

JUSTICE IN AMERICA

Superpatriots claiming that our nation is great because of personal freedom say in the next breath that national security demands less of it. America's top cop, while engaged in a wholesale attack on constitutional rights, has turned a blind eye to administration friends who break the law.

A self-employed Bavarian chicken farmer raised by a devout Catholic schoolmaster, Heinrich Himmler became convinced that Adolf Hitler was the messiah sent by God to lead Germany to greatness, and he marched beside Hitler in his failed 1923 Beer Hall *Putsch*.⁶¹⁸ Once the Nazis came to power and abolished the freedom of the press, the freedom of labor to strike, and the freedom of other political parties to participate in the government, Himmler quickly rose through Party ranks to become Germany's chief of police, second in absolute power only to Hitler himself. Himmler established the concentration camps, trained the guards, selected the inmates, scheduled the transports, and created the gas chambers and cremation ovens.⁶¹⁹

Among those selected for transport was Pastor Martin Niemöller, who opposed Hitler's efforts to bring German churches under Nazi control. Pastor Niemöller was arrested in 1937 and was confined in concentration camps until 1945. He later wrote,

"First they came for the Communists, but I was not a Communist, so I said nothing. Then they came for the Social Democrats, but I was not a Social Democrat, so I did nothing. Then came the trade unionists, but I was not a trade unionist. And then they came for the Jews, but I was not a Jew, so I did little. Then when they came for me, there was no one left to stand up for me."⁶²⁰

Discretionary Justice

The Attorney General is not a constitutional officer, and the Department of Justice was not created until 1870. Since then, the Justice Department has grown into the largest law firm in the

country. Its primary task is to represent the citizens of America in enforcing the law in the public interest. In addition to supervising the U.S. Attorneys in the prosecution of the federal criminal code, it also enforces the drug, immigration and naturalization laws.⁶²¹

The Department of Justice does much more than prosecute. It is also the nation's police force, fielding both the Federal Bureau of Investigation and the Drug Enforcement Agency. Moreover, through its Civil Rights Division, established in 1957, the Justice Department enforces the Civil Rights Acts, the Voting Rights Act, the Equal Credit Opportunity Act, the Americans with Disabilities Act, the National Voter Registration Act, the Uniformed and Overseas Citizens Absentee Voting Act; the Voting Accessibility for the Elderly and Handicapped Act, the Civil Rights of Institutionalized Persons Act, the Freedom of Access to Clinic Entrances Act, the Police Misconduct Provision of the Violent Crime Control and Law Enforcement Act of 1994, as well as Section 102 of the Immigration Reform and Control Act of 1986, which prohibits discrimination on the basis of national origin and citizenship status. It coordinates the civil rights enforcement efforts of other federal agencies and assists them in identifying and removing discriminatory provisions in their policies and programs.⁶²²

Thus, in one way or another, the activities of the Justice Department impact the lives of virtually every person in America. If we are to maintain our free society, the awesome power vested in the Justice Department must be exercised in a fair and even-handed manner, in accordance with the laws *and* the Constitution.

Perhaps more so than anything else, the manner in which our laws are enforced defines the very soul of our society. Are the officers of the law and the judges rigid and uncaring, or do they act with compassion and understanding? Are we treated equally? Does *our* government recognize that it is *our* government, that they are *our* laws that are being enforced by *our* justice system, and that they are *our* rights that are protected by *our* Constitution?

Law enforcement in a free society requires that there be a high degree of discretion exercised at every level. Do we really want robots making arrests for every single infraction, unthinking automatons prosecuting every chargeable offense, and heartless judges giving the maximum possible sentence in every case? Of course not. Individual justice must be administered in every individual case. Justice requires that all facts and circumstances, including aggravating and mitigating factors, be weighed and that discretion be exercised according to thoughtful written policies that take into consideration the wide range of human frailties and motivations, and the expectations of our free society.

