

# 北京市第二中级人民法院 刑事判决书

(2003)二中刑初字第1796号

公诉机关北京市人民检察院第二分院。

被告人姜立军(曾用名姜力均、姜力钧,网名“龚存龙”),男,1966年8月26日出生于辽宁省铁岭市,汉族,中专文化,系辽宁省调兵山市供热公司干部,住辽宁省调兵山市建委宿舍4楼9号。1988年10月因张贴非法刊物被收容审查;1995年10月因投寄非法信件被收容审查。因涉嫌犯颠覆国家政权罪,于2002年11月6日被羁押,同年12月14日被逮捕。现羁押于北京市看守所。

辩护人莫少平,北京市莫少平律师事务所律师。

北京市人民检察院第二分院以京检二分公诉一刑诉字[2003]132号起诉书指控被告人姜立军犯颠覆国家政权罪,于2003年10月20日向本院提起公诉。本院依法组成合议庭,公开开庭审理了本案。北京市人民检察院第二分院指派检察员王志琴出庭支持公诉,被告人姜立军及其辩护人莫少平到庭参加诉讼。本案现已审理终结。

北京市人民检察院第二分院指控:

被告人姜立军自2001年以来通过互联网分别结识与其政治观点相投的刘荻、吴一然和李毅兵等人,宣扬所谓西方方式的民主,主张在我国实行多党制,并散布“通过暴力手段实现民主”等言论。

被告人姜立军在2002年4月来京期间,分别向李毅兵、

刘荻等人提出“要组建一个党，以便从事民主活动”。2002年5月，被告人姜立军与李毅兵在辽宁再次会面时，姜提出以“自由民主党”的名义，使用神州行手机电话卡，在中国共产党第十六次全国代表大会开幕时，给北京警方打恐吓电话，谎称会场有炸弹，制造混乱，妄图破坏大会顺利召开。在被告人姜立军的授意下，李毅兵回京后伙同刘荻起草了“自由民主党党纲及成立宣言”，该党纲公开宣称“采取一切有效手段，团结一切民主力量，推翻中共专政独裁政权。”2002年9月，被告人姜立军再次来京时与李毅兵对该“党纲”内容进行商讨。

针对以上指控的事实，公诉机关向法庭提供了证人冯建新、王德丰的证言；搜查笔录、现场照片、起获的《自由民主党党纲》、《成立宣言》、《中国反独裁联盟宣言》文章、雅虎香港控股有限公司出具的电子邮箱用户资料、《政党和政党制度比较研究》、《中外政党制度比较》等书籍、国家图书馆借书证的照片、国家图书馆出具的证明材料、北京市老干部局招待所、北京市崇文门饭店出具证明材料、抓获经过；日记本、软盘、电脑；鉴定结论；李毅兵、刘荻、吴一然的供述、被告人姜立军的供述等证据。公诉机关认为被告人姜立军策划颠覆国家政权，推翻社会主义制度，其行为触犯了《中华人民共和国刑法》第一百零五条第一款之规定，已构成颠覆国家政权罪，依法应予惩处。

在庭审中，被告人姜立军对所指控的事实予以否认，辩称打恐吓电话是李毅兵所提，其未提出“组建政党”和“修改党纲”。辩护人的辩护意见是，指控姜立军犯颠覆国家政权罪的事实不清、证据不足，应当宣告姜立军无罪。被

告人姜立军及其辩护人均未向法庭提供证据。

经本院审理查明：

被告人姜立军自 2001 年以来通过互联网分别结识了其政治观点相同的刘荻、吴一然、李毅兵(均另案处理)等人。姜立军等人主张在中国实行多党执政，“通过暴力手段实现民主”。

2002 年 4 月间，被告人姜立军来京，先后向李毅兵、刘荻等人提出“要组建一个党，以便从事民主活动”。同年 5 月，被告人姜立军与李毅兵在辽宁省原铁法市再次会面时，姜立军提出以“自由民主党”的名义，使用神州行手机电话卡，在中国共产党第十六次全国代表大会开幕时，给北京警方打恐吓电话，谎称会场有炸弹，制造混乱，企图破坏此次大会顺利召开。在姜立军的授意下，李毅兵回京后遂伙同刘荻起草了“自由民主党党纲”及“成立宣言”，该党纲公开宣称“采取一切有效手段，团结一切民主力量，推翻中共专政独裁政权。”2002 年 9 月，姜立军再次来京与李毅兵对该党纲内容进行商讨，妄图颠覆国家政权。

被告人姜立军作案后被查获归案。

上述事实有下列证据证实：

1、证人证言：

(1) 冯建新证言证实，冯建新通过互联网与姜立军相识。2001 年 11 月初，冯建新用姜立军寄的钱到辽宁省原铁法市与姜见面。在交谈中，姜立军表示“现在和平、公开、理性争取民主是不可能的，要采取一切手段，包括暴力，对国家的公路、铁路、石油设施实行爆炸。要对审判民主人士的法官进行恐吓、爆炸。”姜立军还交给冯建新一份“中国

