

Nearly 600 detained

Widespread violations of civil liberties in US dragnet

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Since the terror attacks on the World Trade Center and the Pentagon, the Immigration and Naturalization Service (INS) and the Federal Bureau of Investigation (FBI) have detained or arrested 580 people in connection with the Justice Department's investigation of the September 11 events. More than 350 of these individuals remain in custody as a result of the most extensive dragnet in US criminal history.

Although the Justice Department is releasing little information about the individuals being held, none of them has been publicly charged in connection with the terror attacks. FBI Director Robert Mueller told the press that about half of those being detained are in INS custody for immigration violations, such as expired visas or false identification. The rest are in either state or federal law enforcement custody as material witnesses, or have been charged with a variety of unrelated criminal charges.

The declaration of a national emergency by President Bush following the terror attacks has enabled the government to detain indefinitely many of those who have been rounded up. This week Congress moved closer to passage of anti-terrorism legislation that will provide sweeping new powers to the government and law enforcement agencies. In the name of waging a "war on terrorism," the bill poses grave threats to democratic rights, including provisions allowing for the indefinite detention of non-citizens, erosion of protections against illegal search and seizure, and loosening of restrictions on government wiretapping and other electronic surveillance.

The stories of some of those picked up by the government since September 11 paint a chilling picture of an investigation that has trampled on the civil liberties of people shown to have no connection to the hijacking attacks. The majority of the detainees are of Middle Eastern descent. Some have been taken into custody because they lived in the same apartment buildings as the hijackers. Some have phone numbers or names similar to those found in the personal belongings of the suspected terrorists. Many were found to have minor legal or visa problems when stopped and questioned by federal agents.

Many of the requests for surveillance by the FBI, the CIA and the National Security Agency of suspected terrorists and spies are being processed by a secret court created in 1978 under the Foreign Intelligence Surveillance Act (FISA). The FISA court is a seven-member body appointed by the US Supreme Court, which

meets every other week for two days in a soundproof conference room at the Justice Department. The Court approves secret intelligence-gathering warrants at the request of these law enforcement agencies, and uses a lower criterion for approval than the "probable cause" standard applied in other criminal matters. The target of the requested warrant is not represented at the court's hearings. It has not been made public how many secret warrants the FISA court has issued since September 11.

Tremendous secrecy surrounds the legal proceedings involving those picked up by the government in the investigation. In some cases, detainees' own lawyers have been left in the dark about the questioning of their clients or the charges against them. New York criminal defense lawyer Gerald Lefcourt told the *Wall Street Journal*, "Not since World War II and the internment of the Japanese—which we have conceded was illegal—have we picked up so many people and held them on secret evidence. We don't know why some are released and some are detained." Under US law, INS agents do not need a warrant to arrest non-citizens, and immigration courts are not required to provide lawyers for suspects who can't afford them.

Dr. Al Badr Al Hazmi, a Saudi Arabian radiologist, was one of those rounded up and detained in the government's investigation. Federal agents armed with search warrants banged on the door of his San Antonio home at 5:00 a.m. on September 12. Dr. Al Hazmi was taken into custody on alleged immigration violations and flown to New York, where he was held in a prison in downtown Manhattan for 14 days. He has since been officially cleared as a suspect in the terrorist attacks, but his attorney, Sean O'Shea, told the *Journal* that he was "not at liberty to disclose what happened" to Al Hazmi because of a federal "court order to that effect."

Ali Maqtari, a 50-year old Pakistani immigrant, was also taken into custody for questioning on September 12. Maqtari, a French teacher from New Haven Connecticut, was driving his American-born wife to basic training at a US Army base in Fort Campbell, Kentucky. Tiffinay Nicole Maqtari was wearing a veil, having adopted her husband's Muslim traditions. When the couple arrived at her new barracks, Army officers and agents from the FBI and INS took Mr. Maqtari in for questioning.

Ali Maqtari's attorney Michael Boyle told the *Washington Post* that the agents subsequently informed his client that there was no evidence connecting him to the September 11 attacks. But he is

still being held on a \$50,000 bond in a Tennessee jail on immigration violations. "It's scary to me that this list of people they've picked up included people like him," Boyle told the *Post*. "I can't imagine how he's at all relevant to the investigation."