Moreover, given the fact that a limited budget requires the establishment of priorities and the careful allocation of scarce resources, the decisions made by the Attorney General must be free of personal bias and political taint. Thus, there is the potential for great good to be performed on behalf of the people of the United States, and there is the risk of grave harm being caused to us and to our institutions. Therein lies the rub.

The Would-Be President and the Anointing of Ashcroft

John Ashcroft wanted to be president of the United States. He had the ambition, he had lived right, and he thought he had the nod from God, but he just didn't have the political horsepower.

Ashcroft grew up in a household dominated by his father, a second generation Assemblies of God minister, who taught his son that every child should grow up to be a preacher, learn to speak in tongues, engage in faith healing, and spread the word. Raised as a Pentecostal, Ashcroft doesn't believe in drinking, smoking, gambling, or even dancing. He doesn't believe in abortions, even in cases of rape or incest; nor the equal rights of women, even for those with great talent; he doesn't believe in equal rights of religion, especially for those "Oriental" ones; he doesn't believe in equal rights for minorities, especially affirmative action; he doesn't believe in the separation of church and state, except to "protect the church;" but he does believe in

Internet censorship, school vouchers, and everyone's right to pack a gun.⁶²³

In 1975, Ashcroft was appointed as an assistant attorney general in Missouri; the next year he got the top job in a close race. After serving eight years as attorney general, he was elected governor and served two terms. In 1993, he tried and failed to be elected chairman of the Republican Party, but he was elected to the U.S. Senate in 1994.⁶²⁴

On May 8, 1999, Senator Ashcroft gave a speech in which he stated, "Unique among the nations, America recognized the source of our character as being godly and eternal, not being civic and temporal. And because we have understood that our source is eternal, America has been different. We have no king but Jesus."⁶²⁵ He has also said, "I think all we should legislate is morality."⁶²⁶

In 1999, Ashcroft thought he was positioned to become president. He gained the unofficial support of Dr. James Dobson, Pat Robertson and the Christian Coalition, as well as some of Pat Buchanan's former supporters. He thought he could beat Bush in the primaries, but he couldn't.⁶²⁷ He thought he could be reelected Senator, but he wasn't. A dead man defeated him. That's right, for the first time in the history of the country. His opponent was former Governor Mel Carnahan, who was killed in a plane crash just weeks before the election. Ashcroft was defeated, and Carnahan's wife, Jean, was appointed to serve the term.⁶²⁸

Bush, a born-again Christian, was elected with the support of the religious right wing of the Republican Party, and to placate them, he nominated Ashcroft to be his Attorney General. It was as Ashcroft wrote in his memoir, "for every crucifixion there's a resurrection."⁶²⁹ The only problem was to get him confirmed by the Senate. Ordinarily, the Senate would pay great deference to a former member of their exclusive club; however, those who knew Ashcroft best, knew him well. After a brutal hearing in which he swore he would not allow his religious beliefs to influence his administration of the law, Ashcroft was confirmed, barely, with 42 senators voting against him, including the new Senator Carnahan.⁶³⁰

Has he kept his promise? He immediately called upon Supreme Court Justice Clarence Thomas to anoint him with "holy oil" upon taking the office. (Like the messiahs of ancient Israel, Ashcroft has always been anointed with oil upon taking office, once with Crisco when nothing else was available.)⁶³¹ He has continued to preach that "The source of freedom and human dignity is the Creator. The guarding of freedom that God grants is the noble charge of the Department of Justice."