反独裁联盟宣言”，让冯建新交给华盛顿邮报记者和美国全球广播公司的记者，看他们是否对此感兴趣。姜立军称该宣言是他和几个人一起起草的，中心内容是诋毁共产党，倡导暴力。2002年7月初，冯建新又与姜立军在辽宁省原铁法市见面，姜立军谈到“准备在十六大召开期间给警察110打电话，称人民大会堂内放了炸弹，赶紧中止大会”，他和李毅兵已经商量过此事。姜立军还让冯建新去北京见李毅兵。7月4日下午，冯建新到北京与李毅兵联系见面。在谈到准备在十六大召开期间打恐吓电话时，李毅兵称此事还在具体计划当中，准备在郊区打，这样相对安全一些。

(2) 王德丰证言证实，姜立军崇尚民主，他认为中国现有制度不民主，有些专制。2002年4月5日，王德丰和姜立军到北京住在崇文门饭店，会见了一男一女两个北京人。他们围绕政治、民主、人权方面进行交流。姜立军对王德丰讲，那个女的文章写得很好。经王德丰辨认，二人分别是吴一然、刘荻。7日下午，王德丰和姜立军在西单图书大厦又与一个公司搞电脑工作的小伙子见面。

2、刘荻的供述证实，刘荻和姜立军、吴一然网上聊天时相识。姜立军在网上发表评论，表现对政治体制不满，对共产党不满，认为共产党独裁，要采取暴力实现民主。2002年4月，刘荻、吴一然在崇文门饭店与姜立军见面。当时姜立军提出“组个党怎样？”刘荻、吴一然说“不好”。后姜立军就说“那就大家弄个共同的笔名，以便以后干点什么的时候或写点文章用。”之后聊了一些有关民主、政治方面的话题，并让刘荻结识李毅兵。在4至5月间，李毅兵找到刘荻谈论起草党纲之事。7月的一天上午，刘荻到李毅兵

单位，由刘荻口述，李毅兵操作电脑，修改已有草稿的“党纲”。后刘荻认为文字及内容都不够完善，就把党纲拷入软盘，带回家中修改。刘荻在修改中参考了政党制度比较研究方面的书籍。修改完后，刘荻将最后成稿的“党纲”保存在其电脑中，并在半个月后将存有改好的“党纲”的软盘交给了李毅兵。李毅兵告诉刘荻“成立自由民主党并且起草党纲”都是姜立军的主意，刘荻就联想到姜立军以前提过组党的事。2002年9月的一天，在网上聊天时，姜立军问刘荻“十六大”何时召开，刘荻将开会的时间告诉姜立军。因姜立军总想在民运方面搞点事，又有暴力倾向，刘荻担心姜立军想干点什么，造成影响。9月11日晚7时许，刘荻和吴一然到李毅兵在丰台区大红门或南苑一带的住处。在商讨党纲的过程中，吴一然表示赞成成立“自由民主党”。李毅兵说姜立军有个计划，就是想在十六大期间打恐吓电话，声称大会堂内有炸弹，然后再说“自由民主党”对这件事负责；还说用一个新的神州行电话卡打这个电话，用完就扔掉。其间，李毅兵给姜立军打电话，告诉姜立军，他们正在商量“自由民主党”的事，后吴一然也与姜通了电话。

3、李毅兵的供述证实，2002年4月初，李毅兵与姜立军在西单图书大厦见面谈话时，姜立军说现在民主活动过于低潮，许多人只说不做，他感到很失望，认为今后从事民主活动要以一个党的方式进行，要组建一个民主方面的党。姜立军希望李毅兵与北京的网友“不锈钢老鼠”（刘荻）联系，并说此人文笔不错。5月底，李毅兵到沈阳与姜立军见面，姜立军提到“现在用和平方式推动当前的民主改革已经没什么作用，也动摇不了什么，这一点是非常清楚的。我们搞

民主就要采取一点技巧，我现在有一些想法，对于将来我们做一些事情还是比较有效的。”两天后二人在原铁法市见面。姜立军提出，在十六大开会期间，由李毅兵给北京的警方打110报警，称人民大会堂内放了炸弹，把会场搞乱，促使共产党政权早日垮台。姜立军还策划买一个“神州行”的新电话卡，打完后就扔掉，并对警方称“自由民主党”对此事负责。当时姜还说以后可以操作组织“自由民主党”的事，并让李毅兵和北京的吴一然联系。7月初的一天晚上，李毅兵与冯建新见面。在谈到准备在十六大召开期间打恐吓电话时，李毅兵称此事还在具体计划当中，准备在郊区打，这样相对安全一些。之后，李毅兵、刘荻在李的单位用电脑起草“自由民主党”党纲，后刘荻将党纲拷入软盘带回家进行修改。二十多天后，刘荻将存有修改好的“党纲”内容的软盘交给李毅兵，并说她把写“党纲”的事告诉了吴一然，吴一然对“党纲”很感兴趣。几天后，李毅兵将存有“党纲”的软盘交给了吴一然，吴一然看后表示赞成。9月初，姜立军来北京住在内蒙古宾馆，李毅兵和姜立军谈论了“党纲”之事，姜立军想带一份“党纲”回去看，李毅兵认为把文章带在身上太危险，就没让姜立军带，后决定由李毅兵用电子邮件将“党纲”发给姜立军。在刘荻、吴一然到李毅兵住处讨论“党纲”时，李毅兵称其曾去沈阳同姜立军见面，姜立军说想在北京成立这样一个组织，还准备在十六大召开期间给警方110打电话声称会场内有炸弹。吴一然对此表示赞成。此间，李毅兵和姜立军通了电话，告诉姜立军，他们三人在一起商量“自由民主党”的事。后吴一然也与姜立军通了电话。

