

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

**November 23, 2004
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I. TAKE ACTION

• ORGANIZE A SHOWING OF THE FILM "UNCONSTITUTIONAL" IN YOUR TOWN

Robert Greenwald's film "Unconstitutional: The War On Our Civil Liberties" is a terrific overview of the post 9/11 costs to our freedoms. If you organize a showing of this 1 hour 10 minutes long film, we will provide you with a copy of the DVD and a speaker to follow it. This is a great way to kick off a resolution drive in your community. Contact 617 482-3170 x 314 or email nancy@aclu-mass.org for more information.

II. RIGHTSWATCH

A. A. EXECUTIVE ACTIONS

• FOUR MORE YEARS WITH THE NEO-CONS IN COMMAND; LOYALISTS CIRCLE THE WAGONS

With the election results in, the Bush Administration has been shedding dissenting voices and bringing to the fore Bush loyalists such as neo-con Star Wars proponent Stephen Hadley. Hadley has been earmarked to be the new national security adviser as "Bush's Tutor and Disciple" (*New York Times*, November 17), Condoleezza Rice takes over the State Department from "Good Soldier" (*NYT*, November 16) Colin Powell. A "purge" at the CIA has been undertaken by its new head, Bush loyalist Porter Goss, forcing out high level officials at the agency who were believed to be too cautious on the matter of waging war against Iraq, and might have been responsible for some damaging leaks. According to the November 16 *New York Times*, tension between the White House and CIA had grown significantly "after news reports disclosed the existence of a new National Intelligence Estimate that portrayed a dark future for Iraq in the coming 18 months." The November 15th *Newsweek* reports that the White House gave Goss instructions "to get rid of those soft leakers and liberal Democrats. The CIA is looked on by the White House as a hotbed of liberals and people who have been obstructing the president's agenda." *The New York Times* (November 17 & 18) made public the contents of an internal memorandum in which Goss told CIA employees that he intended "to clarify beyond doubt the rules of the road. We support the administration and its policies in our work. As agency employees we do not identify with, support or champion opposition to the administration or its policies." As experienced and widely-respected operatives take their leave, morale at the agency is reported to be plummeting.

• FOUR MORE YEARS? TWO CANDIDATES SAY MAYBE NOT

On November 22 the presidential candidates for the Green and Libertarian parties filed a federal lawsuit to force a recount of Ohio ballots, and the state Democratic Party said it would join the suit. In Ohio the presidential election was marred by reports of voter

intimidation, large numbers of discarded ballots, targeted disenfranchisement of African American voters, and visible and perhaps invisible problems with electronic voting machines. Twenty-nine precincts in Cuyahoga County, Ohio reported votes cast in excess of the number of registered voters, totaling 93,136 excess votes in all (see the official website of the Cuyahoga county election board at <http://boe.cuyahogacounty.us/boe/results/currentresults1.htm>). Kerry lost Ohio by 136,000 votes according to the unofficial count. On November 16 Ohio officials announced that over 80 percent of the state's 155,337 provisional ballots are valid, but it is not yet known how many were cast for Bush and how many for Kerry. The Secretary of State's office says that results will be certified by December 6. For a report on suspicious returns for Bush from e-voting in Florida, see the report by UC Berkeley number crunchers and sociologists at <http://ucdata.berkeley.edu/>. Across the country more than 40 million voters used about 175,000 electronic voting machines, leading to at least 900 reports of voting problems according to the Election Verification Project (*Boston Globe*, November 19). According to the Project's Kim Alexander, without a paper trail it was impossible to say whether the machines were counting votes correctly: "If this were the banking industry, the gambling industry, there would be standards for making sure the software was working right."