Ashcroft leads morning prayer meetings in his office, in which his staff has to join him in singing an inspirational song he wrote, "Let the Eagle Soar." The song includes these lines, "Let the mighty eagle soar. Soar with healing in her wings, as the land beneath her sings: 'Only God, no other kings.'... Built by toils and struggles God has led us through."⁶³² At a cost of \$8,000, he ordered curtains to be hung in front of the bare-breasted Spirit of Justice statue in the Justice Department press room to avoid having its bronze nipple appear over his shoulder during photo opportunities.⁶³³

Referring to the morning Bible study classes, one of Ashcroft's lawyers said, "It strikes me and a lot of others as offensive, disrespectful and unconstitutional." The Government's guidelines on worship in the workplace seem to agree, "Because supervisors have the power to hire, fire or promote, employees may reasonably perceive their supervisors' religious expression as coercive, even if it was not intended as such."⁶³⁴

As we saw earlier, Ashcroft entirely failed in his management of the Department of Justice to avoid the terrorist attacks of September 11, 2001. Perhaps if he had spent more time listening to his FBI agents, who were worried about terrorists flying airplanes loaded with fuel into the World Trade Center, instead of preaching to them, he really could have led the "noble charge" and arrested all of the hijackers before their attack, or at least scared them off, instead of writing silly songs and violating the civil rights of his staff.

Do you believe Ashcroft represents your personal values? Do you believe he should be able to impose his personal values on you? You're not stupid! Get the truth.

Censoring the Freedom of Information Act

James Madison, one of our founding fathers, once observed, "A popular government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy—or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors must arm themselves with the power which knowledge gives." Congress passed the Freedom of Information Act (FOIA), in 1966 to give meaning to Madison's words, and following the Watergate scandal, it amended the Act to essentially open up all public records to public view, with a few limited exceptions.⁶³⁵

The Act provides that "Each agency *shall* make" public information available, and empowered the federal courts to prevent agencies from withholding agency records, to assess reasonable attorney fees, and to punish irresponsible employees for contempt of court. In addition, the employee who is primarily responsible for improper withholding can be disciplined. Finally, the Act requires the Department of Justice to undertake efforts "to encourage agency compliance."⁶³⁶

The FOIA is truly one of the greatest acts of federal legislation ever enacted to facilitate the effectiveness of our free democracy. It allows ordinary citizens, journalists, historians, and any interested person or organization to request and to quickly receive public documents. It has provided transparency and avoided secrecy in the operation of our government.⁶³⁷

The Act was amended in 1996 to facilitate on-line and computer access to public records. When he signed the new legislation, President Clinton stated that the FOIA "was the first law to establish an effective legal right of access to government information, underscoring the crucial need in a democracy for open access to government information by citizens."⁶³⁸ In accordance with her duties, Attorney General Janet Reno wrote, "We must ensure the principle of open government is applied in each and every disclosure." She required that "In determining whether or not to defend a nondisclosure decision, we will apply a presumption of disclosure."⁶³⁹

On October 12, 2001, Ashcroft pulled a fast one. One month after 9/11 and without a press release, he sent out a memo urging federal agencies to deny most FOIA requests.⁶⁴⁰ In doing so, he listed the fundamental values held by our society, which included protecting “sensitive business information.” He went on to “encourage your agency to carefully consider the protection of all such values and interests when making disclosure determinations under the FOIA. Any discretionary decision by your agency to disclose information protected under the FOIA should be made only after full and deliberate consideration of the institutional, *commercial*, and personal privacy interests that could be implicated by disclosure of the information. (emphasis added)”

Ashcroft promised, “When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records.”⁶⁴¹

Federal agencies have never liked FOIA requests, and Ashcroft’s memo gave them the green light to deny, deny, deny. Ashcroft is charged by the law to *encourage* compliance; however, he has taken steps to *discourage* compliance. What would Madison have to say about it? Probably that it was indeed the “Prologue to a Farce or a Tragedy—or perhaps both.”

Do you believe that Ashcroft’s censoring of the Freedom of Information Act protects your rights and freedom? You’re not stupid! Get the truth.

Patriot Games

Following 9/11, Ashcroft fired another salvo in his war against freedom. He sent the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act) to Congress. With little consideration, Congress passed the Act on October 26, 2001,

with but one dissenting vote in the Senate.* The title was more than a cute acronym; implicit in its selection is an assertion that if you oppose the act, you aren't patriotic.

