

9 Post 9/11 Crackdown on Immigrant Communities

Cruising on Military Drive
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Scores of Muslim Men Jailed Without Charge: Justice Department Misused Material
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- 1) What are the class and race based aspects of the characterizations of “good” vs “bad” immigrants? If we think of the “model minority” stereotype of many Asian immigrants, how does that complicate our understanding?
- 2) What does the author mean by “the Other”? What are the differences between “the Other” at home and abroad today? How has it changed throughout US history and why? How do age, race and gender impact characterizations of “the Other”?
- 3) What are examples of language and rhetoric that implies that immigrants are terrorists?
- 4) What are some examples of changes in federal immigration and “homeland security” policy since 9/11? How are they similar or different from policies earlier in US history?
- 5) What has been the impact on various communities of immigrants of new immigration policies? On Arab communities? On Latino communities? On white communities?
- 6) How can we build a united movement for the rights of all people, no matter their country of origin or immigration status? How do we connect communities?

Cruising on Military Drive

'Good' Latinos and 'Bad' Latinos in the Age of Homeland Security and Global War

By Roberto Lovato

If you want to understand how Homeland Security influences us, go to south Texas and take a walk around neighborhoods whose streets were paved by the "clash of civilizations" in cities and towns at or near the border. One such street is San Antonio's Military Drive where, on any Friday, Saturday, or Sunday night, you can, if you pay close attention, watch some of the directions Latino identity is taking in times of war.

Between 10 p.m. and 2 a.m. teen and twenty-something Mexican and Mexican American youth drive along a six-block stretch of Military Drive that sits between Lackland and Kelly Air Force bases. On their way to secluded spots for hanging out and making out, young people in trucks, jalopy Toyotas, and other cars pass F-14's, Flying Fortresses, and other storied war-planes displayed in front of the many air bases and military production facilities lining the drive in this martial metropolis.

Young cruisers usually end their back and forth search for companionship, love, and lust by parking in front of one of the several military recruitment offices dotting the strip malls that line Military Drive. Their desire leads some into a crowded lot across the street from a recruitment office that is the center of daytime life on the drive. Nightlife on this part of the strip centers around the nearby Diversions Game Room which stays open late to accommodate the entertainment needs of cruisers and walkers in the neighborhood.

It is stunning to see how technology and big money have transformed -- and integrated -- video games and war since the days of Pac Man and Space Invaders. Gamers who enlist will be trained with war game simulations designed by the same companies that designed those at Diversions. Here they pay for the opportunity to play "Crisis Zone," "King of Fighters," "Police 9-11," and other video games requiring them magically to enter digitized worlds, like one in which they must free white Americans being held hostage in shopping malls by dark-skinned terrorists.

Gamers leaving Diversions who look across the drive see the windows of a Marine and Navy recruiting office, plastered with colorful posters of planes, ships, and troops engaged in "reallife" versions of scenarios depicted in the video games. The posters are emblazoned with messages encouraging youth to accelerate your life" or to dedicate their lives to "Life, Liberty and the Pursuit of all who threaten it."

In the lot in front of Diversions, a young man is punching another as friends try to separate them. Several minutes after his friends calm one of the somewhat inebriated young teens, I approach him to ask a few questions.

A recent graduate of one of San Antonio's worst high schools (and one with a heavy presence of recruiters in a city that is one of the Pentagon's most important source of new recruits), the young man seems primed to continue traveling along Military Drive beyond the cruise: "I just

graduated and signed up for the Army." Asked if the war in the Persian Gulf influenced his decision, he quickly answered, "Fuck yeah. I wanna go kill Iraqis!"

