

Counterinsurgency in the Courtroom:

The "Resistance Conspiracy Case"

by Laura Whitehorn*

Low intensity warfare against the people of Central America has its domestic reflection in counterinsurgency programs against solidarity, resistance, and national liberation movements within the U.S. Reestablishing and strengthening domestic counterinsurgency has been one of the Reagan administration's key programs for the past eight years. This was indicated when Reagan initiated his first term with the pardon of Mark Felt and Edward Miller, the only two FBI agents ever prosecuted for illegal acts carried out as part of COINTELPRO. But pardoning FBI agents was only the first step. The programs themselves had to be protected, the Levi Guidelines of 1976 had to be circumvented, and covert domestic operations had to be expanded, to meet the Reagan era demand for repression.

Eight years later, counterinsurgency operations constitute a central and far reaching aspect of "law enforcement" in this country. These programs have been rendered more unaccountable than ever, nestled under the expansive wing of the National Security Council and nurtured in the fertile medium of "anti-terrorism." In the name of "anti-terrorism," structural shifts have been effected in law enforcement, to be inherited by the Bush administration.

The "Resistance Conspiracy" case currently in pre-trial in Washington, D.C., and the seven-year investigation leading to it, reveal some of the component elements in current U.S. domestic counterinsurgency. The government signaled the significance of the case when U.S. Attorney Jay Stephens announced the indictment on May 11, 1988, saying: "Let this be a warning to those who seek to influence the policies of the U.S. through violence and terrorism that we will seek unrelentingly to bring them to justice." All seven of those charged—Alan Berkman, Tim Blunk, Marilyn Buck, Linda Evans, Susan Rosenberg, Laura Whitehorn and Betty Ann Duke (who is not in custody)—are long-time anti-imperialist activists for human rights. They are charged with conspiracy and a number of bombings of military and government buildings, including the U.S. Capitol after the U.S. invasion of Grenada and the shelling of Beirut. (Among the overt acts charged in the indictment is the practice of placing warning calls to these buildings; the bombings resulted in property damage but no injury to personnel.)

Counterinsurgency as Anti-Terrorism

The ideological scaffold for expanding domestic counterinsurgency is "anti-terrorism," wherein all militant leftist or anti-imperialist resistance, and all national liberation

struggles, become "terrorist." Anti-terrorism is the McCarthyism of the 1980s, sweeping a wide spectrum of left groups and positions into one category of evil, and justifying the curtailing of civil liberties and abrogation of democratic rights.

In this world view, no differentiation can be made between indiscriminate attacks on civilians, on the one hand, and, on the other, strategic campaigns against militarized settler colonies or military personnel and installations, or victimless acts of armed propaganda. Little by little, guerrilla warfare itself is defined as "terrorism." The PLO, Robert Mugabe, the Sandinista government, the FMLN of El Salvador—all have been or are "terrorists" in Reagan's lexicon.

Once anti-imperialist resistance is converted into "terrorism," it can be combatted by a wide variety of counterinsurgency measures. Repressive measures taken against "terrorists" are likely to generate broad opposition.

Watergate, the exposure of COINTELPRO, and the Levi Guidelines of 1976 limited the FBI's ability to engage in much domestic spying. The FBI had to develop ways of circumventing the guidelines and they had to build in "plausible deniability" for then FBI Director William Webster, for those occasions on which operations over-stepping legal boundaries might be investigated.

One way to circumvent the guidelines was to "discover" that a domestic target of investigation actually has foreign links and therefore allow the wider range of techniques permissible in foreign counterintelligence operations. FBI agent H. Thomas Moore, one of the case agents in the investigation and prosecutions leading to the Resistance Conspiracy indictment, told a Grand Jury in Baltimore, Maryland on June 7, 1985, that he was assigned to "the Foreign Counter-Intelligence Squad." He stated that he was working on an investigation "of the details of a Brinks robbery which occurred in Nyack, New York, which has developed into a Foreign Counterintelligence domestic terrorism matter." Similarly, the original investigation of CISPES in 1981 was justified by the FBI as being probative of "terrorist links to foreign countries."

At the same time, another FBI agent active in the investigation of the Resistance Conspiracy case in Baltimore testified in related court proceedings in New York and Philadelphia that he was the FBI liaison sitting on the National Security Council. The NSC's role in helping to bypass limitations on both foreign and domestic counterintelligence operations has recently been well documented. The assignment of special Agent David Major to the NSC as FBI liaison suggests illicit expansion of domestic counterinsurgency; Major simul-

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taneously played a central role in the intelligence gathering leading to the D.C. indictment. Among other functions, he was the affiant for the search warrant in a key search and seizure in the case, and he personally oversaw the perusal of documents from that operation.

