

Researched by the DataCenter for Homies Unidos January 2002

Know Your Rights

Crack Down on the Undocumented: a Fact Sheet

Since the September 11th attacks on the New York World Trade Center and the Pentagon the U.S. government has embarked on a sweeping crack down on non-citizens living in the U.S. This onslaught on the civil rights and liberties of immigrant populations has focused mainly on Arabs and South Asians. But as laws and regulations have tightened, all immigrant groups have been targeted. This fact sheet reviews some of the changes in the law and some data connected to the on going campaign of repression against undocumented immigrants and the non-citizen population in general.

Legislation

The major piece of post September 11th legislation affecting the undocumented is the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 – the so-called Patriot Act (*Pub. L. No. 107-56, 115 Stat. 272*) This law:

- Allows the Justice Department to detain undocumented immigrants and non-immigrant visa holders for up to seven days without charges being filed against them. (the Justice Department continues to hold over 600 immigrants in detention since the September 11 attacks.)
- Targets undocumented immigrants for questioning and deportation if they're "suspected" of being associated with terrorists groups as defined by the U.S. State Department. (The Justice Department has identified over 5000 immigrants for questioning since September 11th.)
- Requires federal government agencies to share more information about non-citizens and gives the INS and State Department access to FBI National Crime Information Center databases.

Another piece of legislation effecting non-citizens generally is the Aviation and Transportation Security Act of 2001 – popularly know as the Airport Security Act (*Pub. L. No. 107-71, 115 Stat. 597*)

- Requires airport screeners to be American citizens. (This coincides with the decision to expand training and increase wages to screeners and other airport security workers)

Military and Executive Orders

George W Bush, the Commander in Chief, signed a Department of Defense order allowing military tribunals for all non-citizens accused of being a terrorist or aiding and abetting terrorists activity. *Military Commissions, Federal Register Vol. 66 P. 57831- 57836 (Nov. 16, 2001)* This allows:

- Secret evidence to be introduced in court against any non-citizen
- Conviction and sentencing by a two-thirds vote of presiding military officers. Possible sentences include the death penalty.
- No right of appeal to a higher court, and no judicial review to state, federal or administrative civilian courts.
- Proceedings can be carried out in secret

Administrative Regulations

A quick way to get around long and laborious Congressional debate and compromise—what many of us call democracy—is for an agency in the executive branch to pass an administrative regulation which has the force of law but without all the mess. Several of the most important rule changes on the rights of undocumented immigrants have happened without any debate or input from anyone outside of the Bush Administration. They include:

- Automatic Stays of Board of Immigration Appeals release orders for detainees. Instead of having to plead before a higher court to approve a Stay, the INS can automatically suspend the release orders granted by immigration judges for every non- citizen. *Automatic Stays, Federal Register Vol. 66, P. 54909 (October 31, 2001).*
- New screening regulations from INS and U.S. Customs that target non-citizens entering into the country putting certain applicants for non-immigrant visas through time consuming racially and culturally biased checks and questioning. *Deferred Inspection, Parole, And Waiver of Documentary Requirements, File No. HQINS 70/10.10 (Nov.14, 2001)*