4、吴一然的供述证实，2002年四月初，姜立军来北京，吴一然和刘荻一起去崇文门饭店见姜立军，当时姜立军谈了“六·四”的事情，还夸刘荻的文笔好。2002年8月底，吴一然、李毅兵、刘荻在西单见面时，吴一然从李毅兵处拿了一张内存有“自由民主党”党章的软盘，看完后将软盘还给了李毅兵。9月的一天晚上，吴一然、刘荻到李毅兵家谈论“自由民主党”章程，其间还和姜立军通了电话。之后的一天上午，吴一然到内蒙古饭店和姜立军、李毅兵见面。

#### 5、物证、书证：

(1) 从李毅兵处起获的“自由民主党党纲”、“成立宣言”文稿及软盘；从刘荻电脑中打印的“自由民主党党纲”及“成立宣言”，证实姜立军等人“组党”的事实。

(2) 雅虎香港控股有限公司出具的署名为 ZYMZd2002 李毅兵与姜立军共用的电子邮箱的用户资料，证明该邮箱的注册信息；该用户草稿箱中存的一封名为“宣言”的稿子，存储日期为9月25日，内容与起获的刘荻电脑中及李毅兵的软盘中打印的“自由民主党党纲”及“成立宣言”一致。

(3) 从姜立军处起获的日记本，记载有“邓氏的独裁与专制主义”、“我为什么反对公开组党”等文章，证明姜立军虽反对公开进行组党，但其愿意为组党做筹备工作并用暴力推翻共产党。

(4) 从冯建新处起获的“中国反独裁联盟宣言”，佐证冯建新所证明的姜立军让冯建新将“中国反独裁联盟宣言”交予境外驻京新闻媒体。

(5) 刘荻借阅的《政党和政党制度比较研究》、《中外政党制度比较》等书籍及刘荻在国家图书馆借书证的照片以

及国家图书馆出具的证明材料，证实刘荻于 2002 年 7 月 29 日至 8 月 5 日借阅《政党和政党制度比较研究》、《中外政党制度比较》等书籍，佐证刘荻供述其在修改党纲时参考了以上书籍。

(6) 北京市老干部局招待所、北京市崇文门饭店出具证明材料，证实冯建新于 2002 年 7 月 2 日至 4 日在北京市老干部局招待所住宿登记，姜立军、王德丰于 2002 年 4 月 5 日至 7 日在北京市崇文门饭店住宿登记。

(7) 姜立军及刘荻、吴一然在网上发表及转发的一些帖子，证实其三人有相同的政治观点，且均对现实不满。

(8) 姜立军、李毅兵、刘荻、吴一然的身份材料，证实其各自的身份。

6、北京市公安局公共信息网络安全监察处出具的鉴定书，鉴定结论分别为：

(1) 从姜立军处起获的白色电脑主机“D: /”目录下有“民主工程——建立某种政治实体，取代中共独裁政权”等多份文件。

(2) 从刘荻处起获的白色电脑主机“D: /猫”目录下有“中国共产主义者同盟成立宣言”、“不锈钢老鼠的自白书之《阴谋论》”、“后现代主义的革命”、“后现代主义的政党”等文件。

在刘荻处起获的软盘中有“不锈钢老鼠的自白书之《玩笑》”、“象征压倒实存的北京——兼论我为什么反对奥运会”等文件。

#### 7、搜查笔录：

(1) 2002 年 11 月 6 日在调兵山市建委宿舍 4 栋 3 号

1 单元 9 号姜立军的家中搜查，起获了“行将崩溃的中共独权统治”、“邓氏的独裁与专制主义”等文章。

(2)2002 年 11 月 7 日在北京师范大学宿舍楼 15 号 523 号刘荻的宿舍及本市朝阳区金台西路 2 号民 22 楼 4-407 号刘荻的家中搜查，起获了《六四前后》、《魏京生狱中书信集》等书籍。

8、现场照片，证实刘荻与李毅兵修改“党纲”时在李毅兵服务处所的照片；刘荻、吴一然与李毅兵商谈“党纲”时在李毅兵家中的照片。

9、抓获经过，证实被告人姜立军及李毅兵、刘荻、吴一然被分别抓获的情况。

10、被告人姜立军在公安机关的供述，证实其在网上认识了刘荻、吴一然、李毅兵。2002 年 4 月，姜立军同王德丰到北京住在崇文门饭店，第二天与刘荻、吴一然见面，后又与李毅兵在西单图书大厦见面。5 月，在辽宁省原铁法市、沈阳市，姜立军与李毅兵商谈在“十六大”开幕时给会场打恐吓电话，说会场已安放好炸弹，给会场制造混乱，看看北京警方对此事有何反映，然后以一个组织的名义对这事负责。当时只谈到想以某个组织名义负责，但没具体商定组织名称。姜立军称此事是受俄罗斯一精神病人给会场打电话的启发后想出的，还将这个想法告诉过冯建新，但后来又商量不干了。9 月份，在北京的内蒙古饭店，李毅兵给姜立军看一份“党纲”，并告诉是刘荻写的，当时姜立军还夸刘荻文笔不错，只是有些地方应修改一下，但具体修改哪条其当时没讲，因当时只是粗略地看了看。后姜立军要求将“党纲”带走，李毅兵未同意，李毅兵提出通过互联网把这份

