



DEFENDING DISSSENT FOUNDATION LETTER

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Founded in 1960 as the National Committee to Abolish HUAC

August 2008

Dear Troublemakers,

This month's newsletter includes quite a few links to useful websites. If you want to visit the suggested sites, you may find it easier to go to the DDF website (www.defendingdissent.org) and click on the link to the August newsletter, from there, all the websites are just a click of your mouse away (no need to try to type a long and complicated URL address). While you are on our website you can also sign up to get our newsletter delivered to your e-mailbox each month. This is a great option for those of you with email because you'll get our newsletter more quickly, it's better for the environment and better for our pocketbook (plus, you'll find it much easier to check out all the links to websites).

You may have noticed that every month we include a self-addressed envelope in your newsletter – our idea is that some of you may want to make a contribution to us in May, and some find it more convenient to contribute in August. We rely on and appreciate your support whenever it comes!

In Solidarity,

A handwritten signature in cursive script that reads "Sue Wiley".

EXECUTIVE

Racial Profiling Makes a Comeback

New FBI guidelines are being written in secret by the Dept. of Justice, but news reports indicate that the changes could allow the FBI to open investigations based on factors such as race, rather than any evidence of wrongdoing. Officials told the Associated Press that under these new guidelines, the FBI will rely on a "terrorist profile" that could include a person's race, religion, ethnicity, and where they live or travel to among other factors. Agents will no longer need any evidence or allegation of criminal activity to launch a national security investigation.

In a Senate Judiciary Committee hearing on July 9, Sen. Feingold asked Attorney General Mukasey if the FBI would be allowed to use racial profiling to launch an investigation of someone. His response was not reassuring: "We don't use that as

the basis *alone* for predicating an investigation into anyone." (emphasis added). He did not rule out that the FBI would consider race a factor in determining whether a person might be more likely to be a terrorist.

Race should never be a basis, even when combined with other factors, in determining whether an investigation should be opened. It's unconstitutional and counterproductive. Join DDF in expressing our outrage that our Attorney General would even consider using race, religion or ethnicity as part of a "terrorist profile". You can easily send an email to Mr. Mukasey via a new tool on our website.

Collateral Damage

We are well-aware of the harm the Patriot Act has done to activist groups, but the effect on charities, especially international charities, has stayed under the radar. A

new report co-authored by OMBWatch and Grantmakers Without Borders explains how new powers granted to the Treasury Department have harmed charitable programs, the people they serve and the reputation of the United States. The government can shut down charities based on “reasonable suspicion” (evidence is not needed), prohibit charities from providing humanitarian aid in some disaster areas (where terrorist may be operating), and freeze the assets of “designated” charities. The bottom line is that overly severe regulations are keeping aid from reaching people and communities that need it. For example, after the Tsunami in Southeast Asia in 2004, charities had to risk violating rules against providing material support to terrorists in order to provide humanitarian aid in areas controlled by the Tamil Tigers (a designated terrorist group in Sri Lanka).

The restrictions that have been placed on charities are the result of the widespread and totally unsubstantiated misperception that charitable dollars are ending up in the hands of terrorists. The report is available at www.ombwatch.org/article/articleview/4290/

ACTIVISM

Maryland Police Spy on Anti-Death Penalty Activists

Three years ago the Maryland State Police uncovered a small network of anti-war and anti-death penalty activists who were planning devious operations such as handing out flyers at the local farmers market, organizing a candlelight vigil outside the jail, and arranging a visit with their Congressman to discuss the war in Iraq. Luckily for us, the police acted quickly and infiltrated the group. Police spied on the activists, logging information about meetings and activities but never uncovering any indication of criminal or potentially criminal activity. Nonetheless, the spying went on for at least 14 months and reports on the activists were shared with at least seven federal, state and local law enforcement agencies, including the National Security Agency.

One activist, Max Obuszewski, was singled out for special attention and added to the “Washington/Baltimore High Intensity Drug Trafficking Area” database. Without a shred of evidence, the database reports his Primary Crime as “Terrorism-Anti Government” and his Secondary Crime as “Terrorism Anti-War Protestor”. Max is a well-known activist in Baltimore, and has worked with DDF over the years, most recently in a meeting last month about Guantanamo Bay with Senator Ben Cardin (D-MD).

The surveillance came to light when the Maryland ACLU obtained 43 pages of summaries and computer logs from the Maryland State Police. More documents are being sought from other state and federal agencies which we suspect have been involved in surveillance of a wider array of activists. DDF has joined with the activists to call on a full investigation and state legislation to prevent police from spying on activists in Maryland.

Federal Agent Spies on Greens

On May 30th, a few dozen people showed up at a rally in Eugene, Oregon to protest the Oregon Department of Transportation’s use of herbicide on the state’s highways.

You guessed it – a few dozen protestors was too big a potential threat to go unmonitored, so an undercover federal agent with the Federal Protective Service (the agency responsible for providing security at federal buildings) secretly spied on the event. We’re scratching our heads over why he was monitoring a small demonstration in Kesey Square - five blocks away from Eugene’s federal building. (Ironically, the Square, named after Ken Kesey, is commonly referred to as Kesey Free Speech Plaza). The demonstrators were protesting a *state* agency, and had no plans and no reason to march to the *federal* building, but a federal spokeswoman defended the agent’s surveillance, calling it “routine”.