Although Ashcroft had all the "appropriate tools" needed before 9/11 to "intercept and obstruct" that act of terrorism, and instead of falling on his sword in shame, he used the results of his own malfeasance to gather unprecedented powers. If you recall, his FBI agents in Minneapolis were pleading with headquarters to obtain a search warrant to review Moussaoui's computer files. They were telling headquarters that a 747 airliner loaded with fuel could be used as a missile, and that Moussaoui was connected with bin Laden and al Qaeda. Ashcroft had all the authority he needed to stop the 9/11 attacks, but he had been ordered to "back off" and didn't exercise his authority.

The official reason for the failure to prevent the 9/11 attack was information overload and a failure to coordinate reports, such as one from agents in Minneapolis screaming that they had a terrorist who wanted to fly a 747 into the World Trade Center, and another in Phoenix pleading with headquarters to check other flying schools. Mohamad Atta came and went as he pleased, even after Israel informed us that he was a terrorist, and two others hijackers on the international terrorist list were allowed to board domestic flights at will. Let's make sure we get this right: what Ashcroft wants is to dramatically increase the amount of information flowing in, and that, somehow, is going to make the bureaucrats at the top smarter and better at catching

* Congressmen got no chance to read the bill before it was pushed through during the frenzy of the anthrax scare. When attempts to implicate Iraq failed and the anthrax trail led instead to a U.S. military source, the investigation was pushed under the carpet—although U.S. troops in Iraq still had to take the dangerous anthrax vaccine. Russ Feingold, the only senator to vote against the bill, stated, "I believe we must, we must, redouble our vigilance. We must redouble our vigilance to ensure our security and to prevent further acts of terror. But we must also redouble our vigilance to preserve our values and the basic rights that make us who we are." (Alterman and Green, *The Book on Bush*, p. 91.)

terrorists? Wouldn't it be better for Bush to simply order Ashcroft to stop "backing off," or better yet, to hit the highway?

Clearly the Patriot Act had been planned for a long time, and 9/11 was just an excuse for Ashcroft to grab powers that had been denied by Congress or that had been found to be unconstitutional by the courts in the past⁶⁴² One reason that the Act sailed through Congress so quickly was that nobody could understand what it said without referring to numerous other laws. For example, one section merely substituted the words, "a significant purpose" for "the purpose" in another law. However, that simple change allowed the government to obtain Foreign Intelligence Surveillance Act (FISA) warrants in primarily domestic "criminal" investigations, if the Attorney General says the investigation also has a significant foreign intelligence purpose.

The difference between criminal and intelligence investigations is that, in domestic criminal matters, the Bill of Rights prohibits unreasonable searches and seizures not based upon probable cause. Ashcroft already had ample probable cause to get a warrant to look at Moussaoui's computer disk; he just didn't do it.

Fortunately, the FISA court has refused to go along with Ashcroft's power grab. In August 2002, the secret court released an opinion for the first time in its history saying, "this Court (not Ashcroft) is the arbiter of the FISA's terms and requirements."⁶⁴³

In a six-part article, Professor Jennifer Van Bergen reviewed the history of the Alien and Sedition Laws passed in 1798 by the Federalist-controlled Congress, which "allowed the President to arrest, imprison, and deport 'dangerous' immigrants on mere suspicion of 'treasonable or secret machinations against the government.' If a deported alien returned, the President could imprison him for as long as he thought 'the public safety may require.'" For over two hundred years we have been taught that these were terrible laws used for a corrupt purpose to arrest and detain political opponents. Now, they are back in vogue.⁶⁴⁴

Since enactment of the Patriot Act, thousands of suspects have been rounded up and held for months. Without having to

give any reason or explanation, all Ashcroft has to do is pronounce the magic words, "terrorist," or "threat to national security," and the suspect is locked up. For the first seven days, no charges are required and the suspect is not even allowed contact with legal counsel; thereafter, the Attorney General can detain suspects indefinitely for nothing more than a violation of their visa. Hearings, even the fact that they are held, and the names of the detainees are kept secret.⁶⁴⁵

