

Chronology of Events Since September 11, 2001 Related to Immigration and National Security*

May 1, 2003

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1. **September 11, 2001:** Terrorist attacks occur in New York and Washington, DC.
2. **September 17, 2001:** Immigration and Naturalization Service (INS) amends a regulation to increase the amount of time that an alien may be detained without charge. Previously such detention was normally limited to 24 hours, at which point a notice to appear and warrant for arrest would be issued if detention continued. Under the new rule, the INS may detain an alien for 48 hours without charge and may extend detention for an additional "reasonable period of time" in the event of an "emergency or other extraordinary circumstance."¹
3. **September 19, 2001:** Attorney General John Ashcroft delivers Bush administration's proposed antiterrorism package to Congress.²
4. **September 21, 2001:** Chief Immigration Judge Michael Creppy sends a memorandum to all immigration judges (IJs) and immigration court administrators discussing the procedures to be followed in cases requiring additional security measures. Procedures require IJs to hold "secure" hearings separately from all other cases on the docket, to close the hearings to the public, and to avoid discussing the case or otherwise disclosing any information about the case to anyone outside the immigration court.³
5. **September 28, 2001:** Attorney General Ashcroft announces that 480 individuals have been detained in a post-Sept. 11 sweep.⁴
6. **October 1, 2001:** President George W. Bush signs the so-called "Snitch Visa" bill into law. The legislation amends INA § 214(k) to provide permanent authority for the admission of "S" non-immigrants – such visas are issued to aliens who possess and will supply information regarding terrorist organizations to U.S. law enforcement officials.⁵
7. **October 4, 2001:** The FBI begins to use a boilerplate memo to oppose bond in all post-Sept. 11 detained cases. The memo states that "the FBI is gathering and

* This document continues to be updated.

¹ 66 Fed. Reg. 48334-35 (Sept. 20, 2001), *amending* 8 C.F.R. § 287.3(d). The amendment was applied retroactively to Sept. 17, 2001.

² *The Investigation So Far*, New York Times, Sept. 19, 2001

³ Memorandum from Michael Creppy to All Immigration Judges; Court Administrators (Sept. 19, 2001) (*available at* <http://news.findlaw.com/hdocs/docs/aclu/creppy092101memo.pdf>).

⁴ Attorney General Ashcroft, Press Briefing, Sept. 28, 2001

http://www.usdoj.gov/ag/speeches/2001/agcrisisremarks9_28.htm. See *Center for National Security Studies v. U.S. Dep't of Justice*, 215 F. Supp.2d 94 (D.D.C. 2002).

⁵ Act of Oct. 1, 2001, Pub. L. No 107-45, 115 Stat. 258 (2001).

culling information that may corroborate or diminish our current suspicions of the individuals who have been detained.”⁶

8. **October 12, 2001:** The U.S. Court of Appeals for the Eighth Circuit rules that an automobile passenger’s Fourth Amendment rights were not violated when police questioned his immigration status during a routine traffic stop. Evidence obtained during questioning could thus be used in subsequent criminal proceedings under INA § 276(a).⁷
9. **October 25, 2001:** Attorney General Ashcroft announces that “to date, our antiterrorism offensive has arrested or detained nearly 1,000 individuals as part of the Sept. 11 terrorism investigation.”⁸
10. **October 26, 2001:** President Bush signs the USA PATRIOT Act into law. The new law gives broad new powers to conduct searches, employ electronic surveillance, and detain suspected terrorists.⁹
11. **October 29, 2001:** Nearly 40 civil liberties, human rights, legal, and public access organizations file a request with the Department of Justice, the FBI and the INS for the release of immigrant detainees’ names and the charges against them under the Freedom of Information Act.¹⁰
12. **October 29, 2001:** President Bush announces the creation of the Foreign Terrorist Tracking Task Force.¹¹
13. **October 31, 2001:** INS and the Executive Office for Immigration Review (EOIR) publish an interim rule expanding an existing EOIR regulation that requires a temporary automatic stay of an immigration judge’s decision to order an alien’s release from detention. The automatic stay applies to cases in which a district director has ordered that the alien be held without bond or has set a bond of \$10,000 or more.¹²
14. **October 31, 2001:** The Department of Justice’s Bureau of Prisons publishes an interim rule authorizing the agency to monitor the attorney-client mail or communications of certain inmates and detainees in federal custody. Such monitoring may occur in cases where the Attorney General has certified that a reasonable suspicion exists that the inmate may use communications to further or facilitate acts of violence or terrorism.¹³

⁶ Memo submitted to U.S. Department of Justice, Executive Office for Immigration Review, Immigration Court, “*In Bond Proceedings*”, “*Exhibit A*”, signed by Michael E. Rolince, Section Chief, International Terrorism Operations Section, Counterterrorism Division, Federal Bureau of Investigation.

⁷ *United States v. Rodriguez-Arreola*, 270 F.3d 611 (8th Cir. 2001).

⁸ Amended Complaint 28 (admitted in defendant’s Answer), *see* *Center for National Security Studies v. U.S. Dep’t of Justice*, 215 F. Supp.2d 94 (D.D.C. 2002). Amended Complaint and defendant’s Answer available at <http://www.gwu.edu/~cnss/>.

⁹ *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)*, Pub. L. No. 107-56, 115 Stat. 272 (2001).

¹⁰ *See, e.g.*, Letter to Melanie Ann Pustay, Office of Information and Privacy, Department of Justice, Oct. 29, 2001, *included as Exhibit 10 in Center for National Security Studies v. U.S. Dep’t of Justice*, 215 F. Supp.2d 94 (D.D.C. 2002).

¹¹ Elizabeth Bumiller, *Bush Announces a Crackdown on Visa Violators*, *New York Times*, Oct. 30, 2001.

¹² 66 Fed. Reg. 54909-12 (Oct. 31, 2001).

¹³ 66 Fed. Reg. 55062-66 (Oct. 31, 2001).

15. **October 31, 2001:** Seven senior members of Congress write Attorney General Ashcroft asking for the identities of and charges against detained individuals.¹⁴
16. **October 31, 2001:** Attorney General Ashcroft issues a letter asking the Secretary of State to designate 46 new groups as terrorist organizations in accordance with powers authorized by the USA PATRIOT Act.¹⁵
17. **November 7, 2001:** President Bush holds the first formal meeting of the Homeland Security Council.
18. **November 8, 2001:** The Department of Justice announces that it will no longer provide a running total of all individuals detained in connection with the investigation. The Department of Justice will only provide the number of those charged with federal crimes or immigration violations. Similarly, it will only release information on the number of detainees currently in custody, not the total number detained in the course of the investigation.¹⁶
19. **November 9, 2001:** Attorney General Ashcroft issues guidelines for “voluntary” interviews of up to 5,000 aliens from countries suspected of harboring relatively large numbers of terrorists. Officials acknowledge that interviewees may be jailed without bond if they are found to be in violation of immigration laws.¹⁷
20. **November 9, 2001:** The State Department slows the process for granting visas to men, ages 16 to 45, from certain Arab and Muslim countries by about 20 days.¹⁸
21. **November 13, 2001:** President Bush issues an executive order authorizing the creation of military tribunals to try noncitizens on charges of terrorism.¹⁹
22. **November 16, 2001:** The assistant Attorney General replies to the Oct. 31 request from members of Congress for the identities of and charges against detained individuals. The response provides limited information about some of the detainees. The Department of Justice sends Congress copies of some federal criminal complaints and INS charging documents, but deletes the names of individuals from the INS documents. It also provides one document in response to the request for policy guidance.²⁰
23. **November 19, 2001:** President Bush signs into law the Aviation and Transportation Security Act, which establishes the Transportation Security Administration (TSA). The law empowers the TSA “to use information from government agencies to identify individuals on passenger lists who may be a

¹⁴ See Letter to Attorney General Ashcroft, Oct. 31, 2001, *included as Exhibit 17 in Center for National Security Studies v. U.S. Dep’t of Justice*, 215 F. Supp.2d 94 (D.D.C. 2002).

¹⁵ Letter from Attorney General Ashcroft to Secretary of State Colin L. Powell with attachment (*available at* http://abcnews.go.com/sections/pdf/ashcroft_powell.pdf).

¹⁶ Amy Goldstein and Dan Eggen, *U.S. to Stop Issuing Detention Tallies*, Washington Post, Nov. 9, 2001.

¹⁷ Jodi Wilgoren, *Prosecutors Begin Effort to Interview 5,000, but Basic Questions Remain*, Nov. 15, 2001.

¹⁸ Neil Lewis and Christopher Marquis, *Longer Visa Wait for Arabs; Stir Over U.S. Eavesdropping*, New York Times, Nov. 10, 2001.

¹⁹ Military Order of Nov. 13, 2001, 66 Fed. Reg. 57,833 (Nov. 16, 2001).