“党纲”发送到姜立军电子邮箱内，但一直没有收到。

以上证据经当庭举证、质证，本院予以确认。

被告人姜立军的辩解及其辩护人所提辩护意见，经核查，公诉机关指控姜立军主张使用暴力实现民主的证据不仅有李毅兵、刘荻的供述，亦有证人冯建新的证言及姜立军的日记在案证实，且姜立军所写的“我为什么反对公开组党”一文中明确表明其主张使用暴力推翻中国共产党所领导的人民民主专政的政权；姜立军虽称反对公开组党，但其又与他人结伙秘密组建“政党”，妄图颠覆国家政权的事实，有李毅兵、刘荻的供述佐证；姜立军虽然未直接起草和修改“党纲”，但李毅兵和刘荻的供述均证实，二人是在姜立军的授意下，为组建“自由民主党”而起草了该“党纲”及“成立宣言”，且李毅兵又将该文件交姜立军阅读，并让其提出修改意见，姜立军对此亦曾供认；姜立军伙同他人预谋以“自由民主党”名义给“十六大”会场打恐吓电话，显见是其为配合组建“自由民主党”而采取的制造社会混乱、颠覆国家政权的行为，并非是简单的犯意表示。综上，被告人姜立军的辩解及其辩护人的辩护意见，不能成立，本院不予采纳。

本院认为被告人姜立军积极参与策划颠覆中国共产党领导的人民民主专政的政权、推翻社会主义制度，其行为已构成颠覆国家政权罪，依法应予惩处。北京市人民检察院第二分院指控被告人姜立军犯颠覆国家政权罪的事实清楚，证据确实、充分，指控的罪名成立。本院根据被告人姜立军犯罪的事实、犯罪的性质、情节和对于社会的危害程度，依照《中华人民共和国刑法》第一百零五

条、第五十六条第一款、第五十五条第一款、第六十一条、第六十四条之规定，判决如下：

一、被告人姜立军犯颠覆国家政权罪，判处有期徒刑四年（刑期自判决执行之日起计算，判决以前先行羁押的，羁押一日，折抵刑期一日，即自2002年11月6日起至2006年11月5日止），剥夺政治权利一年。

二、随案移送的扣押物品予以没收（清单附后）。

如不服本判决，可在接到判决书的第二日起十日内，通过本院或者直接向北京市高级人民法院提出上诉。书面上诉的，应当提交上诉状正本一份，副本一份。

审 判 长 许 靖

代理审判员 王万铁

代理审判员 中级 徐 辉

二〇〇六年十一月十八日

书 记 员 方文军

本判决书一式两份，一份送达被告人，一份送达辩护人。

## Beijing No. 2 Intermediate People's Court Criminal Verdict

No. 2 Intern. Crim. First Trial No. 1796 (2003)

Prosecuting organ is the Number Two Branch of the Beijing Municipality People's Procuratorate.

Defendant Jiang Lijun (previously used [two names with different characters for "Jiang Lijun"] and the online name "Gong Cunlong"), male, born August 26, 1966 in Tieling, Liaoning Province, Han ethnicity, technical school graduate, cadre of the Diaobingshan City Heating Company in Liaoning Province, resides at Number 9, Building 4, Diaobingshan City Construction Management Committee Residence. He was detained for interrogation in October 1988 for posting illegal publications and detained for interrogation in October 1995 for mailing illegal letters. He was taken into custody on November 6, 2002 on suspicion of the crime of subversion and arrested on December 14 of the same year. He is now being held in Beijing Municipality Detention Center.

Defense attorney is Mo Shaoping, a lawyer with Mo Shaoping Law Firm in Beijing.

In Beijing Procuratorate No. 2 Branch Criminal Indictment No. 132 (2003), the Number Two Branch of the Beijing Municipality People's Procuratorate charged defendant Jiang Lijun with the crime of subversion, and on October 20, 2003 it sent the case to this court for prosecution. This court formed a collegiate bench in accordance with the law and heard this case in open court. The Number Two Branch of the Beijing Municipality People's Procuratorate sent procurator Wang Zhiqin to appear in court on behalf of the prosecution, and defendant Jiang Lijun and his defense attorney Mo Shaoping were also in court to participate in the proceedings. This trial has now been concluded.

The Number Two Branch of the Beijing Municipality People's Procuratorate charged that:

Beginning in 2001, defendant Jiang Lijun used the Internet to become acquainted with Liu Di, Wu Yiran, and Li Yibing, all of whom held similar political views as himself; to promote so-called Western-style democracy; to advocate that our country implement a multiparty system; and to disseminate such opinions as "[the need to] use violent measures to achieve democracy."

While in Beijing in April 2002, defendant Jiang Lijun separately told Li Yibing and Liu Di that he "wanted to organize a political party in order to carry out democratic activities." In May 2002, when defendant Jiang Lijun again met with Li Yibing in Liaoning, Jiang said that he wanted to use a Shenzhouxing mobile telephone card to make a threatening telephone call to Beijing police during the opening ceremonies of the 16th National Party Congress of the Chinese Communist Party and, in the name of the "Freedom and Democracy Party," make the false claim that there was a bomb at the site, thereby creating havoc and trying to

disrupt the smooth convention of that congress. Under instructions from Jiang Lijun, Li Yibing returned to Beijing and, along with Liu Di, drafted a “Freedom and Democracy Party Program and Declaration of Establishment.” The party program openly declared that [it would] “use all effective measures to unite all democratic powers to overthrow the dictatorial autocracy of the Chinese Communist Party.” In September 2002, Jiang Lijun again came to Beijing to discuss the contents of the party program with Li Yibing in a vain effort to subvert the state’s political power.

