

# Congressional Research Service

## Terrorism: Federal Crimes Implicated

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### Issue Definition

#### Current Law

#### Convictions and Current Charges

- Terrorist Cells
- Providing Financial Support
- Enemy Combatants
- Guantanamo Charges
- Assistance to Countries Supporting Terrorism

## Issue Definition

The terrorist attacks of September 11, 2001, implicated a number of federal criminal laws. Although the hijackers themselves died in the attacks, federal prosecutors have filed charges in several terrorist-related cases. Zacarias Moussaoui is being prosecuted as a co-conspirator of the hijackers. Three other men, alleged to have helped them secure false identification, have entered plea bargains. In terrorist cases not directly linked to the September 11 attacks, Richard Reid, has been sentenced to life imprisonment for trying to destroy an international flight using explosives concealed in his shoes. John Walker Lindh, the so-called American Taliban, pled guilty to lesser charges after being indicted for conspiring to murder an American overseas and for providing material support to Al Qaeda and the Taliban. Two others, American Jose Padilla and Qatari Ali Saleh Kahlah Al-Marri, initially accused of criminal offenses have been declared enemy combatants and turned over to military authorities. Two nationals of Yemen have been indicted, but remain at large, for the attacks on the USS Cole and the USS The Sullivans in Aden, Yeman. Civilian and military authorities have also brought charges involving the mishandling of classified information relating to the incarceration of enemy combatants in Guantanamo, Cuba.

Elsewhere, an attorney for the Sheikh Abdel Rahman convicted of sedition for earlier acts of terrorism, has been accused of a series of crimes relating to Rahman's continued involvement with terrorist activities. And federal charges and convictions have been returned in connection with terrorist cells in Buffalo, Detroit, Seattle, Northern Virginia, and Portland, Oregon. Finally, federal authorities have brought terrorist-related racketeering charges in at least two cases and charges related to providing financial assistance to terrorist groups in other instances.

## Current Law

Federal criminal law outlaws air piracy, a host of other terrorist-related crimes, as well as crimes of war. Those who commit these crimes, those who conspire to commit them, and those who command, aid, or abet their commission face severe penalties up to and including the death penalty

(state criminal laws supply parallel coverage).

Whether the death penalty is available as a federal sentencing option in a murder case will depend upon the presence of aggravating factors. The existence of multiple murder victims; the risk of death of others; the heinous nature of a murder; and the fact a murder occurred during the commission of air piracy, kidnaping, destruction of commercial aircraft or destruction of federal buildings or of buildings whose activities affect interstate commerce, are all aggravating factors that a jury may consider in determining whether the death penalty should be imposed on those guilty of federal capital offenses, 18 U.S.C. 3592(c)(16),(5),(6),(1). Although the Eighth Amendment limits the circumstances under which capital punishment may be imposed upon one who does not actually commit the crime personally, it does permit execution of an accomplice who is a major participant in a crime and who evidences a reckless indifference to human life, *Tison v. Arizona*, 481 U.S. 137, 158 (1987). Any overseas conspirators or accomplices remain subject to federal prosecution notwithstanding the fact that all of their misconduct may have occurred abroad, *Ford v. United States*, 273 U.S. 593, 623 (1927).

## Convictions and Current Charges

Zacarias Moussaoui (also known as Shaquil and Abu Khalid al Sahrawi), a Frenchman of Moroccan extraction, has been indicted and is being tried in the Eastern District of Virginia for conspiracy to violate 18 U.S.C. 2332b (terrorism transcending national boundaries), 49 U.S.C. 46502 (air piracy), 18 U.S.C. 32 (destruction of aircraft), 18 U.S.C. 1114 (murder of federal employers), and 18 U.S.C. 844(f),(i) (destruction of federal property and of property used in or affecting interstate commerce). The nineteen deceased terrorists who committed the September 11 attacks were named as unindicted coconspirators as was Osama bin Laden. The Justice Department announced it would seek the death penalty if Moussaoui were convicted. As a consequence of the government's denial on national security grounds of defense access to witnesses in government custody, however, the court ruled that the prosecution was foreclosed from seeking the death penalty and from offering evidence of involvement in the September 11 attacks, *United States v. Moussaoui*, 282 F.Supp.2d 480 (E.D.Va. 2003). The court denied Moussaoui's motion for dismissal of the indictment (the more traditional sanction). The government appealed, and a splintered Fourth Circuit panel vacated the evidentiary and death penalty sanctions imposed upon the government. Although it agreed with the district court that the witnesses might provide Moussaoui with favorable material testimony and that the government's proposed substitutions were insufficient, it returned the case to the lower court with orders to work to secure substitute witness statements acceptable to the parties, *United States v. Moussaoui*, 365 F.3d 292 (4th Cir. 2004). (Copies of the indictment here as well as the indictments and legal documents in the cases discussed below are available at the [Findlaw](#) web site; additional factual discussions are available from press releases (Department of Justice (DOJ) press release) on the [Justice Department's](#) home page).

