

Brawl over U.S. Justice Dept. corruption spills into Canada

by Jeffrey Steinberg

The fight to clean out rampant corruption in the permanent bureaucracy in the U.S. Department of Justice has spilled over into Canada. A coalition of Ukrainian and other eastern European community activists, civil rights groups, and opposition members of the Canadian House of Commons has launched an effort to remove former U.S. Department of Justice official Neal Sher from his position as senior consultant to the Canadian Justice Department's war crimes unit. During 1983-94, Sher was the director of the U.S. Justice Department's Office of Special Investigations (OSI), the so-called Nazi-hunting unit. For two years after he left the U.S. Department of Justice, Sher was executive director of the American-Israeli Public Affairs Committee, the semi-official Israeli lobby in the United States, and a group that has been investigated by the Federal Election Commission for illegal funding of candidates. He is now a partner in the Washington law firm of Schmeltzer, Aptaker & Shepard.

Sher had started working at OSI in 1979, the year the unit was established by the U.S. Congress. During his tenure as OSI chief, the unit came under intense scrutiny by Congress, the media, an independent commission sponsored by the Schiller Institute, and the U.S. Sixth Circuit Court of Appeals—all, as the result of a series of high-profile cases in which OSI prosecutors were found to have committed a host of crimes, including fraud upon the court, systematic suborning of perjury, and withholding of exculpatory evidence from defendants.

The most famous case of prosecutorial misconduct by the OSI under Sher, was against John Demjanjuk, a Ukrainian-born retired auto worker from Cleveland who was falsely accused of being the Treblinka, Poland concentration camp gas chamber operator "Ivan the Terrible." All the while that Sher et al. were working toward Demjanjuk's denaturaliza-

tion and extradition to Israel, to stand trial for war crimes, OSI had evidence in its possession that Demjanjuk was innocent of the charges.

Demjanjuk was convicted in Israel on the basis of OSI "evidence," primarily forged documents supplied by the Soviet KGB. After he was sentenced to death by hanging, the Israeli Supreme Court overturned his conviction, when more evidence was gathered showing that he was innocent. The Sixth Circuit U.S. Court of Appeals reopened the U.S. case against Demjanjuk, restored his citizenship, and harshly criticized the OSI for perpetrating fraud upon the court.

The Demjanjuk case was raised again in May in Canada, as a central feature of the drive to dump Sher from his lucrative consulting post with the Canadian government.

McDade-Murtha parallel

It is precisely the kinds of prosecutorial abuse for which Sher stands accused, that prompted Reps. Joseph McDade (R-Pa.) and John Murtha (D-Pa.) to introduce the Citizens Protection Act of 1998, a bill now awaiting action by the U.S. House Judiciary Committee. The McDade-Murtha bill would create a permanent oversight body, outside the Department of Justice, to investigate allegations of crime by DOJ prosecutors and other employees, and to determine whether the cases should be referred for criminal prosecution. The bill itemizes a number of the most egregious crimes that are committed frequently by Federal prosecutors, in their zeal to win convictions or guilty pleas from defendants who, in an increasing number of cases, are targeted because of their racial or political beliefs. The McDade-Murtha bill now has more than 170 co-sponsors, and there is a groundswell of support from all across the United States for the House Judiciary Committee to hold extensive public hearings on the crimes of the Justice

Department (see article, p. 66).

The drive for hearings on the McDade-Murtha bill is not the first time in recent years that the criminal misconduct of the DOJ permanent bureaucracy has caused a public outcry. On Aug. 31-Sept. 1, 1995, the Schiller Institute sponsored independent hearings into the pattern of abuses by the DOJ. The action was taken after the U.S. Congress failed, on several occasions, to follow through on commitments to take on the growing pattern of prosecutorial abuses by the Federal government—even after the slaughter of 86 people in Waco, Texas by Federal agents.

The Schiller Institute independent hearings were co-chaired by former U.S. Rep. James Mann (D-S.C.) and noted civil rights attorney JL Chestnut, and focussed on three patterns of DOJ abuse: “Operation Fruehmenschen,” the DOJ-FBI campaign against African-American elected officials; the railroad prosecution of Lyndon LaRouche and a score of his political associates, a case former U.S. Attorney General Ramsey Clark has described as the most outrageous instance he has ever encountered, of systemic abuse by Federal prosecutors; and the crimes of the OSI, particularly the fraudulent prosecution of Demjanjuk and the persecution of Austrian President Kurt Waldheim.

