

Introduction to CRIMES AGAINST HUMANITY

The 9-11 bombings Are Not Acts of War The 9-11 bombings Are Crimes Against Humanity by David T. Ratcliffe May 2003

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The bombings of 11 September 2001 are clearly crimes against humanity (as defined by the Rome Statute of the International Criminal Court) because they are deliberate and intentional killing of large numbers of civilians for political or other purposes.

See: Crimes Against Humanity - Benjamin Ferencz Interview, 19 Sept 2001

After 11 September 2001, people in the United States Executive Branch immediately chose to label the bombings as an act of war by a foreign aggressor rather than as a criminal act requiring redress through legal remedies.

It is timely to recall the people who created The White Rose, the student-led German resistance movement which started in Munich in 1943. This began when it became obvious that no other German citizens were doing anything significant to stop fascism. The White Rose printed seven leaflets exposing the tyrannical power of their militaristic and nationalistic regime. From this dissent they became the target of the anti-terrorism units of the Nazis for those illegal acts of treason against flag, Volk and Fuhrer. These people were willing to stand up and die for what they believed in. If we survive this period of our species' adolescence, the current, infantile partiality masquerading as if it were the whole will necessarily collapse as Hitler's and all the other's did before.

If we do make it through this epochal moment in the growth of our species, we will need to have consistently re-asserted the primacy and critically essential body and rule of law that has been established, both domestically and internationally, from the Haudenosaunee and Athens to Nuremberg and beyond that has sought to establish legal precedents to encourage and provide for a more humane and secure world in the future.

See: ● The Six Nations - Oldest Living *Participatory* Democracy on Earth
● George Bush, Jr., September 11th and the Rule of Law, from *The Criminality of Nuclear Deterrence - Could The US War On Terrorism Go Nuclear?*, by Francis Boyle, *Clarity Press*, 1 February 2002

A concern is that people tend to become what they oppose. It is much too easy to "other" those we believe are the ones making all the trouble while ignoring our common, shared human nature. Given that this occurred so markedly in the U.S. since WWII, now the trap is

making Bush *et al* be the "other" which will only perpetuate the same amply discredited patterns of history that have always kicked-in after the previous boogie-man has been destroyed.

Dispelling the Bewitchment That "We're At War"

Since 9/11 the U.S. corporate regime justifies everything it is doing by claiming we are war. The war powers of the presidency is cited in the courts as justification for the military to hold citizens. Public discourse is largely locked into a tacit acceptance of legitimacy for what has been done because "We're at war" -- from making aggressive war on peoples that cannot defend themselves and rejecting international treaties and laws, to justifying and implementing the unthinkable-before-September-11th police state now codified on the law books here at home.

But we are not at war. The 9/11 bombings were a crime against humanity mass murder of civilians. The U.N. Security Council rejected Bush II's bid to label the bombings an "armed attack" by one state against another state. The resolution that was passed denominated these events as "terrorist attacks." As international law professor Francis Boyle points out, "there is a magnitude of difference between an armed attack by one state against another state, which is an act of war, and a terrorist attack, which is not. . . . terrorists are dealt with as criminals. Terrorists are not treated like nation states. Terrorists are dealt with by means of international and domestic law enforcement. Terrorists are not given the dignity of special status under international law and practice."

But elevating the dignity of terrorist individuals to reside on a par with the authority of nation-states is precisely what Bush II is doing. The claim that "we are are war" provides the underlying justification for the USA PATRIOT Act, the Homeland Security Act, and the violation and destruction of the foundations of American Constitutional liberties as well as the abrogation of the United States' participation as an equal member in the family of nations. Regressing to the barbaric "law of the jungle" promises the abrogation of an entire species' evolutionary history that seeks to honor and serves life's needs. There is much to be done to challenge and dispell the bewitchment that "we are at war."

On The Sponsorship of 9/11 and Common Sense:

- The sole case presented against bin Laden & Al Qaeda for the 9/11 bombings (published in October 2001 by Tony Blair, the Prime Minister of the United Kingdom), titled "Responsibility for the terrorist atrocities in the United States," acknowledges up front that it would not stand up in a court of law:

"This document does not purport to provide a prosecutable case against Usama Bin Laden in a court of law. Intelligence often cannot be used evidentially, due both to the strict rules of admissibility and to the need to protect the safety of sources. But on the basis of all the information available HMG is confident of its conclusions as expressed in this document."

This was the only "proof" given by Bush II for its claims of sponsorship.

