

The Link

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About This Issue

This issue focuses on a country whose Supreme Court recently ruled that its government, for political reasons, can target particular groups within its non-citizen population for deportation. While deportation is being pursued, the aliens can be jailed indefinitely on the basis of evidence that neither they nor their lawyers are permitted to see.

It focuses on a university professor forcibly taken in handcuffs from his home where for years he had lived peaceably with his wife and three young daughters.

It focuses on other individuals, all from the same group, most of who sit in prison today, unable to rebut the secret evidence that keeps them there.

And it focuses on the few citizens of this country who challenge their government's right to pick on a group of aliens just because of their political beliefs and then imprison them without telling them why.

It focuses on us.

We welcome to *The Link* John Sugg, a reporter in Florida, where a Palestinian professor is spending his third year in jail for no known reason. And we welcome Kit Gage of the National Coalition to Protect Political Freedom, who monitors other cases of prisoners of Middle Eastern origin languishing in our prisons for reasons known neither to them nor to their lawyers.

John F. Mahoney
Executive Director

SECRET EVIDENCE

BY JOHN F. SUGG

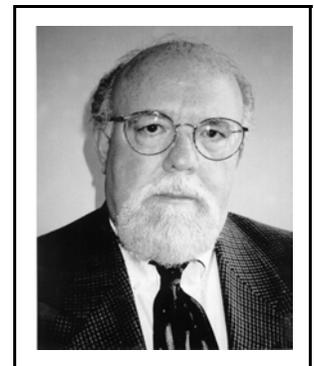
The room is plain, spartan and ugly. Grayish paint covers concrete blocks, vented windows near the ceiling let in little light. Institutional tables and plastic chairs are arranged with military sterility. Nothing breaks the daunting monotony.

This is the visitation room at the Manatee County Jail in the southwest Florida town of Bradenton. It has housed routine thieves, murderers and rapists for decades in its no-frills cells—essentially a temporary lock-up for those recently arrested and others awaiting trial.

The Manatee jail wasn't built to be a long-term big house. Nor was it—or any other jail in America, according to our mythology—intended to be a political prison, a place of incarceration for those whose only crimes are what they think.

(Continued on Page 2.)

John F. Sugg is the senior editor of the Weekly Planet, the alternative newsweekly in the Tampa Bay area, and former assistant Metro editor of The Tampa Tribune. He has won more than three dozen journalism awards, including being named a finalist in the national 1998 Investigative Reporters and Editors competition and top honors this year for investigative journalism, business reporting and column writing in the mid-Florida regional Society of Professional Journalists contest.



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Mazen Al-Najjar shuffles into the room. It's early April 1999 and the Manatee jail has been his home for nearly two years. The jail is now used by the U.S. Immigration and Naturalization Service (INS), which does not describe what Al-Najjar is going through as punishment.

You decide. A scholar, al-Najjar is allowed only three books at a time. A religious man, he is buffeted by the constant profanities of other inmates. The food never changes—it's marginally nutritious and barely palatable. Little privacy, no relief from the grinding routine. Even the jail clothes are a form of torment—the underwear he is forced to don causes painful skin irritation.

Two years in hell.

Al-Najjar's crime? He doesn't know. Never in his 18 years in the United States has he been charged with any crime, even minor traffic offenses.

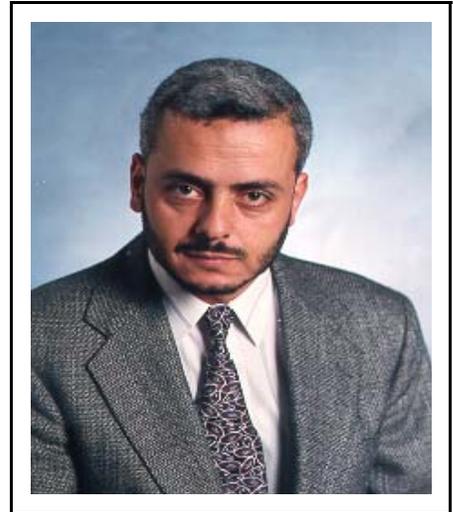
His sad doe-like eyes sweep the room. He brightens at seeing his wife, his sister and his brother-in-law. He would have liked to have seen his three young daughters—Yara, 10; Sara, 8; and Safa, 4—girls he has been allowed to hold only four times since his jailing began.

Al-Najjar is one of about two dozen men—all non-citizens and all but one or two Arabs or Muslims—held by the U.S. government based on claims by anonymous sources who have offered secret evidence that the detainees pose a threat to national security.

"I smell a rat," civil rights leader Jesse Jackson said this past May of the selective enforcement of secret evidence laws against Muslims and Arabs, an unsettling reminder of the noxious racial "profiling" used by some police agencies against minorities. Jackson has agreed to champion Al-Najjar and noted in an interview that "if we can get (Yugoslav President Slobodan) Milosevic to release the three (U.S.) soldiers, maybe we can get the U.S. government to turn over its political prisoners." It may not turn out to be that easy.

When in other cases the government has been forced to face challenges to the secret evidence, the material released has raised questions of why it was secret in the first place. The declassified documents in some cases show, among other things, a high degree of racism among U.S. agents. Most of the material turns out to be garbage—rumor, innuendo, newspaper clippings.

Further, what's clear is that the FBI has a poor reputation when it comes to prosecuting "terrorism." According to The Nation magazine, there was a conviction rate of only 22



Mazen Al-Najjar, 42, was born in Gaza and is a stateless Palestinian refugee. He entered the U.S. initially as a student and earned a master's and Ph.D. from American institutions. He and his wife Fedaa are the parents of three daughters, all born in the United States.

percent in the FBI's internal security and terrorism cases that were referred to federal prosecutors from 1992 to 1996.

In other words, more than three-quarters of these cases were declined by the prosecutors, dismissed by the judges or ended with a not-guilty verdict. Among the vast majority of cases that the Justice Department declined to prosecute, 65 percent were tossed out because the evidence was weak or they were otherwise legally flawed.

Although employed from time to time in the past in attempts to bar or deport aliens, secret evidence never had legislative backing until the 1996 Antiterrorism and Effective Death Penalty Act. About the same time, the Immigration and Naturalization Act was amended to permit the use of secret evidence.

Similar legislative proposals had been handily defeated in the years before the World Trade Center bombing in 1993. What finally boosted the legislation over the top was the bombing of the federal building in Oklahoma City in 1995. Never mind that domestic terrorism is, in fact, rare and that the law's restrictions on First Amendment activity establish a dangerous precedent.

Few members of Congress seem willing to oppose this feel-good legislation that attacks what we try to export in selling democracy—free speech and due process. A notable exception is House Minority Whip David Bonior

(D-MI), who was instrumental in drafting the Secret Evidence Repeal Act of 1999. The bill, supported by numerous civil liberties and human rights groups, would abolish the use of secret evidence and require prosecutors of current cases to reveal the evidence against detained aliens or drop the cases.

The legislation faces an uphill battle, and in the meantime the skirmishes will be fought in INS courtrooms, such as the one in Bradenton, Florida.

Al-Najjar, on that day last April, received one signal of hope. He had a new visitor, former U.S. Attorney General Ramsey Clark, an indefatigable defender of human rights. Clark told Al-Najjar: "You've got to get the message to the people. You've got to ask them: 'Do you believe that in the United States of America, the land of the free and the home of the brave, that a person can be kept in custody month after month after month with no criminal charges being filed?'"

The answer, at least for now, is yes.

No Laws Broken

The government probably knows there is no real evidence of any illegal activities by Muslim scholars at the University of South Florida (USF) in Tampa where Al-Najjar was a teacher.

Bob Blitzer, who recently retired as the FBI chief of counterterrorism, told me last year that although the Muslim academics supported Palestinian causes, "no federal laws were broken."

Let's repeat that. The nation's top terrorist buster stated flatly that "no federal laws were broken." He didn't say only a few laws were broken. He didn't say he wasn't sure if any laws were broken. He said no laws were broken.

For nearly four years, the FBI has pursued Muslims in Tampa looking for evidence of some crime. Sources within the FBI and Justice Department have told me much of the sleuthing focused on suspicions that money raised in the United States was shipped to alleged terrorist groups in the Middle East. No charges have been filed and the investigation apparently has slowed to a crawl.

A ranking lawyer in the U.S. Attorney's office in Tampa, who requested anonymity, told me last year: "Maybe the system does work. Maybe sometimes you look at the evidence and there isn't proof of a crime. I'm not going to say that's the case here. I'm not allowed to do that. But the lack of activity should tell you something."

Who Are the Accusers?

Just about anyone who has investigated what took place in the late 1980s and early 1990s at the University of South Florida in Tampa has concluded that no wrongdoing occurred.

