CIVIL LIBERTIES UPDATE
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CONTENTS

RIGHTSWATCH

A. EXECUTIVE ACTIONS

• US military gears up for potential "homeland operations"
• Bush creates new intelligence unit within the FBI
• Number of anti-terror cases & convictions exaggerated
• Report documents misuse of material witness law
• FBI in Saudi Arabia shredded stacks of documents related to 9/11 attacks
• Report on FBI failure to find hijackers finally made public
• Military intelligence identifies 4 hijackers as Al-Qaeda cell before 9/11
• FBI discounts terrorism expertise
• FBI now has backlog of 8,300 hours of untranslated material
• Terrorist watch list believed to contain hundreds of thousands of names
• FBI retains files on US activist groups
• California National Guard creates new intelligence unit
• California mosque targeted by FBI
• Library survey reveals 200 record demands from law enforcement agencies
• Documents being classified at rate of 125 a minute
• White House withholds files from 9/11 Commission members
• Airline passenger data kept by TSA despite Congressional ban
• Leading UK Muslim leader barred from US
• US citizen repeatedly hassled at border because his name is a "near match"
• 16-year-old girl expelled after being identified by FBI as potential suicide bomber
• Children separated from parents by immigration raid
• Immigrants lured to "safety training" arrested in sting operation
• It would cost more than $40 billion a year to remove immigrants
• US negotiates for Guantanamo detainees to be imprisoned in home countries
• US negotiates with Guantanamo detainees
• Amnesty says men held in solitary confinement in secret US detention facilities
• UN searches for secret US detention facilities
• Latest Pentagon probe finds some violations but no inhumane treatment
• Military lawyers warn against "extreme interrogation techniques"
• Use of "fear up harsh" technique detailed in files
• Soldier testifies that dogs bit detainees
• Defense Department defies court order that it turn over abuse photos

• Rumsfeld considers rewarding exonerated officer
• Lawyer who defended interrogation policies given promotion
• Juveniles may still be imprisoned at Guantanamo
• Sixteen men who were cleared of being terrorists still at Guantanamo
• Psychologists cautioned on role in interrogations
• Kidnapping of imam infuriates Italians

B. IN THE US CONGRESS

• PATRIOT Act renewal on fast track
• American Bar Association supports PATRIOT Act reforms
• House had opposed Section 215 of PATRIOT Act
• Pentagon spending bill killed to protect abusive interrogations
• Senate and House committees hold Guantanamo hearings; given reassuring tour
• FBI fails to convince Senate committee head that reforms are on track

C. IN THE COURTS

• Supreme Court nominee denies detainees due process rights
• Government wants to keep Padilla in legal limbo
• Another "enemy combatant" held in US challenges confinement
• Muslim scholar gets life sentence for inciting followers
• Imam given 75 years for supporting Hamas
• Judge rules that Congress has not fixed PATRIOT Act provision
• US says it can hold foreigners at airports without any due process
• Attorney Lynne Stewart requests new trial

D. IN THE COMMONWEALTH

• Hearing builds momentum for state-wide resolution; then London bombings change State House mood
• Fusion Center opened in Massachusetts
• Pilot sues government for deeming him a security threat
• Federal judge in Boston raps Congress for anti-immigrant Real ID Act
• 187 immigrants rounded up in "Operation Flash"
• Undocumented Commonwealth resident acquitted of trespassing in New Hampshire
• Millions in anti-terror funds go to suburban communities

RIGHTSWATCH

The London bombings of July 7th that left 52 people dead and the subsequent failed attacks of July 21 have reverberated in the US at a particularly critical time for civil liberties. The fallout from the attacks has given a new urgency to the government's rhetoric in the debate over the PATRIOT Act (*see In the Congress, below*), stalled the passage of the Massachusetts Resolution Affirming the Civil Rights and Liberties of the people of Massachusetts (*see In the Commonwealth, below*), and led to the installation of

thousands of new high tech surveillance cameras in New York City and searches on the New York subway (*see Boston Globe, August 15*). British Prime Minister Tony Blair announced on August 5th that his government would be asking Parliament to enact measures that would make it illegal to condone, justify or glorify terrorism; make it easier to strip away citizenship and deport people who visit extremist bookstores, organizations and websites; amend human rights law on deportation to permit the expulsion of people to countries where they would face torture or death; bar "extremists" from entering the country; and extend the time suspects can be held without being charged from two weeks to up to three months. Mosques allegedly used to foment extremism would be closed under the Prime Minister's plan. Britain has no written constitution or Bill of Rights, but the Law Lords do have the power in certain instances to reject legislation passed by Parliament.

In an apparent effort to appeal to allies and distinguish between moderate and "extremist" Islamists, the US State Department has sent a directive to US embassies instructing them that what had been designated as the "Global War on Terror" would now be called the "Global Struggle Against Violent Extremism" (*Boston Globe*, August 3). But on August 3 President Bush used the term " war on terror" five times in a speech he gave in Grapevine, Texas.

A. EXECUTIVE ACTIONS

• US MILITARY GEARS UP FOR POTENTIAL "HOMELAND OPERATIONS"
Northern Command headquarters are drawing up the first-ever plans by the US military to respond to terrorist attacks within the US. Restrained by the 1878 Posse Comitatus Act from getting involved in domestic law enforcement, the military is justifying its new rules by referencing Article 2 of the Constitution, which gives the President the power to serve as commander-in-chief and defend the nation. According to the August 8th *Boston Globe*, "military exercises code-named Vital Archer, which involve troops in lead roles, are shrouded in secrecy." On July 6th the *Globe* had reported the existence of a new Pentagon document entitled "Strategy for Homeland Defense and Civil Support" which asserts the President's authority to deploy ground combat forces on US territory "to intercept and defeat threats," and said military intelligence analysts would be teamed with civilian law enforcement to identify and track suspected terrorists.

• BUSH CREATES NEW INTELLIGENCE UNIT WITHIN THE FBI
Accepting most of the 74 recommendations of a highly critical presidential commission examining intelligence issues, President Bush on June 29th announced his administration's intention to merge foreign and domestic intelligence activities in a new FBI-based unit. John Negroponte, the new director of national intelligence, will supervise the semi-autonomous National Security Service, which will take over the FBI's counterterrorism and counterintelligence divisions. The head of the new unit, Gary Bald, has been criticized by Congress for his lack of sufficient expertise in Middle East

affairs (*New York Times*, August 13). Under the reorganization, the CIA will maintain its pre-eminent role in human spying and covert operations. The presidential commission had reported that the intelligence community was "dead wrong" on its pre-war assessment of Iraq's weapons capacity.

• NUMBER OF ANTI-TERROR CASES & CONVICTIONS EXAGGERATED

A study by the *Washington Post* disputes the President's claim that "federal terrorism investigations have resulted in charges against more than 400 suspects, and more than half of those charged have been convicted" (*Boston Globe*, June 12). The *Post* analysis of Justice Department data found that 39 people - not 200 - had been convicted of terrorism or national security violations, and that most of the others were convicted of immigration violations, making false statements, credit card fraud, truck-licensing scams or other minor crimes. "Many people appear to have been swept into US counterterrorism investigations by chance - through anonymous tips, suspicious circumstances, or bad luck. They have remained classified as terrorism defendants, years after they were cleared of connections to extremist groups." More than a third of the cases on the list resulted from the post 9/11 FBI dragnet, in which hundreds of Muslim immigrants were arrested for minor violations of their immigration status. Only 14 of those convicted are linked to Al Qaeda. "Many more cases involve Columbian drug cartels, supporters of the Palestinian cause, Rwandan war criminals, or others with no apparent ties to Al Qaeda."

