

# FBI Infiltrates Guantanamo Detainee's Defense Team

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On Monday, the military trial of five 9/11 suspects was put on hold as allegations surfaced that the FBI had enlisted a member of the defense team as a secret informant. This brazen violation of basic democratic norms is a further exposure of an extra-judicial process that has been illegal from the start.

Defense attorneys filed a motion late Sunday night calling for a halt to the proceedings, a review of the FBI's involvement and the appointing of new independent attorneys for the defendants.

James Harrington, a civilian attorney for Ramzi bin al-Shibh, one of the five accused, told the judge, "We have an impossible situation in terms of representing our client... on any issue." Harrington added, "To say this is a chilling experience for all of us is a gross understatement."

Harrington explained that the defense security officer serving bin al-Shibh's defense team had an "ongoing" arrangement with the FBI.

On April 6, two FBI officers approached the defense security officer at his home in the United States. From what is known, the FBI obtained his signature on a document that established him as an informant. The legal filing of the defense team, which likely contains more details, has not been publicly released.

The military commission assigns defense security officers to the defense teams to advise them on how to handle classified documents. Harrington, speaking of al-Shibh's legal team, said that the defense security officer would have had "unlimited access to our files."

Walter Ruiz, an attorney for a co-defendant of al-Shibh, said that the revealed FBI document "in essence, seeks to enlist defense personnel" for an investigation into the leak of a manifesto by Khalid Shaikh Mohammed, the alleged mastermind behind the 9/11 attacks.

Mohammed, one of the five defendants, had produced a lengthy manifesto that was leaked to ABC news and the Huffington Post earlier this year. The long document, "Khalid Sheikh Mohammad's Statement to the Crusaders of the Military Commissions in Guantanamo," which was primarily an invitation to convert to Islam, discussed a wide variety of issues, among them the torture that he and other inmates were subject to.

Chief prosecutor of the military commission, army brigadier general Mark Martins, requested that the military judge, James Pohl, inquire "as to how this letter was released, and to take

action to ensure that the Commission process cannot be used to inappropriately disseminate propaganda.”

Perhaps suspecting that the prosecution knew something about the FBI investigation into the leak, the military Pohl asked the prosecution Monday morning whether they knew that the FBI had enlisted members of the defense team. The prosecution claimed no knowledge.

Since the beginning, the detention and trial of the accused masterminds and conspirators behind the September 11, 2001 attacks have been carried out in direct violation of international and national law. Originally captured in the early 2000's, they were brought to CIA “black sites,” where they were tortured, interrogated and held indefinitely without charge.

They were then transferred to the Guantanamo Bay camp, as “enemy combatants.” The executive branch claimed that they were technically outside of the jurisdiction of both international and US law, and not subject to the Geneva convention. Of the 775 detainees that have been brought through Guantanamo, the majority have eventually been released without charge.

The trial of the five defendants has been riddled with involvement by the intelligence agencies.

Courtroom proceedings are held in private and then recorded live but with a slight delay to the press. This lets the judge censor anything that is considered classified and confidential. However, in January 2014 the *Guardian* reported that the Central Intelligence Agency cut off all media access.

According to the *Guardian*, the CIA silenced the feed just as a defense attorney asked “the judge to issue a protective order on whatever remnants exist of the CIA’s secret overseas prison network.”

In December 2013, the internet news site *Vocativ* reported that the phone calls, internet voice calls, and internet data, including email, going to and from Guantanamo Bay are monitored and recorded. Because detainees were already being overtly monitored in simple ways, *Vocativ* questioned whether the “sophisticated” monitoring system known as “RedWolf” was used to target the attorneys.

When the attorneys arrive at Guantanamo for their work, they are given cell phones by the government to use. In February 2013, defense lawyers found recording devices disguised as smoke detectors in the rooms where they met with their clients. Then, in April 2013, more than half a million defense counsel emails were illegally given to the Department of Defense. The prosecution happened to come across them when looking through the government’s computers for their own purposes.

Andrea Prasow, who provides legal counsel to the Human Rights Watch, told *Vocativ*, “You can’t have a court system without access to defense counsel... and that means a privileged relationship with one’s attorney. If the government can’t provide that, it’s not a trial, it’s a show trial.”

The truth of the matter is that the entire process, beginning with indefinite detention and torture and now ending with a military commission under the direction of the Obama administration, has been carried out in flagrant violation of international and national law.

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