Scare Tactics: Ashcroft's Phony 'War on Terrorism'

by Edward Spannaus

Once described as America's "de facto Minister of Fear," Attorney General John Ashcroft fit that description in a statement issued on March 4, immediately after the conviction of three defendants in the "Virginia Jihad" case. Ashcroft declared: "Today, Americans get a glimpse of what is hiding in the shadows. Terrorists recruit, train, and finance *jihad* in America."

The truth is that Ashcroft's "war on terrorism" gives no such glimpse; it is a gigantic dud. The blunderbus tools given by Congress to the Justice Department have enabled Ashcroft and Co. to use the threat of draconian prison sentences to force defendants to plead guilty to offenses that they may or may have not committed. As a result, the Justice Department can point to hundreds of convictions in "terrorism" cases—almost none of which have anything to do with protecting the United States from real terrorism.

By and large, U.S. law enforcement and intelligence agents either don't know how to, or don't want to, look at the actual networks controlling and directing terrorism, preferring to focus on such diversions as wholesale roundups of Muslims, and individuals who at worst, are peripheral, minor-league players. The recent Madrid bombings should remind us once again, that large-scale terrorist events are orchestrated from the top by Synarchist financial and intelligence networks, and will never be solved or prevented by working from the ground up. The misdirection by Spanish and other authorities pointing at ETA or al-Qaeda, masks the neo-fascist networks which actually carried out the Madrid bombings. Likewise, the Bush Administration's monomaniacal fixation on "Islamic terrorists" has led to a gutting and diversion of critical law enforcement and intelligence resources vital for a genuine defense against terrorism.

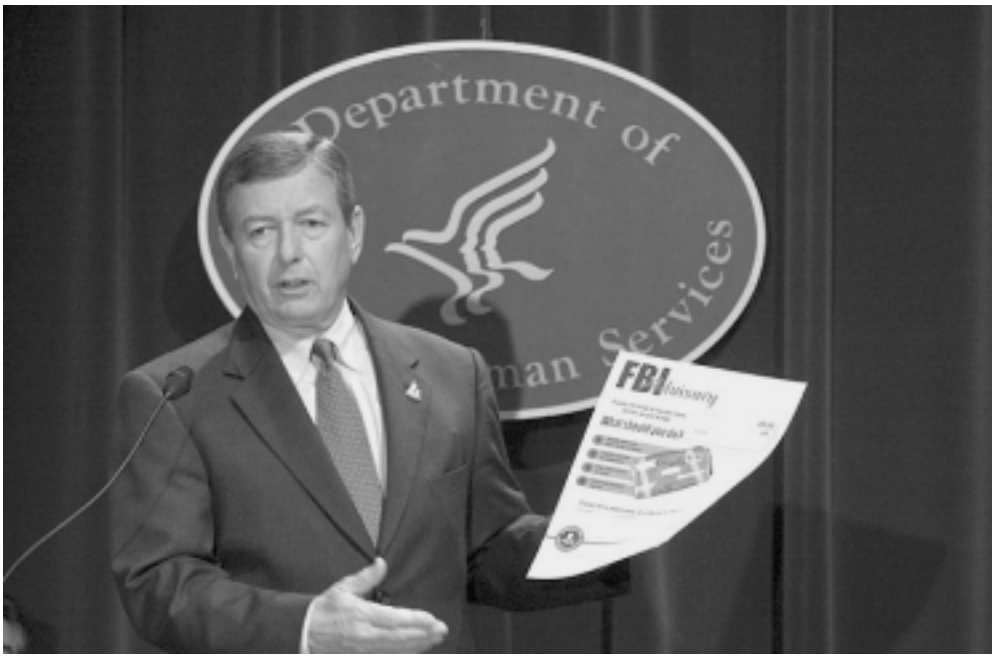
Convictions Without Trials

The fraud of Ashcroft's "war on terrorism" was dramatically demonstrated in December, when a research institute associated with Syracuse University, the Transactional Records Access Clearinghouse (TRAC), published a study which blew a major hole in Ashcroft's scare campaign about "Islamic terrorists" and "sleeper cells" inside the United States. The study showed that there had been a sharp increase in the number of convictions in serious terrorism cases in the two years following the 9/11 attacks, from 96 for the two years prior to September 2001, to 341 for the two years after. What was most surprising about the Syracuse study was what it showed about sentences. Even when narrowed down to the most serious cases, involving international terrorism, for which there were 184 convictions, the median sentence was 14 days! Only three individuals received sentences of five years or more. (As more cases go to completion, the number of longer sentences is likely to increase.)