²⁰ Letter from Daniel J. Bryant to Sen. Russell Feingold, Nov. 16, 2001, *included as Exhibit 21 in Center for National Security Studies v. U.S. Dep’t of Justice*, 215 F. Supp.2d 94 (D.D.C. 2002).

threat to civil or national security” and to “prevent the identified individual[s] from boarding an aircraft.”²¹

24. **November 23, 2001:** INS issues memo stating that “officers conducting these interviews of up to 5,000 aliens from countries suspected of harboring relatively large numbers of terrorists may discover information which leads them to suspect that specific aliens on the list are unlawfully present or in violation of their immigration status.” The memo directs INS to provide agents to respond to requests from state and local officers involved in the interviews.²²
25. **November 26, 2001:** U.S. Attorneys in Detroit issue a letter stating that the interviews are voluntary, but that “we need to hear from you by December 4.”²³
26. **November 28, 2001:** Attorney General Ashcroft identifies 93 people charged with crimes arising from the Sept. 11 investigation. Most of the charges are for violations such as credit card fraud or making false statements on passport applications. Mr. Ashcroft also releases a list of 548 people, including their nationalities, dates of birth, and the charges against them (but not their names) who remain in custody on immigration charges, resulting from the investigation. He asserts the law allows him to withhold the detainees’ names and that he is doing so in order not to aid Osama bin Laden by revealing which of his associates are in custody.²⁴
27. **November 29, 2001:** Attorney General Ashcroft announces the use of “S” visas for people who provide the government with information regarding terrorist activity.²⁵
28. **December 4, 2001:** Senator Russ Feingold holds hearings on the status of Sept. 11 detainees. The Attorney General suggests that those who question his policies are “aiding and abetting terrorism.”²⁶
29. **December 5, 2001:** Center for National Security Studies sues the Department of Justice, seeking the immediate release of government documents relating to the more than 1,000 individuals who have been arrested and detained in the wake of the Sept. 11 terrorist attacks.²⁷
30. **December 6, 2001:** INS Commissioner James Ziglar announces that the INS will send to the names of more than 300,000 aliens who remain in the United States, despite prior deportation or removal orders, to the FBI for inclusion in the

²¹ Aviation and Transport Security Act, Pub. L. No. 107-71, 115 Stat. 597 (2001).

²² Memorandum to Regional Directors, from Michael A. Pearson, INS Executive Associate Commissioner, Office of Field Operations, Oct. 23, 2001. See related entry on Oct. 29, 2001.

²³ Letter from U.S. Attorney, Eastern District of Michigan, signed by Jeffrey Collins and Robert Cares, dated Nov. 26, 2001, available at <http://www.cnn.com/2001/US/11/27/inv.questioning.letters/>.

²⁴ Tamar Lewin, *Accusations Against 93 Vary Widely*, New York Times, Nov. 28, 2001.

²⁵ Neil Lewis, *Immigrants Given Incentives to Give Evidence on Terrorists*, Nov. 30, 2001.

²⁶ Karen Gullo, *Ashcroft Says Those Questioning Administration’s Tough New Anti-Terror Measures Could Be Aiding the Enemy*, Associated Press, Dec. 7, 2001.

²⁷ Center for National Security Studies v. Dep’t of Justice, No. 01 cv 02500 (D.D.C. Dec. 5, 2001). *Rights Groups Sue DOJ, INS for Information on Those Detained or Arrested Following September 11*, 79 Interpreter Releases 5 (Jan. 2, 2002).

National Crime Information Center database.²⁸ This becomes known as the alien absconder initiative.

31. **December 19, 2001:** The Department of Justice announces that 460 individuals are still in custody on immigration charges as a result of the Sept. 11 investigation.²⁹
32. **January 8, 2002:** The Department of Justice adds to the FBI's National Crime Information Center database the names of approximately 6,000 men from countries believed to be harboring al-Qaeda members who have ignored deportation or removal orders. The department uses country, age, and gender criteria to identify these 6,000 "absconders" for removal.³⁰
33. **January 2002:** The Department of Justice's Civil Rights Division, the FBI, and U.S. Attorneys' offices investigate over 250 "backlash" incidents involving violence or threats against Arab Americans, Muslim Americans, Sikh Americans, South Asian Americans, and individuals perceived to be members of these groups. Coordination between federal and local prosecutors results in local charges in the majority of the 60 cases that are prosecuted. Federal charges are brought in seven cases, and there are further potential federal charges in other cases.³¹
34. **January 2002:** The Civil Rights Division of the Department of Justice launches the National Origin Working Group Initiative to combat the post-Sept. 11 discriminatory backlash. The working group will receive reports of discriminatory incidents and refer them to appropriate authorities; conduct outreach to vulnerable communities; and work with other agencies to ensure referral, outreach, and provision of services to victims of such incidents.³²
35. **January 9, 2002:** The Department of Justice's Inspector General announces the creation of a special section to investigate complaints by persons claiming that agents of the department abused their civil rights.³³
36. **January 2002:** The National Association of Immigration Judges (NAIJ) proposes the creation of a separate executive branch agency to house the trial-level immigration courts and the Board of Immigration Appeals. The NAIJ says this step is needed because of "disturbing encroachments on judicial independence." The NAIJ is concerned about actions taken by the President, the Attorney General, and the Department of Justice in the aftermath of Sept. 11.³⁴

²⁸Jonathan Peterson, *INS Fugitives to be Listed on FBI Database*, Los Angeles Times, Dec. 6, 2001. *INS Commissioner Ziglar Announces Data Sharing Arrangement with FBI, Other Security Measures*, 78 Interpreter Releases 1899, 1899 (Dec. 17, 2001).

²⁹Brooke A. Masters and Patricia Davis, *Moussaoui Has Va. Hearing; Terror Suspect Ordered Held; Alexandria Jail Tightens Security*, Washington Post, Dec. 20, 2001.

³⁰Washington Post, Jan. 8, 2002. *DOJ Focusing on Removal of 6,000 Men from Al-Qaeda Haven Countries*, 79 Interpreter Releases 115, 155 (Jan. 21, 2002).

³¹*Noteworthy*, 79 Interpreter Releases 119, 120 (Jan. 21, 2002).

³²*Noteworthy*, 79 Interpreter Releases 119, 120 (Jan. 21, 2002).

³³*Noteworthy*, 79 Interpreter Releases 119, 120 (Jan. 21, 2002).

³⁴*IJs, Citing Sept. 11 Concerns, Propose Creation of Separate Agency for Immigration Courts*, BIA, 79 Interpreter Releases 230, 230 (Feb. 11, 2002).

37. **January 11, 2002:** The Department of Justice releases a list of individuals in response to the Center for National Security Studies complaint filed on December 5, 2001, which requested information on those arrested and detained in connection with the Sept. 11 terrorist attacks. The list contains the names of the individuals, date of charge, date of release, charge files, and attorney contact information.³⁵
38. **January 22, 2002:** The American Bar Association's International Law and Practice Section releases a statement noting its concerns that noncitizens may now be detained in circumstances that infringe upon their rights under the Constitution and international treaties ratified by the United States. The ABA says it is troubled by a series of regulatory changes since Sept. 11 that permit prolonged detention of immigration detainees before and after charges have been filed, and during the government's appeal of any release order.³⁶
39. **January 22, 2002:** The New Jersey Chapter of the American Civil Liberties Union (ACLU) files a lawsuit against the state's Hudson and Passaic counties seeking that corrections officials release the names of all INS detainees held in their counties' facilities.³⁷
40. **January 25, 2002:** The Deputy Attorney General issues a memo of instructions for the Absconder Apprehension Initiative to locate 314,000 people who have a final deportation order, but have failed to surrender for removal. Several thousand men from "countries in which there has been al-Qaeda terrorist presence or activity" are designated as "priority absconders" and will be the first to be entered in the National Crime Information Center database.³⁸
41. **January 29, 2002:** The ACLU files a complaint in Michigan asserting that the public and press have a First Amendment and due process right to attend hearings in the immigration court. The complaint is filed in an attempt to open immigration court hearings to the public and the press in the case of Rabih Haddad.³⁹
42. **February 8, 2002:** A Department of Justice memorandum from Deputy Attorney General Larry Thompson instructs federal antiterrorism officials to apprehend and interrogate up to thousands of undocumented aliens who may have ignored deportation orders, seeking ways to prosecute any who have ties to terrorism, and compiling the results of interviews in a new computer database.

³⁵ The first page of the list, with most information removed, is available at: <http://www.cnss.gwu.edu/~cnss/cnssvdoj.htm> (last visited Jan. 18, 2003)

³⁶ Report of the Blue Ribbon Working Group on International Terrorism, ABA International Law and Practice Section, Spring 2002, http://www.abanet.org/intlaw/report_blueribbon.pdf.

³⁷ American Civil Liberties Union of New Jersey, Inc. v. County of Hudson, No. HUD-L-413-02 (N.J. Super. Ct. Law Div. filed Jan. 22, 2002). Tamar Lewin, *Rights Groups Press for Names of Muslims Held in New Jersey*, Jan. 23, 2002.

³⁸ Memorandum from the Deputy Attorney General to the INS Commissioner, FBI Director, U.S. Marshals Service Director and U.S. Attorneys (January 25, 2002) (*available at* <http://news.findlaw.com/hdocs/docs/doj/abscondr012502mem.pdf>).

³⁹ Detroit News, Inc. v. Ashcroft, No. 02-CV-70340 (E.D. Mich. filed Jan. 29, 2002). Cecil Angel, *Lawsuit by Paper Asks for Access*, Detroit Free Press, Jan. 29, 2002.