Victor Lopez-Flores, Herbert Villalobos, and Agus Budiman were each charged in the Eastern District of Virginia with violations of 18 U.S.C. 1028 (fraud in connection with identification documents) in connection with

providing some of the September 11 hijackers with false identification. Lopez-Flores, Budiman, and Villalobos subsequently pled guilty and were sentenced to imprisonment for 4 months, 7 months and 27 months respectively (*Washington Post*, A20, Feb. 2, 2002; A10, May 11, 2002).

Richard Reid, a British citizen (also known as Abdul-Raheem, Abdul Raheem, and Abu Ibrahim), tried to ignite explosive material concealed in his shoes while on board an American Airline flight from Paris to Miami. The plane made an emergency landing in Boston and a federal grand jury in Massachusetts indicted Reid for violating:

- 18 U.S.C. 2332a (attempted use of a weapon of mass destruction);
- 18 U.S.C. 32 (attempted destruction of U.S. commercial aircraft);
- 18 U.S.C. 2332 (attempted terrorist murder of an American);
- 18 U.S.C. 924(c)(carrying a destructive device in relation to a violent crime);
- 18 U.S.C. 1993(a) (attempted terrorist attack on mass transit conveyance)(this count was subsequently dismissed, *United States v. Reid*, 206 F.Supp.2d 132 (D.Mass. 2002);
- 49 U.S.C. 46504 (interference with a flight crew);
- 49 U.S.C. 46505 (placing an explosive device on an aircraft); and
- 49 U.S.C. 46506 (attempted murder aboard an aircraft)(applicability of 18 U.S.C. 1113).

Reid pleaded guilty and was sentenced on the various charges to three terms of life imprisonment for the offenses under sections 2332a, 32 and 46504; a term of 30 years for violation of section 924(c); and to terms totaling 80 years for the remaining crimes. He was also fined \$2 million, and ordered to pay special assessments of \$800 and restitution of over \$6000 (*L.A. Times*, A1, Jan. 31, 2003).

John Phillip Walker Lindh, an American (also known as Suleyman al-Faris and Abdul Hamid), was indicted by a grand jury in the Eastern District of Virginia for violations of:

- 18 U.S.C. 2332(b) (conspiracy to murder an American);
- 18 U.S.C. 924(c) (carrying a firearm and explosives during the commission of a violent crime);
- 18 U.S.C. 2339B (conspiracy to provide, and providing, material support and resources to a foreign terrorist organization (the Taliban)); and

- 50 U.S.C. 1705(b) (conspiring to contribute and contributing services to foreign entities (the Taliban and al Qaeda) in violation of the provisions of the International Emergency Economic Powers Act (IEEPA)).

He pled guilty to the IEEPA and explosives offenses (50 U.S.C. 1705 and 18 U.S.C. 924(d)) under an agreement that calls for a maximum sentence of imprisonment for 20 years.