With respect to the above-mentioned facts as charged, the prosecuting organ provided the court with the testimonies of Feng Jianxin and Wang Defeng as well as the following evidence: search records; crime-scene photos; the recovered documents “Freedom and Democracy Party Program,” “Declaration of Establishment,” and “Declaration of the China Anti-Dictatorship Federation”; email account information provided by Yahoo! Holdings (Hong Kong) Ltd.; the books *Political Parties and Comparative Political Systems Research* and *Comparison of Political Systems in China and Overseas*; a photograph of a National Library library card; verification records provided by the National Library; verification records provided by the Old Cadre Bureau Guest House in Beijing and the Chongwenmen Hotel in Beijing; accounts of arrest; diaries, floppy disks, and computers; verification results; the statements of Li Yibing, Liu Di, and Wu Yiran, and the statement of defendant Jiang Lijun. The prosecuting organ holds that Jiang Lijun plotted to subvert state political power and overthrow the socialist system and that his actions violated Article 105, Paragraph 1 of the “Criminal Law of the PRC,” thereby constituting the crime of subversion. He should be punished in accordance with the law.

During the trial defendant Jiang Lijun denied the facts as charged and argued that the threatening telephone call was Li Yibing’s idea and that he never mentioned “organizing a political party” or “revising a party program.” The defense attorney submitted that the facts as charged regarding the crime of subversion are unclear and that there is insufficient evidence; [therefore] Jiang Lijun should be pronounced innocent. Neither defendant Jiang Lijun nor his defense attorney provided the court with any evidence.

In the course of the trial, the court determined that:

Beginning in 2001, defendant Jiang Lijun used the Internet to become acquainted with Liu Di, Wu Yiran, and Li Yibing (each handled in separate cases), all of whom held similar political views as himself. Jiang Lijun and the others advocated that China implement a multiparty system and that “violent measures be used to achieve democracy.”

In April 2002, defendant Jiang Lijun came to Beijing and separately told Li Yibing and Liu Di that he “wanted to organize a party in order to carry out democratic activities.” In May of the same year, when defendant Jiang Lijun again met with Li Yibing in the former Tiefu City, Liaoning Province, defendant Jiang Lijun said that he wanted to use a Shenzhouxing mobile telephone card to make a threatening telephone call to Beijing police during the opening

ceremonies of the 16th National Party Congress of the Chinese Communist Party and, in the name of the “Freedom and Democracy Party,” make the false claim that there was a bomb at the site, thereby creating havoc and trying to disrupt the smooth convention of that congress. Under instructions from Jiang Lijun, Li Yibing returned to Beijing and, along with Liu Di, drafted a “Freedom and Democracy Party Program” and a “Declaration of Establishment.” The party program openly declared that [it would] “use all effective measures to unite all democratic powers to overthrow the dictatorial autocracy of the Chinese Communist Party.” In September 2002, Jiang Lijun again came to Beijing to discuss the contents of the party program with Li Yibing in a vain effort to subvert the state’s political power.

After committing [these] crimes, defendant Jiang Lijun was investigated and brought to justice.

The evidence demonstrating the above criminal facts is as follows:

1. Testimony of Witnesses:

(1) The testimony of Feng Jianxin, confirming that: Feng Jianxin and Jiang Lijun got to know each other over the Internet. In early November 2001, Feng Jianxin used money sent by Jiang Lijun to go to the former Tiefert City in Liaoning Province to meet with Jiang. In the course of their conversation, Jiang Lijun stated, “At the present time it’s impossible to fight for democracy in a peaceful, open, and rational way. One must employ all measures, including violence and bombing the nation’s highways, railways, and oil facilities. One must threaten or blow up those judges who sentence democracy activists.” Jiang Lijun also gave Feng Jianxin a copy of his “Anti-Autocracy Federation Declaration” and asked Feng Jianxin to give it to a *Washington Post* reporter and a reporter for the American Universal Broadcasting Company [sic] and see whether they have any interest. Jiang Lijun said that he and several others drafted the declaration and that the main point was destruction of the Communist Party and advocacy of violence. In early July 2002, Feng Jianxin once again met with Jiang Lijun in the former Tiefert City, Liaoning Province, and Jiang Lijun discussed “preparing to call the police 110 [hotline] during the 16th [Party] Congress and say that a bomb had been placed in the Great Hall of the People and that the congress should be halted immediately.” He said that he had already discussed this with Li Yibing. On the afternoon of July 4, Feng Jianxin went to Beijing to meet with Li Yibing, and when they discussed preparations to make threatening telephone calls during the 16th Party Congress, Li Yibing said that the details were still being planned but that they were prepared to call from the suburbs, which would be somewhat safer.

