



Justice For All: Jeff Breinholt January 8, 2008

“Boys Will Be Boys”: A Review of Dina Temple-Ralston’s *The Jihad Next Door: The Lackawanna Six and Rough Justice in the Age of Terror*



[Jeff Breinholt is a Senior Advisor for Counterterrorism and Education at the NEFA Foundation and is on a one year sabbatical from the Department of Justice, National Security Division. Until June 2007, Mr. Breinholt served as Deputy Chief of the Counterterrorism Section at the U.S. Department of Justice. Shortly after 9/11, Mr. Breinholt was appointed head of the Department of Justice’s terrorist financing enforcement program, and helped found a special FBI unit devoted to U.S.-based fundraising by international terrorist organizations and managed a team of financial prosecutors within the Counterterrorism Section dedicated to prosecuting material support crimes. In 2003, he was honored with the Attorney General’s Award for Excellence in Furthering the Interests of U.S. National Security.]

Here’s a little secret: the United States government would rather Americans in search of adventure not travel abroad to join some other country’s army, to fight in wars to which we are not a party, or (worse) fight against U.S. soldiers where we are. Of course, there is a great romantic tradition of revered historical figures doing just that. Think of Ernest Hemingway, or George Orwell. Still, we now live in different times. The world has gotten smaller. We must do what we can to prevent the export of violence from our shores if we want to be taken seriously among the civilized nations of the world.

Some say that this goal is unrealistic, that the world is a violent place and we should not be too alarmed that individual Americans aspire to be part of it. The problem is that those who say this are often the same people who like to remind us that we helped arm the Arab-Afghan mujaheddin when they were fighting the Soviets, and use this as an indictment of U.S. policy. Are they correct about what we did in the 1980s? Absolutely. That story was fully documented in Steve Coll’s *Ghost Wars*, and in the movie “Charlie Wilson’s War.” It is all the more reason why we should learn from our unfortunate past and take steps not to repeat it.

So how do we prevent Americans from following their wanderlust if it includes going abroad to engage in violence? When they go and we find out about what they did, we cannot very well bomb them. Instead, we subject them with criminal prosecution, like we do people who cheat on their taxes. We say that they should take this not-so-secret prohibition seriously. Go to *jihad* training camp, go to jail. People on the bubble will hopefully get the message. This is not merely hypothetical. When it became clear to me in early 2002 that many people within the United States had sought and received *jihad* training, I thought about recommending to my superiors at the Department of Justice that we announce a new tough-love policy, the counterterrorism equivalent to what local municipalities around the country have done at the urging of Mothers Against Drunk Driving, and adopt a zero-tolerance, though my idea would be to combine it with a generous offer thrown into the mix. It would have been fairly simple to implement. John Ashcroft would take to the airwaves, with a short message:

My fellow Americans. We know that there are many people out there who have been to al Qaeda training camps. 9/11 has happened. Here’s your chance to come clean. If you fall into this category, go to your local FBI office and tell them your story. If you cooperate now and tell us everything you know, you will not be prosecuted. If you don’t, and we

find out about your travels and attendance at jihad training camps, we will seek to throw you in prison without apologies, because we cannot assume that you are on our side if you refuse to come forward now that 9/11 has happened.

I do not think I ever proposed this initiative, other than among friends over drinks at the Caucus Room, in part because it seemed so obvious to my professional peers and supervisors that the American policy – commemorated in criminal laws that have been on the books for years – was clear to all people within the U.S. If we find these people, of course they will be prosecuted. Few will question the need for this other than the defendants' families and lawyers. Why offer amnesty? That goes too far. Had I formally proposed this, I would have been laughed out of the conference room.

Now I think I might have been wrong not to do so, because what seemed obvious to us might not have been to our fellow thinking citizens and elite opinion-makers. Alas, there still seems to be a fair number of people who were confused about how far young Americans can go in seeking adventure before they take themselves out of the category of youthful indiscretion and face legal punishment. John Walker Lindh? Just a confused young Californian trying to find himself? In Portland, Jeffrey Battle, Patrice Ford, and Mike Hawash? They were just trying to express their political opinions and religious convictions. James Ujamma? Perhaps a little too passionate about spreading Islam. The Lackawanna Six? Boys will be boys. Do you really have to prosecute them? That seems awfully rough, they argue.

