

# **CIVIL LIBERTIES UPDATE**

## *NEWSLETTER OF THE ACLU OF MASSACHUSETTS CIVIL LIBERTIES TASK FORCE*

September 26, 2005

### **CONTENTS**

#### **RIGHTSWATCH**

##### **A. EXECUTIVE ACTIONS**

- As many as 200 Guantanamo detainees on hunger strike
- Soldier tried for 17 months to get Army to stop systematic abuse
- ACLU releases 1,800 more documents on treatment of detainees
- Lynndie England's trial begins
- Canada appears to condone torture & extraordinary rendition
- US Navy rents planes to ferry suspects to torture sites
- Another arrest in Virginia "paintball" case
- FBI agrees to deport imam rather than charge him
- Charges dropped after dawn raid with helicopter and armed agents
- FBI fears terrorists are organizing in prisons
- FBI did not learn from its collusion with Whitey Bulger
- "Just about every university in the country" tied to JTTFs
- Groups advocating peace and affirmative action are terrorist suspects
- Vegans spied on, arrested by Homeland Security
- Will the public ever know who knew what when?
- More technology headaches
- Four years after 9/11 the war on terror is not being won
- "A knock on the door" opens in New York during 9/11 anniversary
- Keeping data from the public cost \$7.2 billion in 2004
- Arms industry to protect New York subway
- ACLU gets secret legal memo
- Babies on "no-fly lists"
- TSA abandons plan to use commercial data
- "Palestinian bomber" gets credit card offer

##### **B. IN THE US CONGRESS**

- Able Danger still in the shadows
- PATRIOT Act renewal expected to resume momentum

##### **C. IN THE COURTS**

- Fourth Circuit Court says Bush can detain Padilla
- ACLU wins – and loses – in court in library PATRIOT Act gag case
- American student on trial for plot to assassinate Bush
- Judge rules use of PATRIOT Act is appropriate even though man is not a terrorist

##### **D. IN THE COMMONWEALTH**

- Committee may vote on H.B. 1881 in late October
- Governor calls for more surveillance of mosques and foreign students
- Fusion Center chasing tips, screening crime data for terror clues
- School bus drivers being enlisted in "anti-terror matrix"
- Loitering man in Somerville targeted as potential terrorist

## **RIGHTSWATCH**

### **A. EXECUTIVE ACTIONS**

#### **AS MANY AS 200 GUANTANAMO DETAINEES ON HUNGER STRIKE**

According to the September 18th New York Times, more than a third of the prisoners in Guantanamo are participating in a prolonged hunger strike to protest their indefinite confinement without charges, and conditions in the camp. Military authorities say only 105 are participating, and that 20 are being forcibly fed through tubes. A previous month-long hunger strike in July ended when the military promised to improve conditions and permit the detainees to establish a six-member grievance committee to represent inmates in negotiations, as is called for under the Geneva Conventions. Clive Stafford Smith, an attorney for some of the detainees, says the grievance committee was almost immediately disbanded by the authorities. That fact, and the abuse of one of the prisoners and desecration of his Koran led to a resumption of the hunger strike on August 8. According to another attorney, Kristine Huskey, "The situation in the camp itself is very bad" and the hunger strike is "far more widespread than the government is letting on." Authorities tried to prevent Attorney Huskey from visiting her clients, but allowed her to do so after Judge Colleen Kollar-Kotelly of the federal district court intervened. The September 21st New York Times reported that attorney Thomas Wilner told Judge Kollar-Kotelly that he found his clients in a shocking condition after five weeks of hunger strike. He has asked the judge to order a fact-finding investigation into the hunger strike. Military officials speaking anonymously "described the situation as greatly troublesome for the camp's authorities and said they had tried several ways to end the hunger strike, without success." (New York Times, September 18).