• REPORT DOCUMENTS MISUSE OF MATERIAL WITNESS LAW

According to a June report produced by the ACLU and Human Rights Watch, since September 11, 2001 the Justice Department has used the 1984 material witness law to put people in prison without any showing of probable cause that they had committed crimes, and without respecting their fundamental constitutional and human rights. The material witness statute was supposed to provide for the temporary and short term detention of witnesses who might otherwise not appear to give evidence at a trial. But the government has used it to hold indefinitely at least 70 men - the number could be far higher - based on flimsy or irrelevant information, fishing expeditions or possibly sheer prejudice. About a quarter of the documented cases involved American citizens. The men were often held in around-the-clock solitary confinement and shackles, and subjected to physical and verbal abuse. At least 30 of these "witnesses" were never brought before a court or grand jury to testify. Forty-two of the 70 were eventually released without any charges being filed, and 20 were charged with non terrorist-related crimes such as credit card fraud and making false statements to the FBI. Two were designated as "enemy combatants" and put on military brigs, and four were convicted of providing material support to a terrorist organization. (For a copy of *Witness to Abuse: Human Rights Abuses under the Material Witness Law Since September 11* email nancy@aclu-mass.org.)

• FBI IN SAUDI ARABIA SHREDDED STACKS OF DOCUMENTS RELATED TO

9/11 ATTACKS

According to a report in the June 27th *Time*, an FBI supervisor who arrived in Riyadh, Saudi Arabia months after the 9/11 attacks ordered the wholesale shredding of a mountain of unprocessed documents relating to the terrorism investigations. Saudi Arabia was home to 15 of the 19 hijackers. The documents included originals that had not been translated or reviewed. The senior FBI supervisor ordered their destruction when "she found secret documents literally falling out of file drawers, stacked in binders on tables and wedged behind cabinets...Since embassies must be prepared for the possibility of a hostile takeover, the rule is that officials should need no more than 15 minutes to destroy all their sensitive documents. Accordingly, the supervisor ordered the shredding of hundreds, perhaps thousands of pages" the Senate Judiciary Committee was told in an FBI briefing. The Committee was also told that the Riyadh office failed to follow up on thousands of leads. Wilfred Rattigan, one of the two FBI agents in the office at the time of the 9/11 attacks, has brought a discrimination suit against the FBI. An African-American who converted to Islam in Saudi Arabia, he claims that the FBI deliberately refused to provide him with sufficient resources to cope with the 9/11 workload.

• REPORT ON FBI FAILURE TO FIND HIJACKERS FINALLY MADE PUBLIC

After being kept secret for a year, the 400-page report compiled by Justice Department's Inspector General Glenn Fine on how the FBI bungled opportunities to move against two of the 9/11 hijackers was finally made public on June 9. The report details five missed opportunities for the FBI to take action against two known Al-Qaeda associates, Khalid Al-Midhar and Nawaq Alhazmi, who in the year before the 9/11 attacks rented a room in San Diego in the house of an FBI "informational asset." Problems included the FBI's bureaucratic and computer inadequacies -- one sensitive memo was not entered into the FBI's computer system for two weeks, only to be forwarded from one counterterrorism section to another with no action taken -- and the disconnect between the FBI and CIA, which did not tell the FBI that Mr. Midhar had been given a visa to enter the US and which blocked the efforts of one FBI agent to pass on information about the two to other FBI agents.

• MILITARY INTELLIGENCE ALLEGEDLY IDENTIFIES 4 HIJACKERS AS Al QAEDA CELL BEFORE 9/11

According to Rep. Curt Weldon, the vice chair of the House Armed Services and Homeland Security Committee, after a secret defense department intelligence unit known as "Able Danger" used data mining techniques to identify Mohammed Atta and 3 other 9/11 hijackers as members of an Al Qaeda cell in the summer of 2000, nothing was done to give this information to the FBI because Pentagon lawyers said they were in the country legally. A former intelligence officer said this information was given to the 9/11 Commission which chose not to include it in its report. The August 9th *New York Times* quotes 9/11 Commission members as saying they were told about the Pentagon operation but not that it had detected an Al Qaeda cell in the US. A few days later

Commission members said the documents they received from the Defense Department about Able Danger "mentioned nothing about Atta, nor had anyone come forward between September 2001 and July 2004 with an similar information" (*New York Times*, August 13). They are asking Congress to investigate whether the Pentagon had deliberately withheld this information from the Commission. Rep. Weldon is an active champion of using data mining to fight terrorism.

• FBI DISCOUNTS TERRORISM AND LANGUAGE EXPERTISE

After taking sworn depositions from top FBI officials as part of a discrimination lawsuit, Attorney Stephen Kohn wrote a letter to three US Senators complaining about the lack of background knowledge and expertise in the Bureau. Kohn had questioned the officials while acting for FBI agent Bassem Youssef, who maintains that he was kept out of counterterrorism matters because of his ethnicity, and that his fluency in Arabic and knowledge of the Middle East were discounted by the agency. The officials had stated that knowledge about terrorism and an understanding of Middle East culture and history are not considered important when it comes to choosing agents for top counter-terrorism jobs: "A crime scene in a bank robbery case is the same as a crime scene, you know, across the board." (*Boston Metro*, June 20).

• FBI NOW HAS BACKLOG OF 8,300 HOURS OF UNTRANSLATED MATERIAL

Justice Department Inspector General Glenn Fine issued a report into the growing backlog of material gathered by the FBI which the agency has yet to translate and review. In April 2004 there were 4,086 hours of audio recordings that were awaiting translation. That number had grown to 8,354 by March 2005. But despite not knowing exactly what the documents contain, the FBI assured the Inspector General that they are not part of high-priority investigations. Of the 50,000 people who have applied to the FBI to be translators since 2001, after the vetting process only 2 percent have been hired. The FBI has met its linguist hiring targets in fewer than half the 52 languages examined, with 16 months the average time for a hiring to be competed.

• TERRORIST WATCH LIST BELIEVED TO CONTAIN HUNDREDS OF THOUSANDS OF NAMES

As the FBI's Terrorist Screening Center struggles to compile a single watch list from the dozen or so lists spread across the federal government, the classified master list is now believed to number in the hundreds of thousands. Justice Department Inspector General Glenn Fine issued a report assessing the watch list which criticizes inadequate staff training, inaccurate data, computer problems and the fact that 32,000 terror suspects considered "armed and dangerous" have been designated for the lowest level of security handling when encountered within the US (*New York Times*, June 14).