The memo reportedly instructs federal agents to find a way to detain some of them for possible criminal charges.⁴⁰

43. **February 15, 2002:** The Department of Justice states that 327 individuals are still in custody on immigration charges following the Sept. 11 attacks.⁴¹
44. **February 19, 2002:** The Attorney General publishes a new regulation proposing to restructure the Board of Immigration Appeals (BIA). The restructuring would institute one-judge review, streamline procedures, and reduce the Board itself to 11 members from its current 21.⁴²
45. **February 25, 2002:** The Department of Justice and the Department of Defense (DOD) enter into a cooperative arrangement that allows the DOD to assist the INS in patrolling the northern and southern borders for up to six months.⁴³
46. **February 26, 2002:** The Department of Justice issues a final report on its project of interviewing approximately 5,000 Arab/Muslim men. The Report states that approximately half (2,261) of those on the list were actually interviewed and that fewer than 20 interview subjects were taken into custody. Most of these were charged with immigration violations; three were arrested on criminal charges.⁴⁴
47. **February 27, 2002:** The Department of Agriculture discontinues its "J-1" visa waiver sponsorship program, citing security concerns after Sept. 11.⁴⁵
48. **February 27, 2002:** The House Transportation and Infrastructure Committee's Aviation Subcommittee holds a hearing to examine the need for, and consider improvements to, airline passenger profiling processes.⁴⁶
49. **February 28, 2002:** The House of Representatives' Subcommittee on Immigration and Claims holds an oversight hearing on the implications of transnational terrorism for the Visa Waiver Program (VWP), which is under review by the Attorney General.⁴⁷
50. **March 7, 2002:** The Department of State publishes a rule restricting automatic revalidation of expired visas for nonimmigrants returning from short visits to other North American countries or adjacent islands, by excluding aliens who are nationals of countries identified as state sponsors of terrorism.⁴⁸

⁴⁰ *Deputy Attorney General Releases Internal Guidance For 'Absconder' Apprehensions*, 79 Interpreter Releases 261, 261 (Feb. 18, 2002). *DOJ to Apprehend, Interrogate Undocumented Aliens with Potential Terrorism Links, Contradicting Public Statements*, 79 Interpreter Releases 236, 236 (Feb. 11, 2002).

⁴¹ Steve Fainaru, *Detainee Consented to Search*, Washington Post, Feb. 16, 2002.

⁴² 67 Fed. Reg. 7309 (Feb. 19, 2002). *Operations of the Executive Office for Immigration Review (EOIR): Hearing before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary*, 107th Cong. (2002).

⁴³ *INS Signs Memorandum of Agreement with Dept. of Defense*, Press Release, Department of Justice, Feb. 25, 2001, available at <http://www.immigration.gov/graphics/publicaffairs/newsrels/nguard.htm>.

⁴⁴ Report from Kenneth L. Wainstein, Directory, Executive Office for U.S. Attorneys, U.S. Department of Justice, for the Attorney General, *Final Report on Interview Project* (Feb. 26, 2002). See related entry on Nov. 9, 2001.

⁴⁵ *USDA Terminates Support of J-1 Waivers*, 79 Interpreter Releases 376, 376 (Mar. 11, 2002).

⁴⁶ *Aviation Security with a Focus on Passenger Profiling: Hearing Before the Subcomm. on Aviation of the House Comm. on Transportation and Infrastructure*, 107th Cong. (2002).

⁴⁷ *Implications of Transnational Terrorism for the Visa Waiver Program: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary*, 107th Cong. (2002).

⁴⁸ 67 Fed. Reg. 10322 (March 7, 2002).

51. **March 19, 2002:** The Department of Justice announces interviews with 3,000 more Arabs and Muslims present in the United States as visitors or students.⁴⁹
52. **March 20, 2002:** Under a sealed search warrant, U.S. Customs Service, Internal Revenue Service, and other agency agents assisted by local police raid about 14 homes and businesses in northern Virginia seeking information about possible money laundering and financial links between those entities and terrorist groups.⁵⁰
53. **March 21, 2002:** Republican and Democratic leaders of the House Judiciary Committee announce that they have forged a compromise on INS restructuring legislation following severe criticism of the agency for events connected with Sept. 11 and thereafter.⁵¹
54. **March 26, 2002:** Judge Arthur D'Italia of the Superior Court of New Jersey rules that county jail authorities cannot keep secret the names of aliens detained on immigration charges for the federal government. The ruling is immediately appealed.⁵²
55. **March 27, 2002:** The State Department updates its list of terrorists and terrorist organizations whose property interests have been blocked following an initial order by President Bush on Sept. 23, 2001.⁵³
56. **April 1, 2002:** Attorney General Ashcroft unveils new joint Justice Department-Department of Defense profiling standards for "random" checks and indefinite detentions of unidentified persons from unnamed countries, airline passengers, and other suspects.⁵⁴
57. **April 8, 2002:** New York Police Department officials begin to participate in the Alien Absconder Initiative (AAI), a nationwide program of the Department of Justice designed to apprehend aliens from countries where al-Qaeda is very active.⁵⁵
58. **April 8, 2002:** The Department of Justice indicates that its Office of Legal Counsel has changed its position on the role of local law enforcement officers in the enforcement of federal immigration law. Contrary to previous opinions, such officers are now said to have "inherent" authority to enforce civil violations of federal immigration law.⁵⁶

⁴⁹ CNN.com, *U.S. to Interview 3,000 "Visitors" in Terror Probe* (March 20, 2002), at <http://www.cnn.com/2002/US/03/20/ret.ashcroft.terrorism/?related>.

⁵⁰ Tom Jackman, *N. Va. Sites Raided in Probe of Terrorism: Federal Agencies Seek Information on Funds*, Washington Post, March 21, 2002.

⁵¹ *House Judiciary Leaders Agree on INS Overhaul; Visas For Terrorists Probed; Other Activity*, 79 Interpreter Releases 436, 436 (Mar. 25, 2002).

⁵² Jim Edwards, *Judge Orders End to Secret Detention of Federal Inmates in County Jails; Ruling Stayed while U.S. Department of Justice Appeals*, New Jersey Law Journal, Apr. 1, 2002.

⁵³ *State Dept. Adds Three Groups to Foreign Terrorist List*, Press Release, Department of State, March 27, 2002, available at <http://www.useu.be/Terrorism/ECONNews/Mar2702GroupsTerroristList.html>.

⁵⁴ *Ashcroft Unveils 'Random' Profiling Criteria*, 79 Interpreter Releases 484, 484 (April 1, 2002).

⁵⁵ *Noteworthy*, 79 Interpreter Releases 528, 528 (April 8, 2002).

⁵⁶ *DOJ Legal Opinion Would Broaden Use of State, Local Personnel In Immigration Enforcement*, 79 Interpreter Releases 519, 519 (Apr. 8, 2002).

59. **April 10, 2002:** Prolonged security checks cause a decrease of almost 14 percent in the number of overseas Muslims granted permission to live in the United States through the diversity immigrant visa program.⁵⁷
60. **April 11, 2002:** Attorney General Ashcroft orders that the names of thousands of “known or suspected” terrorists be listed in the government's three major law-enforcement databases, including one used by police officers nationwide when making routine arrests or traffic stops.⁵⁸
61. **April 12, 2002:** INS issues a proposed regulation establishing a presumptive limit of 30 days on the length of time that tourists and businesspeople may stay in the United States. The regulation would also prohibit a change of status from visitor to student, unless student intent is declared at time of initial entry.⁵⁹
62. **April 12, 2002:** INS issues an interim rule prohibiting a visitor from attending school while an application for a change to student status is pending.⁶⁰
63. **April 22, 2002:** In response to New Jersey State Judge D’Italia’s March 26, 2002 ruling, the INS publishes an interim rule, which takes effect retroactively to April 17, 2002, stating that officials at non-federal detention facilities may not release information relating to detainees.⁶¹
64. **April 25, 2002:** The House of Representatives approves a sweeping INS restructuring bill (H.R. 3231) that would dismantle the agency and replace it with separate service and enforcement bureaus under the direct control of an Associate Attorney General for Immigration Affairs (AAGIA), within the Department of Justice.⁶²
65. **April 25, 2002:** Representative Saxby Chambliss introduces the “Homeland Security Information Sharing Act,” which would allow federal intelligence and law enforcement agencies to share homeland security information with state and local entities. It would define “homeland security information” broadly to include any information that relates to the threat of terrorist activity or to “the ability to prevent, interdict, or disrupt terrorist activity,” and any information that would “improve the identification or investigation of a suspected terrorist or terrorist organization,” or improve the response to terrorist activity.⁶³
66. **Week of April 26, 2002:** The Department of Justice gives its first report to Congress required by the USA PATRIOT Act.⁶⁴
67. **April 30, 2002:** INS turns over list of post-Sept. 11 detainees held in secret to the General Accounting Office (GAO).⁶⁵

⁵⁷ George Gedda, *Migration from Muslim Countries Under Visa Lottery Program Has Slowed*, Associated Press, Apr. 10, 2002.

⁵⁸ Naftali Bendavid, *Ashcroft puts thousands on terror lists; Names of suspects go on national files*, Chicago Tribune, Apr. 12, 2002.

⁵⁹ 67 Fed. Reg. 18,065 (Apr. 12, 2002).

⁶⁰ 67 Fed. Reg. 18,062 (Apr. 12, 2002).