An extensive Associated Press series on terrorism, for example, depicted the Tampa episode as a farce. The AP article, placed on the wire on May 23, 1997, stated: "The failure to find any terrorist activity leaves USF officials feeling they were politically mugged by antiterrorism hysteria."

The Miami Herald, the St. Petersburg Times, and an exhaustive investigation by a former president of the American Bar Association, William Reese Smith, have all reported that what happened in Tampa was First Amendment-protected activity. The Times and the Herald cited biased media reports.

Where did those prejudiced reports come from? Two sources: Steven Emerson and The Tampa Tribune. Or, more precisely, one source, since the Tribune's coverage and the newspaper's reporter on the issue, Michael Fechter, have been Emerson echoes for four years.

Emerson is best known for "Jihad in America," a "documentary" televised by PBS in November, 1994. On July 2, 1995, The St. Petersburg Times printed this appraisal of "Jihad" and its references to the Islamic Committee for Palestine (ICP), which had a Tampa mailing address:

Emerson, who has spent two years trying to prove the existence of an American network of Islamic terrorists, offered no proof of ICP's links to Islamic Jihad other than "knowledgeable sources" and the presence of some militant Islamist speakers at ICP American conferences. Since then, the State Department's chief of counterterrorism, Philip Wilcox, has told the American Jewish Committee that "there is virtually no intelligence information to suggest" that a worldwide Islamic terrorist network exists.

In commenting on "Jihad," reporter Robert Friedman in The Nation of May 15, 1995, accused Emerson of "creating mass hysteria against American Arabs."

(Richard Mellon Scaife, described by The Washington Post as "the Pittsburgh billionaire whose foundations have bankrolled an array of anti-Clinton activities," provided funding for "Jihad" through a foundation he controls. Considering Scaife's patronage, it is not surprising that Emerson declared that Muslim terrorist sympathizers were hanging out at the White House.)

In two interviews, Fechter has said he began his reporting after viewing Emerson's "Jihad in America" on PBS. The Tampa Tribune, aided by Emerson, published a series by Fechter, "Ties to Terrorists," in May 1995. According to an affidavit by Immigration and Naturalization Service (INS) Agent Bill West, the federal government was prodded into an investigation by the news accounts.

The actual origin of the Tribune's reporting may involve more intrigue than acknowledged by the newspaper. Three former columnists and editorial board members of the Tribune have told me how "Ties to Terrorists" came to be written. Two of the journalists agreed to be named—they have left the newspaper. One remains a Tribune employee and asked for anonymity.

During 1994, Israeli consulate officials from Miami were frequent visitors to newsrooms around the state. They "showed up every six months," said Andrea Brunais, a former Tribune columnist and editorial board member.

At the top of the consulate officials' agenda was the USF Middle East Committee, which was having great success in promoting wide-ranging dialogue. According to former Tribune columnist Mark August, the Israeli officials were especially concerned over the planned visit of Rashid Ghanoushi, a Tunisian dissident. Israel at that time was trying to forge an alliance with the repressive regime in Tunisia, and prominent pro-Israeli groups such as the newspaper Forward and the American-Israel Public Affairs Committee (AIPAC) stridently denounced Ghanoushi's planned visit.

A consular official told Tampa Tribune editorialists and

columnists of his government's intent to halt Ghanoushi's visit and to silence the USF Middle East Committee (even though it had hosted several prominent pro-Israeli speakers).

That would be bad enough. What is damning for The Tampa Tribune is a footnote to the story added by Brunais in a conversation with me in April of this year. She left the Tribune in 1994 and became editor of the editorial page of The Tallahassee Democrat. In a visit to the Democrat, an Israeli consular official described in detail the contents of The Tampa Tribune's "Ties to Terrorists" series months before it was published. "How in the world could he have known that if they (Israeli officials) weren't feeding (Tribune reporter) Fechter the information?" Brunais asked.

(I have invited The Tribune, in writing, to comment on this and all other aspects of its reporting that are referenced in this article, and have received no response to date.)

Al-Najjar sits in jail today almost certainly because one side in a dispute thousands of miles from U.S. shores wanted to quash free discussion here—not because of terrorist activities. Prominent investigative reporter Alexander Cockburn has called the secret evidence cases against Arabs and Muslims "an ugly affair whose bottom line is whether the Israeli government can reach into U.S. courts ... to inhibit the most basic rights of U.S. citizens."

While the people jailed on secret evidence are not citizens, the fact that they—and others like them—can be silenced and intimidated for First Amendment activity infringes on the rights of all Americans to have access to the entire spectrum of political thought. How the U.S. engages Middle East policy is a vital issue, yet we are being told, in effect, that on this subject we need hear only one side of the debate.

'Catch 22' Rules

No one has researched public records regarding Mazen Al-Najjar more thoroughly than local activist Joseph A. Mahon, a retired oil company executive who worked in the Middle East more than 30 years.

When The Tampa Tribune boasted that everything they published about Al-Najjar was supported by the trial record, Mahon gathered the transcripts, depositions and submissions from both sides that were part of the immigration hearing record. Then he read all 2,000 pages with meticulous care, concluding that "the trial record does not support the allegations made by The Tampa Tribune. . . . Maybe, if you read the record selectively, you could come to an erroneous conclusion. For example, if you read INS Agent West's explanation on one page and fail to read the response or explanation of other witnesses, you might come away with a distorted view. But if you read the whole thing, you'll find there is nothing there."

Mahon was part of a delegation that protested Al-Najjar's imprisonment on secret evidence in a meeting with Department of Justice (DOJ) officials in Washington, D.C., on April 15, 1998. In a prepared statement provided to the DOJ, Mahon noted that, "It seems there are special 'Catch 22' type rules designed for Arabs in general and Palestinians like [Mazen Al-Najjar] in particular." Then Mahon provided these examples:

Noel Gaynor, an Irish national and former member of the Irish Republican Army, was convicted in a police killing in North-

ern Ireland. He was in the United States and he wanted to stay in the United States with his wife and children, but he was to be deported because he had overstayed his visa. Deportation proceedings against him have been halted and he has been set free.

A second example comes even closer to home. It concerns bomb threats on the USF campus. In 1996, letters said that bombs would be exploded on campus unless the University issued an apology to those Arabs and Muslims involved in the terrorism controversy. USF took this threat seriously; they delayed final exams and shut down the campus temporarily.

Campus security forces identified the source of the threat. It turned out to be a young USF student (Jewish) named Damian Hospital, who apparently wanted to stir up feelings against Arabs and Muslims. Damian was taken into custody, but quickly released on bail. He pleaded guilty, was placed on probation, and released in the custody of his grandmother.

Mahon concluded: "So we have a person convicted in a police killing and a young man who disrupted the USF campus for a week and they are both free and able to carry on their lives normally. In contrast, we have Mazen Al-Najjar. He hasn't been convicted of a crime. He hasn't even been charged with a crime. Still he has been held in jail for 10 months [as of April, 1998] and denied bail."

Dissection of Deception

In 1992, Leon T. Hadar, a former bureau chief for the Jerusalem Post, predicted that the American foreign policy establishment would create a new "menace" to replace communism. Hadar termed this menace the "Green Peril," referring to the color Islamic countries often use in their flags. ("The 'Green Peril': Creating the Islamic Fundamentalist Threat," *Cato Institute Policy Analysis*, Aug. 27, 1992.)

To understand what has happened with secret evidence cases, here's how Hadar described the process of demonization:

The creation of a peril usually starts with mysterious 'sources' and unnamed officials who leak information, float trial balloons, and warn about the coming threat. Those sources reflect debates and discussions taking place within government. Their information is then augmented by colorful intelligence reports that finger exotic and conspiratorial terrorists and military advisers. Journalists then search for the named and other villains. The media end up finding corroboration from foreign sources who form an informal coalition with the sources in the U.S. government and help the press uncover further information substantiating the threat coming from the new bad guys.

Sound familiar? Here's an example of how that scenario played out in Tampa.

On Aug. 7, 1998, The Tampa Tribune slipped a stunning statement into a report about attempts to free Al-Najjar. Tribune reporter Fechter noted that another Palestinian, Ramadan Shallah, had worked with Al-Najjar at a University of South Florida think tank, World and Islam Studies Enterprise (WISE), from 1991 to 1995.

Then Fechter dropped this bombshell: "Shallah now says he served as the terrorist group's (Islamic Jihad's) second in command during that time." This parrots Emerson's unsubstantiated claims, such as this one made to a Congressional panel in February 1998: "One of the world's most lethal terrorist factions was

Rep. Tom Campbell (R-CA), a Supreme Court law clerk in 1977-78, was a Stanford University law school faculty member before his election to Congress in 1996. He continues to teach a course in constitutional law. At the May 19 press conference on the Secret Evidence Repeal Act of 1999, which he and Rep. David Bonior are co-sponsoring, Campbell was asked his response to critics who maintain that certain Constitutional guarantees are legitimately overridden when national security and public safety are concerned. "My answer would be short," he replied. "Street crime is pervasive in America—domestic terrorism rare. Would you give me secret evidence powers to wipe out street crime?"



