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December 30, 2009

To whom it may concern:

This letter constitutes a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 made jointly to the U.S. Attorney for the District of Massachusetts and the Federal Bureau of Investigations. The Request is submitted on behalf of the American Civil Liberties Union of Massachusetts and its educational arm, the American Civil Liberties Union Foundation of Massachusetts (jointly referred to as ACLUM) and Political Research Associates (PRA).

### **Background**

Over the past nine years, the federal government has implemented or expanded various programs that have resulted in an unprecedented degree of information sharing between federal and state law enforcement agencies and in the increased federalization of law enforcement activities in general and anti-terrorism activity in particular. This request seeks documents regarding the nature and extent of the cooperative efforts of

federal, state and local law enforcement agencies through three federal programs: the Massachusetts Joint Terrorism Task Force (JTTF); the National Joint Terrorism Task Force (NJTTF); and the Massachusetts Anti-Terrorism Advisory Council (ATAC).

In September 2001, Attorney General Ashcroft directed every U. S. Attorney district to establish an Anti-Terrorism Task Force to coordinate the dissemination of information and the development of investigative and prosecutorial strategy in dealing with terrorism throughout the country. On September 24, the Attorney General reconstituted each of the ATTFs as an Anti-Terrorism Advisory Council (ATAC) chaired by the U.S. Attorney.<sup>1</sup> Its responsibilities were defined as: (1) coordinating specific antiterrorism initiatives; (2) initiating training programs; and (3) facilitating information sharing. The operational arm of the ATAC is the JTTF, but ATAC retains, at least in theory, operational responsibility for some investigations.<sup>2</sup>

The U.S. Department of Justice has stated that the mission of the JTTF, which was formed in some districts as early as 1990, is to “detect and investigate terrorists and terrorist groups and prevent them from carrying out terrorist acts directed against the United States.”<sup>3</sup> Operating from the FBI’s field office, the JTTF has primary responsibility for terrorism investigations. It is the “operational unit that conducts field investigations of actual or potential terrorism.”<sup>4</sup> JTTF has also been described by the FBI as providing “one stop shopping for information.”<sup>5</sup> JTTF is not limited to FBI agents and includes members from other federal, state, and local law enforcement agencies that have signed a Memorandum of Understanding (MOU) with JTTF. Non-FBI personnel are subject to security clearance and are specially deputized as federal agents.

The NJTTF was established by the FBI in 2002 to support the JTTFs and provide enhanced communication and coordination.<sup>6</sup> Located at FBI headquarters in Washington, it is comprised of representatives of every U.S. agency that collects and processes terrorist intelligence and provides intelligence coordination and support for JTTFs throughout the United States.<sup>7</sup>

In tandem with this expanded operational capacity and focus, the federal government has created a national Information Sharing Environment (ISE), which was defined in Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 as “an approach that facilitates the sharing of terrorism information.” The FBI later created eGuardian, a database where local law enforcement agencies can enter “suspicious activity reports, potential terrorism threats (like a phoned-in bomb threat),

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<sup>1</sup> *Memorandum for All United States Attorneys*, September 24, 2003.

<http://www.justice.gov/ag/readingroom/ag-092403.pdf>

<sup>2</sup> *Id.* See also <http://www.justice.gov/usao/ma/atac.html>.

<sup>3</sup> Dep’t of Justice, *DOJ Terrorism task Force, Evaluation and Inspections Report I-2005-007*, June 2005, <http://www.justice.gov/oig/reports/plus/e0507/background.htm>

<sup>4</sup> *Id.*

<sup>5</sup> FBI website, “PROTECTING AMERICA AGAINST TERRORIST ATTACK

A Closer Look at Our Joint Terrorism Task Forces,” [http://www.fbi.gov/page2/may09/jtfts\\_052809.html](http://www.fbi.gov/page2/may09/jtfts_052809.html)

<sup>6</sup> *Id.*

<sup>7</sup> <http://www.fbi.gov/page2/july04/njtff070204.htm>

and terrorist incidents (like actual bombings).”<sup>8</sup> At the same time, state and local government agencies in Massachusetts have separately established intelligence units which are reported to be linked both to these national intelligence sharing systems and to JTTF.

Notwithstanding the scale of these changes, little information about how these cross-agency programs work in practice is readily available to the public. Given the checkered history of internal security investigations in this country and the inherent threat to personal privacy posed by nationwide intelligence information sharing, the creation of a domestic intelligence and security apparatus requires the highest level of transparency and public oversight. This request seeks basic information about the workings of the three federal programs described above, including how authority is divided, how information is shared, and what safeguards are in place to ensure the civil liberties of those whom it targets.

### Documents Sought

#### **JTTF**

1. Records indicating the purpose and organization of the JTTF, its membership and command structure and relationship with the Federal Bureau of Investigation and the Office of the United States Attorney.
2. Documents containing the location of all JTTF offices in New England.
3. Records indicating the number of FBI personnel assigned to JTTF and, of that number, how many are (a) field agents or investigators, (b) intelligence analysts and (c) support personnel.
4. Records identifying each federal, state or local agency other than the FBI that participates in the JTTF and the number of employees of each such agency assigned to JTTF.
5. Memoranda of understanding, contracts or agreements between the Massachusetts Joint Terrorism Task Force (JTTF) and (a) any federal agency, (b) the Commonwealth of Massachusetts or any department, agency, authority or official of the Commonwealth, and (c) any Massachusetts city or town or any department, agency or official of a Massachusetts city or town providing for the assignment of personnel to JTTF.
6. Records showing the number of JTTF personnel whose responsibilities require them to be physically present at the Commonwealth Fusion Center or the Boston Regional Intelligence Center.

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<sup>8</sup> [http://www.fbi.gov/page2/sept08/eguardian\\_091908.html](http://www.fbi.gov/page2/sept08/eguardian_091908.html)

7. Records describing the formal structure of information sharing between JTTF and (a) e-Guardian, (b) the Information Sharing Environment, and (c) local intelligence agencies in Massachusetts, including the Boston Regional Intelligence Center (BRIC), the Commonwealth Fusion Center (CFC) and the Massachusetts Bay Transportation Authority (MBTA) or the Massachusetts Department of Transportation (Mass DOT).
8. Records describing the procedure and standards for sharing of information or intelligence with the Commonwealth Fusion Center (CFC) and with the Boston Regional Intelligence Center (BRIC); records of communications between JTTF and BRIC and CFC concerning access to information and operational responsibility for investigation.
9. Memoranda of understanding, contracts or agreements between the JTTF and (a) any federal agency, (b) the Commonwealth of Massachusetts or any department, agency, authority or official of the Commonwealth, and (c) any Massachusetts city or town or any department, agency or official of a Massachusetts city or town providing for the collection, disclosure or sharing of information or intelligence concerning individuals or organizations;
10. Records, other than technical standards and requirements, describing information or intelligence that is disclosed or shared through the national Information Sharing Environment or e-Guardian.
11. Documents showing the budget of the Massachusetts JTTF, including sources of funding from 2005 to present.
12. Documents describing prosecutorial priorities for the Massachusetts JTTF; any documents showing rules, regulations and procedures regarding the operation of the Massachusetts JTTF;
13. Documents discussing rules or guidelines for JTTF compliance with 28 CFR Part 23.

#### **NJTTF**

14. Documents describing the relationship between the National Joint Terrorism Task Force (NJTTF) and the Massachusetts JTTF.
15. Documents describing the relationship between the NJTTF and the Commonwealth of Massachusetts, any of its cities, towns, agencies, police departments or other law enforcement units in Massachusetts, colleges or universities.

## ATAC

16. Records indicating the present structure, purpose and membership of the Massachusetts Anti-Terrorism Advisory Council;
17. Records created after January 1, 2005 of the agenda, attendees and minutes of the Massachusetts ATAC.
18. Records describing investigative and prosecutorial priorities or strategies recommended or approved by Massachusetts ATAC.
19. Records of communication between the Office of the United States Attorney and members of Massachusetts ATAC;
20. Records of communications between the Massachusetts JTTF and members of Massachusetts ATAC;
21. Records of communications between the Boston Office of the FBI and members of Massachusetts ATAC
22. Documents describing the relationship between ATAC and the Massachusetts JTTF including records describing specific measures recommended or approved by ATAC to (1) coordinate specific antiterrorism initiatives; (2) initiate training programs; and (3) facilitate information sharing.;
23. Documents describing the relationship between ATAC and the Commonwealth of Massachusetts, any of its cities, towns, state or local agencies, police departments or other law enforcement units or officials in Massachusetts, colleges or universities.
24. Documents showing the budget for the Boston ATAC, including funding sources for the years 2005 to present.

### **Requesters are entitled to a fee waiver**

ACLUM and PRA are entitled to a fee waiver under the FOIA statute and Department of Justice Regulations for two reasons. First, the requesters qualify as representatives of the news media. Second, release of the records requested is in the public interest and not in any commercial interest of the requesters.

- 1. ACLUM and PRA are representatives of the news media as defined in the statute and regulations.**

The requesters are entitled to a fee waiver because they are representatives of the news media under both the FOIA statute and the Department of Justice regulations regarding FOIA fees. 5 U.S.C §551(a)(4)(A)(ii); 28 CFR 16.11(d)(1). Both are representatives of the news media in that they are organizations “actively gathering news for an entity that is organized and operated to publish or broadcast news to the public,” where “news” is defined as “information that is about current events or that would be of current interest to the public.” 5 U.S.C. § 552(a)(4)(A)(ii)(II); 28 CFR § 16.11(b)(6).

In addition, the requesters meet the statutory definition of a “representative of the news media” because they are each “an entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.” *Nat’s Security Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir 1989). *See also Electronic Privacy Information Ctr. v. Dep’t of Defense*, 241 F.Supp. 2d 5, 10-15 (D.D.C. 2003) (finding non-profit interest group that disseminated an electronic newsletter and published books was a “representative of the media” for purposes of FOIA.)

ACLUM, a not-for-profit, non-partisan organization with over 22,000 members and supporters across Massachusetts is dedicated to the principles of liberty and equality. As the Massachusetts affiliate of the national ACLU, a not-for-profit, non-partisan organization with over 500,000 members nationwide, ACLUM distributes information outside of Massachusetts.

Gathering and disseminating current information to the public is a critical and substantial component of ACLUM’s mission and work. ACLUM publishes newsletters, news briefings, reports and other printed materials that are disseminated to the public. *See Exhibits A – C*. These materials are widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, at no cost. ACLUM also disseminates information through its heavily subscribed website, [www.aclum.org](http://www.aclum.org), a blog, <http://www.massrightsblog.org> and regular posts on social media sites such as Facebook and Twitter. *See Exhibits D – F*. Our web postings address civil liberties issues in depth, provide features on civil liberties issues in the news, and contain hundreds of documents that relate to the issues addressed by ACLUM. The website includes features on information obtained through the FOIA. *See, e.g.,* [www.aclum.org/ice](http://www.aclum.org/ice).

PRA, a progressive research organization, was established in 1981. Its mission is to advance a just, democratic, and pluralistic society. Its incisive research and analysis on U.S. government-sponsored political repression and the Right Wing’s movements, institutions, and ideologies that undermine human rights supplies civil liberties and social change advocates with the depth and breadth of information to challenge systemic oppression. PRA disseminates its work widely. *See Exhibits G – I*. PRA holds a unique niche in the progressive social justice community as it is the *only* organization that looks in detail at all sectors of the Right – secular, religious, and xenophobic – and the tactics they use to negate, or attempt to negate, the principles and policies that are the cornerstones of an open and egalitarian society.

PRA's overall goal is to advance progressive thinking and action by providing social justice allies – individual and organizational activists/organizers/advocates at the grassroots and national levels, journalists, social scientists, and other stakeholders – with in-depth research, analysis, and referrals related to our major issue areas identified in its strategic plan:

- Civil Liberties
- Reproductive Justice
- LGBT and Gender Equality and Justice
- Racial and Economic justice (with special attention to immigrant right under both of these categories)
- Understanding the Right

These characteristics are typically sufficient to convey “representative of the news media” status on FOIA requesters. Courts have held that “[i]t is critical that the phrase ‘representative of the new media’ be broadly interpreted if the act is to work as expected ... I[n] fact, any person or organization which regularly publishes or disseminates information to the public ... should qualify for waivers as a ‘representative of the news media.’” *Electronic Privacy Ctr. v. Dep’t of Defense*, 241 F.Supp, 2d 5, 10 (D.D.C. 2003).

On account of these factors, the requesters have not been charged fees associated with responding to FOIA requests on numerous occasions.<sup>9</sup>

**2. The records sought are in the public interest and the requesters have no commercial interest in the disclosure.**

Therequesters are entitled to a waiver or reduction of fees because “[d]isclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government,” and “[d]isclosure of the information is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); 28 CFR § 16.11(k)(1)(i) and (ii).

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<sup>9</sup> The following are examples of requests in which government agencies did not charge the ACLU or ACLUM fees associated with responding to a FOIA request: (1) Immigration and Customs Enforcement granted the ACLU of Massachusetts a waiver of all search fees for a request submitted on Jan. 25, 2007; (2) The Office of Science and Technology Policy in the Executive Office of the President told the ACLU that it would waive the fees associated with a FOIA request submitted by the ACLU in August 2003; (3) The Federal Bureau of Investigation did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002; (4) The Office of Intelligence Policy and Review did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002; and (5) The Office of Information and Privacy in the Department of Justice did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002.

This request aims at furthering public understanding of government conduct, and specifically to help the public determine the ways in which government agencies work together to share information and intelligence gathered through intra-agency initiatives involving law enforcement and other public and private entities. Recent media coverage of the growing concern about such initiatives demonstrates the public interest in the documents sought. *See e.g. Report: FBI paid controversial NJ blogger for help*, Associated Press, November 29, 2009; Stephanie Ebbert, *Fusion Center takes aim at terror, But secrecy alarms civil libertarians*, The Boston Globe, September 26, 2005; T.J. Greaney, *'Fusion center' data draws fire over assertions: Politics, banners seen as suspect*, Columbia Daily Tribune, March, 14, 2009; Hilary Hylton, *Fusion Centers: Giving Cops Too Much Information?*, Time Magazine, March 9, 2009; Robert O'Harrow, Jr., *Centers Tap Into Personal Databases, State Groups Were Formed After 9/11*, The Washington Post, April 2, 2008; Ryan Singel, *Fusion Center Cash Infusion*, Wired Magazine, March 14, 2007; Brent Kendall, *FBI to Assess Actions Before Hood Shooting*, The Wall Street Journal, December 9, 2009.

ACLUM and PRA are non-profit organizations. The purpose of ACLUM is to protect civil rights and liberties. The purpose of PRA is to advance a just, democratic, and pluralistic society. As such, the requesters have no "commercial interest" in the information.

### **Application for Expedited Processing**

We request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E); 28 C.F.R. § 16.5(d); and 32 C.F.R. § 1700.12. There is a "compelling need" for these records because the information requested is urgently needed by an organization primarily engaged in disseminating information in order to inform the public about actual or alleged federal government activity. 5 U.S.C. § 552(a)(6)(E)(v); *see also* 28 C.F.R. § 16.5(d)(1)(ii); 32 C.F.R. § 1700.12(c)(2). In addition, the records sought relate to a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," 28 C.F.R. § 16.5(d)(1)(iv).

#### **1. The records are sought by organizations primarily engaged in disseminating information to inform the public.**

The ACLU and PRA are "primarily engaged in disseminating information" within the meaning of the statute and regulations. 5 U.S.C. § 552(a)(6)(E)(v)(II); 28 C.F.R. § 16.5(d)(1)(ii); 32 C.F.R. § 1700.12(c)(2). Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public is a critical and substantial component of ACLUM's work and one of its primary activities. *See ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding non-profit public interest group that "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw



material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information” (internal citation and quotation marks omitted)).<sup>10</sup>

As stated above, gathering and disseminating current information to the public is a critical and substantial component of PRA and ACLUM’s mission and work.

ACLUM publishes newsletters, news briefings, reports and other printed materials that are disseminated to the public. *See* Exhibits A – C. ACLUM also disseminates information through its heavily subscribed website, [www.aclum.org](http://www.aclum.org), a blog, <http://www.massrightsblog.org> and regular posts on social media sites such as Facebook and Twitter. *See* Exhibits D – F.

ACLUM regularly publishes reports about government activity and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. Many ACLUM reports include a description and analysis of government documents obtained through FOIA.<sup>11</sup>

As the state affiliate of the national ACLU organization, ACLUM also disseminates information through the ACLU. Since 2007 alone, ACLU national projects have published and disseminated over 30 reports. The ACLU also regularly publishes books, “know your rights” publications, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.<sup>12</sup>

The ACLU operates a widely-read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily.<sup>13</sup> The ACLU also creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features.<sup>14</sup> The ACLU has also produced an in-depth television series on civil liberties called “The Freedom Files.”<sup>15</sup>

The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, [www.aclu.org](http://www.aclu.org). The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the

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<sup>10</sup> Notably, courts have found organizations with missions similar to the ACLU and that engage in information dissemination activities similar to the ACLU to be “primarily engaged in disseminating information.” *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (Leadership Conference on Civil Rights); *ACLU v. Dep’t of Justice*, 321 F. Supp. 2d at 30 n.5 (Electronic Privacy Information Center).

<sup>11</sup> *See Detention and Deportation in the Age of ICE*, available at [www.aclum.org/ice](http://www.aclum.org/ice) and the accompanying document gallery of FOIA documents at <http://aclum.org/ice/gallery.php>.

<sup>12</sup> A recent search of Amazon.com produced over 60 books published by the ACLU.

<sup>13</sup> *See* <http://www.aclu.org/blog>.

<sup>14</sup> *See* <http://www.aclu.org/multimedia/index.html>.

<sup>15</sup> *See* <http://aclu.tv/>.

news, and contains many thousands of documents relating to the issues on which the ACLU is focused. The ACLU's website also serves as a clearinghouse for news about ACLU cases, as well as analysis about case developments, and an archive of case-related documents. Through these pages, the ACLU also provides the public with educational material about the particular civil liberties issue or problem; recent news about the issue; analyses of Congressional or executive branch action on the issue; government documents obtained through FOIA about the issue; and more in-depth analytic and educational multi-media features on the issue.<sup>16</sup>

The ACLU website includes many features on information obtained through the FOIA.<sup>17</sup> For example, the ACLU's "Torture FOIA" webpage, <http://www.aclu.org/accountability/released.html>, contains commentary about the ACLU's FOIA request, press releases, analysis of the FOIA documents, and an advanced search engine permitting webpage visitors to search the documents obtained through the FOIA, and advises that the ACLU in collaboration with Columbia University Press has published a book about the documents obtained through the FOIA.

The ACLU has also published a number of charts that collect, summarize, and analyze information it has obtained through FOIA. For example, through compilation and analysis of information gathered from various sources—including information obtained from the government through FOIA—the ACLU has created an original chart that provides the public and news media with a comprehensive index of Bush-era Office of Legal Counsel memos relating to interrogation, detention, rendition and surveillance which describes what is publicly known about the memos and their conclusions, who authored them and for whom, and whether the memos remain secret or have been released to the public in whole or in part.<sup>18</sup> Similarly, the ACLU produced a chart of original statistics about the Defense Department's use of National Security Letters based on its own analysis of records obtained through FOIA.<sup>19</sup>

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<sup>16</sup> For example, the ACLU's website about national security letter ("NSL") cases, [www.aclu.org/nsl](http://www.aclu.org/nsl), includes, among other things, an explanation of what NSLs are; information about and document repositories for the ACLU's NSL cases, links to documents obtained through FOIA about various agencies' use of NSLs; NSL news in the courts, Congress, and executive agencies; links to original blog posts commenting on and analyzing NSL-related news; educational web features about the NSL gag power; public education reports about NSLs and the Patriot Act; news about and analysis of the Department of Justice Inspector General's reviews of the FBI's use of NSLs; the ACLU's policy analysis and recommendations for reform of the NSL power; charts with analyzed data about the government's use of NSL; myths and facts documents; and links to information and analysis of related issues.

<sup>17</sup> See, e.g., <http://www.aclu.org/accountability/released.html> (Torture FOIA); <http://www.aclu.org/accountability/olc.html> (OLC Memos); <http://www.aclu.org/national-security/csrt-foia> (CSRT FOIA); <http://www.aclu.org/national-security/aclu-v-doj-lawsuit-enforce-nsa-warrantless-surveillance-foia-request> (NSA FOIA); <http://www.aclu.org/national-security/patriot-foia> (Patriot Act FOIA); [http://www.aclu.org/national-security\\_technology-and-liberty/spy-files](http://www.aclu.org/national-security_technology-and-liberty/spy-files) (Spy Files).

<sup>18</sup> The chart is available at [http://www.aclu.org/safefree/general/olcmemos\\_chart.pdf](http://www.aclu.org/safefree/general/olcmemos_chart.pdf).

<sup>19</sup> The chart is available at [http://www.aclu.org/safefree/nationalsecurityletters/released/nsl\\_stats.pdf](http://www.aclu.org/safefree/nationalsecurityletters/released/nsl_stats.pdf).

PRA fuses journalistic reporting techniques and reliable, even-handed research to disseminate quality analytical content. See Exhibits G – I. Its in-depth research reports, press interviews, e-updates, library of primary and secondary materials about right-wing and anti-democratic movements, quarterly magazine, and website are all aimed at helping our allies craft more effective, non-demonizing language and strategies that further social justice. PRA’s researchers respond to daily telephone inquiries from journalists and advocates, supply customized information packets, offer advice on organizing strategies, and serve as nationally known public speakers for workshops and conferences.

According to a quarterly analysis done earlier this year, Political Research Associates’ online resources receive an average of 1.5 million hits a month from 600,000 visitors. It has a ranking of 6 out of 10 from Google, which indexes some 3,400 of its pages. There are over 1,110 known links to PRA’s home page.

*The Public Eye*, PRA’s quarterly magazine, is read by advocates, legislators, journalists, academics, donors, and many others, with a subscription base of over 1,000 subscribers. See Exhibit G. PRA is currently running investigative stories on a range of civil liberties issues, including government misconduct related to civil liberties, informants, fusion centers, and political spying. *The Public Eye’s* feature length analyses anchor the coverage of burning issues on our website and are picked up by numerous news aggregators, such as AlterNet.

*PRA’s website, [www.publiceye.org](http://www.publiceye.org)*, which includes a dedicated “portal” page for civil liberties and other major issue areas. The civil liberties page is being designed to house our central repository for investigative research on civil liberties, domestic surveillance, racial profiling, and counterterrorism, for use by journalists, activists, the legal community, and others and will include research findings, primary documents, links to related information, and audio and video files. The site is promoted as go-to location for advocates, activists, and journalists.

*Print Reports:* PRA will be publishing reports based upon its civil liberties research with press conferences in several large cities. These reports will be released on the Web, as well as in print editions, to ensure broad circulation and availability and arrange cross-promotion with allied groups and bloggers. PRA regularly publishes reports, studies, and Activist Resource Kits, available at the website, [www.publiceye.org/reports.html](http://www.publiceye.org/reports.html).

*Radio:* PRA is partnered with the National Radio Project (producer of the nationally syndicated radio show, *Making Contact*). PRA researchers are regularly interviewed on public radio shows, including *Democracy Now* and morning news shows, and we will promote interviews with lead and local civil liberties researchers.

*Print articles and op-eds:* PRA writes and places stories for outside outlets, including op-eds for their local newspapers as well as Web based news aggregators, and pitch features to national magazines.

*Books:* Books by PRA authors include:

- *Mobilizing Resentment* by Jean Hardisty
- *Eyes Right! Challenging the Right Wing Backlash*  
edited by Chip Berlet
- *Too Close for Comfort: Right-Wing Populism in America*  
by Chip Berlet and Matthew N. Lyons
- *The Coors Connection* by Russ Bellant
- *Old Nazis, the New Right, and the Republican Party* by Russ Bellant

PRA and ACLUM plan to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the Requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

**2. The records sought relate to a matter of widespread public interest which affect public confidence.**

In addition, the records sought relate to a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence,” 28 C.F.R. § 16.5(d)(1)(iv).

The records sought are urgently needed to inform the public about actual or alleged federal government activity. The records sought pertain to the scope and implementation of the FBI’s collaboration with local entities via the JTTFs. The records sought are urgently needed because the system implicates core privacy concerns, but almost nothing is known about its workings, the standards that guide it or limit this potentially-invasive information-sharing system, and whether the system is being abused. Without disclosure of the records sought, the public will remain in the dark about the operation of the JTTF’s operations, including “suspicious activity” reporting, and cannot assess for themselves whether the program is necessary, effective, or subject to sufficient limits and oversight.

Nationwide collaboration between the FBI and local law enforcement has been the subject of sustained media interest for several years and have led to questions about its breadth and effectiveness. *See e.g.*, Naomi Klein, *Big Brother Democracy: How Free Speech and Surveillance Are Now Intertwined*, THE NATION, Aug. 28, 2006; Shelley Murphy, *False tips cost antiterror officials time and credibility*, Feb. 1, 2005; Erich Lichtblau, *F.B.I. Goes Knocking for Political Troublemakers*, N.Y. TIMES, Aug. 16, 2004; John Friedman, *Spying on the Protesters*, The Nation, Sept. 19, 2005; Matthew Rothschild, *Tales of Big Brother*, THE PROGRESSIVE, Aug. 25, 2004.

Discussion of JTTFs has reached Congress as well. Government officials and non-governmental advocates have testified before numerous bodies of the U.S. Congress regarding the workings and effectiveness of the JTTFs and, more broadly, federal-local sharing of information. *See e.g.* *Eight Years After 9/11: Confronting Terrorist Threat to Homeland: Hearing Before Senate Comm. on Homeland Security*, 111<sup>th</sup> Cong. (Oct. 1,

2009) (testimony of Janet Napolitano, Sec. Dep't of Homeland Security); *Strategies for Terrorism Information Sharing, Hearing Before Senate Judiciary Comm.*, 111<sup>th</sup> Cong. (April 21, 2009) (testimony of Caroline Frederickson, Director, ACLU Washington Legislative Office).

As the sustained public interest concerning the FBI's work with local law enforcement clearly attests, the workings of the JTTFs constitute a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," 28 C.F.R. § 16.5(d)(1)(iv).

Accordingly, expedited processing is appropriate in this case.

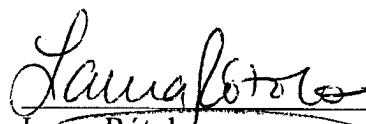
### **Conclusion**

If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees or expedited processing.

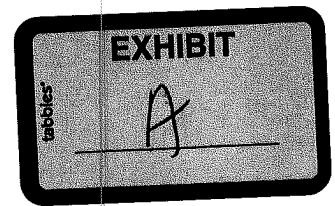
We look forward to your reply to the Request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i). Please reply to this request to by contacting Laura Rótolo at (617) 482-3170 x311 or through email at [lrotolo@aclum.org](mailto:lrotolo@aclum.org).

Thank you for your prompt attention to this matter.

Sincerely,

  
\_\_\_\_\_  
Laura Rótolo  
ACLUM Staff Attorney

Thomas R. Cincotta  
PRA Civil Liberties Project Director



**CIVIL LIBERTIES UPDATE**  
**E-NEWSLETTER OF THE ACLU OF MASSACHUSETTS**  
July 1, 2009

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

##### **Restoring the Rule of Law Scorecard**

*Beginning with the Update dated February 26, 2009, we are providing a scorecard reflecting key decisions taken by the Obama Administration that either help restore the Rule of Law or continue Bush Administration policies. Decisions favorable to the Rule of Law are assigned a PLUS 1; unfavorable decisions a MINUS 1; mixed decisions a PLUS or MINUS 0.5. The entire scorecard can be viewed at [www.aclum.org](http://www.aclum.org).*

##### **RULE OF LAW SCORECARD TALLY AS OF LAST UPDATE – MINUS 5.5**

• **JUSTICE DEPARTMENT OPPOSES UIGHURS' APPEAL TO SUPREME COURT**  
 On October 7, 2008, federal district court judge Ricardo Urbino ordered the release into the US of 17 Uighur Guantanamo detainees, who were no longer being classified by the government as "enemy combatants." In February 2009, the DC Circuit Court overturned that ruling, and agreed with the Obama Administration that no federal court has the authority to release a Guantanamo prisoner into the US. Attorneys for the Uighurs, who are Chinese Muslims, then appealed to the US Supreme Court. On May 29, the Obama Administration urged the Supreme Court not to hear the Uighurs' case. Solicitor General Elena Kagan's brief asserts that the detainees "have already obtained relief. They are no longer detained as enemy combatants, they are free to leave Guantanamo Bay to any country that is willing to receive them." At the time she submitted her brief, no country – including the US – was willing to receive them, and so they remained in detention at Guantanamo. The brief asserted that detainees cleared for release may be held for a "wind-up" period of indefinite duration (Scotus, May 29)  
 MINUS 1

- **ADMINISTRATION ARGUES THAT CIA INTERROGATION DOCUMENTS MUST BE KEPT SECRET**

On June 8, in an affidavit submitted to a New York federal judge, CIA head Leon Panetta urged the court to bar the disclosure to the ACLU of CIA documents describing the contents of 92 videotapes of interrogations that the CIA destroyed in 2005. He argued that the release of the documents "could be expected to result in exceptionally grave damage to the national security by informing our enemies of what we knew about them, and when, and in some instances, how we obtained the intelligence" and that these documents were "of a qualitatively different nature" than the Justice Department memos justifying harsh interrogation methods because they described the interrogation techniques "as applied in actual operations" – details which would give al-Qaeda "propaganda it could use to recruit and raise funds" (*Washington Post*, June 9).

