

LCHR RECOMMENDATIONS ON SECURITY DETAINEES AND THE CRIMINAL JUSTICE SYSTEM (3/11/03)

1. The administration should allow José Padilla and Yaser Hamdi access to legal counsel. These two U.S. citizens are now being held in military detention as “enemy combatants.”
2. The Department of Justice should work with the federal court in the case of Zacarias Moussaoui to develop appropriate procedures for reviewing relevant evidence, consistent with national security concerns.
3. With respect to those being held at Guantanamo, the administration has an affirmative obligation to develop and state publicly: 1) its criteria for holding such people in detention; and 2) a decision-making process and criteria for returning the detainees to their home countries. Many of these people have been held for a year or more. The U.S. government’s position that the detainees are “enemy combatants,” and that they may be held until the global war against terrorism is concluded, is untenable.
4. U.S. law prohibits U.S. military and law enforcement agents from resorting to physical or psychological mistreatment of detainees, even those held outside the United States. Senior administration officials should condemn such conduct unequivocally and make clear that violators will be punished.
5. The Department of Defense has commenced investigation of the December 2002 deaths of Mullah Habibullah and a man known by the single name Dilawar, two detainees held at the U.S. military base in Bagram, Afghanistan. If the investigation concludes that actions by U.S. agents contributed to their deaths, the responsible individuals should be prosecuted.