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Are We Safer?

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Are We Safer?

By [David Cole](#)

The Next Attack: The Failure of the War on Terror and a Strategy for Getting It Right

by Daniel Benjamin and Steven Simon

Times Books, 330 pp., \$26.00

1.

According to the Bush administration's Web site [lifeandliberty.gov](#), we are "winning the war on terrorism with unrelenting focus and unprecedented cooperation." The US government has captured or killed some three thousand al-Qaeda "operatives," including two thirds of its leadership. Among those captured is the alleged mastermind of September 11, Khalid Sheikh Mohammed, from whom the government reportedly obtained substantial intelligence, if only after the use of waterboarding and other forms of torture. The Bush administration says it has disrupted terrorist plots throughout the world—the Web site claims 150, although President Bush in a speech in October 2005 claimed only ten. The government has increased security at the borders and airports. The Justice Department has prosecuted more than four hundred people in "terrorism-related investigations" since September 11, and it has, according to the Web site, obtained convictions or guilty pleas in more than two hundred of these cases. It claims to have broken up terrorist cells in Buffalo, Detroit, Seattle, Portland, Oregon, and northern Virginia. And over 515 foreign nationals linked to the investigation of September 11 have been deported. Most important for Americans, there has not been another terrorist attack on US soil in the more than four years since September 11.

Of course, President Bush also famously proclaimed victory in Iraq, aboard the aircraft carrier USS *Abraham Lincoln* on May 1, 2003. (Shortly thereafter, he announced that "we found the weapons of mass destruction.") Since then, more than two thousand Americans and probably ten times as many Iraqis have died in Iraq, and we still haven't found any weapons of mass destruction. So victory proclamations from this administration deserve a strong dose of skepticism.

How does one measure victory in the "global war on terrorism"? In April 2004, the State Department reported that terrorist incidents throughout the world had dropped in the previous year, a fact Deputy Secretary of State Richard L. Armitage promptly cited as "clear evidence that we are prevailing in the fight" against terrorism. Two months later, a chagrined Colin Powell acknowledged that the department had miscounted, and that in fact terrorism worldwide had increased—where the initial report stated that the number of injuries resulting from international terrorist incidents had fallen from 2,013 in 2002 to 1,593 in 2003, the corrected report stated that in fact terrorist-related injuries had risen to 3,646. In 2005, the State Department eliminated numbers from its annual terrorism report, saying they were too difficult to track accurately, but soon thereafter a leak suggested another reason for the omission—government analysts had found that terrorist incidents worldwide had jumped threefold from 2003 levels, with 651 attacks in 2004 resulting in 1,907 deaths. So much for progress in the global war on terror.

President Bush is fond of repeating, "We are fighting them over there so that we won't have to fight them here at home." As a slogan, this may be good politics. But as a counterterrorism strategy, it appears to be a disaster. Fighting them "over there" has since 2003 meant committing over one hundred

thousand troops, hundreds of billions of dollars, and thousands of lives to a conflict in Iraq whose only clear connection to the "war on terror" has been its encouragement of terrorism. The US attack on Iraq has created the world's principal breeding and training ground for anti-American terrorists. Many highly informed commentators have argued that the war in Iraq, based at best on faulty intelligence and at worst on outright lies, was a major diversion from the real enemy—al-Qaeda and the terrorists loosely linked with it, or inspired by it—and that the war with Iraq has therefore made us less secure.^[1]

Daniel Benjamin and Steven Simon, counterterrorism experts at the National Security Council under President Clinton, argue in their new book, *The Next Attack*, that the problem is more deep-rooted than the administration's erroneous venture in Iraq. In their view, the Iraq war is a symptom of the Bush administration's obsession with fighting an offensive "war on terror," an obsession that has caused the administration to disregard the less glamorous but more crucial task of shoring up America's defenses against future attacks. Committed to an outmoded strategy directed at states rather than the loose-knit non-state terrorist movements that actually threaten us, the administration sought out a state to attack, and after an initial and justifiable campaign in Afghanistan, invaded Iraq. But when it comes to fighting the decentralized threat of fundamentalist Islamic terrorism, Benjamin and Simon maintain, the best defense is not a good offense, but a good defense.