The fact is, that almost all "terrorism" cases are disposed of through plea bargains. Even though the Constitution guarantees to everyone tried in U.S. courts the right to a jury trial, the right to confront their accusers, to test the evidence against them, and to summon witnesses on their own behalf, these rights are seldom exercised.

The incentive to plead guilty—whether one is innocent or guilty of the offenses charged—is heavy indeed: The price of going to trial can be the difference between an effective life sentence at trial; or far, far less for a guilty plea which helps the Justice Department rack up "conviction" statistics.

And in the aftermath of the 9/11 attacks, the Justice Department wields an even more drastic threat: that of classifying a defendant as an "enemy combatant" and transferring



Attorney General John Ashcroft's much-trumpeted convictions of "international terrorists" have resulted in an average sentence of 14 days in prison! Almost all the defendants plea-bargained, under threat of "enemy combatant" designation; two cases have gone to trial with one major embarrassment for DoJ.

him out of the civilian court system into a military prison, where the suspect can languish in a legal "black hole" for years, without being charged or tried.

The Justice Department does not make available statistics on the number of pleas versus trials in post-9/11 terrorism cases. When this reporter attempted to obtain such data from the Justice Department, he was shunted from one office to another, until finally being told that a formal Freedom of Information Act request must be filed for such information.

The 'Dirty Bomb' Case

The first use of the "enemy combatant" classification to circumvent the civilian courts was in the case of José Padilla. A former member of a street gang and an American citizen, he was arrested at Chicago's O'Hare airport on May 8, 2002 on a material witness warrant, and transferred to the Federal detention center in New York City. The court appointed a lawyer to represent him, who promptly filed a motion to vacate the material witness warrant. A hearing on the motion was scheduled for June 11, at which time the government would have to disclose its case against Padilla, and whether it intended to bring charges against him. Two days before the scheduled hearing, President Bush signed an order classifying Padilla as an "enemy combatant," and ordering the Justice Department to transfer custody of the defendant to the Secretary of Defense. Padilla was transferred to the high-security Naval Brig at Charleston, South Carolina, where he has been held incommunicado ever since.

The next day, June 10, Ashcroft held a press conference (in Moscow, no less) to announce that "We have captured a known terrorist who was exploring a plan to build and explode a radiological dispersion device, or 'dirty bomb,' in the United States." Ashcroft boasted that he had recommended to the President that Padilla be classified an "enemy combatant" and transferred to military custody. It was later conceded by DOD and FBI officials that there was "no actual plot" to which the government could tie Padilla; it was further admitted that he was not a "top" figure in al-Qaeda, or any other known terrorist group. But what was done to Padilla had its intended shock effect. For the first time, a U.S. citizen, arrested on U.S. soil, was removed from the Federal court system and thrown into a military prison, with his Constitutional rights thrown out the window.

The Padilla precedent was used with its intended effect, in the first major "sleeper cell" case, that of the "Lackawanna Six," which broke a few months later, on the first anniversary of the Sept. 11 attacks. Six young Yemeni-Americans, who had grown up in upstate New York, were recruited to travel to Afghanistan to a low-level al-Qaeda military training camp, in the Spring of 2001 (before 9/11), convinced that this was their religious obligation. They quickly realized they were in over their heads, and returned at the completion of, or even before finishing, their six-week elementary training course. They were closely monitored by Federal agents, who hyped the case so much after 9/11, that Federal officials—up to President Bush—imagined feverishly that they were dealing with a dangerous al-Qaeda "sleeper cell."

One of the six was detained on his wedding night in Saudi Arabia on Sept. 11 (CIA analysts having determined that the term "wedding" in an e-mail was code for an impending attack). The others were picked up in the Buffalo, New York area on Sept. 13-14, 2002. The Justice Department announced that it had "identified, investigated and disrupted an al-Qaeda-trained, terrorist cell on American soil."

Despite the overheated rhetoric surrounding the case, no evidence was ever presented that the six (dubbed the "hip-hop terrorists" by some, for their Americanized ways) planned any terrorism against the United States; and even the local U.S. Attorney refused to describe them as a terrorist cell. Lackawanna's police chief was quoted as saying that if they were a sleeper call, "they were deep asleep." Seeing how weak the government's case was, most of the lawyers for the defendants wanted to go to trial. But, said one: "We had to worry about the defendants being whisked out of the courtroom and declared enemy combatants if the case started going well for us," said a defense lawyer. "So we just ran up the white flag and folded."