Aliens can be deported because of what they "knew or should have reasonably known" about organizations with which they had contact. Even if they have only overstayed their visas and want to return home, they can be held indefinitely; they are being held as "material witnesses," and, administratively, under "emergency" conditions, they are being held for indefinite "reasonable" periods of time.⁶⁴⁶

The Act's "sneak and peek" provisions allow the government to obtain a warrant, sneak into your home, peek at your computer files (and dirty laundry), copy your computer hard drive (and digital photos of your girlfriend), and, if they say the magic words, that "[notice would] seriously jeopardize an investigation or unduly delay a trial," they don't even have to tell you they've been there.⁶⁴⁷

The Act allows the government to obtain blank search warrants for electronic surveillance, *without probable cause*, as long as the magic words, "relevant to an ongoing criminal investigation" are spoken. Agents can then trap and trace the telephone numbers you call *and* trace your e-mails and Internet usage.⁶⁴⁸

Under the Act, Ashcroft's agents can review "business records," including those of libraries, bookstores and Internet service providers, without establishing probable cause sufficient to show a connection to terrorism, espionage or another crime, *and* they can forbid any notification to the patron, buyer or user; they can issue "National Security Letters" to force production of records and information, without having to obtain a court order; and they can demand, without a court order, the production of confidential education records, based only on their declaration that the records are needed for a terrorism-related

investigation.⁶⁴⁹ For example, they can check on what library books you have been reading, and your librarian can go to jail for telling you about it. How far from here to the next Gulag?

Also hidden among the Act's stealth provisions is an amendment of the Bank Secrecy Act of 1970 that expands the definition of "financial institution" to include a variety of businesses including insurance companies, car dealers, real estate brokers and the U.S. Postal Service. Designed to prevent money laundering, Section 326 requires all such institutions to develop a Customer Identification Program for all new accounts that includes screening their customers through a database provided by the government. Section 314(a) requires these institutions to respond within 14 days to search requests by federal law enforcement agencies, and rules have been proposed that would compel them to file suspicious activity reports when they detect unusual activities by their customers. The effect of this law is to impose law enforcement responsibilities on small businesses, which are woefully ill equipped to keep track of their customers for the government.⁶⁵⁰

Most simply and most often, the Act changed the requirement that the government have "probable cause" to a requirement that it only has to show a "simple relevance" to an investigation. Although Ashcroft keeps saying that the Act "isn't something new ... this isn't some vast incursion into the freedoms of the American people,"⁶⁵¹ in fact, it is. Ashcroft himself argued several years ago against Clinton's attempts to expand the government's ability to monitor the Internet in fighting terrorism: "The protections of the Fourth Amendment are clear. The right to protection from unlawful searches is an indivisible American value. Two hundred years of court decisions have stood in defense of this fundamental right. The state's interest in effective crime-fighting should never vitiate the citizen's Bill of Rights."⁶⁵²

If you oppose Ashcroft and what he's doing, you risk being called (and investigated as) a traitor. He warns, "To those who scare peace-loving people with phantoms of lost liberty, my message to you is this: Your tactics only aid terrorists, for they erode our national unity and resolve. They give ammunition to

America's enemies, and pause to America's friends."* Remember what Goering said: "All you have to do is tell them they are being attacked, and denounce the pacifists for lack of patriotism, and exposing the country to greater danger."⁶⁵³

If all this was not enough, Ashcroft had yet another card up his sleeve as he played the Patriot Game. In February 2003, a secret copy of the Domestic Security Enhancement Act of 2003 (Patriot Act II) was leaked from the Justice Department even though, for months, the Justice Department had been denying to Congress that amendments to the Patriot Act were being prepared, and only a week previously, Ashcroft had personally denied the existence of a proposed amendment. However, the smuggled copy of Patriot Act II was quickly posted on the Internet and alarm bells began to ring across America.⁶⁵⁴