Two Yemeni, Jamal Al-Badawi and Fahd al-Quso have been indicted in the Southern District of New York for their involvement in the attack on the USS Cole and the USS The Sullivans in the harbor in Aden. They are charged with violations of:

- 18 U.S.C. 2332b (international terrorist conspiracy to kill Americans);
- 18 U.S.C. 2332 (terrorist murder of Americans overseas);
- 18 U.S.C. 1114, [1117] (conspiracy to murder U.S. military personnel);
- 18 U.S.C. 1111, 1114 (murder of U.S. military personnel);
- 18 U.S.C. 1111, 1114, 2, [1113] (attempted murder of U.S. military personnel);
- 18 U.S.C. 2332a (conspiracy to use weapons of mass destruction against Americans);
- 18 U.S.C. 2332a (attempt to use weapons of mass destruction against Americans);
- 18 U.S.C. 2155 (conspiracy to attack national defense utilities)
- 18 U.S.C. 924(c)(carrying a dangerous device during the commission of federal crime of violence);
- 18 U.S.C. 844(h)(carrying explosives during the commission of a federal crime of violence);
- 18 U.S.C. 844(f)(attempt to damage or destroy federal U.S. property by fire or explosive);
- 18 U.S.C. 844(f)(damaging federal property by fire or explosive);
- 18 U.S.C. 2339B (conspiracy to provide material assistance to a terrorist organization).

The accused remain at large (DOJ press release, May 15, 2003).

Iyman Faris, an Ohio truck driver, pleaded guilty to conspiracy to provide material support to a terrorist organization in the form of casing a New York City bridge and other possible targets for Al Qaeda, 18 U.S.C. 3671, 2339B, and was sentenced to 20 years' imprisonment (DOJ press releases, June 19, 2003, and Oct. 28, 2003).

Faris, along with Somali national Nuradin M. Abdi, allegedly plotted to bomb a shopping mall in the Columbus, Ohio, area. Abdi has been charged with violations of 18 U.S.C. 2339A (conspiracy to provide material support for commission of terrorist offense, i.e., military training in preparation for violent jihad), 2339B conspiracy to provide material support to a terrorist organization, i.e., Al Qaeda), and 1546(a)(possession and use of a fraudulently obtained immigration travel document) (DOJ press release June 14, 2004).

A San Diego federal grand jury charged Syed Mustajab Shar, Muhammed Abid Afridi and Ilyas Ali with attempting to exchange heroin and hashish for Stinger missiles and other arms that they intended to provide to Al Qaeda. The indictment listed violations of 21 U.S.C. 846 (conspiracy to distribute controlled substances), 21 U.S.C. 841 (distribution of controlled substances), 21 U.S.C. 952, 960 (importing controlled substances), 21 U.S.C. 963 (conspiracy to import controlled substances), and 18 U.S.C. 2339B (conspiracy to provide material assistance to a terrorist organization). Afridi and Ali have pled guilty to conspiracy to provide material support and conspiracy to distribute controlled substances. (DOJ press release March 3, 2004).

In a similar case, Hemant Lakhani, a British national, has been charged with attempting to sell contraband Russian missiles for terrorist use against U.S. airlines in violation of 18 U.S.C. 2339A (providing material support to terrorists) and 22 U.S.C. 2778 (arms export and import control). His associates, Malaysian Moinuddeen Ahmed Hameed, and American Yehuda Abraham have been charged with conspiracy (18 U.S.C. 371) and conducting an illegal money transmission business (18 U.S.C. 1960), respectively (*Washington Post*, A2, Aug. 14, 2003).

A Tampa federal grand jury has returned a racketeering indictment that charged eight men -- Sami Amin Al-Arian, Sameeh Hammoudeh, Hatim Naji Fariz, Ghassan Zayed Ballut, Ramadan Shallah, Muhammed Tasir Hassan Al-Katib, Abd Al Aziz Awda, and Bashir Nafi -- with assisting terrorist violence here in and in the Middle East. The indictment alleges violations of:

- 18 U.S.C. 1962 (conspiracy to engage in racketeering);
- 18 U.S.C. 956 (conspiracy to murder, maim or injure persons overseas);
- 18 U.S.C. 2339B (conspiracy to provide material support to terrorist organizations (HAMAS and the Palestinian Islamic Jihad));
- 18 U.S.C. 371 (conspiracy to the terrorist transaction restrictions of IEEPA);
- 18 U.S.C. 1952 (use of the facilities of interstate or foreign commerce

(telephone) to facilitate crimes of violence);

- 18 U.S.C. 1425 (attempt to procure citizenship unlawfully);
- 18 U.S.C. 1546 (false statement on an immigration application);
- 18 U.S.C. 1505 (obstruction of an immigration proceeding by deception); and
- 18 U.S.C. 1621 (perjury in immigration proceedings). *United States v. Al-Arian*, 308 F.Supp.2d 419 (M.D.Fla. 2004).

