

FBI-DOJ suffer major defeat in Houston 'Fruehmenschen' case

by Harley Schlanger

The May 20 declaration by Federal Judge David Hittner of a mistrial in the FBI-Department of Justice (DOJ) "sting" case against five prominent minority officials in Houston, was a major defeat for the DOJ "permanent bureaucracy." After five days of deliberation following a trial which lasted two months, the jury declared itself to be "hopelessly deadlocked," leading to Hittner's decision.

The Houston sting followed the pattern of hundreds of FBI-DOJ operations over the last 40 years, in which minority elected and government officials were illegally targeted. These cases fall under "Operation Fruehmenschen," a racist doctrine guiding FBI prosecutions of minorities, which was first publicly identified by former Rep. Mervyn Dymally (D-Calif.), in the U.S. House of Representatives in January 1988. At the time, Dymally was chairman of the Congressional Black Caucus.

Dymally read into the *Congressional Record* excerpts of an affidavit from an FBI agent, who said that the FBI routinely investigated, "without probable cause . . . prominent elected and appointed black officials in major metropolitan areas throughout the United States. The basis for this policy was the assumption by the FBI that black officials were intellectually and socially incapable of governing major governmental organizations and situations." The affidavit was supported by a report by Dr. Mary Sawyer, which documented the charges of selective prosecution of African-American officials.

Yet, despite this evidence, the Congress did nothing, and the illegal FBI-DOJ targeting practices continued.

Schiller Institute hearings

The "Fruehmenschen" doctrine was put under a microscope in hearings organized by the Schiller Institute in Tyson's Corner, Virginia on Aug. 31-Sept. 1, 1995, during which current and former officeholders from throughout the United States came to tell their stories. While the major focus was on the "Lost Trust" cases in South Carolina, which were later overturned on appeal, and the ten-year vendetta run by Hickman Ewing (who is now a top assistant to special prosecutor Kenneth Starr) against U.S. Rep. Harold Ford, Sr., of Tennessee, the pattern from state to state was unmistakable: The DOJ and FBI had been conducting a lawless reign of terror, which destroyed the careers of minority officials who were gaining seniority in state and local governments.

In addition to the evidence presented at these hearings of the continuation, and even acceleration, of Fruehmenschen prosecutions, the panelists were briefed on the DOJ-FBI vendetta against Lyndon LaRouche, which provided them with a rare look "up the ladder" of the DOJ, to discover the chain of command behind these actions. By studying the case against LaRouche, and then looking at the parallel command structure behind Fruehmenschen, and the Office of Special Investigations "Nazi-hunting" persecution of retired Cleveland auto worker John Demjanjuk, it was made clear that the source of the problem is the "permanent bureaucracy," which runs the DOJ Criminal Division.

The Mann-Chestnut Commission (named for its co-chairs, former U.S. Rep. Jim Mann (D-S.C.) and prominent civil rights attorney JL Chestnut of Selma, Alabama) made a commitment to expose the usually nameless individuals who run this permanent bureaucracy. Most prominent of these are John C. Keeney and Mark Richard, with more than 40 years and 30 years tenure, respectively, in the DOJ Criminal Division, who were central figures in the cases examined.

Toward this end, the campaign to exonerate LaRouche escalated. More than 800 state legislators and 25 former Congressmen have signed a call to President Clinton for his exoneration. Thousands of videotapes of these hearings have been circulated, and the evidence of DOJ corruption has been presented on campuses throughout the United States, and at conferences of civil rights organizations, trade unions, and municipal and state governmental organizations. An example of the fruits of these efforts was a resolution calling for investigation of the Fruehmenschen and LaRouche cases which was passed at the annual convention of the National Caucus of Black State Legislators.

Tide turning against DOJ corruption

Much of the success of the DOJ-FBI targeting in the past has been achieved by isolating the victims, aided by a steady deluge of media slanders against "corrupt" politicians. Add to this isolation the prohibitive cost to the targeted officials of taking on the DOJ (which spends taxpayers' dollars liberally in these stings and prosecutions), and threats directed by prosecutors against family members and friends, and it becomes clear why many innocent victims accepted plea bargains.

