CIVIL LIBERTIES UPDATE
NEWSLETTER OF THE ACLU OF MASSACHUSETTS'
CIVIL LIBERTIES TASK FORCE

June 6, 2005

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I. TAKE ACTION

• **CRUNCH TIME FOR THE CONSTITUTION: URGENT ACTION NEEDED**
Contact your Members of Congress and plan to attend June 22 State House Hearing and Rally
The hearing on the Resolution Affirming the Civil Rights and Liberties of the People of Massachusetts will take place at the State House in Boston on **Wednesday June 22 at 10 AM** before the Committee on Public Safety & Homeland Security. Check www.aclu-mass.org for exact location. It will be followed by a **rally at noon** near the steps of the State House. This will occur as the Bush Administration fast tracks the PATRIOT Act debate. The Senate Intelligence Committee is meeting behind closed doors to draw up a bill expanding PATRIOT Act powers (see "In the Congress" below). Please let your Members of Congress hear from you: ask them to push back against efforts to make permanent the sunset provisions of the PATRIOT Act and expand still further executive branch power. At this critical time for civil liberties, Massachusetts can send an important message to Washington by becoming the 8th state (behind Hawaii, Alaska, Vermont, Maine, Montana, Idaho and Colorado) to pass a state-wide resolution

upholding civil liberties. **Let's pack the June 22 State House hearing and make sure thousands rally for the Bill of Rights: the *REAL* PATRIOT Act!**

II. RIGHTSWATCH

A. EXECUTIVE ACTIONS

• HORRIFIC DETAILS REVEALED OF DETAINEE DEATHS AT BAGRAM

On May 20 the *New York Times* published a shocking 2 ½ page description of the lethal brutality inflicted on a 22-year-old Afghan taxi driver named Mr. Dilawar and Mr. Habibullah, known as "Person Under Control No. 412" at the Bagram Collection Point in Afghanistan. The report was based on a 2,000-page confidential file of the Army's investigation into the case which was given to the newspaper by "a person involved in the investigation who was critical of the methods used at Bagram and the military's response to the deaths." Even though interrogators concluded that the young frail taxi driver's only offense was to drive his taxi past the American base at the wrong time, he was tormented and beaten to death over a period of days. A coroner found his legs "had basically been pulpified" by kicks and baton strikes. Mr. Habibullah was hooded and shackled by the wrists to the ceiling for days at a time, before being beaten during interrogation, and then strung up again. He died while being beaten while suspended by his arms. On May 22 the newspaper detailed how agents of the Army's Criminal Investigation command and military lawyers ignored the evidence and reported that they could not clearly determine who had caused the deaths as they moved to close the cases.

• UN REPORT DENOUNCES US TREATMENT OF PRISONERS IN AFGHANISTAN

A report compiled by UN human rights monitor Cherif Bassiouni accuses American military forces and contractors in Afghanistan as acting above the law "by engaging in arbitrary arrests and detentions and committing abusive practices including torture" (*New York Times*, April 23). He called for the US to permit human rights organization and the UN access to its detention facilities.

• US TELLS UN THAT IT OPPOSES TORTURE IN ALL CIRCUMSTANCES

On May 6 the Bush Administration delivered a report prepared by the State Department to the UN stating that "no circumstance whatsoever, including war, the threat of war, internal political stability" or any other dire situation can justify the use of torture. "When allegations of abuses arise, they in all cases will be investigated and, if substantiated, prosecuted," the report declared.

• CIA FERRIES SUSPECTS TO TORTURE CELLS AROUND THE GLOBE

On May 31 the *New York Times* published a major article about the CIA's use of the airplanes of fronts and shell companies like Aero Contractors Ltd., Premier Executive Transport Services, and Rapid Air Transport to grab terrorist suspects overseas and deliver them to interrogation cells in countries known to practice torture or Guantanamo Bay. According to the report, fictitious names are given as officers of some of the companies. Philip P. Quincannon is listed as an officer of Premier Executive Transport Services and Crowell Aviation Technologies, both with the same Massachusetts

address. According to a Human Rights Watch report, as many as 200 people could have been sent to Egypt for the purpose of torture. The *New York Times* reported on May 1 that least seven flights carried captives to Uzbekistan, where human rights groups say prisoners have been submerged in boiling water, subjected to electric shock and had their fingernails pulled off. A CIA official declared that "the US does not engage in or condone torture. It does not send people anywhere to be tortured. And it does not knowingly receive information derived from torture."