(2) The testimony of Wang Defeng, confirming that: Jiang Lijun advocated democracy and considered China’s current [political] system to be undemocratic and autocratic. On April 5, 2002, Wang Defeng and Jiang Lijun went to Beijing and stayed at the Chongwenmen Hotel, where they met with a man and a woman from Beijing. Their conversations concerned the

topics of politics, democracy, and human rights. Jiang Lijun said to Wang Defeng that the woman was a very good writer. Wang Defeng identified the two as Wu Yiran and Liu Di. On the afternoon of the 7th, Wang Defeng and Jiang Lijun also met in the Xidan Bookstore with a young man who did computer work for a company.

2. The statement of Liu Di, confirming that: Liu Di became acquainted with Jiang Lijun and Wu Yiran while chatting on line. Jiang Lijun expressed his opinions on line, saying that he was unhappy with the political system and the Communist Party and that he believed the Communist Party to be dictatorial and wanted to use violence to achieve democracy. In April 2002, Liu Di and Wu Yiran met with Jiang Lijun at the Chongwenmen Hotel. At that time, Jiang Lijun asked, "How about organizing a [political] party?" to which Liu Di and Wu Yiran both said, "No." Afterwards, Jiang Lijun said, "Let's establish a common alias that we can use in the future when we do or write something." Then they discussed some topics related to democracy and politics, and then he introduced Liu Di to Li Yibing. From April to May, Li Yibing talked with Liu Di about drafting a party program. One morning in July, Liu Di went to Li Yibing's work unit. According to Liu Di, Li Yibing operated the computer and revised the draft of the "party program." Liu Di felt that the language and content were not good enough, so she saved a copy of the party program on a floppy disk and brought it home to revise. While she was revising it, she consulted some books on comparative political systems research. When she had finished her revision, Liu Di saved a final copy of the "party program" on her computer and half a month later gave the floppy disk with the revised "party program" to Li Yibing. Li Yibing told Liu Di that "establishing the Freedom and Democracy Party and drafting a party platform" were both Jiang Lijun's ideas, which led Liu Di to recall that Jiang Lijun had raised organizing a party in the past. One day in September 2002, while chatting on line, Jiang Lijun asked Liu Di when the 16th Party Congress would open, and Liu Di told him the dates that the congress would be in session. Given that Jiang Lijun was always thinking about creating an incident on behalf of the democracy movement and that he had a tendency toward violence, Liu Di worried that Jiang Lijun was up to something and was going to make an impression. Around 7:00 p.m. on September 11, Liu Di and Wu Yiran went to Li Yibing's residence in the Dahongmen or Nanyuan area of Fengtai District. While they were discussing the party program, Wu Yiran expressed support for establishing the "Freedom and Democracy Party." Li Yibing said that Jiang Lijun had a plan to make a threatening telephone call during the time of the 16th Party Congress, say that there was a bomb in the Great Hall, and afterwards say that the "Freedom and Democracy Party" takes responsibility for this act. He also said that he would use a Shenzhouxing telephone card to make this call and discard it when he was finished. At the time, Li Yibing called Jiang Lijun to tell him that they were at that moment discussing the "Freedom and Democracy Party." Later, Wu Yiran also telephoned Jiang.

3. The statement of Li Yibing, confirming that: In early April 2002, when Li Yibing met with Jiang Lijun for a discussion in the Xidan Bookstore, Jiang said that at the present time democracy activities were at a low point, with many people all talk but no action. He felt very disappointed, believed that thereafter democracy activities should be carried out under a

single party, and wanted to establish a democratic party. Jiang Lijun hoped that Li Yibing would contact his Internet-friend “Stainless Steel Rat” (Liu Di) in Beijing, mentioning that she was not a bad writer. In late May, Li Yibing went to Shenyang to meet Jiang Lijun. Jiang Lijun said: “Using peaceful means to promote the current democratic reform has now become useless and cannot shake anything up—this is extremely clear. If we’re going to ‘do’ democracy, we need to use a bit of skill. I have some ideas which will be more effective for what we want to do in the future.” Two days later, the two of them met in the former Tiefu City. Jiang Lijun said that while the 16th Party Congress was in session Li Yibing should call the Beijing police 110 hotline and say that a bomb had been placed in the Great Hall of the People in order to create chaos at the scene and precipitate the early collapse of the Communist Party. Jiang Lijun’s plan was to buy a new “Shenzhouxing” [mobile] telephone card, discarding it after the call, and tell the police that the “Freedom and Democracy Party” took responsibility for the incident. At the time Jiang also said that later they would go about organizing the “Freedom and Democracy Party” and told Li Yibing to contact Wu Yiran in Beijing. One evening in early July, Li Yibing met Feng Jianxin. While they were discussing preparations for making a threatening telephone call during the 16th Party Congress, Li Yibing said that the details were still being planned and that they were prepared to call from the suburbs, which would be somewhat safer. Afterwards, Li Yibing and Liu Di used a computer in Li’s work unit to draft the party program for the “Freedom and Democracy Party.” Then Liu Di saved the party program on a floppy disk and took it home for revision. More than 20 days later, Liu Di gave Li Yibing the floppy disk on which she had saved the revised “party program and said that she had told Wu Yiran about writing the “party program” and that Wu Yiran was very interested in it. Several days later, Li Yibing gave the floppy disk with the “party program” to Wu Yiran, and Wu Yiran expressed his approval after reading it. In early September, Jiang Lijun came to Beijing and stayed in the Inner Mongolia Hotel. Li Yibing and Jiang Lijun discussed the “party program” and Jiang Lijun [said that he] wanted to take a copy back with him to read, but Li Yibing felt that carrying a copy of the document on his person was too dangerous and would not let him take it. Later they decided that Li Yibing would send Jiang Lijun the “party program” via email. When Liu Di and Wu Yiran went to Li Yibing’s residence to discuss the “party program,” Li Yibing said that he had gone to Shenyang to meet Jiang Lijun, that Jiang Lijun had said that he wanted to set up this kind of organization in Beijing, and that he was preparing to call the 110 police hotline to say there was a bomb at the scene of the 16th Party Congress. Wu Yiran expressed approval for this. During this period, Li Yibing called Jiang Lijun and told him that the three of them had met to discuss the “Freedom and Democracy Party.” Later, Wu Yiran also called Jiang Lijun.