#### **SOLDIER TRIED FOR 17 MONTHS TO GET ARMY TO STOP SYSTEMATIC ABUSE**

In a Human Rights Watch report featured on the front page of the September 24th New York Times, three former members of the Army's 82nd Airborne Division say the unit beat up and degraded detainees in Iraq "for fun" and to help gather intelligence. Captain Ian Fishback said he tried for 17 months to get his superiors to intervene, and finally wrote Senators Warner and McCain about what he had witnessed. Two sergeants (who asked to remain anonymous) also gave statements to Human Rights Watch out of "regret" at what they had witnessed or done themselves - including murder, vicious beatings resulting in broken bones, beating with a broken chemical light stick "that made them glow in the dark, which was real funny, but it burned their eyes, and their skin was irritated real bad," stacking naked detainees in human pyramids, exposure to extreme heat and cold, sleep deprivation, extreme forced physical exertion and hostage-taking. The New York Times piece quotes the sergeants describing how interrogators pressed guards to beat up prisoners. One interrogator beat the detainee himself. "He would always say to us, 'You didn't see anything, right?'...And we would always say, 'No, sergeant.'" After the Abu Ghraib photographs became public, the abuse did not end - "We still did it, but we were careful."

#### **ACLU RELEASES 1,800 MORE DOCUMENTS ON TREATMENT OF DETAINEES**

On September 15 the ACLU made public 1,800 pages of documents that shed more light on the systematic failures in the armed forces that led to the abuse of detainees in Iraq. The documents reveal that some detainees died because soldiers lacked training in how to treat them, and that in some cases soldiers used interrogation techniques they "remembered from the movies." Physical abuse was not reported because the chain of command had never talked "about what is abuse". Innocent people picked up in large sweeps were held for as long as 40 days without any evidence against them. To date 70,000 pages of government documents have been turned over to the ACLU in response to its FOIA lawsuit. To access them go to [www.aclu.org/torturefoia](http://www.aclu.org/torturefoia) <<http://www.aclu.org/torturefoia>>. A New York Times editorial of September 10th endorsed Senator Carl Levin's call for an independent investigation "to finally give Americans the truth about how the administration's prison policies led to out-of-control camps like Guantanamo Bay and Abu Ghraib...it is simply not acceptable that a few low-level reservists go to jail while the civilian lawyers who wrote the torture policies get promoted and the general who devised the interrogations escapes even the mildest rebuke. Beyond that, the problems have not gone away...No amount of concern about terrorism gives it the power to detain innocent people or brutalize even those who are guilty. That is why this nation has laws, courts and judges."

### **LYNNIE ENGLAND'S TRIAL BEGINS**

On September 20th the military trial opened in Fort Hood, Texas of Private First Class Lynndie England, an army reservist, who had posed in many of the Abu Ghraib abuse photos. Her attorney maintained she had done so to please Private Charles Graner, a former Pennsylvania prison guard who has been described as the abuse ringleader. Graner has been sentenced to ten years in prison. On the second day of the trial Graner testified that he did nothing wrong when he put a leash around the neck of a naked detainee, and that another convicted soldier, Ivan Frederick, said that Military Intelligence told him to pile naked detainees into a pyramid and then force them to masturbate. England faces up to 11 years if convicted.

### **CANADA APPEARS TO CONDONE TORTURE & EXTRAORDINARY RENDITION**

According to the September 17 New York Times, at least three Canadian citizens may have been sent by their government to Egypt and Syria to be tortured over a period of two years. Ahmad Abou el-Maati and Abdullah Almalki claim their interrogators told them they were fed questions by Canadian officials. Both are now back in Canada and have not been charged with a crime. The information came to light as part of a judicial investigation into the case of former Massachusetts resident and Canadian citizen Maher Arar, who was taken from JFK Airport in New York and flown on American planes to Jordan and Syria where he was tortured.

### **US NAVY RENTS PLANES TO FERRY SUSPECTS TO TORTURE SITES**

According to the September 25 Boston Globe, it is not just the CIA which is involved in contracting airplanes that are used for "extraordinary rendition." Documents obtained by the Associated Press reveal that the Navy Engineering Logistics Office is also involved in arranging secret contracts for as many as 33 planes. The main function of little known Navy office is "the conduct of foreign intelligence or counterintelligence activities." One of the planes used in extraordinary rendition belongs to a part-owner of the Boston Red Sox, who told the Globe "that the team's logo was covered when the CIA leased the plane."