MINUS 1

- **GUANTANAMO DETAINEE BROUGHT BEFORE US COURT**

Defying the fear mongers who argued that bringing Guantanamo detainees into the US to face trial was an unacceptable security risk, the Obama Administration transferred a Tanzanian, Ahmed Ghailani, from Guantanamo to the Metropolitan Correctional Center in Manhattan. On June 9, he appeared in federal court on charges related to the 1998 destruction of the US embassies in Kenya and Tanzania (*Boston Globe*, June 10).

PLUS 1

- **ADMINISTRATION ASKS FULL COURT TO RE-HEAR RENDITION CASE**

On June 13, the Obama Administration petitioned the US Court of Appeals for the 6<sup>th</sup> Circuit to reconsider the opinion of a 3-judge panel of the court permitting a lawsuit by 5 victims of "extraordinary rendition" to proceed. The panel had refused to stop the case, *Mohamed et al v. Jeppesen Dataplan*, on state secrets grounds. The ACLU attorney involved in the case, Ben Wizner, stated: "This is a watershed moment. There's no mistake any longer...the Obama administration has now fully embraced the Bush administration's shameful effort to immunize torturers and their enablers from any legal consequences for their actions" (*Washington Post*, June 13).

MINUS 1

- **WHITE HOUSE ARGUES VISITOR LOGS ARE PRIVILEGED PRESIDENTIAL COMMUNICATIONS**

Transparency in government took a hit when the Obama White House adopted the arguments of its predecessor to prevent lists of visitors from being turned over to MSNBC and the group Citizens for Responsibility and Ethics in Washington (MSNBC, June 16). Although US District Court Judge Royce Lamberth has twice ruled that visitor logs are under the authority of the Secret Service and subject to the Freedom of Information Act, the Administration has argued that they are Presidential records which are not subject to FOIA. The Citizens group had wanted to know which coal mining executives had visited the White House to discuss "clean coal" policies.

MINUS 1

- **GOVERNMENT SUBMITS EVIDENCE OBTAINED UNDER TORTURE IN HABEAS CASE**

In an effort to prove it can indefinitely imprison Mohammed Jawad, an Afghan detainee in Guantanamo who may have been as young as 12 when he was seized on the battlefield, the Administration on June 1 submitted evidence to Federal District Court Judge Ellen Huvelle that was obtained after the young man had been threatened with death, hooded, strip-searched, beaten, kicked and subjected to weeks of sleep



deprivation. Lt. Col. Darry Vanderveld, the former military prosecutor in Jawad's trial before a military commission, has submitted a 14-page sworn statement in support of his petition for release. In January, five human rights organizations sent the president-elect a letter urging him to stop the prosecution of Jawad and other child detainees (*Washington Independent*, June 23).

MINUS 1

• **JUSTICE DEPARTMENT JUSTIFIES GAG ORDER**

The Justice Department has submitted to the US District Court for the Southern District of New York a secret classified declaration justifying the use of the gag order that was imposed on an Internet Service Provider who turned to the ACLU after being the recipient of a National Security Letter. Last December, the US Court of Appeals for the Second Circuit ruled that the gag provisions of the NSLs violate the First Amendment and sent the case back to the district court. ACLU attorneys are not permitted to see the secret filing and the Justice Department declined to provide an unclassified summary of its affidavit (PC World, June 24).

MINUS 1

**RULE OF LAW SCORECARD TALLY AS OF JULY 1: MINUS 10.5**

**Military Commissions, Torture, Guantanamo**

• **AMERICANS OPPOSE "PREVENTIVE DETENTION" BY BIG MARGIN BUT ALSO OPPOSE CLOSING GUANTANAMO**

According to a NYT/CBS poll, as many as 68 percent of Americans are against the plan put forward by President Obama to hold some detainees indefinitely without charging them with any crime (Salon, June 18). Only 24 percent support the idea. A *USA Today*/Gallup Poll revealed that by a 2-1 margin, those surveyed oppose closing Guantanamo and by 3-1 say that detainees should not be brought to the US (*USA Today*, June 1). As Liliana Segura wrote in AlterNet (June 6), this result "is a testament to the ageless power of political fear mongering. In the months since Obama vowed to close Guantanamo in an executive order that was met with relief and praise by human rights advocates worldwide, the debate over how and when to do so has been hijacked and utterly skewed."

• **OBAMA MAY ISSUE EXECUTIVE ORDER AUTHORIZING INDEFINITE DETENTION**

In order to sidestep bipartisan Congressional opposition on the question of what to do about Guantanamo detainees, President Obama is considering issuing an executive order to provide for what he calls "prolonged detention" – indefinite imprisonment without charges or trial (*Washington Post*, June 26). Where would detainees be held under an indefinite detention system? Some Administration officials have suggested they would be detained in military facilities within the US, but others say they would be held in "battlefield facilities" in Iraq, Afghanistan, Pakistan and possibly the Horn of Africa. In the words of ACLU executive director Anthony Romero, "This is not change – this is more of the same. If President Obama issues an executive order authorizing indefinite detention, he'll be repeating the same mistakes of George Bush, and his policies will be destined to fail as were his predecessor's....Throwing people into prison without charge, conviction or providing them with a trial is about as un-American as you can get. While President Obama might be experiencing difficulty with Congress when it comes to implementing his decision to close Guantanamo, the answer is not to issue an executive order authorizing a system which is unconstitutional and counter to the most fundamental American values" (ACLU Press Release, June 26).

- **NO EASY FIX TO MILITARY COMMISSIONS**

According to the June 29 *New York Times*, the Justice Department has provided the Obama Administration with a legal guidance stating that federal courts could set aside convictions by military commissions if testimony based on coercion was used against detainees. President Obama has said that some detainees would be tried before military commissions that had been brought into line with the "rule of law."

- **WHITE HOUSE BALKS AT DEMAND FOR ACCOUNTABILITY**

Writing in *Harper's* (June 17), Scott Horton has reported that although both Congress and the American public want an Accountability Commission to be set up to investigate the use of torture by the Bush Administration, and that such a Commission was at one time supported by CIA chief Leon Panetta, it has been blocked by Obama advisers David Axelrod and Rahm Emanuel on the grounds that it would create the sort of stink that could derail health reform and his economic agenda. Meanwhile, the CIA has sought a second delay from a federal judge for the release of a redacted 2004 report which is expected to show that the CIA was departing from the guidelines laid down by Bush Administration lawyers on what techniques were acceptable, and that the lawyers then revised their legal advice to approve what the CIA had already done. The report is expected to intensify the demand for accountability.

- **UN HUMAN RIGHTS HEAD CRITICIZES OBAMA'S DETENTION PLAN; DEMANDS ACCOUNTABILITY FOR TORTURE**

Navanethem Pillay, the UN High Commissioner for Human Rights, issued a statement on June 24 criticizing plans by the Obama Administration to hold some suspected terrorists indefinitely without charges or trial. She also demanded an investigation of officials responsible for torture and urged the US to provide the victims of abuse with the opportunity to rebuild their lives within the United States or elsewhere (*Washington Post*, June 24). Under the federal Anti-Torture Act the statute of limitations is only eight years. Since most of the evidence relating to torture dates from 2002 and 2003, the expiry date is fast approaching.

- **DETAINEES SAY THEY WERE ABUSED AT BAGRAM**

The BBC reported on June 24 that the majority of former detainees interviewed report being beaten, deprived of sleep, hung from the ceiling and threatened with dogs at the US Bagram military base in Afghanistan (Reuters, June 24). The Pentagon denied the charges. The more than 600 prisoners at Bagram are being held in legal limbo as the Obama Administration seems prepared to make it the new Guantanamo. A June 25 Truthout piece by Jason Leopold summarizes evidence contained in a Senate Armed Services Committee report about torture at Guantanamo and the murder of at least two Bagram detainees by interrogators.

- **FIRST GUANTANAMO DETAINEE TRANSFERRED TO US**

Ahmed Ghailani, a Tanzanian charged with participating in the bombing of US embassies in Tanzania and Kenya, was moved to the Metropolitan Correctional Center in Manhattan on June 9. He was captured in July 2004 in Pakistan and taken to a CIA secret prison before being moved to Guantanamo. According to the June 9 *Washington Post*, "Ghailani's case will test the government's ability to secure a conviction despite legal questions surrounding the harsh interrogation techniques employed by the CIA during the questioning of high-value detainees."

- **FOUR UIGHUR DETAINEES SENT TO BERMUDA; OTHERS TRAPPED IN GUANTANAMO BY CONGRESS**

Four Chinese Muslims at Guantanamo who were ordered by a judge to be released into the US last fall are finally free in Bermuda, a British territory. China and Britain both criticized their release. Thirteen others were reportedly destined for the island nation of Palau, population 20,000, which has been promised \$200 million in aid (*New York Times*, June 10). Their release has been delayed by the passage on June 24 of a \$106 billion military supplemental appropriations bill which contains an elaborate system of stipulations about what the President must do before releasing any detainee from Guantanamo (see *In the Congress, below*). They have petitioned the Supreme Court to release them (*Kiyemba v. Obama*). If the Court refuses to hear their petition, they could be in legal limbo for a long time to come.

• **ACLU FILES SUIT FOR AMERICAN TORTURED IN UAE AT US BEHEST**

Naji Hamdan, an American citizen living in Dubai who was interrogated by the FBI and subsequently arrested by the security forces of the United Arab Emirates in August 2008, claims to have signed a self-incriminating document in prison after being tortured (ABC News, June 8). His ACLU lawyer Ahilan Arulanantham, who has filed a lawsuit on his behalf in a federal court in Washington DC, says "there is strong evidence that US officials not only sought Hamdan's arrest by a foreign government, but apparently participated in his interrogation and torture in violation of federal criminal law." The Department of Justice denies the US had anything to do with his arrest, and has asked for the case to be thrown out. US District Court Judge James Robertson has expressed doubts about his ability to hear the case, but said that the allegations are "extremely disturbing if they are true" (*Kansas City Star*, June 8).

• **US WATERBOARDED WRONG MAN 83 TIMES; ANOTHER DETAINEE REPEATEDLY LIED UNDER TORTURE**

According to newly declassified transcripts obtained by the ACLU through a FOIA lawsuit, Abu Zubaida - who was described by President Bush as "al-Qaeda's chief of operations" - was not a member of al-Qaeda (*Washington Post*, June 16). He was subjected to waterboarding 83 times. Khalid Shaikh Mohammed, the self-proclaimed 9/11 mastermind who was waterboarded 183 times, claimed to have given false information under torture, including lying about people whom he said were members of al Qaeda when they were not. The ACLU had originally received the CIA documents in 2007 but they were almost entirely redacted. In this re-release, they are still heavily redacted but some statements by detainees about their torture are now visible. Also newly visible is what Khalid Shaikh Mohammed says he was told by an interrogator: "You are not American and you are not on American soil. So you cannot ask about the Constitution" (Rawstory, June 15).

• **JUDGE ORDERS RELEASE OF DETAINEE TORTURED BY AL-QAEDA AS SUSPECTED AMERICAN SPY**

Late in 2001, Abdul Rahim Abdul Razak al-Janko was picked up by Americans in Afghanistan and sent to Guantanamo as a suspected member of the Taliban and al-Qaeda. In fact, he had just been released from 18 months in a Taliban prison, and had been tortured by both al-Qaeda and the Taliban who suspected him of being an American spy (*Washington Post*, June 23). US District Court Judge Richard Leon said his continued detention at Guantanamo "defies common sense" and ordered him to be sent to a safe haven.

• **FORMER DETAINEE BOUMEDIENE DESCRIBES TREATMENT**

Lakhdar Boumediene, the Guantanamo detainee at the center of the landmark Supreme Court case *Boumediene v. Bush*, is now free in France. On June 8, he told ABC News about the regime of beatings and sleep deprivation to which he was subjected after

being seized from the streets of Sarajevo and sent to Guantanamo. "If I tell my interrogator, I am from Al Qaeda, I saw Osama bin Laden, he was my boss... they will tell me, 'Oh you are a good man,'... 'But if I refuse? I tell them I'm innocent, never was I terrorist, never never, they tell me, 'You are, you are not cooperating, I have to punch you.'" For 2 ½ years Boumediene was on a hunger strike and being force fed. His release had been ordered by Federal District Court Judge Leon, a Bush appointee, after his habeas hearing.

- **QUESTIONS RAISED ABOUT CONFESSIONS AND "SUICIDE" OF TORTURED "GHOST DETAINEE"**

Andy Worthington has written a chilling piece (pubrecord, June 19) about the rendition and torture of Ibn al-Shaykh al-Libi, whose false confession under torture linking al Qaeda and Saddam Hussein was used as a pretext for the invasion of Iraq. He was "rendered" to Egypt, Morocco, Jordan, Bagram and possibly Poland and may have been held in a secret prison within Guantanamo. For years al-Libi was a "ghost detainee" hidden by Americans from the Red Cross. In May, he was a suspicious "suicide" in a Libyan prison, with several signs indicating that he might have been murdered. Three days after his death, the US opened its embassy in Tripoli for the first time in 30 years. Worthington writes: "In the end, though, what is most significant about al-Libi's torture tour through US proxy prisons and prisons run by the CIA is the realization that, throughout his long ordeal, US interrogators or their proxies were persistently using torture to secure information from him about other prisoners and other suspects – either in the presence of these men, or through the use of photographs – that was just as unreliable as his 'confession' about the connections between al-Qaeda and Saddam Hussein, and that these other 'confessions' must, in turn, have led to further arrests and further torture, with a cumulative effect that is truly mind-boggling in its scale. As if this were not disturbing enough, what no one wants to talk about is the fact that...al-Libi was not connected to al-Qaeda."

- **CIA FIRED PSYCHOLOGIST FIRM**

Shortly after President Obama took office, Mitchell, Jessen & Associates, the firm of psychologists who gave the CIA advice on the use of waterboarding and other coercive methods in the SERE program, was fired by the agency. Other contractors who participated in the interrogations have also left the CIA (*Washington Post*, June 15).

- **MOBILE CIA-FBI INTERROGATION TEAMS PROPOSED**

To ensure that President Obama's ban on torture is complied with, the Intelligence Science Board has recommended that joint CIA-FBI teams be set up which would have specialized training in educing information from terrorism suspects in keeping with Army Field Manual guidelines (*Washington Independent*, June 24).

- **EU COUNTRIES AGREE ON FORMER DETAINEE INFORMATION-SHARING**

In a move that clears the way for the European countries to accept Guantanamo detainees, they have agreed to share information provided by the US about the detainees they have agreed to re-settle. Such cooperation is seen as essential since there are open borders within the European Union (Reuters, June 4).

### Building the National Security Surveillance State

- **"OVERCOLLECTION" OF EMAIL BY NSA INCLUDED BILL CLINTON'S**

According to a June 17 report in the *New York Times*, from 2005 until the present the NSA has used a secret data base code-named Pinwale to systematically archive millions of domestic and foreign email messages, regardless of whether they had anything to do

with an investigation. Former president Bill Clinton was among those people who had his personal email accessed by NSA analysts. Attorney General Eric Holder in his June 17 testimony before the Senate Judiciary Committee refused to call the Bush Administration's warrantless wiretapping program illegal, referring to it only as "unwise" and "inconsistent with the dictates of FISA" (DailyKos, June 18). An editorial in the June 18 *New York Times* condemns the FISA Amendments Act which enables the NSA to eavesdrop on Americans without getting individual warrants and urges its repeal. The Foreign Intelligence Surveillance Act (FISA) required that the government get warrants from the secret FISA court before eavesdropping on Americans and provided criminal penalties for those responsible for warrantless surveillance of Americans.

• **NSA HEAD RECOMMENDED AS COMMANDER OF CYBER COMMAND**

Defense Secretary Robert Gates is putting forward Lt. Gen. Keith Alexander, director of the NSA, to be the head of the new military command for cyber security. Defense officials say that it will focus only on military networks, while the Department of Homeland Security remains responsible for protecting civilian networks. Gates seems not to have heeded the words of Robert Beckstrom, who resigned in March as head of the National Cyber-Security Center that had coordinated cyber security for all government agencies. Beckstrom wrote in his resignation letter that the growing reliance on the NSA was a "bad strategy" which poses "threats to our democratic processes" (*Wall Street Journal*, June 24). According to the June 13 *New York Times*, "military officials say there may be a need to intercept and examine some e-mail messages sent from other countries to guard against computer viruses or potential terrorist action. Advocates say the process could ultimately be accepted as the digital equivalent of customs inspections, in which passengers arriving from overseas consent to have their luggage opened for security, tax and health reasons."

• **TOP CANDIDATE FOR CYBER SECURITY CZAR NO FAN OF PRIVACY**

Former Republican Congressman Tom Davis is reportedly the front runner for the new position of head of the government's cyber security program. Davis had co-authored the REAL ID Act and repeatedly voted to expand the government's powers to wiretap the internet and collect Americans' communications in the NSA's Pinwale database (*Wired*, June 22).

• **SPY SATELLITE PROGRAM KILLED**

The secretive National Applications Office will not after all be providing state and local law enforcement with high-resolution images from military spy satellites to help in disaster relief, border patrols and to prevent terrorist attacks. The Department of Homeland Security has decided to kill the program proposed by the Bush Administration two years ago before it becomes operational. It had been called a potential "Big Brother" in the sky by Rep. Jane Harman (*Politico*, June 12).

• **REAL ID TO BE SCALED BACK BUT NOT ELIMINATED**

The Department of Homeland Security head Janet Napolitano is planning to substitute "Pass ID" for "REAL ID," the drivers' license program that has ignited a revolt of the states. Pass ID will also require licenses to have digital information and a bar code, and states will still need to verify applicants' identities by checking databases. But linked databases will not be created under the plan and the new IDs will not be required to board planes. Privacy advocates are calling the proposal "REAL ID lite" (*Washington Post*, June 14).

• **DEFENSE DEPARTMENT CONSIDERS PROTESTS "LOW-LEVEL TERRORISM"**

A whistleblower revealed to the ACLU that a multiple-choice question on the 2009 Department of Defense Anti-Terrorism Awareness training exam included these responses to the question "which was an example of low-level terrorism?":

1. Attacking the Pentagon; 2. Improvised explosive devices; 3. Hate crimes against racial groups; 4. Protests. The right answer is "protests." After the ACLU complained to the Pentagon, it was told the question would be removed from the test and an email would be sent to trainees explaining that there was a distinction between lawful protests and unlawful violent protests (ACLU, June 19).

• **BEING ON THE TERRORISM LIST NO BAR TO PURCHASE OF GUNS, EXPLOSIVES**

According to the Government Accountability Office (GAO), people who are named on the government terrorism watch list have purchased weapons at least 865 times since 2004 and in one case got a license to obtain explosives (*Washington Post*, June 23). Those who were not permitted to purchase weapons were disqualified for other reasons, such as a drug violation, felony conviction, or being in the country illegally.

• **TERRORISTS ON FBI 'TEN MOST WANTED' LIST KEEP AVIATION LICENSES**  
The Transportation Security Administration and the Federal Aviation Administration failed to remove US-certified aviation licenses from two men on the FBI's most wanted list and four others who were convicted of terrorist offences (*New York Times*, June 26).

• **LAWSUIT FILED FOR MAN QUESTIONED BY TSA FOR CARRYING CASH**  
Steve Bierfeldt, director of the Campaign for Liberty, used his I-Phone to tape record TSA officials who detained and questioned him in a windowless room in Lambert-St. Louis International Airport about the \$4,700 he was carrying in a metal box. On the tape the officials are heard swearing at him, threatening to get the FBI and DEA involved and threatening to take him to a local police station if he does not tell them where the cash comes from, and Bierfeldt responds by asking if he is legally required to answer their questions. Bierfeldt was permitted to leave when he told them the cash came from the sale of merchandise for the Ron Paul campaign. The ACLU lawsuit, filed against Homeland Security Secretary Janet Napolitano, alleges that the TSA had conducted an illegal search (UPI, June 20).

• **ACLU SEEKS RECORDS ABOUT SEARCHES OF LAPTOPS AT BORDERS**  
The ACLU has filed a FOIA request to obtain records about the suspicionless searches of laptops by US Customs and Border Protection officials. The policy of seizing laptops, downloading and retaining files and disseminating information to other government agencies began in July 2008, and the ACLU wants to know how widely it is being implemented.

• **MARINE PLEADS GUILTY TO STEALING INTELLIGENCE FILES**  
A Marine reservist, Gunnery Sgt. Eric Froboese, will reportedly plead guilty to removing secret intelligence files from Camp Pendleton and giving them to another Marine reservist who was a detective with the Los Angeles Sheriff's Department and a co-founder of the Terrorism Early Warning Group that brought together local, state and federal agencies. The ACLU has filed a FOIA request to see if the leaked files contain intelligence on Muslims and mosques (*Los Angeles Times*, June 12).

• **INTELLIGENCE PROGRAMS TO BE FUNDED IN HIGHER ED**  
The Obama Administration wants to set up intelligence officer training programs in colleges and universities that would be similar to ROTC to prepare students for careers in the intelligence services. Recruits, who will receive a stipend, will study languages,

analysis and specialized technical information and will have their participation in the program kept secret. Support for the program is included in the 2010 intelligence authorization bill (*Washington Post*, June 20).

- **HIGH SCHOOLS OFFERING COURSES IN "HOMELAND SECURITY"**

According to the June 10 *Los Angeles Times*, courses in terrorism and how to keep the homeland safe are being offered in high schools in Maryland with other states preparing to do the same. Students intern at the Pentagon and NSA, and speakers from the FBI are frequent visitors. The magazine *Mother Jones* has termed one of the high schools a "black ops jungle" that is "dedicated to churning out would-be Jack Bauers."

### Targeting Immigrants/Visitors

- **OBAMA TO PUSH FOR IMMIGRATION REFORM NEXT YEAR**

On June 25, President Obama told Congress he would be pushing for a sweeping immigration reform bill next year with Homeland Security Secretary Janet Napolitano spearheading the effort. At the heart of the debate is expected to be a proposal for a national worker identification card for all Americans, with biometric data such as fingerprints. "Once Americans are convinced that we will permanently staunch the flow of illegal immigration, they will be more willing to accept constructing a path toward earned citizenship for those already here," said Senator Charles Schumer, chair of the immigration subcommittee (*Los Angeles Times*, June 16).

- **HOLDER VOIDS MUKASEY OPINION ON INEFFECTIVE COUNSEL**

Attorney General Holder has tossed out former Attorney General Mukasey's rule that immigrants in deportation proceedings have no right to effective legal assistance and that therefore immigrants could not reopen their hearings based on errors made by their lawyers. Now the Board of Immigration Appeals can again consider ineffective counsel claims. But not all immigrants can afford lawyers, good or bad. Because the Sixth Amendment providing for the right to a lawyer only applies in criminal cases and immigration is a civil matter, the government does not have to provide indigent immigrants with lawyers. An editorial in the June 14 *New York Times* argued that this "denial of counsel regularly results in unfairness, and should be changed."

- **IMMIGRATION COURTS AT BREAKING POINT**

Raids conducted around the country have flooded immigration courts with 351,477 cases just last year, and led to a serious backlog given the shortage of judges (234 around the country). Immigration courts are run by the Executive Office for Immigration Review, which is part of the Justice Department, with judges appointed by the Attorney General (*New York Times*, June 18).

- **ICE SEEKS TO DEPORT STUDENT CLEARED OF TERRORISM CHARGES**

After a federal jury in Florida cleared Youssef Samir Megahed of charges of transporting explosives during a road trip with a friend, ICE officials arrested the Egyptian University of Florida student and placed him in deportation proceedings (*New York Times*, June 4). Some members of the jury expressed their outrage at ICE's action in double guessing their verdict, while ICE maintains that bringing new civil – not criminal – charges against Megahed does not amount to "double jeopardy."

- **HIGH SCHOOL STUDENTS TO BE PERMITTED TO REJOIN THEIR PARENTS**

Three teenagers on their way to school who were apprehended by immigration officials during a raid at trolley stations in San Diego and deported to Mexico are being granted

humanitarian visas to be able to return to their families in the US and go before an immigration court (American Friends Service Committee Press Release, June 17).

• **RAIDS DEVASTATED COMMUNITIES: NEW REPORT**

"Raids on Workers: Destroying our Rights," a report by the United Food and Commercial Workers International Union, finds that not only were communities turned into ghost towns by commando-style ICE raids on workplaces and homes, but the "vast majority of workers caught up in the raids were US citizens or legal immigrants" (New America Media, June 20). The raids on Swift meatpacking plants alone captured 12,000 workers.

• **NAMES OF ICE DETAINEES KEPT SECRET**

There is no public record of people arrested for federal immigration violations because the Department of Homeland Security is protecting the "privacy" of people who have not been charged with crimes (RCJ.com, June 20). Civil liberties advocates call this policy "an abomination."

• **NEW UTAH LAW ANOTHER ABOMINATION**

After July 1, it will be illegal in Utah to "harbor" an undocumented immigrant, and employers with government contracts who do not use "E-Verify may be prosecuted. The law, SB81, also requires proof of US citizenship to get a drivers' license or state identification card. It law is being challenged in court before it takes effect (*Salt Lake Tribune*, June 22).

**B. IN THE US CONGRESS**

• **APPROPRIATIONS ACT HEMS IN OBAMA ON GUANTANAMO**

Buried deep in the \$106 billion Supplemental Appropriations Act of 2009 funding the wars in Iraq, Afghanistan and Pakistan is Section 14103, which bars the President from using any funds provided by this or previous acts to release an individual from Guantanamo and transfer him to the US for detention. The Act says a detainee can only be brought to the US if he is to be prosecuted, and funds can only be used to send a detainee to his home country or a third country (other than the US) if the President submits to Congress 15 days prior to such a release a classified document giving terms of the transfer agreement and a risk assessment (Scotus, June 25).

• **SUPPRESSION OF TORTURE PHOTOS GETS BIPARTISAN SUPPORT**

Stripped from the Supplemental Appropriations Act was a section requiring the President to keep secret the torture photos that the government had agreed would be handed over to the ACLU as part of a FOIA lawsuit before Obama reversed course. The section narrowing FOIA, opposed by Rep. Barney Frank and those Democrats who saw it as an assault on open government - but supported by Obama - was removed after the President promised to do everything in his power including going back to court and issuing an executive order to keep the photos from coming to light. The votes of liberal Democrats were needed because Republicans who generally are in the forefront of funding wars had bailed out on this bill, complaining that it gave too much money to the International Monetary Fund. The "Detainee Records Photo Protection Act of 2009" (S. 1285), sponsored by Senators Lindsey Graham and Joseph Lieberman in histrionic mode, passed *unanimously* through the Senate on June 17 and was referred to the House Armed Services Committee and Committee on Oversight and Government Reform. It might be attached to a Defense Department authorization bill (HR 2647).

• **HOUSE HOPES TO EXPAND INTELLIGENCE OVERSIGHT**



On June 18, the House Intelligence Committee voted for provisions that would make the jobs of the NSA director and general counsel subject to Senate confirmation, and establish independent inspectors general at the NSA and the Office of the Director of National Intelligence. The committee's bill would also end the authority of the executive branch to limit classified briefings to the "Gang of Eight" in Congress - instead all 15 Senate Intelligence Committee members and 22 House Intelligence Committee members would be briefed - and would provide for the videotaping of detainee interrogations by the CIA (*Washington Post*, June 20).

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

#### **• JUDGE DISMISSES TELECOM LAWSUITS; AL-HARAMAIN CASE TO PROCEED**

On June 3, 46 civil lawsuits brought against telecoms for participating in the Bush Administration's warrantless wiretapping program were thrown out by Northern California Federal District Court Judge Vaughn Walker. The judge said he was acting in accordance with the will of Congress, which had given the telecoms retroactive immunity in the FISA Amendments Act. The suits will be appealed to the Ninth Circuit Court of Appeals on the grounds that the FISA Amendments Act is unconstitutional (*ChannelWeb*, June 4). On the same day, Judge Walker ordered both sides to prepare their arguments in the case *al-Haramain v. Obama* (previously *al-Haramain v. Bush*). He refused to accept the Bush-Obama claim that the case should be dismissed on "state secrets" grounds. On September 1, when the case will resume, the Obama Administration will have to explain where it stands on its predecessor's secret warrantless wiretapping program (NPR News, June 4).

