



Justice System Crucial Tool for Combating Terrorism

“Our justice system is an integral weapon in our war against Al Qaeda, and its successes are a big reason the terrorist group has failed to hit our homeland for nine years.” ~ Ali Soufan, Interrogator of Abu Zubaydah, [2/11/10](#)

MILITARY, NATIONAL SECURITY EXPERTS, FEDERAL PROSECUTORS AND EVEN THE BUSH ADMINISTRATION AGREE WITH OBAMA ADMINISTRATION APPROACH

Civilian Trials Best Tool for Bringing Terrorists to Justice:

- **Colin Powell, former Secretary of State and Chairman of the Joint Chiefs of Staff**, came out strongly for the use of civilian trials in combating terrorism. On Face the Nation he said: "The issue about sending people to military commissions, we-- we're not using military commissions like we should. Any time you lock somebody up or you catch a terrorist let's give them the military commission. In eight years the military commissions have put three people on trial. Two of them served relatively short sentences and are free. One guy is in jail. Meanwhile, the federal courts, our Article III, regular legal court system, has put dozens of terrorists in jail and they're fully capable of doing it. So the suggestion that somehow a military commission is the way to go isn't born out by the history of the military commissions." [Colin Powell, Face the Nation, [2/21/10](#)]
- **Former Bush administration Attorney General John Ashcroft**. In an interview with the Huffington Post at the Conservative Political Action Committee (CPAC) conference, the Bush administration's top Justice official said that "a variety of tools that ought to be available to an administration" in its efforts to curb terrorism and bring terrorists to justice. When asked specifically about holding civilian trials for terrorists, he said such a venue "has use and utility." [John Ashcroft, via Huffington Post, [2/19/10](#)]
- **Ali Soufan, the former FBI Interrogator** who interrogated Abu Zubaydah and discovered that Khalid Sheik Mohammed was in fact the 9/11 mastermind: "As someone who has helped prosecute terrorists in both civilian and military courts — I was a witness for the government in two of the three military commissions convened so far — I think that civilian courts are often the more effective venue... Of the three terrorists tried under military commissions since 9/11, two are now free... In contrast, almost 200 terrorists have been convicted in federal courts since 9/11... The federal court system has proved well equipped to handle these trials. It has been the venue for international terrorism cases since President Ronald Reagan authorized them in the 1980s, and for other terrorist cases long before that. Prosecutors have at their disposal numerous statutes with clear sentencing guidelines. Providing material support, for example, can result in a 15-year

sentence or even the death penalty if Americans are killed. Military commissions, however, are new to lawyers.” [Ali Soufan, NY Times, [2/11/10](#)]

- **A bipartisan group of former members of Congress, diplomats, federal judges and prosecutors, former FBI directors, high-level military officials and national security experts**, declared in a statement that “Civilian federal courts are the proper forum for terrorism cases. Over the last two decades, federal courts constituted under Article III of the U.S. Constitution have proven capable of trying a wide array of terrorism cases, without sacrificing either national security or fair trial standards. Prosecutions for terrorism offenses can and should be handled by traditional federal courts, which operate under statutes and procedures that provide the tools necessary to try such complex cases. Moreover, the War Crimes Act explicitly gives federal courts jurisdiction to try certain war crimes.” The signatories were figures as diverse as **Bob Barr, Mickey Edwards, Morton Abramowitz, Ted Sorensen, Barry Goldwater, Jr., Thomas Pickering, John Dean, Alberto Mora, David Keene, and even Grover Norquist**. [Constitution Project, [11/4/09](#)]
- **General David Petraeus (on the issue of civilian trials and the use of evidence obtained through torture)**: “Well first of all I don’t think we should be afraid to live our values. That is what we’re fighting for and it’s what we stand for. So indeed, we need to embrace them and we need to operationalize them in how we carry out what it is we’re doing on the battlefield and everywhere else. So one has to have some faith I think, in the legal system. One has to have a degree of confidence that individuals that have conducted such extremist activity would indeed be found guilty in courts of law.” [Think Progress, [5/29/09](#)]