### **ANOTHER ARREST IN VIRGINIA "PAINTBALL" CASE**

Federal authorities have arrested the 28-year-old research assistant to Ali al-Timimi, a Muslim scholar in Virginia who in July was sentenced to life in prison for inciting his followers to violence. Ali Asad Chandia was charged with helping ship 21 boxes of paintball supplies to Lahore, Pakistan for the group Lashkar-e-Taiba. Ten young men whom federal authorities claim underwent training by playing paintball in Virginia have so far been convicted of conspiring to wage war against the US abroad. Mr. Chandia's lawyer Marvin Miller says the charges amount "to a great case of guilt by association....With their great skill in making innocent events look really dangerous, they take something that normally wouldn't pass a laugh test and turn it into an indictment" (New York Times, September 17).

### **FBI AGREES TO DEPORT IMAM RATHER THAN CHARGE HIM**

Imam Shabbir Ahmed, who was arrested last June as part of an FBI investigation into connections between Al Qaeda and his mosque in Lodi, California, will be deported to Pakistan rather than charged and brought to trial. The FBI had claimed the imam planned to set up a religious school in Lodi to train recruits to attack Americans, but never revealed its evidence. His lawyer says that the fact that he was never charged shows that he was innocent. Two other members of his mosque are also being deported. On September 22 a 23-year-old member of the Lodi mosque, Hamid Hayat, was charged with giving material support to terrorism by attending a training camp in Pakistan. According to his lawyer, the government has not been able to prove Hayat visited a camp, and Hamid and his father - who has been charged with lying to the FBI - had been subjected to several days of interrogations in English which neither of them understood well.

### **CHARGES DROPPED AFTER DAWN RAID WITH HELICOPTER AND ARMED AGENTS**

The September 5th Washington Post reported that the government has dropped the immigration fraud charges filed against Hassan Khalil, a naturalized US citizen of Lebanese descent, when it turned out he had not as originally thought lied on his citizenship application. Khalil's door was smashed down in June by gun-toting agents in a dawn raid, as a government helicopter hovered overhead. The heavy-handed tactics were necessary, the Bureau of ICE said, because Khalil had a black belt in the martial arts. He had also told the FBI during an interview that he knew members of Hezbollah - but that, he said, was back in Lebanon where it is a political party and not in the US. According to the Post article, US officials say

immigration charges "sometimes are the easiest way to detain someone who could be a threat and that there is nothing wrong with prosecuting people who have broken immigration laws." Khalil says he no longer feels secure in the US, he hasn't figured out how to retrieve his passport and documents seized in the raid, and his 7-year-old daughter no longer will sleep alone.

### **FBI FEARS TERRORISTS ARE ORGANIZING IN PRISONS**

Three US born Muslims converts and one Pakistani national have been arrested in Los Angeles and charge with conspiring to wage war against the US through terrorism. It is claimed that they have been robbing gas stations to finance plans to target military sites, the US airport and synagogues, and that they have connections with inmates in the California State Prison system where plans for terror attacks were hatched. A judge in Miami ordered that two men (one a US citizen) being held on charges of recruiting soldiers for "holy war" in Bosnia, Kosovo, Chechnya, and Somalia back in the early 90s should be kept in solitary confinement after an Assistant US Attorney argued, "It would be a combustible, risky situation to put these individuals into the general population. That facility is full of young, angry, disaffected young men" (Boston Globe, September 17).

### **FBI DID NOT LEARN FROM ITS COLLUSION WITH WHITEY BULGER**

A new 300 page report from the Justice Department's Inspector General Glenn Fine highlighting the failure of the FBI to observe its internal guidelines in the handling of confidential informants has a special resonance in Boston. From the mid 1970s for the following 2 decades the FBI maintained a close relationship with Whitey Bulger and Stephen "the Rifleman" Flemmi, protecting them while they carried out at least 19 murders. "You can't be around those guys for 15 years and not like them," Bulger's FBI handler agent John Connolly told the Boston Globe on July 19, 1998. The new report shows that in 9 out of every 10 cases the FBI did not follow its own guidelines in the handling of informants, often permitting them to engage in criminal activity without getting the necessary approval, and failing to report it. There was "inadequate training at every level," according to the report (New York Times, September 13). The bureau's still inadequate computer system, the 2002 revised FBI guidelines which permit agents to attend mosques, search for leads on the internet and do broad "fishing expeditions" (such as monitoring political protest), as well as the lack of documentation on how agents are using their expanded powers and the failure to hold agents accountable have all opened the door to abuse. Massachusetts Congressman William Delahunt says he will file a bill mandating that the FBI follow its rules on handling informants and inform state and local law enforcement officials if they learn an informant is engaged in criminal activity.