⁶¹ 67 Fed. Reg. 19,508 (Apr. 22, 2002).

⁶² *House Passes Bill to Dismantle INS, Garnering Bush Administration's Support*, 79 Interpreter Releases 617, 617 (Apr. 29, 2002).

⁶³ Homeland Security Information Sharing Act, H.R. 3825, 107th Cong. (2002).

⁶⁴ Tom Brune, *U.S. Evades Curbs in Terror Law*, Newsday, Apr. 26, 2002.

68. **April 30, 2002:** Judge Shira Scheindlin of the U.S. District Court for the Southern District of New York rules that it is illegal to imprison persons as “material witnesses.”⁶⁶
69. **May 2, 2002:** Attorney General Ashcroft testifies before the Senate Committee on Appropriations that 19 percent, or \$7.1 billion, of the Bush administration's budget for fiscal year 2003 for the Department of Justice supports homeland security activities.⁶⁷
70. **May 2, 2002:** Senator Joseph Lieberman introduces the “National Homeland Security and Combating Terrorism Act of 2002” (S. 2452), which calls for the formation of a Department of National Homeland Security to plan, coordinate, and integrate U.S. government activities relating to homeland security, border security, and emergency preparedness, and to lead emergency planning efforts. It would also establish a National Office for Combating Terrorism, to coordinate threat assessments and oversee a national strategy to combat terrorism.⁶⁸
71. **May 2, 2002:** The Senate Judiciary Committee conducts a restructuring bill that would abolish the INS and replace it with a new agency, separating immigration service and enforcement functions.⁶⁹
72. **May 6, 2002:** Facing intense pressure from the Bush administration, the GAO returns list of post-Sept. 11 detainees to the Department of Justice.⁷⁰
73. **May 9, 2002:** Attorney General Ashcroft proposes regulations requiring that aliens with final orders of removal surrender to INS within 30 days of the date of the order.⁷¹
74. **May 10, 2002:** The INS issues a memo requiring District Offices and Service Centers to run IBIS (Interagency Border Inspection System) security checks for all applications and petitions, including naturalization. The checks are to be run not only on foreign nationals, but also on every name on the application, including U.S. citizen petitioners and attorneys.⁷²
75. **May 14, 2002:** President Bush signs into law the “Enhanced Border Security and Visa Entry Reform Act”. The law increases funding for INS staffing and infrastructure and for the Department of State consular functions. It also

⁶⁵ Marjorie Valbrun and Gary Fields, *GAO Surrenders List of Detainees Received from Immigration Agency*, Wall Street Journal, May 7, 2002.

⁶⁶ United States of America v. Osama Awadallah, 202 F. Supp. 2d 55 (S.D.N.Y. Apr. 30, 2002). See generally Steve Fainaru and Amy Goldstein, *Judge Rejects Jailing of Material Witnesses*, Washington Post, Apr. 30, 2002.

⁶⁷ *Ashcroft Discusses Homeland Security Efforts, Pending Supplemental Funding Request At Senate Hearing*, 79 Interpreter Releases 662, 662 (May 6, 2002).

⁶⁸ National Homeland Security and Combating Terrorism Act of 2002, S. 2452, 107th Cong. (2002).

⁶⁹ *The Immigration and Naturalization Service: How Should It Be Restructured?: Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. (2002). *Senate Judiciary Committee Considers Kennedy-Brownback INS Restructuring Plan, Compares Plans*, 79 Interpreter Releases 656, 656 (May 6, 2002).

⁷⁰ Marjorie Valbrun and Gary Fields, *GAO Surrenders List of Detainees Received From INS*, Wall Street Journal, May 7, 2002.

⁷¹ 67 Fed. Reg. 90 at 31157 (May 9, 2002).

⁷² Memorandum from William Yates, to Regional Directors, Service Center Directors, and District Directors, May 10, 2002.

requires information-sharing between intelligence agencies and the INS and Department of State.⁷³

76. **May 16, 2002:** Attorney General Ashcroft issues a proposed regulation to implement a new foreign student reporting system, the Student and Exchange Visitor System (SEVIS). The system will become mandatory for all covered schools on January 30, 2003. It will require reporting of student enrollment, start date of next term, failure to enroll, dropping below full course load, disciplinary action by school, and early graduation.⁷⁴
77. **May 17, 2002:** The Foreign Intelligence Surveillance Court issues an order refusing to give the Department of Justice broad new powers, saying the government has misused the law and misled the court dozens of times.⁷⁵
78. **May 28, 2002:** The Department of Justice's Executive Office for Immigration Review (EOIR) publishes an interim rule authorizing immigration judges to issue protective orders and seal records relating to law enforcement and national security information.⁷⁶
79. **May 29, 2002:** Judge John W. Bissell of the U.S. District Court for the District of New Jersey rules unconstitutional Chief Immigration Judge Creppy's directive closing immigration hearings deemed of "special interest" to the investigation into the Sept. 11 attacks.⁷⁷
80. **May 29, 2002:** Judge Robert Doumar of the U.S. District Court for the Eastern District of Virginia orders the government to allow Yasser Esam Hamdi, a U.S. citizen by virtue of birth in Louisiana, to meet privately with a lawyer and to explain in writing why it is holding Mr. Hamdi.⁷⁸
81. **June 6, 2002:** Attorney General Ashcroft announces a new entry-exit system that will require certain nonimmigrants who are deemed to be a national security risk to register and submit fingerprints and photographs upon their arrival in the United States; report to INS field offices within 30 days, and then re-report annually; and to notify an INS agent of their departure, with possible criminal prosecution for those who fail to comply.⁷⁹
82. **June 6, 2002:** President Bush announces the administration's plan for the creation of a cabinet-level Department of Homeland Security.⁸⁰

⁷³ Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. No. 107-173, 116 Stat. 543 (2002). *See also President Signs Border Security Bill, Promises Swift Action On § 245(I)*, 79 Interpreter Releases 769, 769 (May 20, 2002).

⁷⁴ 67 Fed. Reg. 34862 (May 16, 2002).

⁷⁵ Philip Shenon, *Secret Court Says F.B.I. Aides Misled Judges in 75 Cases*, New York Times, Aug. 23, 2002.

⁷⁶ 67 Fed. Reg. 36799 (May 28, 2002).

⁷⁷ Steve Fainaru, *U.S. Loses a Ruling On Secret Detentions; Judge Rejects Order Closing Hearings*, Washington Post, May 30, 2002.

⁷⁸ Sonja Barisic, *Judge Says American-born Prisoner From Afghanistan Can Meet With Attorney*, Associated Press, May 29, 2002. *See also* related entries on July 12 and August 16, 2002.

⁷⁹ John Ashcroft, Remarks on the National Security Entry-Exit Registration System (June 6, 2002), *available at* <http://www.usdoj.gov/ag/speeches/2002/060502agpreparedremarks.htm>.

⁸⁰ Elizabeth Bumiller and David Sanger, *Bush, as Terror Inquiry Swirls, Seeks Cabinet Post on Security*, New York Times, June 7, 2002.

83. **June 10, 2002:** Federal authorities move to seal FBI declarations and close immigration proceedings against a detainee who faces deportation by the INS.⁸¹
84. **June 18, 2002:** Homeland Security Director Tom Ridge delivers to Congress the "Homeland Security Act of 2002," a bill that would establish the Department of Homeland Security, define its primary mission and responsibilities, and create its principal offices.⁸²
85. **June, 2002:** The INS proposes broadening special registration requirements for nonimmigrant aliens from certain designated countries.⁸³
86. **June 21, 2002:** Attorney General Ashcroft asks the Supreme Court to permit secret deportation hearings for people arrested after Sept. 11, arguing that national security would be compromised by disclosure of any information about the detainees.⁸⁴
87. **Week of June 24, 2002:** Immigration subcommittees in the Senate and House conduct hearings on how and whether the INS should be incorporated into the recently proposed Department of Homeland Security.⁸⁵
88. **June 25, 2002:** U.S. Customs Service makes effective an interim rule that requires air carriers to make passenger name record information available to customs officials upon request, under the Aviation and Transportation Security Act.⁸⁶
89. **June 26, 2002:** At the urging of top Pakistani officials, the Department of Justice deports 131 Pakistani detainees who had been held for months at various INS facilities throughout the country. The majority of the deportees were arrested for having ignored previous deportation orders and none appeared to have had ties to terrorist organizations. Citing security concerns, the U.S. government did not release any information about the flight to the detainees themselves or their families. However, all were allowed to make phone calls before departure.⁸⁷
90. **June 28, 2002:** The Supreme Court blocks Judge Bissell's May 29, 2002 order, which had prohibited the government from holding closed immigration hearings, until the U.S. Court of Appeals for the Third Circuit issues a final ruling on the government's challenge.⁸⁸

⁸¹ Dennis Wagner and Billy House, *Feds invoke secrecy rule in INS case*, Arizona Republic, June 11, 2002.

⁸² *President Sends Homeland Security Dept. Bill to Congress; Other Activity*, 79 Interpreter Releases 940, 940 (June 24, 2002).

⁸³ *INS Proposes Special Registration, Monitoring of Certain Nonimmigrants*, 79 Interpreter Releases 945, 945 (June 24, 2002).