This soon-to-be soldier boy was about to be baptized into the kingdom of war, a kingdom that is smelting his youthful bravado, worship of violence, and poor man's patriotism into another one of the "good guy" heroes hailed by politicians and recruitment posters in San Antonio and beyond. His tragic disposition to kill -- and die -- reminded me of how fervent nationalism, poverty, and military conflict forged similar identities of "good" and "bad" people, of "terrorists" and "defenders of freedom" in Cold War Central America. And at a time when the "war on terror" is well on its way to replacing the Cold War as the primary wedge separating "good" and "bad" governments, and "good" and "bad" citizens, identity choices like those of the video-gaming young fighter can be seen as fresh expressions of the newly reconfigured national security culture that is wiring us for war.

Latinos -- young and old, native born and immigrant -- have fast become fodder for a U.S. elite urgently needing to align individuals, institutions, and entire communities along the "axis of good" in the "global war on terror." Everyone from President Bush and Karl Rove to corporate and religious leaders, are speaking Spanish and learning about cultural intricacies in a mission-critical task to sustain power. Cruising on Military Drive has meaning for many besides those in its cars and video arcades.

How the very young Latino population (the average age is 26) aligns itself in this "new kind of war" is a matter not just of national but global import. The Pentagon has staked the future global deployment goals of the most powerful military on earth on the life -- and death -- decisions of the country's largest "minority" as African Americans and women reject military recruiters at exponential rates; African American recruits are now 14 percent of the total, dropping from 23.5 percent in 2000. The enlistment of large numbers of gamers, immigrants, and other Latinos is nothing less than a matter of survival for U.S. power interests struggling to reconfigure their own great global game.

Similarly, the electoral choices of Latino voters will determine the fate of politicians and parties for years to come. What kind of "Americans" recent immigrants, U.S. born, and other Latinos decide to become depends on several external and internal factors, factors that will increasingly define distinctions between "loyal," "civilized," God-fearing, pro-war Latinos and undocumented immigrants, gangs, anti-war and anti-recruitment activists -- the throngs of Latinos being cast in the role of anti-civilizational "bad guys."

In this sense, certain Latinos also serve as a powerful, media-driven contrast around which whites and Blacks and even more assimilationist Latinos in the United States can define what they are not; viewed as the "law breakers" and as "potential terrorist threats," undocumented immigrants in particular reinforce conservative ideas about citizenship, ethnic and racial identity, and political persuasion. Similarly, transnational gang banger "bad guys" have become the lynchpin linking, in Cold War fashion, rich and poor neighborhoods from the United States to Central America to a new cross-border struggle, one that fuses the "War on Drugs" to the "war on terror."

As domestic law enforcement morphs into an extension of the "Global War on Terror," a growing choir of FBI officials, police chiefs, and increasingly militarized police departments label those formerly designated a "gang problem" during the war on drugs as "terrorist threats." District Attorneys, like the Bronx's Robert T. Johnson, apply statutes originally designed to combat terrorists to Chicano, Central American, and other transnational inner-city gangs like the Salvadoran Mara Salvatrucha. The Minutemen and the growing cohort of anti-immigrant, anti-Latino groups are not the only ones forging identities by civilizationally clashing with the "bad" Latinos. Pressures to align against the new "bad guys" -- be they Arab or immigrants or Latino gang bangers -- also push many San Antonio Latinos to adopt "good" identities as they pay homage at the local "shrine" of those who defend freedom.

Making Enemies: American Exceptionalism and the Never-Ending Need for the Other

Not far from Military Drive, San Antonio's Alamo powerfully symbolizes the workings of war and identity, the mixing of religious and military myths, in a narrative that inspired whites to kill and conquer Mexicans in the name of Texas and, soon after, the United States. As a symbol of then-ascendant modernity, the Alamo also contributed to the depiction of backward, agriculturally oriented Mexicans (hence the "lazy Mexican stereotype) in contrast with increasingly industrial whites working in the name of "progress." In Alamo country, Mexicans provided the foil against which whiteness in the West was won. Even today, what locals tellingly call the "Alamo shrine" still has enormous power to define "good" and "bad" citizens.