• VICTIM OF MISTAKEN IDENTITY RELEASED ON RICE'S ORDERS
Khaled el Masri, a German citizen who was seized from a bus on the Serbian-Macedonian Border on December 31, 2003 and flown on a CIA-chartered plane to a prison in Kabul where he was beaten, photographed nude and injected with drugs by interrogators, was released in Albania on May 29, 2004 after Condoleezza Rice intervened. His name was similar to that of al Qaeda suspect on an international watch list of possible terrorists. After five months officials concluded that he was a victim of mistaken identity (*New York Times*, April 23).

• FBI DID NOT TRY TO STOP TORTURE OF AMERICANS IN PAKISTAN
According to Human Rights Watch, Kashan and Zain Afzal, two American brothers of Pakistani descent were arrested, tortured, and held in secret Pakistani detention facilities for 8 months before their release on April 22. No charges were ever filed against them and the FBI did not intervene to end their torture. The men were told they would be sent to Guantanamo if they did not confess to being terrorists.

• ARMY ORDERS CHANGES TO INTERROGATION PRACTICES
The US Army will soon issue a new interrogations manual that prohibits practices like the use of stress positions, stripping and stress positions. The manual will not govern CIA interrogation practices in secret facilities for "ghost detainees" whose names and numbers are unknown.

• BUSH TERMS AMNESTY REPORT "ABSURD"
In a June 1 news conference, the President stated that an Amnesty International annual report that termed the Guantanamo detention facility "the gulag of our time" was "absurd", and said allegations of mistreatment there were made by prisoners "who hate America" and the Amnesty criticisms were "absurd." On the same day at a different press conference, Secretary of Defense Rumsfeld called the charges "outrageous". He went on to say, "There's so much transparency in Gitmo and so much oversight. There have been so many reforms instituted in the Army, in the Navy, in the Air Force, in the Department of Defense, and the oversight and the attention that's been given to what's taking place at Gitmo is extensive. And the implication that it's a gulag is what's wrong, not what's going on at Gitmo." On May 30 Vice President Cheney declared on "Larry King Live" that detainees at Guantanamo have been "well treated, treated humanely and decently" and that accusations to the contrary are lies. "What we're doing down there has, I think been done perfectly appropriately," the Vice President said. The Amnesty report, issued on May 25, had condemned the US for the abuse of prisoners at Abu Ghraib and Guantanamo and the "rendition" of captives to countries known to practice torture. William Schulz, director of Amnesty International USA, said that the report

used "strong language" because "the United States has betrayed a very fundamental principle that this country stands for" and that this represented a "failure of global leadership" (*New York Times*, May 26).

• PENTAGON & PHYSICIANS' GROUP FIND ABUSES AT GUANTANAMO
An investigation by the Air Force's Lt. General Randall Schmidt of Guantanamo interrogation methods that had been initiated as a result of FBI concerns concludes that several detainees were subjected to harsh treatment, according to the May 1 *New York Times*. The report has yet to be officially released. Cambridge-based Physicians for Human Rights on May 1 released a report stating that "since at least 2002 the US has been engaged in systematic psychological torture" of Guantanamo detainees in order to "break" them. Techniques included the use of sensory deprivation, isolation, sleep deprivation, forced nudity and sexual humiliation, mock execution, the threat of violence or death toward detainees or their loved ones, and the use of dogs to instill fear.

• BOUNTIES PAID TO WARLORDS FOR MEN NOW IN GUANTANAMO
According to documents given to Associated Press as part of a FOIA request, Americans paid Afghan and Pakistani armed militias between $3,000 and $25,000 for men they said were Al Qaeda or Taliban fighters. Many of the detainees in Guantanamo claim they had nothing to do with fighting but were kidnapped by the militias and then sold to the Americans for cash.

• DETAINEE DEEMED "ENEMY COMBATANT" DESPITE BEING EXONERATED
The June 5th *New York Times* reported on the case of Murat Kurnaz, a 19-year-old Turkish citizen who was born in Germany and had been arrested in October 2001 during a routine stop of a bus in Pakistan where he was on a religious pilgrimage. He has been held at Guantanamo for three years even though American documents that were briefly unclassified during a federal court habeas corpus hearing show that the evidence about him tends to exonerate him of charges of any involvement in terrorism. In spite of this, the Combatant Status Review Tribunal that heard his case last year concluded that "by a preponderance of evidence, Mr. Kurnaz meets the criteria to be designated as an enemy combatant" – which means he can be held until the war against terrorism is over.