Especially after the US and its local allies forced al-Qaeda out of Afghanistan, the threat of fundamentalist Islamic terrorism is not centralized, but globalized and dispersed. The subway bombings in Madrid and London in 2003 and 2005 were the work not of disciplined al-Qaeda agents acting on orders from above but of small bands of young men with little or no connection to al-Qaeda, and little or no previous record as terrorists. Benjamin and Simon see these attacks as signs of a "new breed of self-starting terrorist cells," and argue that the development of such cells has been vastly facilitated by the Internet. In 1998, they report, there were only twelve Web sites for terrorist groups; in 2005, there were 4,400. The Web sites spread both religious doctrine calling for violence and practical instructions for carrying it out. The consequences have been dire: according to the RAND Corporation, three quarters of all suicide bombings since 1968 took place in the four years after September 11.

Because the terrorist threat is decentralized and globalized, it cannot be fought by traditional military methods. There is no territory to take, no land to occupy, and, with few exceptions, no country to hold accountable. The target is constantly moving and growing. Benjamin and Simon suggest that we think of the terrorist threat as two concentric circles—a relatively small inner one consisting of committed terrorists, violently opposed to what they see as infidel Western governments and institutions, and a larger outer circle consisting of those susceptible of being moved to the inner circle. The challenge, they argue, is not only to find and incapacitate the inner circle, but also to reduce migration from the outer to the inner circle. Or, as Donald Rumsfeld asked in an October 2003 internal Pentagon memo, "Are we capturing, killing or deterring and dissuading more terrorists every day than the madrassas and the radical clerics are recruiting, training and deploying against us?"^[2]

Much of Benjamin and Simon's book concentrates on the war with Iraq, which they view as having played into the terrorists' hands. Drawing on their own experience and contacts when they were members of Clinton's National Security Agency, they retell the now-familiar story of how the Bush administration was bent on regime change in Iraq almost from the day it took office. It started planning for war against Iraq immediately after the terrorist attacks of September 11; pressured intelligence agencies to make a case for the invasion of Iraq; created its own ad hoc Counter Terrorism Evaluation Group, headed by Douglas Feith, undersecretary of defense for policy, to make the case when the intelligence agencies were reluctant to do so; and then failed to plan for the war's aftermath. According to Benjamin and Simon, administration officials, certain that the US would be welcomed with open arms, literally prohibited planners from even considering the problem of postwar security.

There is little question that the Iraq war, instead of supporting the struggle against terror, has weakened

it. In February 2005, CIA Director Porter Goss told Congress that "Islamic extremists are exploiting the Iraqi conflict to recruit new anti-US jihadists," and those "who survive will leave Iraq experienced and focused on acts of urban terrorism. They represent a potential pool of contacts to build transnational terrorist cells, groups, and networks."^[3] The military analyst Anthony Cordesman has identified thirty-two "adaptations" to US strategy that the insurgents have successfully made since the war began, including "mixed attacks" in which one bomb follows another with some delay, in order to maximize injury to police and rescue workers; more sophisticated surveillance of US forces and their allies; improved infiltration of the Iraqi military and police forces; and increasingly deadly improvised explosive devices. The insurgents have obtained access to large caches of Saddam Hussein's arms that the US military failed to secure. And they have been able to demonstrate to the world their commitment and their willingness to die by daily attacks on the US and Iraqi military and police forces—many of them suicide attacks that are videotaped and promptly disseminated throughout the world via the Internet.

As Benjamin and Simon put it, the administration "failed the first test of military leadership. They did not know who their real enemy was." The authors cite the constant bombing and heavy ground fire of the "shock and awe" campaign at the beginning of the Iraq war as an illustration of the problem. The bombing was effective for a few weeks in subduing Saddam Hussein. But if the enemy is a terrorist ideology spread throughout the Muslim diaspora, a "shock and awe" strategy is very likely to backfire by reinforcing the enemy's description of the United States as an aggressive force without regard for the lives of innocent Muslims.