The Brooklyn Bridge Hoax

Around the same time, the same thing was being done in the bizarre case of Ohio truck driver Iyman Faris, a U.S. citizen, who was charged with an improbable scheme to bring down the Brooklyn Bridge. On May 1, 2003, Faris pled guilty to providing material support to a terrorist organization, and conspiracy, under the threat of being declared an enemy combatant and locked up indefinitely. Faris told FBI agents during an interrogation that the "statement of facts" he had signed were all lies, and at his sentencing hearing he stated that he had pled guilty because of pressure from prosecutors and Federal agents. He was not allowed to withdraw his plea.

Shortly after that came the little-known case of Ali Saleh Kahlan Al-Marri, a Qatari student pursuing a master's degree at Bradley University in Peoria, Illinois, who had returned to America on Sept. 10, 2001. He was arrested on a material witness warrant three months after 9/11. In January 2002, he was charged with credit-card fraud, to which he pled not guilty. Federal prosecutors kept pressuring him to cooperate. When he refused, and continued to assert his innocence, Al-Marri was charged with additional, non-terrorism counts in a second indictment in January 2003, centering around false statements in a bank application.

On June 20, 2003, the court scheduled an evidentiary hearing on various pre-trial defense motions, requiring the government to provide a bill of particulars and some specific documentation. Three days later, the government presented the court with an order signed by the President, designating Al-Marri as an enemy combatant. The indictment was dismissed, and Al-Marri was sent to the Naval Brig at Charleston, where he remains today, incommunicado.

A later case was that of the "Portland Seven," likewise identified by Ashcroft as a "terrorist sleeper cell" in which all six of the defendants who were apprehended pled guilty to lesser charges, and received sentences ranging from 3-18 years. Some were threatened with life sentences under the "material support to terrorists" statute. (This law, passed as part of the 1996 anti-terrorism law, and further strengthened by the Patriot Act, is an extremely powerful and flexible weapon for prosecutors, with its penalty of 15 years to life imprisonment.) The Portland defendants pled guilty to planning to go to Afghanistan to fight along side the Taliban against U.S. forces. Contrary to Ashcroft's "sleeper cell" hype, no evidence was presented of any act of terrorism planned against the United States.

The Two That Went to Trial

With the Justice Department wielding the weapons of life sentences, or indefinite military detentions, it is not surprising that trials have become extremely rare in such cases. It appears that only two major cases have even gone to trial. The first of these was that of the Detroit "sleeper cell." Four immigrants from Morocco were charged with one count of conspiracy to provide material support to a terrorist organization, and three counts of document fraud. A fifth man, Youssef Hmimssa, pled guilty and became the government's chief witness against the others. Last June, after a trial, two defendants were convicted on the terrorism conspiracy charge, and the other two were acquitted on the terrorism charge (one of those was convicted on a non-terrorism fraud count). The prosecution's victory—partial as it was—was hailed by Ashcroft as a major one.

But since then, the case has totally blown up, with the judge now threatening to throw out the convictions because of prosecutorial misconduct and withholding of evidence.

Already during the trial, the government's Department's star witness, Hmimsaa, was shown to have lied in his testimony. An inmate, Omar Shishani, who had been in a jail cell next to Hmimssa, told the court that he had asked Hmimssa whether Hmimssa knew if the four defendants were tied to terrorism. Hmimssa reportedly answered: "I don't know; I just want to get revenge because they stole from me." Shinsani also testified that Hmimssa had told him that he could get a better deal by giving the prosecutors what they wanted. "He told me to say anything, do anything, bring names," Shansani testified; "then you can get off the hook."

Before this, Ashcroft had publicly praised Hmimssa, calling his cooperation a "critical tool" in combatting terrorism. In response, the judge angrily warned the Attorney General that he was subject to the court's order which directs lawyers not to discuss the case in public. "I was distressed to see the Attorney General commenting in the middle of a trial about the credibility of a witness who had just gotten off the stand," U.S. District Judge Gerald Rosen said. In a later proceeding, Judge Rosen formally reprimanded Ashcroft, who had to apologize to the court.

Then in further post-trial proceedings in December, it was disclosed that prosecutors had failed to disclose additional evidence from another inmate who had been in jail with Hmimssa, who said that Hmimssa had bragged about lying to the FBI and Secret Service.

Meanwhile, the two chief prosecutors were removed from the case for misconduct, including withholding of evidence from the defense. Since then, additional classified information that had been improperly withheld, has been disclosed to

the court; teams of investigators from the FBI and the Justice Department are looking into the government's conduct of the case; and Judge Rosen is considering throwing the convictions out altogether and ordering a new trial.