The Sher controversy

As noted, it was the abuses by the OSI, particularly in the Demjanjuk case, that helped spark the revolt against Sher in Canada. On Jan. 31, 1995, the Canadian Minister of Citizenship and Immigration, Sergio Marchi, and the Attorney General-Minister of Justice, Allan Rock, announced that Canada was intent on revoking the citizenship of and deporting four Canadian citizens accused of committing crimes against humanity during World War II. The ministers said that Canada had overhauled its strategy for dealing with alleged war criminals, adopting the revocation/deportation approach long employed by the OSI in the United States.

On Dec. 12, 1997, the new Attorney General-Minister of Justice, Anne McLellan, announced, in a joint press conference with Minister of National Defense Art Eggleton, that the Canadian government had hired Sher to act as a paid adviser to the war crimes unit. Since the 1995 announcement by Machi and Rock, the Canadian unit had opened 14 new cases.

Sher’s appointment was hailed by the Canadian Jewish Congress (CJC), the Canadian branch of the World Jewish Congress, headed by Seagrams Corp. boss Edgar Bronfman, who is also a national commissioner of the Anti-Defamation League of B’nai B’rith (ADL). The WJC, along with the ADL, have served for years as liaisons between the Israeli government and Israeli intelligence, and the various “Nazi-hunting” units in the United States, Canada, Great Britain, Australia, as well as with Soviet bloc intelligence agencies, prior to the collapse of the U.S.S.R. The Sixth Circuit Court ruling overturning the Demjanjuk denaturalization, singled out the ADL for harsh criticism. The group was cited by the court

for conducting a public relations campaign for Demjanjuk’s conviction that emboldened OSI prosecutors to violate the law, and of paying a senior OSI official, Alan Ryan, to make a high-visibility trip to Israel on the eve of the Demjanjuk trial, which the court viewed as an attempt to interfere in the proceedings.

The ‘Nazi-hunter’ and the terrorist

The CJC boasts of its role in the war crimes prosecutions by the Canadian government. A recent CJC news release, from its Committee on War Criminals, states: “The issue of Nazi war criminals is a top priority of Canadian Jewish Congress. CJC had standing before the Deschenes Commission of Inquiry on War Criminals in Canada in 1986. Active liaison was maintained with the Justice Department during implementation of a major recommendation of the Deschenes report by passing a bill permitting trials of suspects of war crimes and crimes against humanity in Canada. CJC monitors the prosecution of alleged war criminals and maintains close contact with the RCMP [Royal Canadian Mounted Police] and the Justice Department.”

Accompanying the release was a photograph of two officials from the RCMP meeting with a CJC “private investigator,” Steven Rambam, a longtime member of the terrorist Jewish Defense League (JDL) of the late Rabbi Meir Kahane, who, as a minor, spent time in jail in the United States for carrying explosives.

Rambam had gone to work for the CJC after he had penned an inflammatory story in the *Jerusalem Post*, accusing Canada of being a safe-haven for Nazis. The *Jerusalem Post* is owned by the Hollinger Corp., whose president is a Canadian, Conrad Black. Ex-JDLer Rambam appeared, along with Sher, in May 1997, at several CJC-sponsored rallies throughout Canada, demanding accelerated prosecutions of alleged Nazis hiding in Canada. Sher was also a featured speaker at the CJC’s 21st plenary assembly, in Winnipeg, Manitoba, on May 24-25, 1997.

Sher and Rambam made quite a combination. In 1985, the JDL was publicly identified by FBI director William Webster as the leading domestic terrorist group in America. Rambam was closely associated, at the time, with the national director of the JDL, Irv Rubin. The JDL, between August and November 1985, carried out a series of terrorist attacks, some targetting victims of OSI persecution:

- On Aug. 15, 1985, Tschirim Soobzokov was killed by a booby-trap bomb, which was placed on the front porch of his Paterson, New Jersey home. Soobzokov had been an early OSI target, after *New York Times* reporter Howard Blum named him as a leading war criminal in a book, *Wanted: In Search of Nazis in America*. Soobzokov successfully sued the *Times* and Blum, and won a hefty settlement. A JDL spin-off, the Jewish Defense Organization, had targetted Soobzokov for elimination.
- On Aug. 16, 1985, a Boston police officer was severely

injured while attempting to defuse a pipebomb at the offices of the Arab-American Anti-Discrimination Committee (AADC). An anonymous caller claimed responsibility for the bomb in the name of the JDL.