- As Gore Vidal points out in his October 2002 essay, "The Enemy Within":

"Mohammed Heikal is a brilliant Egyptian journalist-observer, and sometime Foreign Minister. On 10 October 2001, he said to the *Guardian*: 'Bin Laden does not have the capabilities for an operation of this magnitude. When I hear Bush talking about al-Qaeda as if it were Nazi Germany or the Communist Party of the Soviet Union, I laugh because I know what is there. Bin Laden has been under surveillance for years: every telephone call was monitored and al-Qaeda has been penetrated by US intelligence, Pakistani intelligence, Saudi intelligence, Egyptian intelligence. They could not have kept secret an operation that required such a degree of organisation and sophistication.'"

See also:

- The Facts, The Powell/Blair White Paper, The Cover-Ups, and The Bin Laden Video, from George Bush, Jr., September 11th and the Rule of Law, by Francis Boyle, 2/1/02
- Domestic Terrorism: The Big Lie - The "War" On Terrorism is a Total Fabrication, (from Broadening Our Perspectives of 11 September 2001)

- On 13 January 2002 in an interview with the Berlin *Tagesspiegel* daily, former German Minister of Technology, Andreas von Buelow gave his assessment of the level of sponsorship necessary to carry out the 9/11 bombings:

"I can state: the planning of the attacks was technically and organizationally a master achievement. To hijack four huge airplanes within a few minutes and within one hour, to drive them into their targets, with complicated flight maneuvers! This is unthinkable, without years-long support from secret apparatuses of the state and industry."

Violations of Constitutional Rights and Liberties by Bush II

Attorney General John Ashcroft's undermining of constitutional rights far exceeds anything experienced in American history. Since 11 September 2001, Bush II has enacted laws that deny freedom here at home on an order of magnitude greater than anything terrorists could dream of imposing. And they're not finished yet. Except for rare critical analyses of these denials of freedom inside the United States, commercial media has utterly failed to emphasize the relentless march of this supreme and fundamental threat to freedom and liberty by our own unelected government.

The "USA PATRIOT Act"

The October 2001 "USA PATRIOT Act" (USAPA) legally turned the United States into a potentially permanent police state. It vastly expands the structures of government secrecy and surveillance, utterly relinquishes any semblance of due process, categorically violates the First, Fourth, Fifth, Sixth and Eighth Amendments, and unacceptably mixes aspects of criminal investigations with aspects of immigration and foreign intelligence laws, while it simultaneously extinguishes the accountability of elected and non-elected government officials.

Members of Congress have pointed out that this legislation would not have stopped the 9/11 attacks. Hence, for what did we give up our unique constitutional guarantees and liberties?

The USAPA was passed during the height of the anthrax scare which effectively shut down the US government at a very critical moment in our history as a republic. Congressman Ron Paul asserts that this law was not made available to members of Congress for review before its vote.

See: Police State, by Kelly O'Meara, *Insight Magazine*, 9 November 2001

Among the many violations of United States Constitutional rights and guarantees codified in the "USA PATRIOT Act" (USAPA), the following subset provides an initial understanding of how Bush II has attacked freedom more effectively than any supposed terrorist could ever dream of to doing.

See:

- Forfeiting 'Enduring Freedom' for 'Homeland Security': A Constitutional Analysis of the USA PATRIOT Act and the Justice Department's Anti-Terrorism Initiatives, by John W. Whitehead & Steven H. Aden, *American University Law Review*, Vol.51, No.6, August 2002
- The USA PATRIOT Act: What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang, Senior Litigation Attorney, Center for Constitutional Rights, November 2001
- Repeal the USA Patriot Act, by Jennifer Van Bergen, *truthout*, April 1st-6th, 2002
- Bracing for Bush's War at Home - Ground Laid for Historic Presidential Powers Push, by Chisun Lee, *Village Voice*, 26 Mar 2003

- Section 802 of the USAPA creates a federal crime of "domestic terrorism" that broadly extends to "acts dangerous to human life that are a violation of the criminal laws" if they "appear to be intended . . . to influence the policy of a government by intimidation or coercion," and if they "occur primarily within the territorial jurisdiction of the United States." Because this crime is couched in such vague and expansive terms, it may well be read by federal law enforcement agencies as licensing the investigation and surveillance of political activists and organizations based on their opposition to government policies. It also may be read by prosecutors as licensing the criminalization of legitimate political dissent. Vigorous protest activities, by their very nature, could be construed as acts that "appear to be intended . . . to influence the policy of a government by intimidation or coercion." Further, clashes between demonstrators and police officers and acts of civil disobedience -- even those that do not result in injuries and are entirely non-violent -- could be construed as "dangerous to human life" and in "violation of the criminal laws." Environmental activists, anti-globalization activists, and anti-abortion activists who use direct action to further their political agendas are particularly vulnerable to prosecution as "domestic terrorists."