It is this last group that is the focus of Dina Templeton-Ralston's book [The Jihad Next Door: The Lackawanna Six and Rough Justice in the Age of Terror](#). If there is any question about how she feels about this case, the answer comes from the subtitle. The story goes like this: the U.S. government was notified about the Lackawanna jihadists through an anonymous post-9/11 letter to the FBI. Agents like Ed Needham and Pete Ahern in Buffalo took the letter seriously. Needham met with one of the young guys who had been influenced to go to Afghanistan to find their roots. Nope, not us, said Sahim Alwan, perhaps the smartest one in the group. Never took jihad training.

Alwan was lying. Indeed they had gone over. Most of them didn't like it, and they found an excuse to leave. The one who didn't was Jaber Elbaneh, who stayed, vowing to die as a martyr. When 9/11 happened, some of them felt guilty. Inexplicably, Templeton-Ralston describes this feeling as "odd." When the FBI caught up with them, they all faced the white-collar charges of "providing material support to terrorists." After some defense attorney posturing, they all pled guilty. Alwan, now in prison, says he deserves what he got. He'll be out before he's my age.

The odd thing is Templeton-Ralston's view that this was a somehow travesty. [The Jihad Next Door](#) is the type of book you would expect from someone who has collaborated with the Executive Director of the ACLU. They are part of a group of educated Americans and have no trouble conjuring cruel and usual punishments for such people as Dick Cheney, CIA interrogators, or toxic polluters, all while bemoaning the fact that we sometimes prosecute people who are just having a little fun with bombs and explosive in other countries. I am a fan of National Public Radio, where Templeton-Ralston works as an FBI correspondent, and I am friendly with its Washington staff and like its international and science coverage. I appreciate [The Jihad Next Door](#), which is mainly an accurate portrayal of what occurred a few years ago when the Lackawanna cell was discovered by American law enforcement. Still, I came away frustrated that there are still so many people out there who doubt the serious threat of people here who have attended terrorist training camps, and who think our criminal law to deter them is wrongheaded. By this point in history, I thought we were well past that. Apparently not. Templeton-Ralston is writing for them. The book is an easy read, and it captures some important historical events. However, Templeton-Ralston is among those who are still unconvinced about the Islamic threat, after all that's happened.

The main problem with it is her cutting corners in putting together her narrative. For example, she claims most madrassas are benign. Two pages later, she says that not even the mullahs know how many madrassas there are today, which makes one wonder how she can quantify "most." She claims that those who attend these types of schools and then turn to violence tend to be poorer students. Nine pages later, she claims that those who join terrorist

groups are not poor, and are more likely to be middle class and university-educated. As much as I tried, I could not harmonize her claims with each other, let alone with what I thought was obvious.

She claims that that pre-9/11 law made it illegal for people gathering intelligence to share their information with those constructing criminal cases. In reality, it was not the law that required it, as we now know, but the erroneous internal interpretation of the FISA “primary purpose” test. She claims that the Lackawanna arrests marked the first time since the September 11 attacks that America was trying suspects accused of having direct ties to al Qa’ida. Has she heard of Zacarias Moussaoui? Richard Reid? She claims that the Lackawanna case was the first time U.S. citizens had been investigated for terrorist activity since 9/11. This would be news for Sami Al-Arian and Mohammad Salah, whose criminal prosecutions were premised on investigations that spanned across 9/11. The Lackawanna case was the first example of preventative prosecution? Has she ever heard of an undercover sting? These errors are unfortunate, because it is a good story, and her reason for digging into the Lackawanna case and writing a book about it does not require this type of embellishment. She claims that John Walker Lindh is housed at the federal prison in Florence, Colorado. Wrong again.