• **ASHCROFT PRAISES PATRIOT ACT FOR "KEEPING AMERICANS SAFE AND FREE"**

If the FBI is to be believed, a high level threat from terrorists extends to inauguration day. But in his letter of resignation to President Bush, Ashcroft wrote that "the objective of securing the safety of Americans from crime and terror has been achieved" (quoted in Joan Vennoch's "Ashcroft's anti-rights legacy," *Boston Globe*, Nov. 11). Shortly before Ashcroft announced his decision to ride into the sunset, he marked the third anniversary of the USA PATRIOT Act by terming it "Wise Beyond Its Years" in an op ed in *The Wall Street Journal* (October 26). Not only did it keep Americans "safe and free", but it "has proved its usefulness beyond the war on terrorism in protecting our most vulnerable citizens from harm. During the course of drafting and debating the Patriot Act in 2001, Congress wisely decided to provide some investigative tools for all criminal investigations....The Patriot Act has helped law enforcement achieve more safety and security for the American people without any abuse of civil liberties...their freedom is enhanced because of the president's resolve and leadership, the foresight of Congress in enacting these vital tools, and the courageous men and women on the front lines who have used the Patriot Act to protect our lives and liberties." In his farewell to his staff at the Justice Department, Ashcroft gave credit for the fact that "each day the Sun rises on a free and safe America" to a Higher Power than the PATRIOT Act: "The Builder of our city and the Author of our freedom has stood beside us. He stands beside us still."

The New York Times had a different take on the Attorney General's performance. A November 11th editorial stated: "Now that he's leaving, we hope that Mr. Bush will take the opportunity to put the Justice Department back in the business of enforcing the laws evenhandedly and upholding Americans' constitutional rights....The next attorney general will have to tackle the great undiscussed failing of Mr. Ashcroft's Justice Department: its ineffectiveness. The investigation and prosecution of domestic terrorism cases have produced little since 9/11 except dismissed charges, misidentified

suspects and minor convictions of minor figures. The long-discussed upgrade of the FBI's computer system is taking too long. Communication within the FBI and between it and the other intelligence agencies has improved, but not nearly enough. There are other issues that Mr. Ashcroft chose to politicize that could easily be handled, and resolved, in a bipartisan manner. One is the Patriot Act...it's now clear that not all of these powers are needed, and that some of them have eroded Americans' civil liberties beyond any reasonable balance with national security. The Justice Department's defense that it has not used some of its powers...only confirms the need to take them off the books."

• **NOMINEE HAS DISMAL RECORD ON HUMAN RIGHTS, DEATH PENALTY**

Sticklers for the rule of law reacted with dismay at the news that President Bush was nominating White House counsel Alberto Gonzales to fill John Ashcroft's shoes. A 49-year-old long-time Bush confidant, Gonzales helped prepare legal memoranda that paved the way for the abuse and torture at Guantanamo Bay and US jails in Iraq, including Abu Ghraib. In his memo to the White House dated January 25, 2002, Gonzales set aside US treaty obligations under the Geneva Conventions, claiming that the nature of the war on terrorism places a high premium on "the ability to quickly obtain information from captured terrorists...In my judgment, this new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions." He championed the Administration's policy of consigning "enemy combatants" to legal limbo, and helped draft an August 2002 memo to the president which asserted that laws prohibiting torture do "not apply to the President's detention and interrogation of enemy combatants." His public relations spin was somewhat different. In a May 15, 2004 *New York Times* op ed, Gonzales wrote that although neither Al Qaeda suspects nor the Taliban qualified as prisoners of war, "President Bush recognized that our nation will continue to be a strong supporter of the Geneva treaties" and that it was US policy to treat detainees at Guantanamo "humanely and, to the extent appropriate and consistent with military necessity, in keeping with the principles of the Third Geneva Convention." He went on to state that the US recognizes that the Geneva Conventions "are binding in the war for the liberation of Iraq... the abuse of any prisoner is abhorrent." Gonzales had been a partner in the Houston law firm that represented Enron, and then from 1995-1997 became chief legal counsel for Governor George W. Bush in Texas. In that capacity he prepared 57 death penalty memoranda for the Governor which, according to Alan Berlow writing in *The Atlantic Monthly*, "repeatedly failed to apprise the governor of crucial issues in the cases at hand: ineffective counsel, conflict of interest, mitigating evidence, even actual evidence of innocence." As governor, Bush presided over the execution of 150 men and two women in Texas, "a record unmatched by any other governor in modern American history."