⁸⁴ Susan Sachs, *Ashcroft Petitions Justices for Secrecy in Deportations*, New York Times, June 22, 2002.

⁸⁵ *Role of Immigration in the Department of Homeland Security: Hearing on H.R. 5005 Before the Subcomm. On Immigration, Border Security and Claims of the House Comm. on the Judiciary*, 107th Cong. (2002). *Senate, House Subcommittees Explore Transfer of Immigration Functions to Homeland Security Department*, 79 Interpreter Releases 973, 973 (July 1, 2002).

⁸⁶ 67 Fed. Reg. 42710 (June 25, 2002).

⁸⁷ *Ashcroft et al. v. North Jersey Media Group et al.*, No. 01A991 (Jun. 28, 2002). Steve Fainaru, *U.S. Deported 131 Pakistanis in Secret Airlift*, Washington Post, July 10, 2002.

⁸⁸ Lyle Denniston, *Supreme Court Blocks Limit on Secret Hearings*, Boston Globe, June 29, 2002. *See also* related entry on Oct. 8, 2002.

91. **July 11, 2002:** Department of Justice announces that most of the detainees arrested as part of its investigations on Sept. 11 have been released, and many of them deported.⁸⁹
92. **July 11, 2002:** Judge Michael B. Mukasey of the U.S. District Court for the Southern District of New York rules that prosecutors may detain material witnesses to testify before grand juries, contradicting Judge Scheindlin's April 30, 2002 decision.⁹⁰
93. **July 12, 2002:** A three-judge panel of the U.S. Court of Appeals for the Fourth Circuit unanimously reversed Judge Doumar's May 29, 2002 ruling that would have allowed Mr. Hamdi to see a lawyer. The ruling returns the case to the lower court for review.⁹¹
94. **July 12, 2002:** The INS confirms that 758 persons have been arrested as part of the Absconder Apprehension Initiative.⁹²
95. **July 15, 2002:** The Department of Justice website announces a surveillance pilot program, to be launched in August 2002, whereby U.S. citizens, including truckers, bus drivers, and others, can act as informants to report "suspicious activity."⁹³ The program is to be called Operation TIPS (Terrorism Information and Prevention System).
96. **July 16, 2002:** The State Department orders a review of procedures at all 207 U.S. consular posts worldwide that issue visas. The department also wants to send special inspection teams to visa-issuing posts in countries linked to terrorism, and considers requiring interviews for all adults who apply for visas.⁹⁴
97. **July 19, 2002:** The state of Florida and the Department of Justice announce an agreement whereby a group of law enforcement officers in Florida will be given the ability to enforce immigration laws in cases involving terrorism and national security.⁹⁵
98. **July 24, 2002:** The Department of Justice finalizes a rule permitting the Attorney General to authorize any state or local law enforcement officer -- with the consent of those who cover the jurisdiction where the law enforcement officer is serving -- to perform certain functions of INS officers during the period of a declared "mass influx of aliens."⁹⁶

⁸⁹ Susan Sachs, *U.S. Deports Most of Those Arrested in Sweeps After 9/11*, New York Times, July 11, 2002.

⁹⁰ *In Re Application of the United States for a Material Witness Warrant*, ---F.Supp.2d ---, 2002 WL 1592739 (S.D.N.Y. July 11, 2002). Benjamin Weiser, *U.S. Judge Clears Detention of Witnesses for Grand Jury*, New York Times, July 12, 2002.

⁹¹ *Hamdi v. Rumsfeld*, 296 F.3d 278 (4th Cir. 2002). Philip Shenon, *Appeals Court Keeps Detainee and His Lawyer Apart*, New York Times, July 12, 2002. See also related entry on August 16, 2002.

⁹² *Noteworthy*, 79 Interpreter Releases 1044, 1044 (July 15, 2002).

⁹³ Michael Getler, *Ignoring News TIPS*, Washington Post, July 28, 2002.

⁹⁴ George Gedda, *U.S. to Review Visa-Issuing Offices*, Associated Press Online, July 17, 2002.

⁹⁵ Christopher Newton, *Justice: Some Florida Officers to Enforce Immigration Law*, Associated Press, July 21, 2002.

⁹⁶ 67 Fed. Reg. 48,354 (July 24, 2002).

99. **July 24, 2002:** The U.S. Commission on Civil Rights reaffirms its commitment to protecting the rights of Arab Americans and Muslims.⁹⁷
100. **July 26, 2002:** The Attorney General proposes a rule clarifying a nonimmigrant's obligation to provide an address to the INS, including a change of address within 10 days of moving. "Willful" failure to register with the INS, or a failure to give written notice of a change in address, is a criminal violation.⁹⁸
101. **July 30, 2002:** Judge Colleen Kollar-Kotelly of the U.S. District Court for the District of Columbia rules that the U.S. legal system has no jurisdiction over the detainees held in Guantanamo Bay, Cuba. Thus the detainees have no access to U.S. courts.⁹⁹
102. **August 1, 2002:** Judge M. Margaret McKeown of the US Court of Appeals for the Ninth District rules that the government cannot indefinitely imprison immigrants who have never been formally admitted to the US and whose native country will not take them back.¹⁰⁰
103. **August 2, 2002:** Judge Gladys Kessler of the U.S. District Court for the District of Columbia rules that the Department of Justice must release the names of those detained in connection with the Sept. 11 investigation within fifteen days of the ruling. The Judge allows for two exceptions: names of detainees held as material witnesses to the terrorist investigation and those of detainees not wishing to be identified.¹⁰¹
104. **August 2, 2002:** Four New Jersey men file a lawsuit against American Airlines, claiming they were wrongly removed from an airplane in March and strip-searched because of their Arabic names.¹⁰²
105. **August 2, 2002:** Vice Admiral John M. Poindexter announces the creation of the Pentagon's Information Awareness Office, which aims to develop new technologies that will sift through data warehouses searching for personal information as part of the hunt for terrorists around the world, including the United States.¹⁰³
106. **August 5, 2002:** Immigration Judge William A. Cassidy rules that the government cannot deport a legal immigrant for breaking a law requiring immigrants to alert authorities within 10 days of change of address because he was never made aware of such law.¹⁰⁴

⁹⁷ U.S. Commission on Civil Rights press release, July 24, 2002, *available at* <http://www.usccr.gov/nwsrel/archives/2002/072402.htm> .

⁹⁸ 67 Fed. Reg. 48,818 (July 26, 2002).

⁹⁹ Rasul v. Bush, 215 F.Supp. 2d 55 (D.D.C. 2002). Christopher Newton, *U.S. Court Rules Foreign Nationals Held in Cuba Have No Right to Access U.S. Courts*, Associated Press, July 31, 2002.

¹⁰⁰ Henry Weinstein, *Court Curbs Detention of Immigrants Incarceration: US cannot indefinitely hold criminals never formally admitted to the country, an appeals panel rules*, Los Angeles Times, August 2, 2002.

¹⁰¹ Center for National Security Studies v. U.S. Dep't of Justice, 217 F. Supp.2d 58 (D.D.C. 2002). *See* related entry on Aug. 15, 2002.

¹⁰² *Four New Jersey Men Suing American Airlines Over Strip-Search*, Associated Press, Aug. 2, 2002.

¹⁰³ John M. Poindexter, *Overview of the Information Awareness Office*, speech presented at Defense Advanced Research Projects Agency Tech 2002 Conference, Anaheim, California (*available at* <http://www.fas.org/irp/agency/dod/poindexter.html>). *See also* <http://www.darpa.mil/iao/TIASystems.htm>.

¹⁰⁴ *Judge: Government Cannot Deport For Failure to Report New Address*, Associated Press, Aug. 6, 2002.

107. **August 12, 2002:** The Attorney General issues a final rule requiring certain non-citizens to register (fingerprints and photographs and other information) at entry, at 30 days after entry, annually thereafter, and at exit, which must be through designated exit points.¹⁰⁵ This is known as the NSEERS (National Security Entry-Exit Registration System) program.
108. **August 13, 2002:** The American Bar Association condemns the government's secret detention of immigrants arrested after Sept. 11, asking for information on who is being held and why.¹⁰⁶
109. **August 15, 2002:** Federal Judge Kessler rules that the Department of Justice does not have to immediately reveal the names of those detained in the Sept. 11 investigation, thereby granting a stay of her order of August 2 to give government lawyers more time to appeal.¹⁰⁷
110. **August 16, 2002:** Judge Doumar orders the government to produce more information about the criteria used to declare Mr. Hamdi an "enemy combatant," before he decides whether the United States may continue to hold Mr. Hamdi without charging him or letting him see a lawyer.¹⁰⁸
111. **August 21, 2002:** The chairman of the House Judiciary Committee threatens to subpoena Attorney General Ashcroft because the Department of Justice rejected a committee request to reveal how it is using new anti-terrorism powers to monitor Americans.¹⁰⁹
112. **August 21, 2002:** Approximately 100 Pakistanis arrested on immigration violations are transported to Louisiana and deported to Pakistan.¹¹⁰
113. **August 26, 2002:** A three-judge panel of the U.S. Court of Appeals for the Sixth Circuit rules unanimously that the Department of Justice acted unlawfully by conducting hundreds of closed deportation hearings based only on allegations that the people detained may have links to terrorism.¹¹¹
114. **September 11, 2002:** The State Department's Bureau of Consular Affairs implements the Interim Student and Exchange Authentication System (ISEAS). The system dictates that no F, M or J nonimmigrant visas may be issued without sponsoring institutions providing consular officers overseas electronic notification that the visa applicant has been accepted to the educational institution or exchange visitor program. The interim procedures will remain in operation until the INS' s SEVIS system is fully operational, as required by the Enhanced Border Security and Visa Reform Act.¹¹²

¹⁰⁵ 67 Fed. Reg. 52583 (Aug. 12, 2002). *See* related entry on June 5, 2002.

