

REAR ADMIRAL DON GUTER, USN (RET.)
REAR ADMIRAL JOHN D. HUTSON, USN (RET.)
BRIGADIER GENERAL DAVID M. BRAHMS, USMC (RET.)
BRIGADIER GENERAL JAMES P. CULLEN, USA (RET.)

September 9, 2009

The President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We have been greatly encouraged by reports that you are considering prosecuting the alleged planners of the 9/11 attacks in federal civilian court, and write to offer our strong support for such an effort. Even if military commissions remain an option for trying some Guantanamo detainees for violations of the laws of war, we believe that it would be wrong to treat the leaders of al Qaeda as warriors deserving of military trials. America's well established system of civilian justice is not just well equipped to handle these cases, it is far better suited to the task of discrediting and defeating the terrorist enemy we face.

When the planners of 9/11, including Khalid Sheikh Mohammed, are finally brought to justice, it will be an extraordinarily important moment in the struggle against terrorism. If these trials are held before civilian judges and juries, it will highlight the strength and legitimacy of our system of justice, and at long last focus the world's attention where it belongs: on the crimes these men committed against us, rather than on how we are treating them.

It will be much harder to achieve these goals if these men are brought instead before a military commission. Even if the commission system is reformed, with improved procedural protections, it will take time to overcome the stigma it acquired during the last administration, when it became a symbol of what was wrong with Guantanamo. Defendants before military commissions will have the advantage of being able to challenge the legitimacy of the system in which they are being tried, instead of simply having to face the evidence against them. These challenges could delay justice and divert attention away from the accused terrorists' crimes. If defendants are convicted - and especially if they are sentenced to death - the verdicts may not be seen as fully legitimate around the world. Particularly in the most prominent terrorism cases, our nation cannot afford more legal controversy and doubt; and we will not have another chance to get this right.

Moreover, even if we had full confidence in the military commissions system, we do not believe that it would be in America's national interest to use it against terrorists who commit atrocities against civilians. Like virtually all terrorists throughout history, al Qaeda members want to be seen as soldiers, not as criminals. That warrior mystique helps them recruit more misguided young men to their ranks, and justifies, in their own

minds, the murder of their enemies. This is why al Qaeda has always described its crimes as acts of "war."

We agree with your counter-terrorism adviser John Brennan that accepting this "global war" mindset served only to "validate al Qaeda's twisted world view." Placing al Qaeda's leaders before a military court would deepen the damage. It would give these men the warrior status they crave. On the other hand, trying them before a civilian court would strip them of their military pretentions, and expose them as the despicable, and yes, common, criminals that they are.

We find it disturbing that some who want to be seen as "tough" on terrorism continue to disparage America's institutions of civilian justice, while reinforcing our enemies' narrative that the murder of civilians is a form of waging war. We trust that you will reject this view, and remind Americans that trying mass murderers before the greatest system of justice in the world will be a mark of strength and of confidence in our democracy.

With respect,

Rear Admiral Don Guter, USN (Ret.)
Rear Admiral John D. Hutson, USN (Ret.)
Brigadier General David M. Brahms, USMC (Ret.)
Brigadier General James P. Cullen, USA (Ret.)

BIOGRAPHICAL INFORMATION

Rear Admiral Don Guter, USN (Ret.)

Admiral Guter served in the U.S. Navy for 32 years, concluding his career as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter currently serves as President and Dean of the South Texas College of Law in Houston, TX.

Rear Admiral John D. Hutson, USN (Ret.)

Rear Admiral John D. Hutson served in the U. S. Navy from 1973 to 2000. He was the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire. He also joined Human Rights First's Board of Directors in 2005.

Brigadier General David M. Brahms, USMC (Ret.)

General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Brigadier General James P. Cullen, USA (Ret.)

Mr. Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.