#### **• SUPREME COURT REFUSES TO HEAR PLAME CASE**

On June 22, the US Supreme Court refused to hear the case brought by Valerie Palme Wilson and her husband Joseph Wilson against Bush Administration officials who allegedly leaked her identity as a CIA operative to the media in order to discredit her husband for stating that the Administration manipulated prewar Iraq intelligence. The refusal brings to an end the three-year-old lawsuit against Dick Cheney, Karl Rove, Lewis "Scooter" Libby and Richard Armitage. The Obama Administration opposed the civil lawsuit (*Truthout*, June 23).

#### **• FEDERAL JUDGE ALLOWS JOSE PADILLA TO SUE JOHN YOO**

Federal District Court Judge Jeffrey White of San Francisco, a Bush appointee, has permitted a civil lawsuit to proceed in which former "enemy combatant" Jose Padilla's lawyers accuse former White House attorney John Yoo of being responsible for "a systematic program of abusive interrogation intended to break down Mr. Padilla's humanity and his will to live" (*New York Times*, June 14). Yoo, as a former government attorney, is being represented in the case by the Justice Department.

#### **• NEW ACLU FOIA LAWSUIT SEEKS TO PROVE LINK BETWEEN WHITE HOUSE AND INTERROGATIONS**

On June 11, the ACLU filed a Freedom of Information Act lawsuit in the US District Court in Manhattan demanding the release of all records on interrogation techniques issued by former Bush Administration officials, including the president and vice-president. Defendants named in the suit are the CIA, Department of Defense, Department of Justice and Department of State (*Associated Press*, June 11).

#### **• ART PROFESSOR DETAINED FOR TAKING PICTURES WINS SETTLEMENT**

Shirley Scheier, an art professor at the University of Washington who had been handcuffed and detained by Snohomish police after taking pictures of power lines for an academic project, has received \$8,000 in compensation after bringing a lawsuit with the help of the ACLU (*Seattle Times*, June 8).

#### D. IN THE COMMONWEALTH

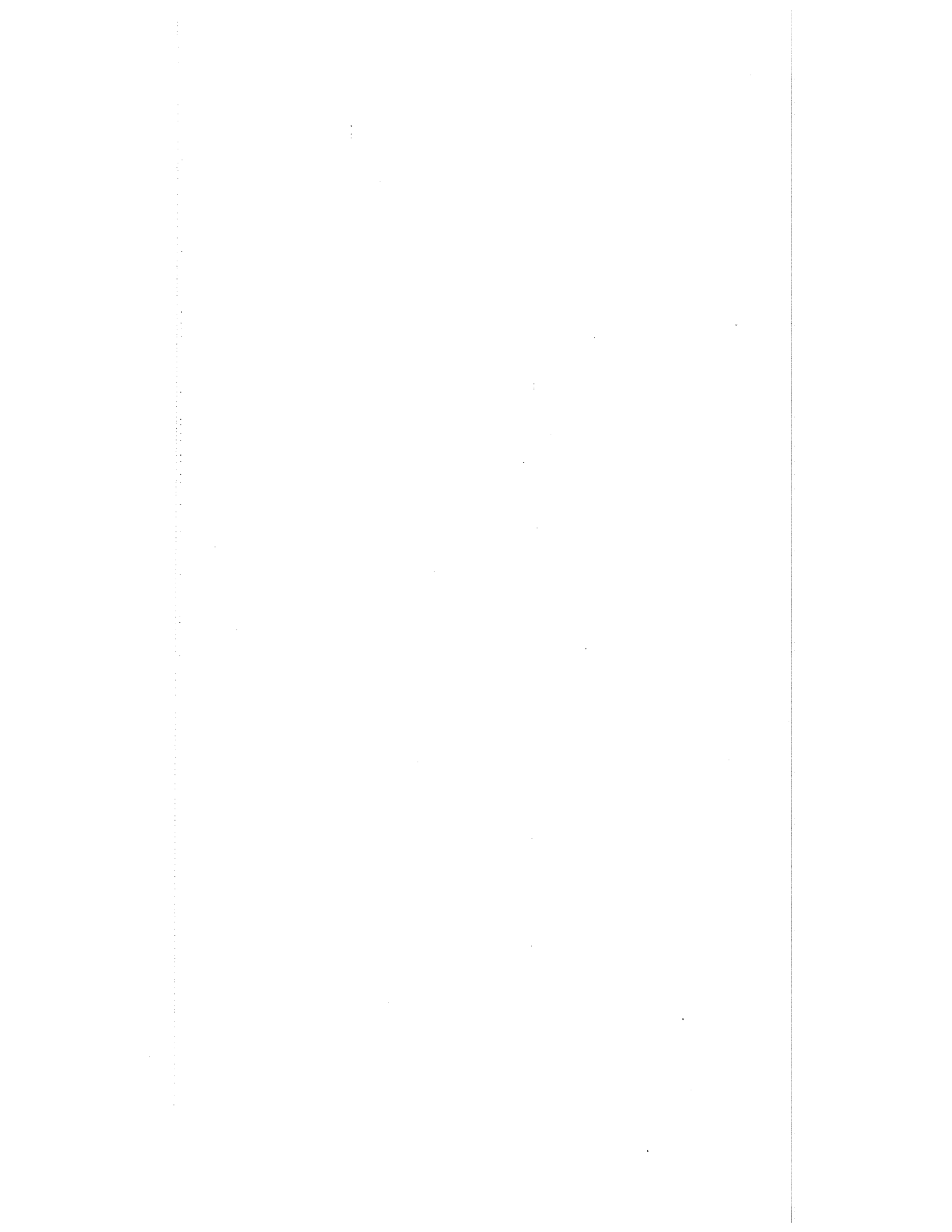
##### • STATE DECIDES NOT TO DISTRIBUTE MORE MILITARY WEAPONS TO POLICE

After the *Boston Globe* revealed that 82 local police departments in Massachusetts had received more than a thousand military grade weapons over the last 15 years, the state Department of Public Safety suspended a program under which high-powered weapons, including fully automatic M-16s, were made available to law enforcement agencies (*Boston Globe*, June 16). No police department was supposed to receive more than two rifles for every 10 full-time officers, but many received far more – Marblehead, for example, had eight M-16s and 30 full-time officers. Grenade launchers were among the weapons being distributed – these were intended for crowd control. Mayor Menino had opposed giving the weapons to police who patrolled neighborhoods and the Mass Bay Transit Authority has had second thoughts about police armed with semi-automatic rifles in bus and train stations.

##### • REPORT SHOWS IMMIGRANTS PLAY LARGE ROLE IN STATE ECONOMY

A study for the Immigrant Learning Center by UMass Boston economist Alan Clayton-Matthews documents the impact on the economy of immigrants, including their use of public schools, welfare services, their incarceration rates and payment of taxes. The report, which does not distinguish between legal residents and the undocumented, shows that overall, immigrants contribute to the system and take out of system at about the same rate as the non-immigrant population (WBUR, June 24).

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# THE DOCKET

APRIL 2009



**ACLU**  
AMERICAN CIVIL LIBERTIES UNION  
OF MASSACHUSETTS

## ACLU Joins “Justice for Jason” Defense

African-American student at UMass Amherst faces more serious charges than his white assailants

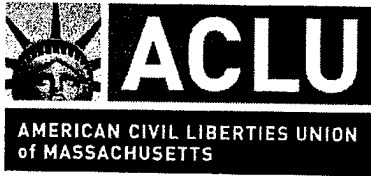


A racially motivated attack on UMass Amherst student Jason Vassell last year sparked “Justice for Jason” rallies such as this one in February. Photo by Yevlin Roh.

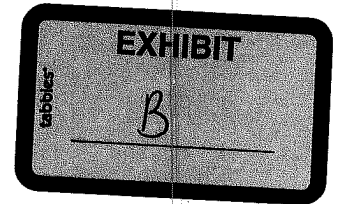
Intoxicated intruders at UMass Amherst smashed a dormitory window, shouted racial slurs at occupant Jason Vassell, and broke Vassell’s nose when they found him inside his building—yet Vassell, who is African-American, must now defend himself in court against far more serious charges than his white assailants. ACLU of Massachusetts lawyers John Reinstein and Bill Newman have joined with Vassell’s defense attorneys, David P. Hoose and Luke Ryan, in seeking dismissal of all charges against Vassell on the grounds that this is a discriminatory prosecution.

According to Vassell’s defense, two intoxicated men—John Bowes and Jonathan Bosse—peered into his first-floor dormitory window early in the morning of February 3, 2008, while Vassell visited with friends. When Vassell told them to leave, they shouted racial slurs and demanded a fight.

When Vassell refused, the men smashed his window and gained entrance to the dormitory lobby, where Vassell had gone to meet a friend he called for help. Vassell warned the intruders to leave, but the larger of the two men punched Vassell in the face, breaking his nose. During the ensuing fight, Vassell used a pocketknife to defend himself, stabbing both the men before escaping behind a



NEWS RELEASE



## Report Reveals Unwarranted Detention Of Massachusetts Youth

Invest In Programs Aimed At Reducing Need For Detention Rather Than In  
Jails, Say ACLU and Children's Law Center Of Massachusetts

FOR IMMEDIATE RELEASE

December 18, 2008

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BOSTON -- Massachusetts police and probation officers are unnecessarily incarcerating youth arrested when juvenile court is typically not in session, according to a report released today by The American Civil Liberties Union, the ACLU of Massachusetts and the Children's Law Center of Massachusetts. Many have been arrested for minor infractions and pose no obvious risk of flight or danger to the community.

The report, "A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security," reveals that youth securely detained after being arrested in the late afternoons, evenings or over a weekend are frequently denied access to bail and subjected to conditions that do not meet state regulations.

"Far too many kids are being locked up and detained in substandard conditions for no good reason," said Robin Dahlberg, senior staff attorney with the ACLU Racial Justice Program and the primary author of the report. "Unnecessary detention has a dramatic and negative impact on our children by pushing them deeper into the criminal justice system."

A sizeable majority of these youth are detained in locked-down secure facilities known as Alternative Lock-up Programs (ALP's), administered by the Massachusetts Executive Office of Public Safety (EOPSS).

Two of the EOPSS ALPs are not licensed by the state agency responsible for overseeing residential child care facilities -- the Massachusetts Department of Early Education and Care. These facilities have operated without showers, without recreational activities, without sufficient staff or sufficiently trained staff, and without female guards for female detainees.

Further problems include the detention of youth under the age of 14 in violation of state law and the disproportionate detention of youth of color. Minority youth comprise between 20 and 25 percent of all adolescents in the Commonwealth, yet account for more than 60 percent of the children detained in the EOPSS ALP's.

"We are failing our youth, and particularly our youth of color, by not looking for alternatives to incarceration in situations where incarceration is completely unwarranted," said Barbara Kaban, Deputy Director of the Children's Law Center of Massachusetts. "Locking kids up unnecessarily, particularly first-time offenders, sends the wrong message about how we as adults view them."



## **ACLU report blasts violations of basic rights for hundreds of immigrants detained in Massachusetts**

**First-of-its-kind study details poor jail conditions, denial of medical care and violations of due process against immigrants held for months without being accused of a crime**

**FOR IMMEDIATE RELEASE**

December 10, 2008

**CONTACT:**

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BOSTON -- Hundreds of people not accused of committing crimes are being detained for long periods in Massachusetts jails, in conditions that violate fundamental rights, and they are subject to retaliation if they complain to authorities, according to a two-year investigation by the ACLU of Massachusetts. The human rights investigation into conditions for immigrants detained in the Commonwealth by Immigration and Customs Enforcement (ICE) found that hundreds of people arrested for non-criminal immigration violations spend months and sometimes years in overcrowded county jails, where their human rights are often denied, while they wait to be deported or fight a legal battle to stay in the country.

The report, "Detention and Deportation in the Age of ICE: Immigrants and Human Rights in Massachusetts," is the first of its kind to thoroughly document jail conditions and due process issues for immigrants detained in Massachusetts at facilities statewide. These detention centers include jails in Suffolk, Essex, Franklin, Bristol, and Plymouth Counties. The report features the results of interviews and correspondence with 40 detained persons, and analysis of hundreds of pages of government documents obtained under the Freedom of Information Act.

"Our research revealed that ICE combines a heavy-handed approach to deportations with a hands-off approach to protecting the rights of those in its care," said Laura Rótolo, Staff Attorney with the ACLU of Massachusetts and the report's author and primary researcher. "Additionally, ICE appears eager to silence complaints about detention conditions by moving people who complain to other facilities, far away from their families and any attorney that their families may have hired to protect their rights."

Key findings of the report, released on the 60th anniversary of the Universal Declaration of Human Rights, include:

- Conditions at jails that violate basic human rights and due process requirements, including crowded and poor conditions, lack of access to bathrooms, and lack of access to private rooms to meet with attorneys;
- Abuse including threats, coercion, physical force, and use of racial and ethnic epithets;

- Denial of access to needed medical care;
- The housing of immigration detainees who have not been accused of a crime with convicted, violent criminal offenders;
- Overcrowding, with more than half of those arrested in New England being transferred to detention centers in places such as Texas or Louisiana, where they are cut off from family, friends, and resources they need to prove their right to be here;
- Periods of detention lasting longer than the law allows, with ICE systems unable to adequately track how long individuals have been in detention or even where in the United States they are being held;
- Superficial inspections of detention facilities that focus on policy, not practice, and impose no consequences for failure to meet ICE standards.

The ACLU of Massachusetts made ICE aware of the findings in its report in a certified letter. The agency did not respond.

"Given the violations of rights that immigrants in detention face and ICE's apparent indifference, it is troubling that people are forced to spend months and years in detention," said Rótoló. "Even people accused of crimes get the option of posting bail so they can remain free until they get their day in court. As a matter of law, many immigrants arrested by ICE do not have this right. Instead, they face the consequences that our criminal system reserves for the most violent criminal offenders."

The report also includes detailed recommendations for the Massachusetts state government, county sheriffs and jail administrators, Congress, the Department of Homeland Security and ICE to address the problems revealed by the report. They include:

- Congress should pass detention standards that are binding on all facilities holding ICE detainees and mandate effective and genuine oversight of local facilities;
- ICE should end the practice of transferring people who report on unsanitary conditions or abuse issues;
- ICE should upgrade systems to track in real-time the location of detained persons and the length of their detention;
- Massachusetts should address the overcrowding of county jails by expanding release alternatives for criminal offenders;
- County jails should ensure that detention conditions protect basic rights of all detained persons -- whether criminal or civil detainees -- and train staff on the special needs of the civil detainee population.

"Despite a huge growth in immigration detention in the last decade, the U.S. has woefully inadequate and legally non-binding detention standards in place," said Jamil Dakwar, Director of the ACLU Human Rights Program. "On the 60th anniversary of the Universal Declaration of Human Rights, we call on the next administration and Congress to use the UDHR as a guide to institute more humane and fair immigration detention policies, including the consideration of alternatives to detention and more effective oversight mechanisms to prevent neglect and abuse."

The ACLU of Massachusetts also today released a white paper on medical issues in immigration detention. The paper provides further detail on the difficulties faced by detained immigrants in accessing adequate medical care in the months or years they spend in ICE custody in Massachusetts.

"One of the greatest injustices we found was the situation of persons who become ill in ICE detention. If ICE denies them care, they can't appeal that decision, and they can't get their own care because ICE won't release them based on medical needs," said Rótoló. ICE has to pre-approve any medical care that goes beyond the capacity of the local jail's doctors -- yet ICE will only pay for medical care that keeps the person healthy enough to be deported. The report documents that conditions as serious as skin infections, pre-cancerous lesions, and a broken finger have gone untreated.

## NEWS RELEASE

"It is disturbing that some immigrants need a lawyer to get seen by a doctor," said Jarrett T. Barrios, President of the Blue Cross Blue Shield of Massachusetts Foundation, whose mission is to expand access to health care, and which funded the report's medical care white paper. One of the findings of this portion of the report is that those detained at ICE facilities deal with the cumbersome process of seeing a doctor by giving up altogether and hoping their ailments heal on their own, making repeated requests and risk being seen as a nuisance, or relying on their attorney to request care on their behalf.

"The ACLU of Massachusetts has long been concerned about the heavy-handed enforcement of immigration law," said Carol Rose, ACLU of Massachusetts Executive Director. "We need laws and policies that, at a minimum, protect the basic rights guaranteed to those in ICE custody by both the U.S. Constitution and international law."

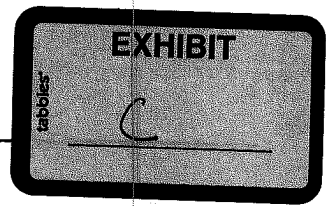
Both ACLU reports, along with the documents received under the Freedom of Information Act and other material such as video interviews with immigrants, are available at:

**<http://www.aclum.org/ice>**

-end-

**For more information about the ACLU of Massachusetts, go to:  
[www.aclum.org](http://www.aclum.org)**





# MASS IMPACT

## THE DOMESTIC WAR AGAINST TERRORISM - ARE WE ON THE RIGHT TRACK?

### Introduction

We have much to be proud of in the Commonwealth of Massachusetts. Its historical role in the development of the revolutionary movement and the fundamentals of our system of governance make it the home of the Freedom Trail. As the home of the first college and first free public school in the colonies that became the United States, it has played a pioneering role in education. What later became enshrined as the First Amendment right to freedom of expression was nurtured in the Commonwealth by the first English-speaking commercial printing press in North America and the first regularly-issued newspaper. It presented itself to the old world as an exemplary "City on the Hill."

The spirit of innovation and inquiry continues to enrich our six and a half million people, one in eight of whom is foreign born. Boston has played a pioneering role nationwide in the development of "community policing." Our state legislature has given Massachusetts students the broadest free expression rights in the country. We are known throughout the country and indeed the world for the excellence of our universities, research institutions and hospitals. The training, treatment, and research opportunities we have made available to foreign visitors have fueled our economy and fostered a positive view of the United States abroad. Their presence, in turn, has enabled Massachusetts to become one of the world's leading centers of science and learning.

Will we retain these distinctive qualities in the 21<sup>st</sup> century? What impact is the domestic war on terrorism having on Massachusetts? As a society, we hope to find ways to keep the country both safe and free. How do we achieve this balance? Are we on the right track to secure the Commonwealth and our unique strengths?

We can all agree on the need to safeguard the Boston harbor when liquefied natural gas tankers enter to offload at

the Distrigas terminal in Everett. We can all agree that it is important to improve communication and coordination among "first responders."

But there is no overall agreement on how to apply for and distribute the billions of dollars in funds being made available by the federal Department of Homeland Security.

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***As a society, we hope to find ways to keep the country both safe and free. How do we achieve this balance?***

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There is confusion over what to protect — and from whom. According to *The Boston Globe* (January 30, 2004), 351 cities and towns in Massachusetts identified more than 500 potential terrorist threats in their applications for funding, while the State Police identified only 30. "Some rural jurisdictions reported having more potential terrorists than larger cities...Some localities cited groups that had no history of violence. In one case, a member of a motorcycle gang made a local list of threats."

To date, there has been no assessment about the impact of the methods being used to fight terrorism on our social and economic well-being. This report has been compiled in hopes of fostering a discussion about what the war on terrorism has meant for people and institutions in Massachusetts and how we can balance security and liberty in a manner that preserves what is best about our constitutional system and the Commonwealth. It does not attempt to be comprehensive, but rather serves to introduce a subject that calls for urgent public attention.

# I. THE CHANGING CIVIL LIBERTIES LANDSCAPE

Since the attacks of 9/11, civil liberties and, at times, the rule of law itself, have seemed on shaky ground. The USA PATRIOT Act, passed by the US Congress in late October 2001 without going through all the usual legislative procedures, contains provisions that expand executive branch power and undermine judicial oversight in a manner at odds with vital constitutional checks and balances.

Some portions of the Act represent much-needed reforms in our ability to translate, analyze and act on intelligence in a timely manner. But other provisions give the government broad new powers to monitor individuals and organizations without any evidence of wrongdoing and to detain indefinitely non-citizens without ever showing that they are guilty of a crime. Congressional opposition to portions of the Act has increased now that Members of Congress see that the legislation they originally supported to fight terrorism is being used in all sorts of criminal investigations, enabling law enforcement to make an end run around the Fourth Amendment's requirement of "probable cause."<sup>1</sup>

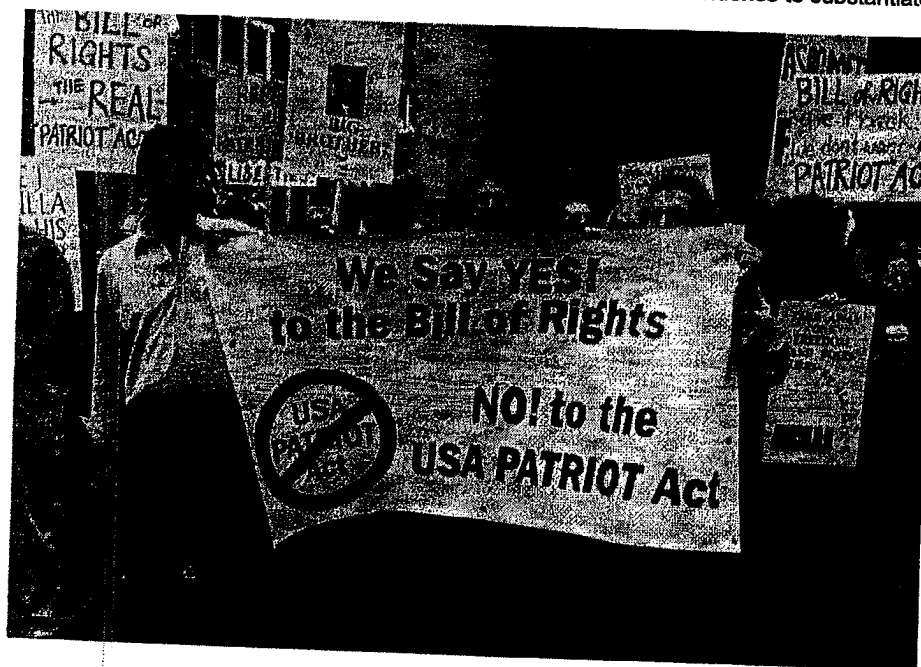
The secrecy surrounding the implementation of the USA PATRIOT Act keeps us from knowing how widely its various surveillance, information-gathering and detention provisions are being used. Last year we were told by Assistant US Attorney Michael Ricciuti, head of the Boston Anti-Terrorism

Task Force, that "sneak and peek" warrants permitting the secret search of homes and offices had been used three times in Massachusetts: once in a terrorism investigation and twice to investigate "other criminal activity."<sup>2</sup>

The PATRIOT Act's gag provisions — barring disclosure of FBI visits and seizure of information — contribute to the lack of transparency and accountability that the government maintains is essential to its prosecution of the domestic "war on terrorism." But the USA PATRIOT Act is only part of the problem. Attorney General John Ashcroft's October 31, 2001 order permitting the monitoring of communications between lawyers and federal detainees has nothing to do with the PATRIOT Act. Neither do new FBI guidelines, announced on May 30, 2002, that free the agency from many of the restrictions imposed in the 1970s to keep it from spying on innocent Americans.

Executive orders, new immigration regulations and the new rigid enforcement of old rules have all helped transform the civil liberties landscape, often in frightening ways. The government sidestepped our constitutional system when it assumed the authority to strip American citizens of their fundamental rights and detain them indefinitely in legal limbo as "enemy combatants," without being made to produce hard evidence to substantiate their claims. And it has dispensed

with the rule of law altogether in its notorious Guantanamo detention policy. Five of the uniformed military attorneys appointed by the Pentagon to represent some of the detainees in forthcoming military commissions filed a Supreme Court brief in January 2004 that calls the Bush administration a "monarchical regime" that has created "a legal black hole" in which one person, the president, has the power to prosecute, try and execute sentences." (*Boston Globe*, January 15, 2004).



In Massachusetts, we are fortunate in the commitment to constitutional principles shown by our governing bodies. For instance, the state Supreme Judicial Court ruled on March 5, 2004 that police acting on the basis of vague post 9/11 anti-terrorism alert cannot compel motorists to stop and be interrogated without warning. The state legislature declined to go along with a proposal to bar citizens from countries with reported ties to terrorism from attending Massachusetts colleges and universities.

In theory, Massachusetts residents should feel doubly secure in their rights. They can call upon the protections afforded by the US Constitution's Bill of Rights and those under the expansive Declaration of Rights enshrined in the Massachusetts State Constitution.

Massachusetts residents who are not citizens should enjoy many fundamental constitutional rights. For over a century, the US Supreme Court has ruled that non-citizens are "persons" under the Fifth and Fourteenth Amendments, entitled to freedom of expression, association and religion, as well as equal protection and due process under the law. In its 2001 ruling in *Zadvydas v. Davis*, the Court cited with approval a 1953 Supreme Court decision holding that "aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law."

The constitutional abuses are not as blatant here as in certain other states. But the well-being of our Commonwealth's residents and institutions is being harmed by measures that violate privacy and chill dissent, by ethnic and religious profiling, and by a zero tolerance enforcement of immigration laws. And now the words of US Supreme Court Justice William O. Douglas have a special resonance. As the nation was dealing with the excesses of the Watergate scandal and FBI spying on literally hundreds of thousands of Americans through its Counterintelligence Program (COINTELPRO), he wrote to a group of young lawyers:

"As nightfall does not come all at once, neither does oppression. In both instances, there is a twilight when everything remains seemingly unchanged. And it is in such twilight that we all must be most aware of change in the air — however slight — lest we become unwitting victims of the darkness."<sup>3</sup>

## Violating Privacy and Chilling Dissent

Professor Christopher Pyle teaches constitutional law at Mt. Holyoke College. As an army captain during the Vietnam War, he taught constitutional law at the US Army Intelligence School, where he learned that plainclothes army intelligence agents were spying on anti-war and civil rights protestors. He blew the whistle on the illegal practice in two award-winning articles in 1970.



**Professor Christopher Pyle**

Now he says, "I have never been more worried. I was not nearly as worried when I was on Richard Nixon's enemies list, or when COINTELPRO was exposed. What we're seeing is something much larger in scale and danger than anything that occurred in the 1950s and 60s. That's because of computers."

The Pentagon's Total Information Awareness Program, which would gather as much information as possible on everyone and use data mining techniques to look for "patterns of terrorist indicators," has not thus far been funded by Congress. But the notion that terrorism can be fought through the creation of giant databases with no accountability to the public about what they contain and how they are being used is alive and well.

Soon, when you book a plane, all of your files will be scrutinized by CAPPS II (the Computer-Assisted Passenger Pre-Screening System) which will give a color-coded security risk on the approximately one million Americans who travel each year. Now, when you open a new bank account or

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carry out a transaction with some kind of financial institution, you may find yourself blocked by a SARS (Suspicious Activity Report). The USA PATRIOT Act mandates that a range of private businesses and even universities assist with the government's intelligence gathering or face fines and other penalties. Even if they have no reason to suspect you of wrongdoing, under section 215 of the PATRIOT Act, your credit card records, or medical records, or library records can be among the "tangible things" secretly seized by the government as part of an ongoing terrorism investigation.

In our high tech age, it has never been easier for intelligence agencies to compile and share files. Under relaxed FBI guidelines, they can trawl for all sorts of information on the Internet. Lexington High School students were amazed to find that signing up on the web to participate in an anti-war demonstration put them on the government's radar screen (see page 15).

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***"I came to this country to get away from that kind of thing."***

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What will it mean for freedom of expression if demonstrators know surveillance photos are routinely being taken of them and stored by police, as anti-war protestors discovered was happening in the City of Worcester? Or if campus police in universities work secretly for the FBI, as they do at the University of Massachusetts at Amherst? Iraqi-born Professor M. J. Alhabeeb, who is now an American citizen, was visited by the FBI after it was alleged that he had made an "un-American" comment: "I came to this country to get away from that kind of thing," he told *The Boston Globe* (November 24, 2002). Another UMass professor, Ann Withorn of the Boston campus, was visited by a state trooper after the Massachusetts TIPS line was called by someone who didn't like what she wrote in *Sojourner Magazine* (see page 19). In Massachusetts, and around the country, non-citizens like the Palestinian activists Amer Jubran and Jaoudat Abouazza, who express views critical of US foreign policy, have been targeted for arrest and deportation.

A further example of efforts to chill speech since 9/11

occurred in the wealthy Boston suburb of Newton, where local officials have invoked the USA PATRIOT Act in an effort to block a controversial program on the local public access channel.

The controversy arose when a Newton resident requested that the NewTV begin televising "Mosaic: World Views from the Middle East," a show that compiles segments of newscasts from 15 different Middle Eastern countries. The show's California-based producers, an Israeli Jew and a Palestinian American, say that "Mosaic" offers a unique perspective on how the United States is seen by other countries. It currently is available in 20,000 homes throughout the United States.

Opponents of the program, however, say that it is anti-Israeli and anti-American. But they didn't stop with mere criticism. Asserting that portions of the broadcast allegedly included newsclips from Hezbollah, which has been designed by the State Department as a "foreign terrorist organization," Newton alderman Robert Gerst has asserted that editing and airing of the broadcast provides "material support" to a terrorist organization, punishable by a \$500,000 fine or 10 years imprisonment.

While there is room for disagreement with the views shown on "Mosaic," the notion of criminalizing the broadcast of unpopular views in this way is a clear infringement of free speech and a disturbing development in the domestic war against terrorism.