• FBI RETAINS FILES ON US ACTIVIST GROUPS

According to information released in response to an ACLU Freedom of Information Act request, in the last few years the FBI has gathered at least 1,173 pages of internal

documents on the ACLU itself, and thousands of pages on Greenpeace, antiwar organizations and other activist groups. The Justice Department has not said what is in the files, and maintains that it will take up to 11 months to process the request for the files on the ACLU and Greenpeace alone. ACLU Executive Director Anthony Romero expressed his shock at the size of the file on his organization: "Why would the FBI collect almost 1,200 pages on a civil rights organization engaged in lawful activity? What justification could there be, other than political surveillance of lawful First Amendment activities?" (*New York Times*, July 18). In his *Boston Globe* column (July 20) Robert Kuttner wrote: "The American Civil Liberties Union, the one organization whose entire purpose is to defend rights, finds that the FBI has assembled more than 1,000 pages of files on it as a possible security risk. These files, of course, are classified, in the name of national security. Orwell, meet Kafka. I'm donating the fee for this column to the ACLU, and everyone who cares about liberty should join in."

• CALIFORNIA NATIONAL GUARD CREATES NEW INTELLIGENCE UNIT

According to the *San Jose Mercury News*, the California National Guard set up an "Information Synchronization, Knowledge Management and Intelligence Fusion Program" to monitor potential terrorist threats, including a Mother's Day rally that was held at the Vietnam Veteran's Memorial near the California Capitol in Sacramento. A National Guard spokesman said the military would be "negligent" in failing to monitor such events since the anti-war groups could be infiltrated by terrorists and their protests could disintegrate into riots that would prompt the governor to call out the troops. On July 6 military authorities reportedly began an investigation into the unit's activities (*Boston Globe*, July 7).

• CALIFORNIA MOSQUE TARGETED BY FBI

Two men of Pakistani descent - Hamid Hayat and his father, Umr Hayat - have been arrested in Lodi, California and charged with lying to the FBI. The imams the local mosque are also being held on immigration violations. An FBI affidavit states that Hamid Hayat had attended an Al Qaeda training camp in Pakistan. According to the June 9th *New York Times*, Muhammad Adil Khan, one of the imams, has been under FBI surveillance for years and is suspected of trying to set up a terrorist training camp in the Lodi area. Lodi has a sizable Muslim population, and its mosque has been subjected to white supremacy attacks and threats over the past decade.

• LIBRARY SURVEY REVEALS 200 DEMANDS FOR RECORDS FROM LAW ENFORCEMENT AGENCIES

The American Library Association sent a survey to 4,000 academic libraries and 1,500 libraries in an effort to find out how often federal, state and local law enforcement agents are making requests for records, either with or without subpoenas or court orders. Because of the gag provision attached to section 215 of the USA PATRIOT Act, the survey did not directly asked whether the PATRIOT Act had been used in a library search. Survey results showed that 137 formal demands had been made, and informal

demands without an official order brought the number to 200. Extrapolating from the 500 public libraries that responded to the survey, the ABA says this could mean that there have been 600 formal enquiries since 2001. The survey also found evidence of a PATRIOT Act-induced "chilling effect" on library patrons.

• DOCUMENTS BEING CLASSIFIED AT RATE OF 125 A MINUTE
According to a report by the federal Information Security Oversight Office, the "war on terrorism" is leading the Bush Administration to create new categories for classifying information with the result that 15.6 million documents were classified in 2004, double the number from 2001. At the same time, the rate at which historical documents are being made available to the public has dramatically slowed. Vague labels like "homeland security sensitive" are now being used to keep information from the public. Examples of "secrecy running amok: the Central Intelligence Agency's court fight this year to withhold its budgets from the 1950s and 60s; the Defense Intelligence Agency's deletion of the fact that the Chilean dictator Augusto Pinochet was interested in 'fencing, boxing and horseback riding'; and the Justice Department's insistence on blacking out a four-line quotation of a published Supreme Court decision" *(New York Times*, July 3).

• WHITE HOUSE WITHHOLDS FILES FROM 9/11 COMMISSION MEMBERS
The former 9/11 Commission, which constituted itself as the 9/11 Public Discourse Project after its Congressional mandate expired in order to monitor how the government was implementing its recommendations, has complained that the White House is refusing to cooperate with its requests for information. The group intends to issue a report card in September. Group members have also expressed concern that the Privacy and Civil Liberties Oversight Board which was created to protect rights in the fight against terrorism has been entirely toothless and underfunded. It has not me since it was formally constituted in June 2005. President Bush has appointed Texas lawyer Carol Dinkins (deputy attorney general under President Reagan), to chair the five-person board.

• AIRLINE PASSENGER DATA KEPT BY TSA DESPITE CONGRESSIONAL BAN
Although Congress said the Transportation Security Administration could not keep personal information on airline passengers and the TSA agreed they would not do it, the TSA bought and stored detailed personal information about US citizens who flew on airlines in June 2004 when the "Secure Flight" terrorist screening program was being tested. 100 million records of commercially-brokered information were collected on at least 250,000 people. The Privacy Act of 1974 bars the government from keeping a secret database. The TSA Privacy Act statement about its use of commercial data was published in the June 22 Federal Register. According to Secure Flight head Justin Oberman (*Boston Globe*, July 24), the program will enable the government to see whether commercial data can be used to detect terrorist 'sleeper cells' when it checks airline passengers against watch lists. And it will help "identify known or suspected terrorists not on the watch lists." [Question: if they are "known" why don't they already appear on

the 100,000 plus name lists?]

• LEADING UK MUSLIM LEADER BARRED FROM US

Dr. Zaki Badawi, the head of the British Muslim College who had a few days earlier joined other religious leaders in condemning the London bombings, was denied entry into the US on July 14 when he landed in New York on his way to give a talk at the Chautauqua Institution. A federal security agent said he was on a US terror watch list. Dr. Badawi had visited the US on several occasions, most recently in 2003.

• US CITIZEN REPEATEDLY HASSLED AT BORDER BECAUSE HIS NAME IS A "NEAR MATCH"

Akif Rahman, a Chicago resident who owns a software company, is suing the Department of Homeland Security with the help of the ACLU because of the way he has been treated when trying to enter the US. Although he has carried multiple forms of identification, he has repeatedly been detained and grilled for hours about his terrorist connections, sometimes while handcuffed to a chair. Before his most recent six-hour ordeal, the Bureau of ICE had written him a letter stating that his name is "a near match" to that of another person in the FBI's National Crime Information Center watchlist. The letter said that the government was trying to correct the "unfortunate misidentification scenario."

