

# Center for National Security Studies

Protecting civil liberties and human rights

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## PRESS RELEASE

**EMBARGO UNTIL 12 NOON, MONDAY, OCTOBER 29, 2001**

### **Civil Liberties, Public Access, and Other Groups Condemn Secret Arrests, Demand INS Release Identities of Jailed Individuals**

Washington D.C. — On October 29, a group of civil liberties, human rights, Arab-American, public access and legal groups demanded the release of information on the hundreds of individuals who have been jailed since the September 11<sup>th</sup> terrorist attacks.

The groups objected to the curtain of official silence over the unprecedented detention of several hundred individuals for more than six weeks. They cited the growing number of reports that raise serious questions about deprivations of fundamental due process, including imprisonment without probable cause, interference with the right to counsel, and threats of serious bodily injury. And they pointed out that democratic accountability requires the public be informed about the FBI's response to the attacks.

Kate Martin, Director of the Center for National Security Studies, stated: "While certain aspects of the FBI investigation into the terrorist attacks need to be secret, we do not live in a country where the government can keep secret who they arrest, where they are being held, or the charges against them. The secret detention of more than 800 people over the past few weeks is frighteningly close to the practice of 'disappearing' people in Latin America."

The groups demanded information from the FBI, the Justice Department and the INS under the Freedom of Information Act, and the constitutional and common law right of access to public records. They demanded release of the names and citizenship of the hundreds arrested since September 11<sup>th</sup>, the charges on which they've been detained, the names of their lawyers, and where they are being held. They also asked for the list of courts that have entered any gag orders.

The groups included: the ACLU, American Friends Service Committee, American Immigration Law Foundation, American Immigration Lawyers Association, American Muslim Council, Amnesty International USA, Arab American Institute, Arab-American Anti-Discrimination Committee, Center for Constitutional Rights, Center for Democracy and Technology, Center for National Security Studies, Council on American Islamic Relations, Electronic Privacy Information Center, Federation of American Scientists, First Amendment Foundation, Human Rights Watch, Lawyers Committee on Human Rights, National Immigration Project of the National Lawyers Guild, OMB Watch, and The Nation Magazine.

CONTACT: Kate Martin, 202-994-7059 or 202-244-1357, Morton Halperin 202-518-3406, or Ken Gude 202-994-7060.

October 29, 2001

By Hand.

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Department of Justice  
Suite 570, Flag Building  
Washington, D.C. 20530-0001

We hereby request disclosure of the following information concerning the individuals "arrested or detained" in the words of Attorney General Ashcroft, in the wake of the September 11 attack and referred to by the President, the Attorney General and the FBI Director in various public statements.

1. The identities of each such individual, the circumstances of their detention or arrest, and any charges brought against them. In particular, please provide: (1) their names and citizenship status; (2) the location where each individual was arrested or detained initially and the location where they are currently held; (3) the dates they were detained or arrested, the dates any charges were filed, and the dates they were released, if they have been released; and (4) the nature of any criminal or immigration charges filed against them or other basis for detaining them, including material witness warrants and the disposition of any such charges or warrants.

2. The identity of any lawyers representing any of these individuals, including their names and addresses.

3. The identities of any courts, which have been requested to enter orders sealing any proceedings in connection with any of these individuals, any such orders which have been entered, and the legal authorities that the government has relied upon in seeking any such secrecy orders.

4. All policy directives or guidance issued to officials about making public statements or disclosures about these individuals or about the sealing of judicial or immigration proceedings.

Much, if not all, of this information is contained in public records to which there is a constitutional and common law right of access. In addition, please release documents containing this information pursuant to the Freedom of Information Act.

We do not believe that any of the requested information is exempt from disclosure under the Freedom of Information Act. We do not believe that the requested information -- who has been arrested, the names of their lawyers or what charges have been filed -- properly could be classified for national security reasons and withheld on that ground. Nevertheless, to the extent that any of this information is marked classified, we request that you delete or redact such information and immediately provide us the remaining information. If you believe the identities of any of the detainees should be withheld on privacy grounds, please immediately provide information concerning whether the individual has requested that his or her name be withheld, and the legal basis for withholding the names of persons detained or arrested. In this connection, we note that there is an overriding public interest in knowing the activities of the government in detaining people in connection with the September 11 attack, as reflected in the statements by the highest government officials and that the identities of some of them have already been made known.

We make this request on behalf of the following list of organizations that work to protect the public's right to know, civil liberties and human rights.

Request for expedited processing.

We request that you provide this information as soon as possible as it meets all the criteria for expedited processing under the Act: The “information is urgently needed to inform the public concerning some actual or alleged government activity;” the requesting organizations are primarily engaged in disseminating information to the public; the subject of the detainees “is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity which affect public confidence,” and the information is needed immediately to prevent “the loss of substantial due process rights” to individuals and “threats to their physical safety.”

The exceptional interest in the government’s activities in detaining several hundred people since the September 11 attacks is incontrovertibly evidenced by the multiple statements made by the highest government officials, beginning with the President, as well as the numerous media articles, a small selection of which are attached hereto. As public officials themselves have made clear, the arrests of individuals responsible for the terrible attacks last month and subsequent incidents is of the highest priority for the government.

At the same time, the unprecedented secrecy surrounding the detention of several hundred individuals, which has now lasted for several weeks, in itself raises questions about the detentions and creates the utmost urgency to inform the public. The curtain of official silence prevents any democratic oversight of the government’s response to the attacks.

In addition, there have been a growing number of reports which, if accurate, raise serious questions about deprivations of fundamental due process, including imprisonment without probable cause, interference with the right to counsel, and threats of serious bodily injury. See attached articles. Immediate disclosure of the requested information is necessary so that the public can be informed about the basis of these reports and in order to protect individuals against potential abuses.

In sum, this request is about federal government activity, it concerns a matter of current exigency to the American public, and the consequences of delaying a response would be to compromise a significant recognized interest. See Al-Fayed v. CIA, D.C. Cir. 2001.

We would appreciate your response as quickly as possible to our request. In view of the tremendous public interest in this issue, and the questions raised by the detention of hundreds of people without virtually any public information about them, we ask that you provide us responsive documents as soon as they are identified, and not wait until you have gathered all responsive documents. We would be happy to modify the request in order to limit the number of documents involved, as we are interested in obtaining the key information outlined above rather than all relevant documents.

Thank you for your consideration.

Please respond to Kate Martin, Director, Center for National Security Studies  
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