National security policy, the authors argue, should reject the model of a military "war on terror," and instead adopt an intelligence-based approach that (1) seeks to identify, capture, and disrupt terrorists; (2) safeguards the most dangerous weapons to keep them out of terrorists' hands; (3) identifies and protects the most vulnerable targets in the US; and (4) reduces the creation of new terrorists by addressing the grievances that drive people to extreme violence in the first place.

The Bush administration's stubborn adherence to the traditional conception of war has caused it to disregard more important and effective defensive actions. The administration, Benjamin and Simon write, has failed to safeguard nuclear weapons materials in the former Soviet Union; failed to identify and protect the most vulnerable targets within the United States, such as water supplies; failed to work effectively with private businesses that are responsible for other vulnerable targets, such as chemical plants; and failed to increase in any significant measure the monitoring of container cargo at shipping ports, of which only one in twenty is inspected. According to the authors, the FBI is still so reluctant to adapt its methods to the realities of terrorism that it has used its intelligence "analysts" to take out the garbage and answer phones, the result being a very large turnover of employees who should be piecing together scraps of intelligence in order to find terrorists and disrupt their plans.

Benjamin and Simon's critique of homeland security is largely corroborated by the bipartisan 9/11 Commission's assessment in December 2005 of the Bush administration's progress in fulfilling the forty-one recommendations in the commission's Final Report, released in July 2004. Grading the administration on each of its recommended reforms, the 9/11 Commission gave it five F's, twelve D's, eight C's, several incompletes, and only one A—. Among the measures that received either an F or a D are some of the most basic requirements of security. The administration was given a D for its identification of vulnerable potential targets, as well as for its efforts to secure weapons of mass destruction, its screening of checked luggage and cargo for explosives, its arrangements for sharing information among intelligence agencies, and its support of secular educational reform in Muslim countries. It received an F for, among other things, its failure to develop common standards with other nations for detaining and prosecuting terrorist suspects as well as for its failure to establish an effective program to screen airline passengers for potential terrorists.^[4]

Benjamin and Simon's diagnosis of the Bush administration as fixated on outdated conceptions of war is ironic, given the administration's insistence that "everything changed" after September 11, and that it has adopted an entirely new model for fighting global terror. For example, the Pentagon's National Security Strategy, issued in September 2002, advanced a new and controversial justification for going to war. It argued that in light of the threats now posed by weapons of mass destruction, war is justified not only when the nation is attacked or faces imminent attack—the only justifications for war recognized by international law—but also when the US faces a more speculative but potentially catastrophic future threat. This was the theory for the Iraq war. Since the administration could not argue that an attack by Iraq on the United States was imminent, it contended that the potential for attack with weapons of mass destruction at some undetermined time in the future was sufficient to justify a "preventive" war.

The administration has invoked a similar "preventive" rationale to defend the use of cruel, inhuman, and degrading treatment to interrogate al-Qaeda and other prisoners, maintaining that the information it obtains may help prevent future attacks. It has argued that the conflict with al-Qaeda is a new kind of war, and therefore traditionally recognized rules of war, such as affording detainees a hearing to decide whether they are in fact enemy combatants, and treating detainees humanely, do not apply.

Within the US, Attorney General John Ashcroft repeatedly promoted what he labeled a new "paradigm of prevention" in law enforcement. When the enemy is willing to commit suicide to inflict mass casualties on civilians, he argued, the US must act preemptively to prevent the next attack from occurring. On this theory, the administration subjected 80,000 Arab and Muslim immigrants to fingerprinting and registration, sought out 8,000 Arab and Muslim men for FBI interviews, and imprisoned over 5,000 foreign nationals in antiterrorism preventive detention initiatives. As part of this program, the government adopted an aggressive strategy of arrest and prosecution, holding people on minor charges—in fact pretexts—such as immigration violations, credit card fraud, or false statements, or, when it had no charges at all, as "material witnesses."

