

Detainees try to fight secrecy;

Lawyers for those held after Sept. 11 are using new tactics to break the silence surrounding the cases.

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Body

NEWARK, N.J. - One sued to get himself deported. Another sued to have his trial opened to the public.

And lawyers hoping to represent many others went to court to force the government to release their names.

Frustrated by the unprecedented secrecy in which the government has cloaked its detention of people arrested for questioning after the Sept. 11 attacks, lawyers for the detainees are using a variety of legal tactics - some of them novel - to try to chip away at the official silence surrounding the cases.

"Here, you're first guilty. Then, after a few months, you become a suspect. Then, finally, you're innocent," said Regis Fernandez, a Newark immigration lawyer representing several detainees.

Fernandez and several other immigration lawyers met last fall to plan a counterattack against secrecy directives that were rendering attorneys and advocates for detainees virtually powerless.

"We were relegated to making telephone calls to find out where our clients were and whether they'd been cleared," he said. "So we did just what the government is doing in these cases: we shared information and strategized and agreed to work together. More importantly - we're right."

The federal government says it needs to clamp down on information that once would have routinely been made public because it might help terrorist organizations.

"Clearly, it is not in the interest of that investigation, the war, or the United States to provide information to our enemies," said Russ Bergeron, a spokesman for the U.S. Immigration and Naturalization Service.

The latest to go to court is Malek Zeiden, a Syrian doughnut shop worker charged with overstaying his visa. His lawyer, Bennet Zurofsky of Newark, sued U.S. Attorney General John Ashcroft and Annie Garcy, a Newark immigration judge who barred the public from attending a Feb. 21 hearing.

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Zeiden had been living in Paterson for the last 13 years on a visa valid for just six months. He was arrested Feb. 1, the day after federal agents visited his house looking for his roommate in an unrelated matter. Once there, they questioned Zeiden, who admitted he had overstayed his visa.

The judge cited a Sept. 21 memorandum issued by chief U.S. Immigration Judge Michael Creppy instructing judges to close hearings involving detainees whose cases have been designated of "special interest" to the FBI. It also prohibits court administrators from listing the cases on dockets, or confirming when hearings are to be held.

U.S. District Court Judge John Bissell agreed to hear Zeiden's case challenging the secrecy directive on March 11.

In another instance of a detainee fighting back through the courts, Khalid Musa sued the U.S. Immigration and Naturalization Service last month in a bid to get himself deported. A Saudi native who has Australian citizenship but lives in Jordan, Musa was arrested Oct. 4 after someone tipped the FBI that he had violated the terms of a waiver program that lets people from certain countries enter the U.S. without a visa.

Lawyer Fernandez said that soon after the suit was filed, the INS agreed to put Musa on a plane as quickly as possible. He remains in custody.

The Newark chapter of the American Civil Liberties Union sued Passaic and Hudson Counties, seeking to force them to release the names and charges against the more than 300 Sept. 11 detainees still being held in New Jersey. The suit claims the names of those arrested are public information under New Jersey law.

Deborah Jacobs, executive director of the ACLU's Newark chapter, said that "the vast majority of people being held" are not charged with crimes or believed to be involved with terrorism.

The U.S. Justice Department, which opposes the requests, was permitted last week to join the lawsuit on the side of the counties.

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