(From left) Rep. David Bonior (D-MI), Nahla al-Arian (sister of Mazen Al-Najjar) and Rep. Tom Campbell (R-CA) at a May 19 press conference to announce the pending introduction of the Secret Evidence Repeal Act of 1999.—AMEU Photo.

based out of Tampa."

In another report, on July 28, Fechter wrote: "A second WISE researcher, Basheer Nafi, has been identified as an early Jihad ideological writer and a possible successor to the movement's leadership if not for Shallah."

The two statements—if true—would have shattering implications for the Middle East scholars at USF. If Shallah and Nafi were terrorist leaders while they lived in Tampa, then WISE was indeed a command post for Islamic Jihad—as the Tribune has claimed since 1995.

There's a problem, however. An examination of the Tribune's "evidence" shows that neither claim is proven. The newspaper isn't even close. There's no quote or paraphrase from Shallah that so much as vaguely suggests he was active in Islamic Jihad while in Tampa. And the claim about Nafi stems from another publication's report that, in all probability, is a lie.

Respected Israeli journalist Ze'ev Schiff—who is considered to have close contacts with intelligence sources—wrote in Ha'aretz after Shallah became head of Islamic Jihad that the Palestinian "does not have a previous experience in terrorist actions. His background is primarily political Nor is he considered a religious fundamentalist."

I know The Tampa Tribune has had that same article for years because I and others have sent this and other source material to the paper's executives. Although Fechter has quoted Schiff on other matters, he has never provided the Israeli writer's assessment of Shallah.

Unproven Assertions

The bankruptcy of the Tribune's reporting is best illustrated by its statement about Nafi, a biologist and historian who now lives in London. The original allegation that Nafi was in line for

Jihad leadership was based on "confidential sources" quoted in the Jordanian newspaper, al-Urdun. The article ultimately was retracted by the publication.

The Tribune grudgingly noted twice in 1997 that al-Urdun had withdrawn the bogus story. Incredibly, however, the Tribune continues to print the allegation about Nafi as if it were unshakable truth—without providing readers with the qualification that al-Urdun's article was false.

Fechter, in an interview, said that because al-Urdun didn't specify exactly which parts of its story were untrue, the Tribune would continue to rely on the assertion about Nafi and Islamic Jihad. That, of course, sets a whole new standard of journalism: There's a slim chance it might not be a lie, so let's print it as truth.

Yet federal agents have cited the since debunked al-Urdun article as their source for concluding Nafi is a terrorist—and the agents note they were prodded into action by the Tribune's jihad against the Islamic think tank.

Is there any other basis for Fechter's claim about Nafi? Fechter reported on April 17, 1996: "Nafi's Jihad connection was identified in a master's thesis" at the University of South Florida. But the time periods referred to in the thesis are in the 1970s and early 1980s, long before the founding of Islamic Jihad. And the references don't say Nafi founded or ran Jihad—just that he was a thinker and a writer.

'They Make These Things Up'

In only one of the citations, by two Israeli journalists, is there a more specific accusation. Fechter paraphrased, but did not directly quote the Israelis, stating that they said Nafi was "in control of the Islamic Jihad around 1988." Fechter, as has been the nature of his reporting, doesn't tell us what Nafi has to say.

Easily reached in London, Nafi responded that he had not been in the Occupied Territories or Israel since 1983.

"That's B.S.," he said of Fechter's assertion. "I was in London at the time. I received my Ph.D. in biology in 1987. In 1988, I was working ... [at a] medical school in London doing post-doctoral research in genetics. Remember, this was 1988. There were no easy faxes. In fact, faxes were banned over there. There were no direct phone links. There was no way to run an organization by remote control."

Nafi added: "I am not a member, and I have never been a member [of Islamic Jihad]. Everything he [Fechter] writes about me is a lie."

Nafi clearly is one of a group of Palestinian intellectuals who forged friendships with each other in the 1970s. Some attended schools together in Egypt. The bond among them, Nafi said, is not terrorism, but a belief that a Palestinian state is necessary in order to secure peace in the Middle East.

When Fechter characterized Nafi as an "early Jihad ideological writer," the reporter was alluding to a period long before Islamic Jihad was founded in the late 1980s. A political belief is not the same as belonging to a particular organization—especially when that organization is years away from being conceived. Nor does a political belief constitute terrorism.

Still, there's no dispute that Shallah became general secretary of Islamic Jihad after its leader, Fathi Shikaki, was assassinated, presumably by Israelis, on Oct. 26, 1995. Shallah had left Tampa a full five months before that date, and—as the Israeli journalist Ze'ev Schiff reported—Shallah's background was primarily political, with no experience in terrorism, prior to leaving Tampa.

Nafi and others at USF not only were surprised by Shallah's radicalization, they were angered. "We were not happy about that development in his (Shallah's) career," Nafi said. "When he was in the States, we were absolutely sure that he was not doing any political activity on behalf of anybody. None of us were. That was part of the conditions upon which we founded WISE. We were researchers, and we did not want to have ties to any group. He was never, never active in any organization while in Tampa."

The Tribune simply has no proof, not a shred of evidence, that Shallah made Tampa a command base for Islamic Jihad, or that he was an officer or member of Islamic Jihad prior to May 1995. I have asked many times for documentation; it apparently doesn't exist in the Tribune's files.

Among the 60 boxes of documents and 280 megabytes of computer files seized by federal agents from WISE members in Tampa, no operational orders were discovered that indicate Shallah was running anything from Tampa.

Key sources have repudiated how they have been characterized by the Tribune. A British scholar, Beverly Milton-Edwards, was cited by Fechter to bolster his claim that Islamic Jihad leaders toiled at USF. Milton-Edwards was shocked at that assessment of her scholarly work.

"It sounds like my writing has been misinterpreted," she wrote to me. "An association or sympathy with certain ideas, for example, is not the same as being in an organization or leading it. ... I find it hard to believe that while either of them (Shallah and Nafi) were in America that they were involved in terror

plots."

The Tribune uses tenuous chains of association to bolster its claims that individuals are linked to terrorist groups. In one ridiculous claim, the Tribune discerned an Islamic Jihad linkage to Tampa because (1) Islamic Jihad gave Reuters reporter Paul Eedle articles that included one from a Tampa magazine, and (2) material seized in Tampa by federal agents included a 1993 Jihad calendar. Ignoring the declared purpose of the USF scholars to collect material about and from all Middle East points of view, The Tribune concluded in a July 1998, article that, "Eedle's experience appears to tighten the relationship between the Jihad and the Tampa group."

Eedle wrote to me, stating that while it was clear people in Tampa were sympathetic to the Palestinian cause, "being given the magazine didn't prove that there was any organizational link between Islamic Jihad and the publishers of the magazine in Tampa."

The Tribune, when presented with Eedle's refusal to endorse the newspaper's conclusion, did not comment, nor has it published his views.

Once planted in the media, distortions and deceptions can gull the naive, and be cited by the unscrupulous to "prove" the unsubstantiated. Participants in pushing the same bias can cite one another as a confirming source. Emerson wrote recently that, "Nafi is recognized as a founding member of the Islamic Jihad." Recognized by whom? Well, Fechter for a start.

In February 1996, the St. Petersburg Times quoted Emerson's claim that some Palestinians in Tampa were directly involved in the 1993 World Trade Center bombing. "I am constrained at this point from revealing some of those details, but I can tell you they will come out in the near term. . . . (They) include money transfers, they include actual reservations and planning for the conspirators in the bombing, and they include visits back and forth between Tampa and New York and New Jersey, between officials here of the groups (operating at USF) and officials there."

What a story! But has there ever been an arrest of anyone in Tampa related to the World Trade Center bombing? Of course not. I asked the U.S. Justice Department for any documents that pertain to ties between any Tampa resident and the World Trade Center bombing. On Aug. 4, 1998, the Office of the Deputy Attorney General responded: "Please be advised that no responsive documents were located."

In a recent letter to me, Emerson's attorney, Richard Horowitz, wrote that I exhibited "misplaced reliance on the Justice Department" regarding Emerson's World Trade Center claims. Horowitz referred me to an affidavit of an INS agent. Yet, that affidavit only mentions what the agent characterizes as ominous-seeming phone calls. One was between an USF professor and a Cleveland imam, Fawaz Damra. The imam had at one time lived in New York where he had known Sheikh Omar Abdel Rahman, the blind cleric convicted in the bombing.