Using a similar preventive rationale, the administration demanded, and got, expansive new powers in the USA Patriot Act, and since then the FBI reportedly has used that act to issue 30,000 "national security letters" a year to businesses across the country. These letters, issued without judicial review, require Internet and telecommunications companies and financial institutions to disclose information about their customers. The letters prohibit the recipients from telling anyone about the FBI's request. Most recently, the administration has advanced the preventive rationale to justify the National Security Agency's warrantless wiretapping of persons in the United States, without congressional or judicial approval, pursuant to an executive order adopted in secret and in contravention of a criminal prohibition on such surveillance. As *The New York Times* recently reported, one result of the NSA's spying was to inundate the FBI with thousands of "leads" that turned out to go nowhere.^{[15](#)}

From this vantage point, then, the administration has rejected at least one old model for protecting national security. That model—it could be called "the rule of law"—reserves coercion, detention, punishment, and the use of military force for those who have been shown, on the basis of sound evidence and fair procedures, to have committed some wrongful act. The police can invade privacy by tapping phones or searching houses, but only after getting a warrant based on probable cause that evidence of crime is likely to be found. Individuals can be arrested, but only after the government shows probable cause that they have committed a crime. They can be preventively detained, but only after evidence is submitted of past wrongdoing as well as of danger to the community or a risk of flight. They can be punished only upon proof of guilt beyond a reasonable doubt. And nations can use military force only in response to attack or imminent attack. The administration's "preventive paradigm," by contrast, justifies coercive action—whether it takes the form of detention or torture or bombing—on the basis of speculation about future contingencies, without either the evidence or the fair legal processes that traditionally have been considered necessary before the state resorts to coercion.

This "preventive" approach was used to launch the attack on Iraq, and has been used to justify Guantánamo, disappearances, CIA black sites, torture, NSA domestic spying, and Vice President Cheney's open demand that the Congress approve the infliction of cruel, inhuman, and degrading treatment on foreign nationals captured in the "war on terror." Those measures have done incalculable damage to the perception of the US around the world, as illustrated by Condoleezza Rice's chilly reception during her recent visit to Europe as well as by polls showing anti-Americanism at all-time highs.

What unites the Bush administration's obsession with, on the one hand, the old model of war against states and, on the other, its use of the new "preventive paradigm" at home and abroad is an almost total contempt for the importance of maintaining legitimacy in the struggle against terrorism. The administration's policies presume that the US can defeat global terrorism by declaring war on it, using smart bombs, dispatching troops, and treating prisoners harshly. But as Iraq illustrates, such tactics can have disastrous consequences, particularly when divorced from the constraints of the rule of law. They undermine the legitimacy of the United States as a responsible world power while reinforcing the enemy's appeal.

No one concerned with American security disputes that it is necessary to prevent terror attacks or that coercion and military action can be justified. Both NATO and the UN Security Council recognized the acts of September 11 as an armed attack that justified self-defense. The Afghanistan offensive succeeded in capturing or killing many al-Qaeda leaders, closing their training camps, and seizing records and computers from their headquarters that helped to locate still other al-Qaeda operatives. By contrast, the US decision to halt UN inspections in Iraq and invade the country, against the wishes of the inspectors, the Security Council, and most of the world, has helped to inspire, recruit, and train a terrorist network. It is precisely when the state uses coercive measures such as war or detention that it must show it has convincing evidence and is using fair procedures. Solid evidence of wrongdoing and fair process are not technicalities to be cast aside whenever national security is threatened; without them, the use of force is likely to increase violence against Americans, not reduce it.

3.

The Bush administration's strongest claim in any debate on national security is that there has not been another terrorist attack on US soil since September 11. But it is difficult to see how many of the administration's preventive initiatives have contributed to this result. The administration can take credit for its original offensive against al-Qaeda in Afghanistan, although as Benjamin and Simon show, the war in Iraq has likely erased many of the gains of the Afghanistan campaign. Meanwhile, despite the claims of the Bush administration Web site I cited earlier, it has little to show for its preventive campaign at home.

