my life," Hawash told the court.

He said that in his "unbalanced thinking" it was morally wrong for America to attack Afghanistan. He said he was further goaded, by Saoub, to believe that it was required of him as a good Muslim to go to the aide of his brothers and sisters.

While in China, Hawash said, his mind cleared and he knew that what he was doing was wrong. He returned home to a "more peaceful moment" in his life and made a pact with himself to atone for what he did.

"It's something that I have done that is completely out of my character," Hawash said. "It's not something ingrained in me or something that I do. It was just a diversion in my life, and I clearly know that it's an unlawful act that I have done."

U.S. District Judge Robert Jones, known as "Righteous Robert" for his unshakable sense of right and wrong, said that he found the case vexing.

"From the beginning, Mr. Hawash has been a mystery to the court," Jones said from the bench during sentencing. "How (could) a man of his extreme success, extremely happy family life, loving spouse and beautiful children, highly respected at work and in his community, commit this criminal act?"

Jones also seemed moved by Hawash's statement and several letters of support. "I'm convinced that you will never again commit a criminal act," he said to Hawash.

Then he sentenced Hawash to seven years in federal prison.

Last week, almost 18 months after Hawash's sentencing, the House of Representatives approved a bill that would make 14 of the Patriot Act's 16 expiring provisions permanent. Similar legislation is working its way through the Senate.

The material support provision, which made the main charge against Hawash possible, has been hotly debated but is not among those scheduled to expire at the end of this year.

With time off for good behavior, Hawash likely will be released in early 2009.

Among his circle of friends, only Coelho so far has visited Hawash in at the minimum-security federal prison in Sheridan, an hour south of Portland. McGeady and Burke both say they've meant to, but they just haven't found the time and they don't want to use visiting hours that he might otherwise spend with his family.

Lisa Hawash visits her husband most Saturdays. She sold the family's home in Hillsboro to help cover legal bills and living expenses. Last month, she graduated from Portland State University with a master's degree in social work. She has a job and a new house in the Portland area. The children are about to start school.

Lisa Hawash has never spoken publicly about the case, fearing that she might say something that could affect Mike's status or his assignment to Sheridan, the federal facility nearest their home. But family friends say privately her greatest concern is that Congress may modify the nation's anti-terrorism laws once again, allowing the government, at the end of Hawash's sentence, to revoke his citizenship and deport him.

After all, Mike Hawash is a terrorist.