### **"JUST ABOUT EVERY UNIVERSITY IN THE COUNTRY" TIED TO JTTF**

According to an FBI spokesman quoted in the September 19th issue of The Nation, universities across the country have links with the 110 Joint Terrorism Task Forces, FBI-led teams of state, local and federal agents. Often a university police officer is assigned full-time to the FBI, such as at the University of Massachusetts/Amherst and other large state universities. Some private institutions like Yale also have FBI-assigned campus police. The campus detective at UMASS "does everything an FBI agent on the JTTF would do, including working on non-university-related cases," according to an FBI official. As an example of their activity, last November an FBI agent and plainclothes officers took Brad Goodnight, a 21-year-old student at North Carolina State University, from his residence to police headquarters where he was asked questions about some of his friends, "about his role in Campus Greens, Food not Bombs and other organizations, and whether he recognized photos of people in the audience at a local punk rock concert. His interrogation was apparently related to an earlier protest rally near Republican headquarters, where violence had occurred." Goodnight, who was not charged with any crime, said he was asked to become a paid informer; he was told that if he refused, "he would face continued scrutiny."

### **GROUPS ADVOCATING PEACE AND AFFIRMATIVE ACTION ARE TERRORIST SUSPECTS**

An FOIA request by the ACLU of Michigan has revealed that a Michigan based anti-war group, Direct Action, and a national organization dedicated to defending affirmative action and the gains of the civil rights movement, BAMN (By Any Means Necessary) have been designated as "potentially involved in terrorist activities" by the FBI.

### **VEGANS SPIED ON, ARRESTED BY HOMELAND SECURITY**

When two vegans who were protesting outside a Honey Baked Ham Store in DeKalb County, Georgia noticed they were being photographed by a man in an unmarked car, they approached the vehicle and wrote down its make, model and license plate number. After they left the protest, they were followed by the car which contained Detective D.A. Gorman of the Homeland Security Division. He and a uniformed police officer pulled them over and demanded the piece of paper on which the details about the car had been written down. When Caitlin Childs refused to hand the paper over, she was handcuffed, searched by a male officer, and arrested. Both vegans were charged with disorderly conduct. The ACLU of Georgia, which filed a federal lawsuit on their behalf on September 22, said that "it is deeply disturbing that the government would use resources intended to protect national security to instead spy on innocent Americans who do nothing more than express their opinions on social and political issues."

### **WILL THE PUBLIC EVER KNOW WHO KNEW WHAT WHEN?**

It is unclear how much the public will be permitted to learn about the kind of pre 9/11 intelligence failings documented in the report by the Inspector General of the CIA and delivered to the Senate and House Intelligence Committee on August 23 by CIA director Porter Goss. The report recommends that "accountability boards" be set up to recommend actions against those found responsible for the systemic problems plaguing the agency before 9/11. Former CIA head George Tenet and some two dozen other officials are criticized in the report. Meanwhile, newly declassified documents show that the State Department warned the Clinton Administration in July 1996 that if Osama bin Laden moved to Afghanistan from Sudan, he could become even more dangerous. Sudanese officials have claimed they offered to turn bin Laden and their records on him over to the US before finally expelling him, but no new information about the credibility of these claims came to light in the documents released to the conservative legal group Judicial Watch. A newly-released (but still partially redacted) portion of the 9/11 Commission report states that the Federal Aviation Administration was warned as early as 1998 that al Qaeda might try to hijack a commercial airplane and slam it into a US landmark. The Bush Administration had at first sought to keep evidence secret about the warnings the F.A.A. received (including 52 intelligence documents that mentioned bin Laden or al Qaeda in the months before 9/11), the repeated security failures at Logan and Dulles airports, security lapses at American Airlines, and the failure to secure cockpit doors. In 2000 the F.A.A. intelligence unit warned airlines and airports the political conditions that had made a terrorist attack on an airliner less likely in the 1990s have changed and "the prospect for terrorist hijacking has increased and that US airliners could be targeted" (New York Times, September 14).

