

October 31, 2001

The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, DC 20510

Dear Mr. Attorney General:

We commend your tireless efforts and leadership in seeking to bring to justice the perpetrators of the horrific September 11, 2001 attacks on our nation and your efforts to prevent future attacks. We believe that bringing to justice those individuals who were involved in the September 11th attacks and any who may be planning subsequent incidents must be one of the highest priorities for our nation. In conducting this investigation, however, we believe the Department of Justice must continue to uphold its solemn obligation to respect the Constitution at every turn.

We write to express our concern regarding the lack of information provided by the Department of Justice about the hundreds of individuals who have been arrested and detained since the events of September 11th. We are also concerned about reports that detainees have been denied their fundamental right to due process of law, including their right to counsel, and have suffered death or serious bodily injury. Just last week, a Pakistani man detained by federal law enforcement officials in New Jersey was found dead in his cell.

According to news reports, over 1,000 people have been detained in federal investigations. The vast majority are apparently being held on immigration violations or state and local charges. There are also reports that some detainees have been denied access to their attorneys, proper food, or protection from the elements and physical assault.

We urge you to immediately release information concerning the status of these detainees, including the following:

- The identity of each individual detained;
- The charges brought, if any, against each detainee;
- The identities of individuals who have been cleared of any connection with terrorism;
- The basis for continuing to detain those individuals who have been cleared of any connection with terrorism but are still in detention;
- The identity of and contact information for any lawyer representing any detainee, including names, addresses, and phone numbers;
- The identity of any detainee who is not represented by counsel;
- A list of all requests by the government to seal proceedings in connection with any of these individuals, copies of any such orders that have been entered, and the legal authorities that the government has relied upon in seeking any such secrecy orders;

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and

- All policy directives or guidance issued to officials about making public statements or disclosures about these individuals.

To the extent some of the above information is classified, we are willing to avail ourselves of a confidential briefing by appropriate representatives of the Department. But to the extent the information is not classified, we urge you to release this information to the public.

The Department of Justice should aggressively investigate and prevent future terrorist attacks, but should at the same time act with constitutional restraint. The Department of Justice has a responsibility to release sufficient information about the investigation and the detainees to allow Congress and the American people to decide whether the Department has acted appropriately and consistent with the Constitution.

Times of crisis are the true test of a democracy. We urge you to release information about the detainees immediately and to take all steps to ensure that their fundamental constitutional rights are protected.

We look forward to further discussion of these issues.

Sincerely,

Russell D. Feingold
U.S. SENATOR

Patrick J. Leahy
U.S. SENATOR

Jerrold Nadler
U.S. REPRESENTATIVE

John D. Conyers, Jr.
U.S. REPRESENTATIVE

Edward M. Kennedy
U.S. SENATOR

Robert C. Scott
U.S. REPRESENTATIVE