Section 802 violates the constitutionally protected First Amendment right of "the freedom of speech" and "the right of the people peaceably to assemble . . ."

See:

- USAPA Section 802. Definition Of Domestic Terrorism.
- "Silencing Political Dissent," from What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang
- "Expanding the Scope of "Terrorism" and "Domestic Terrorism"," from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- Section 213 of the USAPA authorizes federal agents to conduct "sneak and peek searches," or covert searches of a person's home or office that are conducted without notifying the person of the execution of the search warrant until after the search has been completed. When notice of a search is delayed, one is foreclosed from pointing out deficiencies in the warrant to the officer executing it, and from monitoring whether the search is being conducted in accordance with the warrant. In addition, Section 213, by authorizing delayed notice of the execution of a warrant to conduct a seizure of items, contravenes Rule 41(d) of the Federal Rules of Criminal Procedure, which requires that, "The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken." Section 213 is not limited to terrorism investigations, but extends to all criminal investigations, and is not scheduled to expire.

Section 213 violates the constitutionally protected Fourth Amendment "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . ."

- See:
- USAPA Section 213. Authority for Delaying Notice of the Execution of a Warrant
 - "Sneak and Peek Searches,"
from What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang
 - "'Sneak and Peek' Warrants,"
from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- Under Section 216 of the Act, courts are required to order the installation of an electronic pen register and a trap and trace device to track both telephone and Internet "dialing, routing, addressing and signaling information" anywhere within the United States when a government attorney has certified that the information to be obtained is "*relevant* to an ongoing criminal investigation." Section 216 states that orders issued under its authority cannot permit the tracking of the "contents of any wire or electronic communications." However, in the case of email messages and Internet usage, the Act does not address the complex question of where the line should be drawn between "dialing, routing, addressing and signaling information" and "content." Unlike telephone communications, where the provision of dialing information does not run the risk of revealing content, email messages move together in packets that include both address and content information. Also, the question of whether a list of web sites and web pages that have been visited constitutes "dialing, routing, addressing and signaling information" or "content" has yet to be resolved.

Section 216 violates the constitutionally protected Fourth Amendment "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . ." and the Fifth Amendment right to indictment by a grand jury.

- See:
- USAPA Section 216. Modification of Authorities Relating to Use of Pen Registers and Trap and Trace Devices
 - "Tracking Internet Usage,"
from What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang
 - "FISA Pen Register and "Trap and Trace" Orders,"
from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- Section 203 of the USAPA authorizes the disclosure, without judicial supervision, of certain criminal and foreign intelligence information to officials of the FBI, CIA, and INS, as well as other federal agencies, where receipt of the information will "assist the official . . . in the performance of his official duties." Section 203(a) permits the disclosure of matters occurring before a grand jury -- a category that is as boundless in scope as the powers of a grand jury to subpoena records and witnesses. Section 203(b) permits the disclosure of recordings of intercepted telephone and Internet conversations. The USAPA threatens American's political freedoms and privacy when sensitive personal information is widely shared without court supervision. The 1976 report of the Senate's Church Committee revealed that the FBI and CIA had spied on thousands of law-abiding citizens, from civil rights workers to anti-Vietnam War protesters. These people had been targeted solely because they were believed to harbor politically dissident views. Section 203(a) is not scheduled to expire.

Section 203 violates the constitutionally protected Fourth Amendment "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . ." and the Fifth Amendment protection of the privacy of an individual's grand jury testimony which now may be shared with a wide range of law enforcement authorities.

- See:
- USAPA Section 203. Authority to Share Criminal Investigative Information
 - "Sharing of Sensitive Criminal and Foreign Intelligence Information,"
from What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang
 - "Ending the Historic Secrecy of Grand Juries," and
 - "Information Disclosed to CIA and Other Intelligence Agencies,"
from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- The USAPA deprives immigrants of their due process and First Amendment rights through two mechanisms that operate in tandem. First, Section 411 vastly expands the class of immigrants who are subject to removal on terrorism grounds through its broad definitions of the terms "terrorist activity," "engage in terrorist activity," and "terrorist organization." Second, Section 412 vastly expands the authority of the Attorney General to place immigrants he suspects are engaged in terrorist activities in detention while their removal proceedings are pending.

