

OBAMA PREPARES TO SACRIFICE JUSTICE AND NATIONAL SECURITY FOR POLITICAL EXPEDIENCY

Check out the way the WaPo reports the news—based on three anonymous Administration sources—that Obama will be personally involved in choosing the location of the Khalid Sheikh Mohammed trial.

President Obama is planning to insert himself into the debate about where to try the accused mastermind of the Sept. 11, 2001, attacks, three administration officials said Thursday, **signaling a recognition that the administration had mishandled the process and triggered a political backlash.**

Obama initially had asked Attorney General Eric H. Holder Jr. to choose the site of the trial in an effort to maintain an independent Justice Department. But **the White House has been taken aback by the intense criticism from political opponents and local officials of Holder's decision to try Khalid Sheik Mohammed in a civilian courtroom in New York.**

Administration officials acknowledge that Holder and Obama advisers were unable to build political support for the trial. And Holder, in an interview Thursday, left open the possibility that Mohammed's trial could be switched to a military commission, although he said that is not his personal and legal preference.

"At the end of the day, wherever this case is tried, in whatever forum, what

we have to ensure is that it's done as transparently as possible and with adherence to all the rules," Holder said. "If we do that, I'm not sure the location or even the forum is as important as what the world sees in that proceeding." [my emphasis]

The WaPo's sources say this "triggered a political backlash" and that they're involving Obama because they're "taken aback by the intense criticism."

It's not until the 16th paragraph of the article that the WaPo reports the big reason why Holder originally chose a civilian trial (and therefore, for security reasons, NY): because it stands the best chance of success.

In his interview, Holder reiterated his belief that a civilian trial would be the best legal option for Mohammed. "Trying the case in an article III court is best for the case and best for our overall fight against al-Qaeda," he said. "The decision ultimately will be driven by: How can we maximize our chances for success and bring justice to the people responsible for 9/11, and also to survivors?"

Instead of focusing on what the best policy decision is—the many reasons why an Article III court is more likely to lead to an uncontested verdict and closure—the WaPo focuses instead on who bears the blame for not dealing with the politics of the decision.

Managing the politics of terrorism has not been assigned to one person at the White House. Many people are dealing with the issue of the trial, including Chief of Staff Rahm Emanuel, National Security Council Chief of Staff Denis McDonough, deputy national security adviser Thomas E. Donilon, senior

adviser David Axelrod and White House press secretary Robert Gibbs. Increasingly, Phil Schiliro, the head of White House legislative affairs, has worked on building support in Congress. The new White House counsel, Bob Bauer, is also managing "a central piece of it," one senior White House adviser said.

Now, I don't necessarily fault the WaPo for this focus. After all, horserace is what it does. But the story itself is just one piece of evidence that the Obama Administration continues to mishandle this issue.

This is a question not only of justice, but really, of whether military commissions will work. There's little evidence they will, and much reason to doubt it. But instead of telling that story, the Obama Administration has now turned this into another example of back-room deal-making rather than the most effective solution.