

# TRIPLE CROSS

## INTRODUCTION TO THE PAPERBACK EDITION

By Peter Lance

If the measure of any nonfiction book is how the public officials criticized in it react, *Triple Cross* has clearly struck a nerve. Eleven months after its publication in hardcover, as we were about to go to press with an update to this paperback edition, Patrick Fitzgerald, the U.S. Attorney in Chicago and the special prosecutor in the CIA leak investigation, who recently indicted Illinois governor Rod Blagojevich, sent the first of two letters to my publisher, HarperCollins, effectively demanding that the book be killed.

"I write to demand that Harper Collins cease publication, distribution and sale of the current version of the book;" Fitzgerald wrote, "issue and publish a clear and unequivocal statement acknowledging that the book contains false statements about me; refrain from publication of any updated version [and] take no steps to transfer the rights to any other person or entity to publish the book in any form." <sup>1</sup>

In this initial letter, Fitzgerald included an Attachment requesting that HarperCollins "preserve" twelve separate categories of records including all "book drafts," correspondence between me and the publisher, even "records of any and all projected sales" of the book "including any and all records of profits attributable to *Triple Cross*."

When I was a student at Fordham University School of Law in the late 1970's, the former Dean, Judge Joseph McLoughlin, once reminded us of the old legal saw: "If you don't have it on the *facts*, pound on the *law*. If you don't have it on the *law*, pound on the *facts* and if you don't have it on the facts or the law, pound on the *table*." Clearly, in his attempt to kill *Triple Cross*, Patrick Fitzgerald was engaging in *table pounding*.

In his letter of October 11th, 2007, the Chicago U.S. Attorney pointed to only one factual error in the entire 604-page hardcover edition: the misdating of an article from NBC News relating to the possible prior knowledge of U.S. intelligence officials of the East African Embassy bombing conspiracy.

It was clearly an inadvertent mistake since the story itself, still accessible on the MSNBC website,<sup>2</sup> contained the very October 24, 2003 date that I used in the book. Further, in order to mount a successful claim for libel, Fitzgerald would not only have to prove that the statement was false, but that it was written with *malice*, defined by the Supreme Court in the landmark New York Times vs. Sullivan case as "reckless disregard for the truth."

He would be hard pressed to do that since *Triple Cross* was meticulously researched. It has eighty-five pages of appendices and supporting documents including 1,425 end notes. Virtually every factual allegation is annotated and there are multiple transcript citations from the five terror trials prosecuted by the Office of the U.S. Attorney's for the Southern District of New York, where Fitzgerald himself was co-chief of Organized Crime and Terrorism.

Also, in researching both *Cover Up*, my second 9/11 investigative book, and *Triple Cross*, I made two separate attempts to get Fitzgerald to give his account—only to be spurned in both instances. Thus, stopping the republication of a book on the subject of national security would be an uphill battle—even for Fitzgerald, who succeeded in getting a *New York Times* reporter jailed for almost six months in the Valerie Plame investigation.

In his October 11th letter, Fitzgerald also questioned a line in *Triple Cross* concerning how former Egyptian army officer Emad Salem was recruited by the FBI and infiltrated the blind Sheikh's cell, only to be forced out by an assistant special agent in charge named Carson Dunbar, who demanded that Salem wear a wire in his interaction with cell members:

At that point, almost no one outside the confines of 26 Federal Plaza or the SDNY knew the real truth: that Salem had first infiltrated the Sheikh's cell in the fall of 1991; and that ASAC Carson Dunbar had caused his withdrawal, leading Rahman to bring in a professional bomber named Ramzi Yousef.

After the trial, Salem's infiltration and Dunbar's actions, which prompted his termination, were widely known. The Salem-Dunbar story had been detailed in days of testimony at the Day of Terror trial, and I myself had retraced these events extensively in *1000 Years for Revenge*. In questioning that line, as I saw it, Fitzgerald was parsing phrases.

What made the sentence true was the last phrase in which I reported, for the first time, that the withdrawal of FBI "mole" Emad Salem at the behest of ASAC Dunbar had led to Yousef's arrival. But because Fitzgerald read the sentence in a way that made it appear to be false, I have reworded it in this edition so that my meaning is unequivocal.

On November 2, 2007, HarperCollins sent a four-page letter to Fitzgerald rejecting his libel claim and noting that “we stand behind Mr. Lance and intend to go forward with the publication of the updated trade paperback edition of the book, which we regard as an important work of investigative journalism.”<sup>3</sup>

My publisher also advised him that the misdating on the MSNBC story would be corrected in future printings and that, prior to his letter and entirely unrelated to it, we had already agreed to drop his name from the book's subtitle.

