

San Antonio's leading spokesmen for the Bill of Rights says America lost more than lives at the Twin Towers; we may be losing the liberties that make the nation worth fighting for.

# Keeper of the flame

BY TUCKER TEUTSCH III

**O**n December 4, 2001, during testimony before the Senate Judiciary Committee, Assistant U.S. Attorney General Viet Dinh made the mistake of quoting from the inscription at the feet of Lady Liberty. Strangely, he was using those words — known throughout the world as words of welcome for countless immigrants — as justification for the Department of Justice's heavy-handed tactics after September 11. Shortly after Dinh's testimony, San Antonio lawyer Gerry Goldstein took the stand.

"Let me begin by responding briefly to the able and eloquent colleague who spoke on the previous panel and described the inscription at the base of the Statue of Liberty," Goldstein said. "Perhaps in retrospect we should amend that inscription to 'Bring me your poor, your huddled masses, and we will jail them as illegal aliens, subject them to secret proceedings, and eavesdrop on their conversations with their lawyers ...'"

This is typical Goldstein. It is also the kind of behavior that identifies him as more than a defense attorney — as a man on a mission. Three years ago, the American Civil Liberties Union named him Civil Libertarian of the Year — an honor earned, in part, by his penchant for taking on clients

and issues that often have a real bearing on how our freedoms are preserved. He has chaired the National Organization for the Reform of Marijuana Law (NORML) Legal Committee since 1979. His client list includes such names as Manuel Noriega, 2 Live Crew, CIA-kidnapped Mexican drug kingpin Juan Garcia Abrego, infamous gonzo journalist Hunter S. Thompson, and *Deep Throat*.

Goldstein had been called before the Senate Judiciary Committee to testify as legal representative of Dr. Al-Badr Al-Hazmi, a San Antonio radiologist from Saudi Arabia who was detained by the FBI in the wake of 9/11. After raiding his home and taking him into custody, the FBI kept Al-Hazmi incommunicado for weeks while they dug into his past with the full force of the Justice Department.

Dr. Al-Hazmi's is a cautionary tale, but it foreshadowed the government's secrecy — invoked in the name of national security. Since last September, the Bush Administration has limited access to information and reversed decades of openness in federal government. Civil liberties have taken a huge blow under the current war mentality. One year after the September attacks, no one may be better able to comment on this state of affairs than Gerry Goldstein.

**Tucker Teutsch:** Shortly before your Senate Judiciary Committee testimony, you took on the Al-Hazmi case. In that national climate of wanting to react immediately with legislation that curtailed our civil liberties, how did you go about defending him? He was, after all, one of the few detainees who was eventually released.

**Gerry Goldstein:** Well, he was easy to represent. If you remember, he's a gentle, slight little guy who got the hockey beat out of him. While they were holding him incommunicado they just didn't hide him away here, they took him to Ground Zero and placed him at a detention facility right in lower Manhattan with a sheet of paper that said something like "suspected terrorist." While I don't think the Feds themselves did anything wrong to him, just putting him in that kind of environment invited the treatment he got. Yet he came back home and he was a gentle person to the core and he almost apologized and said he understood why people would feel that way. But not everyone is going to be that forgiving, and at some point here we've got to be careful that we don't set a standard that places ourselves in the same league as our enemies. You know, the Taliban was merciless in their



MARK GREENBERG

"I think you have to have a little twinkle of anarchism in your eyes to want to practice criminal defense work," Goldstein says. "You're flailing at windmills, you're fighting the establishment."

attack on civil liberties. Some kid's going to have a King James version of the Bible and will be picked up abroad because that's their version of danger.