## **Ethnic and Religious Profiling**

Since the immediate post 9/11 period, when over a thousand people were rounded up as "special interest" suspects, targeting by religion and national origin has been the government's weapon of choice in the war against terrorism. In the media, on the streets, on airplanes, in housing, schools and employment, Muslims, Middle Easterners and South Asians have been subjected to slurs, discrimination and hate crimes.

"All Muslims should leave town...pack up in a caravan and leave, go back to wherever they came from," declared the host of the Boston FM program "Matty in the Morning" on May 21, 2003. A few months later, in July 2003, Saurabh Bnalerao, a UMass/Dartmouth student from India who was

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working as a pizza delivery man in New Bedford, was told to “go back to Iraq” as he was beaten, burned with cigarettes, bound with a rope, stuffed into the trunk of a car and then stabbed after he escaped.

Other responses to the presence of Muslims or people who looked Middle Eastern have been more “law-abiding.” In May 2002 police, fire trucks and the bomb squad converged on BJ’s Wholesale Club in Stoughton after Muslim men were sighted praying at sunset.<sup>4</sup> That same month in Brookline, police and school officials convened a news conference to address an alarmed public after reports that men of Middle Eastern appearance carrying maps were spotted at neighborhood schools. They had been speaking with school administrators in Brookline and Newton to help decide where to move with their families.<sup>5</sup>

Official government policies have helped create a climate in which all Muslims or people who look like they may be from the Middle East are seen as potential terrorists. The poorly-publicized and discriminatory Special Registration policy, which required male visitors, aged 16 and older, from 25 Muslim and Middle Eastern countries as well as North Korea to be fingerprinted, photographed and interviewed and have their financial information copied, has been profoundly unsettling to targeted communities.

It is but one aspect of a government focus that is illustrated by a January 27, 2003 FBI directive: that all field supervisors should count the number of mosques and Muslims in their areas and use this information to establish a yardstick for the number of terrorism investigations they are expected to carry out. This directive ignored the fact that the FBI caught no terrorists when it sought out 8,000 Middle Easterners and Muslims to interview in the months following 9/11. Moreover, the interviews did nothing to forward the war on terrorism according to a report issued by the Congressional General Accounting Office on May 9, 2003. Instead, the interviews may have had “a chilling effect on relations between the Arab community and law enforcement.”<sup>6</sup>

This certainly seems to have been the case in Massachusetts. The number of interviews carried out by the FBI is unknown, but judging from local reports, it must be very high. Apparently ignorant of how Muslim organizations function, local intelligence agents appear to have embarked on extensive “fishing expeditions” for information. According to

more than one account, some people have been told that if they don’t agree to give information to the FBI, their ability to stay in the country will be compromised.

Dr. Yousef Abou-Allabon, a psychiatrist and medical director at Boston Healthcare, weighs the cumulative impact of all the forms of official and informal profiling endured by Muslims: “The impact on the community is far-reaching. I am more careful. I am scared when my wife is late. Feeling vulnerable has an impact on productivity. People become more seclusive — scared of talking, scared of donating to charities. They are scared of just writing checks. They are very scared of being active or of speaking out in any way. People don’t understand that things can be changed by voting. They just fear things will get worse and worse.”

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***“They are scared of being active or of speaking out in any way.”***

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An American citizen who was born and raised in the Middle East and is familiar with how fearful life can be in many Middle East countries, Dr. Abou-Allabon wants to believe in American freedoms, but is not sure he can afford to. “The way they do it in the Middle East is a very ugly way,” he told us. “Here they do it in a clever way — they let you speak up, collect the data, wait until you say something emotional, then put it in the paper and arrest you.”

## **Zero Tolerance enforcement of immigration laws**

“Let the terrorists among us be warned,” Attorney General John Ashcroft intoned in an October 25, 2001 speech before the US Mayors conference. “If you overstay your visa — even by one day — we will arrest you. If you violate a local law, you will be put in jail and kept in custody as long as possible. We will use every available statute. We will seek every prosecutorial advantage. We will use all our weapons within the law and under the Constitution to protect life and enhance security for America.”

True to his word, the Attorney General and the revamped immigration bureaucracy housed in the massive Department of Homeland Security have undertaken a rigorous new approach to the enforcement of immigration laws. He has

even pressed into service a 50-year-old regulation long ago abandoned as unworkable, which makes it a deportable offense to fail to notify the immigration authorities of a change of address within 10 days of moving. With the slightest infraction of the rules now grounds for arrest and deportation, Attorney General Ashcroft has encouraged the Bureau of Immigration and Customs Enforcement (ICE) to detain and deport not just the "terrorists among us" who have overstayed their visas by a day, but tens of thousands of otherwise law-abiding non-citizens.

In the past, people who overstayed their visas or were out of status for other reasons — which often included the failure of the INS to process paperwork in a timely fashion — were rarely put in detention, but usually allowed to leave the country voluntarily. Legislation which became law in 1996 mandated the deportation of immigrants who had been convicted of a crime, no matter how long ago it occurred or how clear the evidence of rehabilitation.

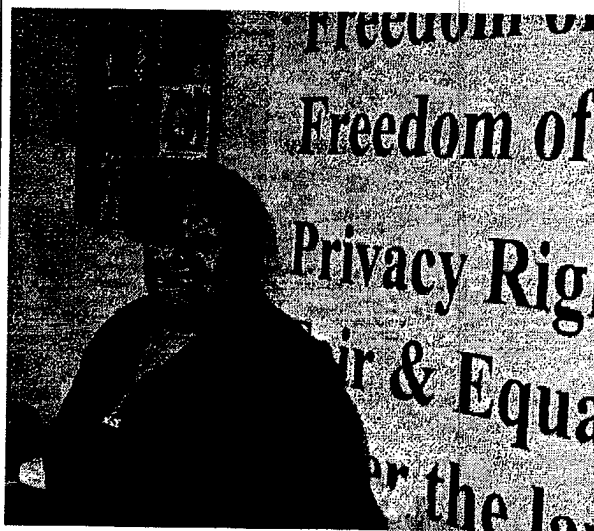
Now all categories of offenders, both civil and criminal, as well as asylum seekers who have failed in their claims, are in danger of being arrested. They are either immediately deported or detained in prisons for months, sometimes for more than a year, in conditions that make it difficult for them to communicate with the outside world, mount a legal defense, or even to be located by their families. In keeping with the post 9/11 resort to secrecy in so many federal transactions, detention centers and prisons are no longer giving out the names of immigration detainees.

Boston leads other cities in hunting down non-citizens with criminal convictions, according to the December 17, 2003 *New York Times*. In an April 6, 2004 *Boston Globe* article, Bruce E. Chadbourne, director of ICE's New England field office, states that these arrests were a way of "protecting the American homeland and the American people...We were able to get some very dangerous people off the street." But don't assume these were suspected terrorists. As reported in the article, their crimes ranged from the "most serious" one of assault and battery to driving under the influence.

Meanwhile, the Attorney General is ordering the names of violators of some categories of civil immigration law — including "absconders" with final deportation orders and foreign students with Student and Exchange Visitor Information Service (SEVIS) irregularities — to be entered into the

National Criminal Information Center (NCIC) database which police access when they make routine traffic stops. Up to 400,000 "absconders" are being targeted in the Bureau of ICE's "Operation Endgame." These include people who have been victimized by the INS's notoriously flawed record keeping, including those who may never have received notices to appear before immigration judges and were ordered deported after they missed their hearings.

### "My life is in shambles"



"I work five jobs to meet all the bills and fight for my husband. I am so tired." Like many other American family members, Teresa Ramos has been fighting her husband's deportation for overstaying his visa. She has paid tens of thousands of dollars to attorneys who, she maintains, missed crucial filing deadlines and "preyed on our innocence and fears."

The "zero tolerance" enforcement of immigration law is straining the social fabric in ways that are only occasionally glimpsed by the public. Initially it seemed to be aimed mostly at people with Middle Eastern backgrounds. Cindy Rodriguez wrote an article in *The Boston Globe* on April 18, 2002 about the arrests at 5 AM of Elias Sawan (aged 77) and his wife Antoinette (aged 64), who have lived in the country for 18 years and faced deportation with their three sons as "absconders." The article cites cases involving other hard-working Lebanese immigrants who have to make the wrenching decision about whether to leave their American-born children behind. *The Boston Herald* on March 25, 2003 described the arrival of seven or eight agents of the Department of Homeland Security, FBI and Everett police at the

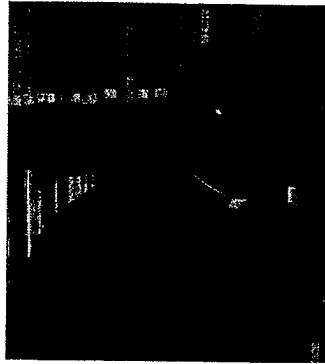
home of elderly Ali and Najah Ali, owners of Angelina's sub shop in Everett. The intruders, who demanded proof of citizenship, wandered around their house peering in closets. They never showed them a search warrant or gave them an explanation for the early morning visit.

But immigration laws are not just being strictly enforced against those with a Middle Eastern and/or Muslim background. Since 9/11, people from all areas of the world have felt the impact of new enforcement policies, with devastating consequences for these communities. Immigrants have become the latest target in the government's war on terror.

Bishop Felipe Teixeira, the pastor of two churches in Dorchester and Brockton, is currently trying to help approximately one hundred families, many with American children, who are struggling to stay together. Most came here from Portugal, Brazil and Cape Verde. "Immigration enforcement has changed drastically since 9/11," he says. "It is affecting how police are doing their work and who they are going after. Their profiling of people who look like immigrants has made the racism in this society more obvious than before 9/11. They think they are being heroes by going after people who may be terrorists. And before 9/11 we could talk to an immigration judge and perhaps they would give some discretion. Now everyone has to be deported. In my community, we have several families who are heartbroken."

Bishop Teixeira worries that instead of focusing on crime and making the streets safe, local police are beginning to do the work of civil immigration law enforcement, which is greatly enhancing feelings of insecurity. "People who are working hard and paying taxes are not being protected at all. They are afraid to call the police when they need help."

In those few cases that do get public attention, judges seem more inclined to use the kind of discretion that is increasingly rare in immigration law enforcement. Edna Borges, a 22-year-old mother of two in Dorchester who came to the US legally at the age of two, had a 10-day-old daughter when she was arrested by the Bureau of ICE and faced deportation for a 1999 shoplifting conviction. After *The Boston Globe* featured her plight and personal transformation in an August 7, 2003 article, an immigration judge ordered that she be released from detention, reunited with her baby, and that the removal order against her to be dropped.



**Bishop Felipe Teixeira**

Publicity and public support have enabled "overstayer" Fausto Mendes da Rocha, the founder of the Allston-based Brazilian Immigrant Center, and "absconder" Obain Attouoman, a popular Fenway High School math teacher, to carry on with their productive lives in Boston. But at the time of writing, both still face the threat of deportation.

But for most of those who are picked up from their homes, or from the streets, there is little opportunity for discretion to be exercised, no matter how wrenching their personal circumstances. The family members we interviewed described their descent into a Kafkaesque legal labyrinth following the intrusion of federal agents into their lives. Denied information about the whereabouts of their loved ones as they were shifted from prison to prison, they told of working three or more jobs to pay expensive lawyers who sometimes then gave bad advice or failed to meet court deadlines, dooming their efforts to reunite their families. Some of their husbands were being deported for things they did 20 years before. One was facing deportation because of a charge that had in fact been dropped by court. Family members felt isolated and desperate.

The situation will be considerably worse if the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act (H.R. 2671) and its companion Homeland Security Enhancement Act (S. 1906) become law. This Congressional legislation would erase the traditional distinction between civil immigration violations and criminal violations and turn state and local police into enforcers of immigration law. It has been opposed by police chiefs across the country, including former Boston police commissioner Paul Evans, on the grounds that it will put an end to community policing and make our streets less safe. With the slightest infraction of the rules grounds for detention and deportation, and police enlisted in the hunt for "illegals," the self-proclaimed "Nation of Immigrants" could become a minefield for both documented and undocumented non-citizens in the years ahead.

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## II. The Cost to the Commonwealth of Post 9/11 Measures

At a time of budget stringency, choices have to be made in how we fight the domestic war on terrorism. We all agree on the need to protect the Boston Harbor. But how about a small dam in western Massachusetts? (*see page 17*).

Both our economy and the general well-being of the Commonwealth are being affected by post 9/11 measures in ways that are seldom publicly discussed. Those institutions and industries that give Massachusetts its national and international reputation have been particularly hard hit.

### Hospitals & research laboratories

Partners International Program is a collaboration of five affiliates of the Harvard Medical School: Brigham and Women's Hospital, Massachusetts General Hospital, Spaulding Rehabilitation Hospital, Dana-Farber Cancer Institute and McLean Hospital. Its mission is to extend the benefits of medicine globally by attracting international patients and researchers to Partner hospitals and clinics and by sending specialists to work collaboratively abroad.

Since 9/11, strict new visa procedures with lengthy backlogs are taking their toll. It can now take six to eight weeks to get a visa, instead of a few days, and require personal interviews. According to Partners' executive director David Jones, US hospitals are losing their competitive edge as more and more patients seek health care closer to home. "A 30 percent reduction in the number of foreign patients who come here for treatment," he says, "has a considerable multiplier effect on the local economy, since they used to come for weeks with their families and retainers, stay at hotels, eat at local restaurants, take taxis and so on." These patients provide teaching institutions with the opportunity to learn about and treat a range of illnesses which do not necessarily occur in the United States.

Massachusetts' reputation for cutting edge medical research is likely to be badly hurt by the increasing difficulty of getting visas for foreign researchers who are, David Jones maintains, "tremendously important to our scientific enterprise." When a key member of a research team is denied entry, the work of the entire lab can be hurt. The onerous process of getting into the United States, and the suspicion

foreigners from some countries face when they are here, has created "a wave of bad feeling about the country." According to the National Science Foundation, 53 percent of postdoctorate research fellows at Harvard Medical School, Harvard School of Public Health, and Harvard School of Dental Medicine are foreigners with temporary visas.

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***"Security is meant to secure something, those things we find valuable. And that is what we are in danger of losing."***

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Jones predicts a national shortage of nurses and difficult times for a hospital like Massachusetts General, where a third of the medical staff are foreign born. "But the main thing that suffers, far beyond any immediate economic impact, is our claim to be the source of innovation. We have benefited enormously by being able to attract bright people from all over the world. If we can't, we are going to be poorer in every way I can imagine. We need diverse perspectives, in the lab, and in clinics. Many people come here not because they can make more money, but because of the constant intellectual stimulation that comes from interacting with people from diverse perspectives. We benefit so much from diversity, and if we don't have that, where will we be? We talk about security concerns, but beyond life and limb, security is meant to secure something, those things we find valuable. And that is what we are in danger of losing."

His colleague Beth Nolan agrees that there must be a better way to balance security concerns and the openness and freedom that we value. But how can Boston function as a beacon for the world when, at Logan Airport's new Terminal E, they are building a prison cell to lock people in, but there is still no multilingual signage and no international meeting place where people new to the country can gather?

### High tech industry

High tech research and business are crucially important to the Massachusetts economy. One of the 50 fastest growing companies in New England in 2000 was the Quincy-



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based software firm Ptech. Founded in 1994, its Lebanese-American CEO Oussama Ziade had been featured on the cover of several business magazines. Ptech's "Enterprise Architecture" product was sold to Fortune 1000 companies and government agencies, including the Army, the Air Force, Congress, the Federal Aviation Administration, the FBI and the White House.

On December 5, 2002, its fortunes went into a tailspin. On that night, agents from the FBI, IRS and Customs Service entered its headquarters at the invitation of the Ptech management. Ziade and his Ptech co-founder James Cerrato had asked the government to review company files after Yasin al-Qadi, a Saudi venture capitalist who helped it raise start-up funds in 1994, was added to the list of individuals suspected of supporting terrorism in October 2001. Ptech's business dealings with al-Qadi had ended in 1999, and its management was anxious to have it "cleared" of any taint of wrongdoing. And so, on three occasions they called the FBI and offered to make all company records available to the Bureau. But, with the media lying in wait, when their invitation to visit was finally taken up, it was depicted as a terrorism-related "raid," making the innovative company an instant pariah.

In the wake of the media frenzy that followed, private customers withdrew their business from the company, but the government did not. Its software was immediately "cleared" by both White House Press Secretary Ari Fleischer and Homeland Security Director Tom Ridge. However, without any incriminating evidence ever being presented, a steady stream of "guilt by association" allegations continued to find its way into press and television coverage, while Ptech received well over one hundred pieces of hate mail.

Five days after the so-called "raid," the Quincy *Patriot Ledger* commented in an editorial: "The government needs to pursue possible terrorist-funding links. But it cannot do so recklessly. If something is developed out of the Ptech search, government investigators should say so publicly, soon, so that the principals and the employees of Ptech can know where they stand. If it turns out that there was nothing to this raid, it's an example of gross overreaching by the government, with no apparent concern for the effect on the target of the investigation. This is just the sort of abuse of

power that has been feared since the war on terror began and sweeping authority was given to government investigative agencies. If Ptech is clean, as it claims, and the investigation proves it, the company and its officers and employees deserve a full-dress public announcement of the government's findings." 7

A year and a half later, no charges have been filed against the company or any of its employees. Ptech is still twisting in the wind, leaving us with troubling questions: Given the secrecy with which the domestic "war on terrorism" is being conducted, and the prevailing climate of suspicion, what is to prevent business competitors from initiating smear campaigns against high tech rivals that employ or are led by people from "suspect" groups? How, under current circumstances, could targeted firms hope to clear their names?

## **Schools and universities**

Massachusetts is home to some of the best universities in the world. The economic, cultural, and social benefits these institutions bring to the Commonwealth when they are able to attract the best and the brightest are countless. Greater Boston's eight research universities provided a \$7.4 billion annual boost to the regional economy in 2000 alone. Our state ranks fourth nationwide in its success in attracting students from abroad, while Boston, with some 24,000 international students, ranks third, behind New York City and Los Angeles.

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***"If I was to look back now and remake my decision, I definitely wouldn't have chosen the US for graduate school."***

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But will Boston remain a "Hub of the Universe" in educational terms? "If I was to look back now and remake my decision, I definitely wouldn't have chosen the U.S. for graduate school." This sentiment, expressed by an international student in Boston, is widely shared by foreign students in Massachusetts who have experienced the harsh realities of studying in the United States in the post 9/11 world.

Some students have already decided to go elsewhere,

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hurting our already fragile economy. Others have stayed, but under difficult conditions. Either way, the academic atmosphere since 9/11 has been noticeably strained for foreign students who face the brunt of the government's fears concerning national security.

When it became apparent that a number of the 9/11 terrorists entered the country on non-immigrant student visas, the government moved to tighten visa rules for foreign students and to track students electronically through SEVIS (Student and Exchange Visitor Information System), first proposed in 1996 and implemented in January 2003. Many academic officials, who feel that an overhaul was long overdue, have welcomed procedures that are aimed at closing immigration loopholes.

At the same time, school officials fear that excessive government bureaucracy and ill treatment of foreigners is discouraging international students from coming to the US. Considering that nationally, visa holders represented 36 percent of all graduate enrollments in US science and engineering fields and that in the 2001-02 school year, some 583,000 international students were expected to add almost \$12 billion to the American economy, alienating foreign students can have disastrous consequences for our universities and our overall economy.

It used to take a foreign student with an admissions letter about a day to get a visa to come to the US and that student did not have to pay a fee. Since 9/11, students pay \$100 (and soon more) to get a visa, and a further \$100 to cover SEVIS costs.<sup>8</sup> Given the huge backlog at the Department of Homeland Security, it can now take weeks or months to process an application. Applications from students from countries believed to harbor terrorism must answer questions like: "Do You Have Any Specialized Skills or Training, Including Firearms, Explosives, Nuclear, Biological, or Chemical Experience? If YES, please explain" and "Have You Ever Been in an Armed Conflict, Either as a Participant or Victim?"<sup>9</sup> Applying to study in certain scientific fields can add more layers and weeks to the screening process.

At the receiving end, international student advisors are required by the Department of Homeland Security to enter detailed student information into dozens of fields in the computerized SEVIS system before a student is given

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***"People are literally afraid that if they don't pay a \$5 library fine, they could be deported."***

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clearance to enter the country. Once students register at the institution, any change in their majors, course loads, address, academic status or any disciplinary action taken by the university must be entered into the SEVIS system. If students are taking too few courses, or fail to maintain status for some other reason, "unlawful presence" or "visa overstay" can be triggered by the system, making that student liable for detention and removal. "People are literally afraid that if they don't pay a \$5 library fine, they could be deported," says Bilal Zuberi, an MIT student from Pakistan.<sup>10</sup> The SEVIS system has been known to terminate students inadvertently and has failed to deliver the required clearance to border officials, resulting in problems when students arrive at ports of entry.

The expensive and time-consuming "real time" way of tracking students frustrates many advisors who wanted to work with foreign students, not monitor them for the government. Michael Mahan, Coordinator of International Student Services at UMASS/Boston where there are 800 international students to keep track of, says it makes no sense for universities to spend so much time and effort accounting for every aspect of students' lives, when they are only two percent of visitors coming into the country. "I feel very apologetic for my government," says Heather Kelley, a foreign student advisor at Berklee College of Music. "It is making students go through all these hoops -- for what?"

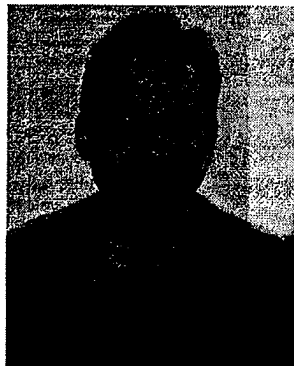
Citing a case where a student who was terminated for a serious reason was still able to get back into the country, Babson College international student advisor Amir Reza states: "SEVIS is not making the US any safer -- that's the bottom line. Officials are not trained properly at the ports of entry. They are free to make mistakes. But if a university or a student makes a mistake, there can be huge problems."

What do foreign students studying in Massachusetts think of the new changes? Rania (not her real name), a Sudanese student studying medicine in Boston, lost one year's worth of classes because of visa delays. After her first year of medical school, Rania traveled to Senegal to teach a

10-day workshop as part of her laboratory research on malaria. She then flew to Italy, where she is a legal resident, to reapply for her U.S. visa. When she arrived, she was told that because of recent security changes, she would have to undergo a background check in Washington, D.C.

"The worst part about it," Rania explains, "is that nobody could tell me how long this background check would take. I didn't want to leave my place in Italy or go back to Sudan to visit my family because I had to be next to the phone in case my visa came through." In the past, it used to take Rania about a week to get a visa, and sometimes she could get it on the same day. This time, it took her two months to renew her visa, and by the time she got back to Boston, her classes had started and it was too late in the semester for her to catch up. According to university policies, Rania had to take off the whole academic year, causing her enormous problems. "I lost \$1,000 in rent money alone since my lease had already begun on my new apartment but my stuff was still in the dorms while I was stuck in Italy. It's been an extremely frustrating experience, and if I hadn't already started school in the US, I would have gone elsewhere to study."

Waleed Farahat, a 28 year-old Egyptian graduate student at MIT, shares her frustration. In 2002, it took Waleed eleven weeks to get his student visa, causing him to



**Waleed Farahat**

miss the first five weeks of the fall semester. "Normally, it took me about six hours to get my visa. This time it took me almost three months and it would have been even longer if I hadn't had a connection at the American embassy in Cairo," says Waleed. "My main concern at the time was that my advisor would get funding for a project that would need to begin right away and since I couldn't be there, he would look to get somebody else."

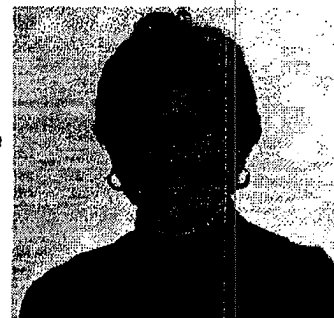
School administrators are helpless to do anything to hasten the visa process. "Once a background check goes to Washington, there's nothing MIT can do," says Danielle Guichard-Ashbrook, director of the International Students

Office and associate dean for graduate students at MIT. "We're not invited to be involved in the process in any way," explains Isaac M. Colbert, dean for graduate students at MIT. "We're told it's a matter of national security interests." <sup>11</sup>

And it's not just students that are affected. Mohamed Mahmoud, chair of the Comparative Religion department at Tufts University and a native of Sudan, was unable to return to the United States because of visa delays in 2002. Professor Mahmoud was on a sabbatical at Oxford University when he applied for his visa renewal. A colleague of his at Tufts sums up the irony of the situation: "From our perspective, it's particularly senseless that Professor Mahmoud has not been allowed to reenter the country. His scholarship on 'Islam and Modernity' is precisely what is most needed right now in American universities." <sup>12</sup>

Foreign males sixteen years and over from the 26 "Special Registration" countries face additional pitfalls when they work or study in the US. In December 2002, six Middle Eastern students in Colorado were arrested when undergoing Special Registration for taking too few courses. Others have been trapped by the poorly-publicized requirement that they re-register at the airport or border crossing every time they leave the US. One Pakistani student at UMass/Boston, who forgot to do exit registration in the office hidden above the Northwest ticket counter in Terminal E, was detained overnight when he returned to Logan Airport. He was then sent back to Pakistan and had to re-apply for a visa, only to be turned down twice. He has now missed more than six months of study.

New visa requirements are discouraging students who would like to come here for prep school or to learn English. Ellyn Levine is the founder and President of the English Language Center, a private language school that teaches intensive American English to students from more than 70 countries. It



**Ellyn Levine**

has three main centers nationwide, with one in Boston.

"Since 9/11, enrollment in Intensive English Programs (IEPs) in this country has been down by forty percent," she

says. "Even though the value of the US dollar is down, students are going elsewhere – to Canada, Australia, and New Zealand – because they don't want to deal with the new visa hassles."

Ellyn estimates that IEPs used to be a \$2 billion a year industry in the US; the majority of IEPs are concentrated in ten major cities, with Boston/Cambridge being in the top three. The English Language Center used to have two major centers in Massachusetts, one in Boston and one in Cambridge. Now, because of the drastic reduction in enrollment, it had to close down the Cambridge center. "IEPs feed students into the American university system," says Ellyn. "If IEP enrollment is down by forty percent, imagine the impact this is having on our universities. Switzerland used to be the place for boarding schools, and they lost their edge when they restricted their immigration laws. This is exactly what we're seeing here in the United States."



**Tammy Kumin (above left) and Joan Alfond agree.**

Tammy and Joan are the cofounders and Executive Directors of Concierge Services for Students (CSS), a Boston-based company that provides services for international preparatory school students studying in the New England area. "We've lost students to prep schools in the UK, Switzerland, Australia and elsewhere because of visa issues following 9/11," Joan states. "What some of our students tell us is that they don't mind the new visa process so much – what they don't like are the harsh tactics of immigration officials."

Tammy describes one 16-year-old Saudi student. "He was at Logan on his way home for Christmas break. During his 'Special Registration' exit interview, the clerk typing his

forms made a mistake and wrote that he had traveled to San Cabo, Mexico instead of writing San Diego, CA. Well, immigration officials at Logan then harassed this poor boy so much and threatened to arrest him for violating the terms of his visa. We finally had to get a lawyer from British Airways to sign an affidavit to clear his record, but by this time, he was shaking so hard and the damage was done."

Another CSS student, a 15-year-old boy from Switzerland, was asked in the airport if he was seeking counseling. When he answered "yes" on the assumption that the immigration official meant private tutoring, the official wrote down that he was mentally unstable and staying at an institution. The family spent years and thousands of dollars to remove this from his record. The boy was so traumatized that he now has to travel everywhere with his dad.

"We understand that the government has to tighten immigration rules for students since 9/11, and we agree with what they're doing," says Tammy. "But that does not give the government the right to treat people like animals or criminals just because they are foreigners. America is making a big mistake by deterring families from sending their children here. As one Saudi father told me, the US government should want these students because when they come here, their minds open up, they see democracy, capitalism, new ways of thinking and doing. To close the door on these students means to deny them exposure to the US. And these are the very students that return to their home countries and become the rulers and key decision makers."

For many foreigners, our schools and universities represent the best America has to offer. But when their experiences are tainted by hostile treatment and overly-rigid immigration rules administered by an overwhelmed bureaucracy, the message they take home is not a flattering one.

We in the Commonwealth do not, of course, have a final say about how to secure our borders. But we can reinforce messages already conveyed to Washington by Harvard president Lawrence Summers and Congressman William Delahunt, and press for clear, carefully-designed policies that make students feel they are welcome to study in the US, and are not being treated like criminal suspects while they are here.<sup>13</sup> Our economic and intellectual future depends on it, as well as our nation's standing in the world.

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## III. PERSONAL STORIES...

**The stories we feature here illustrate some of the ways lives in Massachusetts have been affected by the post 9/11 climate and policies. For every person willing to speak out, there are many others who are too fearful to have their names used and their experiences made public.**



Lexington High School students participate in an anti-war demonstration after the US Justice Department tipped off local police about their intentions (see story on the next page).

