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**December 6, 2001**

## **WLF WILL OPPOSE SUIT SEEKING RELEASE OF DETENTION INFORMATION DOCUMENTS**

The Washington Legal Foundation (WLF) announced today that it will support the U.S. Department of Justice (DOJ) in defending against a coalition of activist groups' efforts to force disclosure of detailed information regarding aliens taken into custody following the September 11 terrorist attacks.

The groups, led by the American Civil Liberties Union, filed suit yesterday in U.S. District Court for the District of Columbia, seeking disclosure of Justice Department documents under the Freedom of Information Act (FOIA). Other activist legal groups joining the suit include: the Center for Constitutional Rights; People for the American Way Foundation; Amnesty International USA; Human Rights Watch; Reporters Committee for Freedom of the Press; The Nation Magazine; and American Immigration Law Foundation.

The suits demands disclosure of a wide range of information, including: the names of all those being detained; where they are being detained; the circumstances of their detention; any charges brought against them; the identity of any lawyers representing them; any court orders directing that proceedings be sealed; legal authorities relied on by the government in seeking that proceedings be sealed; and any policy directives issued regarding disclosures of information about the detainees.

WLF accused the activist groups of "grandstanding" in bringing the suit, noting that DOJ has been following normal procedures in reviewing the document request and has not yet responded. "This suit is premature and a hindrance to the important national security work being conducted by the government," said WLF Chairman Daniel J. Popeo in response to the lawsuit. Popeo pledged that WLF will assist DOJ in ensuring that the suit is dismissed.

WLF pointed out that the plaintiffs have failed to identify any specific document that they wish to examine. "FOIA is not a license to demand the sharing of government intelligence; rather, it is a law providing for dissemination of non-confidential government documents," said WLF Chief Counsel Richard Samp. "DOJ is under no obligation to create documents for the ACLU's benefit; unless and until the ACLU identifies specific documents already in existence that it wishes to examine, it has no basis for being in

court," Samp said. Samp noted that if the ACLU had given DOJ an adequate opportunity to respond, it would have received from DOJ a list of documents responsive to its request.

WLF also noted that much of the information sought by the plaintiffs is already part of the public record. WLF noted, for example, that the government has already provided a list of all those being held on criminal charges as a result of its terrorism investigation. What the government has refused to provide is a list of those being held on immigration charges (i.e., illegal aliens facing deportation).

WLF argued that it would be wholly inappropriate to require DOJ to compile and release a list of those being held on immigration charges, because such a list would provide valuable information to the Al Qaeda organization. "By keeping Al Qaeda in the dark regarding which of its members are in U.S. custody, DOJ can effectively disrupt the terrorists' operational planning," Samp said. WLF argued that the FOIA specifically exempts from disclosure documents whose confidentiality assists law enforcement efforts.

"At this time when the nation is at war and DOJ employees are working overtime as part of the most massive criminal investigation in history, the last thing they need is the distraction of harassment lawsuits," Popeo said. "In the absence of any credible evidence that DOJ is abusing its prosecutorial powers, the ACLU ought not to be dragging our government into court." Popeo said.

The Washington Legal Foundation is a public interest law firm and policy center with supporters in all 50 states. It devotes a significant portion of its resources to promoting America's national security.

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