### **MORE TECHNOLOGY HEADACHES**

General Keith Alexander, the new director of the 30,000 employee-strong National Security Agency that eavesdrops on the world, has inherited a modernization program called Trailblazer that is, according to the August 17 New York Times, years behind schedule and hundreds of millions of dollars over budget.

### **FOUR YEARS AFTER 9/11 THE WAR ON TERROR IS NOT BEING WON**

Mark Danner in a compelling piece in the September 11 New York Times Magazine ("Taking Stock of the Forever War") details the steep rise in "significant terrorist attacks" – there were 651 last year, which was "triple the year before and the highest since the State Department started gathering figures two decades ago. One hundred ninety-eight of these came in Iraq, Bush's 'central front of the war on terror' – nine times the year before. And this does not include the hundreds of attacks on U.S. troops. It is in Iraq...that insurgents have taken terrorism to a new level, killing well over 4,000 people since April in Baghdad alone; in May, Iraq suffered 90 suicide-bombings...Instead of fighting the real war that was thrust upon us on that incomprehensible morning four years ago, we stubbornly insisted on fighting a war of the imagination, an ideological struggle that we defined not by frankly appraising the real enemy before us but by focusing on the mirror of our own obsessions. And we have finished – as the escalating numbers of terrorist attacks, the grinding Iraq insurgency, the overstretched American military and the increasing political dissatisfaction at home show – by fighting precisely the kind of war they wanted us to fight."

### **"A KNOCK AT THE DOOR" OPENS IN NEW YORK DURING 9/11 ANNIVERSARY**

An art exhibit exploring "how American artists' lives have changed because of 9/11" opened on September 11 in New York City and will run through October 1 at the Cooper Union and the South Street Seaport

Museum. Vigorously denounced by the New York Post and Daily News, the exhibit grew out of the case of Buffalo arts professor Steven Kurtz, who called 911 after he woke up to find his wife had died of a heart attack in bed, and ended up being investigated by the Joint Terrorism Task Force when the PATRIOT Act was triggered because of his possession of harmless bacterial samples which had been part of an art installation on genetically modified food intended for the MASS MoCA gallery in North Adams, Massachusetts. Dr. Kurtz and Professor Robert Ferrell now face ruinous legal expenses and up to 20 years in prison for obtaining and mailing biological agents under false pretenses. Among the pieces in the exhibit was a sculpture called "(un)Patriot(ic) Act." According to Caryn James' review in the September 12 New York Times, "the anger directed at the show reveals some chilling cultural trends: the devaluing of art as a proper response to 9/11, and the persistent, wrongheaded idea that to question the government is to dishonor the memory of those who died...If we're not careful – or rather if we're too careful – 9/11 will become no more than a Hallmark holiday."

#### **KEEPING DATA FROM THE PUBLIC COST \$7.2 BILLION IN 2004**

Forty-one federal agencies, not including the CIA, spent \$7.2 billion to classify 15.6 million documents as "top secret," "secret" or "confidential" in 2004. That is double the number of documents classified in 2001.

The number of documents that are being declassified is steadily dropping, from 204 million pages in 1997 to only 28.4 million pages in 2004, according to a report by OpenThe Government.org (Boston Globe, September 4).

#### **ARMS INDUSTRY TO PROTECT NEW YORK SUBWAY**

Military contractors led by Lockheed Martin won a \$212 million contract to put 1,000 zooming, swiveling high tech video cameras and 3,000 motion sensors in the New York subway system. They will also install cell phone service in 277 stations. The authority has found its existing 5,700 closed-circuit television cameras to be too antiquated for counterterrorism purposes.

#### **ACLU GETS SECRET LEGAL MEMO**

As a result of a court order, the ACLU has received a copy the legal memo used by John Ashcroft to maintain that state and local police have "inherent authority" to enforce civil immigration law. The organization claims the memo is riddled with legal errors.

#### **BABIES ON "NO-FLY LISTS"**

The August 16th Boston Globe reported that parents have been kept from boarding planes because their infants had names that were similar to or the same as those on the "no-fly lists." The lists now contain over 100,000 names (the exact number is classified).