Mirandizing Terrorism suspects does not jeopardize intel gathering, bringing terrorists to justice:

- **Ali Soufan**: “Whether suspects cooperate depends on the skill of the interrogator and the mindset of the suspects — not whether they’ve been told they can remain silent. When legally required, I’ve read some top Qaeda terrorists their rights and they’ve still provided valuable intelligence. Now we’ve learned that ‘despite’ being read his Miranda rights, Mr. Abdulmutallab is cooperating with his F.B.I. interrogators. This should have been no surprise.” [Ali Soufan, NY Times, [2/11/10](#)]
- **Brigadier General James Cullen**, former chief judge of the Army’s Court of Criminal Appeals explains that the argument against mirandizing does not make any sense, because “When these guys get caught, any defense counsel is going to recommend that they make a deal with the feds.” [James Cullen, via NY Times, [2/23/10](#)]
- **Gen. Petraeus (on concerns that the FBI reading of Miranda rights would inhibit intelligence collection from terror suspects)**: “Let me just answer that question, if I could. No concerns at all. Look, this is FBI doing what the FBI does. And there are a very limited number of cases in which this has been done. These are cases in which they are looking at potential criminal charges. And when that is done, as that is initiated, and I’ve been involved in that in other countries as well over the years, they understandably read Miranda rights...So we’re comfortable with this.” [David Petraeus, [6/11/09](#)]

Closing Guantanamo Bay will make America safer, crucial part of counterterrorism strategy:

- **General Powell** on Face the Nation explained why it is so important to close the detention facility: "I think Guantanamo has cost us a lot over the years in terms of our standing in the world and the way in which despots have hidden behind what we have at Guantanamo to justify their own-- their own positions... And so I think we ought to remove this incentive that exists in the presence of Guantanamo to encourage people and to give radicals an opportunity to say, you see, this is what America is all about. They're all about torture and detention centers." [Colin Powell, Face the Nation, [2/21/10](#)]
- **General Petraeus** said "I've been on the record on that for well over a year as well, saying that it [Guantanamo Bay] should be closed." The General has previously further explained how keeping Guantanamo Bay open is a security liability. telling FOX News that, "Gitmo has caused us problems, there's no question about it. I oversee a region in which the existence of Gitmo has indeed been used by the enemy against us. We have not been without missteps or mistakes in our activities since 9/11. And again, Gitmo is a lingering reminder for the use of some in that regard [David Petraeus, Meet the Press, [2/21/10](#). David Petraeus, [5/29/09](#)]
- **Matthew Alexander, the pseudonym of the Air Force Major and interrogator** who, without using torture, extracted the information that led to finding the notorious Abu Musab al-Zarqawi - says that keeping the prison open is a powerful recruiting tool for al Qaeda, and creates difficulties for interrogators trying to persuade people to provide information about future terrorist attacks. He told the New York Times that, "The longer it stays open the more cost it will have in U.S. lives." [New York Times, [1/21/10](#)]
- **Jon Soltz, the director of VoteVets.org, along with 2,000 other combat veterans,** made a similar point about recruitment: "Every day that the facility at Guantanamo Bay remains open and detainees are held there without trial is another day that terror networks have an effective recruiting poster." [New York Times, [1/21/10](#)]
- **Brigadier General Michael Lehner, the man responsible for setting up the Guantanamo facility** has called for the facility to be closed, saying that it caused the U.S. to lose the moral high ground in the eyes of the world: "for those who think our standing in the international community is important, we need to stand for American values. You have to walk the walk, talk the talk." [Brig. Gen. Michael Lehner, [9/25/09](#)]

Enhanced interrogation imperiled soldiers overseas, did not help keep Americans safe:

- **General David Petraeus, CENTCOM Commander:** When asked if he wished that the use of torture or "enhanced interrogation" was available as a tool during interrogations, Petraeus answered: "I have always been on the record, in fact, since 2003, with the concept of living our values. And I think that whenever we have, perhaps, taken expedient measures, they have turned around and bitten us in the backside... Abu Ghraib and other situations like that are nonbiodegradables. They don't go away. The enemy continues to beat you with them like a stick in the Central Command area of responsibility. Beyond that, frankly, we have found that the use of the interrogation methods in the Army Field Manual that was given, the force of law by Congress, that that works." [David Petraeus, Meet the Press, [2/21/10](#)]

- **Ali Soufan, former FBI Terrorism Investigator:** “From my experience – and I speak as someone who has personally interrogated many terrorists and elicited important actionable intelligence– I strongly believe that it is a mistake to use what has become known as the ‘enhanced interrogation techniques,’ a position shared by many professional operatives, including the CIA officers who were present at the initial phases of the Abu Zubaydah interrogation. These techniques, from an operational perspective, are ineffective, slow and unreliable, and as a result harmful to our efforts to defeat al Qaeda.” [Ali Soufan, Testimony to Senate Judiciary Committee, [5/13/09](#)]
- **General Colin Powell, former Secretary of State and Chairman of the Joint Chiefs:** "If you just look at how we are perceived in the world and the kind of criticism we have taken over Guantanamo, Abu Ghraib and renditions," Powell said in an interview, "whether we believe it or not, people are now starting to question whether we're following our own high standards." “The world is beginning to doubt the moral basis of our fight against terrorism.” [Colin Powell, via Washington Post, [9/19/06](#)]
- **Alberto Mora, the Bush Administration’s General Counsel of the Navy,** testified before Congress that the stain on America’s image caused by Guantanamo Bay led directly to American deaths: “Serving U.S. flag-rank officers... maintain that the first and second identifiable causes of U.S. combat deaths in Iraq – as judged by their effectiveness in recruiting insurgent fighters into combat – are, respectively the symbols of Abu Ghraib and Guantanamo.” [Alberto Mora, [6/17/08](#)]

CASES PROVE THE OBAMA ADMINISTRATION APPROACH WORKS, DISCREDIT GOP CRITICS

Najibullah Zazi Case. Not only did Najibullah Zazi –who was processed through America’s criminal justice system –confess to his crimes, but the Washington Post reports that he is "share[ing] information about confederates overseas." And the Washington Post goes on to report that certain tools for gaining intelligence and cooperation were open to officials because they went through the criminal justice system, and would not otherwise be available: "Law enforcement sources, speaking on the condition of anonymity because the investigation continues, said Zazi began to accelerate his cooperation after authorities charged his Afghan-born father with crimes and threatened to charge his mother with immigration offenses -- options that are not available in the military justice system." Adam Serwer of the American Prospect comments that "as with Umar Abdulmutallab, the government found where it could apply leverage and did so. As a result, Zazi has been providing intelligence -- and he will still spend the rest of his life in prison." [Washington Post, [2/23/10](#). NY Times, [2/22/10](#). Adam Serwer, TAPPED, [2/22/10](#). Washington Independent, [2/23/10](#)]

Umar Farouk Abdulmutallab Case. The debate over the use of civilian trials and mirandizing terrorism suspects came to the center of the political debate with the case of the Underwear Bomber. However, much to the dismay of conservative critics who dismiss the facts of the case, Abdulmutallab has in fact been cooperating with law enforcement officials, who have been gathering vital intelligence from the interrogation. Michael Isikoff writes that, “Officials say Abdulmutallab began cooperating about his contacts with Al Qaeda in Yemen after the FBI reached out to two members of his family in Nigeria—one of them his mother—and brought them to Detroit to persuade the suspect to begin cooperating.” And Ken Gude of the Center for American Progress writes that, "The intelligence gained from Abdulmutallab has been shared

widely throughout the intelligence community - and has already produced results. On January 21, Malaysian counterterrorism authorities arrested 10 suspected terrorists tied to Abdulmutallab. The suspected cell was made up of mostly non-Malaysians including two Nigerians who were thought to be part of an international terrorist network." [Michael Isikoff, Newsweek, [2/22/10](#)] Ken Gude, Think Progress, [5/3/10](#)]