Investigations of domestic revolutionary groups are pursued with search and destroy methodology. In 1982-85, an investigation and search for New Afrikan and white revolutionaries was carried out in the northeast. Computer code named "BOSLUC" (combining "Boston," the initiating FBI office, and "LUC" for Raymond Luc Levasseur, one of the Ohio 7), this massive "law enforcement" mission combined the resources of as many as seven different federal, state and local police agencies.

Part of this investigation was "Western Sweep," a literal sweep of western Connecticut following some alleged leads or "citings" of revolutionaries in that area. This sweep, led from the headquarters of the Massachusetts State Police, included circulating children's photographs and medical histories to teachers and doctors, stopping commuter traffic to hand out "wanted" photos and ask the public for information, and using media coverage consistent with the most dramatic Hollywood images conjured by the word "manhunt."

Exhaustive follow-up investigations continued for at least two years. BOSLUC gave birth to a modernistic, high-tech operation involving unprecedented sharing and coordination of computerized information among law enforcement bodies. Local and state police forces were thus able to upgrade their available resources through access to federal systems. The federal political police were able to root their investigations in local police forces on a continuing basis. Everyone was able to expand the access and usefulness of the resources in the 1980s.

The Joint Terrorist Task Forces

This kind of cooperation has been institutionalized in the creation of Joint Terrorist Task Forces. In 1979, a JTTF was created to join the forces of the FBI and the New York City Police Department to investigate suspected plans to disrupt the Democratic Convention by the FALN (Fuerzas Armada de Liberacion Nacional) of the Puerto Rican Independence Movement. Since then, the JTTF in New York has played a major role in attacking the Black Liberation Army (BLA), the FALN, the liberation struggles they are a part of, and the U.S. anti-imperialist movement. Agents of the New York JTTF participated in the interrogation and torture of Sekou Odinga of the BLA and William Morales of the FALN in 1983. In November of 1983, the JTTF showed off their "war room" for TV news cameras by running through an impressive exercise: the computer-simulated capture of New Afrikan revolutionary, Dr. Mutula Shakur.

Documents and police testimony culled from the years of investigation leading to the Resistance Conspiracy indictment show the involvement of the JTTF at every step of the way, in New York, New Haven, Washington, D.C., and elsewhere. The JTTF has coordinated not only the investigation but also the prosecutions of all prior cases relating to this indictment.

The JTTF now exists in most major U.S. cities. These structures extend the political police and "anti-terrorism" into local police jurisdictions a logical end product of the LEAA drive to militarize and professionalize local police forces. Expanding federal domestic military power and covert capabilities and blurring the lines of accountability, JTTF serves as the foundation of low intensity counterinsurgency.

The Courts and the Prisons

The criminal justice system, too, is applied to crush resistance. The vagueness of conspiracy as applied to political activity has long been evident, and conspiracy charges have been repeatedly used to put political prisoners behind bars usually for inordinately and disproportionately long periods, often amounting to life sentences. The Resistance Conspiracy indictment uses conspiracy in this way, and now adds "aiding and abetting." The government does not know who did any of the bombings. Therefore, they construct the indictment so that they only have to prove the defendants are associated through common politics and/or clandestine work, in order to convict them of aiding and abetting the bombings. This is a move towards making membership in some political organizations illegal, without having to change any laws or risk being perceived as abrogating the First Amendment.

Conditions political defendants face in prison serve to repress. Political prisoners are regularly denied bail and held in preventive detention for periods as long as four years. Laura Whitehorn, one of the Resistance Conspiracy defendants, is now one of the longest held pre-trial detainees in preventive detention. By alleging "special security needs," law enforcement personnel make sure that defendants are prevented from meeting together, doing legal research, and having contact with legal and community groups; they are held in isolated and inhumane living conditions. In the Resistance Conspiracy case, this has included 23-1/2 hour lockdown, no exercise or fresh air, and being handcuffed and shackled during all legal visits and meetings (as well as in social, noncontact visits).

In the courtroom, "special security" prevails as well. Spectators must show identification and go through multiple searches. In at least one case, they were also required to be photographed before entering the courtroom.

The case is scheduled to be heard in a special courtroom where a bulletproof glass wall divides the spectators from the court. This wall serves no security purpose, especially as spectators have previously passed through two separate searches before entering the courtroom. It does, however, have an important propaganda function to broadcast the extraordinary character of this case, and to convey the message that the defendants are dangerous "terrorists."

All these devices and techniques have come about with a minimum of legislation or public awareness. The Reagan administration has been able to generate severe repression with little accountability. Investigation and watchdogging are needed, but to defeat this expansion of domestic counterinsurgency, a resounding rejection of the government's attempts to label resistance as "terrorist" is necessary as well. ●