#### **TSA ABANDONS PLAN TO USE COMMERCIAL DATA**

The Transportation Security Administration has dropped from its "Secure Flight" plan to check the identity of passengers against detailed commercial data collected from data aggregators Acxiom, InsightAmerica and Qwest. It is still planning to check passenger name records against information compiled by the Terrorist Screening Center which hosts "no-fly lists", and to identify suspicious travel behavior in passengers' itineraries.

#### **"PALESTINIAN BOMBER" GETS CREDIT CARD OFFER**

Sami Habbas, a Palestinian American who had served in the US Army, received a letter from JP Morgan Chase & Co offering him a credit card. The salutation on the letter read "Dear Palestinian Bomber." When he called JP Morgan Chase to demand an explanation and provided his California zip code and invitation number, two operators said to him: "Yes Mr. Bomber, what can we do for you?" (Boston Herald, August 25). Chase claims the information must have come from a list it purchased from a vendor and says it is investigating.

#### **B. IN THE US CONGRESS**

#### **ABLE DANGER STILL IN THE SHADOWS**

A September 21 Senate Judiciary Committee hearing on whether the 1878 Posse Comitatus law should be amended to loosen restraints on the military's ability to carry out law enforcement within the US turned into a dispute over the credibility of reports that a small highly classified military intelligence data mining program known as Able Danger had identified Mohamed Atta and three other future hijackers by name in mid 2000. The Pentagon blocked testimony about the program before the Committee, claiming it would be "inappropriate" on national security grounds. Among those prevented from speaking was Lt. Col. Anthony Shaffer, who earlier publicly acknowledged being associated with the program, but said he was not an intelligence analyst or aware of what kind of data mining was being carried out by Able Danger. He had claimed that on three occasions he tried to meet with the FBI to discuss the program's findings but was prevented from doing so by military lawyers. Subsequently a naval officer, Captain Scott Phillipott, who managed Able Danger, said he knew the program had identified Atta in January-February of 2002 (New York Times, August 23). According to the September 22 New York Times, a former army major who left the service, Erik Kleinsmith, testified about his involvement but could not recall Atta being identified. He told the Senate Judiciary Committee that he had been "forced to destroy all the data, charts and other analytical products" because the Army was not supposed to keep data related to American citizens and legal permanent residents unless it fell into certain restrictive categories. Senator Joseph Biden called the Pentagon's refusal to allow military witnesses to testify a "cover up" and Senator Arlen Specter said "the Department of Defense owes the American people an explanation of what went on here" (Boston Globe, September 22). 9/11 Commission members had earlier said they heard something about Able Danger but did not think it was historically significant.

#### **PATRIOT ACT RENEWAL EXPECTED TO RESUME MOMENTUM**

After being stalled by the Katrina disaster and hearing on John Roberts to be Chief Justice of the Supreme Court, there are indications that the conference committee on the PATRIOT Act renewal will begin its meetings on September 26. For the last month there has been a push to get House Members and Senators to sign onto a "Dear Conferee" letter urging conference committee members to support the Senate version of the renewed PATRIOT Act, which, though imperfect, is better than the House version, which would expand government powers (for a detailed description of these bills see [www.aclu-mass.org](http://www.aclu-mass.org) <<http://www.aclu-mass.org>> , and click on "Patriot Act Reauthorization" under "Take Action.") The House version of the "Dear Conferee" letter now has 101 co-signers; the Senate version has 17. If you have not yet asked your Members of Congress to sign the letter do so now by "taking action" on the [www.aclu-mass.org](http://www.aclu-mass.org) <<http://www.aclu-mass.org>> website. Let them know that according to a recent study by the University of Connecticut's Center for Survey Research and Analysis, the more Americans know about the USA PATRIOT Act, the less they support it.