• **WHITE HOUSE: GENEVA CONVENTIONS DO NOT APPLY TO ALL IRAQ DETAINEES**

It is illegal under Article 49 of the Fourth Geneva Convention to move a prisoner outside a country for interrogation. Even as Alberto Gonzales was asserting in his *New York Times* piece that the Geneva Conventions applied in Iraq, he must have been aware of (or perhaps authored?) a March 2004 draft legal memorandum stating that certain prisoners captured in Iraq could be removed for interrogation elsewhere -- as indeed

had been done by the CIA at least a dozen times over the past eighteen months, according to the October 26, 2004 *New York Times*. The *Times* speculated that some may have been handed over for interrogation to "friendly governments, like those of Egypt or Saudi Arabia, in a procedure known as rendition" or they may be in one of many "secret American-run sites around the world." On October 25, 2004 the White House announced that according to a new legal opinion, some non-Iraqi prisoners captured in Iraq were not in fact entitled to Geneva Convention protections.

- **HOW DID THE US STRAY SO FAR FROM ESTABLISHED MILITARY AND INTERNATIONAL LAW?**

In two probing 2-page plus articles, *The New York Times* (October 24 and 25) described how "a small group of White House officials worked in great secrecy to devise a new system of justice for the new war they declared on terrorism." Vice-president Cheney was "the driving force behind the policy", and White House counsel Alberto Gonzales, Deputy White House counsel Timothy Flanigan and counsel to the vice-president David Addington were his right-hand men. John Gordon, a former deputy CIA director, stated that "what several of us were concerned about was due process...there was great concern that we were setting up a process that was contrary to our own ideals." The report claims that the State Department was kept out of the loop and "Congressional opposition melted in the face of opinion polls showing strong support for the president's measures against terrorism," leaving uniformed military lawyers to "remind the civilians that there was a Constitution that we had to pay attention to." Three years later not a single terrorist suspect has been prosecuted under the legal approach to fighting terrorism that they devised. Meanwhile, construction will soon begin on a second permanent prison compound at Guantanamo to house 200 additional high-security detainees.

- **"HARSH AND COERCIVE" INTERROGATION TECHNIQUES USED AT GUANTANAMO**

Although the military has officially claimed that episodes of mistreatment at Guantanamo were limited and sporadic, military guards, intelligence agents and others with access to the prison have given *The New York Times* (October 17, 2004) a picture of systematic abuse during interrogations. Prisoners were regularly stripped, shackled hand and foot to bolts in the floor, while they were forced to endure 14-hour-long sessions of strobe lights and "screamingly loud rock and rap music played through two close loudspeakers, while the air-conditioning was turned up to maximum levels." Detainees were also subjected to sleep deprivation. Prisoners who cooperated during interrogation were given such "rewards" as being able to relax in "the love shack," where they had access to books, magazines and R-rated movies. They occasionally were treated to McDonald's hamburgers and milkshakes. On November 13th *The New York Times* reported that additional cases of abuse at Guantanamo had come to light, with detainees being shown pornographic photos in the "Hell Room," being taunted in sexually humiliating ways, being forced to witness sexual acts and being physically mistreated.

- **MILITARY COMMISSIONS IN TATTERS, WHILE REVIEW PANELS DISPENSE "JUSTICE"**

Before a federal judge ordered a halt to military commissions on Guantanamo (see "In the Courts" below), they were barely functional. Three of the six officers who were presiding in trials of four alleged supporters of Al Qaeda were dismissed by retired Army General John Altenburg overseeing the trials on grounds of potential bias. The defense attorneys have asked that two other officers be dismissed on similar grounds, and that the presiding officer, Army Colonel Peter Brownback -- the only member with any legal training -- be removed on grounds that he was a close friend of General Altenburg and that he had lied when he denied saying that defendants were not entitled to a speedy trial. When the lawyers played an audiotape of Col. Brownback saying just that, General Altenburg admitted that Brownback had been "too casual with his remarks" but maintained this was not grounds for dismissal (October 22, 2004). The military commissions have faced also translation and procedural problems. Joshua Dratel, a civilian lawyer representing the Australian David Hicks in his trial before the commission, has denounced the proceedings as being "not just on a different island from the rest of the world but a different planet" (*New York Times*, November 8). He was reacting to the request of the three remaining commissioners to see evidence about Hicks compiled by a "combatant status review panel". These hastily assembled panels were the Pentagon's response to the US Supreme Court June 2004 ruling that detainees should be given access to the federal courts. Detainees do not have the assistance of lawyers when they appear before the panel, and can neither confront accusers nor see most of the evidence against him because it is classified. By November 8 the panels had reviewed the cases of 320 Guantanamo detainees, a third of whom refused to appear in person. They have passed judgment on 104, and found that all but one were properly labeled "enemy combatants."

