Former Guantanamo Chief Says Close Guantanamo, End "War on Terror"

Retiring U.S. Deputy Assistant Secretary of Defense for Detainee Policy William K. Lietzau dropped a bombshell on the Obama administration in an interview with the London *Daily Mail*, calling for the closure of the Guantanamo Bay prison (shown) and an end to both the unconstitutional military commission trials of detainees and the so-called "war on terror" itself. Lietzau helped design the Bush-era "military commissions," later declared unconstitutional by the U.S. Supreme Court, and has been in charge of maintaining U.S. detainee policy under much of the Obama administration.

According to the August 3 *Daily Mail* story, Lietzau claimed the Bush detainee policy he helped to create was mistaken: "Mr Lietzau said that if he were advising the Bush administration now, 'I would argue that detainees should be kept in Afghanistan, or, if moving them is necessary, then into the United States. If I could change one thing in Gitmo's past, I would have called them prisoners of war from the beginning.'"

President Obama campaigned in 2008 on a pledge to close the Guantanamo prison within a year, and signed Executive Order 13492 during his first week as president to close the facility. But the closure never happened, as the Obama administration gradually walked back its campaign promises.

Lietzau's comments came as a hunger strike among prisoners at Guantanamo reached six months. Prisoners have protested their treatment, which has included detainment for as long as 11 years without a trial or formal charges and force-feeding by U.S. jailers (which has led to torture charges by human rights organizations and the United Nations). Ironically, the majority of remaining detainees have been declared innocent and cleared for release by the U.S. government, though the detainees remain mired in legal limbo. Congress has enacted a law banning their release into the United States, and no country has been found that will accept the remaining detainees.

Leitzau lamented the abuse of detainees at the Guantanamo facility, stressing, "There were people who were treated badly, and this is not something we are proud of."

Lietzau also argued that ordinary criminal trials, as spelled out in Article III of the Constitution, are vastly preferable to the ad hoc military commissions that have been created by presidents and Congress. "They have many advantages," Lietzau said of criminal trials, "such as the number of offenses which can be prosecuted in them." In more than a decade of presidential prosecution under military tribunals, not a single conviction has been upheld by the U.S. Supreme Court, and most seem destined to remain bogged down in pre-trial procedural matters indefinitely.

The Fifth and Sixth Amendments to the U.S. Constitution stipulate only two methods of trials for the accused: ordinary criminal trials and a military trial procedure for uniformed members of the military

and militia. Military tribunals outside of the ordinary Uniform Code of Military Justice are clearly unconstitutional, though throughout American history some presidents and congresses have endorsed them in contravention to the Constitution.

Probably Lietzau's most controversial statement (to the Obama administration, anyway) was his call to end the so-called "war on terror" and declare an end to military hostilities. "The struggle with terrorism is not going to end," Leitzau told the *Daily Mail*. "But we do have to end the legally cognizable armed conflict with Al Qaeda, a specific transnational group. Arguably, if the war aim of diminishing Al Qaeda's ability to mount a certain level of attack has been achieved, we could declare an end to hostilities and return to dealing with the threat as a law enforcement matter." That seems unlikely in the near future. The Obama administration appears politically wedded to military commission trials under the Military Commission Act of 2009. And there's little chance the president would declare a victory in the so-called "war on terror" any time before the 2014 elections, as hawkish Republicans would likely make an election issue out of such a declaration so soon after the Obama administration closed more than 20 U.S. embassies in the Islamic world.

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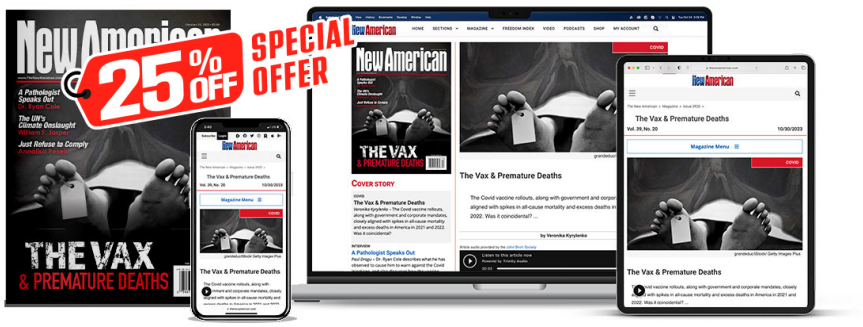

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