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# School warned by Justice Department of "anti-war activities in your area"

Eighteen-year-old Louie Joliat and sixteen-year-old Colin Downs-Dudley had studied the Bill of Rights during history and civics classes at Lexington High School. But the first time they went to exercise their First Amendment rights last March, they came face to face with the police.

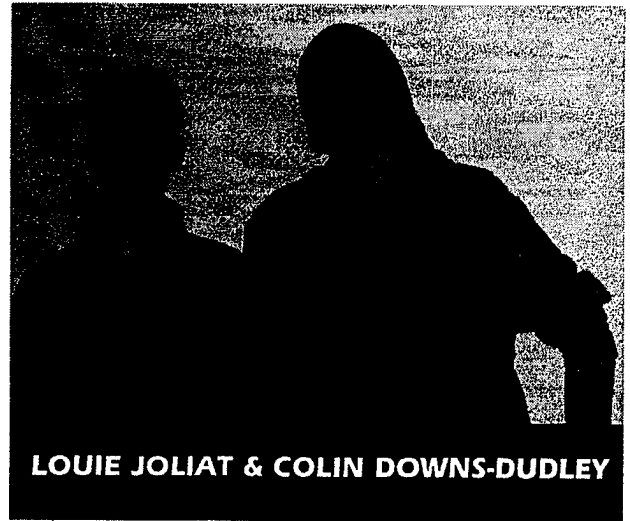
As US troops mobilized to go to Iraq last spring, thousands of students came together to protest the upcoming war. Louie and Colin heard about efforts by the National Youth Student Peace Coalition (NYSPC) to hold a nationwide strike on high school and college campuses on March 5<sup>th</sup> and decided to organize an event at Lexington High. They met with Jim Williams, an award-winning math teacher and the faculty advisor for Students United for Peace. Together, the club decided on holding a teach-in at the school followed by a march after school to the downtown green. Hoping to invite all community members, Louie and Colin posted their event online on the NYSCP website, listing themselves as the contact people for the day's events.

A few days before the teach-in, a school administrator pulled Louie out of class. He told him that the Lexington police had found out about the event on the Internet and wanted to make sure that there was no connection with terrorism. "I was shocked and surprised that they would investigate high school kids exercising their First Amendment right to free speech," Louie recalled. "To even mention terrorism when we were just protesting going to war was ridiculous."

Hearing of Louie's experience, Colin voluntarily went to speak with a school dean. "Why is this such a big deal? We are just expressing our opinions," he said.

Meanwhile, the school principal called Jim in to meet with a detective from the Lexington police and a campus policeman. They showed him a fax from the Justice Department warning the police department of "anti-war activities in your area." The fax went on to "inform the police that two boys from Lexington High School are on the list" and that this "may not be related to terrorist activities," remembers Jim.

"It was clear that the police felt pressured to do some-



thing because they were contacted by the Justice Department. The principal and police were very friendly and supported our efforts, but they felt like they needed to do something and had to react in some way."

On March 5<sup>th</sup>, the teach-in and march went on as scheduled, but with cops standing in front of the school entrance making sure no students from other schools attended and with the campus cop walking alongside the 100 protesters during the march. Although many heralded the day a great success, there was also a lot of angry backlash from parents and community members for allowing such an event to take place at school.

"Having lived through the Vietnam War, I couldn't stand the level of violence of anti-war protesters and the evil portrayal of cops," Jim said. "It seemed like the Justice Department was assuming that it would be the same thing all over again, that the cops would be pitted against those with an opinion. I don't feel good knowing that the Justice Department again feels that this is their role."

And for students like Louie and Colin, attempts at practicing their right to free speech showed them the stark difference between theory and reality. "We feel a chilling effect. We feel like someone's watching us, and we don't know who it is."

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## **“The people you turn to for help – you don’t expect them to put you in danger”**

It was a cold and rainy May day two years ago when Sumbal Raza drove down Route 9 in Shrewsbury to pick up her daughter from school. The mother of four children, she had a baby boy of five months and a two-year-old daughter in the car.

She never made it to school that day.

“I had pulled up at a stop light,” she says, “when I saw a police officer parked on the shoulder of the road. He kept staring at me while I was stopped at the light. He then drew up his car behind mine and pulled me over. For about 15 minutes I just sat there, while he stayed in his car. Finally, he came over and told me my driver’s license was suspended. I said it wasn’t. He told me to give him my driver’s license. He looked it over and then said, ‘whose car is this?’ I told him it was my husband’s. He then said that the car registration was expired and I would have to call someone to come and pick me up.”

The registration on the car was indeed out of date — by one day.

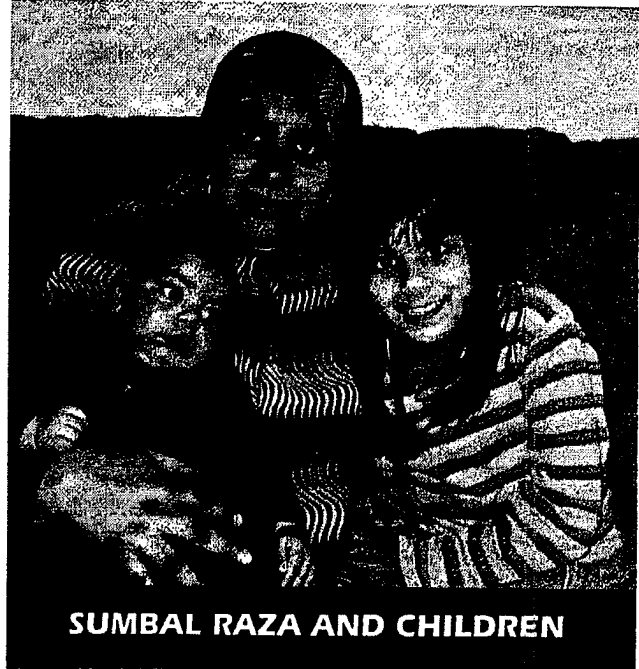
“I told him I didn’t have a phone, and he said I should go and find one. He told me to get out of the car.”

There she was, on the shoulder of Route 9, with cars speeding by, holding her infant son in his car seat and her small daughter by the hand. She stood there in the rain, in a state of shock, and wondered what to do, while the police officer called a tow truck.

“When the tow truck driver arrived, he didn’t seem happy about taking my car away and leaving me there. He told me he would offer me a ride, but the police officer wouldn’t let kids get in the front of the truck. After the car was towed away, the policeman gave me a \$100 ticket.”

Eventually Sumbal began to walk along the shoulder of Route 9’s divided highway. When she got to a beauty salon, she called her husband and her daughter’s school. The secretary at the school said one of the other moms would come and pick her up.

What was she thinking when she stood there stranded



**SUMBAL RAZA AND CHILDREN**

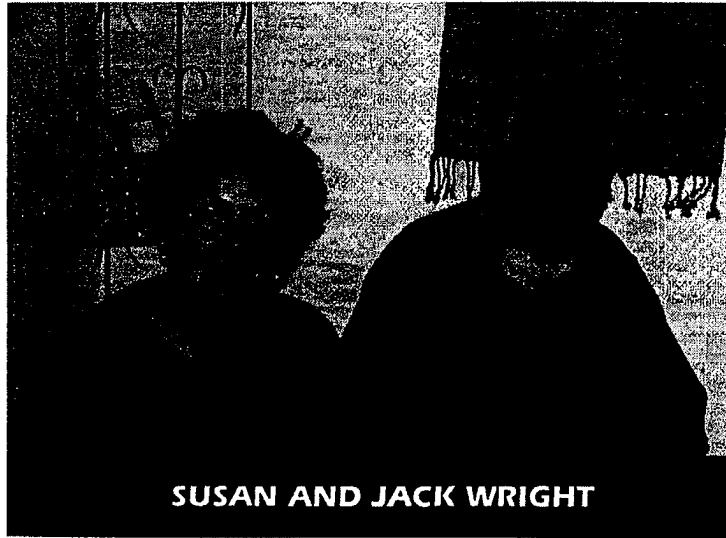
alongside a busy highway? “I remember thinking, I’m an American. I should not be treated this way. This is my country too. I was shocked the whole time I was standing there. This is something I didn’t expect to happen in Shrewsbury, or in America. The police officer could have driven me home since I lived a mile away, or he could have driven me to a phone. Or he could have just given me a ticket. Since then I have found out that most people get fined when their car’s registration is out of date by a day or two. They don’t have the car towed. This was the first time I ever got stopped by the police. I never even had a single ticket before.”

How has this experience affected the family? Sumbal says, “You hear racial things happening in this country, but you don’t expect them to happen to you. Especially not with the police. The police are the people you turn to for help. You don’t expect them to put you in danger. After that when my older daughter saw a cop car, she started crying. After hearing what happened to us when we were on our way to pick her up from school, she now has a fear of the police.”

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# “What is happening to our country?”

Bald Eagles. Gulls. Ravens. Jack and Susan Wright never thought that their love of birds would be enough to qualify them as suspects of terrorism. Yet their experiences show just how easy it is for anybody to be caught by the government's far-flung and undiscerning terror net, even bird watchers.



**SUSAN AND JACK WRIGHT**

On a cold, February afternoon in 2003, Jack and Susan decided to drive down to Barton's Cove to see some gulls that their weekly paper had reported were in the area. Barton's Cove is where the Connecticut River pools into a lake-like expanse near Turners Falls, a small town in western Massachusetts well known by bird watchers and nature enthusiasts alike. Barton's Cove is also home to a small dam and is a favorite spot for picnickers.

When they arrived at the Cove, the Wrights pulled off the road and parked the car in a nondesignated parking area. Jack grabbed his binoculars and bird book and hopped out of the car to go see some ducks. Without warning, he saw two men in uniform come running towards him, yelling and waving their arms. "I assumed they were upset because I had parked the car in an illegal parking spot so I started heading back towards the car when they screamed 'Don't move. This is the police!'" recalls Jack.

Susan, meanwhile, was sitting in the car waiting for Jack to return when a police car pulled up behind her, blocking her in. "Wow," she thought. "All of this for an illegal parking spot."

The state trooper led the interrogation on behalf of the four or five local police and nature rangers present. "They repeatedly asked us what we were doing in the area. Were we with anyone else? Where were we exactly? They wanted

us to show them the exact spot," the Wrights recount. "We explained to them that this was a famous spot for Iceland gulls and resident bald eagles. We flipped through pages of the bird book to show them the animals we were looking for, but it took awhile before they were convinced that all we wanted to do was look at

the birds and not blow up the dam."

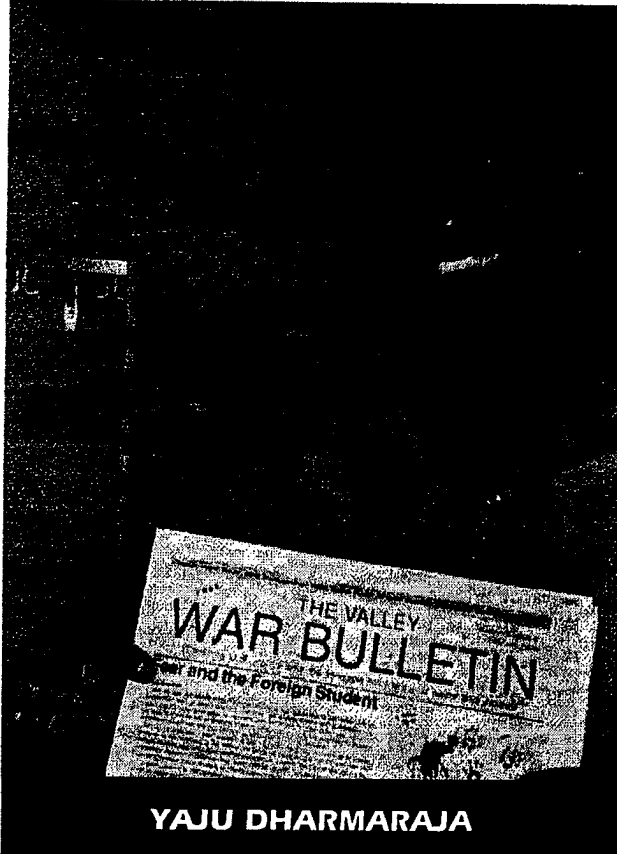
The police then told them that someone had reported a suspicious person walking through the area wearing khaki shorts and a dark, hooded sweatshirt. They asked Jack to make a footprint in the snow so that they could compare his footprint with that of "the suspect."

Eventually, the Wrights were free to go, and on their way home, they came across someone they thought must be "the suspect" the police were looking for – he was a student taking pictures of the birds for his college photography class. "Later on, I remember thinking thank goodness the police stopped us and not this kid – even though he was not Arab looking, just because he was young, he could have gotten in a lot of trouble," says Susan. "And if you were Arab and interested in wildlife, it would be awful – you would be arrested in a second for being interested in birds."

This is not the only time the Wrights have been harassed by the police. They were recently stopped and questioned on two other bird watching trips in Massachusetts, and each time, they were asked not only what they were doing but to prove that they really knew their birds. "It's like we had to take a pop quiz on birds to show we were innocent," says Jack. "And to know that now we're in some computer for dam-related activities is really scary," adds Susan. "What is happening to our country?"



# They hoped to do human rights work – so the FBI came to the door



Yaju Dharmaraja is a man of action. When he and his wife decided to do human rights work abroad, he started making calls to find out about possible trainings to prepare them for the rigorous work ahead. He didn't realize his calls would make him a suspected terrorist.

In the summer of 2002, the Dharmarajas were looking into working in refugee camps in Africa, Asia or Latin America as disaster relief workers. When Yaju contacted agencies like the International Red Cross and World Vision to inquire about possible disaster relief trainings, he was told to contact the Federal Emergency Management Agency (FEMA).

In early July, Yaju placed a call to the Outreach Director of the Massachusetts Emergency Management Agency (MEMA), the state version of FEMA. He explained their interest in refugee and disaster relief work. She asked them what they did, and he told her how he was a union organizer and his wife was a documentary filmmaker. "The Outreach

Director again asked me why I was interested in their trainings," Yaju says. "I thought this was strange, and once again, I explained how we were interested in doing humanitarian relief work. She said okay, we'll send you the necessary materials, and that was it. In total, it was about a three-minute conversation."

Five days later, Yaju was at a meeting in Boston when he received a frantic telephone call from his wife. She told him that the Western Massachusetts FBI liaison and an Amherst police officer showed up at the door. They said they received a call from MEMA saying that terrorists wanted to take part, document and videotape their disaster relief trainings. His wife explained that this was crazy, that they were not terrorists, and that they just wanted to take the trainings to do human rights work.

The FBI agents then began questioning her on the organizations her husband was affiliated with and people that he associated with. She was very angry and repeated that this was crazy – they were not terrorists. She was able to convince them that they were innocent but when she asked if their names would be cleared, the police said no. They said that they would continue looking at their records and, though a lot of the phone calls they received were from government employees who were just scared and resorted to racial profiling, they still had to respond to every single complaint.

"In my opinion, this is a minor violation of my civil rights. I have had worse," says Yaju. "But what's scary is if you put this along with the PATRIOT Act and the impact the PATRIOT Act has had on the civil rights of permanent residents, documented and undocumented immigrants, and green card holders like myself. Under the PATRIOT Act, law enforcement has the full right to haul me away, put me in detention and interrogate me for no reason. Being a Sri Lankan Tamil and an activist in Sri Lanka is enough to get me deported. And my wife, who is an American, has no right to know of my whereabouts and my well-being. So this one person at MEMA who made a leap that I was a terrorist based on my last name, ethnicity and accent could have ruined my life."

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## “How many people are being visited, based on what reasons?”

As a writer and teacher at UMass/Boston, Ann Withorn is used to evoking strong reactions from people. But she never imagined that her writing would ever warrant a visit from the police on the grounds that she might be “involved in potentially dangerous activity.”

In April 2002, Ann wrote in the magazine *Sojourner: A Women's Forum* about a time 30 years ago, in the wake of the Kent State killings, when she had contemplated terrorism. Her group, “The Red Coven,” consisted of anti-racist radicals, feminists, and anti-capitalists. They considered — but rejected -- using bombs to achieve their goals.

In August 2002, state troopers Reilly and Favale came to Ann's door. They explained to her that after 9/11, Massachusetts had established a hot line for anonymous complaints about “suspicious activity” under the mandate of the State Police Department's Division of Investigative Services. Someone had contacted the hot line about her *Sojourner* article, and the troopers wanted to verify that she was not engaged in illegal activity.

She agreed to hear their questions. “Why did you write the article?” It was obvious from the article, Ann replied — she wanted people to think complexly. “Was the Red Coven still active?” If they read the article, they would see that the group was never “active,” she said. But she assured them that the Red Coven no longer existed.

And that was the end of the questioning. Ann was told that “a report would be filed as to the complaint being unsubstantiated,” and a copy would be kept on record.

Ann, however, was not done with the troopers. She told them that an anonymous complaint about a published article by a writer who made no attempt to conceal her identity should not generate a home visit — the first time unannounced. “To conduct such a face to face inquiry was



inappropriate, chilling and threatening to free speech and freedom of the press,” she stressed.

While the officers said they understood, it was their job to “follow up on every call where a person could be identified.” They gave two examples: a Middle Eastern looking man who came to buy a used car and ended up not buying the car and two Middle Eastern looking men who were seen driving a Ryder truck on the expressway. While the troopers acknowledged that most people who received these personal visits were “understandably” upset, they had to check up on every complaint they received.

After the officers left, Ann wondered who was monitoring *Sojourner* and then lodging “anonymous complaints.” As the day wore on, she realized that she was more intimidated by the friendly threshold visit than she wanted to admit. “It was not a joke; it was deeply frightening,” she recalls.

“How many people are being visited, based on what reasons? What did it mean that there is a record of the result of each visit, no matter how innocent the investigatee? Who can access the records and for what purposes?” Ann thought more about John Ashcroft's proposal to recruit four percent of Americans to report suspicious activity under the “Terrorism Information and Prevention Systems,” or TIPS plan.

“Most importantly, I remembered the deep fears that had been part of 60's movements. By the end of that decade, we knew that our government lied in order to wage an aggressive, immoral war, that it paid people to spy on all protesters, and that it killed Black Panthers and others,” Ann said.

“My visit from the troopers brought back far more nightmares than my own article could ever generate. It should make us all afraid. And it should challenge us all to find ways to stand up for our rights to write and say unpopular things, to stop a war on terrorism that itself terrorizes people abroad and in the ‘homeland.’”

## Saudi who comes to Boston for training is arrested, tried, acquitted and re-arrested

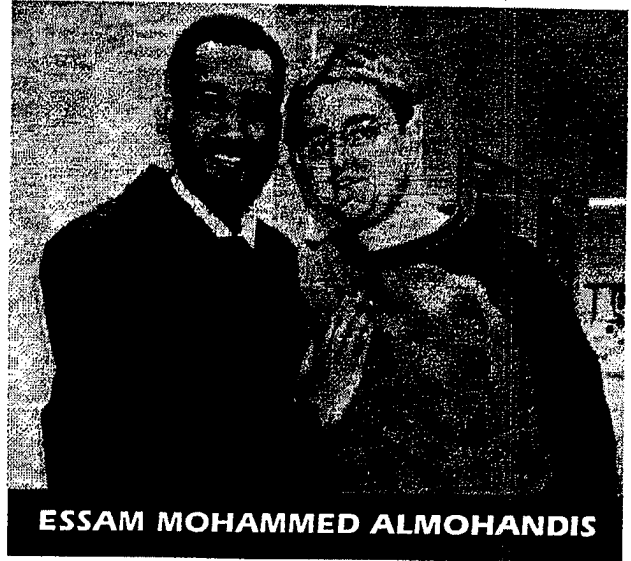
Essam Mohammed Almohandis had every reason to be excited.

The 33-year-old biomedical engineer from Riyadh, Saudi Arabia had just become a father for the second time on December 29, 2003. After a difficult pregnancy, his wife Trifaha was home from the hospital with their new daughter. Visitors were coming in and out of the house to see the baby and wish Essam a good trip overseas to the US. The following day, he was going to Boston to learn how to use the DNA equipment his hospital had recently purchased. It would be his first trip to the United States.

It had taken Essam eight weeks to get a visa to visit the US. He had been interviewed and undergone background checks. On his departure from Riyadh Airport, his luggage was checked four times — three times by an x-ray machine and once by hand. It was checked again when he changed planes in Frankfurt. On January 3, 2004, after an uneventful flight during which he had a pleasant conversation with an American who worked for the government, he landed at Logan Airport and his sense of well-being vanished.

"A customs officers examined my back pack. He took three small things from a side pocket and asked me what they were. I had never seen them before and had no idea how they got in my bag. They were about an inch long, yellow with a pinkish tip. I said 'drawing pens.' My wife did art at home, and they looked like something she might use. He said, 'do you mean crayons?' and I asked what that was — my English is not so good — and then said yes. I took one and tried to write with it and then I realized it was not a pen or a crayon. Then the tip of the one he was holding broke off and some powder came out. When he asked me 'what is this?' I had no response. I was very afraid. I thought it might be drugs. He then called the supervisor who was very angry. He didn't give me a chance to explain anything. He said 'you are lying.' They took me to a room and questioned me for six hours. Then they said I was arrested."

Essam spent two nights in a police station, and then 20 days in detention in Plymouth County jail, locked down for 23 hours a day "for his own protection." In the beginning, he



*Essam is pictured with investigator Andy Pevehouse (right)*

says, "the treatment was very hard. They made me take all my clothes off, except my underwear, and kept me in a cell that way for eight hours. It was very cold. While I was there some of the guards harassed me by saying things like, 'why don't you call on Mohammed to help you?' But one captain went out of his way to be helpful and kind. I was so worried about my family. I was worried about missing the training and losing my job."

On January 13<sup>th</sup>, he was indicted for having three inch-long "incendiary devices" on a plane and for "lying to federal agents about the nature of the devices." US Attorney Michael Sullivan's office announced that the charges, which could bring him 15 years in prison and a \$250,000 fine, were being investigated by the FBI, the Bureau of Immigration and Customs Enforcement, the Massachusetts State Police and the Bureau of Customs and Border Protection.

To build their case, government investigators interviewed Essam's fellow passenger, who said there was nothing suspicious about his behavior on board the plane. They also interviewed a Saudi co-worker, Mohammed al-Hayan, who had traveled with Essam as far as Frankfurt, and then caught a plane to San Francisco for another hospital training program. They admitted that there was nothing suspicious about al-Hayan, and that he was in fact very co-operative.

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But they revoked Mr. al-Hayan's visa anyway and incarcerated the terrified visitor for five days because he had "traveled with" Mr. Almohandis. When federal public defender Miriam Conrad attempted to bring Mohammed al-Hayan back into the US to testify at her client's trial, the government refused on the grounds that the revoked visa meant he was excluded from entering the country. Meanwhile, her investigation for the case revealed that there had been several instances of firecrackers being seized at Logan the previous year, and a 15-year-old American who was discovered on arrival at the airport with firecrackers, fireworks, a switchblade, gunpowder, a hashish pipe and hashish had been given a \$500 fine.

The jury trial restored Essam Almohandis' faith in the US justice system. Conrad, his court-appointed attorney, spent long hours wrestling with US Embassy bureaucracy to arrange for other witnesses, including Essam's wife and father-in-law, to be allowed to enter the US for the trial. The expert witness for the defense testified that the suspicious objects were not incendiary devices, but noisemakers, that made a sound like a popping balloon. A government witness maintained that anything that could create a spark was an incendiary device. Essam's wife, who said she had never before seen the objects, described how she had packed his bag while visitors, including children, arrived at the house. Attorney Conrad introduced as exhibits artists' pastels that Trifaha used in her artwork, which resembled the objects found in Essam's bag.

After the jury acquitted him of all charges on Friday, February 27, 2004, a jubilant Essam hugged his lawyer and thanked the prosecutor, Assistant US Attorney Gregory Moffatt. He thought his ordeal was at an end. Miriam Conrad told him to go out and celebrate with his wife and prepare to leave the country the following Monday.

Eight hours later, shortly after midnight, she got a call from a stranger on her cell phone. He told her that a distraught woman who spoke only a few words of English had come up to him on the street with Conrad's business card in her hand.

Conrad discovered that Almohandis had been taken away by five federal agents who burst into the South End apartment where he was staying, and detained him for not

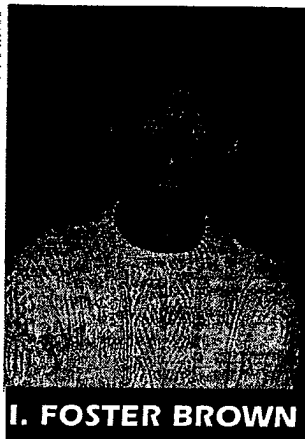
having a valid visa — it had been revoked at his arrest. "They entered the room with guns in their hands," Essam said in a phone call from Riyadh. "They told me 'you are under arrest.' I asked them, 'again?' They wouldn't let me talk to my wife who had no idea what was happening and was crying. They wouldn't let me call her father or my lawyer. They wouldn't let me take my passport or my wallet with me. I later found out my wife went to the street and then to the Prudential Center and looked at people's faces until she found a kind-looking man and asked him to help."

Conrad wonders, "Why didn't the government take him into custody in the courtroom where it would have been less disruptive — or, better yet, use discretion to let him depart with his wife early the following week? Don't you think they would want to end this matter with Almohandis thanking the people of the US and praising our justice system?"

The prosecutor, Gregory Moffatt, must wonder the same thing. After Miriam Conrad called him at 1 AM to tell him of the arrest, he went to see Almohandis, apologized for what had happened and assured him he would be on a plane the next day. He also retrieved his wallet and passport, and took them to the airport with a letter explaining that their owner had been acquitted of all charges.

Would Essam Almohandis and Mohammed al-Hayan consider returning to the US if they got the opportunity to attend another training course? Right now, they don't have that option. It is likely that their visa applications would be automatically rejected because their visas had been revoked. Things are not easy for them in other ways. Some acquaintances are steering clear of them because they think they must have done something wrong. And they regret missing the training programs, which would have saved their hospitals considerable funds. But he refuses to be bitter. "I met many nice Americans, including an official at the airport who told me when I was leaving that he was sorry for everything that had happened to me. He was so different from those other airport officials, who were very inhumane during questioning and seemed to look at me in a bad way because of my country and my ethnic origin. But my impression is that most of the society is very helpful. I wanted to come to America to get knowledge, and if I were allowed to come back, I would not say no."

## Brazilian biologist never makes it to Woods Hole



Dr. I. Foster Brown does environmental research. A senior scientist at the Woods Hole Research Center in Woods Hole, Massachusetts, he is a NASA-supported Principal Investigator in the Large-Scale Biosphere Atmosphere Experiment in Amazonia, which is one of the largest international collaborations between the US and developing countries in global environmental research.

"We are facing environmental and health problems that are both global and growing," he says. "If scientists can't get together to exchange views and work together, our chances of coming up with solutions diminish significantly."

Scientific credentials and the spirit of international cooperation counted for little when his colleague, 49-year-old Dr. Vera Reis, arrived at JFK Airport in New York on December 16, 2002 on her way to Woods Hole at Dr. Brown's invitation. This Brazilian biologist, who runs a research lab and has her own environmental consulting firm, walked into a nightmare. She was accused of trying to smuggle into the US a young woman with falsified documents whom she had talked to briefly in the Rio de Janeiro Airport waiting room.

"I thought that I was passing through routine control when I was left waiting hours in a room with no drinking water or bathroom before being accused without the chance to defend myself," Dr. Reis states. "They said they wanted to make a deal with me. They would return me to Brazil if I confessed to everything because they knew everything and had proof. They knew that I had smuggled two women to the States in previous visits. I said I would rather go to prison than to confess to something I didn't do. This made them angry. I said that I had a doctorate, was a biologist, and had

been invited by the Woods Hole Research Center. They said that they didn't believe me. I told them that I could prove that I had a doctorate, but they didn't want to read the documents, not even the invitation from Woods Hole. I asked them to investigate me, to learn about me, but they refused. I sensed racial discrimination."

While Dr. Reis was not permitted to make a phone call and subjected to what she describes as "an exhausting experience, full of threats and tension," Dr. Brown was waiting for her to arrive at Logan. When she didn't show up, he called JFK Airport, and eventually was connected with an immigration agent who said gruffly that she was a "smuggler." When he protested that she was in fact a scientist with an invitation to visit Woods Hole, the agent hung up.

He then flew down to New York. On arrival at JFK, he was told she was being put on a plane to Brazil. She had been, he later discovered, threatened with long months in prison without any rights if she refused to sign a document they did not permit her or an interpreter to read, and another document saying she was returning voluntarily. She was given the choice of returning shackled or unshackled to Brazil. Her multi-entry US visa was cancelled.

The treatment of Dr. Vera Reis was headline news in Brazil and caused a furor in the Brazilian scientific community. Dr. Reis has requested a formal apology from the US immigration service and applied for a new visa.