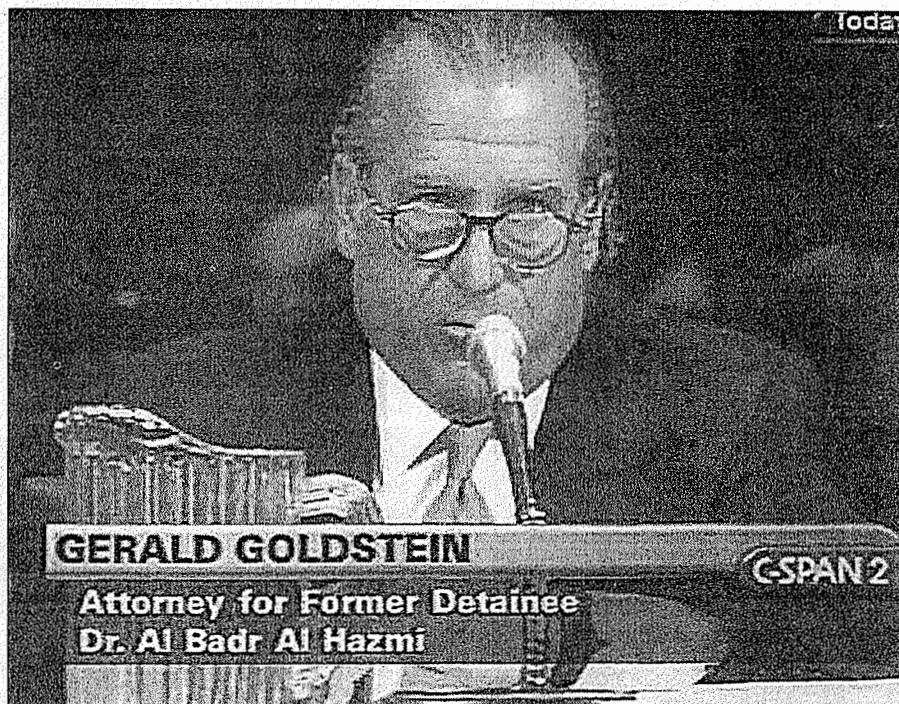
**T:** The Bush administration, and especially John Ashcroft's Justice Department, has come down pretty hard on civil liberties. How do you think the administration has handled the past two years, and how are they handling the war?

**G:** I'm concerned. I mean, the first tip-off should have been that the child of a former president, who ran the CIA and had been our ambassador to the United Nations, had never been to Europe until he became the President of the United States. It's like the William Morris Agency had picked a Texan to run the federal government — somebody who's almost naively inexperienced when it comes to understanding and dealing with foreign relations.

It's one thing to go and gather up all these "allies" around the world to fight terrorism, but what's the definition of "terrorism"? Is it what we fear? Were the Chinese students at Tiananmen Square terrorists? Are we willing to go to war against their perceptions? The Jews and Israelis count the Palestinians as terrorists, and vice versa. The British, I think, have every right to consider the IRA their form of terrorism, and I don't doubt and wouldn't quarrel with the IRA's vision of the British mentality. Where does it end, and who are we going to fight with, and how long is this alliance going to stay together when it comes down to definitions? It was easy to get up and beat our chest in the aftermath of September 11, but I think the ease of it comes from the fact that anybody who watched those buildings collapse and didn't want to go out and take some numbers and kick some butt probably doesn't deserve freedom. On the other hand, anybody who thinks that throwing away our freedoms is in any measure a way to protect and preserve those freedoms is equally foolish.

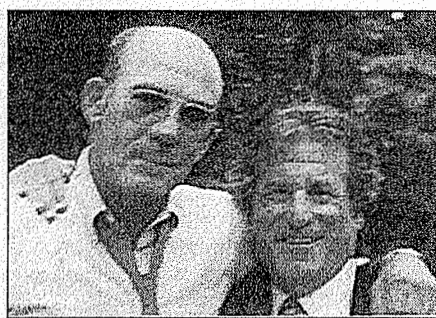
I think John Ashcroft doesn't represent the best and the brightest in the tradition of our Justice Department. And we've had a good tradition; it's been the one refuge which people of color, minorities, have been able to look to for protection. At this point in our history, rather than providing that kind of protection, they seem to be spearheading an onslaught on the very rights that I thought they intended to protect.

**T:** One of the first things we did [in the aftermath of 9/11] was pass the Patriot Act, and you mentioned that Wisconsin Senator Russ Feingold had wanted to read it before he passed it...