• GUANTANAMO: "JUST SHUT IT DOWN"
"And then plough it under. It has become worse than an embarrassment...Guantanamo Bay is becoming the anti-Statue of Liberty." So wrote Thomas Friedman in his May 27 *New York Times* column, joining Archbishop Tutu and a growing list of human rights organizations and commentators in calling for the closure of the Guantanamo Bay prison. On June 5 a *New York Times* editorial endorsed the call, saying Guantanamo "is a propaganda gift to American's enemies; an embarrassment to our allies; a damaging repudiation of the American justice system; and a highly effective recruiting tool for Islamic radicals, including future terrorists." On the same day, Senator Joseph Biden, the top Democrat on the Senate Foreign Relations Committee told ABC's "This Week" that the prison should be shut down. Meanwhile, over the last few weeks growing numbers of defense lawyers have been making their way to America's base in Cuba, after getting the necessary security clearance. Now some 300 lawyers, many with large law firms behind them, have lined up to represent detainees in filing habeas corpus petitions.

Since isolation was an essential ingredient of the detainee Guantanamo experience, the influx of lawyers represents something new. "The arrival of lawyers is an irreversible disruption of that isolation. The lawyers represent the detainees' access not only to federal courts but also to the international news media" (*New York Times*, May 30).

• ADMINISTRATION TRIES TO SHIFT THE BLAME TO *NEWSWEEK*

In mid May anti-American riots leading to 16 deaths erupted around the Muslim world following a May 1st report in *Newsweek* that Guantanamo interrogators had desecrated the Koran by throwing it into the toilet. The Bush Administration, which had no comment on the story when it first appeared, reacted with outrage, pressing the magazine to retract the story (which it did) and then "help repair the damage" to the image of the US in the Muslim world. *Newsweek* claimed to have checked the article before publication with two Pentagon officials. Over the past two years claims of Koran desecration at US hands have been made in legal depositions and corroborated by the International Red Cross. A claim that guards threw Korans in buckets used for toilets in Guantanamo appeared in the report that the Center for Constitutional Rights submitted to the US Supreme Court in June 2004. On May 27th Brig. Gen. Jay Hood, commander of the Guantanamo Joint Task Force, reported that his investigation found five cases of mishandling the Koran at the prison camp, most of which were accidental and not in the context of an interrogation. The FBI detailed several complaints about the way the Koran was being handled in interrogations in documents that were turned over to the ACLU in late May 2005. And Inspector General of the Department of Justice Glenn Fine told the House Judiciary Subcommittee that a US Bureau of Prisons guard threw the Koran into a toilet in front of a Muslim prisoner in the United States. While the Bush Administration turned the heat on *Newsweek*, ACLU executive director Anthony Romero held the Administration to task for turning "a blind eye to mounting evidence of widespread abuse of detainees held in its custody. If we are to truly repair America's standing in the world, the Bush Administration must hold accountable high-ranking officials who allow the continuing abuse and torture of detainees."

• STILL NO REAL ACCOUNTABILITY FOR ABU GHRAIB

April 28, 2005 marked a year since the release of photos about the physical abuse and torture of inmates at Abu Ghraib prison in Iraq – where the International Red Cross has estimated that up to 90 percent of those incarcerated were innocent of any crime. A few days after the ACLU received documents as part of its FOIA lawsuit that provided evidence that the chain of command in Iraq approved and even encouraged the abuse of detainees held in US custody, Army inspector general Lieutenant General Stanley Green on April 22 cleared four of the five top Army officers who were in charge of oversight of prison policy of any responsibility for the abuse. Brig. Gen. Janis Karpinski was given a written reprimand and relieved of her command. She says she has been made a scapegoat for the failings of superior officers. On May 11th Col. Thomas Pappas, whose 205th Military Intelligence Brigade was in charge of interrogations at Abu Ghraib, received a written reprimand for dereliction of duty and an $8,000 fine, but will not face criminal charges. Seven army reservists have faced court martial proceedings for their actions at Abu Ghraib. Five of the seven have pleaded guilty or been convicted of criminal charges, with the alleged ringleader – Specialist Charles Graner – getting a ten year sentence. Pfc. Lynndie England's plea bargain fell apart when Graner's testimony

undermined her guilty plea by indicating that he believed what she did to be legitimate and that she was therefore blameless. She had told the Court Martial that she was yielding to "peer pressure" when she posed by a mountain of naked detainees and led a naked crawling man by a leash. After Graner's testimony, Colonel Pohl declared a mistrial.

• "MOCK TORTURE" AT ABU GHRAIB – OR THE REAL THING?
While the scenes in the Abu Ghraib photos are depicted by some commentators as somewhat akin to fraternity hazing in which inmates are humiliated but not really hurt, PBS' "Now" on April 29th featured a former Abu Ghraib prisoner who says he was the man in a black hood pictured standing on a box with wires running from his fingers. The former mayor of a Baghdad suburb, Haj Ali claims to have been snatched off the street, and taken for three months in Abu Ghraib before being tossed from a truck back onto the street. "They made me stand on a box with my hands hooked to wires and shocked me with electricity. It felt like my eyeballs were coming out of their sockets. I fell, and they put me back up again for more" (*Boston Globe*, April 29). But in a Court Martial that opened on May 12, Specialist Sabrina Harman was charged with telling the man on the box he would be electrocuted if he fell off. Her attorney claimed the threat was a joke. The former pizza shop manager was found guilty and was sentenced to six months in jail and a bad conduct discharge.

