

WebMemo



Published by The Heritage Foundation

No. 2801
February 9, 2010

U.S. Military Base Not a Reasonable Option for Khalid Sheikh Mohammed Trial

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President Barack Obama has received nothing but bad news since he announced his plans to move Khalid Sheikh Mohammed and his al-Qaeda accomplices to the United States for civilian trials.

After New York officials rebuffed Obama's plan to hold terror trials there, Mayor Michael Bloomberg suggested that the Administration look for a U.S. military base where it can try the terrorist plotters without spending tens of millions of dollars. But the President will get more bad news soon: There is no such base on American soil.

No Support for Civilian Trial. All at once last week, political support for a civilian trial for 9/11 mastermind Mohammed and his four "brothers" evaporated. New York politicians and citizens of all stripes turned strongly against holding the trials in New York City, arguing that it would be too costly, too dangerous, and far too disruptive to the financial capital of our country. Prominent Members of Congress moved decisively in the same direction. The Big Apple is out.

So now Justice Department officials are "studying their options." According to reports, military bases are at the top of their list. Superficially, that makes sense: Bases are secure, often remote, and already under the government's thumb. But that does not mean they are ready to host major terrorist trials.

Facilities Required Do Not Exist. To begin with, the terrorist trials will depend on highly classified information, and the intelligence community will insist—rightfully so—on appropriate security measures to protect its agents, sources, and methods.

The courtroom will have to be contained in a sensitive compartmented information facility, known in the business as a "SCIF." It will need facilities for secure video teleconferencing and storage and review of classified materials.

Then there are the standard courtroom accouterments: a digital evidence system, jury boxes, judges' chambers, and a holding cell for the defendants. But even these will not be run-of-the mill—they will have to be hardened and accommodate foreign language translators. That means soundproof, in-courtroom booths for foreign language interpreters and a public gallery placed behind a see-through, soundproof partition to keep state secrets secret.

Beyond the courthouse, another requirement is a state-of-the-art confinement facility, something like a mini "supermax" prison, for the terrorists on trial. That too will have to be near the courthouse. And if our current policies are any guide, they will also get a dedicated medical facility, staffed around the clock.

Yet according to Attorney General Eric Holder's grandiose scheme to prove that civilian trials are better than the military justice system, the civilian terror trials must be a showcase for the world.

This paper, in its entirety, can be found at:
www.heritage.org/Research/LegalIssues/wm2801.cfm

Produced by the Center for Legal and Judicial Studies

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002-4999
(202) 546-4400 • heritage.org

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Indeed, Holder promised that his dream team of civilian lawyers would produce the “trial of the century.” That requires more than a state-of-the-art courtroom.

Accordingly, the prosecutors, defense counsel, judges, court staff, security personnel, translators, intelligence officials, guards, brig staff, and busloads of others will need housing nearby with easy access to the courtroom and the defendants. Some, like the defense lawyers, understandably will not want to live on base, either.

And other temporary visitors—government employees, witnesses, experts, human rights lawyers, American and foreign reporters—will also need to spend their nights somewhere nearby. That suggests a location with some decent hotels. High-profile TV anchors will not be happy at Motel 6.

And if the trials are really going to be showcases for the world press, they will need studios, broadcast booths, satellite hookups, press rooms, and more—a whole complex, in the end. At least lower Manhattan could have provided that. But it is hard to find such facilities near an isolated military base.

Even if the Administration can find a base that meets those specs (which does not exist), it will not come close to satisfying the security requirements demanded by this kind of terrorist trial. The Navy’s largest courthouses are located on Naval Station Norfolk in Virginia and Naval Base San Diego. There is no brig adjacent to either courthouse, nor is there even one on base. The Army’s best courthouses are on Fort Hood in Texas, Fort Bragg in North Carolina, and Fort Campbell in Kentucky. Once again, none of them are set up for confinement.

There simply is no military courtroom in the United States that is even remotely acceptable for such a terrorist trial. I know, because I chaired the committee charged with upgrading and building the military commission’s compound at Guantanamo back in 2006–2007. The state-of-the-art facilities that were eventually built at Guantanamo are in place, ready, and waiting—but just not wanted.

If the President is doggedly determined to bring these trials to a U.S.-based military installation, the government can start over and build what it needs. Of course, that means tens of millions or more in spending (part of what scuttled the New York site) and years of delay. And who knows whether Congress would come through with the money.

But even assuming Congress consented and the government went on a building spree—what then? The answer is a mess.

U.S. military bases exist to house and train American armed forces, and holding terror trials on any of them would seriously disrupt that core mission. Naval Station Norfolk—probably one of the more promising locations from the Administration’s point of view—is the largest Navy base in the world and home to our Atlantic Fleet. Put the trials there and it becomes a bustling courthouse and media circus surrounded by some ships and sailors. Not a great idea when America is at war overseas.

Nonetheless, the Joint Staff at the Pentagon is poring over base maps, calling installation commanders, and following every lead that turns up. It is all a waste of time, however: No such place on U.S. soil currently fits the bill.

Hold the Trials Where They Belong. If these trials must be in the United States—an open question at best—President Obama should take full responsibility for the details and conduct them in a remote federal courthouse. Alternatively, he could change some rules and allow for the federal civilian trials to be held at Guantanamo. Even better, he could conduct the trials where the U.S. already has secure facilities—and, conveniently enough, Khalid Sheikh Mohammed and his buddies—but under the auspices of a properly resourced military commission, where they belong.

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