"As I try to make sense of what happened," says Dr. Brown, "I come across an old theme to explain why the INS treated Dr. Reis as it did: fear tinged with arrogance. The INS, after all, reflects the preoccupations of the American people, and fear seems to be the controlling emotion since 9/11. The arrogance comes with our effective classification of 'non-citizens,' the vast majority of humanity, as being second-class human beings. We Americans live in an increasingly interconnected world and many of our problems, including our security, can only be addressed by active engagement with societies that live beyond our borders. Showing others respect as human beings, as Aretha Franklin's song goes, can make this engagement more effective and our world a little safer."

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## Family told they need to show their birth certificates to board the Peter Pan bus

Few people look forward to traveling hundreds of miles by bus with three restless children. But who would expect the most difficult part of the journey to take place in the bus station before the trip even began?

Abdur Rahman Kantamanto had little inkling of what lay ahead when, on April 18, 2003, he went to Peter Pan Bus Station in Worcester to purchase five round-trip tickets for himself, his wife Hakimah, and children, Khidhar (aged 8), Omoro (11) and Nzinga (13). They were going to Philadelphia for the school holiday.

A convert to Islam, he was wearing religious attire when he approached the ticket counter and asked for the tickets. "When I walked in, I could see that a red flag went up. I could tell by their body language. And when the ticket seller asked me for my ID and saw my name was Abdur Rahman Kantamanto, the situation got worse. My ID was not good enough."

The ticket agent was joined by her supervisor. "They said before they sell me the tickets I would have to show the birth certificates of everyone who wanted to travel. Otherwise we would not be going anywhere. When I expressed amazement, they told me that because of the attack on the Twin Towers, this was a new bus company rule. I was even more amazed and asked, what does September 11 have to do with me and my family?"

When they again refused to sell him the tickets without the identification, he called his wife and asked her to bring



**THE KANTAMANTO FAMILY**

the birth certificates to the bus station. His wife said she wasn't sure where they were, and it would probably take a long time to locate them. "She sounded really anxious, since we were already late and it looked like we would be forced to miss our bus. But she finally found them, and about an hour later brought the documents and the children down to the bus station."

Again, they lined up at the counter. "This time I approached the ticket agent to show her the five birth certificates. And guess what? She said that she didn't want to see them, but that the bus driver would ask to see them. I asked her why did you single me out and tell me I needed to show you birth certificates? I've been

here some time, and I haven't seen you ask anyone else for them. She told me that her supervisor had requested that she ask me for a birth certificate as a form of identification, and since the supervisor was no longer there, she didn't have to see the certificates."

Hoping to leave at 2:35 PM, the family finally took their seats on a 6 PM bus. Abdur Kantamanto was not surprised to hear from the bus driver that there was no company policy of requiring birth certificates to be shown before people could travel. "He looked at me with disbelief when I told him what had happened and that the ticket agent said the driver would want to see our birth certificates. He said his only job was driving the bus to its destination."

# Banking & the War against Terrorism:

Hossam Algabri knows how it feels to be unfairly targeted.

Married, with two young children, Hossam has been in the US since he first attended Paul Revere junior high as an eighth grader in Houston, Texas. After doing his university studies in Texas, he moved to Paul Revere territory in 1992 where he works as a computer engineer. His parents and sister also live in Massachusetts.

"In late November 2002," he says in a soft voice, "I got a letter from Fleet Bank. I had always banked with Fleet and its predecessors. I only had one account, and I never had an overdraft. So imagine my shock when I opened this letter and read, 'We regret to inform you that we are no longer interested in doing business with you.' The letter said they were closing my account."

When he called Fleet seeking an explanation, he was told to go to the Framingham branch, where he had opened his first account. The manager there told him, "There must be a mistake. You have a perfect account. They are probably going to upgrade you to platinum and they sent the wrong letter." He apologized, and said he would look into it.

A few days later, the manager gave Hossam a number of the account closing department to call in New York. After phoning several times and failing to reach a human voice, he left a message and waited. Two weeks later, he was called back and told that the bank had the right to close his account, and the letter was the only explanation he was going to get.

By then, Hossam's employer at the time, the Quincy-based software company Ptech, had become headline news (see page 10). Hossam discovered that while Ptech's business account with Fleet remained untouched, five of the six Ptech Muslim employees with Fleet accounts had received the same letter. And soon he found out that fifteen other Muslims and a Muslim school in Massachusetts were also told by Fleet that their accounts were being closed.

How should they respond? "You have to understand," says Hossam, "that it took a very long time for people to be able to talk about this. This can be a very humiliating experience. People feel scared and intimidated. They fear they risk their reputation by going public. They think they will always have a question mark over their heads. Unfortunately, they

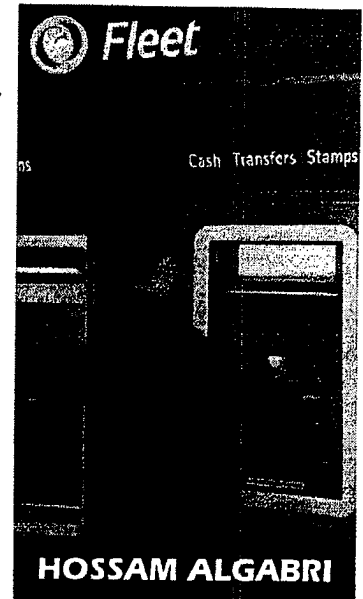
have learned not to trust the system and are afraid that if they speak out, they will just get targeted more. They are too frightened to see the long-term picture and the importance of standing up now."

Eventually, after repeated efforts to get an explanation from Fleet, a boycott campaign was organized by community groups. And after threatening to bring a discrimination suit, Hossam got some sort of answer from the bank.

"Finally, their lawyer told my lawyer that I had made multiple transactions on the same day at the same ATM machine. They said I had put different checks in different envelopes, which was suspicious since I only have one account. But I have been doing these multiple deposits for ten years because it makes it easier to keep track for my records. They also said I withdrew \$7,000 in cash six months ago — but I had done this before and there was no problem."

An American citizen, Hossam is saddened by the way attitudes towards the US are changing for the worse around the world. "In spite of what is happening now, the US is still a good place to be. I love this country and want it to prosper. I understand the government has a job to do to protect the country, and they should do it."

But treating law-abiding Muslims as suspects and potential enemies is not the right approach. "Look, the millions of Muslims who are here have a vested interest preventing another terrorist attack. We will be devastated by it. We want to do everything we can to keep the country secure. But how? Because there is no disciplined approach to targeting bad people and so many innocent people are getting hurt, we don't see any way to take an active role. Trust has broken down, and we just feel more and more isolated all the time."



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# Accounts, Transfers & Loans Flagged

State Representative Kay Khan did not expect to find herself caught in the tangles of 9/11. But that's precisely what happened, all over a matter of \$300.

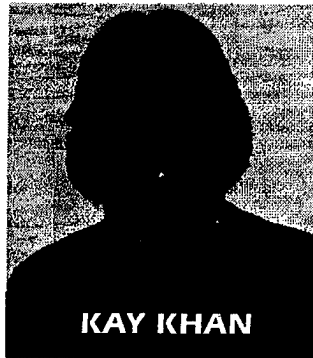
In the spring of 2003, Rep. Khan tried to wire \$300 to a relative in the North Shore but the money never went through. So she placed a call to Fleet Bank, where she had maintained a joint account with her husband for the past 35 years, and spent hours speaking with representatives of Fleet Bank and the local bank in Manchester, MA, unable to find satisfactory answers. "All they could tell me was that that they were not authorized to accept the transfer, but I couldn't get any details or any explanations as to why. It was very frustrating."

Finally, a branch manager asked her if her husband's name was Nasir Khan. She said yes, what difference does that make? The forms were all filled out in her name. Apparently, her husband's name had been flagged by the government months earlier, and although the matter had been cleared back then, his name was still flagged.

"I was really disturbed," she remembers, "and I immediately called the ACLU of Massachusetts. I was concerned that the banks could just stop a small wire transfer without even telling me or explaining what the problem was. And if my husband's name had already been cleared, why were we still having these problems?"

Fortunately, Rep. Khan was able to convince the banks of her innocence, and the wire went through. "But I can just imagine how difficult it must be for someone of a different race and ethnicity. You're put in a very tough position of having to defend yourself."

Since 9/11, banks have taken extra precautions to screen customers and accounts in hopes of preventing terrorist activity. But many wonder if the net has not been flung too wide, with many innocent people getting caught. "We are all aware of the need to be cautious nowadays," she states. "But how do we do that? By profiling people with a



common Muslim name? This situation seems bizarre."

Finishing up her fifth term in the state legislature, she sees everyday the struggles the government faces to keep America safe and free. "But it's alarming that we've come to this. As a country, I hope that we could move to being more inclusive, more accepting of people from different places. Instead we're moving backward, not forward."

## IMRAN KHAN

Imran Khan knows history. He speaks about the days in Nazi Germany when Jews with the last name "Kahn" were singled out. "Some Jews initially didn't take this seriously because they figured that they were good businessmen and good citizens – they could put up with these minor inconveniences and everything would turn out okay," Imran explains.

Today, in a different place and time, Imran sees the parallel in the way that many Muslims with common surnames such as Khan are being singled out by the government. He speaks from personal knowledge.

Imran and his wife immigrated from Pakistan and became US citizens in the early 1980s. In 1992, he formed his own company and in 1996, he bought a house in Natick.

This past winter, Imran decided to refinance his home. He was waiting for the transactions to complete when Fleet Bank held up the transfer of his loan, leaving him with two mortgages at the same time. He immediately called his lawyer and the banks, only to be told that under the PATRIOT Act, a private organization in Washington, DC must authorize all transfers. His last name had been flagged as having a possible connection to terrorists, and it was unclear how long it would take to clear his name and authorize the transfer.

"In my case, we were talking about more than half a million dollars that was at stake here, leaving me in an extremely precarious situation," Imran said. Fortunately, the matter was resolved within a week, but his feelings of frustration and anger remain. "When societies start going on the wrong track, the initial things that happen may not be serious on the surface, but gradually, the inconveniences turn into major problems and but by then you become desensitized to the stigma. I am not waiting for that to happen."



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# “It’s your problem because of your name”

Abdullah Daoud is a frequent traveler. A software engineer who lives outside Boston and works for a large multinational company, he never had an issue with random searches at the airport. “I got so used to it that I would go automatically into the ‘special security’ line. I figure they were doing their job, protecting the country.”

And he wasn’t bothered when he was stopped by immigration and given a special check. “They were polite, and I understand why they took extra precautions.”

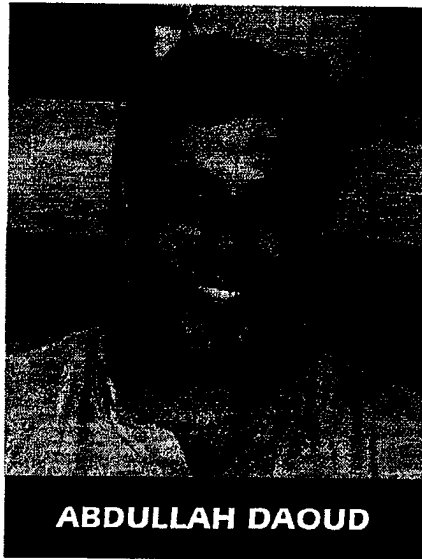
But he no longer has good things to say about American Airlines and its staff at Logan Airport.

“I got news that my mother was dying in Jordan. I was told I had to come immediately and bring my aunt so she could see her sister for the last time. My elderly aunt lives in Virginia and has bad arthritis. We arranged to meet at the airport in New York and then fly to Jordan together. In her condition, I didn’t want her to travel alone.”

On December 2, 2003, Abdullah’s wife Joy drove him to Logan before going on to work. He had two hours to wait for his 4 PM American Airlines flight to New York. As usual, he got the “random” check and was thoroughly searched.

“Then they announced the plane was delayed and I started worrying about my aunt arriving in New York and not finding me there. As time went by, I got more and more nervous, about my aunt and about missing my flight to Jordan. My mother was dying, and I had to see her.”

Finally the passengers were told to board the plane. “About ten minutes after I took my seat I was approached by an American Airline agent who told me that there was a problem with my ticket. When I offered to buy a new one he said no, it was a security breach and I had to leave now. He refused to explain why. He ordered me down the ramp. Outside there was an extremely rude guy on the phone, who hung up and then told me, ‘OK, you can get back on the plane, you’re cleared.’ But as I turned to go back up the



ramp and get on the plane they said, ‘You can’t get on the plane — it just left.’ It looked to me like a big act.”

Abdullah was told he would have to wait for the 8 PM flight to New York. “I said would they contact my aunt, and they refused. Everything I asked for they refused. They were treating me like a criminal.”

When Abdullah asked to speak to a supervisor, an American Airline pilot who overheard him pulled him aside and said, “These people are pulling people off the plane all the

time. They mistreat people. This thing has got to stop. If I were you I would take it to all channels possible.”

The supervisor eventually arrived and told him, “It’s your fault. Your name was not accepted by our computer.”

When he asked what was the problem, since he had got cleared through security after being completely searched, she told him he should take that up with the federal government. “We have our own complicated computer security system. People like you usually take us hours to clear. Unfortunately, we were able to clear you in five minutes.”

Abdullah said he had checked in two hours early and the plane was then delayed for two hours — surely they could have cleared him during that time? “She told me that maybe someone forgot to run the check. Anyway, the computer doesn’t clear a person by itself. There has to be someone to do it. And maybe that person wasn’t there.”

So how, he asked, was this his fault? “Well, it’s not American Airlines problem,” he was told. “It’s your problem because of your name.”

After the 8 PM flight was delayed, Abdullah eventually arrived at Royal Jordanian Airways in NY with five minutes to spare. He was able to see his mother before she died.

But having recently become a permanent resident of the United States, he is no longer sure he wants to stay. Could he really be at home in a place where “people like you” can be treated with such thinly-veiled hostility?

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## **“I was tormented because of my first name”**

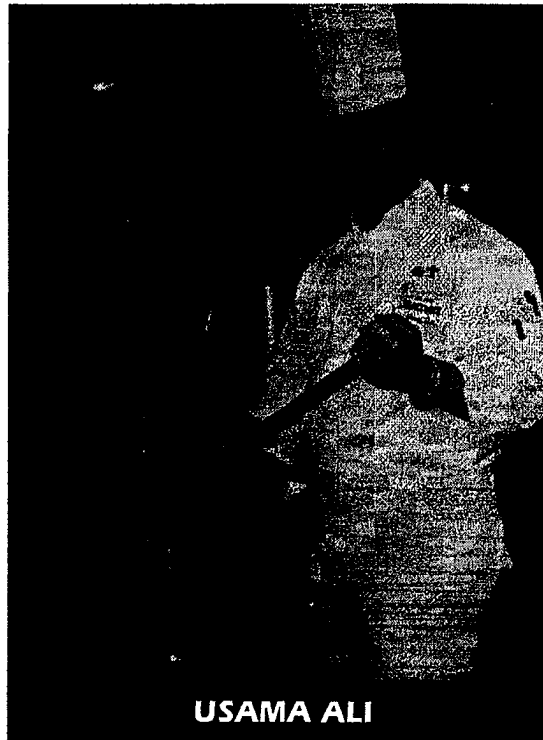
Usama Ali's dream is to be a world-class chef. Before immigrating to the US, he was well on his way. But after 9/11, the harsh reality of sharing the same first name as the world's number one terrorist made pursuing his dream a living nightmare.

In 1996, when Usama found out that he had won the lottery for a green card to the US, he decided to seize the opportunity and moved to Springfield, Massachusetts. For the next five years, he searched in vain for a cooking job. Finally, in the summer of 2002, he decided to enroll at the world-famous Culinary Institute of America in New York.

“From the very beginning at the Institute, I was tormented because of my first name,” Usama says. “One student came up to me and said, ‘There are only two names I don’t like – Osama and Saddam.’ I would walk through the hallways and everyone would look at me nervously. In class, I wouldn’t be allowed to touch the dough.” He remembers one time when a teacher told him to remove his name from his chef’s coat. “I was so nervous that as I was cutting off the name label, I cut my hand.”

Soon, he says, “I began to feel so isolated and humiliated. I couldn’t make friends, and more importantly, I wasn’t able to learn the cooking skills I had come to learn.” He tells how students yelled at him to “clean up your area” whenever a faculty member walked by. “Then the teacher would come over to me and send me off to the dean’s office.” This happened to Usama three times, and one time, when he had almost finished attending the three-week class, the dean made him repeat the entire course.

Things got so bad with the students and faculty that in April 2003, a dean asked him to take a one-year leave of absence. “The dean told me it would be better if I leave, that when I came back, this class of students would have



**USAMA ALI**

graduated. He said that too many students were complaining because they were afraid of me because of my name, and that when I came back, they would change my name to Sam and everything would be fine. Right now, the students didn’t feel safe.”

“I was shocked, and I was mad. I didn’t understand what was going on, and I kept asking ‘Why?’ The dean then changed it to a six month leave of absence during which time I could complete my externship, even though I had not completed my mandatory

five courses or my placement exam. I kept arguing but ultimately what could I do?” So, Usama went to a career fair and through his connections in Cairo, he got placed at the Marriott in New Orleans.

At first, Usama was treated well “but once the chef contacted the career office at the Institute, things started to change – he said I could no longer stay in the hotel and he wouldn’t let me bake anything. Instead, I found myself scooping ice cream all day long. When I went to complain to the Human Resources manager, I got fired – he said if I wasn’t comfortable, I should go elsewhere.” To make matters worse, the next day, his landlord called the police on charges that he was trespassing though Usama had paid rent in advance. “All of a sudden, I found myself handcuffed and sitting in jail in Louisiana! It was an absolute nightmare.”

Usama was eventually cleared of all charges. He was not allowed to return to his old school and came back to Massachusetts dejected but with hopes of finding a better life. “I have lost everything – my career, my pride, my self worth. I don’t have anything to go back to in Egypt and I have nothing here in the United States. Every time I think of going back to school, I feel afraid for my life.”

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# The Collapse of the American Dream:

When Daniel Joyce and Mohammad Afreedi became American citizens in the late 1990s, they both believed that they have achieved the American dream for their families. Daniel had left his native India a decade earlier to work for a Catholic charity, while Mohammad came from Pakistan to pursue a Masters Degree in Biology and Health Science.

Now both citizens of this country, the two men worked hard. Mohammad, a specialist in medical testing labs, worked seven days a week at two jobs to support his wife and children in the US. When his father died in 1988, Mohammad, as the eldest of 11 children, began to send money home to support his siblings and elderly mother in Pakistan. Daniel, too, worked long hours to support his family.

In 2000, Daniel and Mohammad, who had met while both were working at a medical lab, decided to open their own lab. They named it MDLAB (short for "Mohammad and Daniel's lab"). Mohammad invested his savings to start the lab and, in December 2001, they received an inspection certificate from the Department of Public Health and opened for business. Their logo: "Serving the Community is Our Priority."

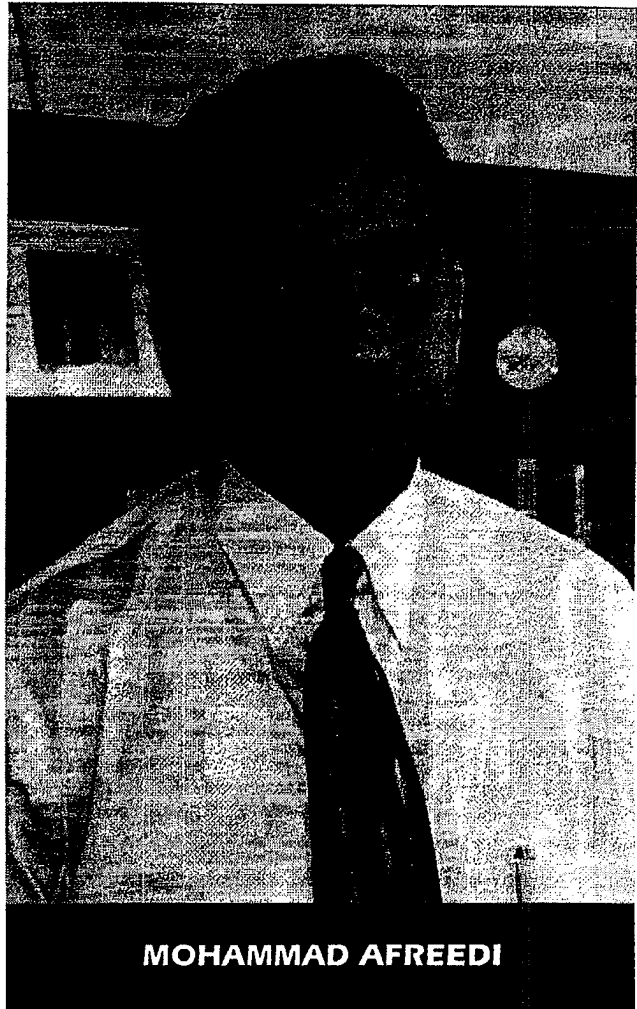
"I was living the American dream," says Mohammad. "I had a wife and two children, a house, my own business. To me, America really was the land of opportunity."

The dream collapsed on September 25, 2002. Early that morning, Mohammad was going to work when the Methuen police stopped his car and took him to the local police station "for questioning."

At the same time, officers roused Daniel from his bed and questioned him for hours while he sat in his pajamas. Then they handcuffed him and took him to the lab, where employees looked on in horror as the police took away the computers and all paperwork from the lab.

While both men were in custody, the police also went to their homes and conducted a "search."

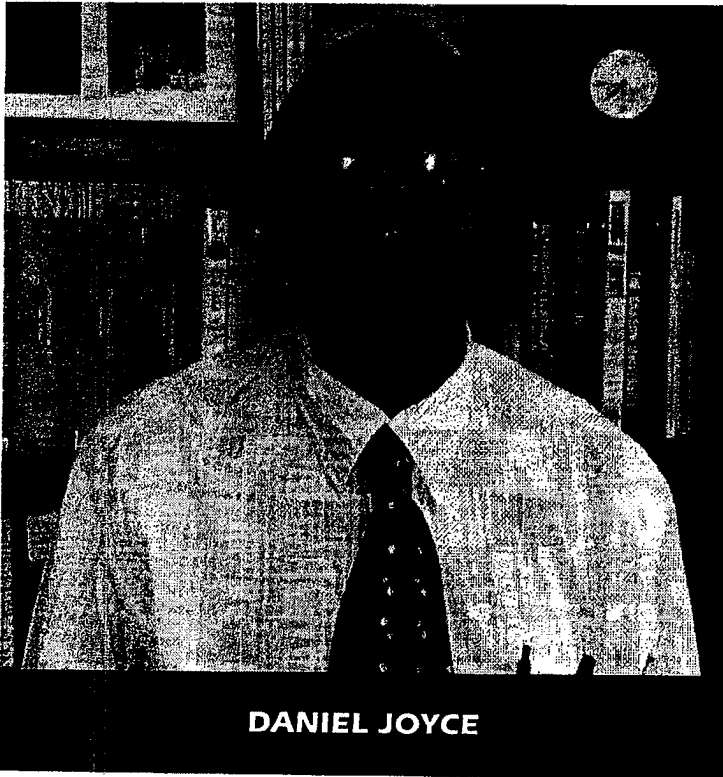
"They actually destroyed everything and took all the papers, my passport, my naturalization certificate, my diplomas, old bills, family videos, film from my camera — everything," says Mohammad.



Their personal and business bank accounts were frozen. It was hours before Daniel and Mohammad learned that they were to be arraigned on charges of Medicaid fraud. The government was claiming that MDLAB and several other laboratories had obtained payment for tests that were neither authorized nor performed. The other labs under suspicion were also operated by people from South Asia.

"It seems to me the attorney general's office assumed that because this other lab was run by people from Pakistan, India, and the Philippines that Daniel and I — because we are from India and Pakistan — were doing the same," says Mohammad. "They jumped to conclusions without doing an audit or a proper investigation, which would have shown immediately that we had always complied with the law."

# "I feel as though my human rights have been violated"



Confident that the police would soon realize their mistake, Daniel and Mohammad were shocked when they were placed in shackles in a holding pen. When they later entered a courtroom for their arraignment, the room was packed with journalists. Under the harsh lights of television cameras, Daniel and Mohammad were publicly accused of "money laundering" because of the remittances that they had sent to their families back home and of being a "flight risk" because Mohammad's wife had gone to Pakistan for his brother's wedding.

The Judge refused to set bail.

Daniel and Mohammad's arrest was the lead story on the evening news on all local television stations that night and in the newspapers the next morning.

"All of our friends saw the news that night," said Daniel. "It was just horrible."

In jail, Daniel and Mohammad initially were held in 23 hour lock-down, allowed to leave the cell only between the hours of midnight and 1 a.m.

"There were a lot of scary gangs in there," said Daniel. "But we also met some extraordinary human beings as a result of a prayer group that I started."

Two weeks later, bail was set – at \$800,000.

Finally, after nearly a month in jail, their lawyers convinced a judge to lower bail to \$25,000 for Mohammad and \$15,000 for Daniel. But there was a catch: they were placed under house arrest.

"We couldn't go to the grocery store, our children's schools, the mall," said Mohammad. "My children didn't understand why Daddy had to stay inside and wear an ankle bracelet."

Both men went into deep depression. Daniel, who suffers today from post traumatic stress disorder, went on welfare, sent his wife and children to live with friends out of state and entered a homeless shelter.

"I can't believe that the government has persecuted me this way," says Daniel. "They still have not returned my passport or my belongings. It is clear to me that this happened because of the color of our skin. I feel as though my human rights have been violated."

Finally, on October 30, 2003, all charges against Daniel and Mohammad were dismissed. The finding: No Probable Cause. The government could produce no evidence that they had not performed the work for which they sought payment.

"Even though the charges have been dropped, I have lost my car, my livelihood and my reputation," says Mohammad. "My life has been destroyed, and I am living under depression and stress. Our bank accounts are still frozen. Our property has not been returned. And the state has not yet agreed to issue a new license for me to open a new lab and rebuild my life."

Without doing a proper investigation, "the attorney general's office jumped to the conclusions because they wanted to build a high profile case after 9/11," he adds. "The only thing they had against us was our color, race and religion."

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# “Is this what the Patriot Act means?”

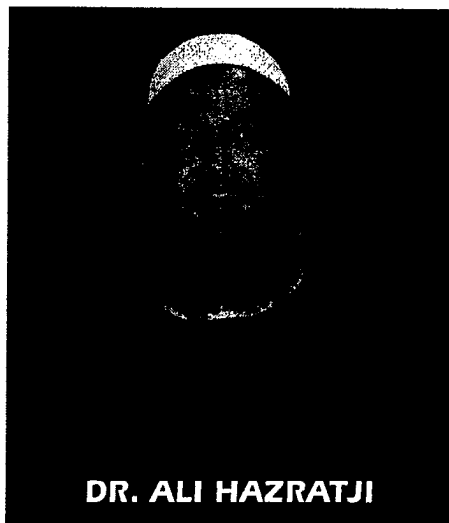
Dr. Ali Hazratji has been practicing neurology in Springfield since 1981. Since 1987, he has been Chief of Neurology in Holyoke Hospital and a consultant to all area hospitals. Since 1990, he has also been the President of the Islamic Society of Western Massachusetts.

His story begins in November 2003. To commemorate the Muslim holy month of Ramadan, a month of fasting and remembering the less fortunate, Dr. Hazratji and three other Muslim friends went on a religious retreat to visit Muslim communities in the Caribbean. After landing in St. Thomas, they took a ferry to Tortola in the British Virgin Islands to visit a mosque. Upon their return to St. Thomas the next day, he successfully cleared customs and waited for his friends to come through.

After waiting for an hour, a US customs official asked Dr. Hazratji to come back inside, confiscated his US passport, and asked him to wait for further questioning. Another hour went by. Then, four FBI agents approached his party and told them they were being taken downtown from the port. “I asked them what this was all about and was told that I could do all the talking I wanted at the FBI headquarters,” Ali recalls. “I said that I am a US citizen and that I have rights. I have not done anything wrong.”

Moments later, an FBI agent yelled “Everyone! Hands on the wall!” Ali and his friends stood by speechless as their pockets and persons were thoroughly frisked and all of their belongings were removed. They were then told to place their hands behind their backs, as the FBI handcuffed them and transported them in broad daylight to the waiting patrol cars. “I remember thinking that it was around 10:30 a.m., and here we were in a busy port filled with people who saw 4 men in Muslim garb being handcuffed and hauled away by the cops. We looked like ordinary criminals,” he recalls.

