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## Um, About That Dirty Bomb?

Editorial

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Almost three and a half years ago, the Bush administration announced that it had arrested a Chicago-born man named Jose Padilla while he was entering the United States to explode a "dirty bomb" and blow up apartment buildings. The attorney general, John Ashcroft, said Mr. Padilla was al Qaeda-trained terrorist so dangerous that he was being tossed into a Navy brig and the key was being thrown away.

The administration hotly defended its right to hold Mr. Padilla without legal process because he was declared an unlawful enemy combatant, one of the new powers that President Bush granted himself after 9/11. The administration fought the case up to the Supreme Court. Mr. Padilla's plot was thwarted, the Justice Department claimed, only because of the government's ability to hold suspected terrorists in secretive prisons where they were sweated, to put it mildly, for information. The "dirty bomb" plot supposedly was divulged by a top Qaeda member who had been interrogated 100 times at one such location.

Never mind. As of yesterday, Mr. Padilla stopped being an unlawful combatant, and the new attorney general, Alberto Gonzales, refused even to talk about that issue. Mr. Padilla is not going to be charged with planning to explode bombs, dirty or otherwise, in the United States. Just in time for the administration to prod Congress on extending the Patriot Act and to avoid having to argue the case before the Supreme Court, Mr. Padilla was charged with aiding terrorists in other countries and will be turned over to civilian authorities.

Mr. Padilla was added late in the game, and in a minor role, to a continuing case against four other men. He faces serious charges that carry a possible life sentence, but they do nothing to clear up the enormous legal questions created by this case, nor do they have the remotest connection with the original accusations.

The Padilla case was supposed to be an example of why the administration needs to suspend prisoners' rights when it comes to the war on terror. It turned out to be the opposite. If Mr. Padilla was seriously planning a "dirty bomb" attack, he can never be held accountable for it in court because the illegal conditions under which he has been held will make it impossible to do that. If he was only an inept fellow traveler in the terrorist community, he is excellent proof that the government is fallible and needs the normal checks of the judicial system. And, of course, if he is innocent, he was the victim of a terrible injustice.

The same is true of the hundreds of other men held at Guantánamo Bay and in the C.I.A.'s secret prisons. This is hardly what Americans have had in mind hearing Mr. Bush's constant assurances since Sept. 11, 2001, that he will bring terrorists to justice.