Dec 4, 2001 - Goldstein testifies before the Senate Judiciary Committee in defense of civil liberties.

Left, Goldstein with Hunter S. Thompson



**G:** Well, think about this: Not only did they not have copies for the members of Congress to read, but if you remember from the 99-1 vote in the Senate, the Senate chamber was off-limits. The Anthrax scare had removed them from the building, and I've never read an account of how they voted. They weren't even in their seats in Congress. So it was an unusual time, and it was sort of like a federal grand jury willing to indict a ham sandwich; it wouldn't have mattered what it said — it was the idea.

Who's not a patriot? What was it Bob Dylan said? "Patriotism is the last refuge to which the scoundrel clings/ Steal a little and they'll throw you in jail/ Steal a lot and they may make you king."

This is a time when we should be careful. I mean, the idea that we sort of almost mimic these ideologues and third-rate dicta-

tors in Central and South America, and we have these nameless people held without charges. What's going to happen when *our* kids are abroad or when we're abroad and some country decides to treat us the same way? We wouldn't put up with that, and the world's only going to put up with that for so long. How we treat the lesser of us is how we can expect to be treated ourselves, but also: How we treat foreigners on our soil sets the water mark for how we can expect to be treated in foreign countries.

Fear is a dangerous thing. The Third Reich didn't impose its will on an unwitting people, it rose to power on a groundswell of popularity, fanning the fears of the same kind of fear-ridden terrorism crime wave mentality that you see running amok now. We need to be careful. I'm not comparing the Bush Administration to the Third Reich, but I am saying that we need to be careful.

**T:** I'm sure civil liberties were not at the top of people's lists when they turned on the TV on September 11.

**G:** I have to admit, when I watched those buildings come down and they all of a sudden had it on the air that somewhere in Afghanistan was being bombed, I hoped it

was us. I mean, there is a knee-jerk reaction and we all have it. But in the cold calm of reflection, I have to say that while we go after those people — reprehensible as they are — and bring them to justice, we need to protect justice here, we need to shore it up. These are times when it requires a steady hand and a capable leader who doesn't lose sight of the forest for the trees.

Because ultimately, we're probably going to be relegated to living our lives as much of the rest of the world has been living for the past 15 or 20 years. England has been beset by bombings; most of Europe has, as well; Japan has suffered. We've been isolated for a lot of reasons, but probably a lot of it is simply because we *are* isolated, and we're big, and we're menacing. But what [the terrorists] demonstrated is that it doesn't take an atom bomb to create havoc. They can take ordinary, innocuous-seeming vehicles, vessels, items, and create havoc with them. Like the Oklahoma City bombers — that was horse manure, bags of fertilizer, that blew up that building. What we're learning is that these are not rocket scientists. These are very simple tools, and they're tools of destruction, and what it tells us is that maybe while we're going out and pummeling on other people, maybe we ought to figure out what is the root cause of some of this. Why is the Muslim world so angry at the United States? Are there things we could do to correct that? Because quite frankly, living amongst the rest of the world in a peaceful way requires more than just being the biggest bully on the block. As long as they're willing to use imaginative ways, as long as they're willing to sacrifice their own lives in the process — almost *dying* to be killed — we don't have any protection. Our protections is going to have to come in the long run from making peace with folks and finding out what their problems are and trying to find a solution.

**T:** Unilateralism seems to be one of the current themes of the last couple years. Not only foreign policy, but domestic policy as well. The administration has *unilaterally* curtailed our rights in a number of legislative acts. Have you noticed a difference in the climate, serving as a legal representative for alleged criminals?

**G:** Sure, it's changed. It's changed for the worse. It's changed in the way that people look at these things. But any catastrophic event that involves this level of scrutiny is going to change the landscape in which we have to practice law, obviously. If we're going to hold people — so called "military combatants" — and ignore both civilian law, which

**GOLDSTEIN**, continued on next page



## Temptations Boutique

Lingerie, Dancewear,  
5" heels, Novelties, etc.  
Thongs 3 for \$12.  
Bras \$5 to \$8. Plus sizes available.  
We keep the prices low  
and the look is sexy!