Two of the defendants, Al-Arian and Hammoudeh, have been denied pretrial release; conditional release has been approved for two others, Fariz and Ballut, *United States v. Al-Arian*, 280 F.Supp.2d 1345 (M.D.Fla. 2003). The other defendants remain at large, apparently overseas (DOJ press release, Feb. 20, 2003).

Lynne Stewart is an attorney who represents Sheikh Abdel Rahman. Rahman was convicted of sedition in connection with a number of terrorist incidents including the 1993 bombing of the World Trade Center. The charges against Stewart and the interpreter who accompanied her when she visited Rahman involve allegations of their complicity in Rahman's communications with a designated terrorist organization, the "Islamic Group," in violation of the Bureau of Prison's Special Administrative Measures (gag orders) to which she had been made subject. Following dismissal of charges under 18 U.S.C. 2339B on vagueness grounds, *United States v. Sattar*, 272 F.Supp.2d 348 (S.D.N.Y. 2003), Stewart was reindicted in the Southern District of New York for violation of:

- 18 U.S.C. 371, 2339A (conspiracy to provide and conceal material support to a terrorist activity);
- 18 U.S.C. 2339A (providing and concealing support to a terrorist activity);
- 18 U.S.C. 371 (conspiracy to obstruct the functioning of the Bureau of Prisons with respect to its Special Administrative Measures); and
- 18 U.S.C. 1001 (false statement to the Bureau of Prisons relating her intent to honor her pledge to adhere to Special Administrative Measures). *United States v. Sattar*, 314 F.Supp.2d 279 (S.D.N.Y. 2004).

A federal jury in Idaho acquitted Sami Omar Al-Hussayen of conspiring to provide material assistance to a terrorist organization (HAMAS), 18 U.S.C. 2339B, and of conspiring to provide and providing assistance for the commission of a terrorist offense, 18 U.S.C. 2339A. The jury was unable to agree on the other charges for which Al-Hussayen had been indicted, 18 U.S.C. 1001 (false statements in connection with his application for student visa), 1546 (false statements relating to immigration travel documents).

The charges grow out of allegations that Al-Hussayen had provided material assistance by designing websites and posting material on the Internet for the benefit of terrorist activities in Chechnya and Israel (*Los Angeles Times*, A20 (June 11, 2004)).

Terrorist Cells. Groups in Buffalo, Portland, Seattle, Detroit and Northern Virginia have been charged and convicted with providing or conspiring to provide assistance to terrorists or terrorist organizations. Six Buffalo-area men, all of whom were alleged to have trained at an al Qaeda training camp in Afghanistan, were indicted for conspire to provide material support and for providing material support to a terrorist organization, in violation of 18 U.S.C. 2339B. Those indicted include Yahya Goba, Shafal Mosed, Yasein Taher, Faysal Galab, Mukhtar Al-Bakri and Sahim Alwan. All six pleaded guilty to and were sentenced to long terms of imprisonment; Mosed (8 years), Taher (8 years), Al-Bakri (10 years), and Alwan(9.5 years) for violations of Section 2339B; Goba (10 years) and Galab(7 years) for violation of the trade sanctions under IEEPA (50 U.S.C. 1705), 2003 (DOJ press releases, Jan.10, Mar. 24, Mar. 25, Apr. 8, May 12, May 19, and Dec. 17, 2003). A seventh defendant, Jaber A. Elbaneh, has likewise been charged with providing material support and conspiracy. Elbaneh, for whom a \$5 million reward has been offered, is believed to have fled the country (DOJ press release, Dec. 17, 2003).

