

**PUBLIC**

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**Further Information on UA 166/03 (AMR 51/084/2003, 11 June 2003) -- Incommunicado detention / Detention without charge / Legal concern**

**USA**

**Jose Padilla (also known as Abdullah Al Mujahi) (m)**

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On 11 February 2004, the US Department of Defense announced that Jose Padilla, a US citizen held as an 'enemy combatant' in the US would be granted access to his lawyer after 20 months of incommunicado detention. The access will be "subject to appropriate security restrictions" and all conversations will be monitored by Pentagon officials. Jose Padilla's legal team is currently reviewing the conditions offered by the government.

The Defense Department announced that this decision had been taken after it had determined that such access "will not compromise the national security of the United States, and [the Defense Department] has determined that such access will not interfere with intelligence collection." The US authorities continued to assert that "such access is not required by domestic or international law and should not be treated as a precedent."

In another significant development on 18 December 2003, the US Court of Appeals for the Second Circuit ruled in Jose Padilla's case that the US government had no inherent constitutional authority to detain him, a US citizen, as an 'enemy combatant' on US soil outside a combat zone. The court noted that such detentions are expressly forbidden by present law. In the decision which affirmed basic principles of justice, the Second Circuit ruled that Jose Padilla should be released within 30 days unless transferred to civilian custody where he could be charged with a criminal offence. The ruling is on hold while the government appeals to the US Supreme Court.

**BACKGROUND INFORMATION**

Jose Padilla is a US citizen, born in New York, who converted to Islam. He was arrested at Chicago airport on 8 May 2002 on alleged suspicion of conspiracy to detonate a radioactive "dirty bomb" in a US city. He was initially held as a "material witness" by the Department of Justice but was subsequently designated as an 'enemy combatant' by President Bush, transferred to military custody and denied further access to his lawyer. He has been held incommunicado for the past 20 months in untried military detention in South Carolina without access to his lawyer or family.

The US authorities had previously denied him access to a lawyer on the grounds that it would undermine the "trust and dependency" on the military that is "essential to effective interrogation".

Jose Padilla is one of two US citizens currently detained indefinitely as 'enemy combatants' in US military custody. The other is Yaser Esar Hamdi. In his case, the Pentagon announced on 2 December 2003 that he would be granted access to his lawyer "subject to appropriate security restrictions". As in Jose Padilla's case, the Pentagon stressed that it was allowing Hamdi access to counsel "as a matter of discretion and military policy; such access is not required by domestic or international law and should not be treated as a precedent."

After more than two years of representing a client he had never seen, Hamdi's lawyer finally met him on 3 February 2004, stating afterwards "I'm sure it made an impression on a client who has been looking down a lightless tunnel for two and a half years, not knowing anyone is doing anything for him". Under guidelines drafted by Pentagon lawyers, military observers attended and recorded the meeting, and the lawyer was not allowed to question him about the conditions of his confinement.

**No further action required from the UA Network at present. Many thanks to all those who sent appeals.**