• MORE ABU GHRAIB PHOTOS MAY BE MADE PUBLIC
On June 2 a US district court judge ordered the Pentagon to blur the detainees' faces in over a dozen photos and four movies in preparation for handing over more Abu Ghraib abuse documentation to the ACLU as part of its FOIA lawsuit. The Defense Department says it will continue to litigate to prevent the handover of the material. To date, 35,000 pages of documents have been released. They can be viewed at www.aclu.org/torturefoia.

• 9/11 COMMISSION TO CARRY OUT FOLLOW-UP REVIEW
A year after the publication of their report, the 10 commissioners on the 9/11 Commission are scheduling eight public hearings on the performance of the CIA, the FBI and other aspects of the counterterrorism effort to see if their recommendations of reform are being carried out. They have created the Public Discourse Project for this purpose. The Project lacks subpoena power but hopes the government will cooperate. The hearings begin on June 6th and one of them of them will focus on civil liberties and prisoner abuse.

• NON FISA WIRETAPS UP 19 PERCENT; SURPASSED BY FISA WIRETAPS
According to the Administrative Office of US Courts, state and federal judges approved 1,710 applications for wiretaps last year, with 75 percent focused on New York, California, New Jersey and California. 1,308 were for drug investigations. These numbers do not include the wiretaps ordered by the Foreign Intelligence Surveillance Act (FISA) court, which reached 1,754 last year.

•THREAT OF TERRORIST ATTACKS ON US AT LOWEST SINCE 2001

Various intelligence agencies and law enforcement bodies say that credible terrorist threats aimed at the US have declined by up to 50 percent over the last two years. John Brennan, acting director of the National Counterterrorism Center, said that the post 9/11 belief that there were a large number of sleeper cells in the US turned out to be "a lot of hyperbole" (*Boston Globe*, May 1).

• ATTACKS BY TERRORISTS WORLD WIDE RISES IN 2004
According to a report issued by the US's National Counterterrorism Center, there were 651 terrorist attacks in 2004, causing 1,907 deaths. Last year the State Department counted 208 international terrorist attacks leading to 625 deaths. It decided to stop keeping count after the figures, which were used by the Bush Administration to show that the war against terrorism was a success, subsequently had to be revised upward.

• FLOW OF INFORMATION DRIES UP IN NAME OF 'NATIONAL SECURITY'
According to the April 24th *Boston Globe*, government officials from low-ranking clerks on up are using up to 60 loosely defined security designations to keep vast amounts of public information secret. Many documents and databases that have been long available to the public have been removed from websites. For instance, after Human Rights Watch found an unclassified draft of a policy on a Department of Defense website that proposed holding Iraqi insurgents in the same way as accused Taliban fighters at Guantanamo Bay, the Pentagon removed its entire electronic library of unclassified documents. "Precise numbers of documents being shielded are unknown because the administration keeps no records. And there are only vague standards governing the types of documents that can be made secret." 4,007 officials have the power to declare a piece of information "classified" (16 million documents were declared classified in 2004) and all 180,000 employees of the Department of Homeland Security can label a document "For Official Use Only," and give no reason for doing so. "There is no process for appealing a secrecy decision," making effective oversight impossible.

• FBI FAILED TO REPORT SOFTWARE PROBLEMS ON $170 MILLION PROJECT
A confidential report to the House Appropriations Committee showed that even though the FBI had identified 400 problems with its Virtual Case File software by 2004, it never told the contractor, and went ahead with a $17 million test last December even though it was clear by then the entire program would have to be abandoned as unworkable. One FBI official has said that as far as agency efforts at overhauling its information technology system, "we are still crawling" (*Boston Globe*, June 6).

• FBI WIDENS NET TO CATCH HOMEGROWN TERRORIST SYMPATHIZERS
The FBI has been using the USA PATRIOT Act and revised FBI regulations to conduct broad surveillance of Americans who appear to sympathize with terrorists' anti-American views and then entrap them in sting operations. An FBI informant stated that Tarik Shah, a jazz musician, and Dr. Rafiq Abdus Sabir swore allegiance to Al Qaeda at a May 20th meeting in the Bronx, days before their arrest. They have been charged with conspiring to provide material support to Al Qaeda, and could face up to 15 years in prison and a fine of up to $250,000. "Though the men do not appear to have been poised to commit a destructive act, their arrests underscore a new strategy by law enforcement

to disrupt even vague plans by anyone who has espoused a Holy War credo, some specialists say" (*Boston Globe*, June 3).