Allegations of training on behalf of Al Qaeda were at the heart of federal indictments handed down against several men in Oregon and the State of Washington as well. A federal grand jury in Oregon indicted Jeffrey Battle, Patrice Ford, Ahmed Bilal, Muhammad Bilal, Habis al Saoub, Maher Hawash, and October Lewis for:

- 18 U.S.C.2384 (seditious conspiracy, *i.e.*, conspiring to levy war against the U.S.);
- 18 U.S.C. 2339B (providing material support to a terrorist organization, Al Qaeda);
- 50 U.S.C. 1705 (conspiring to provide services to Al Qaeda and the Taliban in violation of executive restrictions issued under the International Emergency Economic Powers Act); and
- 18 U.S.C. 924(c) (conspiracy to possess firearms in furtherance of a federal crime of violence, *i.e.*, seditious conspiracy).

The men were charged with attempting to travel to Afghanistan in order to join Al Qaeda and the Taliban in their war against the United States and with engaging in firearms practice in anticipation of the effort. Ford and Battle pleaded guilty to seditious conspiracy and were each sentenced to 18 years imprisonment (DOJ Press Release, Nov. 24, 2003). Lewis, Battle's wife, pleaded guilty to six counts of money laundering and was sentenced to imprisonment for 3 years; the Bilals were charged with conspiracy to provide services and to possess firearms in furtherance of a federal crime of violence for which Ahmed Bilal was sentenced to imprisonment for 10 years and Muhammad Bilal imprisonment for 8 years; and Hawash to conspiracy to provide services for which he was sentenced to imprisonment

for 7 years. Al Saoub is still at large (DOJ press releases, Sept. 26, 2003, and Feb. 9, 2004).

Related indictments were handed down in Seattle and New York. In the first instance, Earnest Ujaama was charged with a plot to establish a terrorist training facility in the United States in violation of 18 U.S.C. 924 (c)(possession of firearms in furtherance of a federal crime of violence, i.e., conspiracy to provide material support to terrorists and terrorist organizations) and with conspiracy to violate 18 U.S.C. 2339B (providing material support to Al Qaeda, a terrorist organization), 18 U.S.C. 2339A (providing material support to terrorists), and 18 U.S.C. 956 (destruction of property overseas). He subsequently pleaded guilty to IEEPA trade sanction violations (50 U.S.C. 1705) and was sentenced to 2 years' imprisonment (DOJ press release, Feb. 13, 2004).

In the second, Abu Hamza, the former imam at the Finsbury Park mosque in London, was indicted for conspiracy to set up the Oregon training camp and in connection with a separate hostage taking incident in Yemen. The indictment, which served as the basis for the request for Hamza's extradition from Great Britain, charged violations of 18 U.S.C. 371 (conspiracy), 1203 (hostage taking), 2339A (providing material support for a crime of terrorism (18 U.S.C. 956), 2339B (providing material support for a terrorist organization, i.e., Al Qaeda and the Taliban), and 50 U.S.C. 1705 (violation of the President's order under the IEEPA relating to the Taliban and Al Qaeda)(DOJ press release, May 27, 2004).

The defendants in Detroit (Farouk Ali-Haimound, Ahmed Hannan, Karim Koubriti, and Abdel-Ilah Elmardoudi) were indicted for providing material support to terrorists in violation of 18 U.S.C.2339A (establishing a "sleeper cell") and for violations of 18 U.S.C.371 (conspiracy to obtain stolen or forged visas and other immigration documents), 18 U.S.C. 1546 (possession of stolen or forged visas and other immigration documents), and 18 U.S.C. 1028 (possession of stolen social security cards), *United States v. Koubriti*, 199 F.Supp.2d 656 (E.D.Mich. 2002). Hannan, Koubriti, and Elmardoudi were convicted on the conspiracy charge; Koubriti and Elmardoudi on the support charge; and Haimound was acquitted (DOJ press release, June 3, 2003). The court declined to impose sanctions for violation of a pretrial gag order, *United States v. Koubriti*, 305 F.Supp.2d 723 (E.D.Mich. 2003).

