

For Immediate Release

June 26, 2002

WLF SUPPORTS INS RULE TO KEEP ALIEN DETAINEE INFORMATION CONFIDENTIAL

The Washington Legal Foundation (WLF) filed formal comments with the Immigration and Naturalization Service (INS) supporting an interim rule that would prohibit state and local governments from releasing any identifying information about alien detainees that are held in non-federal facilities under contract with the INS. Due to limited space availability in federal detention facilities, many of the aliens detained since the attack on America on September 11, 2001, have been held in state and local facilities. The effect of this rule would be to pre-empt state and local disclosure laws that would otherwise allow the information to be released.

The interim rule was issued in response to a ruling in a lawsuit brought by the American Civil Liberties Union (ACLU) of New Jersey, seeking the release of the names of alien detainees held in New Jersey's county jails under New Jersey's Right-to-Know law. *ACLU of New Jersey v. County of Hudson*. The Justice Department intervened in that case, arguing that the release of identifying information about the detainees could provide the al Qaeda organization with intelligence about our law enforcement techniques and other information that could help terrorists mount future attacks against the United States. In addition, the privacy interests of the detainees who are not connected with terrorist activity are also implicated because the release of their names may subject them to reprisals by other groups and individuals.

The New Jersey trial court ruled in favor of the ACLU, prompting the INS to issue the interim regulations that would pre-empt state and local disclosure laws. On appeal to the Appellate Division, a three-judge court unanimously agreed with the Department of Justice that the rule does pre-empt state and local disclosure laws. The ACLU may further appeal this case to the New Jersey Supreme Court.

In the meantime, a federal judge in Washington, D.C., heard oral arguments in a related case where the ACLU and several activist groups are seeking the same alien detainee information under the federal Freedom of Information Act. *Center for National Security Studies v. Dep't of Justice*.

WLF filed a brief in that case opposing the release of the sensitive information. A ruling is expected within a few weeks.

For further information, contact Paul Kamenar, WLF Senior Executive Counsel, at 202-588-0302. A copy of WLF's comments will be posted on its website at www.wlf.org.