• WHAT EXACTLY IS A DOMESTIC THREAT ORGANIZATION?
ABC News obtained a secret FBI report that shows 22 white supremacist organizations and other right-wing extremist hate groups are the subjects of 338 active FBI field investigations. But the Department of Homeland Security does not list such organizations on a draft planning document of future threats to the nation's security (*Congressional Quarterly Homeland Security,* March 25). The document entitled "Integrated Planning Guidance, Fiscal Years 2005-2011" does, however, list such domestic groups as the Animal Liberation Front and the Earth Liberation Front as terrorist threats. The report states it does not consider such groups as Hizballah, Hamas and Palestine Islamic Jihad as threats to the homeland US, and does not think domestic radical Islamic groups "acting alone would pursue a major attack against the Homeland." The document led Georgetown University law professor David Cole to ask, "Why are we expending so many resources targeting people who have allegedly provided support to groups that don't threaten us?"

• MUSLIM GROUP REPORTS 50% INCREASE IN HATE CRIMES
A report released in mid May by the Council on American-Islamic Relations documented more than 1,500 cases of harassment and anti-Muslim violence in 2004, a 50% increase from 2003. The steepest rise occurred in the realm of law enforcement, with a large increase in complaints of unreasonable arrests, detentions, searches and interrogations. The report also revealed that many Muslim immigrants are afraid of reporting hate crimes to police as they fear getting their name on a list that could lead to their deportation.

• NASA IS SPYING ON GROUPS OPPOSED TO WEAPONS IN SPACE
The ACLU in Florida has revealed the existence of hundreds of pages of internal files in the Brevard County Sheriff's department which related to the infiltration and surveillance of Global Network, a group opposed to weapons in space, and other anti-war groups. The files describe Global Network members as being "anti-American" and reveal that it had been infiltrated by the Air Force Office of Special Investigations. NASA has also been monitoring European demonstrations against the launching of weapons in space.

• CIA SPIES ALARM BRITISH SCHOLARS
Britain's Association of Social Anthropologists has denounced the Pat Roberts Intelligence Scholars Program, which pays unnamed US anthropology students up to $50,000 a year to gather information on other countries. The scholarship program was launched in the wake of 9/11 to improve US intelligence gathering. Recipients are expected to work for intelligence agencies. The BBC quoted Felix Moose, a professor of anthropology at the University of Kansas, as defending the program with these words: "The United States is at war. Thus, to put it simply, the existing divide between academe and the intelligence community has become a dangerous and a very real detriment to our national security at home and abroad."

• VOLUNTEERS HUNT TERRORISTS – FROM THE AIR
Despite the decline in homegrown terrorist threats, volunteers are determined to do their part in hunting down the bad guys. The *New York Times* on May 4 featured a group of retirees trying to spot terrorists while sitting in an airplane and peering through binoculars. After Congress put the TIPS program on the back burner, there are tens of thousands of volunteers who have undergone spot-a-terrorist training. According to the ACLU's Barry Steinhardt, "Given how few terrorists there actually are, it's a little like looking for a needle in a haystack."

• MINUTEMAN PROJECT LOOKS TOWARD NORTHERN BORDER
The vigilantes who have been patrolling the Mexican border to intercept illegal immigrants are planning to monitor the Canadian border in Idaho, Michigan, North Dakota and Vermont. They claim to have alerted federal authorities to more than 330 cases of illegal border crossing into Arizona during the month of April.

• UNDOCUMENTED IMMIGRANTS ARRESTED AS TERRORIST THREATS
Sixty immigrants who were employed by Brock Enterprises as maintenance workers at critical infrastructure sites were arrested in late May by the bureau of ICE, according to the *Washington Post*. The Department of Homeland Security claimed they "pose a serious homeland security threat" although none had terrorist ties. "Not only are their identities in question, but given their illegal status, these individuals are vulnerable to potential exploitation by terrorist and other criminal organizations."

• UNDOCUMENTED IMMIGRANTS CHARGED WITH TRESPASSING
The police chief of New Ipswich in New Hampshire has cited an undocumented Mexican immigrant with trespassing during a routine stop. According to a bureau of ICE spokesperson, officials would detain an undocumented immigrant if he had created a crime or previously been deported, but first had to make the determination that such a person was in the country illegally – a decision that a New Hampshire police officer was not authorized to make.

• GOVERNMENT CREATES HOSPITAL PROGRAM FOR UNDOCUMENTED IMMIGRANTS
The Bush Administration announced on May 9 that it would start paying hospitals to to care for illegal immigrants and that hospitals would not have to ask patients directly their citizenship status as required under a previous government proposal. However, hospitals are expected to make photocopies of documents indicating a patient's immigration status, and to keep those documents for review by federal authorities (*New York Times*, May 10).