The Northern Virginia "paintball" defendants were charged with paramilitary training in the United States to become mujahideen engaged in violence against Americans and others overseas. The indictment alleged violations of

- 18 U.S.C. 371 (conspiracy);
- 18 U.S.C. 2384 (conspiracy to levy war against the U.S.);
- 18 U.S.C. 2339B (conspiracy to provide material support to a terrorist organization (Al Qaeda));
- 50 U.S.C. 1705 (conspiracy to contribute to the Taliban in violation of the President's order under IEEPA);



- 18 U.S.C. 2339A (conspiracy to provide material support for a terrorist offense);
- 18 U.S.C. 960 (launching a military expedition against a friendly national (India));
- 18 U.S.C. 924(c) (use of a firearm in the commission of a crime of violence);
- 18 U.S.C. 924(b) (receipt of ammunition for use to commit a felony).  
*United States v. Khan*, 309 F.Supp.2d 789 (E.D.Va. 2004).

Two of the defendants, Sabri Benkhala and Caliph Basha Ibn Abdur-Raheem were acquitted. Three were convicted following a three-week trial and sentenced to long terms of imprisonment: Masoud Khan ( life imprisonment), Seifullah Chapman (85 years), and Hammad Abdur-Raheem (97 months). The other defendants entered guilty pleas and were sentenced to varying terms of imprisonment ranging from 46 months to 20 years: Donald Surratt (46 months), Mohanned Aatique (126 months), Yong Ki Kwon (138 months), Khwaja Mahmood Hasan (135 months), Ibrahim Al-Hamdi (15 years), and Randall Royer (20 years)(DOJ press releases, Mar. 4, 2004, April 9, 2004; *Washington Post*, A6, June 16, 2004).

Providing Financial Support. Enaam Arnaout, the director of the Chicago-based Benevolence International Foundation, was charged with racketeering in connection with a scheme to funnel charitable contributions, raised by fraudulent means in this country, to terrorists overseas. The indictment charges violations of:

- 18 U.S.C.1962 (conspiracy to engage in racketeering activities);
- 18 U.S.C. 2339A (conspiracy to provide material support to terrorists);
- 18 U.S.C. 1341 (mail fraud);
- 18 U.S.C. 1343 (wire fraud);
- 18 U.S.C. 1956 (conspiracy to money launder); and
- 18 U.S.C. 1956 (money laundering).

The court dismissed an earlier indictment for perjury before the grand jury (18 U.S.C. 1623), arising out of Arnaout's statements in connection with a suit challenging the government's seizure of the Foundation's records and its freeze of the Foundation's assets, *see, United States v. Arnaout*, 231 F.Supp.2d 754 (N.D.Ill. 2002). Thereafter, Arnaout plead guilty to the racketeering charge (*Washington Post*, A3, Feb. 11, 2003), and was sentenced to 136 months' imprisonment (*Philadelphia Inquirer*, A11, Aug. 19, 2003).

Two nationals of Yemen arrested in Germany, Mohammed Al Hasan Al-Moayad and Mohammed Mohsen Yahya Zayed, have been extradited from Germany and indicted in the Eastern District of New York for violations of 18 U.S.C. 2339B in connection with raising money for mujahideen in Afghanistan, Chechnya and Kashmir (DOJ press releases, Mar. 4, 2003, and Nov. 17, 2003).

Soliman S. Biheiri, who according to prosecutors may have served as a conduit through which passed funds for HAMAS and other terrorist groups (*Wash.Post*, A32, Dec. 19, 2003), was indicted in the Eastern District of Virginia for violations of 18 U.S.C. 1425 (unlawful procurement of naturalization), 1015 (false oath in a naturalization matter, and 1001 (false statements to the FBI). He was convicted on the first two charges, but the court held that the government had failed to prove facts to justify a sentencing enhancement on terrorist grounds, *United States v. Biheiri*, 299 F.Supp.2d 590 (E.D.Va. 2003).