But Damra had broken with the sheikh years before the bombing and moved to Cleveland in early 1992. He was later granted U.S. citizenship and was never questioned by law enforcement about the World Trade Center.

The second phone call involved travel arrangements for visiting Sudanese leader Hassan Turabi.

No substantiation exists in the affidavit—or anywhere else as far as I can determine—of the claims made by Emerson.

Emerson's Career Path

Emerson gained prominence in the early '90s. He published books, wrote articles, produced a documentary, won awards and was frequently quoted. The media, Capitol Hill and scholars paid attention. "I respect his research. He gets to people who were at the events," says Jeffrey T. Richelson, author of "A Century of Spies."

Accuracy, however, has not been an Emerson hallmark. A May 1991 New York Times review of Emerson's book "Terrorist" chided that it was "marred by factual errors ... and by a pervasive anti-Arab and anti-Palestinian bias."

Emerson's most notorious gaffe was his April 19, 1995, claim on CBS News that the Oklahoma City bombing showed "a Middle Eastern trait" because it "was done with the intent to inflict as many casualties as possible."

Yet Emerson seems irrepensible. When the Associated Press was working on its 1997 series on terrorism, Emerson presented AP reporters with what were "supposed to be FBI documents" describing mainstream American Muslim groups with alleged terrorist sympathies, according to the project's lead writer, Richard Cole. One of the reporters uncovered an earlier, almost identical document authored by Emerson. The purported FBI dossier "was really his," Cole says. "He had edited out all phrases, taken out anything that made it look like his."

Another AP reporter, Fred Bayles, recalls that Emerson "could never back up what he said. We couldn't believe that document was from the FBI files." AP made no use of the document and stripped much of Emerson's input from the series. In a lawsuit filed in federal court on May 19, 1999, Emerson charged Cole and me with defamation because of my report of the AP incident. No one at AP has disputed my report.

Although Emerson is fond of saying there are good Muslims and bad Muslims, it's a hollow defense. He claimed, in a March 1995 article in Jewish Monthly, that Islam "sanctions genocide, planned genocide, as part of its religious doctrine." In a letter to the Voice of America on Dec. 2, 1994, he asserted that radical Muslims in the United States are plotting nothing less than the "mass murder of all Jews, Christians and moderate Muslims." In August 1997, he told The Jerusalem Post that "the U.S. has become occupied (Islamic) fundamentalist territory."

According to investigative reporter Chip Berlet, writing in CovertAction Quarterly's summer 1995 issue, "Emerson makes unsubstantiated allegations of widespread conspiracies in Arab-American communities and brushes aside his lack of documented evidence by implying it only proves how clever and sinister the Arab/Muslim menace really is. . . . This is a prejudiced and Arabophobic twist on the old anti-Semitic canard of the crafty and manipulative Jew."

Kojo Nnamdi, formerly a talk show host on Howard University's WHUT, remembers that when he invited some Muslims on a program, "Emerson started making threats. He wanted to link academics to terrorists. He succeeded in delaying the program, I'm sorry to say."

In 1966, after Emerson attacked the Council on Foreign Relations for including Muslim points of views in its newsletter,



Former Attorney General Ramsey Clark (back) with Mazen Al-Najjar and his wife, Fedaa, and Link author John Sugg (right). Clark went to Florida in April, 1999, to visit Al-Najjar in the jail where he has been held without charge for more than two years.

the group's president, Leslie Gelb, dubbed Emerson the "Grand Inquisitor."

The Miami Herald's highly regarded senior writer, Martin Merzer—who has experience as a bureau chief in Jerusalem—demolished many of Emerson's and The Tampa Tribune's claims in a March 1998 article. Prior to publication, Emerson sent a letter to the Herald's top editor at the time, Doug Clifton, with copies to Jewish leaders, in an unsuccessful attempt to derail the story.

Some Emerson critics suspect he has Israeli backing. The Jerusalem Post in September 1994 noted that Emerson has "close ties to Israeli intelligence." Investigative journalist Robert Parry noted that, "He's carrying the ball for Likud," referring to Israel's right-wing party. Victor Ostrovsky, who defected from Israel's Mossad intelligence agency and has written books disclosing its secrets, calls Emerson "the horn"—because he trumpets Mossad claims.

Yigal Carmon, a right-wing Israeli intelligence commander, has stayed at Emerson's Washington apartment on trips to lobby Congress against Middle East peace initiatives (The Nation, May 15, 1995).

When criticized by journalists, Emerson goes on the offensive, often through lawyers. He has launched salvos at The Miami Herald, The Nation, Voice of America, Fairness and Accuracy in Reporting, and the Council on Foreign Relations. Since I began my investigative reporting on Emerson, his lawyer has sent four letters threatening me and my employer, Tampa's Weekly Planet, with legal reprisals. In the suit filed May 19, Emerson is seeking \$33 million in damages from me, the Weekly Planet and former AP reporter Cole.

But I can face my accuser, enjoy public witness to the "charges" he brings, and thus mount a legal defense of my rights to free speech under the First Amendment.

However, Mazen Al-Najjar, starting his third year in jail, has only anonymous accusers with secret charges—and he is left with the aching shame of public humiliation and the frustration of being denied the opportunity to prove his innocence. p

A guide to reading these cases:

- ◆ **Immigration and Naturalization Service (INS).** An agency of the Department of Justice that controls the entry of foreigners into the U.S., their residency status, and the citizenship process. The INS has its own courts and judges.
- ◆ **Permanent legal resident.** An individual granted the right to live permanently in the United States (sometimes referred to as a green-card holder). A legal resident may, by fulfilling certain requirements, become a citizen, but need not do so to continue to live and work in the U.S. Depending on an immigrant's personal circumstances, acquiring permanent residence can take from one to five years. Foreigners who are legally in the U.S., but are not permanent residents, are governed by the terms of their individual visas.
- ◆ **Out-of-status.** A violation of the terms under which a foreigner was admitted to the U.S. by the INS. The more common and minor of these infractions—overstaying a visa or working while a student—are often referred to as technical visa violations.
- ◆ **Exclusion/deportation.** Barring a foreigner seeking entry is termed exclusion. Once admitted, removal is sought in a deportation proceeding.
- ◆ **First Amendment activity.** The first ten amendments to the Constitution comprise the Bill of Rights. The First Amendment states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."
- ◆ **Antiterrorism and Effective Death Penalty Act of 1996.** In this law, Congress established a new system for allowing secret evidence to deport permanent residents suspected of terrorist associations. The legislation provides for a special court in which a potential deportee and his or her lawyers would be allowed to see an unclassified summary of the evidence that would be sufficient, supposedly, to permit them to rebut the evidence hidden from them. The court has not heard a single case. Possibly it serves the government's intent better as a threat than as a reality, or maybe the government is waiting for truly egregious cases that will elicit less public outcry.
- ◆ **Secret Evidence Repeal Act of 1999 (HR 2121).** If passed, this bill would prohibit the use of secret evidence in current and future immigration proceedings. It was introduced in the House of Representatives on June 10. Co-sponsors are Reps. David Bonior (D-MI), Tom Campbell (R-CA), John Conyers (D-MI), and Bob Barr (R-GA).
- ◆ **Rights of non-citizens.** Civil liberties activists, supported by many legal scholars, argue that the language of the Constitution protects all people in the United States, not just its citizens. In "A Guide to Naturalization," the INS acknowledges that "the Constitution gives many rights to citizens and non-citizens living in the United States." The Supreme Court has been inconsistent on what rights non-citizens enjoy, although it dealt a serious blow to immigrants' rights with its February 1999 decision in the LA 8 case.

Other Secret Evidence Cases

BY KIT GAGE

The Los Angeles 8 (LA 8)

This remarkable case is more than 13 years old. It connects the old anti-Communist era laws with today's antiterrorism laws in a virtually seamless fabric. It began as a secret evidence case.

During the Reagan Administration, the Justice Department created a secret task force—the Alien Border Control Committee—and asked it to determine how to deport "PLO activists who have violated their visa status . . . while protecting classified information." This could be the template for the subsequent secret evidence deportations. The only difference is that the "PLO activists" were viewed as communists, not terrorists, and were to be deported under the old McCarran-Walter anticommunist era laws.

Shortly after the secret task force was formed, seven Palestinians and one Kenyan were arrested, shackled, and taken to a maximum-security prison to await deportation. They were accused of being members of the Popular Front for the Liberation of Palestine (PFLP), a PLO group that the U.S. claimed advocated "world communism." When the government's attempt to deport them for PFLP membership was thrown out by the court, the INS then said the actual basis for deportation was that six of the eight had technical visa violations. However, the INS acknowledged that the underlying secret evidence about their alleged affiliations drove the deportation action.