During a recent trip to San Antonio, I visited the Alamo and found among the thousands of tourists throngs of young cadets and soon-to-be deployed enlisted personnel and their families. Many of the cadets were, like the young fighter on Military Drive, local kids from decaying neighborhoods with decrepit schools whose faculties the *New York Times* reported were "filled with men and women who served in uniform for 20 years or more." With romantic battle pictures of Davy Crockett hanging nearby, I asked some of them what they were seeking there just before being sent to Iraq and Afghanistan. Whether Latino, Black, or white, the young men and women answered my question in much the same way that Tejano helicopter pilot and U.S. Navy Captain Ron Sandoval did: "The Alamo ties it all together. It galvanized Texans in their fight for independence from Mexico. A lot of us are here now to draw inspiration as we get ready to go to Iraq. It (Iraq) seems like a no-win situation. But that's what they thought about the Alamo."

Especially interesting is how Sandoval, a U.S. citizen of Mexican descent, sees the Alamo and Iraq as part of the defense and expansion of American freedom. His perspective positions him in a manner similar to that of Mexicans and Mexican Americans depicted in the most recent -- and more politically palatable--Alamo movie, which opened on Good Friday when I first visited San Antonio in 2004. The national media covered the pyrotechnics and star power of the gala opening more than the capture earlier that day of a local man who had set fire to five gas stations owned by Muslim and South Asian immigrants.

Mexicans in the most recent Alamo movie were divided into good Mexicans, who fought with Davy Crockett, Jim Bowie and other "heroes" (some local Mexicans view them as slaveholding elites who were the vanguard of a historic land grab), and bad Mexicans, who, on promotional posters lie in the shadows of the glowing, golden-white walls of the Alamo. In the current

context of war, conquest, and assimilation framed as a "clash of civilizations" by Bernard Lewis, Samuel Huntington, and other national security ideologues, the racial wedging of "good" and "bad" Latinos at the Alamo still exercises enormous cultural and political power. Its imagery supports those who champion wars of defense against domestic Others while providing a symbol for those supporting the more expansionist imperial project in places like Iraq.

Post 9-11 wedging of racial and political identity like that found in the streets and tourists traps of the Alamo city is, with some important distinctions, only the most recent rendition of the narrative of U.S. history as the history of necessary wars, inevitable conquests and civilizing assimilation in the fight of "good" against "evil." Such events are, according to this narrative, divinely designed to realize the American Exceptionalism.

We can find the wedging of racial identities as early as the establishment of the English colonies in New England. During conflicts like King Philip's War, the New England uprising of indigenous peoples in 1675, for example, we find the distinctions between "good Indians" who allied with the colonists and the "bad Indians" who fought them. We also find these dynamics present during the 19th century when Manifest Destiny informed and rationalized the need for wars requiring the extermination of Indians and the pillaging of Mexican lands in the name of a higher good.

Semi-religious symbols like the Alamo were cultivated in response to the growing cultural needs created by the hemispheric land and power grab justified by Manifest Destiny, which provided the ideological foundation for the invasion of Mexico and the beginnings of U.S. politico-military domination west of the Mississippi -- and south of the Rio Grande. The United States' drive for dominance in the hemisphere in the 19th century marks the start of a Latin identity defined, in part, by the comparison, contrast -- and clash -- with citizens, especially white citizens, of the country that decided to assume the name of the entire continent. Latinos in and outside of the United States became Other, often "bad," Americans. And the tradition continues.

Immigrants, Gangs, and the Al-Qaedaization of Latino Identity

Not far from the white walls of the Alamo, Mexican and other Latino immigrants are again being cast as the anonymous "bad guys" as they run up against the political, physical, and psychic borders of the U.S. immigration debate. As the Bush Administration and the Republican Party continue their steady spiral downward, they have done what Bill Clinton and other politicians have done in times of crisis: declare war. Viewed from this perspective, the election year focus on immigrants serves the same function as the Iraq war in terms of keeping the populace on war footing, this time against the "invaders" denounced on billboards in San Antonio and across the country.