Among other things, these "enhancements" would allow Americans to be stripped of their citizenship without their having to renounce it as is presently required. Patriot II says, "the intent to relinquish nationality need not be manifested in words, but can be inferred from conduct." So, if you provide "material support" (whatever that means) to an organization that has been designated a "terrorist organization" (whatever that is), even if you were unaware of its activities, you could lose your citizenship and be detained, indefinitely, as an alien.⁶⁵⁵

Patriot II also allows the government, among other things, to secretly detain citizens; access credit reports without a subpoena; encourage police surveillance of non-criminal organizations and public events; extend the authorization periods for secret wiretaps and Internet surveillance; and make it easier to use secret evidence. It prevents someone subpoenaed to a grand jury from even disclosing that they have been subpoenaed.⁶⁵⁶

To justify his new game, Ashcroft twisted the words of Thomas Jefferson, who wrote in the Declaration of Independence that governments are instituted to secure the "unalienable rights" of the people. According to Ashcroft, "This then, is the first responsibility of our government: to preserve the lives and

* Along with most of the other warmongers of the Bush administration, Ashcroft is a Chicken Hawk.

liberty of Americans." He forgot two things: we also have an unalienable right to pursue happiness, and "whenever any Form of Government becomes destructive to these Ends, it is the Right of the People to alter or to abolish it."⁶⁵⁷

Idaho *Republican* Representative Butch Otter introduced legislation to de-fund the Patriot Act's "Sneak and Peek" provisions, which has passed in the House of Representatives by a vote of 309-118. He more accurately quoted Jefferson, "In questions of political power, speak to me not of confidence in men, but bind them down from mischief with the chains of a Constitution." Otter said, "That mischief is what we're seeing today and could see tomorrow."⁶⁵⁸

For now, it doesn't appear that Patriot II is going anywhere soon; however, that hasn't stopped Ashcroft from playing other games with our freedoms. The Justice Department has admitted that it is using Patriot Act provisions to pursue common criminals, such as suspected drug traffickers, white-collar criminals, blackmailers, child pornographers, and money launderers. Although Ashcroft has portrayed his new powers almost exclusively as a tool to fight terrorism, his use of the powers in traditional criminal investigations has caused critics to assert that Bush has "sold the American public a false bill of goods, using terrorism as a guise to pursue a broader law enforcement agenda."⁶⁵⁹

One of the primary characteristics of a totalitarian society is the widespread practice of citizens spying upon each other, with all of them reporting their observations to "big brother," who decides who goes away and who stays. Last year, Big Brother Ashcroft introduced Operation TIPS, another cute acronym for Terrorism Information & Prevention System. He envisioned millions of Americans, letter carriers, truckers, utility workers, etc., reporting their suspicions to a central FBI database. He didn't get away with it; even *Republican* Dick Armey opposed it.⁶⁶⁰

The government "has admitted that its failure to heed the warnings [about 9/11] was not because of a lack of law enforcement powers. Rather the failure was the result of an information overload."⁶⁶¹ Aside from its unconstitutionality, can

you imagine the information overload if TIPS was put into place?

Meanwhile, under the supervision of John Poindexter, Reagan's disgraced National Security Advisor,* the Pentagon is creating a "prototype" database called "Total Information Awareness" (TIA). Working under the motto, "Knowledge is Power," the TIA system is being designed to predict future acts of terrorism through the correlation of hundreds of billions of bits of disparate information gathered about each of us.⁶⁶²

Conservative writer William Safire observed, "Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend—all these transactions and communications will go into what the Defense Department describes as 'a virtual, centralized grand database.'"⁶⁶³ All of this would be done automatically, without a search warrant.