After arriving at FBI headquarters, agents removed their



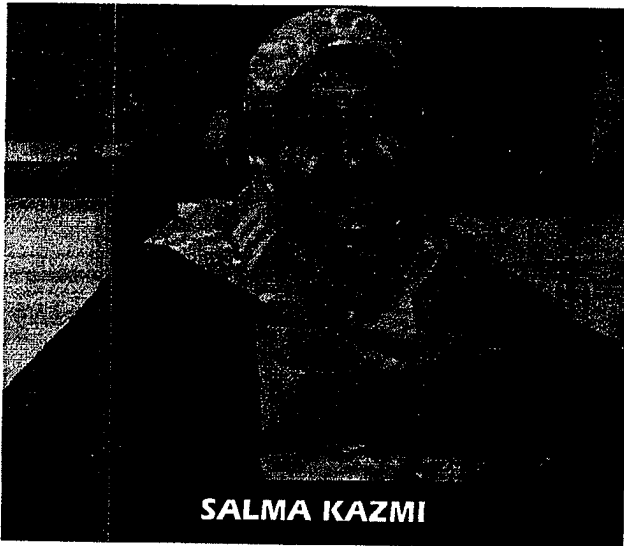
handcuffs and took them one at a time to be digitally fingerprinted and photographed. “Then, they began asking us all sorts of questions about Islam and the situation in the Middle East. They even brought out a Qu’ran [the Muslim holy book] and quizzed us on certain passages,” he states. In total, the FBI detained Dr. Hazratji and his friends for 6 hours before saying that they were free to go. They weren’t given any explanations or answers about why they

were detained.

Six days later, traveling from St. Croix to Puerto Rico, US customs officials again singled out his party. For the next hour and a half, the agents went through every item and every seam of their luggage and sleeping bags with devices testing for explosives. They went through their cell phones, address books and other documents and recorded and photocopied all of their addresses and phone numbers before they were allowed to go. They went through their wallets and counted how much money they had. Needless to say, though they were eventually free to go, they missed their flight.

“In my twenty-five years of travel, I have never been subjected to such humiliation and insult in any country that I have traveled to, as I was in my own,” Dr. Hazratji asserts. “My American passport is always respected, and I have always been treated very fairly and honorably even in countries that are on our travel advisory list. It is a sad day that this great nation has been reduced to this level of paranoia and discriminatory profiling and abuse of civil rights. We need to ensure that our law enforcement agencies do not abuse the system and make life miserable for our own citizens. We must ensure that our rights and freedoms for which I migrated to this country are not violated under the pretext of any new laws we pass under the guise of national security. Is this what the PATRIOT Act means?”

# "They don't want us to be getting a seat at the table"



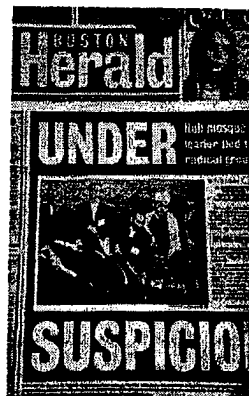
**SALMA KAZMI**

Salma Kazmi, the thirty-year-old staff person for the Cambridge-based Islamic Society of Boston (ISB), has a difficult job she never asked for: smear deflection.

Over the past year, *The Boston Herald* has published an inflammatory series of articles about the ISB which pass off "guilt by association" allegations as fact in a manner reminiscent of the McCarthyite "Red Scare."

"The articles which ran in *The Herald* on October 28<sup>th</sup> and 29<sup>th</sup> last year really frightened people," Salma says. "It was Ramadan, and everyone was fasting to feel spiritual. And then they see *The Herald* with a picture of Osama Bin Laden alongside a model of the new Cultural Center we are building in Boston, with headlines like 'Radical Islam' and 'Terror Backers Tied to Hub Group.' At first they wondered if there could be any truth to these things since they couldn't believe a paper could just lie like that. But we explained how everything was distorted, and when the articles kept appearing in January, they felt very angry. Many are boycotting the paper. They are reacting with restraint, which is good."

Salma learned that *The Herald* chose to publish the articles after *The Boston Globe* and *The Boston Phoenix* rejected them. The motive behind the series? "Look how they pictured Congressman Capuano and Mayor Menino at the ground-breaking ceremony of our new building



framed by the words 'UNDER SUSPICION.' Some people are clearly unhappy that we are building the largest mosque and cultural center in New England. And they don't want us to be getting a seat at the table."

Salma says she is encouraged by the fact that the allegations never were taken up as "news" by other mainstream publications, but were simply recycled by Murdoch affiliates and the website maintained by Daniel Pipes, a recent Bush Administration recess appointee to the US Institute for Peace whose anti-Muslim attitudes have been denounced by Senator Edward Kennedy, among many others. The Pipes website features a similar guilt by association tour de force aimed at "Boca Raton, City of Terror," where there are plans to build two new large mosques.

The ISB has closely examined the sources used by *The Herald* and a prepared refutation is available to the public. "But we wonder what will happen next? Since they can write so much about us with so little meat, it is hard to know what to plan for. We have worked hard to promote interfaith understanding, and it is sad that some of the institutions and people we have built relationships with are being scared away by these defamatory articles."

Attendance for events at the mosque has dwindled since 9/11. Although there are a variety of reasons for this, fear is undoubtedly one of them. "After 9/11 people started making donations in cash because they were afraid to get their names on lists. Many active Muslims have been visited by the FBI. I was told that there were 400 agents working in this area. On the streets, everyone wearing a hijab has had

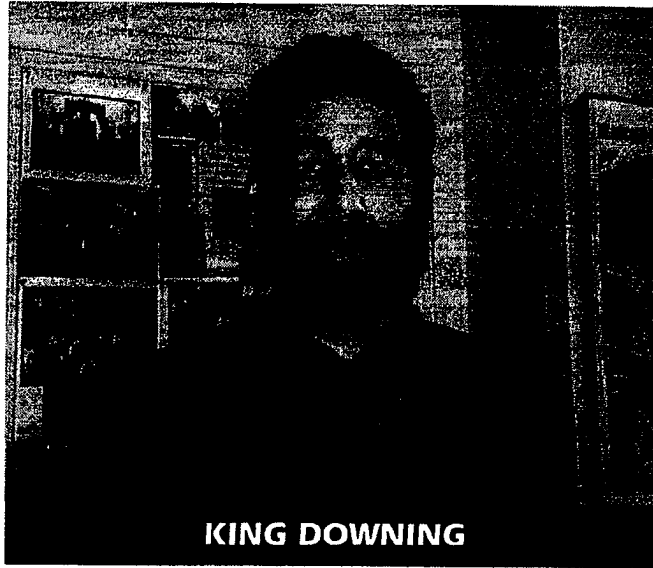
something happen to them. Now people who were born and raised here, who never knew any other place, are saying do I really want to live here? They are making a mental shift. Some have thought of going to Europe, others are adopting a 'wait and see' attitude."

But, she adds, things could be much worse. "After 9/11, we had only a few nasty calls and letters. And we do have supportive friends. I feel so fortunate to be in Cambridge."

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## **"Behavioral profiling is just another word for racial profiling"**

Last October, when King Downing traveled from the west coast to Boston, he got first-hand experience of the kind of "behavioral profiling" which Massport had recently implemented at Logan Airport. The national coordinator of the ACLU's Campaign against Racial Profiling and an African-American, King was on his way to attend a racial profiling meeting.



**KING DOWNING**

"I came off the 'red eye' around seven in the morning and went over to a pay phone that was against the wall in one of the terminals," King recalls. "While I was on the phone, I looked over my shoulder and standing about four feet from me was a state trooper. I was surprised. He saw me looking at him, and he asked, 'Is there a problem?' I said that I wanted to know why he was standing so close to me while I was on the telephone."

The trooper then demanded that King show his ID. "I told him that I was not showing him an ID. I said he had to have reasonable suspicion that I was doing something wrong to ask for it — what was I doing that made him suspicious? He asked me again, and we went back and forth. All the time I was trying to see his name, but he had it clipped on backwards. Finally he said, 'If you don't show me your ID, you are going to have to leave.' I told him, 'fine, I'll leave.'"

King then went outdoors to get a cab, only to be followed by the trooper who demanded again to be shown an ID. "Finally he said to me, 'If you don't show an ID, you are going downtown.' I said, 'Am I under arrest?' and he said, 'yes, you're under arrest' — and with that, he called for back up."

Eventually, a sergeant arrived and told King the reason why he was approached by the trooper was because he was acting suspiciously. "I asked, 'what was I doing that was suspicious?' The sergeant said, 'I didn't ask him that. This officer has been on the force for 12 years, and if he says you

were acting suspiciously, then you were acting suspiciously.' I told the sergeant that the trooper's ID was on backwards, which seemed suspicious to me and he said that probably the wind did it. I told him there was no wind in the terminal."

Eventually, King decided to hand over his driver's license so he could get to his meeting. After

running it on the squad car computer, they then asked to see his boarding pass and ticket. "I said that I'm not showing it, because people have a right to be here without it. They can pick people up without a ticket. They then told me that if I didn't show it I would be put on the trespassers list and if I came back to the airport without a ticket I would be arrested."

Satisfied that he had the information he needed to file a complaint, and now even more late for his meeting, King showed them his ticket stub. They told him he could go.

King says he never mentioned that he worked for the ACLU because "I wanted to know what the average person goes through who doesn't have an organization or other resources behind them but is at the mercy of law enforcement." He wonders how often officers have approached people at the airport just because of how they look, not what they are doing. And what exactly do Massport and the state police mean by behavioral profiling? All he was doing was talking on the phone. "From what I've seen," King says, "behavioral profiling is just another word for racial profiling." Once again a supposedly new "security measure" turns out to be an old way of violating rights.

In this post 9/11 climate, King maintains, "people have to stand up for their rights and say 'no'. If they don't, soon saying 'no' when police cross the line will be taken as reasonable suspicion and an indication of guilt, and then our rights will be gone."

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## IV. THE DOMESTIC WAR AGAINST TERRORISM - ARE WE ON THE RIGHT TRACK?

The government's approach to fighting terrorism is based on some highly questionable assumptions which are harming the Commonwealth without necessarily making us any more secure. Those qualities that make us special and connect us to the wider world hang in the balance.

Past experience should teach us that more information is not necessarily better information. Expanded FBI surveillance and the amassing of giant databases for data mining purposes might sound like a way to deter plots and find what Attorney General Ashcroft terms the "terrorists among us," but we should learn from the massive pre-9/11 intelligence failure. Intelligence agencies had intercepted millions of hours of telephone conversations and email messages, but they had few translators on staff and lacked the background knowledge and skills of analysis essential to timely decision-making. Turf rivalry, poorly prepared staff, the culture of secrecy and out-of-date technology made many of these agencies all but dysfunctional.<sup>14</sup>

Have these failings been fixed? Are we really made safer when FBI agents monitor web sites involving student anti-war protests? Or when local police and state troopers follow up on every warning of "suspicious" activity called in to the TIPS line? Are these good uses of law enforcement time?

A study of racial profiling based on law enforcement statistics reveals that it is not an effective method of fighting crime. According to University of Toronto law professor David Harris, "When we construct a profile using the wrong kind of characteristic — a racial or an ethnic one as opposed to markers of behavior — we spread our enforcement resources and efforts more thinly than we would otherwise. Even the FBI does not have unlimited manpower; every person FBI agents must investigate because he 'looks like a terrorist' means that much less in the way of enforcement resources is available to investigate individuals who actually behave suspiciously...As with other forms of racial profiling, using ethnicity to try to identify terrorists has the added consequence of alienating the very community most able to help with effective law enforcement."<sup>15</sup> Furthermore, if authorities focus on race, ethnicity or religion, those who do not fit the profile and who may in fact be planning terrorist

crimes will more easily slip underneath their radar.

Instead of focusing on solutions that actually work — on building relations of cooperation and trust in immigrant and Muslim communities, and tracking down concrete leads — the government has adopted a secretive "guilty until proven innocent" approach that has devastated lives and made all of our rights less secure. Its resort to profiling and to "guilt by association" arrests has enabled it to trumpet hefty figures to show it is making progress in the war on terrorism. But behind those figures lies a major credibility problem. A recent Syracuse University report reveals that more people received long sentences on international terrorism charges in the two years before 9/11 than in the years since then!<sup>16</sup>

The impact of zero tolerance immigration law enforcement will be with us for years as families struggle to come to terms with the expulsion of loved ones. The way the hunt for "illegals" is being pursued is counterproductive in public safety terms. It undermines relations of trust that bind communities together. Community policing will not survive the participation of police in the enforcement of civil immigration law and our streets will be less safe as a consequence. Targeting immigrants as if they are "the enemy" contributes to a climate of fear and hate and sends a message to the world that the United States is not a welcoming place. And as we make it more difficult for people from other countries to visit, to study, to get medical treatment and do research in our institutions, our isolation will increase. Beyond the economic impact, there may well be serious long-term effects for our ability to innovate, to influence "hearts and minds" and to understand the world around us.

These, then, are the questions raised by this report which demand urgent attention: Are we advancing our own safety by practices that rely on ethnic and religious profiling and that erode basic freedoms? Can the safety and well-being of the citizens of the Commonwealth be built on policies that make the lives of non citizens among us so much less secure? In addition to safeguarding our physical infrastructure, should we not be securing those attributes that define us as a people, including the fundamental rights and protections of our constitutional system?



## V. PEOPLE STAND UP FOR CIVIL LIBERTIES

From Pittsfield in the west, to Manchester-by-the-Sea in the east, Massachusetts residents have successfully pressured their city councilors and town meeting members to pass resolutions in support of the rights and protections that are the hallmarks of our constitutional system. To date, these resolution campaigns have been successful in 29 Massachusetts communities and are underway in at least 30 others.

Across the country, four state legislatures (Alaska, Hawaii, Vermont and Maine) and some 300 cities and towns across the country representing more than 50 million people have passed resolutions that make visible the extent of public opposition to portions of the USA PATRIOT Act and other government measures that undermine rights and weaken democracy. Most major American cities, including New York City, have passed resolutions. Those with large immigrant populations are explicit in their condemnation of ethnic and religious profiling.

What is it that motivates people to get involved in time-consuming efforts to pass resolutions that will not necessarily have the force of law?

Marilyn Levin, who worked on the successful Arlington resolution campaign, says that "following September 11<sup>th</sup>, I saw fear being manipulated by our government and as a lifelong advocate for individual rights and equality, I could not remain silent. The resolution campaign is a wonderful grassroots vehicle to alert the public to the threats to our fundamental liberties. The choice we face is between a democracy or a police state. We must always be vigilant or we can reach a point of no return."

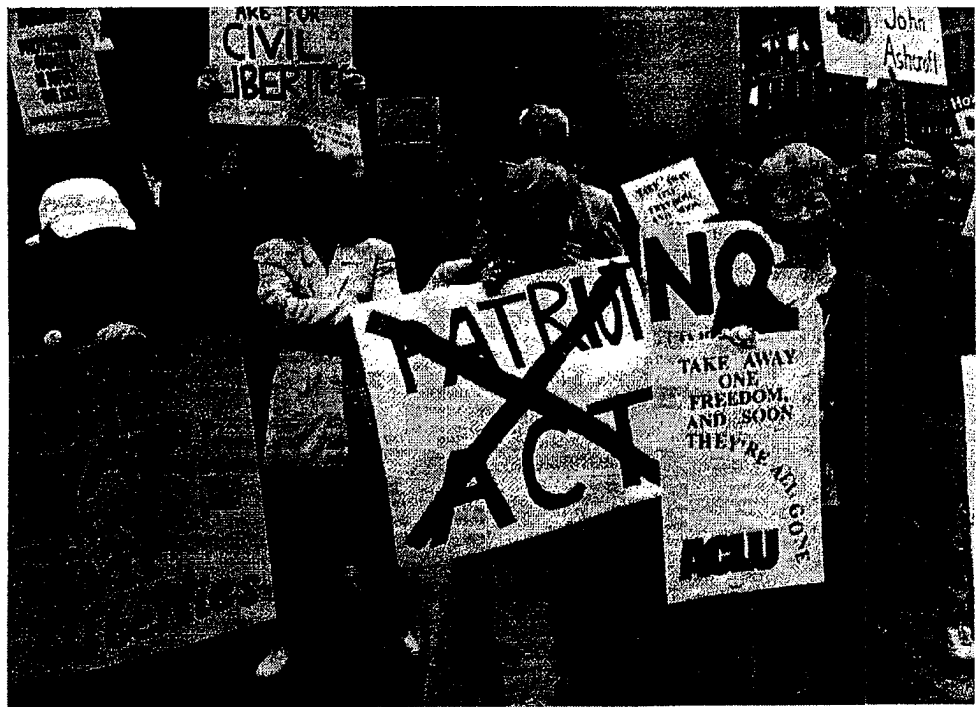
To Robert Plotkin of Concord, "The more I watched, the clearer it became that post 9/11 actions by the federal government were not

particularly good mechanisms for protecting us from terrorism. They were doing very little, if anything, to make us safer while restricting our freedoms significantly. We have been using the resolution campaign not only as a vehicle for pressuring our representatives to repeal the offensive portions of the PATRIOT Act and related executive actions, but also to educate our fellow residents. The response has been overwhelmingly positive, and we are expecting passage of our resolution in Concord, the cradle of American liberty."

Carola Domar has deeply personal reasons for getting involved in the Concord campaign. She remembers her childhood in Germany in the 1930s.

"After the attacks of September 11<sup>th</sup>, when there was such fear and the government got new powers, my thought was 'deja vu.' I've been through this before. And I must do something about it. I was once asked, what does freedom mean to me? And I said, to me freedom means that I can say I hate Bush and my life is not in danger. I'm a Holocaust survivor. If I had said I hate Hitler, I certainly would not be here today."

At age 84, Carola Domar is determined to do all she can to prevent her friends, neighbors and the larger community from becoming "unwitting victims of the darkness."



# ENDNOTES

1. This opposition is broadly bipartisan. For instance, on July 22, 2003, 113 House Republicans joined Democrats to oppose, by a landslide vote of 309-118, Section 213 of the USA PATRIOT Act which permits the "sneak and peek" searches of homes and offices.
2. "Prosecutors Defend 'Sneak and Peek' Warrant," by Shelley Murphy, *The Boston Globe*, October 20, 2003.
3. William O. Douglas to the Young Lawyers Section of the Washington State Bar Association, September 10, 1976 (Library of Congress).
4. "Evacuation Due to Muslim Prayers Sparks Debate," by Ray Henry, *The Boston Globe*, May 16, 2002.
5. "Schools Step Up Security after Visits," by Anand Vaisnav, *The Boston Globe*, May 22, 2002.
6. General Accounting Office, "Homeland Security: Justice Department's Project to Interview Aliens after September 11, 2001," April 2003, p. 16.
7. "Our View: Quincy and Al Qaida," by *The Patriot Ledger*, December 10, 2002.
8. In March 2004, more than 200 international students at UMass/Amherst refused to pay a new \$65-per-semester fee imposed by the university to help cover the costs of administering the SEVIS system, arguing that they didn't see why they should pay for their own surveillance. *The Boston Globe*, March 21, 2003.
9. Supplemental Nonimmigrant Visa Application, DS-157.
10. "Foreign Students Fret over INS Tracking," CNN.com, January 10, 2003. With SEVIS information being entered into the National Criminal Information Center (NCIC) database that police access when they make traffic stops, students could be liable for arrest and deportation for taking too few courses. "Crime Database Misused for Civil Issues, Suit Says," by Nina Bernstein, *The New York Times*, December 17, 2003.
11. "Students Share Stories of Attempts to Return to US," by Michelle L. Povinelli, *The Tech*, January 15, 2003.
12. "Prof. Cannot Get Visa to Return to US," by Jordana Timerman, *Tufts Daily*, November 21, 2002.
13. According to a *Boston Globe* editorial, "Visas for Science" (April 21, 2004), President Summers has written Secretary of State Colin Powell and Homeland Security Secretary Tom Ridge stating the US was "at risk of losing some of our most promising scholars to universities in other parts of the world." Massachusetts Representative William Delahunt has expressed his concern at the "dramatic decline" in the numbers of foreign scholars studying in Boston since 2001 (*The Boston Globe*, April 22, 2004).
14. These institutional inadequacies are detailed at length in the 900-page "Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001" by the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence (December 2002). The National Commission on Terrorist Attacks seems likely to reinforce these conclusions in its July 2004 report.
15. David A. Harris, *Profiles in Injustice: Why Racial Profiling Cannot Work*, The New Press, 2002, pp. 230-231.
16. A report released in early December 2003 by Syracuse University's Transactional Records Access Clearinghouse documents that in the two years following September 11<sup>th</sup>, the Justice Department referred 6,400 people for investigation on terrorism charges. But two-thirds of them were never charged with anything. Of the 879 who were charged and convicted, more than half received *no* jail time and 250 less than a year in prison. Only a few got lengthy prison sentences. Among the cases labeled as "terrorist" were 65 involving foreign students who hired others to take their English proficiency exams and 28 involving undocumented immigrants working at Austin airport.

## SAFEGUARDING CIVIL LIBERTIES – WHAT YOU CAN DO

- Campaign to pass resolutions in city councils, town meetings and the Massachusetts state legislature that affirm support for constitutional rights, and oppose ethnic and religious profiling and the anti-civil liberties provisions of the USA PATRIOT Act.
- Work to place a public policy question affirming civil liberties on the November ballot in your state senate or representative district.
- Lobby Members of Congress to repeal provisions of the USA PATRIOT Act that infringe on civil liberties and to oppose making permanent provisions that sunset in 2005.
- Ask your local police department to issue a statement of opposition to the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, which would damage police-community relations and make our streets less safe. If the CLEAR Act passes Congress, it will result in further civil rights abuses as police stop people who "look like immigrants" in search of "illegals."
- For resources and support, and further ideas of how you can play a part in protecting our fundamental freedoms, contact the ACLU of Massachusetts' Civil Liberties Task Force, (617) 482-3170 x 314; nancy@aclu-mass.org.

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# SOME USEFUL RESOURCES

**American-Arab Anti-Discrimination Committee - Massachusetts Chapter**

565 Boylston Street, Boston, MA 02116  
tel. (617) 262-8902  
Defends civil rights of Arab Americans and the rights of immigrants.

**American Civil Liberties Union (ACLU) of Massachusetts**

99 Chauncy Street, Suite 310, Boston MA 02111  
tel. (617) 482-3170; [www.aclu-mass.org](http://www.aclu-mass.org)  
Educates, litigates and lobbies on a range of civil liberties/civil rights issues. Its Civil Liberties Task Force campaigns for the Bill of Rights.

**American Friends Service Committee**

2161 Massachusetts Avenue, Cambridge, MA 02140  
tel. (617) 661-6130  
Works on social justice issues. Its Project Voice carries out local and national organizing to support immigrant-led organizations and defend immigrant rights.

**American Immigration Lawyers Association (AILA)**

A national association of 8000 attorneys and law professors who practice and teach immigration law. Attorney referral service: tel. (800) 954-0254.

**Amnesty International USA - Northeast Regional Office**

58 Day Street, Somerville MA 02114  
tel. (617) 623-0202  
Promotes human rights and the rights of asylum-seekers.

**Bill of Rights Defense Committee**

241 King Street, Suite 216, Northampton, MA 01060  
tel. (413) 582-0110  
Provides tools to communities to pass civil liberties resolutions; see [www.bordc.org](http://www.bordc.org).

**Boston College Immigration & Asylum Project**

885 Centre Street, Newton, MA 02159  
tel. (617) 552-0593  
Represents immigration detainees who meet income guidelines.

**Centro Presente**

54 Essex Street, 2<sup>nd</sup> Floor, Cambridge, MA 02139  
tel. (617) 497-9080  
Provides assistance on range of immigration and citizenship issues, offers interpreter and translation services.

**Equal Employment Opportunity Commission**

1 Congress Street, Room 1001, Boston, MA 02114  
tel. (617) 565 3200  
Government office that takes complaints about employment discrimination (must be filed within 300 days of incident).

**Greater Boston Legal Services (GBLS)**

197 Friend Street, Boston, MA 02114  
tel. (617) 371-1234  
Provides free civil (non criminal) legal assistance to low-income people; takes some asylum cases.

**Immigrants' Assistance Center, Inc.**

58 Crapo Street, New Bedford, MA 02740  
tel. (508) 996-8113  
Provides a range of social services.

**International Institute of Boston**

One Milk Street  
Boston, MA 02109  
tel. (617) 695-9990  
Represents asylum-seekers and takes some other immigrant cases; assists with interpreters and consular processing.

**Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association**

294 Washington Street, Suite 443, Boston, MA 02108  
tel. (617) 482-1145  
Works on issues of race/national origin discrimination in housing, employment, voting, and policing.

**Massachusetts Commission Against Discrimination**

One Ashburton Place, Room 601, Boston, MA 02108  
tel. (617) 994-6000  
436 Dwight Street, Room 220, Springfield, MA 01103  
tel. (413) 739-2145  
Government office that takes complaints about incidents of discrimination (must be filed within 300 days).

**Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition**

105 Chauncy Street, Suite 901, Boston, MA 02111  
tel. (617) 350-5480  
Brings together groups serving immigrants and refugees for policy advocacy and public education.

**NAACP - Boston Chapter**

338 M.L. King Blvd.  
Roxbury, MA 02119  
tel. (617) 427 9494  
Civil rights advocacy

**National Lawyers Guild - Boston**

14 Beacon Street, Suite 407, Boston, MA 02108  
tel. (617) 227-7335  
Deals with immigration issues related to detainees; has street law clinics and lawyer referrals for low-income people.

**Office of the Massachusetts Attorney General**

Civil Rights/Civil Liberties Division - Hate Crimes Task Force  
Call tel. (617) 727-2200 to make a complaint.

**Political Asylum Immigrants Representation Project**

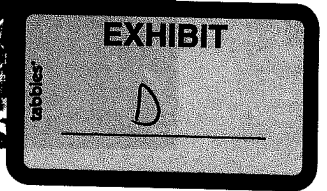
14 Beacon Street, Suite 804A  
Boston, MA 02108  
tel. (617) 742-9296  
Represents asylum-seekers; referral service for detainees.

**Refugee and Immigrant Assistance Center**

31 Heath Street  
Jamaica Plain, MA 02130  
tel. (617) 522-8882  
Provides social services and help with resettlement of refugees.

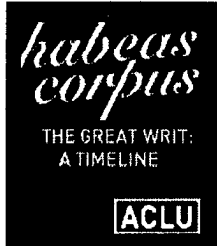
**Refugee Immigration Services of Greater Boston Catholic Charities**

75 Kneeland Street, 8<sup>th</sup> Floor, Boston, MA 02111  
tel. (617) 451-7979  
Takes asylum cases, phone-in legal clinic.




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**Who will succeed Ted Kennedy?**




Four candidates for the open U.S. Senate seat in Massachusetts responded to an ACLU questionnaire on key civil liberties issues.

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**ACLU Asks Court On Thursday To Ensure Reproductive Health Care For Women Trafficked Into The United States**  
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**Senate Candidates Offer Support for Civil Liberties**  
ACLU of Massachusetts questionnaire to U.S. Senate contenders examines issues such as domestic surveillance, freedom of choice, death penalty.  
[News Release](#) | [U.S. Senate Questionnaire Results](#)

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**Transportation Security Agency Violated Rights of Rastafarian Baggage Screener at Logan Airport**  
ACLU says TSA cared more about appearance of its client than safety.  
[News Release](#) | [Interim Decision](#)

**11.10.09**  
**ACLU Condemns Efforts at Censorship at UMass, Calls upon Governor Patrick to Uphold Free Speech**  
The ACLU of Massachusetts applauds efforts by student and faculty leaders at the University of Massachusetts Amherst to ensure that a planned talk by Raymond Luc Levasseur goes forward despite calls for censorship.  
[News Release](#)

**11.4.09**  
**SJC To Consider Challenge to Broad Police Power to Search**  
ACLU argues that authority to conduct searches in absence of a lawful stop reduces constitutional protections in minority neighborhoods  
[News Release](#) | [Amicus Brief](#)

**11.2.09**  
**SJC Weighs Case on Rights of Journalists and Community Activists**  
ACLU supports reporter's appeal, argues community journalists should be protected under state "anti-SLAPP" law  
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**10.29.09**  
**New Boston Restaurant Agrees Not To Exclude Women As Members Of Club**  
Initial publicity promoted "gentlemen-only" membership in Stoddard's Friday Club.  
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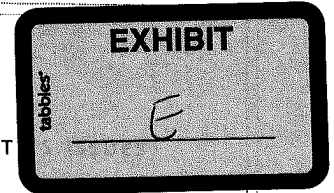
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# MASS RIGHTS BLOG

NEWS AND COMMENT ABOUT THE ACLU OF MASSACHUSETTS AND CIVIL LIBERTIES



TUESDAY, DECEMBER 1, 2009

## Will our next U.S. Senator be a civil libertarian?

We'd like to know. That's why the ACLU sent a questionnaire on key civil liberties issues to all the candidates running to fill the U.S. Senate seat held by the late Edward Kennedy. While we sent the item to all of the candidates, we have not heard back from Republicans Scott Brown or Jack E. Robinson.

It will be tough to fill Senator Kennedy's shoes. He made a lifetime of contributions to the cause of civil rights and civil liberties, and in 2006, we gave him the ACLU of Massachusetts' highest honor, the Roger Baldwin Award, named for the Massachusetts-born founder of the ACLU.