In what is not so much a coincidence as it is an urgent political necessity, the Bush Administration and the Republican Party have, in their desperation, taken the frame of war and applied it to the issue of immigration. Witness Rep. Ed Royce (R-Calif.) who set the tone of recent hearings of the Subcommittee on International Terrorism and Non-Proliferation by remarking that Homeland Security officials report that "Al-Qaeda has considered crossing our Southwest borders," and "It may already have happened."

Royce went on to offer a laundry list of post-Cold War bad guys: "Drug cartels, smuggling rings, and gangs operating on both the Mexico and U.S. sides are increasingly well-equipped and more brazen than ever," he said, adding "some border areas can be accurately described as war zones. These border vulnerabilities are opportunities for terrorists."

Such enemy-making statements-and policies-have deepened the racial and political effects of the national security culture on Latinos. It is no coincidence that just as the war in Iraq has fallen in public opinion polls, the Bush Administration and the Republican Party have framed the immigration debate as a military issue. As in Guantanamo, the government grants multi-million dollar no-bid contracts for immigrant super-prisons to Halliburton. Like Royce, other Republican leaders including Rep. Tom Tancredo (R-Col.) and Rep. James Sensenbrenner (R-Wisc.) regularly apply terms like "invaders," "terrorists," and other post-9-11 tropes to immigrants who were previously framed by the "criminal" tropes of the war on drugs; and like President Bush in his Global War on Terrorism, "Minutemen" have built a cultural-political movement around the idea that immigrants are "invaders" who need to be defended against.

For his part, President Bush denied militarizing the border when he sent 6,000 troops there. Deploying the National Guard is but the most recent and most dangerous acceleration of the trend towards militarizing the debate and practice of immigration policy. That Bill Richardson, a Democratic Latino Governor (of New Mexico), set the precedent for the further militarization of migration -- and Latino identity -- with his calls for National Guard deployment to the border several months before Bush says much about the growing chasm between "good Latinos" and "bad Latinos" in this bipartisan battle against law-breaking (and therefore "bad") immigrants.

So does the work of the country's highest law enforcement official, Alberto Gonzalez, hailed by many, including many Latino elites, as the country's first Hispanic Attorney General. Yet he is a walking, talking and prosecuting symbol who will jail more immigrants, more alleged terrorists, more gang bangers, more Latino "bad guys" than any Attorney General in U.S. history. The Miami-Dade NAACP denounced Gonzalez for selective prosecution of politically insignificant groups after his two very high profile press conferences following the arrest of mostly black Haitian Americans for alleged al-Qaeda sympathies. By naming and prosecuting bad guys -- even those found to have minor criminal records but no weapons, money, or direct links to al-Qaeda -- he is, by implication, positioning himself as a good guy.

Defined as the new "bad guys" by national security operatives, Latino gangs have become an especially valuable source for sowing fear. "It's established that Mara Salvatrucha and al-Qaeda have had meetings, Middle Eastern people are willing to spend millions to get into this country," said Rep. Solomon Ortiz (D-Texas) last year. A 2005 Senate hearing titled "Current and Projected National Security Threats to the United States" discussed the gang, as well as a new FBI task force charged with making an "international attack" against it.

Within this language of global war, Latino gangs, like immigrants, connect the security dots from cities and neighborhoods like those in San Antonio or Miami to cities and neighborhoods in Latin America. The case of Jose Padilla, former gang member and alleged U.S. al-Qaeda operative being held indefinitely without charges, may preview the great fusion of "Latino" with "terrorist threat."

Cruisers on Military Drive and other San Antonio youth who physically resemble Padilla will increasingly resemble him politically if they do not adopt an identity acceptable to national security elites. The alleged and preposterous connection between Salvadoran gangs and Al-Qaeda made by Rep. Ortiz and other mainstream U.S. media and Central American government officials has taken on frenzied levels. Reports in the *Boston Globe*, "gangsta" lifestyle magazine *Don Diva*, a National Geographic channel special hosted by "The View's" Lisa Ling, and network (English and Spanish language) special reports (also unproven) of "terrorists" moving into the United States among undocumented immigrants have an impact far beyond the border.