According to another report in the *Post*, the FBI carried out a raid in the early morning hours of September 26 on the Metuchen, New Jersey home of Syed Asif, a 50-year-old Pakistani immigrant. Federal agents had reportedly received a phone tip that, following the September 11 attacks, one of Asif's neighbors had been dancing and celebrating at the gas station next door to the rooming house where Asif lived. Jagdis Deol, the owner of the both the gas station and the rooming house, denied the report when local police came by the station several days later.

At around 5:45 a.m. on September 26, FBI agents beat down the doors of the rooming house. Their guns drawn, they ordered everyone onto the floor. Syed Asif said he and several other men were handcuffed while the agents rifled through their belongings. They were then taken to local police headquarters where the FBI agents inspected their identification documents. After it was determined that Asif was a naturalized American citizen, the agents removed his handcuffs. They asked him to translate as they questioned his neighbor, who confessed to having a false New Jersey license. Although they were all subsequently released, Asif said he does not know what has become of his neighbor who worked at the gas station.

Many people have been interrogated or detained although there is no credible reason to connect them to the suspected hijackers. Brothers Anwar and Aman Montaser, US citizens of Yemeni descent, were questioned by FBI agents in New York City. They were not detained following their interrogation, but were fired soon thereafter by the Brooklyn public schools where they worked as custodians.

Raid Abdelkarin is a physician who lives in Los Angeles. He was born in Santa Monica, California to Palestinian parents, and has written many newspaper opinion pieces criticizing US support for Israel. He was taken in for questioning by FBI agents, and his wife and boss were also later questioned.

Abdelkarin said the agents began their interrogation by asking him about his political views. He told the *Washington Post*, "I felt like I was in a B-movie, with this guy holding a folder marked 'SECRET.' I started to say, 'I speak as an American, and like most American Muslims I was horrified by this,' but they didn't want to hear that."

On Wednesday night, Senate Democrats and the Bush administration reached agreement on provisions of the Anti-Terrorism Act of 2001. The legislation has been rushed through Congress, with the Democrats agreeing to most of the proposals of Attorney General John Ashcroft, with only minor revisions. The House and Senate are expected to pass separate versions of the bill next week, which must then be reconciled.

In the days following the September 11 attacks, Ashcroft vigorously campaigned for the new legislation, declaring, "Talk will not prevent terrorism. We need to have action by Congress." The attorney general cited the imminent threat of another terrorist attack in an effort to stampede passage of the bill. Jerry Berman, director of the Center for Democracy and Technology,

commented, "People are being told that if they do not sign onto this bill they will be blamed for the next terrorist act."

In fact, many of the provisions of the new legislation are curbs on civil liberties and constitutional protections that were sought by both Republicans and Democrats long before the attacks on the World Trade Center and the Pentagon.

In 1996, President Clinton signed into law the Anti-Terrorism and Effective Death Penalty Act, which included a stepped-up deportation process for immigrants and allowed courts to use secret evidence in deportation hearings. It stopped short, however, of giving federal agents the right to use wiretaps that follow a person instead of a specific wired phone line, a provision that will be included in the new bill. The new legislation also broadens the authority of law enforcement agencies to seek not only the phone records of suspected terrorists, but also records of Internet connections, such as e-mail, and cellular phones.

One section of the bill gives the government authority to seek judicial approval to conduct secret searches of suspects. With judicial approval, federal agents could search a person's property without giving notice for 90 days, or even longer. This violates Fourth Amendment guarantees against unreasonable searches and seizures, including a requirement that the government obtain a warrant and inform a person of the search before it proceeds. This new legislation would apply to all criminal cases, not only those designated as terrorism investigations.

The Bush administration's version of the bill would have permitted the indefinite jailing of non-citizens suspected of terrorist offenses. The compromise bill reached in the Senate limits the detention of such suspects to seven days, after which they would have to be charged or released. They could still be held longer, however, "under certain narrow circumstances," according to Senate sources.

The bill would also allow law enforcement and intelligence agencies to share wiretap and grand jury information without receiving a court order. The Bush administration had also sought to relax legal standards covering wiretaps in intelligence-gathering cases.

Under the Foreign Intelligence Surveillance Act, looser standards have been applied in cases where intelligence gathering is the "primary purpose." Ashcroft had wanted these standards to apply when intelligence is simply "a purpose." Senate Democrats compromised on this by saying the less restricted standards could be used when intelligence gathering constitutes "a significant purpose" in a case.



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