But this is changing, as the Houston case, and recent devel-

opments in Maryland, demonstrate (see *EIR*, May 15, “Baltimore Coalition Mobilizes Against ‘Hit Squad’ in the DOJ”). While the DOJ continues to assault minority officials, some of these officials are rejecting plea agreements and taking on the DOJ. They are beginning to discover support in their communities, as a backlash against DOJ prosecutions is developing. The Gestapo tactics employed by Kenneth Starr against President Clinton, and the recent coverage of Congressional hearings exposing the IRS’s brutal tactics, have added fuel to the growing hostility against prosecutorial abuse.

In Houston, despite months of press coverage favorable to the prosecution, and repeated judicial rulings against defense attorneys, the jury rejected FBI-DOJ claims that city officials engaged in a bribery conspiracy involving a vote on a city-subsidized convention center hotel. The jury was divided on all 11 counts, with some counts finding the jurors split evenly, or voting seven to five for the prosecution. (All 12 votes are needed for conviction.) On only one count did the prosecution win ten votes.

One twist on the Fruehmenschen scheme in Houston was that the targets included prominent Hispanic officials. The case was opened, according to the FBI, when the agency responded to a vague charge made by a political opponent, that then-City Councilman Ben Reyes “could be bought.” The FBI created a front company of “Hispanic investors,” who said they wished to make investments in Houston, beginning with the convention center hotel. They went to Reyes, and offered to set up a minority subcontracting operation, to work with local developer Wayne Duddleston, who put together one of the two bids on the project.

While rejecting any of Reyes’s suggestions of non-minority councilmen who might be interested, the FBI “investors” hired former Port Commissioner and lobbyist Betti Maldonado, and then, through her and Reyes, offered contributions to Councilmen Michael Yarbrough and former Councilman John Peavy, who are African-American, and Councilman John Castillo, who is Hispanic.

From the beginning, the DOJ case had problems. Every targetted councilman had already announced support for Duddleston. Second, every transfer of funds which the prosecutors alleged had occurred, which they told jurors was a “bribe,” fell within the limits of normal campaign contributions. In several cases, they could not even prove that money had been transferred!

But, the most devastating problem for the prosecution was its star witness, Julio Molineiro, who played the role of one of the investors. The defense discovered that Molineiro had a long criminal record. He had spent time in South American jails, and still had several outstanding warrants against him; he had stolen funds from the Drug Enforcement Administration when he worked as an informant for them, and had used cocaine. Eventually, the DEA dismissed him. He had also worked with the Bureau of Alcohol, Tobacco and Firearms, but had been dismissed by that agency as well, for “entrap-



Former U.S. Rep. Mervyn Dymally (D-Calif.). His campaign to expose the FBI’s “Operation Fruehmenschen” scored a victory in the Houston trial. Will the U.S. Congress now finally hold hearings on the outrageous prosecutorial abuses by the Justice Department?

ping” subjects of investigation. It seems Molineiro had a habit of tampering with recording devices, so that a conversation was “edited” to favor the prosecution’s case. Defense attorneys in Houston effectively demonstrated that Molineiro had engaged in the same practices in some of the audiotapes presented during the trial.

In press interviews after Hittner declared a mistrial, several jurors pointed to Molineiro’s lack of credibility as the main reason for their vote against the prosecution. “Julio Molineiro tainted the entire FBI investigation,” one juror said. “The fact that he did have control of the tapes hurt their credibility.” Another said that jurors discounted Molineiro’s testimony completely. “We didn’t even take it into consideration because we didn’t believe a word he said on the stand,” he said.

Despite the rejection of the prosecution’s case, chief prosecutor Mike Attanasio—who was brought in to try the case when the local U.S. Attorney, Gaynelle Griffin Jones (who is African-American), refused to prosecute—said that he will begin a retrial immediately. Hittner will set a date in early June.

This decision led to an angry rally on May 27 at the Federal courthouse in Houston, as ministers and community activists from the African-American and Hispanic communities, and the Schiller Institute, demanded that there be no second trial. Speaker after speaker denounced the racial targeting by the FBI and DOJ, and blasted the use of the criminal Molineiro by the FBI to try to entrap local leaders. Statements from two jurors were read, condemning the prosecution for its actions.

With the entire press corps from Houston present, Juan Maldonado, the brother of defendant Betti Maldonado, summed up the consensus of the participants when he demanded that U.S. Attorney General Janet Reno intervene to prevent a second trial, and take action to prevent the DOJ from engaging in such corrupt practices ever again.