The Due Process Clause "applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." Yet, Section 412 exposes immigrants to extended, and, in some cases, indefinite, detention on the sole authority of the Attorney General's untested certification that he has "reasonable grounds to believe" that a non-citizen is engaged in terrorist activities.

Sections 411 and Section 412 violate the constitutionally protected First Amendment right of free speech and right of association, the Fifth Amendment right to due process of law, and the Sixth Amendment right to counsel.

See:

- USAPA Section 411. Definitions Relating to Terrorism
- USAPA Section 412. Mandatory Detention of Suspected Terrorists; Habeas Corpus; Judicial Review
- "Stripping Immigrants of Constitutional Protections," from What's So Patriotic About Trampling on the Bill of Rights? by Nancy Chang
- "Exclusion of Non-Citizens Accused of "Endorsing" Terrorism," and
- "The Sixth Amendment Right to Counsel," and
- "Indefinite Detention of Non-Citizens Without Due Process," from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- The Justice Department assures Americans that its new legal and investigatory authority is "carefully drawn" to target only "terrorists. At the same time that the Justice Department is ostensibly targeting only this "narrow class of individuals," it has greatly expanded that class of suspects through the USAPA. Section 808 amends 18 U.S.C. § 2332b to include any such acts that result in virtually any federal crime of violence. Conceivably, these extensions of the definition of "terrorist" could bring within their sweep diverse domestic political groups, which have been accused of acts of intimidation or property damage such as Act Up, People for the Ethical Treatment of Animals (PETA), Operation Rescue, and the Vieques demonstrators. Cognizant of these criticisms and fears, the Attorney General assured the Senate in December 2001 that the U.S. government's definition of terrorism has, since 1983, included as terrorists only "those who perpetrate premeditated, politically motivated violence against noncombatant targets." If that is true, it certainly begs the question of why the Bush Administration felt the need to redefine "terrorism" to include a wide variety of domestic criminal acts.

Section 808 violates the constitutionally protected First Amendment right of free speech and right of association, and the Fifth Amendment right to due process of law.

See:

- USAPA Section 808. Definition of Federal Crime of Terrorism
- "Centralization of Law Enforcement Powers in the Justice Department," and
- "Expanding the Scope of "Terrorism" and "Domestic Terrorism"," from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

- The proponents of the USAPA, including U.S. intelligence agencies, were waiting to go long before 9/11. It was the Reagan Administration which initially proposed some of the most troubling provisions which eventually became part of the USAPA. Section 218 USAPA amendment of the 1978 Foreign Intelligence Surveillance Act (FISA) allows government to completely avoid Fourth Amendment probable cause requirements for searches and seizures of American citizens. It is obvious that the proponents of this amendment know it is an end-run around the Fourth Amendment. They have had many years to think about it and have repeatedly shown their willingness to enact carefully crafted, unconstitutional laws.

One of the most dramatic interferences with privacy under the Fourth Amendment comes through the monitoring of communications between individuals. Law enforcement authority to conduct electronic surveillance and intelligence arises predominantly from two federal statutes. FISA allows wiretapping of citizens as well as resident aliens in the United States upon a showing of probable cause that the target is a "foreign power" or an "agent of a foreign power." The FISA court consists of eleven federal judges appointed by the Chief Justice of the Supreme Court. It hears surveillance requests on an expedited basis.

Section 218 is, thus, critically significant as it amends FISA to provide that "foreign intelligence" need not be the purpose of investigations seeking orders under the Act, but merely a "significant purpose." The amendment applies both to FISA electronic surveillance warrants and FISA warrants for physical searches of property. This greatly expands the power of federal authorities to apply the relatively loose

standards of FISA to investigations of both U.S. citizens and residents that only tangentially touch on national security.

Section 218 violates the constitutionally protected Fourth Amendment right to privacy and freedom from unreasonable search and seizure.

- See:
- USAPA Section 218. Foreign Intelligence Information
 - The USA PATRIOT Act Was Planned Before 9/11, by Jennifer Van Bergen, *truthout*, 20 May 2002
 - "Expansion of Searches Under the Foreign Intelligence Surveillance Act," from Forfeiting 'Enduring Freedom' for 'Homeland Security' by John Whitehead & Steven Aden

The "Homeland Security Act"

The creation of the Department of Homeland Security is perhaps even a more momentous turn (if that's possible) away from constitutional governance than the 1947 National Security Act. With the Homeland Security Act, Bush II is pushing hard to do away with the Posse Comitatus Act of 1878 which for more than a century has kept the U.S. military out of local law enforcement. Last fall Homeland Security Czar Tom Ridge warned the International Longshoremen Workers Union that any large scale strike contemplated against Pacific Maritime will be viewed as a threat to national security.