Fortunately for the LA 8, they were released from jail soon after their incarceration pending resolution of the case. For 13 years, until this February, the federal courts repeatedly and consistently told the INS that the proceeding was unconstitutional, that secret evidence could not be used, and that the INS had violated the constitutional rights of the accused precisely because of their First Amendment activity.

All of the secret evidence—a mass of documentation—was made public. The "evidence" documented the ordinary work of community activists. They had distributed pamphlets and arranged *haflis* (social events common in Arab-American communities) to raise funds for humanitarian causes in the Middle East.

The government had treated the pamphlets as if they were explosives and portrayed the LA 8 as dangerous aliens. But, in the plain light of day, the documentation supported none of these sinister allegations. Any citizen could have engaged in the same activities legally and expressed the same beliefs under the First Amendment. But the government contended it had the right to deport immigrants for these same acts and expressions.

The 9th Circuit Federal Court of Appeals stopped the government in two areas. The Court said that the LA 8 could not be singled out for deportation for their First Amendment

activity when others with the same technical visa violations would not be deported. The Court also held that the LA 8 need not complete the immigration court process before constitutionally challenging the whole proceeding in federal court. This decision validated the complex legal defenses mounted over a 13-year period in fighting a very dogged INS.

The fact that the LA 8 prevailed through this period is nearly miraculous. The LA 8 had little money and were aided by lawyers and activists who worked *pro bono*. David Cole, co-operating attorney with the Center for Constitutional Rights, and Marc Van Der Hout, an attorney affiliated with the National Lawyers Guild, were the main lawyers throughout, and the Center and Guild were among the principal support organizations.

Then came the Supreme Court. The U.S. appealed the 9th Circuit's two-part decision to the Supreme Court, which announced last summer that it would hear only the more narrow issue—whether the LA 8 had to exhaust their immigration court proceedings before going to federal court with constitutional questions.

The lawyers were not allowed to present arguments about the First Amendment issue of selective prosecution. Yet this was the main issue, one with far-reaching ramifications affecting many individuals and groups—and lots of case law. Also, while the courts tend to give great latitude to the government on the issue of selective enforcement, rarely upholding appeals, this particular case was a straight out First Amendment challenge.

Then on Feb. 28, 1999, the court ruled in the government's favor on both issues, without having heard a word on selective prosecution. Its decision means that a person has to exhaust the immigration court remedies before bringing constitutional issues to a federal court, and that the INS can choose at will whom it will try to deport, without any regard for First Amendment rights.

Years can pass in immigration courts before the point is reached where key facts can then be taken to a federal court. Witnesses can disappear, die, forget, or move. Documents disappear—or are lost, to put it kindly. The government can pursue a case forever without regard to money or staffing, but people fighting deportation are not provided with legal services or a public defender and must represent themselves (ludicrous considering the complexity of immigration law) or convince a lawyer to take on a case for relatively little money and an open-ended time commitment.

To highlight the point, the Supreme Court then refused to “rehear” the case. As it had not heard the main issue before deciding it, refusing again made it clear that the top court of the nation views immigrants as second class subjects when it comes to Constitutional protections, and they are fair game for prosecution because of their associations and politics. The LA 8 remain free, but whether the government can actually deport them for First Amendment activity remains to be decided.

Ali Termos

Ali Termos entered the U.S. as a Lebanese citizen on a stu-

dent visa in January of 1986. He finished his electrical engineering studies in 1991, and his student visa expired. He remained in the U.S., a common technical violation, but the INS made no move to deport him at that time.

Termos married a naturalized U.S. citizen in June 1996, and, in a typical scenario, began the long process of becoming a permanent legal resident. Four months later, Termos was arrested at his workplace, a gas station, with the INS seeking his deportation on the grounds that he had overstayed his student visa and was working without authorization.

People seeking to become permanent legal residents who are married to U.S. citizens usually are allowed to remain in the U.S. during the process and to continue their normal lives. Instead of routinely allowing Termos to remain free on bond, even while the deportation process meandered, the INS sought to have him remain in jail without bond.

Why was Termos being treated differently? The FBI questioned him while he was in jail about his knowledge of the Detroit Arab community, Islamic religious groups, and any connection between any of them and groups the U.S. has labeled “foreign terrorist groups,” such as Hizballah, headquartered in Southern Lebanon.

Termos acknowledged that he had sent small amounts of money annually, less than \$300 in all, to the “Martyrs Foundation,” an Hizballah-run orphanage, to help support two orphaned relatives. The children's father had been killed in an Israeli raid in Southern Lebanon. Further, Termos told the FBI that he had spoken publicly in opposition to Israel's military occupation of Southern Lebanon. Simply put, his admissions were humanitarian aid to help a relative and First Amendment activity.

Termos was denied bond and jailed. His attorney appealed that decision to an immigration judge. At the bond hearing, the FBI joined the INS, and presented information only to the judge—secret evidence—supporting holding Termos without bond as a “security risk.” Further, as in about half the known cases, the government refused even to provide an unclassified summary of that “evidence.”

Termos freely admitted to giving money to help orphaned relatives. This admission might have been considered a criminal violation under the Antiterrorism Act because the orphanage was considered to be controlled by Hizballah, which is on the State Department's list of “foreign terrorist organizations.” But Termos was not charged under this provision and was not called before the special court created under the Antiterrorism Act. There, at least, he and his lawyer would have received an unclassified summary of the evidence, and that would have been the evidence considered by the judges. In this case he saw nothing and was charged with nothing.

During the deportation hearing, the INS agreed for the record that Termos had not committed a crime, and that it understood that his wife was a U.S. citizen. Despite these acknowledgments, the U.S. ordered him deported. The attorney filed an appeal while Termos, by then 31, remained in jail. The appeal was denied and Termos, after a year in prison, was deported back to

Lebanon on October 6, 1997 never knowing why he was a "security risk."

Imad Hamad

Imad Hamad, a Palestinian born in Lebanon, came to the United States on a student visa in 1980. While he was in California as a student, he apparently attended political rallies and showed support for some of the activities of the Popular Front for the Liberation of Palestine.

When he applied for permanent resident status in 1991, his first marriage to a U.S. citizen had collapsed, and the INS denied his request for adjustment for that reason. It had initiated deportation proceedings two years earlier alleging that he was affiliated with the Popular Front for the Liberation of Palestine. The government claimed it had evidence that Hamad had participated in various demonstrations and fund-raisers (like the LA 8). Then in 1997, the government added that it had classified evidence against him as well.

As is typical, the deportation process dragged on. In the meantime, Imad moved to Detroit and married a second time. At the second deportation hearing, the immigration judge threw out the government's allegations that Hamad had engaged in terrorist activity, or even that he was a member of the PFLP, saying that the INS had failed to prove its case.

The immigration judge saw the secret evidence, which Hamad and his lawyer did not. The government then declassified some of this secret evidence. In an ironic but not all that unusual twist when it comes to classified material, the secret evidence was apparently the same non-secret evidence (photos from a rally, etc.) that the government had previously shown to Hamad in its 1989 deportation effort. So the information had originally been public, then was classified, then declassified, all in the same deportation case over a 10-year period.

In 1997, the immigration judge granted Hamad "adjustment of status" to permanent legal residence. The government appealed to the Board of Immigration Appeals, which on Feb. 19, 1999 agreed with the immigration judge. It said that the evidence was "vague, lacking in specificity and uncorroborated." So in this case the Board did not challenge the use of the secret evidence, nor note its chameleon-like condition, but rather ruled that it was not sufficiently convincing or detailed to prove what the government alleged. The government did not appeal.

Nasser Ahmed

As of April 25, 1999, Nasser Ahmed had spent three full years in jail, held in solitary confinement virtually the entire time. This is the longest incarceration for any immigrant being deported on the basis of secret evidence. There is compelling evidence that the U.S. is seeking to deport him and his wife precisely because of his refusal to be an informant for the FBI.

Nasser Ahmed had been living in New York City with his wife and three U.S. citizen children since 1986 when he had immigrated from Egypt. He worked as an engineer and helped run a large summer school. He worshiped at the Abu Bakr Mosque

in Brooklyn and was a respected member of the community.

Abu Bakr is the same mosque to which Sheikh Omar Abdel Rahman and other Islamic scholars were invited to speak about human rights abuses in Egypt, Bosnia and Palestine. Abuses in Egypt, including torture and indefinite detention, are well documented by independent human rights organizations, even as the U.S. provides very substantial military and economic aid to Egypt. Sheikh Abdel Rahman is the most visible leader of the opposition to the Egyptian government.

Sheikh Abdel Rahman was tried and convicted of seditious conspiracy to bomb tunnels and buildings in New York City. Seditious conspiracy is a charge the government can use to implicate people who have little or no connection to a particular crime—"intellectual author" is sometimes the characterization. Long before the trial, the FBI had the mosque, and of course the sheikh, under surveillance for expressions of political opposition to the Egyptian government.