## **A Second Demand to Cease Publication**

But the U.S. Attorney from Chicago wasn't satisfied. On November 16, 2007, he sent HarperCollins a second letter, reiterating his first two charges and claiming that I had falsely accused him of minimizing the presence of Ali Mohamed in the African Embassy bombing trial in 2001. He also made other allegations suggesting, as he had with the Day of Terror reference, that he was misreading my reporting in the book.

At that point HarperCollins and I decided to review every single sentence in the book to ensure that my reporting was crystal clear. This also gave us the opportunity to update the text to account for new developments-including the dismissal of the murder charges against ex FBI Supervisory Special Agent R. Lindley DeVecchio, whom I'd first reported on in *Cover Up* in 2004.

An update on the DeVecchio trial, and the follow-up investigation by a special prosecutor appointed after the dismissal, are included in the new Afterword to this edition. Given the scope and complexity of *Triple Cross*, the process of re-vetting and updating the book has taken more than a year.

On September 22, 2008, Patrick Fitzgerald sent a third letter to HarperCollins implying that the delay in the publication of the paperback had something to do with the publisher's "confidence level" in the book.

Nothing could be further from the truth. When an investigative reporter is accused of defaming a public official as powerful as Patrick Fitzgerald, it is incumbent on the author and the publisher to proceed with the utmost care, which is what we've done.

Within the body of the book I have addressed Fitzgerald's complaints in detail, noting his objections, and my responses, in the text where appropriate. All three of Fitzgerald's letters, along with HCP's responses, are available for access on my website at [www.peterlance.com/Fitzgerald\\_Libel\\_Claim\\_Letters\\_HCP\\_Response.pdf](http://www.peterlance.com/Fitzgerald_Libel_Claim_Letters_HCP_Response.pdf)

## **Al Qaeda's Master Spy**

In turning the pages of this long-overdue paperback edition, I suggest that you begin with the 32-page timeline in the middle. It will give you the proper overview of this epic story of Ali Mohamed, al Qaeda's master spy. If you find my reporting meaningful, I would recommend reading my first two books on the story: *1000 Years for Revenge* and *Cover Up*.

Until my three books, Patrick Fitzgerald and his colleagues in the Southern District had never been held to any degree of scrutiny for their conduct of the "war on terror." But it's my job, as an investigative reporter to cover the seven-eighths of the iceberg below the surface-to ferret out the facts in the region beyond public view, where the truth often lives.

In *Triple Cross* I've raised a number of serious questions about Fitzgerald's supervision of I-49, the "bin Laden Squad" in the FBI's New York office. One of the most significant questions is why he allowed Mohamed to remain at large in October 1997 after meeting him in person and labeling him "the most dangerous man" he'd ever met. After that meeting an FBI agent who was present told me that Fitzgerald had warned them: "we cannot let this man out on the street" and yet he allowed Mohamed to remain free for another ten months. The FBI didn't arrest him until a month after the African embassy bombings-an al Qaeda attack in which Ali had played a significant role.

Ali Mohamed had done the first surveillance for those simultaneous truck bomb attacks, which killed hundreds and injured thousands, back in 1993 after he'd been released from custody on the word of an FBI agent. He was one of the Bureau's best kept secrets and biggest embarrassments. Patrick Fitzgerald himself had made his reputation, in part, by prosecuting some of the terrorists who executed those embassy bombings. Yet, before trial he cut a deal with Mohamed, that kept him off the stand-sparing the al Qaeda spy the kind of scrutiny I subjected him to in *Triple Cross*.

The public needs to know why.

Patrick Fitzgerald is an extremely powerful official. Any prosecutor who can succeed in getting a judge to jail a *New York Times* reporter for eighty-five days has a tremendous capacity to chill the media. Fitzgerald has convicted corporate titans like Conrad Black, who was sentenced to seventy-eight months in federal prison for mail fraud. His 2008 conviction of Chicago developer Tony Rezko was a potential embarrassment to Barack Obama during the presidential campaign and the Blogojevich indictment created the first real political crisis for the new Obama administration.

In a laudatory profile in 2005, the Washington Post called Fitzgerald "The Prosecutor (Who) Never Rests," noting that "whether probing a leak or trying terrorists, Patrick Fitzgerald is relentless."<sup>4</sup> He's also proven relentless in his attempt to kill this book.

What I've uncovered for the first time about Fitzgerald and his role in the "war on terror" may surprise you. I ask you simply to read what I've unearthed, then decide whether my publisher made the right choice in bringing this edition of the book to print.

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**END NOTES**

<sup>1</sup> Patrick J. Fitzgerald, letter to Christopher Goff, Esq. General Counsel HarperCollins Publishers, October 11th 2007.

<sup>2</sup> <http://www.msnbc.msn.com/id/3340668/>

<sup>3</sup> Mark H. Jackson, letter to Patrick Fitzgerald, November 2nd, 2007.

<sup>4</sup> Peter Slevin, “The Prosecutor Never Rests,” *Washington Post*, February 2nd, 2005.