

Ashcroft Smears Critics, While Pushing for More Police-State Laws

by Edward Spannaus

While Attorney General John Ashcroft—with some help from President Bush—is trying to ram new legislation through Congress giving him still more police-state powers, Ashcroft has also gone on the offensive against his critics, labelling them as “hysterics” wanting to tip off the terrorists.

In a Sept. 15 speech in Washington, the Attorney General mocked the American Library Association for its concerns about the use of Section 215 of the Patriot Act, which empowers Federal agents to examine records of libraries and other institutions. Ashcroft characterized the controversy swirling around the Patriot Act as “a debate where hysteria threatens to obscure the most important issues,” and ridiculed concerns over Section 215 as paranoia over FBI agents in raincoats and sunglasses interrogating library patrons about their reading habits.

Two days later, the Justice Department released a secret report, which purported to show that the Department has never used the Patriot Act to obtain library records. The claim was properly met with skepticism, since it directly contradicted other statements in the public record.

For example, Justice Department spokesman Mark Carallo publicly stated last March that libraries had become a logical target of surveillance. Then on May 21, former Assistant Attorney General Viet Dinh is reported to have told the House Judiciary Committee that libraries had been “contacted approximately 50 times” during the past year, under the Patriot Act.

Dinh’s statements cohere with the results of a poll conducted by the University of Illinois Library Research Center, which found 60 libraries reporting that Federal agents had requested information on patrons under the Patriot Act.

Such flagrant misrepresentations have become typical of the way that this Justice Department operates, under the direction of John Ashcroft—a follower of the late Leo Strauss, the University of Chicago’s philosopher of the “noble lie.”

The Bill That Never Was

Last February, the watchdog Center for Public Integrity obtained a draft of the “Domestic Security Enhancement Act of 2003,” which contained sweeping new powers for secret investigations, secret detentions, and secret trials of “terrorists,” while expanding the scope of anti-terrorist laws so that

it would become much easier to go after non-terrorist U.S. citizens in the same manner that foreign nationals had been targeted since Sept. 11, 2001.

The leaked draft was met with such a public outcry, that the Justice Department was forced to deny that it was planning any such legislation. These denials came despite the fact that the draft of the bill was 86 pages long, and was accompanied by a 33-page section-by-section legal analysis. To those familiar with the way things work on Capitol Hill, it was obviously a finished product, ready to be introduced at the first opportune moment.

The draft also bore markings showing that it had been provided to Vice President Dick Cheney for review, along with House Speaker Dennis Hastert (R-Ill.).

The bill was apparently shelved, and not until August was anything further heard about new legislation; at that point, reports began circulating that Attorney General Ashcroft was launching a road tour to promote something called the “Victory Act”—a more limited version of Patriot II, packaged as legislation primarily aimed at money-laundering and drug-trafficking. The Victory bill is expected to be introduced by Sen. Orrin Hatch (R-Utah) within the next couple of weeks.

Among the reported provisions of the Victory Act, were some making it easier for Federal agents to obtain financial records without a court order, to issue “administrative subpoenas” in terrorism investigations without a court order, to secure roving search warrants for wireless communications, and to impose a crackdown on the *halawa* system of money transfers used widely in the Arab world, and based on an honor system.

Bipartisan Opposition

Ashcroft’s road tour consisted primarily of closed-door meetings with police and prosecutors around the country, in which the Attorney General touted his accomplishments under the powers given by the first Patriot Act, while downplaying any new legislation.

While intended to rally support for the Patriot Act and its progeny, Ashcroft’s circuit-riding appears to have backfired, by simply drawing more attention to the broad opposition to the Patriot Act and to any further expansion of its powers.

The most notable feature of this opposition, is its biparti-

san character. The GOP-dominated House of Representatives passed an amendment in July, by a 309-118 vote, to cut off funding for “sneak and peak” search warrants, under which the target is not notified of the search until after a period of delay. The amendment was offered by Rep. “Butch” Otter (R-Idaho), whose district Ashcroft made it a point to visit during his tour.

Attacking the Otter amendment, Ashcroft claimed that those who want to limit the Patriot Act “would tip off the terrorists that we’re on to them.” Other Ashcroft allies dubbed it more directly “the terrorist tip-off bill.” Ashcroft also had the effrontery to claim that many of those who voted for the Otter amendment didn’t know what they were voting for—an irony, given that almost no Congressmen had read the original Patriot Act when it was rammed through the Congress in the panicked atmosphere following the 9/11 attacks, and in the midst of the anthrax scare at the Capitol.