- See also:
- Domestic Terrorism: Homeland Security - Paving the Way for Our Constitutional Dictatorship, (from Broadening Our Perspectives of 11 September 2001)
 - The Posse Comitatus Act: A Principle In Need Of Renewal, *Washington University Law Quarterly*, Vol.75, No.2, Summer 1997
 - Behind the Homefront, by The Reporters Committee for Freedom of the Press - A daily chronicle of news in homeland security and military operations affecting newsgathering, access to information and the public's right to know.

The "Domestic Security Enhancement Act of 2003"

The leaked draft in January 2003 of the "Domestic Security Enhancement Act of 2003" (DSEA) to the Center for Public Integrity is a potent indicator of what Bush II seeks to "cook up" for all Americans without the bothersome process of public debate much less of the advice and consent of the Congress. As Democratic senator Patrick Leahy of Vermont, ranking minority member of the Senate Judiciary Committee, said on February 10:

"The early signals from the Administration about its intentions for this [DSEA] bill are ominous . . . For months, and as recently as just last week, Justice Department officials have denied to members of the Judiciary Committee that they were drafting another anti-terrorism package. There still has not been any hint from them about their draft bill."

Georgetown University Law professor David Cole (author of *Terrorism and the Constitution*,) reviewed the draft legislation and said it "raises a lot of serious concerns. It's troubling that they have gotten this far along and they've been telling people there is nothing in the works." This proposed law, he added, "would radically expand law enforcement and intelligence gathering authorities, reduce or eliminate judicial oversight over surveillance, authorize secret arrests, create a DNA database based on unchecked executive 'suspicion,' create new death penalties, and even seek to take American citizenship away from persons who belong to or support disfavored political groups."

As reported on 20 February 2003 in the *The News & Observer*, Former Republican congressman Bob Barr observed that the proposed legislation in the DSEA seeks "all sorts of powers far beyond what any normal person would deem necessary to fight terrorists acts." This "Son of the Patriot Act" -- which General Ashcroft's department would not acknowledge existed when queried for months by Congressional staffers -- provides more indications of how Bush II would like redefine the constitutional basis of America. There are many, many Sections of this draft law that merit attention and scrutiny. Only a very few are mentioned below.

See:

- January 2003 draft of the Domestic Security Enhancement Act of 2003
- Section-by-Section Analysis of DOJ draft "Domestic Security Enhancement Act of 2003," aka "PATRIOT Act II", American Civil Liberties Union, 14 February 2003
- Ashcroft Out of Control - Ominous Sequel to USA Patriot Act, by Nat Hentoff, *Village Voice*, 28 February 2003
- Son of the Patriot Act - We have to destroy this village to save it, by Charles Lewis and Adam Mayle with Robert Masterson, Center for Public Integrity and *Fairfield County Weekly*, 20 Feb 2003
- The Police State Enhancement Act of 2003, by Geov Parrish, *Working For Change*, 10 Feb 2003
- Bracing for Bush's War at Home - Ground Laid for Historic Presidential Powers Push, by Chisun Lee, *Village Voice*, 26 Mar 2003
- Taking Liberties in the War on Terror: The Justice Department's "Patriot Act II", by Steven H. Aden, The Rutherford Institute, 26 Feb 2003

- Section 501 of the DSEA would permit the government to punish certain criminal activity by stripping even native-born Americans of U.S. citizenship, thereby depriving them of any nationality at all and potentially relegating them forever to imprisonment as undocumented immigrants in their own country. Among the activities that could be punished this way are providing material support for an organization -- including a domestic organization -- labeled as a terrorist organization by the government, even if the support was only for the lawful activities of that organization.

See:

- Ashcroft Out of Control, by Nat Hentoff
- "Stripping even native-born Americans of all of the rights of United States citizenship if they provide support for "terrorism," allowing them to be indefinitely imprisoned in their own country as undocumented aliens," from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

- Section 201 of the proposed "Domestic Security Enhancement Act of 2003" (DSEA) would authorize secret arrests in immigration and other cases, such as material witness warrants, where the detained person is not criminally charged. Section 201 would overturn a federal court decision that ordered the Bush administration to reveal the identities of those it has detained (imprisoned) since 9-11. This sequel to the USAPA states that "the government need *not* disclose information about individuals detained in investigations of terrorism until . . . the initiation of criminal charges."