Apart from these errors, the big problem is her outlook. Templeton-Ralston is what is referred to as a “root causer,” someone who believes that the U.S. is always to blame when people engage in political violence. As she described the young Lackawanna defendants, “It wasn’t so much of good kids gone bad. It had more to do with how young men dealt with feeling left out, becoming separated from traditional bonds and culture.” We do not require ethnic communities here to assimilate to fit it. Who exactly is responsible for their disaffection? The blue-collar Americans with whom they grew up?

She describes how the radical who recruited the Lackawanna boys and convinced them to travel to Pakistan, Kamal Darwich, was ultimately killed by a U.S. predator drone. Far from being a sobering moment for U.S. law enforcement, as she suggests, the reaction within the intelligence community was that our suspicions about the Lackawanna cell had been confirmed. How many of the Lackawanna Six have ended up on the battlefield, scheming to kill American soldiers? You want to be safe from the U.S. military when it is deployed? Stay within the continental U.S.

This is where my idea from 2002 may have made a difference. The benefit would not have been cooperation, and I doubt any people trained in al Qa’ida training camps would have accepted the Attorney General’s invitation. After all, they were part of a milieu described by Templeton-Ralston who felt that the Lackawanna defendants were framed, complained that the case was heavily overseen by Main Justice (as if this was somehow surprising), and who – as described by Templeton-Ralston – privately reveled in the news that Elbaneh had escaped from his jail in Yemen. No, the main benefit of my proposal would have been to silence people like Templeton-Ralston, who have not yet come to the terms with the idea that we have to use criminal laws to deter Americans from scheming to kill people abroad. She is correct that no law requires people to come forward. My idea would have been a step towards convincing people like her who were serious, that staying silent carried costs. In this sense, it would not be that silence was a crime, rather, it would have made it easier for us to justify how we exercise prosecutorial discretion. Is this too “rough?” People who kept silent describe being offered amnesty would have garnered less sympathy from those like Templeton-Ralston, once they were run to ground.

In addition to her factual and legal errors, Templeton-Ralston also engages in a fair amount of wishful thinking. I seriously doubt that Ed Needham called Alwan to tell him the FBI planned to arrest him, just as I doubt something Templeton-Ralston wrote recently in The Washington Post: that the FBI now routinely shares relevant evidence with the Muslim community before executing major arrests on their members. Some people may hope that the FBI will jeopardize operational security and forgo the element of surprise to make American-Muslims think they are nice guys, but that’s not going to happen no matter who is elected President, nor should it. Imagine how Al Sharpton would react, and what he would insist on for his own ethnic enclave, if he heard that pre-arrest notice was something the FBI was offering to the Muslim-American community.

In the end, why did we – horrors! – initiate a criminal prosecution against the Lackawanna characters? We had no idea what they would do. Some of them lied to us, never a good tactical move. At the time, to get the Lackawanna characters into the U.S. criminal justice system, we had to treat attendance at a jihad training camp as an affirmative act of an attempt, or an overt act of a material support conspiracy. Since then, the law has been changed to criminalize receiving military-style training from foreign terrorist organizations. To understand why we did what we did, consider this description in the book of a conversation between FBI agent Ed Needham and Mukhtar al-Bakri, after al-Bakri's arrest:

"Why do you think I am a terrorist? I'm not a terrorist."

"Look at it from my perspective. Did you travel to Afghanistan?"

Al-Bakri nodded.

"Did you go to an al-Qaeda camp?"

He nodded again.

"Do you know an al-Qaeda recruiter?"

More nods.

"Did you train with weapons and explosives?"

"Did you conceal your identity?"

"Did you contact another recruiter after you got back?"

"Did you ever meet Osama Bin Laden?"

Al-Bakri's head kept nodding.

"So what do you think? If you were me, wouldn't you think you were a terrorist? Can't you see why people would be concerned?"

The prosecution rests.

Jeff Breinholt is a Senior Advisor for Counterterrorism and Education at the NEFA Foundation. The views expressed in this article are his alone and do not reflect those of the Department of Justice.