- **FBI HAD BEEN AWARE OF ABUSE AT ABU GHRAIB**

In response to an ACLU lawsuit, a document was made public in late October that listed observations made by FBI counterterrorism agents when they visited Abu Ghraib prison in 2003. They did not think the treatment -- which included inmates being hooded, stripped naked, handcuffed to rails, and deprived of sleep -- was abusive or worth reporting, since it was similar to what they had seen in US prisons.

- **UN CONDEMNS USE OF TORTURE IN WAR AGAINST TERRORISM**

Without singling out the US by name, Theo van Boven, director of reports on torture for the United Nations, issued a report expressing serious concerns over "allegations of attempts to circumvent the absolute nature of the prohibition of torture and other forms of ill treatment in the name of countering terrorism, particularly in relation to the interrogation and conditions of detention of prisoners...No executive, legislative, administrative or judicial measure authorizing recourse to torture and cruel, inhuman or degrading treatment or punishment can be considered as legal under international law." Such methods and the use of secret detention sites are punishable crimes, his report states (*New York Times*, October 28).

- **CONGRESSIONAL REPORT DETAILS BUSH ADMINISTRATION'S SECRECY OBSESSION**

A 90-page report "Secrecy in the Bush Administration" has been compiled under the leadership of Rep. Henry Waxman of California, the ranking Democrat on the

Committee on Government Reform (see http://democrats.reformhouse.gov/features/secret_report/). The report finds that "there has been a consistent pattern in the Administration's actions: laws that are designed to promote public access to information have been undermined, while laws that authorize the government to withhold information or to operate in secret have repeatedly been expanded. The cumulative result is an unprecedented assault on the principle of open government."

- **ENFORCEMENT OF CIVIL RIGHTS LAWS IN STEEP DECLINE**

According to a report compiled by Syracuse University's Transactional Records Access Clearinghouse, over the past five years federal prosecutions in civil rights cases have declined to a mere 84 last year although the number of complaints about possible violations received by the Justice Department has remained at about 12,000 annually. While the total Justice Department caseload rose by about ten percent between 1999-2003, only civil rights and environmental prosecutions were down by more than one-third over that period. Prosecutions for illegal drugs (33,100) were the largest category, followed by immigration cases.

- **IRS REVIEWING TAX-EXEMPT STATUS OF THE NAACP**

Citing a speech given by NAACP head Julian Bond at its annual convention last July, the Internal Revenue Service in a letter dated October 8 said that "statements in opposition of George W. Bush for the office of presidency" might jeopardize the organization's tax-exempt status. It asked the NAACP to provide it with detailed financial information about the 2004 convention, personal information about its 64 board members and information about the speech (*New York Times*, October 29). The IRS denied any political motivation in making the request.

- **NOBEL PRIZE WINNER SUES THE US TREASURY DEPARTMENT**

On October 26 Shirin Ebadi, the Iranian 2003 winner of the Nobel Peace Prize, joined publishers, editors and translators in filing a lawsuit against the US Treasury Department. They are seeking to overturn regulations which control the import of books from Iran, Cuba and some other countries, and bar the publishing of materials "not fully created and in existence" (*New York Times*, November 16). The Iranian law professor, who is unable to publish her memoirs in Iran, had hoped to publish them in the US. "If even people like me -- those who advocate peace and dialogue -- are denied the right to publish their books in the United States with the assistance of Americans, then people will seriously question the view of the United States as a country that advocates democracy and freedom everywhere. What is the difference between the censorship in Iran and this censorship in the United States?"

- **WHY MAYFIELD WAS ARRESTED: "HUMAN ERROR" BY FBI**

According to an internal report on the arrest of Oregon lawyer Brandon Mayfield who was held in connection with the March 11, 2004 Madrid train bombing after the FBI misidentified fingerprints found at the scene, the culture of the FBI discouraged fingerprint specialists from disagreeing with their superiors. "The error was a human error and not a methodology or technology failure...once the mindset occurred with the

initial examiner, the subsequent examinations were tainted." Mr. Mayfield, a convert to Islam, is suing the government claiming his rights were violated because of his religion.

