



JUST TO BE UNCLEAR

In Email, Obama's Flack Twists Facts Surrounding Failures Before And After Christmas Day Attack

POLITICO: "Robert Gibbs Sends Reporters A 'Just To Be Clear' E-mail, In Response To Hill Criticism Of The Administration's Handling Of The Christmas Day Bomber ..." (Mike Allen, "Politico Playbook," [Politico](#), 2/4/10)

BUT GIBBS' MISLEADING CLAIMS SHOW THAT OBAMA ADMINISTRATION IS ANYTHING BUT "CLEAR" ON HOW TO FIGHT WAR ON TERROR

CLAIM #1: Gibbs Says Senior Government Leadership Were Involved In All Decisions Related To Christmas Day Bomber. "[A]ll the senior leadership in government involved in intelligence knew that Abdulmutallab was being indicted more than a day before and they supported that decision." (Mike Allen, "Politico Playbook," [Politico](#), 2/4/10)

- **But Obama's Directors Of National Intelligence And National Counterterrorism Center Not Consulted On "Mirandization" Of Christmas Day Bomber.** SEN. JOHN ENSIGN (R-NV): "Admiral Blair, you said that this HIG was not convened. Who made the decision, since none of you were consulted? Who made the decision to go ahead and Mirandize the prisoner?" DIRECTOR OF NATIONAL INTELLIGENCE, DENNIS BLAIR: "It was a decision made by the FBI team; the agent in charge on the scene consulting with his headquarters and Department of Justice." ENSIGN: "Who authorized him at the Department of Justice? How high up did this go?" BLAIR: "I don't know, sir." ENSIGN: "Do any of the rest of you know?" DIRECTOR NATIONAL COUNTERTERRORISM CENTER, MICHAEL LEITER: "I don't know, Senator." (Senate Homeland Security Committee, U.S. Senate, Hearing, 1/20/10)
- **Nor Was Obama's Homeland Security Secretary.** "At congressional hearings last month, Director of National Intelligence Dennis Blair and Homeland Security Secretary Janet Napolitano admitted they had not been consulted about the decision to Mirandize Abdulmutallab." (Mike Allen and Kasie Hunt, "Underwear Bomber Talking Again," [Politico](#), 2/2/10)

CLAIM #2: Gibbs Says Decision Not To Declare Christmas Day Bomber "Enemy Combatant" Follows Advice Of Former Bush Attorney General Michael Mukasey On Jose Padilla Case. "[T]he Bush administration attempted to deny Jose Padilla access to counsel when he was detained as an 'enemy combatant,' but was overruled by federal judge Michael Mukasey. Mukasey went on to become the Attorney General in the Bush Administration. Mukasey declared that Padilla had a right to access to counsel, even when being held as an enemy combatant." (Mike Allen, "Politico Playbook," [Politico](#), 2/4/10)

- **But Unlike Abdulmutallab, Padilla Is American Citizen Who Was Arrested In United States.** (Peter Whoriskey, "Jury Convicts Jose Padilla Of Terror Charges," [The Washington Post](#), 8/17/07)
- **And Mukasey Says Abdulmutallab Should Have Been Held As Combatant After Arrest.** MICHAEL MUKASEY: "[H]e would have been considered an unlawful combatant. There have been others arrested in the United States, not withstanding what is in the attorney general's letter, that were treated eventually as unlawful combatants. And I can think of at least two of them." ([PBS Newshour](#), 2/3/10)

CLAIM #3: Gibbs Says Christmas Day Bomber Would Have Eventually Been Given Legal Counsel If Declared As "Enemy Combatant." "If Abdulmutallab were detained as an enemy combatant, the same standard would have applied to

him. If Abdulmutallab were prosecuted in military commissions, he would also be given access to an attorney.” (Mike Allen, “Politico Playbook,” [Politico](#), 2/4/10)

- **But Obama Could Have Detained Abdulmutallab Without Legal Counsel In Order To Obtain Further Intelligence.** “Mr. Abdulmutallab could have been detained without charge and interrogated outside of the constraints of federal rules to give the administration an opportunity to gather information in hopes of thwarting a future attack. The Supreme Court has acknowledged this authority, and the Obama administration has gone so far as to argue that Congress, through the 2001 Authorization for the Use of Military Force, gave the president the right to hold combatants indefinitely as long as a court of law rules that the initial detention was justified.” (Editorial, “Obama Administration Is Right To Prosecute Alleged Detroit Bomber In U.S. Court,” [The Washington Post](#), 12/31/09)
- **Instead, Decision To Put Abdulmutallab In “Civilian Tribunal” Denied U.S. Intelligence Agencies Valuable Information In Weeks After Attack.** “Abdulmutallab was ... in a civilian tribunal where the first step was to get him a lawyer who promptly put an end to his disclosures ... The point is less where Abdulmutallab will eventually be prosecuted than what use could have been made of him as an intelligence source. No consideration whatsoever appears to have been given to where Abdulmutallab fits in the foreign contingency operation ...” (Michael B. Mukasey, Op-ed, “What Does The Detroit Bomber Know?” [The Wall Street Journal](#), 1/6/10)
- **That Why Mukasey Also Says Abdulmutallab Should Not Be Handled In Civilian Court.** JIM LEHRER: “[D]o you believe, specifically, that the Christmas Day bomber case should be handled through federal civilian court?” MICHAEL MUKASEY: “In a word, no. Certainly, the decision shouldn’t be made immediately to do that. I think the first concern should have been to use him, not as a defendant, but as an intelligence asset, and to treat him in that fashion, until a decision was made about where ultimately to prosecute him.” ([PBS Newshour](#), 2/3/10)
- **Because Civilian Trials Could Force Disclosure Of “Valuable Information” To Terrorist Defendants.** “One certain outcome is that an open civilian trial will provide valuable information to terrorists across the world about American methods and intelligence. Precisely because so much other evidence may not be admissible, prosecutors may have to reveal genuine secrets to get a conviction. Osama bin Laden learned a lot from the 1995 prosecution in New York of the ‘blind cleric’ Sheik Omar Abdel Rahman for the first World Trade Center attack. His main tip was that the U.S. considered bin Laden a terrorist co-conspirator, leading him to abandon his hideout in Sudan for Afghanistan.” (Editorial, “KSM Hits Manhattan – Again,” [The Wall Street Journal](#), 11/14/09)

CLAIM #4: Gibbs Says Christmas Day Bomber “Has Not Been Offered Anything” In Exchange For Information.

“Abdulmutallab has not been offered anything. The Department of Justice [will] take his cooperation ‘into consideration.’” (Mike Allen, “Politico Playbook,” [Politico](#), 2/4/10)

- **But Because Abdulmutallab Was Mirandized, Government Forced To Negotiate For Information.** “Authorities are inching toward an agreement that would secure cooperation from the suspect in the failed Detroit airliner attack, according to two sources familiar with the case, even as fresh details emerged about the intense and chaotic response to the Christmas Day incident.” (Carrie Johnson, Walter Pincus and Spencer S. Hsu, “Authorities Seek Deal With Detroit Suspect On Cooperation, Guilty Plea,” [The Washington Post](#), 1/29/10)
- **Abdulmutallab “Sees That There Are Incentives Provided By Criminal Justice System To Cooperate,” Including “A Reduced Prison Sentence.”** (Mike Allen, “Bombing Suspect Talks To FBI,” [Politico](#), 2/2/10)