• US ARRESTS LUIS POSADA CARRILES
The anti-Castro Cuban exile who has been accused of several terrorist acts, including the bombing of a Cubana Airlines jet that resulted in the deaths of 73 people, was arrested on May 19, six weeks after he slipped into the country from Mexico. The Bush Administration had come under considerable pressure to demonstrate consistency in its commitment to fighting terrorism. Carriles has applied for asylum and is also facing an extradition request by Venezuela to try him for the airline bombing. The Department of

Homeland Security has stated that it "does not generally remove people to Cuba" or "to countries believed to be acting on Cuba's behalf" (*New York Times*, May 18).

• TWO BOSTON-BOUND PLANES DIVERTED TO BANGOR
On May 12 and May 15 airline passengers found themselves diverted to Bangor, Maine because names of passengers matched those on the terrorist watch list. The man taken off the May 12th Air Force Flight with his family had the same name as someone on the terrorism list but was found to be innocent. The May 15th Alitalia passenger's name was also on the list, but the Department of Homeland Security later said he was not a suspected terrorist.

• US TO ADD NEW SECURITY FEATURES TO PASSPORTS
After the ACLU and a wide range of other groups protested that the new electronic passports proposed by the government could be read by any high tech electronic reader in the area, the Administration has said that it would add new layers of encryption and other security measures to the radio frequency identification chip that will be implanted in new passports. Privacy experts fear the passports will still be vulnerable to the theft of their data.

• US WANTS TO HAVE EASY ACCESS TO BRITONS' ID CARDS
Michael Chertoff, head of the Department of Homeland Security, is pushing the UK to adopt the same microchip and technology in its combined ID card/passport as the US uses, so the US will be able to more easily screen terrorist suspects. The US wants the UK and 26 other countries to issue new passports by October 26, 2005 containing a digital photo and computer chip. The cost of developing the combined card has risen steadily, and the biometric technology which is supposed to safeguard the security of the card has proved problematic.

B. IN THE US CONGRESS

• SENATE COMMITTEE MEETS BEHIND CLOSED DOORS TO EXPAND PATRIOT ACT
According to a June 1st *New York Times* editorial, "The Patriot Act was passed in haste, in the angst-filled days after the Setp. 11, attacks, with some lawmakers candidly admitting they never read the details. That was one of the reasons key sections included expiration dates, so calmer heads of the future would have an opportunity to fix mistakes. Now that the opportunity is here, and far from removing obvious threats to civil liberties in the law, the White House and eager Senate Republicans seem bent on making it worse...under cover of closed hearings." Showing total indifference to the democratic process and the will of the people as expressed in nearly 400 city and town resolutions, the Senate Intelligence Committee under its chairman Pat Roberts (R-KS) is meeting in secret to draw up a new PATRIOT Act that makes permanent the 16 sunset provisions and dramatically expands executive branch powers. The "beefed-up Patriot Act" (Boston Globe, June 5), would finish off the tattered Fourth Amendment by enabling the FBI to use FISA surveillance warrants obtained without probable cause of criminal activity to look for evidence entirely unrelated to terrorism or intelligence that would enable it to arrest a suspect. The FBI would also be given expanded powers to

write their own administrative subpoenas without any judicial oversight whatsoever and with a gag order attached in order to seize records from businesses, doctors, hotels, banks and Internet service providers – a provision that had been declared unconstitutional by a federal district court judge in a case brought by the ACLU which the government is now appealing. The FBI would also get the authority to order the US Postal Service to turn over photocopies of envelopes addressed to or sent from people being investigated on national security grounds. Critics of these powers say the government has never demonstrated why it needs them. The FBI general counsel Valerie Caproni failed to point to a single instance in which national security had been harmed because of the delay in getting records at an Intelligence Committee hearing. Meanwhile Attorney General Gonzales and FBI head Robert Mueller have told the Appropriations Committee that national security would be significantly harmed if Congress failed to renew the entire USA PATRIOT Act. The Senate Judiciary Committee has been holding open hearings into the USA PATRIOT Act, where the legislation has been attacked from both the right and the left of center. Critics have urged Congress to restore checks and balances and revise several portions of the Act by passing the Security and Freedom Enhancement (SAFE) Act of 2005.