- **FBI INFORMANT SETS HIMSELF ON FIRE OUTSIDE WHITE HOUSE**

Next January Mohammed Alanssi was due to testify in a Brooklyn court against a Yemeni cleric, as the main informant in one of the largest terrorism financing cases brought by the government. Defense lawyers had tried to discredit Mr. Alnassi by saying that he often mistranslated and embellished the cleric's statements. On November 15 he set himself on fire at the gates of the White House and is now in the hospital. According to the November 17 *New York Times*, he had fallen out with the FBI after being paid about \$100,000 for luring Mohammed Ali Hassan al-Moayad from Yemen to Germany and for aiding in the arrests of as many as 20 other people. Shortly before his suicide attempt Mr. Alnassi wrote a letter to *The Washington Post* saying once he had testified "my family will be killed in Yemen, me too I will be a dead man."

- **CAPPS II MOVES OFFSHORE**

After being put on the back burner by the Transportation and Security Administration (TSA) because of an outcry over privacy concerns, the CAPPS II system is being privatized as the Bahamas-based Global Information Group. Developed at a cost of \$100 million to do data mining with the aim of assigning airplane passengers color-coded security risks, the new company intends to amass huge databases of international records and analyze them for corporations, government agencies and information services. The company will provide background checks and "terrorist risk identity assessments."

- **SECURE FLIGHT DOESN'T MOLLIFY CRITICS**

After CAPPS II failed to get off the ground, the TSA announced a new passenger pre-screening program, "Secure Flight." Under this program, passenger information will be checked against records contained in the Terrorist Screening Center Database, including expanded No-Fly lists. On November 15 the TSA issued a Final Order to airlines directing them to turn over passenger data about all their domestic passengers for the month of June 2004 in order to test Secure Flight. Critics complain that the government should not be rushing forward with this program when its existing terrorist watch lists are so flawed, and that there still is no way to correct errors and ensure passengers will be treated fairly.

- **IDENTITY CHIPS USING RADIO SIGNALS HERALD AN UNSETTLING FUTURE**

Do you want to make sure your child isn't kidnapped on the way to school? Then give him or her a computerized ID card to wear, just like 28,000 elementary school children are doing now in Texas. The Radio Frequency Identification (RFID) tag lets the school know when your child gets on and off the school bus. Of course this isn't a foolproof system, since kids might swap their ID cards -- but now that the FDA has approved the implanting of a "VeriChip" under the skin to provide swift access to medical records, a solution might be at hand. According to the November 17 *New York Times*, "advocates of the technology...see broader possibilities, such as implanting RFID tags under the skin of children to avoid problems with lost or forgotten tags. More immediately, they said,

they could see using the technology to track whether students attend individual classes." Soon we may all be required to carry the tags in passports and possibly our driver's licenses, and invisible RFID readers will be able to register our presence where ever we go. At this rate, a 24-hour mass surveillance society cannot be far away.

- **WILL "ELECTRONIC" PASSPORTS MAKE US LESS SECURE?**

Are you worried about identity theft? According to critics of the microchip-equipped passports being developed by the Department of State, it may be even more prevalent in the future than it is now. A November 22 *Boston Globe* article describes how a briefcase wired with a RFID reader could intercept personal information on the chip unless safeguards are built into the system.

B. IN THE US CONGRESS

- **INTELLIGENCE BILL DEFEATED; NOT CLEAR WHY**

With loyalty the watchword of the Bush Administration's political appointments, disloyalty was very much in evidence when the hard right of the Republican Party on November 20 sank the compromise legislation agreed by House and Senate negotiators to implement recommendations from the 9/11 Commission, despite last minute lobbying by the President. The compromise would have established a new national intelligence director who would extend control over a portion of the Pentagon's budget and personnel without being able to interfere with the military chain of command. Harsh anti-immigration provisions contained in the House version (H.R. 10) had been stripped from the compromise bill on November 19 after a month of negotiations. As reported in the November 22 *New York Times*, Judiciary Chair F. James Sensenbrenner (R-WI) was reluctant to give up the provision to create federal standards for drivers' licenses, which could have ushered in a national ID card, and Rep. Duncan Hunter (R-CA), chair of the House Armed Services Committee, opposed it on turf grounds. There are suggestions that Secretary of Defense Rumsfeld might have used back-door channels to induce the President to be tepid in his support of the compromise and that the President, reluctant to alienate 9/11 families, is privately pleased with the result.

