

Beyond Guantanamo

A Bipartisan Declaration

Declaration Supporting Federal Court Prosecution of Terrorism Suspects and Opposing Indefinite Detention Without Charge

We, the undersigned, urge Congress and the President to support a policy for detention, treatment and trial of suspected terrorists that is consistent with U.S. treaty obligations and constitutional principles. As it moves to close Guantanamo and develop policies for handling terrorism suspects going forward, the government should rely upon our established, traditional system of justice. We are confident that the government can preserve national security without resorting to sweeping and radical departures from an American constitutional tradition that has served us effectively for over two centuries.

Civilian federal courts are the proper forum for terrorism cases

Over the last two decades, federal courts constituted under Article III of the U.S. Constitution have proven capable of trying a wide array of terrorism cases, without sacrificing either national security or fair trial standards.

Prosecutions for terrorism offenses can and should be handled by traditional federal courts, which operate under statutes and procedures that provide the tools necessary to try such complex cases. Moreover, the War Crimes Act explicitly gives federal courts jurisdiction to try certain war crimes.

Terrorism suspects should be criminally tried, not detained without charge

We believe it is unconstitutional to detain indefinitely terrorism suspects in the United States without charge, either for the purposes of interrogation and intelligence-gathering or solely on the basis of suspected dangerousness. There are limited times when preventive detention, subject to required procedural protections, is appropriate in the context of armed conflict. However, the continued detention without charge of the detainees remaining in Guantanamo is not appropriate and is contrary to American values.

Indefinite detention without charge is counterproductive and harms the U.S. reputation globally

Instituting a system of indefinite detention without charge in the United States for terrorism suspects would threaten the constitutional protections enshrined in our justice system and is simply bad policy. Such a system would undoubtedly result in protracted litigation, delaying justice in these cases. In addition, establishing a system of detention without charge would damage the ability of the United States to promote respect for human rights around the world, embolden human rights violators, and tarnish our Nation's reputation with international allies. Thus, by discouraging cooperation by international allies and communities around the world whose assistance is needed to defeat terrorism, a system of detention without charge would undermine U.S. counterterrorism and counterinsurgency efforts and thereby also increase the danger to American military and other U.S. personnel serving abroad.

Beyond Guantanamo: A Bipartisan Declaration Signatories To Date

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1981 and to the Mutual and Balanced Force Reduction Negotiations in Vienna, 1983-
1984; former Assistant Secretary of State for Intelligence and Research; former Deputy
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James B. Tucker, U.S. Attorney, Southern Mississippi, 2001

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