- On Sept. 7, 1985, another accused Nazi war criminal under OSI investigation, Elmars Sprogis, was the target of a JDL pipebomb planted at his home in Brentwood, New York. A neighbor was severely injured in the explosion.

- On Oct. 11, 1985, Alex Odeh, the head of the Santa Ana, California office of the AADC, was killed by a bomb which had been attached to the door of his office. Three JDL terrorists who fled to Israel, were later identified as the killers. Odeh had been targeted by both the JDL and the JDO.

- On Nov. 29, 1985, the Washington, D.C. headquarters of the AADC was bombed, causing thousands of dollars in damage.

Groundswell against Sher appointment

Not everyone in Canada was pleased at the Sher appointment. Several members of the Canadian Parliament reported that they were inundated with letters and phone calls, protesting the appointment. Reform Party Justice Critic Jack Ramsay, and New Democratic Party Justice Critic Peter Mancini both told the press that they had received numerous letters from Ukrainians “who are so concerned that perhaps there might be overzealous prosecution of people in that community.”

Those concerns prompted Ramsay to press for hearings in the Standing Committee on Justice and Human Rights of the Canadian House of Commons. The hearings took place on April 28, 1998, and produced some shocking revelations, including the fact that Sher was under criminal investigation by the U.S. Justice Department’s internal watchdog agency, the Office of Professional Responsibility (OPR). Sher failed to inform the Canadian Justice Department of that probe at the time he accepted the consultancy. Both Sher and John Sims, Canada’s Assistant Deputy Attorney General, Citizenship and Immigration, Department of Justice, testified.

Under questioning from Ramsay, Sher admitted that in 1989, a formal complaint to OPR was filed against him by Rad Artukovic, the son of the late Andrija Arukovic, a California resident who was extradited to Yugoslavia on charges that he had committed war crimes while he was a senior official of the Croatian government during World War II. The OPR complaint charged that Sher had knowingly used false affidavits from the Belgrade government to obtain the denaturalization, and that he had delivered perjured testimony during the Artukovic trial in Los Angeles in 1986.

Nine years after the complaint was filed, the OPR still has not resolved the matter, suggesting that there is some solid foundation for the charges against the former OSI boss. Sher tried to dodge the issue of his failure to inform Sims and other Canadian Justice officials of the OPR probe by lying further. First, he tried to cynically dismiss the nine-year OPR probe, saying, “anybody can make an allegation. For 32¢ American

you put it in an envelope, you make the allegation and then it gets leaked.” Later, he claimed that he spoke to the “people” at OPR. “I don’t know what their ultimate report’s going to be, but they have told me specifically, that the allegation against me is totally unsubstantiated.”

Sims expressed concern that Sher had not informed the department of the pending case before he accepted the consulting contract, which gives Sher a potential annual income of Can\$107,000.

Progressive Conservative Justice Critic and House Leader Peter MacKay told the Canadian press after the hearing that the government should cancel the contract with Sher. “It’s a little shocking to think that somebody that is being relied on heavily by the Canadian government is himself under investigation for potential—and I key on the word potential—fraud perpetrated on the court. It comes as a bit of a disappointment that the Canadian government didn’t do their research first and have that knowledge themselves. I think he should be paid for his advice and sent packing.”

Ramsay expressed doubts about Sher’s testimony on the OPR probe. “What I found interesting is that the investigation is not over and yet he knows the results of it, at least in part,” Ramsay said.

Demjanjuk case revisited

Much of the exchange between the members of the Justice and Human Rights Committee and Sher revolved around Sher’s role in the Demjanjuk case as head of the OSI during Demjanjuk’s prosecution in the United States and Israel. Sher defiantly persisted in calling Demjanjuk a Nazi war criminal, despite the fact that both the U.S. and Israeli courts found him innocent of the only charges ever brought against him.

Liberal Party member Andrew Telegadi at one point quoted from Judge Gilbert Merritt, the Chief Judge of the Sixth Circuit Court of Appeals in Cincinnati, Ohio, who presided over the Demjanjuk appeal. In a Nov. 14, 1997 interview with the Israeli newspaper *Ha’aretz*, Judge Merritt stated, “Today we know that they—the OSI, the prosecution in the case, and the State Department—lied through their teeth. Even when they knew without a doubt that Demjanjuk was not Ivan the Terrible. But they hid the information from us. I’m sorry I did not have the information at that time. If I did, we would never have ruled in favor of his extradition to Israel.”