Viet Dinh, who formerly worked for Ashcroft as the head of the Office of Legal Policy and was one of the Patriot Act's authors, has come to have concerns about its application. Dinh has questioned Ashcroft's continued detention of Jose Padilla, the so-called "dirty bomber." Padilla, a Chicago street thug, has been called a "small fish" by the FBI, which has cleared him of any connection with al Qaeda.⁶⁶⁴ Nonetheless, Ashcroft has held Padilla, an American citizen, as an enemy combatant for two years in a military prison without access to a lawyer. Dinh, who now teaches law at Georgetown University, has come to the conclusion that Ashcroft's detention of Padilla is not legally

* Poindexter was convicted in connection with the Iran-Contra scandal in 1990 of conspiracy, making false statements to Congress, and obstructing congressional inquiries. His conviction was subsequently reversed on a technicality associated with his receipt of Congressional immunity. (Nash, Timothy, "John Poindexter, 'Outstanding American,'" *Slate*, February 25, 2002, slate.msn.com/?id=2062542.)

“sustainable” and that it is unlikely to survive court review. It appears he may have been right.⁶⁶⁵

On December 19, 2003, the New York-based 2nd U.S. Circuit Court of Appeals ordered the government to release Padilla from custody within 30 days, and, if the government chooses, to try him in civilian court.⁶⁶⁶ The U.S. Supreme Court has agreed to hear the case, along with another involving the secret detention of an American-born Saudi captured in Afghanistan.⁶⁶⁷

In 2002, Ashcroft relaxed FBI surveillance rules dating from the Vietnam era and gave agents authority to attend political rallies, mosques and any event “open to the public.” The FBI has collected extensive information on the antiwar movement, and in November 2003, it circulated a memorandum urging local law enforcement to report any suspicious activity at protests to its counterterrorism squads. The memo reviewed “innovative strategies” used by demonstrators, such as videotaping arrests as a means of “intimidation” against the police. It revealed that protestors “often use the Internet to recruit, raise funds and coordinate their activities prior to demonstrations.”⁶⁶⁸

If you protest too much, your name may show up on the government’s “no fly” list designed to keep suspected terrorists from boarding commercial flights. The Transportation Security Administration confirms that it has a list of about 1,000 people who are deemed “threats to aviation” and who are not allowed on airplanes. However, others who have been repeatedly delayed and searched have been informed that their names are also on a “list.” These include John Dear, a Jesuit priest and member of the Catholic peace group Pax Christi, Virgine Lawinger, a 74-year-old nun and member of Peace Action, Barbara Olshansky and Nancy Chang of the Center for Constitutional Rights, and Green Party activists Nancy Oden and Doug Stuber. Lawinger, with the help of the ACLU, filed a Freedom of Information request with the TSA to learn why she has been barred from flying.⁶⁶⁹ Another group of antiwar protestors has sued the government to learn how members’ names ended up on the list.⁶⁷⁰

Does the Patriot Act make you feel more secure? Do you think it is necessary for the government to collect information

about your bank account, your library checkouts, and your real estate transactions? You're not stupid! Get the truth.

The Non-Investigation of Corporate Corruption

Ashcroft's Department of Justice lists "ensuring healthy competition of business in our free enterprise system" as one of its tasks in defining its "key role." In that connection, if you recall, we earlier saw that Vice President Cheney, when he was Halliburton's CEO, also sat on Kazakhstan's oil advisory board and helped broker a deal between that country and Chevron for half ownership of the Tengiz oil field.⁶⁷¹ ExxonMobil was also in on the deal for a quarter share of the same field, and it turns out that some palms also got greased in the deal. That's a crime, especially if the palm is in another country. In our free enterprise system, it's unfair competition to bribe some foreign despot to make a deal with you.⁶⁷²

Back in 1996, ExxonMobil (then Mobil), acting through a senior manager, J. Bryan Williams III, allegedly paid James Giffen, a broker acting on behalf of Kazakhstan, a \$51 million "success fee" on top of Mobil's \$1 billion purchase price. Giffen, in turn, paid over \$20 million into the Kazakhs' Swiss bank accounts. Allegedly, ExxonMobil later tried to make an illegal oil swap with Iran to get the Kazakhstan oil to market more quickly.* In addition, in 1997, one of BP-Amoco's subsidiaries, Amoco Kazakhstan Petroleum, allegedly transferred \$61 million into Swiss bank accounts, where it quickly flowed into private accounts benefiting several Kazakh leaders.⁶⁷³

