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ABA Votes to Oppose Detention of Non-Citizens

8/15/02--BC Law Professor Daniel Kanstroom, director of the Boston College Immigration and Asylum Project and chair of the national Immigration Law Task Force of the Individual Rights and Responsibilities Section of the ABA, reports that the full ABA has voted to oppose the Bush administration's post-Sept. 11 secret, incommunicado detention of hundreds of noncitizens, and has strongly recommended that their names be disclosed and that they be given immediate access to lawyers and to their families. The resolution urges the government to protect the constitutional and statutory rights of immigration detainees by:

- Disclosing the names, detention facilities and charges against detainees and ensuring their immediate access to attorneys and family members;
- Promptly charging detainees and releasing detainees when charges are not brought or removal orders are not effectuated within a constitutionally permissible time period;
- Providing prompt custody hearings before immigration judges with meaningful administrative review and judicial oversight;
- Holding public removal hearings except when required to protect the individual's safety or welfare or when a judge finds that a portion of any such hearing must be closed because (a) information that would pose an imminent threat to national security is likely to be disclosed in that portion of the hearing and (b) there is no other reasonably available alternative to closure that would adequately protect the government's national security interest; an
- Promulgating into regulation the four INS detention standards relating to access to counsel and legal information, and permitting independent organizations to visit the detention facilities and meet privately with detainees to monitor compliance.

The ABA also endorsed a second resolution urging that noncitizens who reside in the United States and demonstrate significant ties to the U.S. should have an opportunity to acquire lawful permanent residence; that legally resident noncitizens should be able to obtain permanent residence in the United States rather than travelling abroad; and that any temporary worker or legalization program guarantees basic labor rights with the ability to change employers and provide a realistic opportunity to obtain permanent resident status.

"I am very pleased to have been involved in the development of these resolutions," said Kanstroom, "as they demonstrate a major commitment by the 408,000 members of the ABA to principles of justice, proportionality, and due process of law, while providing a framework for the delicate balance that our government must undertake between legitimate security concerns and individual rights for all people."

[Professor Kanstroom's Website](#)