• REAL ID BILL BECOMES LAW, WITH GRAVE CONSEQUENCES FOR IMMIGRANTS, CIVIL LIBERTIES

On May 11 President Bush signed HR 1268, the Iraq emergency spending bill which included most of the features of the REAL ID bill that had been approved by the House. The law requires states to verify the immigration status of anyone applying for a driver's license and paves the way for a national ID card system by requiring states to pool driver data in a national databases as part of verification procedures; makes it harder for individuals fleeing persecution to win their asylum cases by requiring them to present "corroborating evidence"; makes it harder for immigrants to get federal review of their immigration cases; and expands the USA PATRIOT Act definition of "terrorist activity" that could lead to deportation to include the provision of "material support" such as that provided by charities.

• CONGRESS ADOPTS BAN ON TORTURE

The same emergency funding bill that contained the REAL ID legislation included an explicit prohibition on federal funds for torture or "cruel, inhuman or degrading treatment" of anyone in US custody.

• PARTS OF CLEAR ACT BEING ATTACHED TO OTHER BILLS

After police chiefs around the country testified against the CLEAR Act – which would give police departments additional funds if they took on the job of hunting down out-of-status immigrants and would penalize those departments which refused to do so – the legislation stalled in Congress. An amendment citing the "inherent authority" of police to enforce immigration laws has been added to HR 1817, the Homeland Security Department Authorization Bill, and another amendment providing for the names of people who are in violation of immigration laws to be inserted in the NCIC database that police access when they make routine stops has been attached to an anti-gang bill.

• REPUBLICAN SENATOR WANTS TO CLARIFY DETAINEE RIGHTS

Arlen Specter of Pennsylvania, the chair of the Senate Judiciary Committee, will hold a hearing in June to establish due process rules for suspected terrorists being held without charges or trial. Specter has suggested granting exclusive jurisdiction over detention cases to the secret FISA Court, which has alarmed advocates who think detainees have a right to have their cases heard in public. According to Michael Ratner of the Center for Constitutional Rights which is defending several of the Guantanamo detainees, "It's a secret court that meets in a building in Washington with the shades drawn. Its existence is already the beginning of an erosion of fundamental constitutional and democratic values. So the idea that they'd put in that court, not just the adjudication of wiretapping, but the adjudication of someone's freedom, is to me very shocking. That is medieval" (*Boston Globe*, May 31).

C. IN THE COURTS

• COURT THROWS OUT FBI WHISTLEBLOWER CASE

Without a word of explanation, the US Court of Appeals for the DC circuit upheld the dismissal of the case brought by FBI whistleblower Sibel Edmonds. In so doing the Court overlooked a report by Justice Department Inspector General Glenn Fine that her allegations of serious security breaches in translation work were "the most significant factor" in the FBI's decision to fire the former Middle Eastern language specialist who had been hired soon after 9/11. "First the government claims that everything about me is a state secret," stated Edmonds, "then the court hearing is closed to the public, and now the court issues a decision without any public explanation. The government is going to great lengths to cover up its mistakes." Several newspapers including the New York Times, the Washington Post, the Associated Press, Reuters and the Hearst Corporation had filed emergency motions to open the courtroom after it was closed to the public during oral arguments because the court said it involved "state secrets". According to the ACLU, the federal government is routinely retaliating against government employees who uncover shortcomings in its ability to protect public safety (May 6, 1005 press release).

• ISLAMIC SCHOLAR FACES LIFE IN PRISON

Ali al-Timimi, an Islamic cleric in Alexandria, Virginia was found guilty of counseling others to wage war against the US and inducing them to use firearms in violation of federal law, and faces a mandatory minimum sentence of life in prison without the possibility of parole. He is the 10th person to be convicted in the Virginia paintball case in which according to prosecutors young men prepared themselves for waging jihad by playing games of paintball in 2000 and 2001. Tamimi reportedly told his followers they were required as Muslims to defend the Taliban from the impending US attack. None of them joined the Taliban, but four went to Pakistan to train with a militant group. Civil liberties advocates have raised fears that his conviction for things he said – such as that the crash of the space shuttle Columbia is a "good omen" for Muslims and "a strong signal that Western supremacy...is coming to a quick end" -- will further chill free speech among American Muslims (*New York Times*, April 27).

• CASE INVOKED TO JUSTIFY USA PATRIOT ACT PROVISION GETS UNDERWAY

The conspiracy case involving University of South Florida computer engineering professor Samir al-Arian has started in Tampa and is expected to last six months. The government had Sami al-Arian under FISA surveillance for more than a decade, and the evidence against him includes 20,000 hours of taped conversations that allegedly show his support for the Palestinian group Islamic Jihad, a designated terrorist organization. In February 2003 Attorney General Ashcroft cited the arrest of al-Arian to show the importance of the provision of the USA PATRIOT Act that eases the sharing of information between intelligence agents and criminal prosecutors. Critics say he is being tried for what he said, not what he did, and the case against him appears to be built on guilt by association. They argue that his support for the Palestinian intifada has nothing to do with al-Qaeda's attack on the US. They also wonder why he was permitted to visit the White House and meet with President Clinton, George Bush and other prominent politicians during the period he was under surveillance if he is in fact a dangerous terrorist as prosecutors charge. Al-Arian had organized the Arab American community in Florida to vote for George Bush during the 2000 election, and had personally arranged for hundreds of voters to be driven to the polls.