Of the 80,000 Arabs and Muslim foreign nationals who were required to register after September 11, the 8,000 called in for FBI interviews, and more than 5,000 locked up in preventive detention, not one stands convicted of a terrorist crime today. In what has surely been the most aggressive national campaign of ethnic profiling since World War II, the government's record is 0 for 93,000.

The administration boasts that it has obtained more than four hundred criminal indictments and over two hundred convictions in "terrorism-related" cases. But it fails to say that all but a very few of the indictments and convictions are for minor, nonviolent crimes such as immigration fraud or making false statements, not terrorism. In June 2005, *The Washington Post* examined all these cases in detail, and found that only thirty-nine involved any convictions on charges related to terrorism.¹⁶¹ As discussed below, while some of those thirty-nine were serious offenders—among them, Richard Reid and Zacarias Moussaoui—most were convicted not of terrorist activity but of broad-based charges of association with, or support of, a terrorist group, without any connection to actual terrorist actions.

A Syracuse research institute found that the median sentence handed down in cases labeled "terrorist" by the Justice Department in the first two years after September 11 was only fourteen days, not the kind of sentence that will incapacitate a terrorist.^[7] New York University's Center on Law and Security reached a similar conclusion, finding, after reviewing the prosecutions in "terror-related" cases, that "the legal war on terror has yielded few visible results. There have been...almost no convictions on charges reflecting dangerous crimes."^[8]

As for the 515 deportations, most were carried out under a policy that barred deportation unless a person was first cleared by the FBI of any connection to terrorism. In identifying actual terrorists, these deportations are misses, not hits.

Virtually all of the cases in which the government has actually charged individuals with a crime relating to terrorism allege not acts of terrorism per se, but only "material support" to a group the government has labeled terrorist, a term expansively defined to include financial assistance, training, services, and even expert advice. Under the statute prohibiting material support, the Bush administration maintains that it need not show that the person it arrests had anything to do with furthering a terrorist act. In one case in which I am representing a human rights group, for example, the government has argued that the law prohibits the group from offering "training" in human rights advocacy to a Turkish organization, even though the government does not dispute that the intent of the training is precisely to discourage terrorism and encourage peaceful resolution of disputes.

Some of the convictions for "material support" that the administration has obtained seem to have to do more with inflating the numbers shown on its Web site than with any actual threat to national security. A case in point is the prosecution of Lynne Stewart, a sixty-five-year-old criminal defense lawyer in New York City. In June 2000, while representing Sheik Omar Abdel Rahman, who is serving multiple life sentences for conspiring to bomb the bridges and tunnels around Manhattan, Stewart issued a statement from the sheik to the press, and thereby violated an administrative restriction that barred him from contact with the outside world. Before September 11, the government responded, appropriately, by revoking Stewart's visiting privileges and insisting that she sign a more restrictive agreement before visiting the sheik again.

But after September 11, the government charged Stewart with the crime of providing "material support for terrorism." She was convicted in February 2005 after a trial in which the government presented highly prejudicial and largely irrelevant evidence—including a tape from Osama bin Laden, played for the New York jury around the anniversary of the September 11 attacks, even though neither Stewart nor her codefendants were alleged to have had any ties to al-Qaeda. Stewart, under treatment for cancer, now faces the possibility that she will spend the rest of her life in jail. Her conviction provides another statistic in the Justice Department's effort to show results in the "war on terrorism," but it is difficult to see how it makes Americans safer.

Several of the government's most prominent "terrorist" cases have disintegrated under close scrutiny. John Ashcroft repeatedly claimed that the prosecution of Sami al-Arian, a computer science professor at the University of South Florida, showed why the Patriot Act was essential. Yet after the prosecution presented eighty witnesses and hundreds of hours of taped surveillance over six months of trial, and after al-Arian's lawyers rested their case without calling a single witness, a jury in Tampa found al-Arian not guilty of the most serious charges against him, including conspiracy to murder and to aid a terrorist organization. The jury was deadlocked 10–2 in favor of acquittal on all the rest, including a charge of "material support" and an immigration violation. *Time* magazine quoted a former FBI official who stated that in late 2002 the FBI was pressured to make a case against al-Arian despite weak evidence: "'We were in shock, but those were our marching orders,' [said] the supervisor, who felt that the Justice Department was rushing to indict before it had really appraised the evidence."^[9]