Ironically, when Ahmed accepted the U.S. government's appointment to serve as Sheikh Abdel Rahman's paralegal and translator, he simultaneously became the subject of an FBI investigation. Both the FBI and INS tried to convince Ahmed to help them convict Abdel Rahman or face deportation. He refused and the INS arrested him on April 24, 1995 for having overstayed his visa. He was released on \$15,000 bond, and continued to work with the sheikh's defense team under court authority.

He was rearrested a year later, in April 1996. He applied both for release on bond and—fearing recriminations if deported to Egypt for having worked on the sheikh's defense team—for political asylum as well. This time the INS introduced secret evidence claiming Ahmed was a "threat to national security," and he remained in jail without the option of paying what is typically a nominal bond to remain free pending deportation.

Ahmed and his lawyers were not allowed to see the detailed basis of the claim. The government's one-sentence summary of the secret evidence—a rare concession in such cases—was termed "largely useless" by the immigration judge. Why? It said the government had information about his "association with a known terrorist organization." What organization? The government didn't say. What association? Again, nothing.

Donn Livingston, the immigration judge, agreed with Nasser Ahmed and his attorneys that Ahmed did have a "well-founded fear" of persecution because of his political associations if he were deported to Egypt. The judge said he had "no doubt" that Ahmed faced prison and likely torture, and agreed that this made a good claim for political asylum. Despite being persuaded by the strong defense, the immigration judge felt he had to deny the claim and allow deportation because of the secret evidence.

Ahmed challenged the constitutionality of the immigration court's decision in federal court. Again, typically, the INS then declassified some of the secret evidence. The alleged associations were with al-Gama-al-Islamiya (the Islamic Group) and the sheikh. Of course Ahmed associated with the sheikh; he was a paralegal and translator for him at the court's behest.

The summary did not charge that Ahmed had engaged in or supported any illegal activity. Following the public release of this evidence, the judge and the INS admitted that his (supposed) association with al-Gama-al-Islamiya alone is not and should not be the only rationale to hold him in jail, refuse to grant him political asylum or deport him.

Ahmed's lawyers used the new information to argue that he had not been a member of al-Gama, and said that in any event al-Gama was basically a coalition. Judge Livingston himself noted that the group appeared more like the "anti-war movement" of the 1960's and 70's in the U.S. than a specific organized group.

After the immigration judge rules in Ahmed's case, it will go to federal court in the Southern District of New York for a determination of whether the use of secret evidence violated his due process rights under the Fifth Amendment.

Nasser Ahmed's health has suffered from his detention in solitary confinement. He initiated a hunger strike to protest being held, during winter, in an unheated jail cell at New York's Metropolitan Correctional Center (MCC).

There have been two demonstrations outside the MCC in New York and, after the last rally, Ahmed was transferred to a federal prison two hours away. These and other efforts by activists, including contacts with the media, have put the government on notice that many people in the local area are following this case and are concerned about Ahmed's condition. As a result of publicity in the New York area and nationally, many Americans are at least aware of the extent to which the U.S. will pursue individuals with innocent, happenstance connections to terrorist criminal acts. In this case, Ahmed is twice removed from those convicted of the World Trade Center Bombing—the court-appointed trial translator to someone who was respected by those convicted of the actual crime.

Dr. Anwar Haddam

Dr. Anwar Haddam's case is unusual in that he remains under a death sentence in his home country, providing him with the soundest of grounds for seeking political asylum.

Dr. Haddam, an Algerian, was elected in 1991 to the Algerian parliament as part of the FIS—Islamic Salvation Front. Following the 1992 coup, the military invalidated the elections and killed or imprisoned many members. Haddam first fled to Morocco, then to the U.S. (Chicago, then to the Washington, D.C. area), where he continued to be vocal on Algerian issues. In March 1996, Haddam was tried *in absentia* in Algeria and subsequently sentenced to death.

He and his family members were granted parole—permission to reside in the U.S.—and Haddam was repeatedly granted permission to travel and return to the U.S. In December 1996, parole status was revoked without proper notice and he was arrested and detained before being notified of the status change. The INS sought to deport him back to Algeria.

The INS told immigration judge (IJ) John Milo Bryant that it had secret evidence. Bryant refused to consider the secret evidence—"fundamentally unfair," he said—but he also denied

defense motions for the INS to produce it.

Dr. Haddam's phones had been tapped (initially authorized by the Department of Justice, then by the federal court). INS attorneys confirmed in writing that the "secret evidence" was the transcription of the phone taps.

The IJ denied asylum to Dr. Haddam on the basis that he had persecuted others as a result of his silence in the face of violence in Algeria as well as his "condonation" of terrorism.

On appeal, the Board of Immigration Appeals (BIA) in October 1988 said there was no evidence on the record not to grant asylum. On the persecution allegation, the BIA found no basis on the record for that charge, but sent the case back to the IJ to see if the allegation was supported by the secret evidence (which the BIA did not have).

A new IJ, Joan Churchill, took the BIA's remand, or referral, on which action was to be completed in 15 days, according to BIA instructions. Yet a decision is outstanding more than six months later.

Haddam's attorneys have sought to compel the IJ's decision, and have filed writs of *habeas corpus* seeking to release him from prison. At the same time the INS is pursuing Haddam, it has not charged him with terrorism or anything else related to national security. Further, the U.S. Department of State has consistently confirmed that there is no basis for Algeria's warrants against Haddam, that his detention is against U.S. interests, and that he should be granted asylum.

Haddam has been in jail two and a half years and has been moved three or four times. He was put in isolation when he went on a hunger strike. Now he is jailed in Hopewell, Virginia, four hours away from his wife and four young children—three of whom are U.S. citizens.

Yahia Meddah

Meddah, an Algerian, fled from Algeria to escape a group on the U.S. list of "foreign terrorist organizations," the Armed Islamic Group (GIA). He eventually arrived in the U.S. in 1993, after much of his family had been murdered in Algeria, reportedly by GIA supporters. He moved to West Virginia and married a U.S. citizen.

But that life was hardly peaceful. Following his hospitalization in August 1996 from an assault by his wife's daughter's boyfriend, he was detained by the INS. While in custody he was questioned by the FBI, during which he was denied representation. The INS then transferred him to York County Prison in Pennsylvania where he was held in solitary for months.

Unable to find a lawyer in the area, Meddah—not fluent in English and with no legal training—represented himself at a bond hearing in November 1996. The judge denied bond because the INS claimed he had been in an altercation while in detention. Finally Meddah found a lawyer, who sought to get him released on bond and also filed a political asylum claim. That second bond request was denied in August 1997.

Here comes the secret evidence. In September, the immigration judge allowed the government to introduce information neither Meddah nor his lawyer could see that went to "prove"

that Meddah was affiliated with "terrorist organizations." Using that information, the judge denied Meddah's political asylum claim. No accusation of criminal activity was raised. The lawyers appealed both the denial of bond and political asylum.

Meddah's life in detention was a nightmare. He was bounced between various jails and medical facilities. One doctor who evaluated him indicated that holding Meddah in solitary confinement triggered post traumatic stress syndrome by inducing recall of his horrible experiences in Algeria when he feared for his life. Meddah had repeated psychotic episodes and made several suicide attempts.

Unlike some of those suffering in anonymity, Yahia Meddah's case was among those highlighted in the October 1998 Human Rights Watch report on the treatment of immigrants in detention. "When he is given at least minimum treatment and care in mental health hospitals, he markedly improves," the report said. "But every time INS returns him to detention, he becomes extremely upset and suicidal."

The BIA sat on Meddah's lawyers' appeal of the denial of bond. In July 1998 a federal judge refused to make the BIA move on the request. As the lawyers were considering other legal maneuvers to at least get more treatment for him, Meddah escaped in October 1998 from a psychiatric hospital in Miami. Published reports have claimed he is now in Canada.

The Washington Post of Sept. 19, 1998, had carried a startling report quoting a government source as claiming that Meddah was "an assassin for a radical Islamic group in Algeria." That was the first that Meddah or his lawyer, Joe Hohenstein, had heard the slightest specificity of the charges, and here it was in the pages of the Post.

Hohenstein was outraged. The government had not charged Meddah with any crime, had disclosed no information on the reason for his detention, and had kept him imprisoned for over two years. Then it chose—in the most public way possible—to accuse an already suicidal man of being a heinous criminal. If the government truly thought Meddah to be a paid assassin, why try to deport him instead of pursuing a criminal prosecution?

There was some indication that the source of the information against Meddah was his estranged wife. If this had been true, it certainly would have been useful to be able to argue the veracity of the evidence. But this was never confirmed, and today it is moot.