Many of the prisoners caught in the Justice Department's initial dragnet were held for months without charges or contact with their families, who didn't know where they were. And these prisoners were often abused and out of reach of their lawyers -- if they'd been able to find a lawyer before being shifted among various prisons. When, after much pressure, the Justice Department released the numbers of the imprisoned, there were no names attached, until a lower court decided otherwise.

Under the proposed Ashcroft bill reversing that court decision, for the first time in U.S. history, secret arrests will be specifically permitted. Section 201 is flatly titled: "Prohibition of Disclosure of Terrorism Investigation Detainee Information." In Argentina, those secretly taken away were known as "the disappeared."

See:

- Ashcroft Out of Control, by Nat Hentoff
- "Authorizing secret arrests in immigration and other cases where the detained person is not criminally charged," from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

- Section 202 would deprive communities and environmental organizations of critical information concerning risks to the community contained in "worst case scenarios" prepared under federal environmental laws. Under section 112(r) the Clean Air Act, 47 U.S.C. § 7212(r), corporations that use potentially dangerous chemicals must prepare an analysis of consequences of the release of such chemicals to surrounding communities. This information is absolutely critical for community activists

and environmental organizations seeking to protect public health and safety, and the environment, and by ensuring compliance by private corporations with environmental and health standards and alerting local residents to the hazards to which they may be exposed.

See: ● "Threatening public health by severely restricting access to crucial information about environmental health risks posed by facilities that use dangerous chemicals,"
from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

- Section 206 would gag grand jury witnesses so that they could not publicly respond to false information about them leaked to the press. Rule 6(e) of the Federal Rules of Criminal Procedure imposes a general obligation of secrecy requiring attorneys and grand jurors to refrain from commenting on "matters occurring before the grand jury." In theory, grand jury secrecy is imposed primarily to protect the reputation of individuals who become subject to a grand jury investigation. In practice, such secrecy does not always afford much protection, as law enforcement officials who leak information to reporters in violation of Rule 6(e) are rarely discovered and prosecuted.

See: ● "Gagging grand jury witnesses in terrorism from discussing their testimony with the media or the general public, thus preventing them from defending themselves and denying the public information it has a right to receive under the First Amendment,"
from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

- Sections 301-306 would authorize collection of genetic information of persons who have not been convicted of a crime for terrorism investigation purposes, and the entering of that sensitive information into a database. Drawing a DNA sample involves an intrusion on personal privacy that is far more invasive than simply taking a fingerprint. A fingerprint is useful only as a form of identification. By contrast, a DNA sample includes such intimate, personal information as the markers for thousands of diseases, legitimacy at birth, or (as science advances) aspects of an individual's personality such as his or her temperament. In addition, this personal information is not unique to the individual alone, but also provides clues to the genetic traits of everyone in that individual's bloodline. Genetic discrimination is not merely a distant artifact of the discredited eugenics movement of the first half of the Twentieth Century, but is widespread today among private employers, and is (in most states) perfectly legal.

The potential misuse of DNA information contained in a database requires careful safeguards before such information is collected, and concerning the storage of such information. No forensic purpose is served by saving the DNA itself, as opposed to just the information contained in the DNA that proves identity. The proposed legislation fails to include such safeguards.

Sections 303 and 304 add a new definition of "suspected terrorist" and allow an individual to be included in the DNA database at the Attorney General's sole direction and discretion. Collateral provision 302 provides a circular definition of a "suspected terrorist" -- a "person suspected of being a member of a terrorist organization."

See: ● "Allowing for the sampling and cataloguing of innocent Americans' genetic information without court order and without consent,"
from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU
● Taking Liberties in the War on Terror by Steven Aden

- Under Section 402 a person who provides "material support" for "terrorism" as defined under the USA PATRIOT Act, could face a conviction, and lengthy prison terms, even if they did not provide any support for an organization listed as a terrorist organization. The definition of terrorism is not linked to any specific crimes, but covers all dangerous acts that are a violation of any federal or state law and are committed to influence government policy. The definition arguably covers some protest activities, such as those used by Operation Rescue or by protesters in Vieques Island, Puerto Rico, as such tactics involve dangerous acts that are a violation of law and are committed to influence the government.