Frederick's  
OF HOLLYWOOD  
line available.



Videos  
\$19.99

Mon-Sat 11am-6:30pm  
5124 Fredericksburg • 507-9071

what are  
you doing  
tonight?

www.sacurrent.com

# SideEffects

(210) 599-6494

vehicle & storefront lettering  
graphics • magnetics  
signs • decals

2003 SHOWCASE APPLICATION  
EARLY DEADLINE: OCTOBER 7, 2002  
LATE DEADLINE: NOVEMBER 8, 2002  
SAVE \$5 - APPLY ONLINE AT SXSW.COM

## SOUTH BY SOUTHWEST. MUSIC + MEDIA CONFERENCE

MARCH 13-17, 2003  
AUSTIN TEXAS

"The music business may be reeling,  
but the musicians are still rocking...  
South by Southwest...has become the  
standard by which popular music  
conventions are judged."  
—United Press International

SXSW Music celebrates its 17th  
edition, with hundreds of musical  
acts from around the globe for five  
nights on forty stages in downtown  
Austin. By day, registrants will visit  
the Trade Show and hear hundreds  
of speakers present timely and  
provocative topics.

SXSW HEADQUARTERS  
PO BOX 4999 • AUSTIN TX 78765  
512/467-7979 • FAX: 512/451-0754  
E-MAIL: SXSW@SXSW.COM

CHRONICLE



EARLY REGISTRATION DEADLINE: SEPTEMBER 20, 2002 - ONLY \$325  
NOVEMBER 15 - \$375 RATE • JANUARY 10 - \$425 RATE  
FEBRUARY 7 - \$475 RATE • WALKUP RATE - \$525 RATE  
REGISTER ONLINE AT SXSW.COM

## feature

### GOLDSTEIN

continued from previous page

would require us to charge them and to get them counsel, while at the same time claiming that they are not subject to the Geneva Conventions, where are they? What no man's land are these people in? We ought to have one or the other. And by the way, it's not just because it's the right thing to do and it's not just because they are *our* rights and if we deprive them of it, the next people may be us. Reverend Niemöller [a Nazi resister during WWII] said, "First they came for the unionists, and I wasn't a unionist so I didn't stand up. Then they came for the Jews and the Catholics, and I wasn't a Jew or a Catholic so I never stood up. Then they came for me, and there was nobody left to stand up." We better understand that you can't simply carve out these folks and expect to be immune from that kind of treatment. We have an obligation to protect those folks, to speak out, to stand up in bar-rooms and classrooms and courtrooms and insist on those rights. There but for the grace of God go all of us.

If they had allowed Dr. Al-Hazmi the telephone call to his lawyer that he was begging for, that I was filing papers, making demands for — all the way up to the Justice Department in Washington, down to good friends here in San Antonio — if they had allowed that telephone call, they could have found out things. I was able to communicate both with his employer, Aramco, a Saudi oil company, and with the University of Texas Health Sciences Center [where he was conducting research]. They gave me records, and we could have showed them that, "Hey look! He was in Washington when they saw a receipt on his credit card from the White House, and there was a reason for that. He was there on a sabbatical, he was at Georgetown Medical Center, and *it was a food item at a place called the White House!*" They could have seen the receipt. We were ready to show them that kind of stuff if they had just called us and allowed us input or access to him. They would have known that the four or five Saudi-named individuals with whom he was trying to travel to San Diego the next day were his *family*, on a pre-arranged trip that was another medical-related excursion.

Those were the things that were troubling them, and they would have been able to put those resources to much better use to try and get to the real bad guys, instead of spending it on someone who was useless. They not only violated his rights and deprived him of taking his medical boards — that was why he was up at 5 o'clock in the morning when they raided his house — but they could have applied those resources to a much better purpose than depriving yet another individual of his rights. And just because he doesn't have U.S. citizenship is no reason to find justification. This is a world we all visit, and most of us, regardless of our station in life, travel outside this country often during our lives, and we can't expect any more security than we're willing to provide to decent people from foreign countries who come to visit us.