#### **C. IN THE COURTS**

##### **FOURTH CIRCUIT COURT SAYS BUSH CAN DETAIN PADILLA**

On September 9 a three-judge panel of the Fourth Circuit Court of Appeals overturned a decision by a district court and ruled unanimously that Congress' post-9/11 Authorization for Use of Military Force Joint Resolution gave President Bush the power to hold Jose Padilla indefinitely as an "enemy combatant." Padilla, a US citizen, had been arrested on US soil (O'Hare International Airport in Chicago) and not on the field of battle as had other US "enemy combatants." Judges Luttig, Michael and Traxler said that "such power" was "universally accepted under the laws of war as necessary in order to prevent the return of combatants to the battlefield during conflict." Without citing any evidence, the judges declared that Padilla had associated with al Qaeda and the Taliban, "took up arms against this Nation in its war against these enemies" and "entered the United States for the avowed purpose of further prosecuting that war by attacking American citizens and targets on our own soil."

##### **ACLU WINS – AND LOSES – IN COURT IN LIBRARY PATRIOT ACT GAG CASE**

The ACLU revealed on August 25 that two weeks earlier it had filed a sealed lawsuit, ACLU v. Gonzales, in Bridgeport, Connecticut to challenge the FBI's use of a National Security Letter to get records related to library patrons. Because of the PATRIOT Act gag provision, the name of the organization which received the NSL could not be made public. Federal district court judge Janet Hall ordered some of the papers relating to the case to be unsealed in an August 25 hearing. On September 9th the judge ruled that the FBI

must lift its gag which was preventing the unnamed organization ("John Doe") from participating in the PATRIOT Act debate. The judge stated about the USA PATRIOT Act that "the potential for abuse is written into the statute: the very people who might have information regarding investigative abuses and overreaching are preemptively prevented from sharing that information with the public." However, the decision was stayed until September 20th to allow the government to appeal. The Second Circuit Court of Appeals upheld the gag on September 20.

#### **AMERICAN STUDENT ON TRIAL FOR PLOT TO ASSASSINATE BUSH**

Ahmed Omar Abu Ali, a 24 year old from Falls Church, Virginia who had attended college in Saudi Arabia, claims to have confessed to a plot to kill Bush after being tortured in a Saudi prison. He is on trial in a Virginia district court, and faces life in prison if convicted of conspiracy to assassinate the president. His lawyers argued that statements he made to Saudi interrogators should be thrown out because they were obtained under torture. The Justice Department says the torture claim is a "fabrication", and that when confronted with evidence of his extremist ties he "quickly launched into a prolonged and detailed confession" of his involvement with al Qaeda (New York Times, September 20). The Justice Department also said that the FBI agents who interviewed the student for four days in September 2003 in Saudi Arabia didn't read him his Miranda rights or stop questioning him when he requested a lawyer because they were gathering intelligence, not evidence for a criminal case.

#### **JUDGE RULES USE OF PATRIOT ACT IS APPROPRIATE EVEN THOUGH MAN IS NOT A TERRORIST**

A federal court judge has ruled that the government can bring PATRIOT Act charges against David Banach, a New Jersey Republican who voted for President Bush and, the court agreed, is obviously not a terrorist. He allegedly pointed a laser at an airplane. His lawyers say he and his daughter had been playing with the laser in their backyard and didn't mean to point it at a helicopter. His lawyer argued that the section of the PATRIOT Act under which Banach has been charged has to do with terrorists derailing trains and planting biological agents on mass transportation, and that the PATRIOT Act was being misused by being applied to a variety of common crimes. Rather than facing the maximum of 18 months which Banach could get if charged with "criminal mischief," he now faces 30 years in jail.

#### **D. IN THE COMMONWEALTH**

##### **COMMITTEE MAY VOTE ON H.B. 1881 IN LATE OCTOBER**

October 25 has been given as the date on which the Joint Committee of Public Safety and Homeland Security may decide whether to give an affirmative vote to H.B. 1881, the Massachusetts Resolution Affirming the Civil Rights and Liberties of the People of Massachusetts. Below are the members of the Committee and their phone numbers – if one of them is your senator or state representative, please call and ask them to support this Resolution and help make Massachusetts the 8th state to uphold civil liberties in the aftermath of 9/11:

Rep. Cheryl Rivera of Springfield (House chair), tel 617 722 7630;

Rep. Theodore Speliotis of Danvers (House vice chair), 722 8733;

Sen. Jarrett Barrios of Cambridge (Senate chair), 722 1650;