C. IN THE COURTS

- **FEDERAL JUDGE INVALIDATES GUANTANAMO PROCEEDINGS**

On November 9 Judge James Robertson of the federal District Court of Columbia District Court ruled in the case of Guantanamo detainee Salim Ahmed Hamdan that the Bush Administration had overstepped its constitutional bounds and violated the Geneva Conventions in establishing military commissions. The news of the ruling reached Guantanamo Bay as pretrial proceedings were underway in the case of the 34-year old Yemeni and former driver for Osama bin Laden. The session was promptly recessed, while the Justice Department announced it would seek an emergency appeal of the ruling. According to Judge Robertson, Hamdan, who was detained on the battlefield in Afghanistan, should have been given a hearing by a "competent tribunal" to decide whether he was in fact a prisoner-of-war, as Article 5 of the Third Geneva Convention requires. The judge ruled that the "combatant status review" which was initiated at Guantanamo following the Supreme Court's June 2004 ruling was not sufficient, and

that the detainee must be able to see all the evidence against him, which is not permitted by either the combatant status review panels or the military commissions. Without naming Judge Robertson, outgoing Attorney General John Ashcroft declared that "intrusive judicial oversight and second-guessing of presidential determinations in these critical areas can put at risk the very security of our nation in a time of war...Courts are not equipped to execute the law. They are not accountable to the people" (*Boston Globe*, November 13).

- **FEDERAL JUDGE SAYS DETAINEES MUST BE ABLE TO CONSULT LAWYERS WITHOUT BEING MONITORED**

US District Judge Colleen Kollar-Kotelly has thrown out government claims that it needs to monitor all conversations, notes and mail between Guantanamo detainees and their lawyers. The October 20th ruling, in which the judge invokes the June 2004 Supreme Court decision on Guantanamo, came in a lawsuit filed two years ago by 12 Kuwaiti detainees, some of whom are shortly scheduled to meet their lawyers.

- **JUSTICE DEPARTMENT SIMPLY OVERLOOKS US SUPREME COURT RULING**

The Justice Department has been ignoring the June Supreme Court ruling that Guantanamo detainees were entitled to some rights, as it refuses to acknowledge that detainees should have free access to lawyers to make their cases before federal judges. Although this assertion was rejected by the US Supreme Court last June, a recent government brief states that "the notion that the US Constitution affords due process and other rights to enemy aliens captured abroad and confined outside the sovereign territory of the US is contrary to law and history." According to New York University Law Professor Anthony Amsterdam, the government's refusal to recognizing detainees' rights, including the right to a lawyer, bordered on the unethical: "It's simply amazing that they are proceeding as if those cases had not been heard before the Supreme Court and those arguments had not been heard and rejected by the court" (*New York Times*, November 1).

- **MONITORED DEFENSE ATTORNEY DENIES CONSPIRING WITH TERRORISTS**

New York defense attorney Lynne Stewart took the stand in late October to answer government charges that she had aided terrorism by relaying messages from her client, imprisoned Sheik Omar Abdel Rahman, to his followers. She faces 35 years in jail if convicted on all charges despite the fact that no evidence has been presented by prosecutors that any act of violence ever resulted from the statement from the sheik that was transmitted by attorney Stewart or by any of her other actions. Stewart said she took an "expansive view" of special prison rules she signed onto in 1997 so she could continue to do the necessary legal work to defend her client, who is being held incommunicado. The government secretly videotaped her meetings with the sheik in federal prison in Rochester, Minnesota, and recorded her phone calls with him.

- **IMPLOSION OF DETROIT TRIAL BRINGS LESSONS IN ITS WAKE**

After John Ashcroft's much-heralded breakup of an "sleeper operational combat cell" in Detroit imploded, its lessons have been emphasized by its presiding judge US District Judge Gerald Rosen. The war on terrorism is never an excuse to trample on the

Constitution, the judge asserted, but "unfortunately, that is precisely what has occurred in this case" (*Boston Globe*, October 17). An overzealous prosecutor who "really, really, really wanted to have a piece of 9/11 and be a hero" was a key problem. Terrorism convictions in the case were thrown out in September, and new trials on ID fraud convictions ordered by the judge. On October 12 a defendant in the case, 28-year old Karim Koubriti, was released. He said he was kept in total isolation for 23 hours a day for much of the time since his arrest on September 17, 2001, and was frequently verbally abused by the guards.

