

WHY DO COMEY AND GOLDSMITH HATE AMERICA MILITARY COMMISSIONS?

I realize that Eric Holder couldn't really have told the squawking Republicans that military commissions are much riskier a place to charge alleged terrorists than civilian courts. Which is why I'm grateful that Jim Comey and Jack Goldsmith did.

In deciding to use federal court, the attorney general probably considered the record of the military commission system that was established in November 2001. This system secured three convictions in eight years. **The only person who had a full commission trial, Osama bin Laden's driver, received five additional months in prison, resulting in a sentence that was shorter than he probably would have received from a federal judge.**

One reason commissions have not worked well is that changes in constitutional, international and military laws since they were last used, during World War II, have produced great uncertainty about the commissions' validity. This uncertainty has led to many legal challenges that will continue indefinitely – hardly an ideal situation for the trial of the century.

By contrast, there is no question about the legitimacy of U.S. federal courts to incapacitate terrorists. Many of Holder's critics appear to have forgotten that the Bush administration used civilian courts to put away dozens of terrorists, including "shoe bomber" Richard Reid; al-Qaeda agent Jose Padilla; "American Taliban" John Walker

Lindh; the Lackawanna Six; and Zacarias Moussaoui, who was prosecuted for the same conspiracy for which Mohammed is likely to be charged. Many of these terrorists are locked in a supermax prison in Colorado, never to be seen again. [my emphasis]

It won't do any good, though. Republicans want to try KSM in one of their fancy new military commissions even if it means they won't get to kill him in the end.