Ramsay later returned to the Merritt statement. He told the hearing that he had personally spoken with Judge Merritt, who voiced concerns that the probe of Sher and the OSI’s misconduct in the Demjanjuk case may have been a white-wash, since it did not lead to prosecutions of any Justice Department officials who carried out the fraud upon the court.

Ramsay also attacked Sher’s continuing smearing of Demjanjuk as a “war criminal.” “I am concerned when . . . you make a statement that Mr. Demjanjuk is guilty of mass murder when no court has determined that. I’m very concerned about

that, and if I might just finish that line of thought, our duty, at least part of it on this committee, is to protect our rule of law and the presumption of innocence,” he said. “Now, when I hear someone make that kind of statement, I ask myself, where is there evidence of a respect for the presumption of innocence when you declare someone to be a mass murderer, when no court of law has made that determination?”

Documentation

Canadian MPs grill Sher on OSI lying

Excerpts from the hearings of Canada’s House of Commons Standing Committee on Justice and Human Rights on April 28, on the appointment of former U.S. Office of Special Investigations Director Neal Sher to be adviser to the Canadian Federal War Crimes Unit.



Neal Sher

Reform Party MP Jack Ramsay:

I think that it’s necessary, because of the time that you’ve taken dealing with that case [Demjanjuk], just to read from the decision of the United States Court of Appeals for the Sixth Circuit. . . . On Nov. 17, 1993, the Sixth Circuit Court of Ohio determined that OSI attorneys procured Demjanjuk’s extradition as a result of prosecutorial misconduct that constituted a fraud upon the court. . . .

I would like to read further their judgment. They said this:

“Thus, we hold the OSI attorneys acted with reckless disregard for the truth and for the government’s obligation to take no steps that prevent an adversary from presenting this case fully and fairly. This was fraud on the court in the circumstances of this case where, by recklessly assuming Demjanjuk’s guilt, they failed to observe their obligation to produce exculpatory materials requested by Demjanjuk.”

I have a note here that you made the statement that he was a mass-murderer after your appointment to the Canadian justice department. Is that true?

Neal Sher: I consider him to have been involved in the Holocaust. To have been a guard at Sobibor was to have been a participant in mass murder. . . .

Liberal Party MP Andrew Telegadi: Mr. Sher, in terms of the justices the OSI has dealt with, and in the case

of Ivan the Terrible in particular, what comments do you have regarding Judge Gilbert Merritt of the Sixth Circuit Court of Appeals, who moved to extradite Ivan the Terrible to Israel, and the subsequent comments he made about the OSI? . . .

Sher: His rulings speak for themselves. I do not necessarily agree with the legal conclusion that he draws from the facts, which everyone accepts, but that is the statement the court made, and it stands.

Telegadi: Afterwards, he’s quoted as saying—and if I’m wrong in my quotes, you correct me—that:

“Today we know that they—the OSI, the prosecution in the case and the State Department—lied through their teeth. Even then, they knew without a doubt that Demjanjuk was not Ivan the Terrible, but they hid the information from us. I am sorry that I did not have the information at the time. If I did, we would never have ruled in favor of his extradition to Israel.”. . .

Sher: Now I see where you’re getting that from. He did make those comments, but not in the decision. He made those comments, if I’m not mistaken, in November 1997, in a very extraordinary interview with an Israeli newspaper. . . .

Ramsay: I want to ask you this: I was in touch today with a senior agent of the Office of Professional Responsibility who confirmed to me that the OSI attorneys, including yourself, are under investigation as a result of complaints of misconduct in the Artukovic case. They tell me that the investigation began in approximately 1989 and is very close to being concluded. It is a very long investigation. Some of the complaints of misconduct are very serious. He confirmed as well that whether these complaints will be found valid or not, nevertheless these are what they are: the fraudulent use of false affidavits, perjury on the part of yourself. Are you aware of this investigation? . . .

Sher: Of course I am. . . . Yes, I know I am. . . . You raised the case of Andrija Artukovic, who was a very notorious individual—he’s dead now—and it is important to have some context. But in answer specifically to your question, yes, of course I’m familiar with the allegations his son has levelled against OSI, and even a specific one, a serious one, he levelled against me personally. . . .

After he was extradited, his son, who is a very devoted and a very loyal son, filed complaints about the way in which the case was handled during extradition. He made some specific allegations that among volumes and rooms full of documents there were some old statements by people who had given subsequent statements that might have been inconsistent. . . .