Hany Kiareldeen

Hany Kiareldeen, now 30, was born in the Gaza Strip. He moved to the U.S. in 1990, and is married to a U.S. citizen. He has a 4-year-old child from an earlier marriage in the U.S.

Like other secret evidence detainees, Kiareldeen was charged by the INS in March 1998 with overstaying his student visa. He and his brother Ghassan were told by four INS agents that they would be "taught a lesson." And from that time Hany has been in detention in New Jersey.

He was denied bond using secret evidence. He did receive an unclassified summary of the evidence, a page-long document

claiming he is a "suspected member of a terrorist organization," has "associated" with a person involved in the World Trade Center bombing, and made a "credible threat" against the life of Attorney General Reno.

Defense attorneys strongly suspect that the source of these allegations is his ex-wife, Amal Mohamed, who had previously accused him on six occasions of domestic abuse and child abuse, charges of which he was entirely exonerated. Kiareldeen's relatives have reported that Amal Mohamed's first husband was deported based on information she gave to the government.

Ms. Mohamed was reluctant to testify publicly at Kiareldeen's hearing. She refused to answer questions about her relationship with the FBI and INS. The immigration judge asked the U.S. Attorney to obtain a subpoena from a federal judge to force Ms. Mohamed to testify. The U.S. Attorney spurned the immigration judge's request, instead requesting that Ms. Mohamed respond only to written questions not having to do with her relations with the government. In response, Kiareldeen's lawyers themselves applied to U.S. Judge Barry to subpoena Ms. Mohamed.

On April 2, 1999, IJ Daniel Meisner threw out the deportation case against Mr. Kiareldeen, saying that the secret evidence did not prove what the government alleged. The government immediately appealed the case, leaving Kiareldeen in jail. His lawyers are continuing their legal efforts to obtain his release during the appeal, and to challenge the use of secret evidence.

The Iraqi 7

These seven were among 6,000 Iraqi Arabs and Kurds brought to the U.S. after their U.S.-backed effort failed to overthrow Saddam Hussein. The group was eventually brought to Guam by the U.S., where they received cursory screening by the FBI preparatory to being granted asylum in the U.S. During this process, 20 men were separated out, jailed and told they would be denied asylum and deported back to Iraq—to face almost sure death.

The U.S. detained eight of these Iraqis in Southern California, where they obtained lawyers. There the government alleged that seven were "security risks" to the U.S., based on secret evidence neither they nor their lawyers could see in this exclusion proceeding. The judge's decision also was classified, making an appeal ludicrous.

Then James Woolsey, former CIA director and now an attorney in private practice, joined in the appeal. He had headed the CIA in the government's attempt to use the Kurds to overthrow Hussein. He was furious at the treatment some of the Kurds were now receiving from the same government that, through the CIA, had recruited, trained and funded them—and then pointed them toward Saddam. When the plot was crushed and the project abandoned by the U.S., the Kurds involved most certainly would have been executed had they not been removed to Guam. Now the government, in a second act of bad faith, sought by deportation to reverse the stay of execution their rescue to Guam had provided.

Woolsey was outraged at the process by which the seven



'My Sons Have Done No Wrong to America'

At a Washington, D.C., press conference on May 19, Mrs. Zakia Hakki, an Iraqi Kurd granted political asylum in the U.S., explained to Rep. David Bonior the circumstances under which her two sons—Dr. Ali Yasin Kareem and Mohammed Yasin Kareem—are being held in California while the INS attempts to deport them. Dr. Ali, 36, is one of the “Iraqi 7” and was part of a CIA plot to overthrow Saddam Hussein. Mohammed, 40, was severely traumatized during the Iran-Iraq war when he was forced to witness atrocities committed by the Iraqi military against Kurds in border villages. When, back in Baghdad, Mohammed became incoherent and shouted anti-Saddam epithets, his parents agreed to elec-

troshock therapy, which had the unforeseen effect of erasing most of his memories since childhood. “He is a 10-year-old,” Mrs. Hakki told *The Link*. For compassionate reasons, Dr. Ali managed through subterfuge to include his brother Mohammed in the “CIA group” rescued from Iraq and brought to America through Guam. Both will continue to fight the allegations against them in U.S. courts rather than accept deportation to a third country (a “compromise” from the government’s original intent to deport them back to Iraq, where both have been sentenced to death *in absentia*.) “I support their decision entirely,” said Mrs. Hakki, a lawyer who practiced for 40 years in Iraq. “My sons have done no wrong to America, and they’ll be proven innocent even if we have to go all the way to the Supreme Court.”—AMEU Photo.

were selected for exclusion, at their incarceration, and at the use of secret evidence. Woolsey, who retains the highest security clearance, asked to look at the evidence for the purpose of representing the Iraqi 7 in court. The U.S. said it did not trust Woolsey to keep the information from the Iraqis. Here was the INS saying it did not trust in a simple exclusion proceeding the man entrusted with the nation’s deepest secrets.

Following this intense pressure, the government released 500 pages of secret evidence. It substantiated arguments that Woolsey had made—that translations from Arabic to English were botched, that interviews were replete with the ethnic and religious stereotyping of the interviewing agents themselves, and that fierce rivalries among Kurdish groups had probably resulted in deliberate misinformation that the government accepted at face value.

Examples of the tarnished and sloppy evidence is the quote by FBI agent John Cosenza (“There is no guilt in the Arab world. It’s only shame.”) and the identification of “KLM” as a terrorist group’s acronym when the original reference was to a generic “Kurdish liberation movement.”

Even with its credibility badly damaged, the government only grudgingly accepted overtures from some of the Iraqi 7, who used Woolsey as intermediary, that they be released and deported to a country other than Iraq. On June 11, 1999, the Los Angeles Times reported that five of the seven Iraqis “will be freed to be deported to a third country, leaving the allegations unresolved.”

The government listed 74 countries—not including Iraq—as potential recipients of the five Iraqis. Until final arrangements

are made, the five men will live in Nebraska, where their family members—having been granted political asylum—reside. As part of the bargain, the men will be confined to their homes at night and had to agree that the government could monitor their telephone calls and search their residences at will.

[Editor’s Note: One of the group, Dr. Ali Yasin Kareem, has announced that he will continue to fight the allegations against him rather than accept deportation to a third country. See photo caption on this page.]

How the Government Views Secret Evidence

Even before the 1996 legislation that specifically authorized secret evidence in deportation cases, the Immigration and Naturalization Service asserted that it had legal, if not legislative, authority to employ such evidence, citing the Supreme Court’s 1956 *Jay v. Boyd* decision. In a 5 to 4 vote (with Chief Justice Warren and Justices Black, Frankfurter and Douglas dissenting) the Court sided with INS District Director Boyd who, on the basis of secret evidence, had denied Jay, a citizen of Great Britain, discretionary relief from a deportation order.

To date, the INS claims to have used secret evidence in about 50 cases, approximately 24 of which are currently active. Whether these cases invoke an overly broad interpretation of *Jay v. Boyd* is a question legal authorities continue to argue.

What is clear, however, is that the 1996 Antiterrorism Act, by specifically authorizing the use of secret evidence, lessens the constraints of both Constitutional considerations and conscience in such cases. Although intended for use against permanent

residents--and only in special courts--the very existence of a statute that condones secret evidence can serve as an umbrella to shield its current use against people who are merely out of status and whose cases are heard in the regular INS courts. Presumably, the argument goes, if the government can deport people who are here legally and have no technical problems with their visas, then surely the government can use secret evidence to deport people with technical problems and who are therefore subject to deportation proceedings.

Currently, secret evidence is being used in deportations involving people who are here legally, but are in some relatively technical way "out of status." This can mean working while students, overstaying a visa, or some other minor infraction common to large numbers of immigrants.

Typically, in an out-of-status situation, if the person is married to a U.S. citizen, and is living an otherwise upstanding life, the INS will not begin deportation proceedings, and in fact will entertain motions for the person to become a permanent legal resident. However, in these political cases, the INS treats the accused as if they are extremely dangerous and connected at the top level to a foreign terrorist organization. Bond is invariably denied.

Federal courts, where appeals are brought, sometimes don't want to get in the middle of what they perceive as the INS's business. Congress and the Supreme Court have tended to support the position that defendants should exhaust their legal efforts in one court before taking challenges to another, the rationale being that it is more expeditious and that it removes what they perceive as extraneous legal remedies.

In diminishing civil rights, the Antiterrorism Act affects citizens and non-citizens alike. The FBI has the authority to investigate people because of views they express—in other words, for First Amendment activity—and the government is empowered to try citizens and non-citizens alike for their humanitarian contributions to "foreign terrorist organizations" or related groups.

Organizing To Help Victims And Change the Law

With few exceptions, newspapers have portrayed the secret evidence defendants relatively sympathetically. Editorials and op-ed pieces have appeared with some regularity, arguing the constitutional, procedural and fairness problems with the government's use of secret evidence in deportations.