T: Meanwhile, while they were scram-

bling to indict him, they were allowing the bin Laden family to leave the country.

G: Apparently so, that's what I read.

T: This War on Terror seems to be dragging on, and by all accounts it will get worse before it gets better. So what do you think the long and short term repercussions of the War on Terror — and by extension, the current administration — will have on civil liberties?

G: It will get worse before it gets better.

Yet sooner or later, people come to their senses. Normalcy survives, resurfacing from its underground abode. People are already impatient, waiting in long lines at the airport. You can't simply immobilize a country like the United States. We're too big and too diverse, and we're not going to stand for it.



British illustrator Ralph Steadman's 1996 sketch of Goldstein (above) conducting the defense of Hunter S. Thompson after a routine run-in with an Aspen police officer (opposite)

But, it's very easy for the people in comfort to look the other way from the people who are in discomfort. As long as it's not your ox getting gored, it's not your problem. Yet it's all our problem, because it affects the fiber of the constitutional basis by which we separate the individual from his or her government. When the founding fathers first developed the Constitution, the states refused to ratify it. They wanted a barrier, a constitutional impediment, on what the government could do to its citizenry, to what government could do to the governed. The states insisted upon the first 10 amendments because they wanted a Bill of Rights not just to tell the beautiful story of this emerging, free country, but to tell the government what the rules were, and to give them sort of a parameter within which they had to operate.

T: "Back off," in other words.

G: "Back off" it is, and that mentality is as important today as it was then, if not more so. Because now it's not just a fear of King George's redcoats breaking down our door and rummaging through our underwear drawer: Now we've got a more sinister problem. Those were tactile, easy-to-see, smell, you could feel it. The invasions into our privacy today are more subtle; they're not seen. They have machines and technology that can look through walls and listen to our conversations in the privacy of our own homes. That affects not just our privacy, but



## feature

a confluence of our First Amendment rights to free speech, to freedom of association, to petition our government, to bitch about our government, to sit in backyards and complain about the situation that we find ourselves in.

If you know that Big Brother in some Orwellian nightmare is going to be listening — or has the authority like King George's redcoats with their Writs of Assistance to simply do it at whim — then it stifles free thinking and diversity. The idea, the gall that the administration would self-impose, through regulatory fiat, a bureau of prisons standard that permits upon the determination of the prosecutor himself alone: The attorney general alone can decide to listen in on conversations between a citizen and

to become this kind of lawyer — to pursue the space between individual and constitutional interests?

**G:** To be honest with you, I had no intention of being a lawyer. I was in college, trying to figure out how to avoid going out and killing or being killed in Vietnam. It was an easy deferment. So I went to law school for all the wrong reasons: not to serve my conscience but to hide from it. The draft brought a crisp reality to a whole lot of kids who matured during the '60s. Those were wonderful times, when ideas and civil liberties and civil rights sprang flowerlike from their underground abode. It was a very rejuvenating time, and those were wonderful salad days. By the time I got through law school, JFK had been killed, then Robert Kennedy, Martin Luther King ... The Civil Rights era was in full flourish. We found our consciences, and we had been sitting on them.

When I got out of law school, a wonderful lawyer here in town, a lawyer-cum-journalist named Maury Maverick Jr., took me under his wing and he took me into courtrooms and we tried draft resister cases. Maury always told me, "It's wonderful to represent people whose crimes you can agree with." And from that I was a hippie. I was a kid with long hair who drove a Volkswagen bus with a Persian carpet in the back and a "Ramsey Clark for President" sticker on the bumper. With my bride (now of 33 years), I would drive around to these little outlying counties and try cases. And it wasn't easy, it was un-fun, it was threatening. You had to be squeaky-clean yourself while identifying with people who weren't.

Someone once asked me, "Why did you become a criminal lawyer?" And I said, "At least I don't have to have lunch with the [criminal] sons-of-bitches."

I think you have to have a little twinkle of anarchism in your eyes to really want to practice criminal defense work, because you're flailing at windmills, you're fighting the establishment. And part of it has to be the joy of fighting with the government, of really understanding and believing in the fact that every time you put them to the test, you're actually supporting that constitutional guarantee.

