

what he found. . . .

“Moore also removed papers from outside the LaRouche buildings occupied by defendants but within the curtilage of the private property of these buildings. Moore told former Deputy Lacey long before the joint federal-state search that he (Moore) and Deputy McCracken trespassed on LaRouche properties to remove papers from the trash. . . . Moore and McCracken hid in a parking lot outside the LaRouche headquarters, waited until it was ‘safe,’ and then removed trash from the dumpsters. . . .

“But Moore did not stop with going through the dumpsters, going through LaRouche ‘trash.’ In 1985, Deputy Moore began accompanying private cleaning service personnel into the LaRouche buildings where he conducted warrantless searches of the LaRouche offices. This resulted in the sketches that Deputy Moore made, in his own hand, for the federal and state raiding parties before the search occurred. . . .

“These warrantless searches resulted in the seizure of items within the offices that were on desks and in the drawers, and definitely not in any ‘trash’ can, or otherwise designated as ‘trash.’ Deputy Moore copied and passed the information he illegally seized on to other law enforcement officers, both federal and state. We can prove Moore stole, or seized, documents and records without a warrant, and not just from the trash, because Moore’s anti-cult zeal overcame his good judgment when he drafted the affidavit for the search warrant. Moore plainly admitted, ‘I wrote the affiant’s section, and the FBI came in and added a section.’ . . . Moore identified two of the items he seized without a warrant in order—irony of ironies—to get a search warrant. There is evidence that the final affidavit of the federal warrant was in fact revised to minimize Moore’s disclosed role in the investigation. Fortunately, not every reference to Moore was removed, particularly relating to Moore’s warrantless seizures. . . .”

The motions contain secretly recorded statements of Don Moore in which he brags of how he used the Anti-Defamation League to run dirty operations in the LaRouche investigation, and that he was later rewarded by being taken to Israel on an all-expenses-paid junket with the ADL’s Mira Lansky Boland and Tom Gerard, the target of the San Francisco criminal spy net. The motion quotes Moore: “I’ve never used the FBI, I used the f—king ADL. . . . I needed to find a guy, the ADL had a little old woman knockin’ on his apartment in New York two hours after I had asked. She got a f—kin’ picture of him, they got it back to me. They got me [unintelligible] what I needed. I told the Feds exactly where, when and how to get him and he was got.”

In addition to warrantless searches, sneaking into the LaRouche offices at night to steal material, sifting through the garbage in the offices, the illegal operations included undisclosed wiretaps, brainwashing or systematic “deprogramming of witnesses,” and storing information in the Sheriff’s Department on a special computer arranged through

the Cult Awareness Network and purchased by E. Newbold Smith, the millionaire Pennsylvania socialite who was later tried for conspiring to kidnap his own adult son. Don Moore, who was the lead investigator for the Commonwealth of Virginia, also maintained secret files on LaRouche outside the Sheriff’s Department. Affidavits and wiretaps prove that Don Moore circulated police information through the Cult Awareness Network to promote civil suits and other prosecutions against LaRouche and his associates across the nation.

According to the affidavit from former Deputy Doug Poppa included in the motions, Moore told him: “The only way to destroy these LaRouche people is to flood them with paper work and law suits. You want to tie them up in court. CAN does this for us. I funnel everything I have to CAN. The CAN lawyers file suit and tie them up in court whether it’s legitimate or not.”

The Omnibus Motions contain six pages of concrete in-

Round 1: Judge denies hearing on Motions

In the first round of an all-out political/legal fight over the explosive evidence of prosecutorial misconduct contained in the Omnibus Motions, there was heated warfare in the courtroom in Roanoke, Virginia on April 29. Judge Clifford Weckstein denied defense motions for an evidentiary hearing on the Omnibus Motions filed by *EIR* and other corporations and individuals.

Prosecutor John Russell had filed a written response which said that the issues in the Omnibus Motions were “nothing new,” and had all been decided by Weckstein after hearings in 1990 in the case of defendant Richard Welsh. The Welsh hearings concerned outrageous government misconduct and selective and vindictive prosecution, including the role of the Anti-Defamation League and other private organizations in the unjust and unwarranted prosecution.

EIR’s attorney John Flannery shot back that the facts being presented in the Omnibus Motions show that these prosecutions were based on political motivation and bigotry. Don Moore (a former sheriff’s deputy and member of the “Get LaRouche” task force) said on tape that he had no evidence when he started his investigation. Furthermore, Sheriff Isom held a meeting with top deputies, saying he was going to get LaRouche for political reasons. There were no complaints from little old ladies, as Moore—lying—said before this court in the Welsh hearing, Flannery said. This prosecution has suffered all along from a chicken-and-egg problem. Moore had nothing but his political

stances where Don Moore can be proved to have lied on the witness stand in previous Virginia state hearings against LaRouche associates.