See: ● "Further criminalizing association -- without any intent to commit specific terrorism crimes -- by broadening the crime of providing material support to terrorism, even if support is not given to any organization listed as a terrorist organization by the government,"
from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

- Under Section 411 the draft bill dramatically expands the death penalty, creating fifteen separate new death penalty crimes by defining a new death sentence that sweeps in the remaining crimes listed as federal crimes of terrorism in 18 U.S.C. § 2332b(g)(5)(B) that do not provide for the death penalty. While the DOJ labels this provision as providing for the death penalty for terrorist "murders," there is no language in the text that requires any showing by the government of an intent by the defendant to kill; it is sufficient that death results from the defendant's actions.

Even more troubling, the draft bill is not content to create fifteen new death penalties, but also contains language that sweeps in *any* violation of state or federal law that is committed under the definition of domestic or international terrorism contained in 18 U.S.C. § 2331. As a result, activities that (1) involve "acts dangerous to human life," (2) are a violation of any state or federal law, and (3) are committed in order to influence government or the population by intimidation or coercion become death-penalty eligible if death results. Arguably, this definition could fit some protest activities, such as those used by Operation Rescue, People for the Ethical Treatment of Animals, or Greenpeace. Under this provision, protesters could be charged with the death penalty as the result of a tragedy. While dangerous protest tactics can be punished under the law, they are not terrorism and should not be treated as if they were.

See: ● "Creating 15 new death penalties, including a new death penalty for "terrorism" under a definition which could cover acts of protest such as those used by Operation Rescue or protesters at Vieques Island, Puerto Rico, if death results," from Section-by-Section Analysis of DOJ draft DSEA, by the ACLU

Hypertext copy of the especially significant sections of the "USA PATRIOT Act" and the draft of the "Domestic Security Enhancement Act of 2003" texts, as well as extensive analysis of both of these products of General Ashcroft's "Department of Justice" are available at: <http://www.ratical.org/ratville/CAH/USAPA.html>.

The Rule of Law is Critical to our Survival

It *is* possible to use the rule of law to challenge Bush II. Purchase, study, and highlight examples from "How to Use 'New' Civil Rights Laws after 9-11," Ann Ginger editor, published by Meiklejohn Civil Liberties Institute with 68 cases won in US courts on torture, illegal detention, deportation, etc., using the United Nations Charter & treaties.

With all the stories being presented in commercial media by body snatcher/twilight zone types as so-called reality, it is a fundamental necessity to emphasize the specific ways in which our world has been defined by the rule of law, especially since World War II, and how this structure has been rejected by the United States government since September 11th. Although Bush II pretends they are not accountable to such rules, they are criminally liable, they know it, and they fear this. The following list enumerates some of the more significant violations of domestic and international laws, treaties, and conventions as well as deceptions being carried out primarily against the American populace.

- Bush II ignored the 12 or so multilateral conventions already on the books that deal with various components and aspects of what people generally call international terrorism, many of which could have been used and relied upon to handle this matter in a lawful, effective, and peaceful manner. One of these is the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, also known as the Montreal Sabotage Convention which has been ratified by both the United States and Afghanistan. Article 1(I)(b) criminalizes the destruction of civilian aircraft while in service. The Montreal Sabotage Convention has an entire legal regime specifically

designed to deal with this type of situation and all issues related to it, including reference to the International Court of Justice to resolve any disputes that could not be settled by negotiations between the United States and Afghanistan or other contracting parties.

See: George Bush, Jr., September 11th and the Rule of Law, from *The Criminality of Nuclear Deterrence - Could The US War On Terrorism Go Nuclear?*, by Francis Boyle, Clarity Press, 1 February 2002

- The Bush II war against Afghanistan is a violation of the Kellogg-Briand Pact of 1928 to which the United States and Afghanistan are contracting parties. The 1928 "Paris Peace Pact" had formally renounced war as an instrument of national policy. Article 1 provided:

"The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another."

Article II requires the peaceful resolution of international disputes between contracting parties such as the United States and Afghanistan, as follows:

"The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

This is one instance among many of why Bush II and the Pentagon so vigorously opposes the establishment of an International Criminal Court.

See also: Rejecting the Foundations of International Law -- U.S. "Unsigns" the International Criminal Court Treaty, (from Broadening Our Perspectives of 11 September 2001)

- The 1/8/02 Bush II Nuclear Posture Review, ordering the Pentagon to draw up war plans for the first-use of nuclear weapons, constitutes a Nuremberg Crime against Peace by "planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances."

See also: The Rogue Elephant, The Bush Junior administration has become a 'threat to the peace' within the meaning of UN Charter Article 39, by Francis Boyle, July 2002

- The Bush II war against Afghanistan and Iraq are in violation of the the United Nations Charter of 1945 and constitutes a Nuremberg Crime Against Peace. Article 6(a) of the Nuremberg Charter defines "crimes against peace" to be:

"namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing; . . ."