• STILL MORE FALL OUT OVER FAILED TERRORISM CASE

After the high-level federal prosecution of an alleged Detroit "sleeper cell" collapsed amid charges of serious governmental misconduct, the Justice Department brought insurance scam charges against two of the accused. According to emails that reached the *New York Times*, a senior federal prosecutor in Detroit tried to dissuade senior Justice Department officials from bringing the new charges, arguing that they "would appear to be vindictive" (*New York Times*, May 13). The emails show that prosecutors in Washington wanted a plea bargain followed by deportations: "A quick plea, sentence and deport would alleviate unpleasant blowback and get the sleepers out of the US," one wrote. Since the fraud charges were brought last December, one defendant has pled guilty and been deported and another is living in a halfway house awaiting trial.

D. IN THE COMMONWEATH

• ACLU OF MASSACHUSETTS REQUESTS FBI FILES

On May 18 the state affiliate of the ACLU joined the national organization in making a Freedom of Information Act request to the FBI for files on groups and individuals in Massachusetts, 5 other states and the District of Columbia. The groups include the American Friends Service Committee – New England, the American-Arab Anti-Discrimination Committee – Massachusetts chapter, and the ACLU of Massachusetts itself. Among the individuals whose files are sought are Howard Zinn and Noam Chomsky.

• FUSION CENTER UNVEILED

On May 11 Governor Romney inaugurated the Fusion Center, based at the Massachusetts State Police Headquarters in Framingham, and designed to be the nerve center of anti-terrorism intelligence in the state. The Fusion Center will be a central repository of intelligence information and will be responsible for disseminating that information among state, local and private partners. It will have access to commercial databases and law enforcement information, and use special software to analyze and

map terrorist threats and crime data now being developed by Raytheon. Massachusetts' five planning regions have each been given a $2 million grant in 2005 to enhance the collection capacity of the Fusion Center.

• CITIZEN SNOOPS MAY PROVIDE TIPS FOR FUSION CENTER
Boston Police Commissioner Kathleen O'Toole reported in the May 30th *Boston Globe* that she was planning to spend federal homeland security funds "to help watch groups spot possible terrorists." The Everett Police Department is already using local neighborhood watch groups "to spot terrorism" by organizing CAT (Community Anti-Terrorism) Eyes training sessions. Congress may not have funded Operation TIPS, but Homeland Security grants may make up for any shortfall.

• FORMER CHARITY OFFICIALS FACE FEDERAL CHARGES
Emadeddin Muntasser, former head of Boston-based Care International, and the charity's treasurer Muhamed Mubayyid, have been arrested and charged with concealing information from federal agencies and lying to the FBI. According to US attorney Michael Sullivan, the charity sent funds to mujahideen fighters and published a pro-jihadist newsletter, and did not reveal that information in its tax returns. Both pleaded innocent and were released on bail.

• CHELSEA OPTS FOR SURVEILLANCE CAMERAS – OTHERS MAY FOLLOW
Chelsea intends to install 35 high tech surveillance cameras as part of what city officials call "an innovative anticrime and anti-terror strategy" (*Boston Globe*, June 4). The city is spending $250,000 of its own funds on the project, and will get seven additional cameras with a Homeland Security grant to keep the harbor under surveillance. Eight other municipalities – Boston, Revere, Quincy, Brookline, Cambridge, Somerville, Everett, and Winthrop – are part of a metropolitan Boston homeland security partnership and may soon be getting their own cameras with Homeland Security grants. There are plans to share images "in one vast network" and replicate that throughout the region (*Boston Globe*, June 4).

III GET INVOLVED

• Attend one of three community readings of the play "Guantanamo: Honor Bound to Defend Freedom", followed by a discussion of the issues

Thursday, June 9, 7:30 PM
Community Church in Boston
565 Boylston Street in Copley Square

Friday, June 10 at 6:00 PM
Freedom House, Inc.
14 Crawford Street in Dorchester

Saturday, June 11 at 7:30 PM
YMCA in Cambridge
820 Massachusetts Ave (Central Square)

• **Plan to attend the June 22 hearing (10 AM) and rally (noon) at the State House –** see www.aclu-mass.org for exact details. Call 617 482-3170 x 314 to help with planning these events.

• **The next meeting of the CLTF will be held in September** (date to be announced). The next meeting will be held at our new office: 211 Congress Street, third floor, Boston, MA 02110.

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