People ask, "Well, how can you represent those people?" I understand that if I opt out of that [justice] process, then I allow the process to short circuit itself. If I deprive the jury of making that decision, I make it myself, and that's not for me to decide.

The *process* needs to be preserved, the *process* needs to be fair. The *justice* has to be served, and unless you're willing to go out and fight for justice, it ain't gonna be there. The system is too top-heavy. The established body politic is going to smother any dissent, because it's too difficult to deal with, it's time-consuming, it wastes resources. And whether it's *Deep Throat* or any other ridiculous form of entertainment or dialogue or political baloney, or even some threatening things; unless we're going to put the First Amendment and the Constitution to the test every time, it doesn't mean very much. They don't call them police states by accident. ●



his or her lawyer while confined.

And what does that do? Obviously, they're not going to listen to everybody's conversation, they don't have the resources to do that. But imagine what that does in terms of having a chilling effect, of stifling free communication between lawyer and client, if the prospect is that the other side is going to know about it.

In federal court there is no longer any parole and there's no longer much bail. Most people who get charged with federal crimes start serving their sentence at the time of arrest, not after conviction. And in much worse conditions.

**T:** The other day National Public Radio aired a story on the Foreign Intelligence Surveillance Court, a secret tribunal whose job is to authorize wiretaps for the Justice Department. Their only responsibility to the public is to release an annual report which contains the number of wiretaps granted; not the names or the dates or the reason — just the number.


**G:** By the way, [the tribunal] just issued a report complaining of 75 instances where the FBI has lied to them in the past two years. And you probably didn't know they existed.

**T:** Not until yesterday.

**G:** Well, that's what happens when you have secret tribunals: Nobody knows what's going on. And if they hadn't issued a public report, we would never know about it. The Justice Department is refusing to give any information to the Senate Judiciary Committee, saying that they don't trust the senators to maintain their cloak of secrecy.

**T:** When and how did it come upon you

**Dare To Dazzle!**  
Dazzles  
Sexy  
Fashions




Lowest prices in San Antonio!  
Huge selection of sexy clothes, shoes and accessories!  
Now Offering  
Home Lingerie Parties!  
Dazzles  
4052 Naco Perrin • 655-7698  
Mon-Sat 10:00-7:30

**THE MOTORCYCLE SHOP**  
www.themotorcycleshopsa.com  
Back to school special!  
\$100 Off any new scooter w/this ad.  
50cc, 150cc, and 250cc now in stock!  
KYMCO Starting at \$1750.00



2423 Austin Hwy. • 654-0211

*House of Goddesses*  
Introduces



Do you want a more youthful look without the abrasion of microdermabrasion or the pulling of a new face lift? Now, you can get a more youthful look the natural way with Cosmécanique Lift 6.

Cosmécanique will help stimulate your facial skin and the underlying structure to give your skin and connective tissue a natural workout.  
You won't believe what you'll see!

For a Free treatment  
call (210) 508-8300

**IF YOU USE ENERGY  
YOU SHOULD BE HERE:**

The Texas Renewable Energy Roundup, the Southwest's largest sustainability fair in downtown Fredericksburg, Texas.  
Speakers, Exhibits, Demonstrations, Food, Workshops, Tours, Kid's Activities, Music

**SEPTEMBER 20-22, 2002**

- SOLAR • WATER USE • REUSE
- GREEN • SUSTAINABLE BUILDING
- STRAWBAT • CONSTRUCTION
- ALTERNATIVE TRANSPORTATION
- WIND • ORGANIC GROWING
- ENERGY CONSERVATION
- RAINWATER HARVESTING

Organized by: TXSES and TREBA  
Contact: Kathryn Houser  
Roundup@txses.org  
P.O. Box 9507  
Austin, TX 78766-9507

Sunday is Family Day! \$2 off an adult admission when accompanied by a child under 12. Kid's music, activities and a free coloring book to the first 500 kids! Gates open at 9 a.m. so come early!

**WWW.RenewableEnergyRoundup.com 866-SUN-FAIR**

photo by Steve Williams/AEP