They include a motion to dismiss for "pervasive, repeated, and deliberate prosecutorial misconduct"; a motion to dismiss because "the prosecutions are the product of unconstitutional, vindictive, and selective enforcement of the state securities code, motivated by the government's desire to prevent Defendants' exercise of their constitutional rights, and otherwise motivated by political animus and bigotry against these associates of LaRouche . . . for their perceived political and other beliefs"; and, a motion to dismiss for violations of the state's speedy trial guarantees.

Also in the Omnibus Motions is a demand to schedule evidentiary hearings on the new evidence, as well as a motion to compel the prosecution to turn over all materials seized by Deputy Donald Moore or any other law enforcement officer

without a warrant, and previously undisclosed wiretaps. The defendants seek to have the court order the prosecution to disclose any and all information that relates to the "deprogramming" of the government's witnesses, a form of coercion used on the prosecution's witnesses, known to the prosecution but concealed from defendants since February 1987. Also sought are all documents and information forwarded by Deputy Sheriff Donald Moore to Senior Assistant Attorney General John Russell, or any other law enforcement officer, including Bureau of Criminal Investigations (BCI) and former Internal Revenue Service agent Charles Bryant.

The defendants move to recuse Assistant Attorney General John Russell, if he does not do so himself, since he is a necessary fact witness at the evidentiary hearings requested to inquire into prosecutorial misconduct. Finally, the defendants seek a separate taint and suppression hearing for all illegally obtained evidence.

motives and bigotry. He came into this court and lied.

Flannery listed Moore's lies. Moore said on tape that what he did was "illegal as s—t." But he didn't say that in this court he had lied. He said to this court that he had no files. Yet he said on tape that he has 15 file cabinets.

Flannery continued, saying the government lacks credibility. We have a "Pinocchio Prosecutor" who can't be trusted. The Commonwealth of Virginia says a lot by what it ignores. Flannery pointed out that, in his response, Russell made no attempt to deny that Moore had lied under oath.

Russell then argued orally what he had said in writing: The issue of selective prosecution was already decided in *Welsh*, he said. Even if these allegations were true, it would not suggest a different outcome, since so many people have been successfully prosecuted. The defense argues that Don Moore lied. But now they rely on his taped statements. Finally, these five corporations are charged only with misdemeanors, and the Commonwealth does not intend to use any "deprogrammed" witnesses, if any such witnesses exist, and it does not plan to introduce evidence obtained directly or indirectly from illegal wiretaps or warrantless searches.

Flannery responded: We're not just relying on Don Moore's statements. We've corroborated what he said. He said he entered the buildings illegally. We can prove that he stole a notebook which was used to obtain the search warrant. He said he stuck a camera through the mail slot. We have a picture framed by a mail slot. Russell just denies the allegations. That's not good enough. He has no affidavits, nothing he says is under oath. We need a hearing to prove our allegations. We have documents from the FBI which corroborate what we say.

Flannery called Russell's argument about the legitimacy of these prosecutions being proven by previous convictions "nonsense." Outrageous government conduct is sufficient to invoke this court's supervisory powers and overturn any conviction, he said. Even if we came in here and said we were guilty, which we are not, this outrageous conduct is sufficient to overturn the prosecution. Furthermore, if the prosecution obtained the search warrant by use of illegally seized evidence, all the evidence seized is tainted and must be excluded.

The Commonwealth charged fraud, said Flannery, but the only fraud is that committed by the attorney general of Virginia, to subvert the Constitution and trample on the First Amendment rights of the defendants.

Flannery continued: Who are these witnesses the prosecution has brought in in previous trials? They claimed to have lent money for business purposes. Who educated these witnesses? The ADL, the Cult Awareness Network, Don Moore. Were the witnesses "deprogrammed"? Were they kidnapped, like witness Helen Overington? Moore says he used the ADL and CAN as an arm of the prosecution. You didn't have this evidence in the *Welsh* hearings, yet you relied on Don Moore for your ruling. Am I charging a sinister conspiracy on the part of the government? Yes. The evidence is that this is nothing other than a political prosecution.

After listening to all this, Weckstein denied the motion for an evidentiary hearing, saying he would reconsider any issues if evidence came out in a trial that warranted reconsideration. On the substantive charges made by Flannery and all the evidence presented, that Russell and Moore had lied in his court, Weckstein said absolutely nothing.