Richard Reid Case. Politico reports that "It turns out that that back in December 2001, Richard Reid — the 'shoe bomber' — was read or reminded of his Miranda rights four times in two days, beginning five minutes after being taken into custody. Furthermore, the Bush administration specifically rejected the idea of a military tribunal — another step that Republicans have argued should have been taken in the case of Umar Farouk Abdulmutallab, who tried to bring down Northwest Flight 253 over Detroit on Christmas Day and was read his rights after 50 minutes of FBI questioning. After Reid attempted to blow up an American Airlines flight out of Paris, Massachusetts State Police officers boarded the plane at 12:55 p.m. on Dec. 22, 2001, handcuffed Reid and removed him from the plane, according to U.S. District Court records. [Politico, [2/2/10](#)]

Bryant Neal Vinas Case. Vinas is a former Long Island truck driver who has acknowledged providing Al Qaeda with information. The New York Times reports that "In January, Mr. Vinas, 26, stood up at a sealed hearing in Federal District Court in Brooklyn and pleaded guilty to the charges arising from his 14 months in Pakistan and Afghanistan. He admitted to receiving Qaeda training and conspiring to kill American soldiers, and to providing terror leaders with information that might result in an attack on the Long Island Rail Road. Mr. Vinas's testimony is expected to prove central in the trial of six people in Belgium accused of plotting terror attacks in that nation. [NY Times, [1/23/10](#)]

David Coleman Headley Case. Michael Isikoff explains this case saying, describing Headley as a "Chicago resident who had contacts with a high level Al Qaeda linked figure in Pakistan and conducted scouting runs for the November, 2008 terror attacks in Mumbai, India." This case has also provided useful intelligence, Isikoff goes on to say, "Indian investigators have traveled to Chicago to learn what Headley has been saying as part of their continued investigation into the Mumbai attacks." [Michael Isikoff, Newsweek, [2/22/10](#)]

Interrogation of Abu Zubaydah. FBI Interrogator Ali Soufan "was the agent who first interrogated Abu Zubaydah, the man now famous for being waterboarded 83 times. Zubaydah had been badly wounded in the struggle to capture him and was almost immediately taken to a hospital. It was there that Soufan began his interrogation, and gained 'important, actionable intelligence' *within the first hour* regarding the role Khalid Sheikh Mohammed played in the 9-11 attacks. Committee Chair Sheldon called this 'one of the more significant pieces of intelligence information we've ever obtained in the war on terror,'" writes Newsweek. This important intelligence was gained by an FBI agent through traditional interrogation means. [Newsweek, [5/13/09](#)]

Overall record of military commissions verses civilian trials. Ken Gude of the Center for America Progress explains that military civilian trials are a much more effective means of bringing terrorists to justice: "The extensive record of criminal courts in successfully

prosecuting terrorists stands in stark contrast with the shockingly poor military commissions system. Since 2001—the same period in which military commissions have convicted just three terrorists—criminal courts have convicted more than 200 individuals on terrorism charges, or 65 times more than military commissions. Criminal courts racked up these convictions with none of the uncertainty that still plagues the military commissions system. A military commission has never handled a case remotely like Abdulmutallab’s—attempted murder and a specific act of terrorism. But a criminal court obtained a conviction in an identical case: Richard Reid’s failed bombing of a transatlantic airliner in December 2001.” James Cullen, a retired brigadier general, attorney and 27 year veteran of the army who served as chief judge of the Army’s Court of Criminal Appeals in the Judge Advocate General Corps further explains, “You’ve had about 800 cases that were supposed to be run through the military commissions in Guantánamo, and there have only been three convictions... You have three-eighths of 1 percent return on military commissions, versus 90 percent plus when they are tried in the federal court.” [Ken Gude, Center for American Progress, [1/20/10](#). James Cullen, via NY Times, [2/23/10](#)]