• 16-YEAR-OLD GIRL EXPELLED AFTER BEING IDENTIFIED BY FBI AS POTENTIAL SUICIDE BOMBER

New York Times reporter Nina Bernstein traveled to Bangladesh to meet with the homesick Tashnuba Hayder, a 16-year-old New Yorker who was taken from her Queens home on March 24 by a dozen federal agents, who also seized her diary, schoolwork, phone book and computer. She was then held in detention for seven weeks while being interrogated without a parent or lawyer being present. Her parents had no idea of her whereabouts until two weeks after the raid when the *New York Times* was given a government document that asserted that Tashnuba and another 16-year-old girl, Adama Bah, presented "an imminent threat to the security of the US based upon evidence that they plan to be suicide bombers." No evidence was given for this claim. As Tashnuba tells it, "FBI agents tried to twist mundane details of her life to fit the profile of a terrorist recruit, and when they could not make a case, covered their tracks by getting her out of the country. In fact, the court order of 'voluntary departure' that let her leave requires a finding that the person is not deportable for endangering national security" (*New York Times*, June 17). She thinks she came to the government's attention by visiting an Internet chat room. Agents questioned her about her religious beliefs, the decor in her bedroom, a psychology course she was taking and an essay she wrote about the Department of Homeland Security in which she asserted, "I feel like Muslims are being targeted, they're being outcasted more." According to former FBI agent Mike German, the government is heading in the wrong direction by emphasizing the collection of intelligence rather than criminal evidence: "If all these chat rooms are being monitored, and we're running

down all these people because of what they're saying in chat rooms, then these are resources we're not using on real threats." The long *New York Times* piece about the case only tells the girl's side of the story, as the FBI ordered her records to be sealed and barred the disclosure of any government information. In German's view, "the stress on intelligence increases the agency's demands for secrecy, to protect its sources. And secrecy...leads to abuses of power."

• CHILDREN SEPARATED FROM PARENTS BY IMMIGRATION RAID

Some 30 children, one only a few months old, were left in day care facilities or with relatives after federal officials raided a poultry plant in Arkadelphia, Arkansas in late July, arrested 119 people and immediately deported many of them. The raid followed the conviction of a woman who admitted she had fraudulently sold Social Security cards and other documents to immigrants.

• IMMIGRANTS LURED TO "SAFETY TRAINING" ARRESTED IN STING OPERATION

Over a hundred workers have been arrested by immigration authorities at Johnson Air Base in Goldsboro, N.C. and petrochemical plants in six states after flyers were posted asking them to attend an Occupational Safety and Health Administration (OSHA) training. OSHA, a branch of the federal Labor Department which overseas workplace safety, deplored the ruse which the Bureau of ICE's Dean Boyd declared was necessary for national security: "We believe it is a very serious vulnerability when there are illegal aliens working at Air Force bases, nuclear power plants, chemical plants and airports. They have access to some of the most sensitive work sites in the US. Our job is to take actions to immediately remove them from positions where they can do harm" (*New York Time*s, July 16).

• IT WOULD COST MORE THAN $40 BILLION A YEAR TO REMOVE IMMIGRANTS

A report called "Deporting the Undocumented: a Cost Assessment" which was released in late July by the Center for American Progress estimates that it would cost $28 billion per year to apprehend undocumented immigrants, $6 and a half billion to detain them, $2 billion to process them and $1.6 billion to send them home -- a sum greater than the annual budget of the Department of Homeland Security. Over five years the expense of removing most of the estimated 10 million illegal immigrants in the US would approach $230 billion. The Center says it produced the report as an answer to conservatives who advocate deporting all undocumented immigrants. There were a record number of 161,676 deportations nationwide last year, a 60 percent increase over 2000. According to the August 14 *Boston Globe*, some 4,000 residents of "Little Pakistan" in Brooklyn have been detained and deported, and a further 15,000 Pakistani immigrants have left New York City.

'**• US NEGOTIATES FOR GUANTANAMO DETAINEES TO BE IMPRISONED**

IN HOME COUNTRIES

While Secretary of Defense Rumsfeld and Vice-President Cheney rebuff former President Jimmy Carter, the *New York Times* editorial staff (June 18) and a growing number of other people who are demanding that Guantanamo prison be shut down, US officials are negotiating the transfer 110 Aghanis, 129 Saudis and 107 Yemenis who are currently imprisoned at Guantanamo to prisons in their countries of origin (*Boston Globe*, August 5th). This would reduce the inmate population at Guantanamo by nearly 70 percent to 164 detainees, whom officials say will be held indefinitely in a new permanent prison being built at Guantanamo Bay. John Sifton of Human Rights Watch stated that "it's not a victory for human rights if a whole set of people deprived of their liberty are then moved to another place and continued to be deprived of their liberty unlawfully." Amnesty International has warned that the detainees might face torture and other human rights abuses when returned to Afghanistan. Speaking to reporters on the 230th birthday of the US army, Rumsfeld revealed that $100 million had been spent on building detention facilities at Guantanamo, and that it costs about $95 million a year to run the prison. He stated, "Arguably, no detention facility in the history of warfare has been more transparent or received more scrutiny than Guantanamo" (*Boston Globe*, June 15).

• US NEGOTIATES WITH GUANTANAMO DETAINEES

According to the August 13 *Boston Globe*, a Guantanamo hunger strike in July which resulted in dozens of detainees being hospitalized was ended when the military agreed to allow the prisoners to select six representatives to negotiate over living conditions. The article was based on information provided by two attorneys for the inmates, one of whom said that as a result of the hunger strike detainees now get three bottles of bottled water each day – "a significant improvement over the horrible water they got before." A spokesman for the military denied the existence of a new committee representing prisoners.

• AMNESTY SAYS MEN WERE HELD IN SOLITARY CONFINEMENT IN SECRET US DETENTION FACILITIES

On August 4 Amnesty International issued a report about the torture by Jordanian intelligence services and subsequent detention in unknown US-run underground jails for over a year and a half of two Yemeni men who were friends, Salah Nasser Salim 'Ali and Muhammad Faraj Ahmend Bashmilah. During their imprisonment neither knew the other was detained. They say they had no idea what country they were in and were generally held shackled in solitary confinement, with western music piped into the cells 24 hours a day. They were reportedly interrogated daily and guards and interrogators were fully covered "like Ninjas." In May 2005 they were transferred to Yemen, apparently on the condition that they would be imprisoned by Yemeni authorities. Amnesty calls for them to be charged and tried or immediately released. It also calls for the US government to disclose the identities of everyone they are holding in secret and their whereabouts, and to open up the secret jails to international scrutiny.

• UN SEARCHES FOR SECRET US DETENTION FACILITIES

The UN Human Rights Commission has launched an investigation into secret locations where the US could be holding detainees in the "war on terror", including ships in international waters, the Indian Ocean island of Diego Garcia and military facilities (*Boston Globe*, June 30).

• LATEST PENTAGON PROBE FINDS SOME VIOLATIONS BUT NO INHUMANE TREATMENT

Lt. Gen. Randall Schmidt and Army Brig. Gen. John Furlow submitted a report to the Senate Armed Services Committee on July 13th about their investigation into interrogation techniques at Guantanamo which had been criticized by the FBI in documents released to the ACLU. The generals stated that some of the practices the FBI agents had complained about were approved interrogation techniques, including sleep deprivation, stripping detainees, forcing them to wear lingerie, smearing them with fake "menstrual blood," frightening them with dogs, making them perform "dog tricks." The report said they could not substantiate whether detainees were deprived of food and water, or an incident witnessed by an FBI agent of a detainee being shackled to the floor for hours, while he pulled out his hair and soiled himself. The authors found that duct tape was used improperly and the "short-shackling" of detainees to the floor was not authorized. They also recommended that Major General Geoffrey Miller, who was in charge of Guantanamo before moving to Abu Ghraib, should receive a formal reprimand for improper oversight of the interrogation of a "high-value detainee." General Bantz Craddock, head of US Southern Command, decided not to proceed with a reprimand since Gen. Miller had not violated the law or Pentagon policy.

