

United States Senate

WASHINGTON, DC 20510

February 11, 2010

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Obama:

We are writing today to endorse the use of our Federal criminal courts to prosecute and bring terrorists to justice. As we all work to strengthen our counterterrorism efforts, Congress should not interfere with your administration's using all available means to make us safer and more secure.

Our counterterrorism agents, prosecutors, and Federal criminal courts have the track record to show that they are capable of handling these cases. In hundreds of cases – both before and after September 11 – our courts have demonstrated that they can handle sensitive classified information, security, and other legal issues related to terrorism and national security. The Senate Judiciary Committee has held several hearings on the issue of how to best handle terrorism suspects and Guantanamo detainees. Experts and judges have agreed that our criminal justice system can handle this challenge.

We disagree with those who contend that our investigators, prosecutors, courts, and the men and women who protect our courts and prisons are not up to the task of bringing these terrorists to justice. We should not let partisan distractions lead us to cast aside such valuable tools as the experienced terrorism interrogators of the FBI or forego convicting terrorists in our Federal courts. Nor are these efforts mutually exclusive from obtaining valuable intelligence. Just last week, during a hearing in front of the Senate Select Committee on Intelligence, Director Mueller acknowledged that Umar Farouk Abdulmutallab is providing valuable intelligence. This is after he received medical attention and after he was read the *Miranda* warning.

There has been debate about whether to try the men accused of plotting the September 11 attacks in civilian courts or military commissions. We believe that whether such a trial is held in New York City or another location, these men should be brought to justice in a Federal court. Article III courts have proven to be the most capable venues to try and convict dangerous terrorists. These men should finally face justice.

We commend the Attorney General's decision to make these men answer for their heinous acts and hold them accountable. As Paul Bremer, one of President Reagan's top advisers on counterterrorism explained during the Reagan administration, a longstanding element of our overall strategy against terrorists has been to "use democracy's most potent tool, the rule of law, against them" and to delegitimize them.

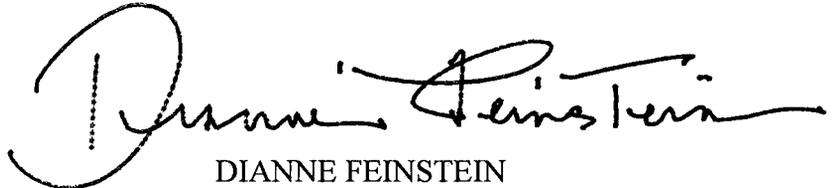
Our system of justice is strong enough to prosecute the people who have attacked us. There are hundreds of inmates in the United States who have been convicted of crimes related to international terrorism. The “supermax” facility in Florence, Colorado, houses 33 of these international terrorists. There has never been an escape from that facility.

We appreciate this administration’s willingness to use all possible venues to seek justice. The September 11 defendants and Umar Farouk Abdulmutallab will face trial in Federal court; the USS Cole defendants will face trial before a reformed military commission; and Major Nidal Hasan, the alleged Fort Hood shooter, is charged in a court martial. Congress should not tie the hands of our national security and law enforcement agencies, but should instead ensure they have the flexibility to use every means available. Congress should be working with you in a shared mission to most effectively protect our national security and to ensure that just convictions, once obtained, will be sustained and upheld.

Respectfully,



PATRICK LEAHY
Chairman, Senate Committee of the Judiciary



DIANNE FEINSTEIN
Chairman, Senate Select Committee on
Intelligence