

DOJ/DOD PRESS CONFERENCE ON THE GITMO DECISIONS

DOD and DOJ had a joint press conference on the Gitmo decisions today. It was on background—so the attribution below is to a senior DOJ official and a senior DOD official. This is just a liveblog transcript—and should be considered a VERY rough approximation.

Sr. DOJ Official: highlight a few things: Decisions to proceed with prosecutions in federal court and reformed military commissions. Bring terrorists to justice, bringing all tools at our disposal to the fight and to the cause of bringing terrorists to justice. Coordinated and cooperative effort by prosecutors. Result of extensive consultations.

Sr. DOD Official: Making good progress toward closing Gitmo, finding new location. Now that review process for these 10 or so has been completed, we have a green light to move forward with the cases. Prosecutors will have to make decisions about how fast to move forward.

LAT: Evidentiary issues: Is statements were made during interrogations of these guys, if that's going to be from an FBI clean team. If you're trying to build a case without those, what will you be able to use, incl intercepts?

DOJ: Not going to be asking about evidence. Indictments will be forthcoming. That process has other elements to it.

LAT: Intercepts and so on?

DOJ: Both fora provide for use of classified evidence. CIPA statute. We feel that there's ample protections for the use of classified information.

DOD: What evidence is offered in any particular prosecution is up to the judges in any particular case.

Savage: We've heard various numbers of current population of Gitmo.

DOJ: no numbers

FDL: Questions about competency questions; will detainees be able to get information on their medical condition? What of Ramzi bin al-Shibh's current pending competency hearing?

DOD: Won't speculate, these issues will be decided by judges.

Isikoff: Will they get the full story about how they were treated. In death penalty phase of trial?

DOJ: May well be raised in both fora, for the judges to rule upon. We believe that detainees can get a fair trial in both fora.

Gerstein: Immigration status of detainees. Can you address one of the risks of Admin not seeking preventative detention statute in case of acquittal.

DOD: We are defending the law of war detention of the current Gitmo population in the habeas litigation they've all brought. We're confident we have the authority to detain someone who presents a threat. SCOTUS in Hamdi has said we have the authority. So we're confident that under a bunch of different authorities we will be able to continue to hold these detainees.

DOJ: There's an established protocol for the purpose of trial. Has been used in many instances wrt extraditions, was used in matter of Ghailani.

Toronto Star: Walk me through thinking about Omar Khadr, whether his age was a consideration, and whether there was communication with Canadian govt. Still possibility that Khadr could be repatriated to Canada.

DOD: Don't want to speculate about outcome of pending prosecutions in commissions. We have this as a pending case. Status of it, it's a ways off. There's a way to go in the case. I'm

sure the prosecutors will consider all their options wrt how they handle the case.

WSJ: How the decisions were made on Article III trials and who goes to Military Commissions? There's a feeling that MCs you have lesser evidence.

DOJ: Absolutely there is no sense that MCs are any lesser form of justice. There is an absolute legitimate role for MCs to play. Decisions that were announced today indicate process that we went through. Very lengthy and comprehensive process.

DOD: The whole process on MCs we went through with Congress was so that MCs would not be perceived as lesser justice. Quality of evidence, location. Led to decisions—such as to keep Nashiri in the Commissions context. Cole bombing was directed as US Navy. Victims were sailors. That is the type of offense that we think should be tried in commissions context, irrespective of how easy or how hard it is to obtain a conviction.

WSJ: So you're saying that was the deciding factor?

DOD: Certainly wrt that, identity of victims and location of crime.

DOJ Factors in protocol are traditional factors, kind of work prosecutors do every day in making forum decisions, whether to bring federal or state case, whether federal or UCMJ. These were case by case decisions, no cookie cutter approach.

BBC: You say this brings closure of Gitmo one step closer. Deadline of January 22. Suggestions are it's not.

DOD: We're making good progress. It's a matter of time before we can begin to consult with Members of Congress and inform the public, we're making good progress along that road. The President is just as committed to closing Gitmo as he was when he took office. We all believe

that large bureaucracies like this work best with deadlines. We're working hard to make progress toward closing Gitmo.

DOJ: AG has said it's going to be hard to meet that deadline.

DOD: 8th anniversary of when Bush signed MC EO. We've announced 5 admin rule changes in May. Bipartisan basis with Congress, w/help of Armed Services Committee, we have a process that now exists. It's the strong preference of this Admin that people be brought to justice for their crimes. Two viable fora for trying alleged terrorists. We've done this in 10 months, which is not a lot of time.

Fox: With the case in NY, how soon do you plan to bring before a Grand Jury? Would it be before the 45 days notice to Congress.

DOJ: We'll move expeditiously to take the next steps in this prosecution. Presenting evidence will be done by prosecutors. We'll be fulfilling the statutory requirements, consultation with local authorities—some of that has already been done. Complying of course with the 45 day notice requirement.

Fox: It sounds like you're not sure when an indictment will come. If that's so, why not wait until then to make this announcement?

DOJ: In terms of timing on this announcement. We had already notified military commission judges, that continuance expires on Monday, we had intended to inform them of our decision.