• MILITARY LAWYERS WARN AGAINST "EXTREME INTERROGATION TECHNIQUES"

Warnings by senior uniformed military lawyers that proposed harsh interrogation techniques at Guantanamo Bay "amount to violations of domestic criminal law" as well as military law fell on deaf ears, as the Administration's legal task force decided that the special character of the war on terrorism gave the government immunity from prosecution for torture (*New York Times*, July 28). The deputy judge advocate general of the Air Force Maj. Gen. Jack Rives, the Navy's chief lawyer Rear Adm. Michael Lohr, the senior Marine lawyer Brig. Gen. Kevin Sandkuhler, and the Army's top-ranking lawyer Maj. Gen. Thomas Romig stated in recently declassified memoranda that the use of interrogation techniques that "are inconsistent with our most fundamental values"would put the chain of command at risk of criminal accusations abroad, that it would diminish the country's moral standing and make the US appear "a law unto itself," and that it may put US soldiers at risk.

• USE OF "FEAR UP HARSH" TECHNIQUE DETAILED IN FILES

On July 27 the ACLU released files it recently obtained from the Pentagon about an

interrogation technique called "Fear Up Harsh" used at Guantanamo and Abu Ghraib in which a detainee's upper body was slammed into the floor about 25 to 30 times, causing both the floor and the next booth to shake. On May 2, 2003 General Geoffrey Miller banned the use of the technique. Some of the documents describe the "strip club" behavior employed by female interrogators who in some cases straddled detainees while they were on the floor, the denial of food and toilet facilities to detainees, and a report by a contractor who witnessed a session "that was totally inappropriate and bordering on criminal." A *New York Times* editorial of July 15, 2005 headlined "The Women of Gitmo" expressed outrage at the dehumanizing fact "that women in uniform had been turned into sex workers at Guantanamo."

• SOLDIER TESTIFIES THAT DOGS BIT DETAINEES

Private Ivan "Chip" Frederick II, who has been convicted and sentenced to a term of 8 years for abusing detainees at Abu Ghraib, testified by phone in a grand jury proceeding that sergeants competed with unmuzzled dogs to see who could scare more detainees into urinating on themselves, with the result that at least two of the prisoners were bitten. Among those facing court martial this summer for prisoner abuse at Abu Ghraib is Private First Class Lynndie England, whose plea bargain was thrown out in May. According to reports, she intends to plead not guilty. Military judge Colonel James Pohl ruled on July 8 that her statements to Army investigators cannot be used as evidence in her upcoming trial.

• DEFENSE DEPARTMENT DEFIES COURT ORDER THAT IT TURN OVER ABUSE PHOTOS

On July 22, the day of the court-ordered deadline for turning over 87 photographs and 4 videos from Abu Ghraib prison to the ACLU as part of its FOIA lawsuit, the Defense Department stated it would not cooperate with the federal court order because to do so could result in prisoners being identified and "further humiliated." General Richard Meyers, chairman of the joint Chiefs of Staff, issued a statement to the federal district court in Manhattan saying that the release of the demeaning images would cause "riots, violence and attacks by insurgents" and hurt the US in Iraq and Afghanistan (*New York Times*, August 12).

• RUMSFIELD CONSIDERS REWARDING EXONERATED OFFICER

While a handful of low-level soldiers face charges and prison time for the Abu Ghraib prison scandal, three-star General Ricardo Sanchez, the commander in Iraq at the time the Abu Ghraib scandal became public, may soon be given an additional star and put in charge of American operations in Latin America, according to the June 20th *New York Times*. Some of his subordinates have already received promotions (see Derrick Jackson, "Passing the prison abuse buck," *Boston Globe*, July 15).

• LAWYER WHO DEFENDED INTERROGATION POLICIES GIVEN PROMOTION

Timothy Flanagan, who had served as Attorney General Gonzales' deputy when

Gonzales was White House Counsel and helped determine what US interrogation policy should be in Guantanamo and elsewhere, is being promoted to the number 2 position in the Justice Department. As well as publicly defending the use of water-boarding to simulate drowning, Flanagan helped design the system of military commissions.

• JUVENILES MAY STILL BE IMPRISONED AT GUANTANAMO

Up to six prisoners at Guantanamo were under the age of 18 when they were sent to the prison camp, according to attorney Clive Stafford Smith and the Center for Constitutional Right's Barbara Olshansky (*New York Times*, June 13). One may still be only 17 years old. Attorney Smith's client says he was 14 when he was captured, and was beaten regularly at Guantanamo, burned with a cigarette and hanged by the wrists for hours at a time. The prison's public affairs officer says that all juveniles were released in January 2004.

• SIXTEEN MEN WHO WERE CLEARED OF BEING TERRORISTS STILL AT GUANTANAMO

At least 15 Uighurs from China and one Uzbek are in their fourth year of imprisonment at Guantanamo despite the fact that a military tribunal found they had been turned over to the US in exchange for $5,000 cash bounties and had never been involved in terrorism. The US says they could not be sent home because they might be killed by their governments. and that no other country will take them. Attorney Sabin Willett, the Boston-based lawyer for two of the men, has asked that they be taken from the prison and lodged in a hotel at the base, but a Guantanamo spokesman said this would raise "safety and security" concerns (*Boston Globe*, July 26). In August Brigadier General Jay Hood stated that detainees who have been cleared but are unable to go home will soon live in a new wing of the prison with better food, television, a DVD player and air conditioning (*Boston Globe*, August 13).

• PSYCHOLOGISTS CAUTIONED ON ROLE IN INTERROGATIONS

The American Psychiatric Association has issued a report saying that although its members could be part of the Behavioral Science Consultation Teams which give advice to interrogators at Guantanamo, they should be "mindful of factors unique to these roles and contexts that require special ethical consideration" and should not engage in torture, or cruel, inhuman and degrading treatment (*New York Times*, July 6). Physicians for Human Rights has criticized the report for failing to set specific ethnical boundaries. Disturbing insights into the role that medical personnel could be playing at Guantanamo appear in Jane Mayer's piece in the July 11 & 18th *New Yorker*, "The Experiment: The military trains people to withstand interrogation. Are these methods being misused at Guantanamo?" Mayer traces evidence that techniques developed for the Pentagon-funded SERE ("Survival, Evasion, Resistance, and Escape") program were being used in Guantanamo interrogations to break detainees, and that psychologists were providing "interrogation support" by drawing up and monitoring interrogation plans which were individually developed for each detainee by using information from their medical

records. One former interrogator said that fewer than a quarter of the prisoners had "any intelligence value" and coercive methods being employed that were counterproductive. "If you don't have a terrorist now, you will by the time he leaves."