Gangs and "illegal aliens" have become metonymic of an entire generation of Latinos because these images of border crossers, gangster thugs, or any number of amalgams of these stereotypes, are among the most popular Latino representations in the U.S. media. Newscasts, cop shows, movies, and TV preview the creation of new kinds of Latino identity in times of perpetual anti-terrorist war, a war that certain interests have unsuccessfully tried to bring closer to the Americas.

The attempt to create and connect the various types of new enemies is well-illustrated by Donald Rumsfeld's statements at a 2004 meeting of Latin American and Caribbean defense ministers in Quito, Ecuador. At that meeting, Rumsfeld echoed Rep. Ortiz and Rep. Royce in his view of "new" hemispheric threats, connecting Latinos in the United States with "threats" in Colombia, Venezuela, El Salvador, and other parts of Latin America: "The new threats of the twenty first century recognize no borders. Terrorists, drug traffickers, hostage takers, and criminal gangs form an anti-social combination that increasingly seeks to destabilize civil societies."

Gangs like the transnational Mara Salvatrucha have been the topic of widely reported regional security meetings among U.S., Mexican, Salvadoran, Guatemalan, and other foreign ministers; Secretary of State Condoleezza Rice mentioned gangs in her surprise announcement last September of a treaty establishing a multimillion dollar, regional, anti-drug and anti-gang training center in El Salvador. Critics see the International Law Enforcement Academy, as it will be called, as a more police-focused version of the infamous School of the Americas which trained foreign military leaders responsible for the deaths of hundreds of thousands of Latin Americans in the name of defending freedom. Most of the killers and the killed I saw in El Salvador in the 1980s looked like the young cruisers searching for their freedom in San Antonio.

A "New Kind of War" Inspires a New Kind of Hope

But not all is dreary in the Latino Americas. The repressive and assimilationist pressures influencing the identity of "good" Latinos in El Salvador, at the Alamo, and in Iraq are also giving way to another kind of struggle, another kind of Latino: the *movimientista*. One of the collateral effects of the raids, exploitation, surveillance, and other repressive components of the war on immigrants has been to energize and inform identities of defiance among many Latinos. Because they are arguably those most affected by national security policies and their cultural implications, immigrants have been forced to take their place alongside African Americans, women, Latin American revolutionaries, and others who sought to redefine freedom beyond the usual notions.

The *movimiento* was not just born of Congressional bill HR 4437, which would have criminalized the undocumented, or the drumbeat of disc jockies. Of equal or greater influence are the more than 5,000 immigrant dead in the deserts near San Antonio since 1994, the countless raids, the perpetual harassment by Minutemen and other perpetrators of white fear, and countless other ravages of our national security culture.

Beyond giving rise to the largest simultaneous protests in U.S. history, with an estimated 2 million people marching in a single day, the *movimiento* has cast Latinos in a new identity, a new historic role: bearers of hope.

While it can be argued that the flags and some of the rhetoric of the big marches signaled a desire for assimilation, and a will to be defined as "good" in ways deemed acceptable by elite interests, such a perspective misses the point about the breadth of the *movimiento*. In direct contrast to the "good" Latino identity, the new forms of Latino identity are increasingly positioned in direct opposition to the national security culture identities shaped by war, conquest, and assimilationist pressures. Marchers marched in response to and in spite of the extreme pressures to either remain silent or assimilate that Latinos receive from corporate, political, academic, military, religious, and other interests.

The leadership of the *movimiento* is made up of immigrant and U.S.-born Latinos and brings together various strands -- domestic and Latin American -- of political experience to create a more globalized response to the nationalist workings of national security culture. Back near Military Drive, for example, local immigrant rights activists staged some of the largest marches in that very conservative city's history. And in many cities like Milwaukee and Atlanta, where newer Latino populations had not yet found a political identity, the *movimiento* has given voice to millions of immigrants and non-immigrants that they lacked previously. Like the power of previous movements, the effects of this one will be felt for years to come as many Latinos search for what defines them in the United States.

