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# Held in 9/11 Net, Muslims Return to Accuse U.S.

By **NINA BERNSTEIN**

Hundreds of noncitizens were swept up on visa violations in the weeks after 9/11, held for months in a much-criticized federal detention center in Brooklyn as "persons of interest" to terror investigators, and then deported. This week, one of them is back in New York and another is due today - the first to return to the United States.

They are no longer the accused but the accusers, among six former detainees who are coming back to give depositions in their federal lawsuits against top government officials and detention guards, at a time when the constitutionality of part of the government's counterterrorism offensive is under new scrutiny.

As in the cases of all the Muslim immigrants rounded up in the New York area after the terror attacks, the six were never accused of a crime related to 9/11; officials eventually cleared all of them of links to terrorism. A report by the inspector general of the Justice Department found systemic problems with immigrant detentions and widespread abuse at the federal detention center where the six had been held; several guards have since been disciplined.

But as the six return to the city - four of them from Egypt, one from Pakistan, one from London - the conditions imposed by the United States government include the requirement that they be in the constant custody of federal marshals.

They are barred from calling anyone during their weeklong stays at an undisclosed New York hotel, where 12 days of closed depositions are to begin today. They can expect hours of questioning by lawyers representing at least 31 defendants in the lawsuits, including **John Ashcroft**, the former attorney general, and **Robert S. Mueller III**, the director of the F.B.I.

The first returning detainees, Yasser and Hany Ibrahim, who are brothers, say that putting themselves back in the hands of the government they are suing is an act of faith in America. In recent telephone interviews from Alexandria, Egypt, the two described themselves as frightened but resolute in pressing a 2002 class-action lawsuit charging that they were abused and deprived of due process because of their religion or national origin.

"I'm seeking justice," said Yasser, 33, who had a Web site design business in Brooklyn before he and Hany, 29, a deli worker, were delivered in shackles to the Metropolitan Detention Center in Brooklyn 19 days after 9/11. "It's from the same system that did us injustice before. But I have faith in this system. I know what happened before was a mistake."

Charles S. Miller, a spokesman for the Justice Department, said officials would not comment on any aspect of the case, including the conditions of the men's return to the city and their allegations. But in court papers, the defendants deny wrongdoing, and department lawyers argue in part that the Sept. 11 attacks created "special factors" - including the need to detect and deter future terrorist attacks - that outweigh the plaintiffs' right to sue for damages for any constitutional violations.

The detainees' lawyers say that what happened at the Brooklyn detention center can be recognized four years later as the template for many of the counterterrorism measures now being fiercely challenged.

"The post-9/11 domestic immigration sweeps were the first example of the Bush administration's willingness to ignore the law and hold people outside the judicial system," said Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the Ibrahim brothers. "The kind of torture, interrogation and arbitrary detention that we now associate with Guantánamo and secret C.I.A. facilities really started right here, in Brooklyn."

Richard Peter Caro, a lawyer for Stuart Pray, the lieutenant who oversaw the detainees' arrival at the detention center, said yesterday: "We're glad that they're coming in to be deposed so we can really get at the facts and finally see what the evidence shows. I'm confident that my client will be found to have committed no wrongdoing at all."

Last week, the center filed a class-action suit against President Bush and other administration officials over the National Security Agency's domestic eavesdropping without warrants. Ms. Meeropol is one of the plaintiffs, contending that her communications with clients like the Ibrahims may have been monitored illegally. The government says the surveillance program is a legal and valuable tool in the war on terror.

Illegal recording of lawyer-client conversations was one of the abuses documented at the Brooklyn detention center in a scathing 2003 report by the Justice Department's inspector general. The report also found a pattern of physical abuse, some of it caught on prison videotape, including beatings and sexual humiliations like those described by the Ibrahim brothers or other former detainees. The report said it was Mr. Ashcroft's policy to hold detainees on any legal pretext until the F.B.I. cleared them, even though such clearances took months and many detainees were immigrants picked up by chance.

At the time, Mr. Ashcroft said he made "no apologies" for finding every legal way possible to protect the American public. Nonetheless, officials pledged to work on getting kinks out of the system, and said abuses would be punished.

Critics charge that the authority that Mr. Ashcroft asserted after 9/11 - to detain any noncitizen considered a "person of interest" secretly and indefinitely - is unconstitutional. Government officials argue that secrecy is needed to keep terrorists in the dark.