• KIDNAPPING OF IMAM INFURIATES ITALIANS

The alleged CIA abduction of Osama Mustafa Hassan Nasr, a Muslim cleric, from a street in Milan in February 2003 inflamed relations between the US and the Italian government, which said that the US must show "full respect" for Italy's sovereignty. Nasr was "rendered" to Egypt for interrogation, released and then re-arrested, and hasn't been heard of since. He told his wife in a phone conversation that he had been tortured with electric shocks and very loud noise after refusing to agree to work as an informant for Egypt's secret service. In late June an Italian magistrate issued arrest warrants for 13 US intelligence operatives who were charged with kidnapping a suspected terrorist and holding him hostage at two US military bases before flying him to Cairo. CIA officials said that the Italian intelligence officers had been briefed before the abduction and given them a green light, a statement denied by Italian government officials. The Italians say the CIA snatch interfered with their effort to break up a ring recruiting militants for suicide attacks in Iraq, and that there were plans to bring Nasr "to legitimate justice" (*Boston Globe*, June 28).

B. IN THE US CONGRESS

• PATRIOT ACT RENEWAL ON FAST TRACK

While Attorney General Gonzales and other Bush Administration officials insisted that the USA PATRIOT Act had helped keep America safe after 9/11 and that the London bombings showed what could happen here if it were not renewed in its entirety, both houses of Congress took steps that could put a renewed version of the bill on the President's desk in time for a September 11th signing ceremony. On July 21, by a vote of 257-171 -- with all Massachusetts Members opposing -- the House voted to make permanent all the sunset provisions except two (Sections 206 and 215), which would be re-visited in 10 years. The bill (H.R. 3199) also established new criminal penalties and expanded the list of terrorist offences, and provided the death penalty for various terrorist crimes. Tempers frayed when the House Rules Committee refused to allow several amendments to be considered which would have fixed widely-criticized portions of the Act, including Bernie Sander's "Freedom to Read" amendment of Section 215 which had passed the House a month before (see below). The Rules Committee did allow an amendment to be added combating trafficking in chewing tobacco. As a measure of how much discontent there really is in the House about PATRIOT Act provisions, the forces of reform lost by a close 210-218 vote when they tried to recommit the House bill in order for new sunsets to be added.

On July 29 the Senate without floor debate and without taking a vote agreed by the procedural move of unanimous consent to accept the version of the bill passed by the

Senate Judiciary Committee. The bill makes 14 of the 16 sunset provisions permanent and incorporates some revisions to various parts of the Act. The senators then adjourned for their month-long recess. The ACLU's legislative strategist Lisa Graves calls the Senate version (S.1389) a "good faith effort" which "contains some provisions mindful of the Bill of Rights." Although they wish the bill had gone much further in safeguarding civil liberties, the ACLU is urging Congressional conferees to accept the Senate's revisions when they meet to reconcile the two versions.

SOME POSITIVE FEATURES OF THE SENATE BILL:

• **Section 206 (roving electronic surveillance under FISA):** an order for a roving wiretap must describe the target and a judge must be given "facts and circumstances" within 10 days each time a new place is put place under surveillance; new reporting requirements to the judge and Congress are stipulated; sunset extended for 4 years.

• **Section 213 ("sneak and peek" searches):** notification should be given no later than 7 days or later only if the court is shown "good cause" for an extension. However, there is still indefinite delayed notification if making a search known would "seriously jeopardize an investigation."

• **Section 215 (seizure of "tangible things"):** there must be a factual basis for a request for records by the government; the records must be those of a suspected terrorist or relate to the activities of a suspected terrorist or one of his/her associates; the sunset provision for Section 215 is extended for 4 years. The FBI Director must approve a request for information from libraries, firearms sales records, book sales records or medical records. The plaintiff can challenge a request for records in court by filing a petition to a judge under seal. The gag provision is modified to permit notification of an attorney to obtain legal advice and "those persons to whom such disclosure is necessary to comply with such order" as well as "other persons permitted by the Director of the Federal Bureau of Investigation" -- all of whom are also subjected to the gag. Additional Congressional reporting requirements are added to the section.

• **Section 505 (National Security Letters):** after a federal district court judge ruled NSLs and their gag provision unconstitutional, the Senate has added judicial review to this section, giving the recipient of a NSL the right to challenge it in court with the help of a lawyer, and modified the gag order. However, the gag can only be set aside by a judge "if there is no reason to believe that disclosure may endanger the national security of the United States" or interfere with an ongoing investigation or diplomatic relations. Furthermore, there does not have to be a showing of individualized suspicion for an NSL to be issued by the FBI to obtain records from businesses.

• **The Senate has added other "sunshine provisions" to various PATRIOT Act sections** to enhance reporting requirements and increase judicial oversight, and has also added a four year sunset provision to the so-called "Lone Wolf" amendment permitting expanded surveillance of individuals who are not seen as members of any group (defined as two or more people).

• Perhaps the best news is that **the Senate stood firm against FBI requests for greatly expanded administrative subpoenas**, which would enable them to write their own

search orders for "any tangible thing" without court approval and without any kind of showing of probable cause. On July 27 the FBI testified before the Senate Judiciary Committee about the need for this enhanced power and will undoubtedly keep pushing for it in the weeks ahead.

• AMERICAN BAR ASSOCIATION SUPPORTS PATRIOT ACT REFORMS

Shortly after Congress adjourned for its summer recess Michael Green, the president-elect of the American Bar Association, spoke for the ABA when he criticized portions of the USA PATRIOT Act "as so invasive of individual liberties that there has to be a sunset provision. They're offensive, I think, to democracy" (*Boston Globe*, August 9). The ABA Convention also heard from Attorney General Gonzales, who told the attorneys that the PATRIOT Act was essential to fighting terrorism and that the government was using it "in a manner that protects individual rights and liberties."

• HOUSE HAD OPPOSED SECTION 215 OF PATRIOT ACT

By a 238-187 vote, with 38 Republicans supporting it, the House on June 15 endorsed Rep. Bernie Sanders "Freedom to Read Amendment" that exempts broad library searches from Section 215 of the USA PATRIOT Act. The amendment was attached to a spending measure, but there was no similar measure in the Senate.

• PENTAGON SPENDING BILL KILLED TO PROTECT ABUSIVE INTERROGATIONS

On July 26 Bill Frist, the Senate majority leader, cancelled the vote on $442 billion Pentagon spending bill because it contained amendments to bar "cruel, inhuman or degrading treatment" in detention facilities and to confine interrogation methods to those stipulated by the revised Army field manual. The amendments were brought by former P.O.W. Senator John Mc Cain (R-AZ), Lindsey Graham (R-SC), and John Warner (R-VA), all members of the Armed Services Committee. In the preceding week Vice-President Cheney had warned the three Republican senators that their amendments would interfere with the government's ability to protect the nation against terrorist attacks. After hearing from three top military lawyers for the Army, the Air Force and the Marines who testified before the Committee on July 14 that they had lodged complaints with the Justice Department about its definition of torture and how it would be applied to interrogations of prisoners captured by the US, the senators expressed their fears that the complaints may have fallen on deaf ears (*Boston Globe*, July 15). The three Republican senators considered adding additional amendments barring the government from hiding detainees from the International Red Cross, and prohibiting extraordinary rendition. In his column about the amendments in the August 1 *New York Times*, Bob Herbert quotes the formal admiral John Hutson, who is now helping the ALCU and Human Rights First with their torture suit against Secretary Rumsfeld: "If the United States fails to get its act together with regard to the humane treatment of detainees, he said, we will 'have changed the DNA of what it means to be an American.'"

