

## Dix Six's lawyers fret over fair trials

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Some criminal-defense lawyers contend the indictment of six men allegedly involved in a plot to attack Fort Dix, and the media coverage surrounding it, have put misleading information before the public and could prejudice potential jurors.

With words like "jihadist" and "al-Qaida-inspired," the indictment charging the foreign-born men with plotting an armed assault on Fort Dix contains "inflammatory and superfluous" language, Haddon Heights attorney Rocco Cipparone said.

Such labels can unfairly arouse the emotions of prospective jurors, said Cipparone, who was appointed to represent Mohamad Shnewer, a native of Jordan who lived in Cherry Hill and drove a taxi in Philadelphia before his arrest in May.

Shnewer is accused in the criminal complaint of orchestrating plans to attack Fort Dix, along with Serdar Tatar, a native of Turkey who lived in Philadelphia and worked at a 7-Eleven there, and Dritan, Eljvir and Shain Duka, Albanian-born brothers who ran a roofing business from their Cherry Hill home.

Descriptions of the defendants as "jihadists" and "inspired by al-Qaida" in the indictment could bias prospective jurors, said Jon'a Meyer, director of the graduate program in criminal justice at Rutgers-Camden.

"It could make it harder to seat an uninvolved jury," Meyer said. Sometimes warranted

But Kimberly Ferzan, a law professor at Rutgers-Camden, said the use of such descriptive terms can be warranted.

"It depends on the facts of the case as to whether these adjectives are necessary to understanding the crime, or whether they're just show," Ferzan said.

Michael Drewniak, a spokesman for U.S. Attorney Christopher Christie, said the language in the indictment was clearly justified.

"The allegations in the criminal complaint and in the indictment reflect the activities of the defendants, including their videotaped conduct," Drewniak said.

According to the criminal complaint, the plot was foiled after defendants asked a store clerk to transfer onto a DVD a homemade video that featured images of men firing assault rifles on a shooting range, shouting in Arabic and calling for jihad. Skepticism

Criminal-defense attorney Jerome Ballarotto said the public should view high-profile cases like the alleged Fort Dix plot with skepticism.

Even the oft-repeated account that Circuit City clerk Brian Morgenstern helped foil the plot by turning over the disturbing videotape may be false, said Ballarotto, a former Secret Service agent and veteran of the U.S. Attorney's Office.

"The FBI and law enforcement often look for ways of explaining how a case was uncovered, in order to protect how the case was really uncovered," Ballarotto said, contending Morgenstern may or may not have played a key role in uncovering the plot. "It could be that they already knew about the case." Paid informants

Justin Loughry, president of the New Jersey Association of Criminal Defense Lawyers, said the prosecution's reliance on two paid informants for many of the allegations should heighten skepticism.

"Whenever there's a question of monetary gain, you have to look at the incentive structures that people are operating under," Loughry said.

Ballarotto agreed, contending that paid informants can be tempted to instigate illegal acts by others.

"In some cases, had the informant not been involved, there never would have been a crime," Ballarotto said.

In the meantime, Meyer said, Serbian-born Agron Abdullahu of Buena Vista, who faces lesser charges of providing weapons to illegal immigrants, may have made it more difficult for the men to get an impartial jury.

Abdullahu was accused on Monday of etching disturbing drawings onto the door of the cell he occupies in the federal detention center in Philadelphia.

The U.S. Attorney's Office provided a U.S. magistrate who is weighing a bail motion with photographs of sketches attributed to Abdullahu of an assault rifle shooting at the letters FBI. Another drawing features the initials of a paramilitary organization in Kosovo that has been linked to terrorism.

"It can look bad for him and the others, if they can link it to him," Meyer said.

Abdullahu's attorney, Lisa Evans Lewis, declined to comment.

Despite the challenges that the defense attorneys face, a fair trial is possible, Ferzan said.

"I still continue to have faith that jurors take oaths seriously," Ferzan said. "There's a difference between a charge and proving it."

Cipparone said he is mulling his options for seeking a change of venue. "It's a concept that I'm evaluating," Cipparone said.

Such a move could help the defendants find a fair trial, Meyer said.

"Anyone with family at Fort Dix would not be a good juror," she said.

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