

LIBERTIES LOST IN THE HUNT FOR TERRORISTS WHY WE SHOULD CARE

By Thomas Lynch

Yes, Tony Oulai overstayed his work visa. Yes, Anser Mahmood helped an undocumented friend from his home country find an apartment. Yes, Thar Abdeljaber did not notify the INS of his change in address. Yes, Ibrahim Turkmen overstayed his tourist visa. And yes, all of these men have been ordered deported from the United States for these infractions.

But these were not the reasons why the Justice Department rounded them up, along with more than 750 other individuals detained on immigration infractions in the dragnet following the attacks of September 11. They were swept off the streets because their ethnic profile resembled terrorists. Down to a person, however, these individuals have been cleared of such suspicions.

The Justice Department is 0 for 750. In fact, they are 0 for 1,200, if you include others detained on federal or local charges. When, in recent memory, has a law enforcement investigation failed so miserably? It has not only failed in its investigative aspect, but has failed also in upholding even the most basic civil and human rights of those detained. The lives of those detained and their families have been unjustly torn apart.

The Justice Department has tried to chill any meaningful critique of this operation; any such questioning, as Attorney General Ashcroft has said, would be "unpatriotic." Furthermore, there are some in the general public who are not much bothered by the plight of these individuals. After all, they say, these people were non-citizens, committed immigration infractions, and therefore deserve to be deported. They were here illegally, what right do they have to clamor over lost liberties?

So why should we care? Every summer, parents across the United States allow their teenage sons and daughters to travel abroad for vacation, work, or education. U.S. citizens in our workforce increasingly elect or are transferred to work in overseas branches of their companies. It is not preposterous to imagine that a U.S. citizen, young or old, might fail to properly process his or her visa or work papers in a foreign country; after all, such paperwork often requires great detail and may be in another language.

If an American erred in the immigration process in another country, we would expect that he or she would receive basic due process rights, even if the infraction meant the person would be deported home to the United States. If, however, the other country placed U.S. citizens in solitary confinement, without charge, denied them

access to an attorney, and kept them detained even after they had been ordered deported, we would expect our government to strenuously protest and condemn the country for its heavy handedness. In light of recent practices regarding immigrants detained here, how would we respond if the tables were turned?

We have treated the hundreds of immigrants rounded up after September 11 with practices wholly incompatible with the principles of our society and the U.S. Constitution. By doing so, we have put on the line not only our credibility as a nation that respects the rule of law, but also the life and liberty of our own citizens. And what have we gained from this? We have not found a single terrorist through this investigation. And the law enforcement's consolation prize, deporting those with immigration infractions, has only served to alienate the very community we should be working with to foster stronger ties. We must not undermine the very justice we are fighting for in our war on terrorism.

Thomas Lynch is an attorney currently working as the Special Projects Associate at the International Human Rights Law Group (IHRLG) headquarters in Washington, D.C.

IHRLG, a non-profit organization with offices in 11 countries, works to make human rights real for individuals and communities around the world by building the capacity of local groups and strengthening human rights protections through training, advocacy and strategic lawyering. Visit www.hrlawgroup.org for more information about IHRLG's efforts to uphold human rights in the U.S. post-September 11 and to combat xenophobia and racial discrimination throughout the world.