• SENATE AND HOUSE COMMITTEES HOLD GUANTANAMO HEARINGS; GIVEN REASSURING TOUR

In mid June, the Senate Judiciary Committee held hearings into conditions at Guantanamo Bay, and its chair, Senator Arlen Specter, declared that Congress should establish legal definitions for detention and rules that complied with American law and the Geneva Convention. The day after Secretary Rumsfeld claimed "no detention facility in the history of warfare has been more transparent" than Guantanamo the four military and civilian officials who testified before the Committee could say next to nothing about its inmates and their treatment. One military lawyer, Ltd. Commander Charles Swift, testified that he was assigned to represent one of those detainees simply in order to extract a guilty plea from him. Deputy Associate Attorney General J. Michael Wiggins was unfazed by the confusion surrounding the Guantanamo legal process, and maintained that "it's our position that legally they could be held in perpetuity" (*Boston Globe*, June 16). A June 29th hearing before the House Armed Services Committee followed a hastily-arranged June 25 day trip to Guantanamo Bay by House Committee members. While human rights critics were not invited to give testimony, the Committee heard from military officials who all defended the prison. Committee chair Rep. Duncan Hunter (R-CA) called Guantanamo a "world-class detention facility where detainees representing a threat to our national security are well fed, given access to top-notch medical facilities and provided an opportunity to obtain legal representation." He said the detainees have "never been treated better and they've never been more comfortable in their lives." Madeleine Bordallo, the non voting representative to Congress from Guam, called it "more of a resort" than a prison (*Boston Globe*, June 30). After tour delegates saw a female interrogator read a Harry Potter book aloud to one detainee, the panel's ranking Democrat, Ike Skelton of Missouri, said it was in many ways better than state and federal facilities, but thought that for the sake of our international credibility, "an independent commission is essential to stem the accusations and doubts of Muslims around the world." Some Senators took their own trip to Guantanamo on June 26 and 27 which an Amnesty International official dismissed as a "little Congressional show and tell" (*New York Times*, June 28). All subsequently opposed closing the facility.

•FBI FAILS TO CONVINCE SENATE COMMITTEE HEAD THAT REFORMS ARE ON TRACK

Senator Arlen Specter (R-PA), chair of the Senate Judiciary Committee has criticized the FBI and its director Robert Mueller III for the agency's $170 million failure to implement a new software system, for its ongoing turf battles with immigration agents, its lack of language expertise and the experience and training of its counterterrorism officials (*New York Times*, August 15). Congressional Democrats have blocked the confirmation of Alice S. Fisher as the head of the FBI's criminal division because of the role she may have played in Guantanamo detention policies.

C. IN THE COURTS

• SUPREME COURT NOMINEE DENIES DETAINEES DUE PROCESS RIGHTS

John Roberts, who was picked by President Bush to fill Sandra Day O'Connor's seat on the Supreme Court, gave the President unlimited power to set up military tribunals to try suspected terrorists at Guantanamo when he as part of a three-judge panel on the DC Court of Appeals ruled on July 15 for the government in the case of *Hamdan v. Rumsfeld*. The ruling says Congress gave the President this power when it authorized him to use "all necessary and appropriate force" in the war against terrorism. The ruling also denies detainees the right to petition federal courts under the Geneva Conventions. About 200 detainees currently are represented in lawsuits in federal court following a June 2004 Supreme Court decision. The appeals court decision by three Republican-appointed judges overturns that of federal district court judge James Robertson, who had ruled last fall that the military commissions in Guantanamo violate the Geneva Conventions, the Constitution, and the Uniform Code of Military Justice. Robertson's ruling had halted the trial of Salim Ahmed Hamdan, who is alleged to have been a driver for Osama bin Ladan. On June 15 Navy Lt. Cmdr. Charles Swift told a Senate hearing that the military told him he had to get his client, Salim Ahmed Hamdan, to plead guilty before a military commission, but that Mr. Hamdan did not want to do so. On August 1 the *New York Times* revealed that two senior prosecutors, Capt. John Carr of the Air Force and Maj. Robert Preston, also of the Air Force, had complained that the trial by military commission was secretly arranged to produce convictions and deprive defendants of material that could prove their innocence. Capt. Carr also reported that the prosecution team falsely stated to superiors that one detainee had not been tortured, and lost an FBI document in which the detainee details torture and abuse claims. According to the August 10 *Boston Globe*, Guantanamo detainees are losing faith in their lawyers since their lawsuits have moved so slowly in federal court and Guantanamo officials have been telling them their attorneys can't be trusted.

• GOVERNMENT WANTS TO KEEP PADILLA IN LEGAL LIMBO

Arguing that America is a battlefield and that the President has the authority to detain indefinitely enemy combatants -- even US citizens like Jose Padilla who has been in a naval brig since mid 2002 -- acting solicitor general Paul Clement asked a three-judge panel of the US Court of Appeals for the Fourth Circuit to overturn a lower court ruling that Padilla be charged or immediately released. Padilla's lawyers argued that he wasn't captured anywhere near a battlefield, but in a Manhattan jail cell where he was imprisoned on a material witness warrant after being seized at Chicago's O'Hare airport. They insist their client has the right to be indicted by a federal grand jury and have his day in court.

• ANOTHER "ENEMY COMBATANT" HELD IN US CHALLENGES CONFINEMENT

Ali Kahlah Marri, a citizen of Qatar who, like Jose Padilla, is being held in solitary confinement at the Naval Consolidated Brig in South Carolina, has brought a lawsuit

saying he has suffered "inhumane, degrading, and physically and psychologically abusive treatment" since been shipped to the naval brig in June 2003. Marri was enrolled at Bradley University in Illinois and arrested by the FBI in December 2001 as a material witness in connection with a 9/11 investigation. After being charged with financial crimes, he was declared to be an "enemy combatant." The lawsuit says that interrogators have threatened to turn him over to Egypt or Saudi Arabia to be tortured unless he gives them information.

• MUSLIM SCHOLAR GETS LIFE SENTENCE FOR INCITING FOLLOWERS

Ali al-Timimi, an influential Muslim scholar and Iraqi-American cancer researcher in Virginia, was given a life sentence by a federal district judge for inciting his followers to launch a jihad against American forces in Afghanistan. His defense lawyers say that his language was protected by the First Amendment. But Judge Leonie Brinkema said "this was not a case about speech; this was a case about intent" (*New York Times*, July 14) and handed down the sentence prescribed by federal guidelines while admitting it was "very draconian."

• IMAM GIVEN 75 YEARS FOR SUPPORTING HAMAS

Sheik Mohammed Ali Hassan, a cleric from Yemen, was given 75 years in prison by a Brooklyn federal judge for providing material support to the Palestinian organization Hamas. A jury had acquitted him of providing material support to Al Qaeda on the grounds that there was insufficient evidence. The sheik's lawyers said that throughout the trial the prosecutors had manipulated the jury's fears of terrorism.

• JUDGE RULES THAT CONGRESS HAS NOT FIXED PATRIOT ACT PROVISION

District Court Judge Audrey Collins, whose previous two rulings against the vagueness of the material support provision of the USA PATRIOT Act led to the language being amended in last year's intelligence reform bill, ruled on July 29 that the provision was still "impermissably vague." The ruling came in a California case involving sending tsunami relief to two organizations (Liberation Tigers and Partiya Karkeran Kurdistan) which are listed by the US as foreign terrorist organizations. Under the law as it stands providing "training" or "expert advice or assistance" including medical and other services to tsunami survivors could lead to a 15-year prison term.