A whole spectrum of choices will be made available to a population that had few alternatives to cruising on Military Drive. Some, like the young fighter, will cruise straight to Iraq, while others will work to stop business as usual at the recruitment centers, perhaps in the process shaping a new freedom fit for the global era.

One of them is a lanky 16-year-old who I met standing apart from hundreds of other Latino students waiting to enter the cracked and curved white walls of the "Alamo shrine." Mario Anguiano was less-than-reverential. "I see a cover-up on top of a cover-up. This used to be a Catholic mission where they enslaved and killed a lot of Indians. Then it became a fortress where they killed a lot of Mexicans" said the high school junior whose baggy pants, Converse sneakers, shoulder-length black hair and wire rim-spectacles are reminiscent of a previous generation of San Antonio *activista*. "That history is not here."

DRUM FACTSHEET

What is Special Call-In Registration?

- ❖ In November, 2002, Attorney General John Ashcroft issued a directive to **register men and boys** over the age of 16 years from a list of **25 countries** with the Department of Justice. These registration requirements mark the latest in an unending series of attacks on immigrants rights and civil liberties since September 11th, 2001.
- ❖ The DoJ **barely allowed 2 weeks notice** for boys and men **AROUND THE COUNTRY to come in and register** for the first deadline which was on December 16th. Most communities affected say that the DoJ did not notify the communities sufficiently or in some cases at all.
- ❖ Registration involves being digitally **photographed, fingerprinted and interrogated** under oath. Interview questions include names and addresses of parents, friends and American contacts, date and location of entry to the US, travel documents, any government-issued identification, proof of residence, school transcripts, proof of employment, religious practices, e-mail addresses and credit card information. **Many people are being arrested for not having "sufficient" documentation with them when registering.**
- ❖ The consequences for not registering include criminal charges and deportation, yet **hundreds have faced arrest, detention, deportation, interrogation and criminal penalties even after complying.** People arrested include those with **pending greencard applications or pending adjustment of status applications.**
- ❖ Following the first deadline, reports say that **between 1,000 and 2,500 men from Iran, Iraq, Syria, Sudan or Libya were arrested, with many detained in inhumane conditions.** Immigrant groups and news sources reported **overcrowded jail cells, detainees being hosed down with cold water, shackled and transported** to other states.
- ❖ The deadline to register for "nonimmigrant" men from Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates and Yemen was **January 10th, 2003.** In New York, families **waited over 24hours in line** for their fathers, husbands, brothers, and friends to be registered. Over half of the registrants were **sent to investigations, detained** for a night and told to return at a later date for their deportation proceedings. Many were **persuaded to waive their right to a hearing** before a judge.
- ❖ The deadline for "nonimmigrant" men from Pakistan and Saudi Arabia was on **March 21st, 2003.** Nonimmigrant men from Bangladesh, Indonesia, Kuwait, Jordan, and Egypt will have to register by **April 25th, 2003.**
- ❖ Over the past 15 months, thousands of Arabs, South Asians and Muslims have been detained with **over 99% not charged with any crimes related to terrorism.** The Campaign to Stop the Disappearances, along with over 20 civil rights, community and faith-based organizations is calling for an **immediate end to the registration initiative and the release of all those currently being detained since the 9/11 sweeps began.**

For help or questions, contact

Asian American Legal Defense and Education Fund at (212) 966-5932

DRUM- Desis Rising Up & Moving- (718) 205-3036

Compiled by DRUM

Scores of Muslim Men Jailed Without Charge

Justice Department Misused Material Witness Law in Counterterrorism Efforts

Human Rights Watch, 2005

Operating behind a wall of secrecy, the U.S. Department of Justice thrust scores of Muslim men living in the United States into a Kafkaesque world of indefinite detention without charge and baseless accusations of terrorist links, Human Rights Watch and the American Civil Liberties Union said in a report released today.