- **TWO US-BASED CHARITIES FOUND LIABLE IN 1996 KILLING**

The parents of David Boim, an American teenager who was shot and killed by Hamas in Israel in 1996, have won their \$300 million lawsuit brought against the Texas-based Holy Land Foundation and the Islamic Association for Palestine. A federal judge in Chicago found that since the charities funded Hamas, they financed the violence that led to the death of the young man.

D. IN THE COMMONWEALTH

- **CIVIL LIBERTIES REFERENDUM QUESTION SWEEPS ALL NINE LEGISLATIVE DISTRICTS**

From Pittsfield in the west (where the vote for the resolution was 9,862 to 4,245) to Brookline in the east (11,188 to 2,990) voters stood up for civil liberties and asked their elected officials to do likewise. The ballot initiative received huge support in towns like Cambridge and Arlington that had already passed their own resolutions through city councils and town meetings. It also passed by large margins in towns that had not yet had resolution campaigns, such as Watertown (7,618 to 4,158), Belmont (7,823 to 3,978) and Woburn (2,246 to 1,897). Seventeen cities and towns embraced the resolution in the 4th Berkshire legislative district, and five towns voted for it in the first district of Hampshire. The total tally across the state was 104,217 in favor of the question and only 38,698 against. Members of the Civil Liberties Task Force took a leading role in this ballot initiative by joining with others across the state to form the Massachusetts Citizens' Initiative for a Safe and Free America.

- **ACLU SUES OVER LOGAN PROFILING PROGRAM THAT MAY SOON BE ADOPTED NATIONWIDE**

King Downing, the national coordinator of the ACLU's Campaign against Racial Profiling, was stopped and questioned by law enforcement when he was talking on a telephone after flying into Logan airport in October 2003 to attend a meeting on racial profiling. Now the ACLU of Massachusetts has challenged the constitutionality of the so-called "Behavioral Assessment Screening System" (BASS) adopted by the Massachusetts Port Authority and the Massachusetts state police. Downing, an African American with a short beard, was asked for his identification and threatened with arrest. He was not asked about his flight plans, or his reason for being at the airport. BASS, a supposedly "racially-neutral profiling program" which is based on a program used at Israel's international airport, is soon going to be launched nationwide under the name "Screening of Passengers by Observation Techniques" or SPOT. It is supposed to screen

for suspicious behavior, and not select people to question based on ethnicity or race, which the ACLU claims was the case at Logan.

- **CONVENTION TECHNOLOGY USED AGAINST BASEBALL FANS**

On October 18th the *Boston Metro* reported that 50 cameras that had been purchased for the Democratic National Party Convention were feeding pictures into the Boston Police command headquarters so they could coordinate a response to Red Sox fan activity with the State Police, Fire Department and college police forces. The cameras that can swivel 360 degrees and "see" nearly a mile streamed video to monitors from "hot spots" at Northeastern and Boston Universities as well as the area around Fenway Park. On October 20 a 21 year old Emerson College student, Victoria Snelgrove, was killed when a police officer hit her in the eye with a pepper-spray pellet.

III. GET INVOLVED

- **FOLLOW THE EXAMPLE OF BRIDGEWATER AND LOWELL AND HELP PASS A RESOLUTION IN YOUR TOWN!**

In November Bridgewater and Lowell became the 48th and 49th towns in the Commonwealth to pass resolutions supporting civil liberties. Contact cltf2004@yahoo.com if you would like our help in getting a similar campaign off the ground in your community.

- **CALL US TO GET INVOLVED WITH THE CAMPAIGNS TO PASS A RESOLUTION IN BOSTON AND IN THE STATE LEGISLATURE: WE NEED YOUR HELP!**

- **WE NEED TO REACH 100,000 SIGNATURES**

In 2005 the debate will heat up over the provisions of the USA PATRIOT Act that are due to sunset by December 2005 unless re-authorized by Congress. We have 50,000 Massachusetts signatures on our petition asking the Massachusetts Congressional delegation to roll back certain provisions of the Act. Let's get 50,000 more so we can reach our 100,000 signature goal. Please download the petition from the homepage of our website (www.aclu-mass.org) and mail it back to us with the signatures of your friends and neighbors.

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