The son also made the allegation that I committed perjury, that I lied to a Federal judge where I gave testimony in 1985 or 1986—I’ve forgotten exactly when—to the effect that when I went, with my boss and another head of a companion office that handled extraditions, to Belgrade in 1984 or 1985, to discuss the matter, I had somehow given false or misleading testimony to the judge when I said we were not pressing the

Yugoslavs to demand extradition, which we weren't.

Now, he made the allegation. Anybody can make an allegation. For 32¢ American, you put it in an envelope, you make the allegation and then it gets leaked.

I was very concerned about that. I was interviewed and I frankly spoke to the people of the Office of Professional Responsibility. I don't know what their ultimate report is going to be, but they have told me specifically that the allegation against me is totally unsubstantiated. . . .

Interview: Jack Ramsay

People have concerns about retaining Sher

Mr. Ramsay is the Reform Party's Justice Critic in the Canadian House of Commons. He was interviewed by Scott Thompson on June 8.

EIR: How do you account for this lack of a background check on Neal Sher?

Ramsay: Well, I can't account for that. And, when Mr. Sims appeared before the committee, when Mr. Sher appeared, and I asked Mr. Sher to confirm that there was an investigation as to the conduct of the OSI [U.S. Department of Justice Office of Special Investigations], including his own conduct on the Artukovic case—after Mr. Sher validated that there was, in fact, an investigation—I asked Mr. Sims if he was aware of that. He said, “No.” And, that was very surprising. He later, after the meeting, sent a letter to Shaughnessy Cohen, the chairman of the committee, saying that he recalled afterwards that, last fall, Mr. Sher had brought this case to his attention. So, that's where that stands. He said in his statement before the committee that, “no,” he had not been aware of this. And then later, he said that his memory had failed him, and that later he did recall it, because Mr. Sher had made mention to him of that fact.

But, Mr. Sher did not make any mention of that when he appeared before the committee. So, I'm a little bit concerned in that area.

The real issue, is whether there is any grounds for these complaints [against Sher]. . . . So, what I'm interested in, and I think the community, particularly the Ukrainian community, is interested in, is whether the Office of Professional Responsibility in the United States has looked into these allegations in the Artukovic case, or any other case that has been brought to their attention—with a complaint—to determine whether or not it is valid.

So, I would very much like to know what the U.S. Department of Justice has determined as a result of Rad Artukovic's complaints.

Now, it's been nine years, I understand, since the thing started. And so, I don't know when it will finish. I understand it's close to being finished, and I don't know whether the findings will be reported. But, yes, we have some real concerns about a lack of a proper background check in light of the fact that many of these complaints were sent through to the Justice Department once—or prior to the hiring of Mr. Sher.

In fact, some of the members of the Ukrainian community in Canada met with the Justice Minister, and expressed their dismay over his hiring—based upon the Demjanjuk case, not upon the Artukovic case. And so, there was a clear signal sent to the Justice Department that people had concerns about retaining Mr. Sher for the purposes that they had retained him. . . .

What I'm concerned about, is answers to some of the allegations that have been raised by the people who are writing me. And not only myself, but other members of Parliament. That's why I asked for Mr. Sher to appear before the committee, so that we could place these allegations before him and have him respond to them, so that we could then send his response out to all the people who expressed a concern. What is the result of the OPR's investigation into the handling of the Artukovic case by Mr. Sher and other attorneys within the OSI? . . .

Now, all of the information that we have received, based upon the Demjanjuk case, is fine and dandy, but what I need, and what I'm interested in, is any evidence that ties Mr. Sher directly into the—he says he didn't know about this case and he wasn't the director at the time that the investigation started. But, he was the director at the time of the extradition of Mr. Demjanjuk to Israel as “Ivan the Terrible.” And so, this was a very important case. And yet, he's saying he didn't have hands-on knowledge of this.

If there's any evidence to show that that is not true, or that would refute what he's saying, I'm interested in that. . . .

EIR: What about Sher's comments that Demjanjuk is still, in his mind, a mass-murderer?

Ramsay: If you read on in the testimony, you'll find that I questioned him on that. He made a public statement that Demjanjuk was a mass-murderer. And, I questioned him on the lack of respect for the presumption of innocence contained within that remark, when there has been no court that has found him guilty of anything. But, . . . his response—and it's there if you've got the transcript—to the statements of the Israeli Supreme Court, which indicated that he [Demjanjuk] was a guard. And, so, that's his rationale for making that statement. I don't buy it, but that's his rationale. . . .

My concern goes, as far as the fact that there . . . does not seem to be respect for the presumption of innocence. . . .