The administration earlier claimed to have uncovered an espionage ring at Guantánamo Bay, consisting of a Muslim chaplain and three translators. It charged Captain James Yee, the chaplain, with taking classified information off base—but then dismissed all charges when it could not establish that any of the information was even classified.^{[110](#)} It brought thirty charges against Ahmed al-Halabi, a twenty-four-year-old translator, some carrying the death penalty, but after ten months dropped all the serious charges and accepted a guilty plea to four minor crimes, including taking pictures at Guantánamo without approval. The plea allowed al-Halabi to go free on the basis of the time served. A third man, Ahmed Fathy Mehalba, also pleaded guilty to minor crimes such as lying to investigators, and was set free a few months later. The government dropped all charges against a fourth man, Jackie Farr.

The government prosecuted Sami al-Hussayen, a Saudi Arabian student at the University of Idaho, for giving material support to a terrorist group. But when the evidence showed that he had engaged in only speech—he ran a Web site with links to other Web sites, some of which advocated jihad—a jury acquitted him of all terrorism charges. And the administration's first jury conviction for material support to terrorism in a post-September 11 case, in Detroit, was thrown out in September 2004 when the government admitted that the prosecutor had failed to disclose that its principal witness had lied on the stand.

In perhaps its most prominent failure, the administration, when faced with the possibility that it might be held accountable for its actions, abandoned its efforts to hold two US citizens, Jose Padilla and Yaser Hamdi, in military custody as "enemy combatants." After the Supreme Court held that the military had to provide Hamdi a hearing to show why he was detained, the administration simply let him go, on the condition that he return to Saudi Arabia and renounce his citizenship. And when Jose Padilla's lawyers sought Supreme Court review of his detention, the administration suddenly transferred him to civilian criminal custody, where he faces charges not of committing or planning violence, but of playing a marginal part in a nebulous conspiracy to support unnamed terrorist groups.

Despite its aggressively preventive tactics, the administration has yet to identify a single al-Qaeda cell in the US. Its Web site claims to have disrupted terror cells in "Buffalo, Detroit, Seattle, Portland (Oregon), and Northern Virginia," but does not claim that any of these groups were al-Qaeda cells. Those cases include most of the thirty-nine convictions on terror-related charges identified by *The Washington Post*, but they provide no evidence of any internal conspiracy to undertake terrorist attacks on the United States. Several men arrested in northern Virginia were convicted of playing paintball and attending training camps to fight in Kashmir in the conflict between Pakistan and India, not to attack the US. Six men in Portland pleaded guilty to trying to go to Afghanistan to fight alongside the Taliban—they could have been charged with treason, perhaps, but not terrorism.

As for the Buffalo "cell," it consisted of six young men, actually from Lackawanna, a small town near Buffalo, who pleaded guilty to attending an al-Qaeda training camp in Afghanistan long before September 11. But they returned home and, according to the evidence that emerged, engaged in no illegal, much less terrorist, conduct in the US. The claim about Seattle presumably refers to James Ujaama, a black activist held as a material witness and then charged with conspiracy to run a terrorist training camp. He pleaded guilty to making a donation to the Taliban in contravention of an economic embargo imposed before September 11, and was freed after two years in prison. And the only "cell" identified in Detroit is the one I have mentioned, in which all charges against three Arab defendants were dismissed.