The only other case to go to trial is the so-called "Virginia Jihad" case.

Eleven Muslim men (most of whom are American citizens, including many college graduates and some U.S. military veterans) were originally indicted in this case, charged with seeking to fight with the Muslim group Lashkar-e-Toiba, which is trying to drive India out of Kashmir. One defendant was charged with seeking to fight with the Taliban and al-Qaeda against the United States, a charge which lawyers believe was thrown in by prosecutors largely for its inflammatory effect on public opinion.

Six of the defendants entered guilty pleas, under heavy pressure of decades-long prison sentences. Those who pled are obligated to cooperate with the government and will probably end up serving sentences in a range of two to ten years. The other five insisted, courageously, on going to trial, even in the face of extremely long sentences. They opted to be tried by a judge in a "bench trial," rather than by a Virginia jury. Of the five who went to trial, two were acquitted on all counts against them, while the other three were convicted on a number of charges.

Trial for four of the five commenced on Feb. 9. One defendant was acquitted by Federal Judge Leonie Brinkema on Feb. 20, after the prosecution had concluded its case; she also dismissed some counts for the others. On March 4, three of the defendants were convicted on a number of counts and acquitted on some others. The one defendant charged with conspiracy to provide material support to the Taliban and al-Qaeda was acquitted on the al-Qaeda count, but convicted on the Taliban count—even though he had never made it to Afghanistan. The final defendant was acquitted on March 9, after a separate, one-day bench trial.

As a result of mandatory-minimum sentencing laws pertaining to weapons, two of those convicted could be sentenced to 30-40 years, and to life, respectively—for firing weapons in Pakistan! Once again, as lawyers emphasize, none of the defendants were even charged with any planned acts of terrorism against the United States. "This prosecution is a fraud on the American people by the Attorney General," one defense lawyer told *EIR*.

Defense lawyers and supporters of the defendants have accused the Justice Department of vastly "overcharging" the case, throwing everything they could at the defendants, on the assumption that some of it would stick.

But all in all, considering the outcome of the trials in Virginia and Michigan—with four out of nine defendants acquitted on terrorism charges—and with the Michigan convictions now in jeopardy, it's clear why Ashcroft and the Justice Department will go to extraordinary lengths to avoid public trials, which further expose the shallowness and fraud of their phony war on terrorism.

House Finally Forced to Hearing on Halliburton

by Carl Osgood

After months of resistance, the Republican-controlled House Government Reform Committee was compelled to hold a March 11 oversight hearing on contracting in Iraq, focussing on overcharges and price-gouging by Dick Cheney's Halliburton Corporation. The hearing, in front of an overflow audience and television cameras, lasted almost four hours, concluding shortly before 6:00 p.m. when committee chairman Tom Davis (R-Va.) was forced to concede, "It looks to me like something went wrong here." That the hearing took place at all was a victory for the LaRouche movement and also for the handful of members of Congress, particularly Rep. Henry Waxman (D-Calif.), who have consistently pressed the Halliburton issue and dug out more and more damaging information.

Demonstrating the climate the LaRouche movement has created, Davis began and ended the question-and-answer period with references to Dick Cheney. To undercut the charges being levelled by Waxman and others, Davis began the question period by asking the seven panelists—all Department of Defense officials, including three uniformed generals, and Comptroller Dov Zakheim—whether they had ever had "any discussions with the Office of the Vice President" concerning the awarding of any contract, and whether the fact that the Vice President is a former officer of Halliburton influenced the awarding of any contract. In his closing statement, Davis again commented that "it so happens that the Vice President is a past CEO of one of the companies" subject to the hearing.

Waxman had circulated a memo the day before to the news media, on newly obtained information on Halliburton's contracts in Iraq. On the morning of the hearing, there were stories in all major newspapers on Halliburton's special treatment in Iraq. One major element of the new materials, which figured prominently in the hearing, was a finding by the Defense Contract Audit Agency(DCAA), in a Dec. 31 audit, that there were "significant" and "systemic" deficiencies in the way Halliburton estimates and validates costs. The DCAA audit concluded that "these deficiencies could adversely affect the organization's ability to propose subcontract costs in a manner consistent with applicable government contract laws and regulations." This finding caused the DCAA, in a Jan. 13, 2004 memo, to recommend that the Defense Contract Management Agency "contact us to ascertain the status" of Halliburton subsidiary Brown and Root Services'(BRS) "estimating system, before entering into future negotiations."

Yet, a mere three days later, despite this explicit warning,