¹⁰⁶ *ABA Condemns U.S. Gov't's Secret Detention of Immigrants*, Dow Jones International News, Aug. 13, 2002.

¹⁰⁷ *Center for National Security Studies v. United States Department of Justice*, 2002 US Dist. Lexis 14168 (DC Dist. Ct., August 2, 2002). Christopher Newton, *Judge: Gov't Can Withhold 9/11 Names*, Associated Press, Aug. 15, 2002. *See* related entry on Aug. 2, 2002.

¹⁰⁸ *Hamdi v. Rumsfeld*, No. 2:02CV439 (E.D. Va. Aug. 16, 2002). *See* related entries on May 29 and July 12, 2002.

¹⁰⁹ Christopher Newton, *House Panel May Subpoena Ashcroft*, Associated Press, Aug. 21, 2002.

¹¹⁰ *Pakistanis Moved for Deportation*, Associated Press, Aug. 21, 2002.

¹¹¹ *Detroit Free Press v. Ashcroft*, 303 F.3d 681 (6th Cir. 2002). *See also* Adam Liptak, *Court Backs Open Deportation Hearings in Terror Cases*, New York Times, Aug. 27, 2002.

¹¹² 67 Fed. Reg. 58,693 (Sept. 18, 2002). *See* related entry on May 16, 2002.

115. **September 11, 2002:** The Department of Justice begins implementing the NSEERS program.¹¹³
116. **September 13, 2002:** Hundreds of labor and civil rights activists, including the Reverend Jesse Jackson, march to the Justice Department to protest the Bush administration's mass detentions, sometimes without charges, as part of its war on terrorism.¹¹⁴
117. **September 14, 2002:** Five Arab Americans are charged with operating an active cell of al-Qaeda in western New York.¹¹⁵
118. **Week of September 16 2002:** Attorney General Ashcroft orders the INS to launch a "prompt review" of political asylum cases to identify any immigrants who have admitted to have been accused of terrorist activity or of being members of any terrorist organizations.¹¹⁶
119. **September 17, 2002:** Judge Nancy Edmunds of the U.S. District Court for the Eastern Division of Michigan rules that Lebanese national Rabih Haddad has to be released within 10 days or granted an open hearing after the government failed to prove that he posed any threat to national security.¹¹⁷
120. **September 24, 2002:** State Department announces that it has cleared a backlog of 10,000 visa applications, most from Muslim countries, that were delayed for months by investigations into possible terrorism connections.¹¹⁸
121. **September 25, 2002:** The Department of Justice announces that it will comply with Judge Edmunds' September 17 order and grant Mr. Haddad an open detention hearing. The Department of Justice plans to appeal on the grounds that the federal court order represents "an unwarranted intrusion into the administrative immigration process."¹¹⁹
122. **September 26, 2002:** The Inter-American Commission on Human Rights invokes an emergency procedure that orders the United States to take immediate steps to protect the rights of individuals taken into immigration detention as part of the post-Sept. 11 investigation.¹²⁰
123. **September 30, 2002:** In compliance with Attorney General Ashcroft's final rule issued on August 12, 2002, the INS publishes a notice that lists the ports through which nonimmigrant aliens who have been specially registered through the NSEERS program may depart from the United States.¹²¹

¹¹³ *Rio Grande Valley Beefs Up Security for Foreigners Entering International Bridges*, Associated Press, Sept. 12, 2002.

¹¹⁴ *Groups Protest U.S. Detainments*, Associated Press, Sept. 13, 2002.

¹¹⁵ Philip Shenon, *U.S. Says Suspects Awaited an Order for Terror Strike*, New York Times, Sept. 14, 2002.

¹¹⁶ Greg Krikorian and Patrick J. McDonnell, *Ashcroft Orders Review of Asylum Cases*, Los Angeles Times, Sept. 26, 2002.

¹¹⁷ *Haddad v. Ashcroft*, 221 F. Supp.2d 799 (E.D. Mich. 2002). See also Dan Eggen, *Judge Orders Release or Open Hearing for Detainee*, Washington Post, Sept. 18, 2002.

¹¹⁸ Barry Schweid, *U.S. Clears Visa Application Backlog*, Associated Press, Sept. 24, 2002.

¹¹⁹ Steve Fainaru, *Detainee to Get Open Immigration Hearing*, Washington Post, Sept. 26, 2002. See related entry on Sept. 17, 2002.

¹²⁰ *Human Rights Body Rules Against U.S. for Its Detention Tactics With Post 9/11 Detainees*, Ascribe Newswire, Sept. 27, 2002.

¹²¹ 67 Fed. Reg. 61,352-53 (Sept. 30, 2002).

124. **October 1, 2002:** Towards the end of Mr. Haddad's detention hearing, U.S. Immigration Judge Robert Newberry closes the courtroom to the public and media to discuss an FBI declaration the government describes as sensitive.¹²²
125. **October 8, 2002:** A divided three-judge panel of the U.S. Court of Appeals for the Third Circuit reverses Judge Bissell's May 29, 2002 ruling that ordered all deportation hearings nationwide open unless the government could prove on a case-by-case basis that secrecy was needed.¹²³
126. **October 17, 2002:** Judge Dickinson R. Debevoise of the U.S. District Court for the District of New Jersey refuses to dismiss a discrimination lawsuit by two men who were removed from a Continental Airlines flight on New Year's Eve when a passenger complained about "brown-skinned men."¹²⁴
127. **October 18, 2002:** The Department of Justice asks the U.S. Court of Appeals for the D.C. Circuit to uphold Judge Kollar-Kotelly's July 31, 2002 ruling that had held that suspected Taliban and al-Qaeda fighters held at the U.S. naval base in Guantanamo Bay, Cuba have no right to access American courts.¹²⁵
128. **October 22, 2002:** Department of Defense Secretary Donald H. Rumsfeld announces that "a small number" of the 598 prisoners held in Guantanamo Bay, Cuba will be released because they are no longer considered a threat to the United States. Mr. Rumsfeld does not specify how many or when they would be released.¹²⁶
129. **October 24, 2002:** Immigration Judge Newberry rules that Mr. Haddad is a threat to national security partly because of a decision by the U.S. Treasury Department to designate Global Relief Foundation, a charity co-founded by Mr. Haddad, as a group that supports terrorism. Mr. Haddad is denied bond.¹²⁷
130. **October 28, 2002:** The U.S. Court of Appeals for the Fourth Circuit hears arguments in the government's appeal of Judge Doumar's August 16 order to produce more evidence to support the continued detention of Mr. Hamdi.¹²⁸
131. **October 28, 2002:** Four detainees, three Afghans and one Pakistani, are the first to be released from Guantanamo Bay and are returned to their home countries. Thirty more prisoners, however, arrive at Guantanamo Bay, increasing the number of prisoners to "approximately 625," according to a Pentagon spokeswoman.¹²⁹

¹²² *Sept. 11 Detainee Testifies at Public Hearing*, Washington Post, Oct. 2, 2002.

¹²³ *North Jersey Media Group v. Ashcroft*, 308 F.3d 198 (3d Cir. 2002); Adam Liptak and Robert Hanley, *Court Upholds Secret Hearings on Deportation*, New York Times, Oct. 9, 2002.

¹²⁴ Jeffrey Gold, *Judge Rules Passengers Taken Off Plane Can Sue Continental*, Associated Press, Oct. 19, 2002.

¹²⁵ Sam Hananel, *Justice Department Asks Appeals Court To Uphold Ruling Denying Guantanamo Prisoners Court Access*, Associated Press, Oct. 18, 2002.

¹²⁶ Katherine Q. Seelye, *Some Guantanamo Prisoners Will Be Freed, Rumsfeld Says*, New York Times, Oct. 23, 2002.

¹²⁷ Niraj Warikoo, *Judge Rules Man Must Stay Behind Bars: He Says Evidence Has Linked Defendant to "Terrorist Elements"*, Detroit Free Press, Oct. 25, 2002.

¹²⁸ Katherine Q. Seelye, *Appeals Court Again Hears Case of American Held Without Charges or Counsel*, New York Times, Oct. 29, 2002.

¹²⁹ Ian James, *Three Afghans, Pakistani Held at Guantanamo Bay Return Home*, Associated Press, Oct. 28, 2002.