Mohamad Hammoud, his brother Chawki Hammoud, and several codefendants were indicted and convicted for running a cigarette smuggling scheme, some of whose profits were funneled to the foreign terrorist organization Hizballah. The indictment charged violations of

- 8 U.S.C.1962 (racketeering conspiracy);
- 18 U.S.C. 2339B (conspiracy to provide and providing material support to a terrorist organization);
- 18 U.S.C. 1956, 1957 (money laundering);
- 8 U.S.C. 1325(c) (immigration-related marriage fraud);
- 8 U.S.C. 1324(a) (unlawful employment of illegal aliens);
- 18 U.S.C. 1546 (immigration document fraud);
- 18 U.S.C. 371 (conspiracy);
- 18 U.S.C. 201 (bribery);
- 18 U.S.C. 2342 (cigarette smuggling);
- 18 U.S.C. 2314 (interstate transportation of counterfeit state tax stamps);
- 18 U.S.C. 1341 (mail fraud);
- 18 U.S.C. 1344 (bank fraud);
- 18 U.S.C. 1029 (credit card fraud); and
- 18 U.S.C. 215(illegal gratuity for a bank loan).

Mohamad Hammoud was sentenced to 155 years' imprisonment; his brother to 51 months; and their co-defendants entered plea agreements (*United States Attorneys' Bulletin*, 28, July 2003).

In November 2001, the Treasury Department froze the assets of Al-Barakat, an international money transmitting entity, thought to be funneling funds to Al Qaeda, *United States v. Abdi*, 342 F.3d 313, 315 (4th Cir. 2003). Abdillah S. Abdi and Abrirahman Skeik-Ali Isse later pleaded guilty to structuring financial transactions to avoid reporting requirements in violation of 31 U.S.C. 5324 as part of Al-Barakat's activities in Alexandria, Virginia, *id.* at 314. Mohamed Hussein was convicted of operating an illegal money transmission business in violation of 18 U.S.C. 1960 in connection with Al-Barakat's Boston operations, but Canadian authorities declined to extradite his brother in the absence of evidence of some terrorist connection (*Boston Globe*, B3 July 23, 2002). The Treasury Department later released Al-Barakat's frozen assets (*Washington Post*, A13, Aug. 22, 2002).

Enemy Combatants. Jose Padilla, an American and former Chicago street gang member (also known as Abdullah al Muhajir) was arrested on currency importation charges (31 U.S.C. 5332) upon arrival at O'Hare International Airport on a flight from Pakistan. He was transported to New York under a material witness warrant (18 U.S.C. 3144) for questioning before the grand jury concerning alleged terrorist plans to detonate a "dirty bomb" within the U.S. When he proved uncooperative, he was transferred to a naval brig in South Carolina as an "enemy combatant," *Washington Post*, A20 (Feb. 2, 2002). His attorney petitioned for a writ of habeas corpus on his behalf in the Southern District of New York. The court, in response, rejected challenges to the government's authority to detain enemy combatants but found that Padilla was entitled to the assistance of counsel for the limited purpose of presenting individual facts specific to his petition, *Padilla ex rel. Newman v. Bush*, 243 F.Supp.2d 42 (S.D.N.Y. 2003).

On appeal, the Second Circuit concluded that in the face of statutory prohibition against detention without statutory authority, 18 U.S.C. 4001, the President did not have the authority to order the detention as an enemy combatant of an American like Padilla, seized in the United States outside a zone combat. It ordered him released from military custody within 30 days but noted that the government remains free to bring criminal charges against him or hold him as a material witness, *Padilla v. Rumsfeld*, 352 F.3d 695 (2d Cir. 2003). The Supreme Court reversed on jurisdictional grounds without reaching the merits; Padilla's habeas corpus petition should have been filed in South Carolina against the commander of the brig where he is being held, *Rumsfeld v. Padilla*, U.S. (June 28, 2004).

Ali Saleh Kahlah Al-Marri, a Qatari national, is also being held by military authorities in South Carolina as an enemy combatant. Initially arrested as a material witness in Illinois and transported to New York, Al-Marri was indicted there (on the basis of conduct in Illinois) for possession of fraudulent acquired credit cards (18 U.S.C. 1029); false statements to the FBI (18 U.S.C. 1001) and on a bank application (18 U.S.C. 1014); and for identity fraud (18 U.S.C. 1028). The charges were dismissed for improper venue, and similar charges filed in Illinois (Defendant's Memorandum of

Law in Support of Pretrial Motions, *United States v. Al-Marri*, 274 F.Supp.2d 1003 (C.D.Ill. 2003)). They were dismissed at the government's behest, after which Al-Marri was declared an enemy combatant, *Al-Marri v. Rumsfeld*, 360 F.3d 707 (7th Cir. 2004). Prosecutors contend that Al-Marri was sent to this country to smooth the way for later-arriving foreign terrorists; defense counsel that he was declared an enemy combatant in retaliation for his refusal to plea bargain (*Los Angeles Times*, A22, July 18, 2003).