All of these alleged shenanigans came to the attention of the Clinton administration, which initiated a major investigation to determine if there were violations of the Foreign Corrupt Practices Act and the 1996 Iran Trade Sanctions Act. The

* Executives of ExxonMobil (the second largest oil company contributor to the Republican Party) and BP- Amoco met several times in secret with Vice President Cheney and his Energy Task Force, after federal grand juries had been impaneled in their criminal cases. Any wonder why the Task Force report encouraged government agencies to "deepen their commercial dialogue" with Kazakhstan? Any wonder why Cheney continues to conceal the Task Force's working papers?

investigation was commenced in three locations, the Department of Justice, the U.S. Attorney's Office in Washington D.C., and in New York, where the U.S. Attorney, Mary Jo White, began to present evidence to the grand jury.⁶⁷⁴

Following the 9/11 attacks, the Department of Justice took over all prosecutions of terrorists, including 15 who were already under indictment in New York, even though the New York U.S. Attorney's Office had successfully investigated terrorists for almost ten years and had secured more than two dozen convictions. Mary Jo White resigned in December 2001.⁶⁷⁵

Immediately, there were reports from senior prosecutors in both New York and Washington D.C. that Ashcroft was taking control of the New York grand jury investigation of ExxonMobil and BP-Amoco and was exercising "unusual" influence over the Washington investigation.

One might wonder why, in the midst of the 9/11 investigations, Ashcroft would become personally concerned about an investigation into corruption that took place in Central Asia? Well, it turns out that ExxonMobil was the largest contributor from the oil and gas industry to Ashcroft's Senate race, followed by Chevron, Enron, The Independent Petroleum Association of America, BP-Amoco, and Halliburton.⁶⁷⁶ Although sleeping with a close relative is called incest, covering for a major contributor is just good politics.

Ashcroft quickly recused himself from the Enron investigation (at least once his receipt of a total of \$57,000 in campaign contributions from Enron and its employees was publicly questioned by Representative Henry Waxman).⁶⁷⁷ However, he has not, apparently, done so in the Kazakh oil company corruption investigations.

Interestingly enough, when the indictments finally came down in April 2003, ExxonMobil itself was not indicted, but only its manager, J. Bryan Williams III, and the broker, James Giffen. However, the U.S. Attorney's Office has announced that ExxonMobil continues to be the subject of the government's ongoing investigation into the Kazakhstan contracts.⁶⁷⁸

Even FBI Director Robert Mueller got into the act. It seems that, back before he was appointed to direct the FBI, he was hired by Enron in 1993 to investigate a suspicious \$600,000 payment by a subsidiary for a property worth only \$41,000. He concluded that the deal was just fine, and his investigator quit in disgust. So, when Enron imploded and the FBI had to investigate its financial machinations, did Mueller conclude that he might have a conflict of interest? Of course not, and Deputy Attorney General Larry Thompson agreed. This is the same Larry Thompson who had earlier worked for the law firm that represented Enron.⁶⁷⁹ *It is a small, small world, isn't it?*

Ashcroft is democratic when it comes to the prosecution of corporate crime. He doesn't just give energy companies a free ride. During the first six months of the 2002 fiscal year, the number of white-collar crimes referred to U.S. Attorneys was the lowest it had been since the late 1980s. And of these, Ashcroft's prosecutors only filed on 50 percent.⁶⁸⁰

Do you believe Ashcroft has a conflict of interest in the ExxonMobil and BP-Amoco investigations? Do you think he should be allowed to interfere in the investigations? Should Mueller recuse himself from the investigation of Enron? You're not stupid! Get the truth.

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