US attorney general defends civil liberties abuses

Ashcroft dismisses report on post-911 dragnet

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US Attorney General John Ashcroft testified last Thursday before the House Judiciary Committee, giving his first public response to an internal Justice Department report that exposed widespread violations of the civil liberties of immigrants detained in the post-September 11 "anti-terror" dragnet.

The Justice Department's Office of the Inspector General's report, released June 2, detailed verbal and physical abuse, withholding of counsel, denial of bond, and other violations against the 762 mostly Arab and Muslim men rounded up by the government.

Ashcroft treated the report by the watchdog agency of the department he heads with undisguised contempt. "We make no apologies," he told the congressmen. The attorney general not only defended the police-state methods decried by the inspector general, but called for the government to be granted even more sweeping police powers. He said the reach of the USA Patriot Act—the law passed after the September 11, 2001 attacks that sanctions unprecedented powers to detain, investigate and prosecute terror suspects—should be extended.

Ashcroft called for Congress to expand the powers of the act to allow for the detention of terrorism suspects without pre-trial bond, and said the penalties for some terror-related crimes should be stiffened to include capital punishment.

Democrats on the House Judiciary Committee responded in the most muted and cowardly fashion to Ashcroft's defiant defense of methods that flagrantly violate constitutional safeguards. Not one so much as hinted that his assault on democratic rights should place a question mark over his continued tenure as attorney general.

All of them accepted uncritically the framework of the Bush administration's so-called "war on terrorism," and either tacitly or explicitly endorsed the strengthening of the police powers of the state at the expense of individual rights. Typical were the remarks of Rep. Howard L. Berman, Democrat of California, who could only bring himself to comment: "Some of us find that the collateral damage may be greater than it needs to be in the conduct of this war."

Rep. Robert S. Scott of Virginia went the furthest of any of the Democrats, suggesting that evidence of civil rights violations on the part of Justice Department employees might point to criminal conduct and warrant the appointment of an independent counsel. The decision to appoint an independent counsel rests with the attorney general, and Ashcroft was not challenged when he brusquely responded, "I have no plan at this time to employ a special counsel in this matter."

The practices exposed in the 198-page report issued by the Justice Department's inspector general, Glenn Fine, are clearly grounds for investigation and criminal prosecution of Ashcroft and other Justice Department officials. While making no direct charges of criminal conduct, the report maintains that authorities violated the civil liberties of hundreds of detainees and demonstrated "a pattern of physical and verbal abuse," particularly at the Metropolitan Detention Center (MDC) in Brooklyn, New York and the Passaic County jail in Paterson, New Jersey.

The Justice Department instituted a "no bond" policy for all those rounded up in the sweep that followed the September 11 attacks. Suspects remained in jail for an average of 80 days, most without any charges filed against them. Some were held for as long as six months. According to the report, this "hold until cleared" policy was instituted "at the highest levels" of the Justice Department.

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Under this policy, the Federal Bureau of Investigation (FBI) was given final say on when or if detainees were to be released. A Justice Department lawyer told investigators that this policy shift represented "uncharted territory" because it meant a person was assumed to be linked to terrorism unless the FBI said otherwise, a clear violation of the legal principle of "innocent until proven guilty."

The Justice Department had a policy of opposing bail for all suspects it deemed "of interest"—and the majority of detainees were assigned to this category. In many cases, the Immigration and Naturalization Service (INS) waited more than a month before presenting detainees with charges, instead of the stated INS policy of serving charges within 72 hours.

This policy frequently put the Justice Department at odds with INS officials. The report says that INS lawyers warned in some cases that delays in charging and/or releasing detainees were creating an "increased risk of litigation." When detainees did challenge their detentions, the Justice Department moved quickly to obtain FBI clearance for their release to avoid any possible legal action, according to the report.

The Justice Department refused to release many detainees held in connection with immigration violations until the FBI "determined they posed no danger to the United States," according to the report. Some were held long after immigration judges had ordered them deported.

The report states that the vast majority of the 762 individuals detained had no circumstantial connection whatsoever to terrorism: "Some appear to have been arrested more by virtue of chance encounters or tenuous connections to [an investigative] lead rather than by any genuine indications of a possible connection with ... terrorist activity."

According to the report, FBI leads resulting in arrests were "quite general in nature," such as "a landlord reporting suspicious activity by an Arab tenant."

Not one of the 762 suspects has been charged in connection with the September 11 attacks. Although the Bush administration still refuses to release any details on the detainees' identities, the overwhelming majority have reportedly been deported and a smaller number released.

Many of those suffering abuse at the hands of authorities are no longer in the US. But investigators for the Department of Justice inspector general found many of their allegations credible.

Many reported that they were imprisoned for months in cells lit 24 hours a day. Some were held in lockdowns for 23 hours a day, and then taken from their cells bound in handcuffs, leg irons and waist chains.

Detainees were subjected to verbal taunts. Some protested their conditions by staging hunger strikes.

Detainees at the MDC in Brooklyn asserted they were slammed against walls, often before guards videotaped their statements. Some charged they were dragged by their handcuffs and ankle chains, and told, "You will feel pain." Others complained that their arms, hands, wrists and fingers were twisted.

The inspector general's office interviewed 19 detainees at the MDC. Twelve reported physical abuse and ten reported verbal abuse. The 12 correctional officers interviewed all denied participating in or witnessing any abuse. Curiously, hundreds of hours of videotape from the MDC's Special Housing Unit, where the detainees were held, have been destroyed.

One of the most egregious violations of civil liberties documented in the report is the denial of the right to counsel. For several weeks following September 11, 2001, the Bureau of Prisons imposed a "communications blackout," making it virtually impossible for detainees to contact family members or an attorney. Even after this blackout was lifted, many were designated as "witness security" inmates, frustrating efforts of families, attorneys and "even law enforcement officials" to determine where they were held, according to the report.

Some detainees were provided the names of attorneys to call, but with wrong phone numbers. Others were given the names and numbers of lawyers who were not willing to represent them. Detainees were often given only one opportunity a week to contact a lawyer, and a wrong number or busy signal would count as that attempt.

According to the report, citizens from more than 20 countries were among those picked up in the government sweep, with the largest number, 254, coming from Pakistan. The overwhelming majority of these individuals were guilty, at most, of minor visa violations.

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