

Reno Joins Criticism of Anti-Terror Strategy

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Former Prosecutors Urge Court to Act Against Indefinite Detention of Suspects

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Former attorney general Janet Reno has taken the unusual step of openly criticizing the Bush administration's anti-terrorism strategy -- joining seven other former Justice Department officials in warning that the indefinite detention of U.S. terrorism suspects could become commonplace unless the courts intervene.

In a friend-of-the-court brief filed in the case of alleged enemy combatant Ali Saleh Kahlah al-Marri, the former prosecutors assert that criminal courts are well equipped to prosecute terrorism suspects while guaranteeing the constitutional rights of defendants arrested on U.S. soil.

Reno, reached at her Florida home yesterday, said she would let the brief "speak for itself. I've been following this, and it reflects my concerns about the detention and treatment of people who have been determined to be enemy combatants in a manner that is not clear how it is being done."

In their brief, Reno and the other former Justice Department officials said: "The government is essentially asserting the right to hold putative enemy combatants arrested in the United States indefinitely whenever it decides not to prosecute those people criminally -- perhaps because it would be too difficult to obtain a conviction, perhaps because a motion to suppress evidence would raise embarrassing facts about the government's conduct, or perhaps for other reasons."

The filing in the U.S. Court of Appeals for the 4th Circuit is a highly unusual move for Reno. She has generally maintained a low profile since leaving the helm of the Justice Department in 2001 and has said little publicly about the policies of her successors, John D. Ashcroft and Alberto R. Gonzales.

The brief is also notable because its signatories include two U.S. attorneys from the Reagan years -- W. Thomas Dillard and Anton R. Valukas -- in addition to prosecutors from the Clinton and Carter administrations and Philip A. Lacovara, a counsel to the Watergate special prosecutor.

"It carries more weight because these are high-ranking officials in several administrations from both parties," said Carl W. Tobias, a law professor at the University of Richmond.

Marri, a Qatari national, has been held as an enemy combatant in a military prison in South Carolina since he was accused of being an al Qaeda "sleeper agent" sent to the United States to carry out attacks. Unlike the hundreds of detainees being held in Guantanamo Bay, Cuba, Marri was apprehended on U.S. soil, in Peoria, Ill., and is the only remaining enemy combatant held inside the United States.

The Justice Department argues that an anti-terrorism law, the Military Commissions Act of 2006, allows the government to detain any foreign national as an enemy combatant, regardless of where they were arrested. The administration wants to place Marri into its military trial system, but he is challenging the legality of his detention.

"While we respect the right of other legal minds to be heard on these issues, we believe we are on firm legal footing in this case as both the magistrate judge and district court concluded," Justice Department spokesman Brian Roehrkasse said yesterday.

Gonzales defended the administration's detention and surveillance policies in a weekend speech at the Air Force Academy, telling cadets that it is a "myth" that civil liberties have been hampered by anti-terrorism strategies.

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