4. The statement of Wu Yiran, confirming that in early April 2002, Jiang Lijun came to Beijing. Wu Yiran and Liu Di went together to the Chengwenmen Hotel to see Jiang Lijun, and Jiang Lijun discussed “June Fourth” and praised Liu Di’s writing. In late August 2002, when Wu Yiran, Li Yibing, and Liu Di met in Xidan, Wu Yiran took from Li Yibing’s residence a floppy disk with “Freedom and Democracy Party” party documents on it; after reading it, he returned the floppy disk to Li Yibing. One evening in September, Wu Yiran

and Liu Di went to Li Yibing's home to discuss the "Freedom and Democracy Party" charter, and during that time he also telephoned Jiang Lijun. Later one morning, Wu Yiran went to the Inner Mongolia Hotel to meet Jiang Lijun and Li Yibing.

5. Physical evidence and written evidence:

(1) Manuscripts of the "Freedom and Democracy Party Program" and "Declaration of Establishment" and a floppy disk, all recovered from Li Yibing's residence, and a "Freedom and Democracy Party Program" and "Declaration of Establishment" printed from Liu Di's computer, all of which confirm that Jiang Lijun et al. "formed a party."

(2) User information provided by Yahoo! Holdings (Hong Kong) Ltd. for the email account ZYMZd2002 used jointly by Li Yibing and Jiang Lijun, confirming the registration data for that mailbox. In that user's drafts folder was saved a draft email entitled "Declaration," saved on September 25, the contents of which were the same as the "Freedom and Democracy Party Program" and "Declaration of Establishment" recovered and printed from Liu Di's computer and Li Yibing's floppy disk.

(3) A diary recovered from Jiang Lijun's residence, in which were found the articles "The Autocracy of Mr. Deng and Despotism" and "Why I Oppose Openly Organizing a Party," confirming that although Jiang Lijun opposed openly organizing a party, he was willing to make preparations for organizing a party and to use violence to overthrow the Communist Party.

(4) A copy of "Declaration of the China Anti-Dictatorship Federation," corroborating Feng Jianxin's assertion that Jiang Lijun wanted Feng Jianxin to give the "Declaration of the China Anti-Dictatorship Federation" to members of the foreign media stationed in Beijing.

(5) The books *Political Parties and Comparative Political Systems Research* and *Comparison of Political Systems in China and Overseas* borrowed by Liu Di, along with a photograph of Liu Di's National Library library card and verification records provided by the National Library, confirming that from July 29 to August 5, 2002, Liu Di borrowed the books *Political Parties and Comparative Political Systems Research* and *Comparison of Political Systems in China and Overseas* and corroborating Liu Di's statement that she consulted these books while she was revising the party program.

(6) Verification records provided by the Beijing Old Cadre Bureau Guest House and the Beijing Chongwenmen Hotel, confirming that Feng Jianxin was registered at the Beijing Old Cadre Bureau Guest House from July 2 to 4, 2002 and that Jiang Lijun and Wang Defeng were registered at the Beijing Chongwenmen Hotel from April 5 to 7, 2002.

(7) Internet postings posted or forwarded by Jiang Lijun, Liu Di, and Wu Yiran, confirming that the three had common political views and were all dissatisfied with the current situation.

(8) Identification materials for Jiang Lijun, Li Yibing, Liu Di, and Wu Yiran, confirming their identities.

6. Identification report provided by the Public Information Network Security Supervision Division of the Beijing Municipality Public Security Bureau, which made the following identifications:

(1) Documents such as “Constructing Democracy—Establishing a Certain Kind of Political Entity to Replace the Dictatorship of the Chinese Communist Party,” located under the “D:/” directory of the white computer recovered from Jiang Lijun’s residence.

(2) Documents such as “Declaration of Establishment of the Federation of Chinese Communists,” “‘On Plots’ from the Confessions of Stainless Steel Rat,” “The Postmodern Revolution,” and “The Postmodern Political Party,” all located under the “D:/Cat” directory of the white computer recovered from Liu Di’s residence.

The Documents “‘Jokes’ from the Confessions of Stainless Steel Rat,” “Symbols Prevail Over Beijing As It Currently Exists—Or Why I Oppose the Olympics,” located on a floppy disk recovered from Liu Di’s residence.

7. Search Records:

(1) Articles such as “Chinese Communist Autocratic Rule Heading for Collapse” and “The Autocracy of Mr. Deng and Despotism,” recovered during a search of Jiang Lijun’s home at Unit 1-9, Number 3, Building 4, Diaobingshan City Construction Management Committee Residence on November 6, 2002.