Why has there been good press? Why do these defendants generally have the best lawyers in the country involved with their cases? The answer is by organizing. Political change doesn't just happen. Rosa Parks, we must remember, was part of an organized movement that made sure that her singular act of defiance became symbolic of the struggle to end segregation.

From the time the Antiterrorism Act was introduced in 1996, groups and individuals were meeting and speaking out about its criminalization of political activity and the impact on constitutional guarantees. Pressure from these sources slowed and slightly modified the legislation, but when it was enacted

the groups that had been fighting the act re-formed to consider the effects of its passage. The National Coalition to Protect Political Freedom (NCPFF) was established in the summer of 1996.

The Coalition supports the right of people to engage in political debates in the U.S., whether they are citizens or not. It argues that all people in the U.S. have Constitutional rights, including the rights of political expression and due process. The Coalition asserts that due process requires that people not be deported without seeing the charges against them and confronting their accusers, as in a criminal trial.

NCPFF tries to ensure that people facing secret evidence deportations have access to legal help, including advice from national experts, and to previous legal briefs that can be adapted to their cases. The Coalition publishes newsletters, prepares case descriptions, and distributes newspaper clippings and summaries when something breaks on a case or an op-ed piece appears. It works with print, TV and radio reporters to initiate stories and helps the media contact knowledgeable lawyers and activists across the U.S. National organizations that are part of the Coalition have the resources to educate the media, lawmakers and executive branch officials on the impact of these cases and the issue of secret evidence.

In most cases, a local group of activists is at work. They have done amazing work publicizing the cases, helping build local and sometimes national support to ease the plight of each individual who is detained and awaiting deportation. As members of the Coalition, these groups find it easier to communicate with each other and to coordinate with the national organization in seeking remedies at the national level.

NCPFF does not endorse or support any of the causes of member organizations or individuals. The unified position is that anyone in the U.S. should be able to express political views free of the threat of deportation, jail or fine. The Coalition need not agree or disagree with the views of a member group.

What we do note, however, is that the U.S. seems to be selectively deporting people who publicly disagree with its government policy and practices with respect to the Middle East. p

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AMEU's Book Selections (See Videos on Page 16)

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Authors	Publication	Year	Pages	List	AMEU	Summary
Aburish, S.	Arafat: From Defender to Dictator	1998	360	\$25.95	\$20.50	Good biography of Palestinian leader.
Abu-Sitta, S.	Palestine: 1948	1998		\$17.00	\$15.00	Locates 531 depopulated towns & villages.
Armstrong, K	Jerusalem: One City, Three Faiths	1996	431	\$29.50	\$23.50	Well written and well reviewed.
Ashrawi, H.	This Side of Peace	1995	318	\$15.00	\$11.50	Author is respected Palestinian spokesperson.
Ateek, N. ed.	Holy Land, Hollow Jubilee	1999	314	\$25.00	\$24.50	Includes articles by Edward Said & Michael Prior.
Bailey & Hillard	Living Stones Pilgrimage	1999	132	\$15.00	\$14.50	Guide to Holy Land's Christian communities.
Bilkadi, Zayn	Babylon to Baku	1998	224	\$75.00	\$59.00	Richly illustrated 40,000-year history of oil.
CAABU	The Arab World	1998	40	\$17.00	\$15.50	Excellent study guide for teachers.
Chacour, E.	Blood Brothers	1984	223	\$7.95	\$7.50	Author is prominent Palestinian Christian leader.
Cheshin, et al.	Separate & Unequal	1999	288	\$27.95	\$19.95	Inside story of Israeli rule in East Jerusalem.
Chomsky, N.	The Fateful Triangle	1983	481	\$18.50	\$17.95	A classic study on US-Israel-Palestine relationship.
David, R.	Arabs & Israel for Beginners	1993	218	\$9.95	\$8.95	Illustrated history of Israel & Palestine.
Findley, P.	Deliberate Deceptions	1993	326	\$14.95	\$18.95	Facing the facts about the US-Israeli relationship.
Finkelstein, N.	The Rise and Fall of Palestine	1996	152	\$18.95	\$15.50	A critical assessment of the peace process.
Fromkin, D.	A Peace to End All Peace	1989	635	\$15.95	\$14.95	Fall of Ottoman Empire & rise of modern Mid.East.
Gee, J.	Unequal Conflict	1998	146	\$15.00	\$13.50	Argues the need to demythologize Zionism.
Haddad, et al	The June 1967 War After 3 Decades	1999	218	\$19.95	\$17.50	Articles by C. Maksoud, E. Hagopian, E. Said, et al
Halsell, G.	Forcing God's Hand	1999	100	\$14.95	\$9.95	Israel, the Rapture and Planet Earth's destruction.
Hourani, A.	A History of the Arab Peoples	1991	551	\$27.50	\$22.50	A definitive work by a distinguished scholar.
Hunter, S.	The Future of Islam and the West	1998	208	\$17.95	\$15.50	Clash of civilizations or peaceful coexistence?
Jaber, H.	Hezbollah	1997	375	\$29.95	\$23.95	Well researched study of the Lebanese movement.
Massoulie, F	Middle East Conflicts	1999	160	\$15.00	\$13.50	From Mohammad to the present.
Mulhall, J.	America & the Founding of Israel	1995	270	\$7.95	\$7.50	Catholic examination of morality of America's role.
Nance, P.	The Nance Museum	1999	208	\$39.95	\$25.50	An illustrated journey into Saudi Arabia.
Pappe, I	Making of the Arab-Israeli Conflict	1994	324	\$24.95	\$18.95	Israeli historian covers year 1947 to 1951.
Raheb & Strickert	Bethlehem 2000: Past and Present	1999	160	\$34.95	\$32.50	Coffee-table history book with 130 color photos.
Shahak, I.	Jewish History, Jewish Religion	1994	127	\$17.95	\$15.50	Talmud morality and the peace process.
Thomas, G.	Gideon's Spies	1999	354	\$25.95	\$21.50	The secret history of the Mossad.
Whitelam, K.	The Invention of Ancient Israel	1997	281	\$20.00	\$16.50	The silencing of Palestinian history.

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Video-Cassettes (VHS)

- ÿ Middle East Council of Churches, **Disabled for Palestine** (1993, 21 minutes). A Palestinian doctor shows cases of Palestinian civilians who have been maimed for life by Israeli bullets, beatings and tear gas. List: \$25.00; **AMEU: \$10.00.**
- ÿ Middle East Council of Churches, **Christian Families of Palestine** (1993, 34 minutes). Documents expropriation by Israeli settlers of the land of two Christian Palestinian families. Good for church groups and tourists preparing to visit the Holy Land. List: \$25.00; **AMEU: \$20.00.**
- ÿ IRA, **Children of the Cradle** (1996, 30-minute report on embargo of Iraq). **AMEU: \$3.00.**
- ÿ Masri, M., **Hanan Ashrawi: A Woman of Her Time** (1995, 51 minutes). One of Palestine's most articulate representatives shows that Israel's occupation is far from over – and far from benign. List: \$65.00; **AMEU: \$35.00.**
- ÿ Munayyer, F. & H., **Palestinian Costumes and Embroidery: A Precious Legacy** (1990, 38 minutes). A rare collection of Palestinian dresses with accessories modeled against the background of Palestinian music, with commentary tracing the designs back to Canaanite times. List \$50.00; **AMEU: \$12.50.**
- ÿ AIC, **Seeds of War in Jerusalem** (1997, 20 minutes). The struggle to save Abu Ghneim and Arab East Jerusalem. **AMEU: \$17.50.**
- ÿ PHRM, **Jerusalem: An Occupation Set in Stone?** (1995, 55 minutes). Graphic account of Israel's plan to uproot Palestinian presence from Jerusalem. **AMEU:\$20.00.**
- ÿ DMZ, **People & the Land** (1997, 57 minutes). This is the controversial documentary by Tom Hayes that appeared on over 40 PBS stations. **AMEU: \$25.00.**
- ÿ Studio 52 Production, **Checkpoint: The Palestinians After Oslo** (1997, 58 minutes). Documents the post-Oslo situation with off-beat humor and historical insights provided by Palestinian and Israeli activists like Naseer Arad and Hanan Ashrawi. **AMEU: \$27.00.**
- ÿ Kelley, R., **The Bedouin of Israel** (1998, 2 hours). Never-before-seen film of how Israel has treated its Bedouin citizens, including interview with the notorious Green Patrol. **AMEU: \$30.00.**
- ÿ Driver, R., **TV Political Ad** (1998, 30 seconds). This is the powerful 30-second spot that Rod Driver aired on Channel 12 in Rhode Island during his campaign for Congress. Also included are his six "Untold Stories" newspaper advertise-

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