132. **October 30, 2002:** The Canadian Department of Foreign Affairs and International Trade issues a travel advisory warning Canadian citizens born in Syria, Sudan, Libya, Iraq or Iran to reconsider any travel to the United States because of the implementation of the NSEERS program.¹³⁰
133. **November 6, 2002:** INS expands NSEERS by issuing a notice requiring certain male nationals and citizens of Iran, Iraq, Libya, Sudan and Syria admitted to the United States on or before September 10, 2002 and who will remain in the United States until at least December 16, 2002 to appear before, register with, and provide requested information to the INS by December 16, 2002. Failure to report to an INS office for fingerprinting, a photo and an interview will result in deportation. Among those excluded from the requirement are permanent residents and asylum applicants who applied for asylum by November 6, 2002, or who have been granted asylum.¹³¹
134. **November 7, 2002:** Attorney General Ashcroft announces that since the implementation of NSEERS on September 11, 2002, the INS has fingerprinted and registered more than 14,000 visitors to the United States and arrested 179. According to INS records, the INS has been averaging more than 70 fingerprint “hits” a week nationwide.¹³²
135. **November 18, 2002:** The Foreign Intelligence Surveillance Court of Review rules that the USA PATRIOT Act gives the Department of Justice broad authority to conduct wiretaps and other surveillance on terrorism suspects in the U.S., thereby overturning the May 17, 2002 Foreign Intelligence Surveillance Court order.¹³³
136. **November 18, 2002:** In its effort to appeal Judge Kessler’s August 2, 2002 ruling, the Department of Justice argues before the U.S. Court of Appeals for the D.C. Circuit that disclosing the names of those arrested on immigration charges after Sept. 11, 2001 would help terrorists figure out how the government is conducting its antiterrorist campaign.¹³⁴
137. **November 18, 2002:** The U.S. Court of Appeals for the Ninth Circuit rules that a coalition of clergy and professors has no legal standing to represent the detainees being held at Guantanamo Bay Naval Base in Cuba.¹³⁵
138. **November 21, 2002:** The FBI’s Washington, DC field office begins voluntary interviews of young Arabs, Muslims, and Arab Americans in the Washington, DC metropolitan area.¹³⁶

¹³⁰ *Canada Warns Travelers*, New York Times, Oct. 31, 2002.

¹³¹ 67 Fed. Reg. 67,765 (Nov. 6, 2002). Chris McGann, *U.S. to Expand Fingerprint Program of Mideast Males*, Seattle Post-Intelligencer, Nov. 13, 2002.

¹³² John Ashcroft, *Implementation of NEERS*, Speech presented at Niagara Falls, New York, Nov. 2002 (available at http://www.usdoj.gov/ag/speeches/2002/110702agremarksnseers_niagarafalls.htm). Bill Michelmore, *In Praise of “Vital” Border Shield; Fingerprinting Leads to Arrests, Ashcroft Says*, Buffalo News, Nov. 8, 2002.

¹³³ In re Sealed Case No. 02-001, 2002 Extra Lexis 576 (For. Intell. Surv. Ct. of Review, November 18, 2002). Dan Eggen, *Justice Department Wins Wiretap Ruling*, Washington Post, Nov. 18, 2002.

¹³⁴ Neil A. Lewis, *U.S. Says Revealing Names Would Aid Al-Qaeda*, New York Times, Nov. 19, 2002.

¹³⁵ *Coalition of Clergy, Lawyers, and Professors v. George Walker Bush*, 2002 U.S. App. Lexis 23705 (9th Cir. November 18, 2002). *Court Blocks Guantanamo Prison Suit*, New York Times, Nov. 19, 2002.

139. **November 22, 2002:** Immigration Judge Newberry denies Mr. Haddad asylum. He says Mr. Haddad, his wife and three of his children gave no evidence they would be persecuted if they left the United States and orders them to be deported.¹³⁷
140. **November 24, 2002:** In reaction to FBI requests for information on foreign students, the American Association of Collegiate Registrars and Admissions Officers posts an advisory on its website to its 2,300 member institutions, asserting that under the Family Educational Rights and Privacy Act of 1974, as amended, "a subpoena or court order MUST accompany" a request from the FBI for information involving a student's citizenship or there could be "significant legal consequences."¹³⁸
141. **November 25, 2002:** President Bush signs legislation creating the Department of Homeland Security, setting the stage for the biggest government reorganization in 50 years as a way to prevent and respond to terrorist attacks. The new Cabinet-level department will merge all or parts of 22 federal agencies, including the INS. The new department will have a combined budget of about \$40 billion and employ 170,000 workers.¹³⁹ The new law also includes language explicitly prohibiting the government from implementing Operation TIPS.¹⁴⁰
142. **November 25, 2002:** President Bush names Michael Garcia, an assistant commerce secretary and former federal prosecutor, as INS Acting Commissioner following the departure of INS Commissioner James Ziglar. Mr. Garcia was a federal prosecutor for the Southern District of New York and handled terrorism-related cases such as the 1993 World Trade Center bombing and the prosecution of four defendants charged with conspiring with Osama bin Laden to kill Americans in two U.S. embassy bombings in East Africa.¹⁴¹
143. **December 2, 2002:** The Equal Employment Opportunity Commission issues guidance that explains the prohibition against national origin bias and emphasizes practices aimed at fostering work environments that are free of such discrimination.¹⁴²

¹³⁶ *Guidance on FBI's DC Area Voluntary Interviews*, American-Arab Anti-Discrimination Committee, Nov. 21, 2002, available at <http://www.adc.org/index.php?id=1330>.

¹³⁷ *Asylum Denied to Co-founder of Foundation*, New York Times, Nov. 24, 2002.

¹³⁸ Ann Davis, *Some Colleges Balk at FBI Request for Data on Foreigners*, Wall Street Journal, Nov. 25, 2002.

¹³⁹ Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002). Richard Stevenson, *Signing Homeland Security Bill, Bush Appoints Ridge as Secretary*, New York Times, Nov. 26, 2002.

¹⁴⁰ Dan Eggen, *Proposal to Enlist Citizen Spies Was Doomed From Start*, Washington Post, Nov. 24, 2002. See related entry on July 15, 2002.

¹⁴¹ *President Bush Announced His Intention to Designate Garcia to be Acting Commissioner of Immigration and Naturalization at the Department of Justice*, White House Press Release, November 25, 2002. *President to Designate Michael Garcia as INS Acting Commissioner*, 79 Interpreter Releases 1748 (Nov. 25, 2002)

¹⁴² *EEOC Updates Guidance on National Origin Bias*, Press Release, U.S. Equal Employment Opportunity Commission, Dec. 2, 2002, available at <http://www.eeoc.gov/press/12-2-02.html> (last visited Jan. 18, 2002).

144. **December 4, 2002:** Judge Michael Mukasey of the U.S. District Court for the Southern District of New York rules that a federal court has the authority to decide whether Jose Padilla, a U.S. citizen accused of plotting with terrorists to detonate a radioactive “dirty” bomb, was properly detained as an enemy combatant. Until Judge Mukasey makes that decision, Mr. Padilla may meet with his lawyers. Mr. Padilla has been barred from meeting with attorneys since he was declared an enemy combatant in June 2002.¹⁴³
145. **December 13, 2002:** Abdallah Higazy, an Egyptian exchange student once accused of lying to federal investigators and held as a Sept. 11 detainee, files a civil rights lawsuit seeking \$20 million in damages.¹⁴⁴
146. **December 16, 2002:** The INS adds certain nonimmigrant males 16 years or older from Saudi Arabia and Pakistan to its list of those subject to NSEERS special registration requirements.¹⁴⁵
147. **December 19, 2002:** Thousands of Iranian Americans demonstrate against the arrest of hundreds of Middle Eastern immigrants in the southern California area who voluntarily registered with the federal government under the NSEERS special registration program.¹⁴⁶
148. **December 24, 2002:** The American-Arab Anti-Discrimination Committee, the Alliance of Iranian Americans, the Council on American-Islamic Relations, and the National Council of Pakistani Americans launch a class action lawsuit against Attorney General Ashcroft and federal immigration officials over the detention of hundreds of Muslim men.¹⁴⁷
149. **January 3, 2003:** INS announces a proposal that will require all airline and ship travelers, including U.S. citizens, to provide personal information such as name, date of birth, citizenship, and passport number when arriving in or departing from the United States. The information will be conveyed to the INS before the traveler arrives in the United States or departs from it, to be matched against security databases. The measure is intended to help detect potential terrorists or criminals and to enhance the government’s ability to track whether visitors to the United States leave as planned.¹⁴⁸
150. **January 8, 2003:** In the case of Mr. Hamdi, a three-judge panel of the U.S. Court of Appeals for the Fourth Circuit rules that a wartime president can indefinitely detain a U.S. citizen captured as an enemy combatant on the battlefield and deny that person access to a lawyer.¹⁴⁹

¹⁴³ *Man Accused of Dirty Bomb Plot Wins Right to Court Review*, Associated Press, Dec. 4, 2002.

¹⁴⁴ Phil Hirschcron, *Former 9/11 Detainee Files \$20 Million Civil Rights Suit*, CNN.com, Dec. 13, 2002.

¹⁴⁵ 67 Fed. Reg. 77,135 (Dec. 16, 2002)

¹⁴⁶ *Demonstrators Protest INS Registration*, Associated Press, Dec. 19, 2002.

¹⁴⁷ *Arab, Muslim Groups Sue INS, Ashcroft Over Detentions*, Washington Post, Dec. 25, 2002.

¹⁴⁸ 68 Fed. Reg. 292 (Jan. 3, 2002). Curt Anderson, *U.S. Proposes Visitor Tracking Rules*, Associated Press, Jan. 3, 2003.