Mr. Ashcroft has sought to have the two lawsuits brought by the detainees dismissed. But in a decision appealed by the government, a federal judge in Brooklyn ruled in September that he and other defendants would have to answer questions, at a later deposition, in one of the suits: a 2004 complaint by another two of the six returning detainees.

Those two men, in their late 30's, are Ehab Elmaghraby, an Egyptian immigrant who ran a restaurant near Times Square, and Javid Iqbal, a Pakistani immigrant whose Long Island customers knew him as "the cable guy."

"I am not afraid," Mr. Iqbal wrote last week in an e-mail message about his return. "I am also sure that justice will be served because peoples of U.S.A. are justice-loving people regardless of race and religion."

The Ibrahim brothers are more fearful. They say that their parents begged them not to return to the country where they were held in maximum security without charges for eight months and, the brothers charge, beaten and tormented by guards. "Part of my motivation is to make sure that what happened to us doesn't happen to more people in the future," said Yasser, who was due to arrive in New York today, joining his brother, who came on Friday.

Both spoke with nostalgia of the three or four years they lived in New York, on and off, before 9/11. When they were not working, they said, they hung out together in Greenwich Village, browsed electronics stores near Times Square and took friends on the rides at Coney Island. Hany proudly recalled how he worked his way up from stock boy to grill man and then manager of a deli in Ocean Parkway, Brooklyn. "The best I lived in my life was in New York," he said.

Right after the World Trade Center attack, they said, their parents urged them to come home. "We assured them," Yasser recalled: " 'This is the United States. They don't arrest people for no charges. We didn't do anything, so nothing's going to happen to us.' "

But at 2 p.m. on Sept. 30, 2001, the lawsuit says, a dozen terrorism investigators from the F.B.I., the police and immigration services knocked at the door of the Ocean Parkway apartment that the brothers shared with several Egyptian and Moroccan friends. After questioning, the investigators took away Yasser, Hany and another man, all of whose tourist visas had expired.

Why investigators showed up is unclear, said their lawyer, Ms. Meeropol. But she noted that some interrogations were prompted by anonymous tips about "suspicious-looking" foreign men. Federal officials have contended that at a time when a second terror attack seemed imminent, all tips had to be checked. As a practical matter, once the brothers were labeled "of interest" to investigators, they were destined for the maximum-security unit of the

Metropolitan Detention Center.

Physical abuse, the lawsuit says, began the moment they arrived, chained and shackled. As Yasser described it, guards supervised by Lieutenant Pray slammed his brother face-first into a wall where an American flag T-shirt had been taped, then did the same to him.

Pain became part of the brothers' daily routine, the lawsuit charges. Escort teams cursing them as Muslims and terrorists slammed them into every available wall when they were taken from their cells, twisted their wrists and fingers, and stepped on their leg chains so that they fell, their ankles bruised and bloody, according to the suit.

But worse than physical or verbal abuse, Yasser said, was "the feeling that we are being hidden from the outside world, and nobody knows in the outside world that we are arrested and in this place." Hany, who says he had a nervous breakdown when he returned to Egypt, recalled that guards and lieutenants terrified him by saying, "You're going to stay here the rest of your life."

At a closed immigration hearing on Nov. 20, three weeks after their arrest, the brothers agreed to immediate deportation. By Dec. 7, the lawsuit says, F.B.I. memos stated that clearance checks on the Ibrahims had shown no links to terrorism. But they were held six more months - Hany until May 29, 2002, and Yasser until June 6.

The suit asks the court to declare that all the detentions were unjustified and illegal, to award compensatory and punitive damages, and to order the government to return personal property it confiscated.

To prevent unnecessary detentions and abuses of noncitizens in the event of a new national emergency, the Justice Department's inspector general, Glenn A. Fine, in 2003 recommended changes in counterterrorism policy as well as disciplinary action against at least 10 guards and supervisors. In his last report to Congress, in August 2005, Mr. Fine said that many of his recommendations had been acted upon but that formal policy changes were still being negotiated.

The Federal Bureau of Prisons has fired two detention officers, suspended two for 30 days and demoted one in connection with the Brooklyn inquiry, said Traci Billingsley, a bureau spokeswoman.

The Ibrahim brothers say that when they finally reached home, they found that the presumption of guilt had followed them into an Egyptian secret service dossier that made them unemployable. Yasser, now married with a 2-year-old son, said he and Hany were eking out a living in a small jewelry business.

"It's going to be very difficult for me to go back for just a week and not to be able to see the places that I loved before," he said of his return. "America's the land of the free."