We hope that the next U.S. Senator from Massachusetts will provide that kind of leadership. To find out where the contenders stand, we asked questions such as these:

- Would you support a Congressional investigation of possible unlawful activities by government officials in the post 9/11 era to determine who should be held accountable?
- Would you have sponsored the JUSTICE Act that would have fixed problems with the USA PATRIOT Act and FISA Amendments Act that threaten the rights and liberties of all Americans?
- Will you support establishing independent oversight and enhanced privacy standards for fusion centers, including the Massachusetts Commonwealth Fusion Center?
- Will you support reversing the Hyde Amendment, which bars federal Medicaid funding for abortion?
- Check out our special election page for a full listing of the candidates and additional statements on the

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## MASS RIGHTS BLOG

NEWS AND COMMENT ABOUT THE ACLU OF MASSACHUSETTS AND CIVIL LIBERTIES ISSUES

THURSDAY, APRIL 3, 2008

### Washington Post sheds more light on Fusion Centers in Massachusetts, nationwide

Both here in Massachusetts and across the country, the ACLU has been working to tell more people about the Fusion Centers: massive government clearinghouses of data on all of us. The Washington Post has done a story which sheds more light on exactly what kinds of data the Fusion Centers are pulling together.

One quoted source in the story says, "There is never ever enough information when it comes to terrorism." But there can be. As ACLU Policy Counsel and former FBI Special Agent Mike German has said, when you're looking for a needle in a haystack, it doesn't help to make the haystack bigger. The 9/11 attacks didn't happen because we didn't have the information we needed -- it's that the information we had wasn't followed through on.

POSTED BY CHRIS OTT AT 10:47 AM

LABELS: CIVIL LIBERTIES POST-9/11, FUSION CENTERS

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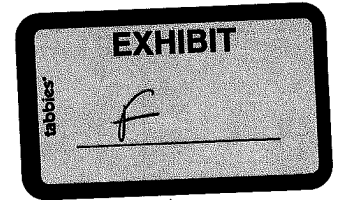
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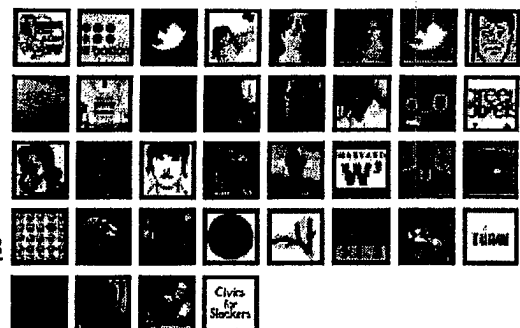
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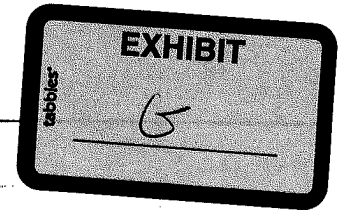
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# Liberty Beat

A blog of the Civil Liberties Project of Political Research Associates



Thursday, October 29, 2009

## Public Accountability for Fusion Centers

Amidst widespread concerns about the far-reaching surveillance capacities of intelligence fusion centers, citizens groups are moving forward with demands for public oversight and privacy protections.

The Department of Homeland Security pushed and funded the establishment of 72 "information-sharing, collection, and analysis" centers around the country. Unfortunately, officials erected this risky surveillance apparatus without adequate civil liberties guidelines in place. Mechanisms for privacy protection and oversight have been developed hodgepodge. As a result, the Michigan state fusion center has a privacy oversight board that has never met because the Governor appointed only 4 of 15 sitting members. And in Massachusetts, the Commonwealth Fusion Center lacks any privacy board whatsoever.

Civil libertarians across the political spectrum have raised concerns about the intrusive powers of fusion centers. The seminal 2005 report by the American Civil Liberties Union, *What's Wrong With Fusion Centers*, rang the alarm in a resounding manner. Political Research Associates posted a compelling 2003 article by Michelle Kinnucan (a Veteran for Peace and co-coordinator of the Ann Arbor Bill of Rights Defense Committee), on the early efforts of the Global Intelligence Working Group to fundamentally restructure federal/state/local intelligence sharing "along a continuum of all types of law enforcement agencies."

Public concern about law enforcement access, collection, and sharing of Americans' personal data and political activities is slowly but surely making its way into state legislatures and city council halls. Here are a few recent initiatives:

### Massachusetts: Senate Bill 931

In Massachusetts, the ACLU is organizing support for Senate Bill 931 to shine a light on "intelligence" operations in the Commonwealth. Sponsored by State Senator Harriette L. Chandler, this "Act Regarding the Commonwealth Fusion Center

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### COINTELPRO: What the (Deleted) Was It?

Public Eye Magazine, vol. one, number two 1978

by [Mark Ryter](#)

[Government] documents on COINTELPRO, the FBI's grand scheme to annihilate organized dissent, [have forced] major changes in perspectives on America's recent political history. The 53,000 pages in the public domain show a daily mapping of a once secret program which played havoc with any group actively opposing American policy through much of the Post World War II era. They reveal a program which manipulated so many events, political processes, and national institutions, that it must be considered one of capitalism's chief editors over the last two decades which did everything possible to erase Left politics from the historical record.

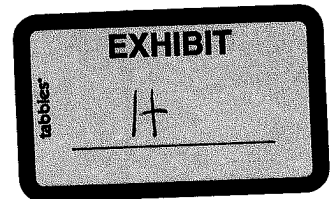
Though most evidence of flagrant illegality like burglary and wiretapping has been blotted out, the 15 year COINTELPRO record is an o'erbrimming bag of dirty tricks. Whatever it took to discredit a group short of "embarrassing the Bureau" was fair game. Informants told of personal and political disputes, natural in themselves, which the FBI then inflamed with selective anonymous mailings.

By amassing detailed data of a group's planned activities and the backgrounds of key members, COINTELPRO could unleash repression through its collaborators elsewhere in the government and in the media without ever soiling its own hands. In this way, the FBI's super-secret program sabotaged events and ruined reputations all along the left/liberal part of the spectrum. Via COINTELPRO, the Bureau drove wedges between the Black Panther Party and the Students for a Democratic Society, as it did between the Old and the New Left generally.

The damage done by the program can be seen everywhere, behind canceled Marxist lectures, groups deprived of official university recognition, and jobs suddenly lost to "excessive tardiness." Most shockingly, though, was the toll taken on America's black community where COINTELPRO became a death warrant for some of its most courageous and inspiring leaders.

### COINTELPRO Minus Zero: No Limit

In August 1956, when the Bureau opened COINTELPRO under the caption, Communist party USA, there was no intention to limit investigations in this way. For during the previous 35 years, J. Edgar Hoover had rounded up, antagonized, and publicly defamed resident aliens, militant factory workers, and civil rights activists - all under the pretext that they had

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been, might still be, or sympathized with Communists. According to the Bureau's own Cold War figures, it kept 432,000 files on "subversives," but could identify only 80,000 CP'ers. Two months into COINTELPRO, the message was equally over-broad:

Develop plans to prevent the CP from gaining control over any [emphasis mine] new broad mass socialist organization which may be formed. The formation of such an organization is being given some consideration by leaders of socialist, pacifist and revolutionary organizations."

This wide latitude in conducting investigations made a target out of anyone connected with even the most apolitical groups proposing change.

In its search for even the slightest trace of communism, the FBI carried its COINTELPRO license far beyond the limits of America's legal system, violating freedom of speech and assembly on a daily basis and invading the privacy of hundreds of citizens just as often. The Bureau displayed an utter contempt for the constitutional dictum that the activities of church and state be kept separate. In one case, after learning that the black Hartford Avenue Baptist Church (HABC) in Detroit was permitting Michigan CP'ers to hold meetings there, the FBI Director flew into a fury, proposing a 16 point program against the HABC. COINTELPRO was aimed first at establishing the identities and backgrounds of all trustees, officers, leaders and employees of the church, then defaming the lot of them throughout the black community and in the press.

By the early 60's, the expansive paranoia was firmly embedded in Bureau-think. Under "Disruption of Communist Activities in Mass Organizations, for example, most of the 59 SAC offices were ordered to employ "aggressive and imaginative" counterintelligence techniques in tracking groups as varied as the Fair Play for Cuba Committee, the Chicago Council of Soviet American Friendship, and the women's International league for peace and Freedom. the FBI's top cops were especially edgy about groups organized to abolish the House Committee on Un-American Activities. For, to Hoover's mind, HCUA offered legislative defense against the otherwise rampaging communists. A memo dated January 11, 1961 states:

Should the communists be successful in having the HCUA abolished, it is believed the next target would be the FBI. Therefore, the HCUA, in addition to carrying out its objective of exposing communists, is a buffer between the communists and the FBI."

Not only was the FBI manipulating the democratic processes that were jeopardized by the creation of HCUA, but they, hand in hand, were creating new tactics and procedures to crush progressive politics as new groups emerged, not after they may have broken some extra-democratic laws like the Communist Control or the Internal Security Acts of 1950.

The FBI began exchanging lengthy descriptions of burgeoning student activism on the eve of the Berkeley Free Speech Movement. Memoranda written in 1963 reveal an FBI chief fascinated by the "left student." SAC Chicago reported that leftists, while in the 5% minority at most midwestern colleges, "organize to be effective and give spark and life to the campus." In the same document, though, the Special Agent bewails the activity of protesters who were "unappreciative of their heritage." Many of them were under constant COINTELPRO surveillance, and subjects in the Bureau's centralized Security Index.

As the student left gained in ranks and momentum during the later 60's, the FBI's local offices came up with varying explanations. One office would attribute the increased activism to an excess of academic freedom, another would un-layer a conspiratorial onion, finding campus unrest at the top, communist propagandists in the middle, and the "general problem of communist agitation" at the phantom core. Eventually, the Bureau and its offices became grudgingly resigned to accepting the New Left as a phenomenon in itself - uncontrolled and uncontrollable. Hoover's mental picture thus framed, he assumed a stern en loco parents attitude, disciplining the "violent, depraved and dishonest" New left by helping local police set them up for drug busts and other state arrests. Many leaders of the Students for a Democratic Society, targets on the "Key Activist" list, literally came under parental pressure after Mom and Dad got a bureau post card signed, "a concerned mother."

From 1968 on, the FBI had every major city and college campus covered for evidence of New left activity. Targeted groups included the SDS chapter in Hawaii, Ramparts magazine, the People's law office in Chicago, and Angela Davis among many, many others. A memo dated July 8, 1968, shows SAC Chicago with informers at 35 area colleges, the University of Chicago and Illinois Tech among them.

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But the Bureau never abandoned its hunt for CP'ers. Its CPUSA operation continued throughout COINTELPRO. The CP documents themselves constitute over half the total number released last fall. According to the FBI's filing system, Leftists were often targeted under the caption CPUSA, just as "communist influence" was often seen as the ideological source of student demonstrations classified as "New Left." This switch-hitting filing system reflects the priorities of counterintelligence, to keep the political lines between groups and factions forever fuzzy. so whenever members of different groups, such as the NAACP and the CP, got caught in the crossfire of political recrimination, it was the purposes of COINTELPRO, not the goals of a more perfect society which were ultimately served. This is another way the FBI helped promote social and political stagnation over the history of an era.

### COINTELPRO Propaganda

Integral to COINTELPRO's virile anti-communism was its subtle yet sophisticated propaganda operation, designed to keep the left squabbling and the public polarized. The voluminous documents point to an even larger amount of paper churned out by the FBI in cooperation with right wing groups, "friendly" media contacts, and private intelligence-gathering groups to keep the names and doings of political people constantly suspect. Tens of thousands of anonymous letters, some containing the worst examples of scurrilous rumor-mongering, were also sent out to deliberately distort opinions and, in massive effort, sabotage the opinion-making process itself.

Anonymous mailings were at their height early in the program. SAC New York alone, according to our estimated minimum tally, sent out 653 such letters in 1959 and 376 in 1963. As Tim Butz observed in Counterspy magazine, the FBI employed Psy-War" tactics borrowed from the military to enclose the Communist party within its narrow ranks and split it open from within. Applying its domestic version of Containment, the FBI would influence a "neutral" party such as an assembly hall proprietor, make contact as a "concerned citizen," then await the canceled Party event. At the same time, COINTELPRO attacked the inner body politic by using an alienated "concerned comrade" whose rumors caused sensitive contemporary issues to fester in personal pettiness.

In 1965, as part of a continuing effort to keep the CP from organizing among young people, the FBI saturated the Cleveland area with 300 copies of a pamphlet critical of the W.E.B. Dubois Clubs of America. The booklet, written by the right-wing Catholic War Veterans, was sent to libraries, book shops, news media sources, religious organizations, the YMCA, and "various logical individuals." An earlier memo had made the FBI's designs on the DuBois Clubs clear: "Neutralize it while still in the embryo stage."

By 1968, the scope of the FBI's mailing campaign was reduced and its sights set on black and student groups. One letter was designed to drive the Black Panthers from the Students for a Democratic Society and pit both against the Revolutionary Youth Union. The technique, sometimes called "agent-baiting," is used here to discredit an individual already suspected (falsely) by all three groups. "Marx Karl," said the Bureau could be easily identified as Michael Klonski. The mistakes are the Bureau's deliberate work:

*Who is Marx Karl?????????*

*Help Root Out the Pig Collaborator*

*Attached XXXX work of pig fink show the presence of sell-out of revolution by opportunist leech. Found this paper on the curb in front of the Haymarket beside a white car. Will organize a People's Tribunal to try Marx Karl and sentence to Tribunal Justice. Conducting my own investigation. HELP EXPOSE COUNTER-REVOLUTIONARY PIG SPY MARX KARL.*

In addition to its disruptions of the New Left, COINTELPRO continually tried to shape public opinion, largely through the Bureau's extensive contacts in the press. It is here where the Left's history was literally written to the FBI's liking. As communicated in numerous memos, offices from coast to coast cultivated "reliable" sources throughout the print and broadcast media. On April 28, 1965, a three page note to the Director confirmed 25 of the FBI's "friendly" sources in the Chicago area. They include the Daily News, the Sun Times the Joliet Herald, NBC, CBS, and WGN. By planting articles, briefing reporters, and playing one newspaper off another, the FBI created a new class of propaganda consumers.



The FBI was particularly concerned that the public view New Left activities in a harsh light. But as the direct evidence was often flimsy, the search was on for guilt-by-Communist-association. In 1970, for example, an article on an SDS chapter in Philadelphia appeared in that city's Evening Bulletin noting a member's communist roommate. The FBI's relationship with the writer was close. As SAC Philadelphia explained it to the Director:

"No pre-publication review for accuracy was made by this office, although the authors checked from time to time to insure that the article would not interfere with any current investigation."

The memo glaringly shows a heavy hand the FBI had in influencing public opinion; this journalist is one of many who willingly offer the FBI censorship authority, bringing the opinion making process a notch closer to government control, as always, for some unknown reasons of state.

### **Toward a Higher Stage of Violence**

"The purpose of this action is to disrupt the Black Panther Party and it's immaterial whether facts exist to substantiate the charge."

"Cripple the Black Panthers."

These commandments from Bureau headquarters set the fierce tone for the most vicious COINTELPRO phase. With the historic stage set for black people to assume a self-determining part, the FBI set out equally determined to stop it. From 1967 on, the memos show an FBI gripped by the hysteria of a race war and its won inevitable role in escalating it. During this period, special agents whose every suggestion once came under stern Bureau scrutiny were now encouraged to freely experiment with ghetto subjects whose very lives were often at stake. Mailings done in this phase exploited the explosive atmosphere which constantly swirled around swirled around the Panthers at that time. Regarding one such letter, signed a "Concerned Sister," a top Bureau aide commented dryly:

"It raised the proposition that the death of BPP member Michael Baynahm was not by suicide but in reality a murder arranged for by national BPP headquarters. BPP in Detroit has been concerned over his death and nervous in view of recent Panther murders throughout the country."

The FBI's indifference to a plan which could only have turned high passions to violence illustrates the Bureau's unabashed racism. The same tone comes through in numerous other memos ordering self-destruction through division of coalitions between Panthers and the United Slaves; the Panthers and the Blackstone Rangers; the Panthers and the NAACP; the Panthers and Martin Luther King's Southern Christian Leadership Conference. But the Bureau could not accomplish its anti-black mission without resorting to much more brutal, insidious tactics than it had before. Black Panther leaders Fred Hampton and Mark Clark became the most prominent victims of this COINTELPRO approach in 1969 when they were killed in a pre-dawn raid on Hampton's home.

A combination of informant infiltration, other Bureau surveillance methods, and close cooperation with local police allowed the state's repressive forces to practically encircle the black activist community in a 24 hour dragnet. The memos are filled with tales of prearranged raids on Panther headquarters set up by passing information between the bureau's ghetto "listening post" and law enforcement personnel, many of whom were trained with FBI propaganda films.

Officially on record as committed to violence prevention, the Bureau in practice used police methods contemporaneously cited as violence causing. In 1967, coincidentally the year COINTELPRO's anti-black phase began, the Kerner Report on Civil Disorders came out citing police actions generally as have "great tension-creating potential" in the black community. The widely acclaimed study of inner city protest also stressed that "arrests on suspicion," an important goal of FBI/police collaboration, were a specific spur to violence.

The FBI ignored these thoroughly researched findings, choosing instead to rationalize disruption of black groups as its most reliable violence-suppressing tool. In one case, however, the Bureau unwittingly revealed the fallacy of such thinking. A memo, written on

April 5, 1971 from SAC New York noted that disputes between the factions led by Huey Newton and Eldridge Cleaver were "apparently instrumental in the shooting and killing of Robert Webb," a Cleaver supporter.

COINTELPRO hit the black community like sparks dancing on hot coals and many SACs knew it. A Special Agent in San Francisco was so unnerved by the Bureau's plotting that, on one occasion, he invited certain censure from Hoover, demurring: "We must bear in mind that if the plan is successful, a gang-type murder may be the result." The Bureau's reply is typically absent from the files.

### Informants

The COINTELPRO documents paint informants in one of three colors:

**Black and White:** "Chicago has advised that the squib about Lightfoot's activities is based on information furnished by three different informants.

**Ghostly gray:** \_\_\_\_\_ is in an important position where he can influence many people within \_\_\_\_\_ as well as exerting an influence on institutions associated with the Foundation. In such a position he is able to do more harm than many current, active members.

**Black out:** -----

Informers go unnamed, their provocateur role covered up, and the part they played in inciting violence deleted. Their effects on internal group procedures are also unknown, yet the Bureau's espionage agents were an essential component in FBI operations against political dissent. FBI spies followed precise orders as to what to advocate in group seminars which dealt with issues from the Sino-Soviet dispute to the Cuban Missile Crisis of 1961. One informer conspicuously absent from the memos is William O'Neal, the agent whose floor plan of Fred Hampton's apartment helped the police and the FBI kill the young black leader. O'Neal rose to become the Panther's Security Chief in Chicago. A well-paid agent provocateur, O'Neal was a chronic schemer, making electric chairs and bombs his destructive playthings.

Informers were copious infiltrators of many groups, doing their dirty tricks in such high proportions to bona fide members that the commonly cited ratio of agents to membership in the CP once reached 1 to 5.7. But the truly astounding fact is that government spies so often achieved top positions in their penetrated groups. Informers were high up in the Illinois CP, the Socialists Workers Party, the Black panthers, and many New Left groups. At one point, a memo gleefully anticipated an upsurge in derring-do at the University of Colorado where an informer had just been elected to SDS's Steering Committee.

Fomenting dissension in all FBI operations was the informer's role. During its investigation of CP influence in the Fair Play for Cuba Committee, for instance, the Bureau gave its instructions for a complete carving of the group into its political organs: (1) have CP informants question CP'ers in the FPCC on the credibility of Socialist Workers Party members, (2) Have SWP informants attack the highly placed CP'ers for keeping out potential newcomers, (3) send an anonymous letter which criticizes the CP for not helping the FPCC broaden its political base, (4) Publicize the FPCC's communist ties.

As this set of orders make explicit, informers were the FBI's counter-activists in the activist community. They sowed dissension's seeds and carefully nurtured them. In statistical terms as well, their contribution to COINTELPRO was unequalled. According to a government study prepared in 1976 by the Comptroller General, informers accounted for almost half of all data gathered, out of a list of sources which included other FBI investigators (17%) and the police (12%).

Whatever the criteria, though, informers are inherently corruptible, loyal to no one, and an enemy to political movements. Today, after much of the informer's disruptive, often illegal work has become public knowledge, not even official constraints have been applied to their activity. In a bill recently proposed to reorganize the national intelligence bureaucracy, the Senate has defined informers as "nonintrusive" and therefore a legitimate intelligence-gathering tool.

**Target: Human Diversity**

COINTELPRO was a war not just on dissent but on human diversity itself. Many of the tactics used to fracture political coalitions directly interfered with the basic process by which people of differing backgrounds, races, and political inclinations organize themselves. To keep its legion enemies off balance, the Bureau constantly whispered resentment of the different and unorthodox into the ears of college administrators, political comrades, anyone who might use such misinformation for disruptive purposes.

The Bureau promoted intolerance on college campuses, using administrators to curtail or cancel utterly harmless group activities. Dozens of colleges, from Arizona State University to Harvard, were re-educated according to the Bureau's prejudicial pedagogy on individuals whose affiliation once put them on the House Un-American Activities Committee's "subversives" list. Using this "public source data," the Bureau sought to "neutralize" the effect of scheduled speakers and teachers eligible for tenure. To accomplish this, the Bureau once ordered 6000 copies of the "Anarcho-Communist Coalition" for mailings. The pamphlet was written by the ultra-right American Security Council.

The [COINTELPRO] documents are shot through with evidence of a far reaching campaign to narrow the spectrum of thought by extensively manipulating major American institutions. Besides the communications and educational process, the Bureau also covertly influenced labor unions, state legislatures, office of the governor, and other federal agencies. Though far right groups might seem to be the Bureau's natural allies, the FBI fooled with some of them, too. In the case of Breakthrough, a group described by the Bureau as "militantly anti-communist" was covertly re-molded to fit the FBI's designs. To wit: "Operation Breakthrough was a plan to "take over and disrupt" the group.

Jews and blacks were frequent targets of the FBI's vilification campaign. For years, Jewish members of the CPUSA were hounded by articles like "Soviet Aims to Destroy the Identity of its Jews." Many of these mailings were dismissed as capitalist propaganda and articles shipped to the "wavering" member were likely to have a limited impact. Spreading racism was also a common Bureau tactic throughout the 60's. The National Association for the Advancement of Colored People and the Congress on Racial Equality were both piqued by the FBI's behind-the-scenes shenanigans.

The FBI's most notoriously racist operation was the one conducted against the Black Panther Party, listed as the foremost among the Bureau-designated "Black Nationalist-Hate Groups." Under this program, the FBI headquarters laid out a comprehensive plan, which had it achieved its goals, would have decimated the group. Local SAC's were instructed to starve the group culturally and politically, neutralizing Panther leaders, shattering coalitions, isolating the group from its natural ghetto constituency, and disillusioning sympathetic young blacks. But the FBI's racism is most explicit where it cautioned against any mixing of the races whatsoever:

Prevent militant black nationalists groups and leaders from gaining respectability [FBI's emphasis]. They must be discredited to the white community, both the responsible community and the "liberals" who have vestiges of sympathy for militant black nationalists simply because they are Negroes."

The FBI was never above using debasing ridicule as a way to disorganize. In a memo dated March 21, 1965, Hoover's chief aid seemed to be gloating over a cartoon [that] mocked the Communist Party's basic principle of struggle against social class biases. Depicted is a manager from a Cleveland sausage factory firing a worker who is his party superior. Though the character in the picture was drawn in lifeless shades of gray-flannel-suit, the piece of hack art created a very real imbroglio. The cartoon went crashing through local party channels causing rage, embarrassment, and culminating in the controversial removal of the CP's Ohio Chairman.

Through Operation Ridicule, the Bureau institutionalized its pranksterism and saw an opportunity to widen the much heralded generation gap into a chasm by portraying student activists as youthful profligates in newspaper articles and letters to the students' parents. But the rise of anti-establishment norms among the young went beyond the political, presenting a special challenge to COINTELPRO. One agent wrote:

"It is felt that the nonconformism in dress and the use of obscenities and drugs tend to negate any attempt to hold these people up to ridicule. The American press has been doing this with no apparent curtailment of New Left activities. It is not felt just plain immorality means anything to them."

## COINTELPRO and Beyond

COINTELPRO was nothing if not vast. In terms of its tactics arsenal, the number of groups targeted, its manipulation of certain major American institutions, and simple longevity of the program, COINTELPRO has few equals in the annals of domestic secret police forces.

But this is only part of what the tomes of the documents reveal. They also offer a glimpse into the qualitative impact the program had on the movement building for social, economic and political change, especially during the last decade. COINTELPRO warped opinions about scores of civil rights and anti-war groups. Of course, many political people who came under Bureau siege encourage the kind of criticism and spirited debate which often leads to factionalizing. But the Bureau took dissension and made a cult out of it. Not only did it exaggerate pre-existing feuds but it manufactured them. In this way COINTELPRO helped form divisive mis-perceptions by left groups of themselves even as it polarized the public from the left generally. To this extent, according to the proposition that history is inseparably human events and our interpretation of them, COINTELPRO hangs like a black cloud over the past generation's movements for a better society.

But COINTELPRO did not end on April 27, 1971 as the FBI promised. The documents themselves prove it, such as the one dated a month later which reported that the New Haven Black Panthers could be arrested at any time. Now, almost seven years later, organizations like the Panthers and the American Indian Movement are still enmeshed in legal wranglings with COINTELPRO overtones. The memos announcing COINTELPRO's end also allowed for its perpetuation. The program was discontinued, said the memo to all SACs, "to afford additional security to our sensitive operations. Recommendations will be considered on an individual basis."

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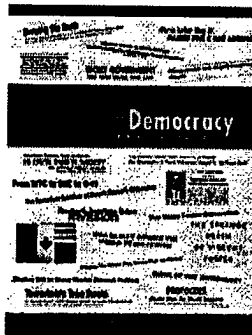


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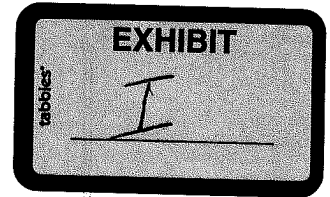


#### Conspiracy Theories, Demonization, & Scapegoating

Does government healthcare mandate euthanasia for Grandma? Was Obama really born in Kenya and therefore an illegal President? How do right-wing political pundits contribute to the recent rash of violence linked to White supremacist ideology? Political Research Associates Senior Researcher Chip Berlet addresses these questions and more in his most recent work, *Toxic to Democracy: Conspiracy Theories, Demonization, and Scapegoating*.

*Toxic to Democracy* sheds light on the tenacity of conspiracy theories in American politics and the corrosive use of demonizing language that scapegoats certain groups. With the nation at a crossroads—the election of a Black President reveals both progress and backlash—this report is indispensable to understanding how right-wing pundits and militants alike are making sense of our world.

New Report! Marriage as a Cure for Poverty?  
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By Jean V. Hardisty

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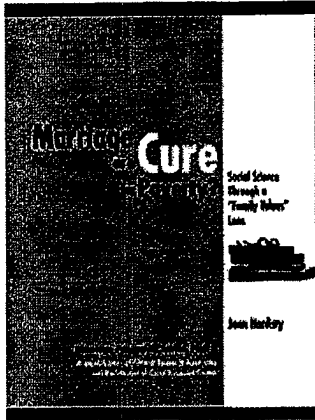
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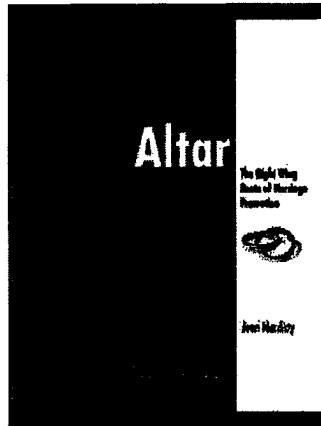
Dr. Jean V. Hardisty, founding director of Political Research Associates, exposes the questionable social science justifying George W. Bush's campaign to promote marriage as a cure for poverty. Rightist academics and think tank researchers ignore data showing that pushing low-income women and men to marry might actually diminish a low income woman's chances of rising out of poverty, and they rely on evidence and reasoning that do not meet scholarly standards.

"Even as the government defunded welfare programs, it diverted funding to experimental programs not supported by sound social science research," Dr. Hardisty writes.

The report is a companion to Dr. Hardisty's earlier report *Pushed to the Altar: The Right Wing Roots of Marriage Promotion*. Together they provide a blueprint of the Bush legacies that an Obama Administration must dismantle so that poverty fighting tactics are no longer in thrall to right-wing ideologies suggesting that a family is not complete without a father.

### **Pushed to the Altar: The Right Wing Roots of Marriage Promotion**

The George W. Bush Administration has abandoned proven poverty reduction strategies and instead is encouraging women - especially welfare recipients - to marry their way out of poverty. This groundbreaking new report by PRA President Emerita, Dr. Jean Hardisty, traces the influence of right-wing fatherhood groups and Christian Right organizations on the Administration's "marriage promotion" programs, and the channeling of millions of federal dollars back to these groups despite rules guiding the separation of church and state. Jointly published by Political Research Associates and the Women of Color Resource Center.



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