(2) The books *June Fourth, Before and After* and *The Collected Prison Letters of Wei Jingsheng*, recovered during searches of Liu Di’s dormitory at Number 15-523, Beijing Normal University Dormitory Building and Liu Di’s home at Number 4-407, Floor Min-22, 2 Jintaixi Rd., Chaoyang District, Beijing on November 7, 2002.

8. Crime-scene photographs, showing Liu Di and Li Yibing revising the “party program” in Li Yibing’s office and Liu Di, Wu Yiran, and Li Yibing discussing the “party program” in Li Yibing’s home.

9. Arrest records, confirming the circumstances of the respective arrests of defendant Jiang Lijun, Li Yibing, Liu Di, and Wu Yiran.

10. Defendant Jiang Lijun’s statement to the public security organ, confirming that he became acquainted with Liu Di, Wu Yiran, and Li Yibing on line. In April 2002, Jiang Lijun and Wang Defeng went to Beijing and stayed in the Chongwenmen Hotel. The next day they

met with Liu Di and Wu Yiran, and afterwards they also met with Li Yibing in the Xidan Bookstore. In May, Jiang Lijun and Li Yibing [met] in the former Tiefu City and Shenyang in Liaoning Province and discussed making threatening telephone calls during the “16th Congress,” saying that a bomb had been placed at the site in order to create havoc at the site and see what sort of reaction the Beijing police would make. Afterwards, they would take responsibility for the incident in the name of an organization. At the time, they only discussed the idea of taking responsibility in the name of an organization and did not specifically discuss the organization’s name. Jiang Lijun said he got the idea after a mentally ill person in Russia made a call to a meeting place. He told this idea to Feng Jianxin, but after further discussion he decided not to do it. In September, in the Inner Mongolia Hotel, Li Yibing gave Jiang Lijun a copy of a “party program” to read and told him that it was written by Liu Di. At the time Jiang Lijun praised Liu Di’s writing and said that there were only a few places that needed revision, however he did not specifically say which articles needed revision because at the time he had only skimmed it. Later, Jiang Lijun asked to take the “party program” with him, but Li Yibing refused. Li Yibing said that he would send a copy of the “party program” to Jiang Lijun’s e-mail account, but Jiang never received it.

The evidence above was introduced before the court and cross-examined, and the court has affirmed it.

With respect to defendant Jiang Lijun’s defense argument and the defense submission made by his defense attorney, after examination and verification, the evidence of the prosecution’s charge that Jiang Lijun advocated using violence to achieve democracy consists of not only the statements of Li Yibing and Liu Di; there is also the testimony of witness Feng Jianxin and Jiang Lijun’s diary confirming this on the record, and Jiang Lijun’s “Why I Oppose Publicly Organizing a Party” clearly expresses his advocacy of violence to overthrow the people’s democratic dictatorship led by the Chinese Communist Party. Even though Jiang Lijun said that he opposed publicly organizing a party, the fact that he ganged together with others to secretly establish a “political party” in a vain attempt to overthrow state political power is corroborated by the statements of Li Yibing and Liu Di. Even though Jiang Lijun did not directly draft or revise the “party program,” the statements of Li Yibing and Liu Di confirm that the two of them drafted the “party program” and “declaration of establishment” on Jiang Lijun’s instructions and in order to establish the “Freedom and Democracy Party.” Jiang Lijun has confessed that Li Yibing gave him these documents to read and asked for his revision opinions. The plot of Jiang Lijun and the others to make threatening telephone calls to the site of the “16th Congress” in the name of the “Freedom and Democracy Party” is clearly an act chosen to create social disorder and subvert state power in order to help organize the “Freedom and Democracy Party” and was not simply an expression of opposition. Therefore, neither the defense argument made by defendant Jiang Lijun nor the defense submission made by his defense attorney are tenable, and they cannot be accepted by this court.

This court finds that defendant Jiang Lijun actively participated in a plot to subvert the people's democratic dictatorship under the leadership of the Chinese Communist Party and to overthrow the socialist order; his actions constitute the crime of subversion and should be punished in accordance with law. The facts are clear in the allegation of subversion made by the Number Two Branch of the Beijing Municipality People's Procuratorate, the evidence is clear and sufficient, and the charge is tenable. Based on the facts of defendant Jiang Lijun's crimes and the nature, circumstances, and level of threat to society of those crimes, and in accordance with Article 105, Paragraph 1 of Article 56, Paragraph 1 of Article 55, Article 61, and Article 64 of the "Criminal Law of the PRC," this court rules as follows:

1. Defendant Jiang Lijun is sentenced to four years' imprisonment, with subsequent deprivation of political rights for one year, for the crime of subversion. (The prison term is to be calculated on the day the verdict is implemented, with each day spent in detention prior to the verdict's implementation to count as one day of the prison term; therefore, it will run from November 6, 2002 to November 5, 2006.)
2. Items impounded in the case are to be confiscated (list attached).

If this verdict is not accepted, an appeal may be filed between two and ten days from the receipt of this verdict, either to this court or directly to the Beijing Higher People's Court. In case of a written appeal, the original appellate petition must be submitted together with one copy.

Presiding Judge: Xu Jing  
Deputy Judicial Officer: Wang Wantie  
Deputy Judicial Officer: Xu Hui

November 28, 2003

Secretary: Fang Wenjun

Disposition of Items Seized [omitted]