- The real reason Bush II is sabotaging the International Criminal Court is that senior officials fear prosecution for their criminal conspiracy to conduct wars of aggression.

See: ● U.S. Fears Prosecution of President in World Court, *Reuters*, 15 Nov 2002
● Oil Lust and Israeli "Hatchet Men" Behind U.S. Plans to Occupy Iraq, by Christopher Bollyn, *American Free Press*, 18 Oct 2002

- The diplomatic community as well as civilian and military personnel who frame and carry out America's nuclear policies more than any others must weigh the possibility of being summoned one day before an international war crimes tribunal.
- Since 1991, a World Trade Center's worth of Iraqi children have died every month as a direct result of U.S. policies. Bush II only mentions the loss of American lives on the single day of 9-11-01.

See: Since 1991, a World Trade Center's worth of Iraqi children continue to die every month,
(from Broadening Our Perspectives of 11 September 2001)

- The United States has rejected a legally-binding system of United Nations inspections of suspected U.S. biological weapons facilities while at the same time accusing other countries -- including Iraq -- of developing biological weapons. Simultaneously, the United States armed forces, in direct violation of the Biological Weapons Anti-Terrorism Act of 1989, is actively pushing for offensive biological weapons development, despite the fact such activity is illegal and subject to federal criminal and civil penalties.

See: U.S. Development of Biological Weapons - Watch What We Say, Not What We Do,
(from Broadening Our Perspectives of 11 September 2001)

- Attorney General Ashcroft, the leading law enforcement officer of the land, is mounting a series of assaults on the United States Bill of Rights that deny a host of constitutional liberties to U.S. citizens, as well as preparation on many fronts for the imposition of martial law and the creation of internment camps for enemy citizens of Ashcroft's choosing.

See: Domestic Terrorism: General Ashcroft's "Enemy Citizens," Martial Law and Internment Camps,
(from Broadening Our Perspectives of 11 September 2001)

- Bush II's war on terrorism is founded on political deceptions and deceits directed at the civilian population of the United States. These include omissions that supposed enemies like Al Qaeda are categorized as U.S. intelligence assets and that the Islamic Brigades are a creation of the Central Intelligence Agency.

See: Domestic Terrorism: The Big Lie - The "War" On Terrorism is a Total Fabrication,
(from Broadening Our Perspectives of 11 September 2001)

- A broad range of data and sources indicate the United States has planned for war in Asia long before 9/11. The beneficiaries and proponents of such military campaigns include U.S. oil corporations, the interests of which are well-represented in Bush II.

See: list of sources at: <http://www.ratical.org/ratville/CAH/AOPof911p14.html#fn78>,
(from Broadening Our Perspectives of 11 September 2001)

- Given all indications from the four commercial airliner's timeline sequences on 9-11, there was a stand down of defensive U.S. Air Force response. United States military and/or civilian incompetence or complicity is the only rational explanation for this situation.

See: 9-11 Timeline: minute-by-minute - Stand Down from Incompetence or Complicity?,
(from Broadening Our Perspectives of 11 September 2001)

- Bush and Cheney expressly asked Senate Majority Leader Daschle to limit any congressional investigation into 9-11 because, as Cheney said, "a review of what happened on September 11 would take resources and personnel away from the effort in the war on terrorism."

See:

- Bush asks Daschle to limit Sept. 11 probes, *CNN*, 1/29/02
- White House Blocks Deal by Congress on 9/11 Panel, by David Firestone, *New York Times*, 10/11/02
- Cheney: Investigators, Keep Out - The vice president blocks an independent commission to investigate 9-11, by Michael Isikoff and Tamara Lipper, *Newsweek*, 10/21/02

International law Professor Francis Boyle worked with former Congressman Henry Gonzalez (D-TX) and former United States Attorney General Ramsey Clark to write the five articles of impeachment against George Herbert Walker Bush which Representative Gonzalez introduced into the House on 16 January 1991.

In early 2003 Professor Boyle wrote a Draft Impeachment Resolution Against President George W. Bush detailing six articles of impeachment for high crimes and misdemeanors with the hope of finding a member of Congress willing to introduce this into the process of the United States federal government. This present-day draft catalogs the violations of Bush's constitutional oath of office, violations of United States domestic laws, as well as violations of international laws, treaties, and conventions. Many of these are enumerated in the following References section.

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