“It’s pretty reckless to say that 309 members of Congress want to tip off terrorists,” Otter responded. “Instead of hitting the campaign trail, the Attorney General should be listening to the concerns that many Americans have about some portions of the act.”

“Ashcroft wants more power,” says another Idaho Republican, Rep. Charles Eberle. “What a lot of us in Idaho are saying is, ‘Let’s not get rid of the checks and balances.’ . . . People out here in the West are used to taking care of themselves. We don’t like the government intruding on our constitutional rights.”

It has been reported that there are a number of Republicans who are troubled by Ashcroft’s 18-city road show, worried that it will do more harm than good by focussing attention on the Patriot Act. One Republican, who has discussed it with the White House, was quoted by the *Washington Post* as suggesting that the White House may be sending Ashcroft out “to test the waters, to see how mad people are.”

Then, on the eve of the second anniversary of the Sept. 11 attacks, President Bush called on Congress to “untie the hands of our law enforcement officials.” Speaking at the FBI center at Quantico, Virginia on Sept. 10, Bush called for three elements of Patriot II to be quickly enacted:

- Wider use of “administrative subpoenas”;
- Broadened categories of suspects who can be held without bail; and,
- Expanded use of the death penalty in terrorist cases (which, as some have pointed out, is not much of a deterrent to a suicide-minded terrorist).

As a number of Congressional critics have noted, this is simply an effort to get Patriot II through on a piecemeal basis. For example, former Republican Congressman Bob Barr of Georgia, a former Federal prosecutor and an outspoken opponent of the Patriot Act, said that Bush and Ashcroft are trying to sneak “Patriot II” through Congress “by bits and pieces.”

And Sen. Patrick Leahy of Vermont, the ranking Demo-

crat on the Senate Judiciary Committee, said, “Many in Congress this time will be wary of writing any more blank checks for this Administration without more accountability.”

Rep. Tom Feeney (R-Fla.) has introduced a bill which would expand the use of “administrative subpoenas” allowing Federal agents to obtain testimony and documents without court oversight and bypassing the grand jury process. The bill has drawn fire from many Republicans and conservative organizations, as well as from traditional liberal civil liberties groups.

“The administrative subpoena essentially gives the Justice Department bureaucrats the right to sign off on search warrants,” said David Keene of the American Conservative Union.

Ashcroft Ordered To Appear in Court

What goes with Ashcroft’s lies and misrepresentations, is his outrageous grandstanding around arrests and prosecutions of alleged terrorists. Some will tell you, that the most dangerous place to be in Washington, is between Ashcroft and a TV camera. In the John “American Taliban” Lindh case, Ashcroft boasted that the Justice Department had captured a deadly terrorist who was out to kill Americans; later, not a peep was heard from the Attorney General when Lindh pled guilty to significantly lesser charges, none of which involved terrorism.

Likewise, Ashcroft asserted that Jose Padilla was on the verge of exploding a radioactive device in an American city; when the time came for Justice Department prosecutors to put up or shut up in court, they transferred Padilla to a military prison, where he has been held incommunicado for well over a year, so that they would not be exposed as having no evidence to back up Ashcroft’s extravagant charges.

Now, Ashcroft is being called to account for shooting off his mouth. On Aug. 30, a Federal judge in Detroit ordered Ashcroft to appear in his court, to explain why he had violated the judge’s gag order prohibiting any comment by attorneys involved in an ongoing terrorism trial.

Last April, Ashcroft had publicly praised an FBI informant, Youssef Hmimssa, and described him as “a critical tool” in the government’s efforts to combat terrorism, saying that this should put potential terrorists on notice that there are informants among them.

“I was distressed to see the Attorney General commenting in the middle of a trial about the credibility of a witness who had just gotten off the stand,” U.S. District Judge Gerald Rosen said at the time. “The Attorney General is subject to the orders of this court.” Incidentally, a few weeks later, Hmimssa was shown to have lied when he said that he knew that the defendants in the case were linked to terrorism, having told a former jailmate that “I just want to get revenge because they stole from me,” and also that he could get a better deal for himself by giving the prosecutors what they wanted.