Meanwhile, the only criminal convicted for a terrorist act since September 11 is the shoe bomber Richard Reid, captured not through any preventive initiative of the government but because an alert flight attendant noticed a strange-looking man trying to set fire to his shoe. Three people have been convicted of conspiracy to engage in terrorist conduct. Zacarias Moussaoui pleaded guilty in April 2005 to six counts of conspiracy to attack the United States—but of course he was captured not through any

post-September 11 "preventive paradigm," but one month before those attacks occurred. Iyman Faris, an Ohio truck driver, allegedly an associate of Khalid Sheikh Mohammed, pleaded guilty to conspiring to bring down the Brooklyn Bridge with a single acetylene torch, a plot that raises more questions about Faris's sanity than about US national security. And Ahmed Abu Ali was convicted in November 2005 of conspiring to kill President Bush while Abu Ali was studying abroad in Saudi Arabia. The only person with whom he allegedly discussed the plot was killed by the Saudis, and Abu Ali's conviction rested solely on a confession that he claims was extracted from him by Saudi security services through torture, a practice for which they are well known.

So despite Bush's claims, the "war on terror" at home has resulted in the conviction of hardly any actual terrorists. In Iraq the "war on terror" has in all likelihood resulted in the recruitment and training of more terrorists than have been captured or killed. Benjamin and Simon make it clear that concerns about terrorist attacks throughout the world are often justified; and the convictions in the US suggest that there are at least pockets of ideological resentment here that might pose a threat of violence in the future. But those facts underscore both the necessity for the kind of defensive measures Benjamin and Simon and the 9/11 Commission have shown are lacking, and the importance of avoiding initiatives that might move people from the outer circle of fundamentalism to the inner circle of terrorists that Benjamin and Simon describe.

It is possible, of course, that some of the administration's measures have produced valuable intelligence, although if that were the case one would expect to see more successful prosecutions for terrorism. It's also possible that these initiatives have deterred some terrorists here from planning attacks on targets in the US and others from coming to the US to do so—but the government has so far produced no evidence that this has been the case.

What can be known is that the administration's tactics—a curious amalgam of outmoded thinking and dangerous new ideas—have created unprecedented levels of distrust toward US law enforcement within the Arab and Muslim communities here as well as intense anti-Americanism abroad. The administration is accurately perceived as unfairly targeting innocent Arabs and Muslims, using coercion against them preemptively and without a solid case, and disregarding fundamental principles of the rule of law and human rights. In the long run the resentment provoked by these measures is the greatest threat to our national security, and the most likely source of the next attack.

—February 8, 2006

Notes

^[1] See, for example, Richard Clarke's *Against All Enemies: Inside America's War on Terror* (2004) and James Fallows's "Bush's Lost Year," *The Atlantic*, October 2004.

^[2] Memorandum from Donald Rumsfeld to Dick Myers et al., "Re: Global War on Terrorism," October 16, 2003, available at www.globalsecurity.org/military/library/policy/dod/rumsfeld-d20031016sdmemo.htm.

^[3] Hearing before the Senate Intelligence Committee, 109th Congress, 1st Session, February 16, 2005.

^[4] "Final Report on 9/11 Commission Recommendations," December 5, 2005, available at www.9-11pdp.org/press/2005-12-05_report.pdf.

^[5] See "On NSA Spying: A Letter to Members of Congress," *The New York Review*, February 9, 2006, and Lowell Bergman, Eric Lichtblau, Scott Shane, and Don Van Natta Jr., "Spy Agency Data after Sept. 11 Led FBI to Dead Ends," *The New York Times*, January 17, 2006.

^[6] Dan Eggen and Julie Tate, "US Campaign Produces Few Convictions on Terrorism Charges," *The Washington Post*, June 12, 2005.

^[7] See "Criminal Terrorism Enforcement Since the 9/11/01 Attacks," a report issued by the Transactional Records Access Clearinghouse, December 8, 2003, available at trac.syr.edu/tracreports/terrorism/report031208.html.

^[8] See their report, "Terrorist Trials: A Report Card," February 2005, available at www.law.nyu.edu/centers/lawsecurity/publications/terroristtrialreportcard.pdf.

^[9] Tim Padgett and Wendy Malloy, "When Terror Charges Just Won't Stick," *Time*, December 19, 2005.

^[10] See Joseph Lelyveld's review of James Yee's book, *For God and Country* (Public Affairs, 2005), in *The New York Review*, December 15, 2005.

Letters

March 23, 2006: Eliot Weinberger, [Not a Terrorist](#)