Following the September 11 attacks, the Justice Department held the 70 men—all but one Muslim—under a narrow federal law that permits the arrest and brief detention of “material witnesses” who have important information about a crime, if they might otherwise flee to avoid testifying before a grand jury or in court. Although federal officials suspected the men of involvement in terrorism, they held them as material witnesses, not criminal suspects.

Almost half of the witnesses were never brought before a grand jury or court to testify. The U.S. government has apologized to 13 for wrongfully detaining them. Only a handful were ever charged with crimes related to terrorism.

“These men were victims of a Justice Department that was willing to do an end run around the law,” said Jamie Fellner, director of Human Rights Watch’s U.S. Program. “Criminal suspects are treated better than these material witnesses were.”

The 101-page report, “Witness to Abuse: Human Rights Abuses under the Material Witness Law since September 11,” documents how the Justice Department denied the witnesses fundamental due process safeguards. Many were not informed of the reason for their arrest, allowed immediate access to a lawyer, nor permitted to see the evidence used against them. The Justice Department evaded fundamental protections for the suspects and the legal requirements for arrested witnesses. Their court proceedings were conducted behind closed doors, and all the court documents were sealed.

“Haste, incompetence and prejudice played a role in these detentions,” said Anjana Malhotra, the report’s author and Aryeh Neier fellow at Human Rights Watch and the American Civil Liberties Union. “Muslim men were arrested for little more than attending the same mosque as a September 11 hijacker or owning a box-cutter.”

The Justice Department has refused to reveal how many material witnesses it has detained in connection with its counterterrorism investigations and has largely ignored repeated Congressional inquiries. After a year of extensive research, Human Rights Watch and the ACLU have confirmed 70 such material witnesses. Sixty-four were of Middle Eastern or South Asian descent; 17 were U.S. citizens, and all but one was Muslim.

The report details how the Justice Department relied on false, flimsy or irrelevant evidence to secure arrest warrants for the men and to persuade courts that they were flight risks who had to be incarcerated. Almost all the men, in fact, had cooperated with federal authorities before their arrest. Many proved to have no information relevant to a criminal proceeding.

“On the domestic front, the Justice Department’s unlawful use of the material witness statute is perhaps the most extreme but least well-known of the government’s post-September 11 abuses,” said Lee Gelernt, a senior staff attorney with the ACLU Immigrants’ Rights Project. “The material witness abuses are a prime example of what happens when there is no public scrutiny of the government’s actions.”

Witnesses were typically arrested at gunpoint, held around the clock in solitary confinement, and subjected to the harsh and degrading high-security conditions usually reserved for prisoners accused or convicted of the most dangerous crimes. Corrections staff verbally harassed the detainees and, in some cases, physically abused them.

The report found that one-third of the 70 confirmed material witnesses were incarcerated for at least two months. Some were imprisoned for more than six months, and one actually spent more than a year behind bars. According to the report, the Justice Department apparently used the material witness statute to buy time to conduct fishing expeditions for evidence to justify arrests on criminal or immigration charges. When there was no such evidence, the Justice Department simply held the men under the material witness law until it concluded that it had no further use for them or until a judge finally ordered their release.

The report also documents the long-term effects of the Justice Department’s material witness policy on witnesses and their families. While recovering from the trauma of being jailed in harsh conditions, witnesses often continued to live under a specter of suspicion. They faced lingering questions in the community about their ties to terrorism, even in cases when the government apologized. Many lost businesses and job opportunities, and some had to move to new communities to restart their lives.

Testimony from Material Witnesses and Attorneys:

“They treated us like professional terrorists. They put us in cars and had big guns—as if they were going to shoot people, as if we were Osama bin Laden. They didn’t let us speak, they didn’t let us ask why we were in detention. I never knew for how long we would stay in jail. It felt like we would stay forever ... I didn’t even know why I was in jail.”