The federal agent, Tom Keedy, watched the peaceful rally. It was such a non-event that the local police weren't even there for crowd control. Then Keedy saw something he didn't like, so he called Eugene police claiming that one activist was blocking traffic. When police arrived on the scene, the trouble began. Police responded to the peaceful protest with excessive force, using a taser gun at least twice on one activist, arresting him and two others. The incident has generated an outcry in Eugene, and a criminal investigation of the police action at the rally is underway.

LEGISLATIVE UPDATE

FISA Amendments Act passes Senate

On July 9, the Senate passed the unconstitutional FISA Amendments Act with a vote of 69-28. The amendments that would have mitigated some of the problems with the bill failed to pass, so we are left with a bill that obliterates privacy protections for our international communications. The retroactive telecom immunity provisions of the bill got the most publicity, but Americans should be concerned that phone calls and emails they make to friends, family and associates outside the country will be fair game for the NSA, even without a warrant. See how your Senator voted here: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=2&vote=00168

The Smithsonian, Private Prisons & FOIA

The Freedom of Information Act has loopholes, but several bills and recent lawsuits aim to close some of them, and make it harder to open new ones.

FOIA has been undermined in the past when members of Congress have slipped provisions that limit public access to government information into inconspicuous provisions buried deep in unrelated legislation. DDF joined with a few dozen other organizations in writing a letter to the Senate Judiciary Committee in support of

S. 2746 (the Open FOIA Act), which would require Congress to make clear when it is adding exemptions to FOIA.

The Smithsonian has been exempt from FOIA for over a decade because of a U.S. Appeals Court ruling that held that FOIA doesn't apply to the Smithsonian unless Congress explicitly says it does. Senators Grassley (R-IA) and Spector (R-PA) have written legislation (S.3276) to say both FOIA and the Sunshine Act apply to the Smithsonian.

The trend toward privatization of government functions raises many concerns, and the ability of activists and the public to obtain information about those contracted services is high among them. Take private prisons for example: more and more federal inmates are being transferred to private prisons, and those facilities are not subject to FOIA. Concurrent legislation has been introduced in the House (H.R.1889) and the Senate (S.2010) to force private prisons housing federal inmates to comply with FOIA requests. In the meantime, two recent lawsuits have been filed seeking records from private prisons; the ACLU has filed a FOIA lawsuit against the Dept. of Homeland Security seeking records of the deaths of immigrant detainees who were being held in private prisons; and a human rights magazine called *Prison Legal News* has filed a lawsuit seeking records from the largest private prison management service in the U.S.

Banned Book Week: Sept. 27-Oct.4, 2008

Ask your local book store to participate! According to the American Library Association, there were more than 400 challenges to books in schools and libraries in 2007. You can find resources for your local bookstore (posters and such) at the American Booksellers for Free Expression website: www.abffe.com or at www.bannedbookweek.org

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**The Defending Dissent Foundation
is the amalgam of the First
Amendment Foundation and the
National Committee Against
Repressive Legislation (NCARL)**

*In Memory of
Frank Wilkinson,
Director Emeritus,
and
Chauncey Alexander,
President Emeritus,
and all who went before*

DDF Joins the People's Campaign for the Constitution

Are you ready to demand that your members of Congress protect and defend the Constitution? Do you want to work with other civil libertarians in your area to raise issues like warrantless surveillance, torture, indefinite detention during the upcoming campaign season? Are you ready to hold your members of Congress accountable?

We know you are, and we are too! DDF has become a partner in the People's Campaign for the Constitution, initiated by the Bill of Rights Defense Committee. The campaign provides a way for local coalitions to work together, and across the political spectrum, to repair the damage done to our Constitution under the guise of the "War on Terror". The campaign will build a broad-based grassroots movement to reverse the many policies that sacrifice liberties for a false promise of security and to confront the deceit that some constitutional limits should be disregarded in times of emergency.

We're excited to participate in this campaign, and we encourage you to join in and promote the campaign in your community. For information: www.constitutioncampaign.org

DDF Board Member Kate Martin testifies before Senate

On July 16, Kate Martin, Director of the Center for National Security Studies (and DDF board member), testified before the Senate Judiciary Committee at a hearing on "How the Administration's Failed Detainee Policies Have Hurt the Fight Against Terrorism: Putting the Fight Against Terrorism on Sound Legal Foundations."

In her testimony, Kate asserted that those detention policies "have undermined rather than strengthened U.S. power. They have discouraged and interfered with, rather than advancing international cooperation and have provided fuel to al Qaeda efforts to recruit foreign terrorists". She urged the committee to use established military and criminal law as the framework to put the fight against terrorism on sound legal footing. "Using this established framework of military and criminal law side-by-side will enable suspected terrorists to be detained and tried in a way that will advance rather than undercut the effort to win hearts and minds around the world." She makes a strong case that "respect for the rule of law and individual rights is critical to a successful counterterrorism policy by the United States." Read Kate's testimony at www.cnss.org

DDF Board Member Chip Berlet on Counterterrorism & Civil Liberties

A new report by Chip Berlet, Senior Analyst at Political Research Associates (and a DDF Vice President), argues that the effectiveness of counterterrorism efforts by the Bush Administration is compromised by flawed analyses based on sloppy scholarship by two leading experts relied on by policymakers. Not surprisingly, the Administration relies on experts who promote a view of terrorist cell structure called leaderless resistance that requires a level of intrusiveness and presumption of possible guilt that undermines the civil liberties of all Americans, particularly Muslims and Arabs. Chip urges policymakers to bring other scholars with different analyses of homegrown terrorism into the debate to develop more effective counterterrorism strategies and protect civil liberties. Read more at <http://www.publiceye.org/liberty/terrorism/insurgency/leaderless.html>