Sen. Steve Brewer of Barre (Senate vice chair), 722 1540;

Rep. Emile Goguen of Fitchburg, 722 7950;

Rep. Charles Murphy of Burlington, 722 8750;

Rep. David Sullivan of Fall River, 722 8733;

Rep. Elizabeth Malia of Boston, 722 8550;

Rep. Bruce Ayers of Quincy, 722 8970;

Rep. Kathi-Anne Reinstein of Revere, 722 7630;

Rep. Christopher Donelan of Orange, 722 8733;

Rep. Jeffrey Perry of East Sandwich, 722 8750;

Sen. Steve Buoniconti of Springfield, 722 1660;

Sen. Joan Menard of Somerset, 722 1114;

Sen. Bruce Tarr of Gloucester, 722 1600.

### **GOVERNOR CALLS FOR MORE SURVEILLANCE OF MOSQUES AND FOREIGN STUDENTS**

On September 14 Governor Romney told the Heritage Foundation, "The enemy is within us...we have to act – and we have to move quickly" (transcribed from Heritage Foundation videocast). He went on to talk about students who come from "terrorist sponsored countries" and "individuals that may have been taught at places where terrorist training is going on" and then asked: do we know where they are? Are we tracking them? Are we following them? "How about people who are in settings – mosques for instance – that may be teaching doctrines of hate and terror – are we monitoring that, are we wiretapping, are we following what's going on, are we seeing who's coming in, who's coming out, are we eavesdropping, carrying our surveillance on those individuals that are coming from places that have sponsored domestic terror?" After his remarks were reported in the Boston Globe, the ACLU of Massachusetts and other groups held a protest press conference outside the door of Romney's State House office, demanding a retraction and apology. His spokesman refused to address the protestors and told the press the Governor stood by his remarks.

### **FUSION CENTER CHASING TIPS, SCREENING CRIME DATA FOR TERROR CLUES**

The September 26 Boston Globe has shed a little light on the Framingham-based Commonwealth Fusion Center, staffed with 18 civilian analysts, and 23 intelligence officers under the direction of Major Robert Smith. In addition to the more than \$3 million in federal and state dollars being used to set up the Fusion Center, \$10 million in federal funds are being directed "to regional efforts to upgrade technology to communicate with the Fusion Center," which soon hopes to move to a new expanded facility. The Center followed up on 27 tips in August and 38 in July. "Often analysts help debunk rumors of threats," according to Major Robert Smith. "After a series of manhole explosions in the North End in August, analysts at the Fusion Center quickly assured officials no terrorist link could be found." Critics, including the ACLU of Massachusetts, say the Fusion Center is an unnecessary bureaucracy which absorbs resources which could be used more effectively, and that there are serious privacy concerns about what kind of information is going to be gathered and stored in its database and manipulated with software being developed at the cost of \$2.2 million by the Raytheon Corporation.

### **SCHOOL BUS DRIVERS BEING ENLISTED IN "ANTI-TERROR MATRIX"**

According to the September 17 Boston Herald, 350 local school bus drivers are being trained in Framingham in terrorist operations next month as part of School Bus Watch, which will eventually have 9,500 Massachusetts bus drivers calling a hotline in Virginia when they see something suspicious. The program is similar to one involving truck drivers, and bears an uncanny resemblance to John Ashcroft's Operation TIPS, which Congress had refused to fund.

### **LOITERING MAN IN SOMERVILLE TARGETED AS POTENTIAL TERRORIST**

Not only was he dressed as a "street person," he was looking into the window of the Davis Square Social Security office and had a passport from "a country of interest" (Boston Herald, August 23). A Somerville police officer gave this information about the suspicious person to the FBI, and it appeared in a memo distributed by the US Attorney's office in Washington, which cautioned police to "be aware of vagrants who seem out of place or unfamiliar." Both the FBI and State Department had warned that terrorists may try to disguise themselves as homeless people "to blend in to the urban landscape. This is particularly true of our mass transit system, where homeless people tend to loiter unnoticed." Writing in the September 1-14 Spare Change, James Shearer commented, "Are they kidding? Have you ever seen how people react when someone torn and tattered and carrying a plastic bag sits on a bench or comes into a train?"

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