—Tarek Omar, an Egyptian national arrested as a material witness in October 2001 with seven friends and relatives who had immigrated together from Egypt. The eight men later received an apology from the FBI for wrongful arrest.

“Five to six cars surrounded my car. The agents pulled out shotguns and told me to get out of the car or they will shoot me. They told me they were about to shoot me. ... I

asked what's going on? I've been so helpful. But three guys told me to put my hands on the car, they patted me down and shackled me. I asked what am I arrested for? Am I charged with something? ... I got no answer. They shoved me against the car and handcuffed me. ... They didn't tell me why I was arrested—they said they'd explain in the main office. They didn't read me Miranda rights. ... I got in the car. They were so disrespectful and so rude. They told me to 'shut the fuck up.'"

—Mohdar Abdullah, a Yemeni national arrested as a material witness on September 21, 2001 in San Diego, California.

"It's hard to argue about a national security argument. Anytime I ask[ed] what the basis was it would be a canned national security argument. I would ask: 'What's the justification?' The government responds: 'National security.' I would say, 'What does that mean?' The government would say: 'I can't tell you.'"

—Susan Otto, an attorney who represented material witness Mujahid Menepta in Oklahoma.

"I was transferred ... to solitary confinement in the Special Housing Unit, or the 'ninth floor hole.' The room was maybe six-by-five feet. I was in a small cell for twenty-four hours a day with the lights on. Guards came every ten to fifteen minutes and banged on the door. They look through the hole and stare and looked at me. For two months, I left the cell only for interrogations. Later I was allowed outside after two months but they would leave me out in the freezing cold. I didn't sleep for one or two months. The guards would bang on the door all night. They would say, 'This is the guy—the Taliban guy,' or call me 'Khan Taliban.' The guards said so many bad things. They told me: 'You won't ever see your family. You're going to die here. Do you smell the WTC [World Trade Center] smoke? You're gone. How would you like to die? With the electric chair?' ... [Whenever I was taken out of my cell] they would twist my hands. My feet were shackled and guards would step on chains. I got a deep cut on my feet. I was stripped too many times to remember and hit on the back. I would be pushed against the wall. Whenever they took me to the FBI, guards would twist my hands and fingers and tell me to 'Just shut up.'"

—Ayub Ali Khan, an Indian national arrested as a material witness on September 12, 2001 in San Antonio, Texas and held in the Special Housing Unit at the Metropolitan Detention Center in Brooklyn, New York

"They were threatening me with capital charges. ... They believed it was me. They pretty much told us, 'We have enough to indict you but not enough to prosecute.'"

—Brandon Mayfield, a U.S. citizen arrested in May 2004 as a material witness after federal officials believed they matched his fingerprint to one found near the site of the March 2004 bombing in Madrid. He later received an apology from the Justice Department for a wrongful arrest.

"[A]fter we were released we were in hell, you tell yourself, okay, well they released us so everyone should understand we are innocent, but that was not the case. Because I mean there are some people who support you and stuff like this but everyone is curious: did you snitch on somebody else, or did you make a deal with the government, or why

were you released, or did you really do something or not. ... It's just like all this doubt in people's mind. ... At the time we lost about 30 to 40 percent of our business and then it kept getting worse and worse. And even when we got the apology and the newspaper wrote about it we thought we were going to be slammed because it's an apology on the first page of the newspaper. And [business] is slow. But people remember we were caught and this kind of thing and [business got even] slower. Then the Evansville Courier made a poll on the internet where they asked people did [they] talk enough about the apology enough in the newspaper to give these people their dignity back. It was so funny to get the response because most of the response from people was, yes, they had enough, okay, they are innocent, [but] let's go back to our life, if they don't like it let's tell them to go back to their home, we are trying to make the country safer."

—Tarek Albasti, an Egyptian national arrested as a material witness in October 2001 as one of the “Evansville Eight” to whom the federal government ultimately apologized for the wrongful arrests.