• US SAYS IT CAN HOLD FOREIGNERS AT AIRPORTS WITHOUT ANY DUE PROCESS

In the case brought in a Brooklyn federal court by Maher Arar, a 35-year-old Canadian citizen who was taken from Kennedy Airport on September 26, 2002, held in solitary confinement in Brooklyn and then shipped to Jordan and Syria where he was tortured, attorney Mary Mason for the government said that the US could legally seize non citizens at airports, even if they were only in transit, and deny them basic necessities and access to a lawyer. Dennis Barghaan, representing former Attorney General John Ashcroft, added that federal courts "should not stick their noses" in foreign affairs and

national security concerns (*New York Times*, August 10). Mr. Arar, who once lived and worked in the Boston area, is challenging the government's policy of "extraordinary rendition" - the seizure of people in the US and elsewhere who were then sent to foreign countries to be interrogated under torture.

• ATTORNEY LYNNE STEWART REQUESTS NEW TRIAL

Lawyers for New York attorney Lynne Stewart have asked District Court judge John Koeltl to declare a mistrial in her case because one juror admitted being prejudiced against criminal defendants and another claimed to have been intimidated into voting to convict (*New York Times*, August 13). The anonymous juror said she was told by other jurors that if she did not join them in finding attorney Stewart guilty, it would be her fault if anyone else died in a terrorist attack. Stewart was convicted in February of aiding terrorism in her defense of her client Sheik Omar Abdel Rahman and now faces up to 40 years in prison.

D. IN THE COMMONWEATH

• HEARING BUILDS MOMENTUM FOR STATE-WIDE RESOLUTION; THEN LONDON BOMBINGS CHANGE STATE HOUSE MOOD

On June 22 the State House's Gardner Auditorium was full for the hearing by the Joint Committee of Public Safety and Homeland Security of HB 1881, the Massachusetts Resolution Affirming the Civil Rights and Liberties of the People of Massachusetts. Bob Barr, the former Republican Congressman from Georgia who now heads the bipartisan Coalition to Restore Checks and Balances, was among the scores of testifiers who gave eloquent speeches in support of the Resolution. There was no testimony in opposition. While the hearing was still going on, a rally in support of HB 1881 was held outside the State House. The rally featured the sponsors of the Resolution, as well as representatives from many of the 53 Massachusetts towns who had already passed resolutions upholding civil liberties. However, before the Resolution could be voted out of Committee, news of the London bombings changed the dynamic in the legislature. Sponsors of the Resolution advised caution, fearing that new security concerns could impede its passage. Rather than risk a negative vote, the Committee has for the time being taken no action on the Resolution.

• FUSION CENTER OPENED IN MASSACHUSETTS

On June 14 Governor Romney opened the Framingham-based Commonwealth Fusion Center, which will collect intelligence from state, local and federal sources and contain it all in a single database. The information will then be disseminated among state, local and private partners. According to Lieutenant Michael Cronin of the Massachusetts Police who is in charge of its day-to-day operations, the Center will provide bulletins, urgent briefings, and long range analyses to key decision makers. It will have access to commercial databases as well as a range of law enforcement databases, and will analyse and map crime data using special software being developed by Raytheon. Its

Intelligence Analysis Unit will include officers from the Joint Terrorism Task Forces and the FBI. Critics are concerned about the lack of oversight and accountability at the Center, and the inability of the public to know what kind of information is being stored there and how it is being used.

• PILOT SUES GOVERNMENT FOR DEEMING HIM A SECURITY THREAT

Robert William Gray, a West Yarmouth resident who has been a pilot for Cape Air for four years, filed a lawsuit in Boston federal court in mid July against the Transportation Security Administration and the Department of Homeland Security after being barred by the TSA from taking training courses to enable him to fly larger planes. The British citizen was not given a reason for the TSA's action, but the suit contends that a government printout indicated he was Hispanic. The Belfast-born Gray, who is not Hispanic, is claiming with the help of the ACLU that he is a victim of mistaken identity and wants to be given a chance to clear his name.

• FEDERAL JUDGE IN BOSTON RAPS CONGRESS FOR ANTI-IMMIGRANT REAL ID ACT

US District Court Judge William Young issued a ruling on July 12 accusing the US Congress of putting a "chokehold" on his court's ability to rule in deportation cases when it passed the Real ID Act. The Act makes it harder for immigrants to gain amnesty from US courts. "Congress does not much care about immigrant aliens, even those who, after endangering themselves assisting our law enforcement efforts to stem international drug trade, are deported into the hands of the very drug traders upon whom they have informed," Young wrote (*Boston Globe*, July 13).

• 187 IMMIGRANTS ROUNDED UP IN "OPERATION FLASH"

The Bureau of Immigration and Customs Enforcement (ICE) detained more than 100 undocumented immigrants in Massachusetts and 187 across New England in an effort "to protect national security and public safety by restoring integrity to the immigration system" (*Boston Globe*, June 16). Many had been convicted of crimes and ordered to leave the country, but 42 had not yet been before a judge to determine their status.

• TRESPASSING CHARGES AGAINST UNDOCUMENTED IMMIGRANT THROWN OUT

In April 21-year-old Waltham resident Jorge Ramirez, an undocumented immigrant, was charged with trespassing when he stopped his car on the side of a road near New Ipswich, New Hampshire. Police chief W. Garrett Chamberlain had him jailed overnight on the charges, which carried a $1,000 fine but no prison time, after the immigration service declined to pick him up, saying that he was not a danger to society and it had other priorities. Ramirez' lawyers, paid for by the Mexican government, asked the judge in the Jaffrey/Peterborough District Court to dismiss the case on the grounds that immigration enforcement was not a matter for local law enforcement and the New Hampshire criminal trespassing law was not intended to apply to illegal

immigrants, but rather to people intruding on private property. On August 12 Judge L. Phillips Runyan III agreed that the police were acting unconstitutionally when they held Ramirez on trespassing charges. Immigration matters, he said, must be left to federal authorities unless, as Congress had stipulated, police were trained to become "deputies" of the immigration service in times of emergency.

• MILLIONS IN ANTI-TERROR FUNDS GO TO SUBURBAN COMMUNITIES
The August 3 *Boston Herald* listed the "questionable projects in 'burbs" that "snag millions" in federal anti-terrorism funds. Among other grants given in 2003, Concord received $1.7 million under the Department of Justice's "anti-terrorism first responder program" because of its "symbolic value" as birthplace of the American Revolution, Oak Bluffs got $260,000 for chemical/bio-terror response equipment, North Andover received $1.5 million for anti-terrorism equipment for the Northeastern Massachusetts Law Enforcement Council (NEMLEC), and Waltham got $2 million for chemical/biological response and radio equipment for the Greater Boston Police Council. A picture accompanying the article shows the NEMLEC SWAT team in full regalia outside Littleton High School which they were about to sweep as part of a Bay State Homeland Security exercise "to protect an unlikely target."

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