

THE FBI'S OFFICIAL "CAIR HAS COOTIES GUIDANCE DIRECTIVE [REDACTED]"

I had just about come to the conclusion that Michael Horowitz, DOJ's Inspector General who took over after Glenn Fine retired in 2010, was a worthy successor. In recent weeks, Horowitz has released reports critical of DOJ's handling of classified information, its refusal to account for drones' unique risks to privacy, and the Bureau of Alcohol, Tobacco, and Firearms' use of "churning" (money-making) operations.

But then I read this report – on the FBI's Interactions with the Council on American-Islamic Relations – and I got literally sick to my stomach.

The report purports to determine whether the FBI complies with Agency guidance – the title and issuing authority for which are redacted in the report, which is why I am referring to it as the "Cooties Guidance Directive [Redacted]" throughout, even where it is redacted in direct quotes – that FBI personnel are not to engage in any community outreach with people from CAIR. For results, it shows that in three of five cases where FBI personnel did engage (or almost engage!) with people from CAIR, the personnel either didn't consult with the FBI entity the IG deems to be in charge of this policy (which is probably the Counterterrorism Division, but the IG Report redacts that too), or consulted instead with the Office of Public Affairs, which is in charge of community outreach.

In response to these shocking (!!) results, Congressman Frank Wolf has already called for heads to roll.

But what the report actually shows is, first of all, how in response to two non-criminal pieces of evidence – a meeting between men who would go

on to found CAIR and Hamas, which was not yet a designated a terrorist organization, and CAIR's designation as an unindicted co-conspirator in the Holy Land Foundation case (the publication of which was subsequently deemed a violation of the group's Fifth Amendment rights) – the FBI formulated a formal policy to treat that organization as if it has cooties.

And yet, even the language the IG repeats about this policy makes it clear that the FBI was operating on a policy of “guilty until proven innocent.”

The guidance specifically stated that, until the FBI could determine whether there continued to be a connection between CAIR or its executives and Hamas, “the FBI does not view CAIR as an appropriate liaison partner” for non-investigative activities.

That is, for the entire 5 year period versions of this policy have been in place, FBI has maintained that so long as it doesn't develop evidence that CAIR has no ties to Hamas, then FBI will treat the organization and its officials as if they do have such ties by refusing to let them on FBI property or attend any CAIR-affiliated events. And we're supposed to believe, I guess, that the FBI has used not a single one of their intrusive investigative methods to try to prove or disprove this allegation in the interim 5 years, and so it just will never know whether the allegation is correct or not, and so must operate on the playground Cooties standard.

Heck, in one of the “incidents” the report investigates, the local FBI office actually vetted an event participant to make sure his service on CAIR's local board didn't taint all his other community ties so badly that he should not participate in the event.

Yet whether or not a particular CAIR representative [redacted] is irrelevant

to the Cooties Guidance Directive [Redacted] to deny the organization access to the FBI in such non-investigative community-outreach activities.

And the IG Report – Michael Horowitz’ report – judges that vetting that found this gentleman to be innocent was not sufficient reason to ignore the Cooties Guidance Directive [Redacted]. The Report seems to endorse the view that vetting notwithstanding, this guy had a formal role in CAIR that made all his other roles in the Muslim community suspect and that’s the way things work in America.

Then there’s the underlying logic. The entire policy is premised on a bizarre belief that it is exploitative for a Muslim organization to advertise its willingness to work with the FBI.

The June 2011 EC also reiterated that CAIR was not prohibited from “maintaining a relationship with the FBI regarding civil rights or criminal violations; however, civil rights and criminal squads should be cognizant CAIR has exploited these relationships in the past.”

[snip]

The end result of this incident- CAIR posting on its website of a photograph showing the SAC speaking at the event and a description of CAIR’s Civil Rights Director moderating his speech is the sort of exploitation of contact with the FBI that the Cooties Guidance Directive [Redacted] was intended to avoid.

I don’t get it. If CAIR really were a terrorist sleeper cell, wouldn’t advertising their willingness to associate with the FBI completely ruin all their terrorist Cred, and therefore neutralize whatever threat they presented?

In any case, on the one hand, the report chronicles how the federal agency in charge of investigating civil rights abuses basically treated an entire constitutionally protected civil rights organization as guilty without charging it with any crime.

But then there's the fact that, after responding to a request to fear-mongers in Congress, this report saw the light of day in the fashion it appears.

As noted above, the IG Report seems to accept this premise of guilty until proven innocent without noting the problem underlying it. Like, you know, the Constitution. In places, the language of the report even echos that of a presumption of guilt, as in this passage where it berates OPA for actually treating an individual with multiple formal ties to the Muslim community as such, rather than as someone branded solely by his affiliation with CAIR.

It appears that OPA provided guidance that effectively reversed the presumption against CAIR participation in non-investigatory FBI activities in this instance. OPA indicated that it wanted to ensure that there was sufficient justification for excluding the CAIR participant apart from his role in CAIR.

Then there's the way in which this was released. While the actual Cooties ~~Guidance Directive~~ [Redacted] is classified, nothing else in the report seems like it should be (though the FBI has removed the classification marks from the paragraphs to hide the basis for their claims that this is classified). In particular, FBI or DOJ or OIG has chosen to redact anything that would make it clear whether this is an actual policy, or just guidance on which CTD and OPA disagree (in their complaint about the report, the ACLU notes that it doesn't appear to have gone through the formal policy-making process). And yet, having hidden that

information, the IG presents it as if the failure to implement the Cooties Guidance Directive [Redacted] is a graver problem than the upending of presumption of innocence.

Finally, there are a few tonal issues. For example, the report presents this view – from a Chicago SAC who twice blew off the Cootie Guidance Directive [Redacted] – as if his basic civility presents a problem.

He stated that if DHS considered CAIR officials to be part of the community and invited them to the Roundtable, the FBI was not going to deny them entry at the door.

In another instance, it quotes another violating SAC as using the term “Islamophobia” (PDF 22), but presents the term in scare quotes. This is borderline McCarthyist shit, treating the language of people fighting terrorists by treating Muslims as human beings as some kind of brand against them.

Finally, there’s the timing of this. The fear-mongers requested this report in March 2012 – over 20 months after after the Section 215 IG Report that we’ve been waiting for for 1,224 days got started. Three of four of what are probably interviews with those deemed in violation of this guidance took place over the course of 8 days in August and September of 2012 (the last took place in July, which makes me wonder whether that was added to beef up an otherwise thin report.)

But then the report didn’t get released until a second state CAIR affiliate starts challenging the FBI’s killing of a Muslim person. And the IG Report got released on the very same day that CAIR released a major report on Islamophobia (or, as the IG appears to treat it, “Islamophobia.”)

The whole thing seems designed not to make the FBI a more orderly place (if that were the

purpose, then it might be better to focus on how the Cooties Guidance Directive [Redacted] became formal policy – if it did – without going through formal policy channels). Rather, it seems designed to foment a kind of McCarthyism within FBI targeted at those counterterrorism investigators who believe the best way to fight Islamic extremists is to treat Muslims as partners in rooting out violence.