Yaser Hamdi, captured by the Northern Alliance in Afghanistan and initially transported to Guantanamo, more closely fits the image of an enemy combatant, except for one fact - he is an American. Upon discovering his citizenship, military authorities transferred Hamdi to the United States. He has been declared an enemy combatant; his petition for habeas corpus found wanting, *Hamdi v. Rumsfeld*, 316 F.3d 450 (4th Cir. 2003). The Supreme Court vacated the judgment and held, in a plurality opinion, that Hamdi must be afforded a meaningful opportunity, including the assistance of counsel, to contest his designation as an enemy combatant before a neutral tribunal, *Hamdi v. Rumsfeld*, U.S. (June 28, 2004). In a related case, the Court held that foreign nationals being held at Guantanamo Naval Base may petition U.S. courts for habeas corpus relief, *Rasul v. Bush*, U.S. June 28, 2004).

Guantanamo Charges. Criminal charges have been brought in several cases arising out of activities associated with the incarceration of enemy combatants in Guantanamo, Cuba. Ahmed Fathy Mehalba, a Defense Department contractor employed as a translator in Guantanamo, was arrested for making false statements (18 U.S.C. 1001) in connection with questioning that occurred when he returned to Boston from a trip to Egypt carrying compact disks containing classified information. Ahmed I. Al Halabi, and Army chaplain James Yee were arrested for violations of the Code of Military Justice in connection with charges relating to classified material (*Washington Post*, A1, Sept. 24, 2003). Halabi faces espionage, mishandling, and unrelated charges (*Washington Post*, A23, Dec. 21, 2003). The espionage and classified materials charges against Yee were dropped. He was reprimanded for unrelated character misconduct and is appealing the reprimand. (*Los Angeles Times*, A15, Mar. 30, 2004).

Assistance to Countries Supporting Terrorism. A Dallas federal grand jury charged Mousa Abu Marzook, Bayan Elashi, Ghassan Elashi, Basman Elashi, Hazim Elashi, Ihasan Elashi, Hadia Elashi and the Infocom Corp. with unlawfully providing Libya and Syria with computers. The indictment charges violations of:

- 18 U.S.C. 371 (conspiracy to violate the IEEPA trade restrictions issued against Libya and conspiracy to IEEPA restrictions on transactions with a designated terrorist);
- 18 U.S.C. 1001 (false statements in export documents);
- 50 U.S.C. 1705 (violation of Syrian trade restrictions and the restriction on transactions with a designated terrorist under IEEPA);
- 18 U.S.C. 1957 (monetary transactions in criminally derived property,

*i.e.*, bank deposits of the proceeds of the IEEPA violations); and

- 18 U.S.C. 1956 (money laundering and conspiracy to commit money laundering).

Abdurahman Alamoudi has been charged in the Eastern District of Virginia with visiting Libya and in engaging in financial transactions with the Libyans in violation of 50 U.S.C. 1705 and the Executive Orders and regulations issued pursuant to IEEPA. Authorities believe he is implicated in efforts to fund terrorism here and abroad, (*Washington Post*, A6, Oct. 1, 2003).

Khaled Abdel-Latif Dumeisi, a permanent resident alien in the U.S., has been indicted in the Northern District of Illinois for lying to the grand jury and for failure to register as an agent of the government of Iraq in violation of 18 U.S.C. 371 (conspiracy), 951 (foreign agents registration), 1621 (perjury), and 1623 (false statements to a grand jury), *United States v. Dumeisi*, 2003 WL 22757747 (N.D.Ill. Nov. 20, 2003).