Bush Administration Readies Detention Camps

by Edward Spannaus

The Bush Administration is preparing to expand its policy of indefinite detentions of persons labelled "enemy combatants" in military jails, the *Wall Street Journal* reported on Aug. 8—which report has not been denied by the administration or the Justice Department. *Newsweek* also reported that the administration, under the direction of Solicitor General Ted Olson, is considering expanding "enemy combatant" designations, in order to be able to round up suspected terrorists and hold them indefinitely.

The White House is said to be considering creating a high-level committee (consisting of the Attorney General, the Secretary of Defense and the Director of Central Intelligence) to determine who should be labelled an "enemy combatant" and therefore detained by the military.

Officials told the *Wall Street Journal* that the Navy brig at Goose Creek, South Carolina (near Charleston), now has a special wing that could be used to house about 20 such detainees.

The implication of these reports, is that the Justice Department is in fact moving slowly but deliberately, to implement a detention-camp policy reminiscent of the detentions of Japanese-Americans during World War II, or the camps which were held in readiness for "national-security risks" from the late 1940s through at least the 1970s. Among other things, the practice now being implemented, constitutes a suspension of the right of *habeas corpus*—a right considered so fundamental, that it is written into the body of the Constitution itself (not the Bill of Rights), and can only be suspended in time of rebellion or invasion.

This is what is at stake in the fierce fight that the Justice Department is waging, to defend the ongoing military detention of two U.S. citizens, José Padilla and Yaser Hamdi.

When José Padilla, a U.S. citizen arrested on U.S. soil, was transferred from civilian to military custody in June, Attorney General John Ashcroft breathlessly announced that the U.S. government had disrupted a plot to set off a radiological (or "dirty") bomb. However, *Newsweek* and others have reported that government officials now admit that the case against Padilla was "blown out of proportion," and that evidence on Padilla is very weak, with it mostly coming from one very unreliable informant. This is one reason why the Justice Department is now vigorously arguing that a Federal court can't review the basis for Padilla's detention at the Navy brig in Charleston.

In the Hamdi case, the Justice Department is also refusing to providing any substantial evidence to justify holding Hamdi without charges, and without allowing a lawyer to contact him. At a hearing in Norfolk, Virginia on Aug. 13, Federal District Judge Robert Duomar grilled government prosecutors as to the government's basis for holding Hamdi. Duomar harshly questioned the prosecutor over the reasons for the government's designation of Hamdi as an "unlawful enemy combatant," which the Justice Department justifies solely on the basis of a two-page declaration by one Michael Mobbs (described simply as a "special adviser" to the Undersecretary of Defense for Policy).

"I tried valiantly to find a case of any kind, in any court, where a lawyer couldn't meet" with a client, Duomar said. "This case sets the most interesting precedent in relation to that, which has existed in Anglo-American jurisprudence since the days of the Star Chamber."

Duomar also declared, "I do think that due process requires something other than a basic assertion by someone named Mobbs that they have looked at some papers and therefore they have determined he should be held incommunicado. Just think of the impact of that. Is that what we're fighting for?"

(Judge Duomar was certainly right to be asking what qualified Mobbs to make such a designation. Mobbs, a lawyer whose specialty is Russia and disarmament issues, is a hard-core member of what is known as the "Wolfowitz-Perle cabal" in the Pentagon. The Undersecretary of Defense for Policy, whom Mobbs "advises," is Douglas Feith, himself a protégé of Defense Policy Board Chairman Richard Perle. Mobbs is also a board member of Frank Gaffney's Center for Security Policy—a grouping which pulls together the most notorious warhawks in the neo-conservative faction; and in the mid-1980s, Mobbs worked directly for Perle.)

According to the *Journal*, a major reason why the White House and the Justice Department are seeking to expand the "enemy combatant" category of detainees, is that the two cases which have gone into Federal courts have not gone well for the government. The cases cited are those of Zacarias Moussaoui and John Walker Lindh. The popular characterization of the Moussaoui case is that it has turned into a circus, with Moussaoui discharging his court-appointed lawyers and filing dozens of motions on his own; the deeper reason for the government's concern, is that prosecutors apparently have no evidence linking Moussaoui to September 11.

The case of Lindh (the so-called "American Taliban") also was launched with great fanfare, and concluded with a whimper—a plea bargain and a 20-year sentence. The government was forced to drop all conspiracy charges and any claim linking him to either al-Qaeda or to the killing of CIA officer Johnny Spann, and to settle for guilty pleas regarding supplying services to the Taliban, and using explosives.

Ashcroft has now decided he can avoid any more embarrassing trials, by simply detaining such persons indefinitely, without bringing any charges against them.