¹⁴⁹ *Rumsfeld v. Hamdi*, No. 02-7338, 2003 US App. LEXIS 198 (4th Cir. Jan. 8, 2003). Neil Lewis, *Detention Upheld in Enemy Combatant Case*, New York Times, Jan. 9, 2003.

151. **January 14, 2003:** Appellate Judge Howard H. Kestin of the New Jersey Supreme Court rules that Judge Marilyn Clark of the Passaic County Superior Court “lacked adequate basis” to allow prosecutors to present secret evidence against Mr. Mohamed Atriss who was accused of selling fake identification documents to two of the Sept. 11, 2002 hijackers.¹⁵⁰
152. **January 15, 2003:** The Department of Justice challenges Judge Mukasey’s December 4, 2002 ruling, which granted Mr. Padilla the right to legal counsel. The government argues that the interrogation of Mr. Padilla could be compromised by allowing lawyers to be present.¹⁵¹
153. **January 16, 2003:** U.S. officials announce that they have detained nearly 1,200 men during the NSEERS special registration program for foreign visitors from 20 mostly Middle Eastern nations. The statistics were released as the government added five countries— Bangladesh, Egypt, Indonesia, Jordan and Kuwait— to the list of 20 whose male citizens, 16 and older, must register with the INS and be fingerprinted.¹⁵² INS also states that those who have missed earlier deadlines to register will get another chance to do so without fear of penalty.¹⁵³
154. **January 22, 2003:** The U.S. Court of Appeals for the Sixth Circuit rejects the Department of Justice’s request that the entire court review the court’s August 26, 2002 decision, which allowed the press and the public to attend deportation hearings for jailed Muslim activist Mr. Haddad. The decision contradicts the U.S. Court of Appeals for the Third Circuit’s October 8, 2002 ruling.¹⁵⁴
155. **January 28, 2003:** President Bush announces plans for a new Terrorist Threat Integration Center, which will assess intelligence gathered by the CIA, Department of Justice, Pentagon, and Department of Homeland Security, and provide “seamless” analysis of the information to the President and other senior policymakers.¹⁵⁵
156. **February 8, 2003:** The Center for Public Integrity posts a preliminary draft of a potential successor to the Patriot Act of 2001 on its website. The Department of Justice does not dispute the authenticity of the draft legislation titled the “Domestic Security Enhancement Act of 2003,” which seeks to significantly expand the federal government’s power to investigate, detain and punish suspected terrorists in secret and without court supervision¹⁵⁶

¹⁵⁰ Dale Russakoff, *Use of Secret Evidence Rejected*, The Washington Post, Jan. 16, 2003.

¹⁵¹ Benjamin Weiser, *Judge Is Angered by U.S. Stance in Case of “Dirty Bomb” Suspect*, New York Times, Jan. 16, 2002.

¹⁵² Kris Kobach, National Security Entry-Exit Registration System (NSEERS), Remarks at Foreign Press Center Briefing, (Jan. 18, 2003) (available at <http://fpc.state.gov/16739.htm>). *U.S. Detains Nearly 1,200 During Registry*, Washington Post, Jan. 17, 2003.

¹⁵³ *U.S. Gives Grace Period on Immigration*, New York Times, Jan. 16, 2003.

¹⁵⁴ David Ashenfelter & Niraj Warikoo, *Court Gives Public Access to Deportation Hearing; Haddad Case May Yet Go to Supreme Court*, Detroit Free Press, Jan. 23, 2003. See related entry on Nov. 22, 2002.

¹⁵⁵ Walter Pincus and Mike Allen, *Terrorism Agency Planned*, Washington Post, Jan. 29, 2003.

¹⁵⁶ Statement of Barbara Comstack, Director of Public Affairs, Feb. 7, 2003, available at http://www.usdoj.gov/opa/pr/2003/February/03_opa_082.htm. Charles Lane, *U.S. May Seek Wider Anti-Terror Powers*, Washington Post, Feb. 8, 2003.

157. **February 13, 2003:** The House and Senate approve a \$397.4 billion appropriations bill, restoring \$362 million for the INS' special registration program, NSEERS, on the condition that the INS provide a detailed explanation by March 1, 2003 of the program's origins, its efficacy and the reasons for a large number of resulting detentions.¹⁵⁷ The bill also blocks funding for research on the Pentagon project called Total Information Awareness, citing worries that the project would invade Americans' privacy.¹⁵⁸
158. **February 20, 2003:** Charles Andrews, the outgoing director of the Alabama Department of Public Safety, and U.S. Senator Jeff Sessions announce that Alabama is working on an agreement with the INS and the Department of Justice to provide training for state troopers that will allow them to arrest illegal aliens.¹⁵⁹
159. **March 11, 2003:** The U.S. Court of Appeals for the D.C. Circuit rules that the 650 suspected terrorists and Taliban fighters held at a U.S. naval base in Guantanamo Bay, Cuba, have no legal rights in the United States and may not ask courts to review their detentions.¹⁶⁰
160. **March 17, 2003:** The Bush administration launches Operation Liberty Shield to "increase security and readiness in the United States." As part of this security effort, the Department of Homeland Security implements a temporary policy of detaining asylum seekers from 33 countries where al-Qaeda is known to have operated.¹⁶¹
161. **March 20, 2003:** Attorney General announces publicly an order (issued on December 18, 2002) that allow FBI agents and U.S. marshals to detain foreign nationals for alleged immigration violations in cases where there is not enough evidence to hold them on criminal charges.¹⁶²
162. **March 24, 2003:** FBI officials announce that the FBI has interviewed more than 5,000 Iraqis who live in the United States and has detained around 30 on immigration charges since the war began with Iraq. The interviews are part of a FBI wartime effort to prevent possible reprisal acts of terrorism by Iraqi agents or al-Qaeda operatives. According to the FBI, the interviews are voluntary.¹⁶³

¹⁵⁷ George Lardner, *Congress Funds INS Registration System but Demands Details*, Washington Post, Feb. 15, 2003

¹⁵⁸ Jim VandeHei and Juliet Eilperin, *Record Appropriations Bill Is Approved*, Washington Post, Feb. 14, 2003.

¹⁵⁹ *State Troopers, INS to cooperate*, Associated Press, Feb. 21, 2003.

¹⁶⁰ *Al Odah Khaled A.F. v U.S.A.*, No. 02-5251, (D.C. Cir. Mar.11, 2003), available at <http://laws.lp.findlaw.com/dc/025251a.html>. See also Neely Tucker, *Detainees Are Denied Access to U.S. Courts*, Washington Post, Mar. 12, 2003.

¹⁶¹ *National Threat Level Raised*, White House Press Release, Mar. 17, 2003, available at <http://www.whitehouse.gov/news/releases/2003/03/20030317-8.html>; Tom Ridge, Operation Liberty Shield, Remarks at Press Briefing (Mar. 18, 2003) (available at <http://www.dhs.gov/dhspublic/display?theme=44&content=525>).

¹⁶² Dan Eggen, *Rules on Detention Widened*, Washington Post, Mar. 20, 2003.

¹⁶³ *FBI: 5,000 Iraqis in U.S. Interviewed*, New York Times, Mar. 24, 2003.

163. **March 24, 2003:** The Supreme Court refuses to permit a coalition of civil liberties groups to file an appeal which would challenge the Foreign Intelligence Surveillance Court of Review's November 18, 2002 ruling.¹⁶⁴
164. **March 25, 2003:** In a letter to Judge Mukasey, U.S. Attorney James Comey writes that the government will not allow Mr. Padilla access to counsel and views the issue significant enough to seek the immediate appeal of the court's December 4, 2002 order.¹⁶⁵
165. **March 25, 2003:** Judge James Moran for the U.S. District Court of the Northern District of Illinois rules that the government could not revoke the advance parole of Sabri Samirah, a Jordanian who has lived in the United States for 15 years and whose application for permanent residency is pending. In January 2002, the INS blocked Mr. Samirah's return to the United States after he visited his ailing mother in Jordan. The decision allows Mr. Samirah to immediately return to the United States.¹⁶⁶
166. **April 9, 2003:** Senator Orin Hatch introduces an amendment that would repeal the sunset provisions of the USA Patriot Act. The proposed amendment modifies a bill that would further expand government authority under the Foreign Intelligence Act.¹⁶⁷
167. **April 9, 2003:** Judge Mukasey rules that the legality of President Bush's designation of Mr. Padilla as an enemy combatant may be appealed immediately to a higher court, even before he has ruled on the merits of a challenge to Mr. Padilla's detention.¹⁶⁸

¹⁶⁴ Linda Greenhouse, *Groups Lose Challenge to Government's Broader Use of Wiretaps*, New York Times, Mar. 25, 2003.

¹⁶⁵ Benjamin Weiser, *U.S. to Appeal Order Giving Lawyers Access to Detainee*, New York Times, Mar. 26, 2003. See related entry on Dec. 4, 2002.

¹⁶⁶ Matt O'Connor, *Muslim Leader Wins in Court*, Chicago Tribune, Mar. 26, 2003.

¹⁶⁷ Eric Lichtblau, *Republicans Want Terrorism Law Made Permanent*, New York Times, Apr. 9, 2003.

¹⁶⁸ Benjamin Weiser, *New Turn in "Dirty Bomb" Case*, New York Times, Apr. 10, 2003.