

Pentagon pursues tribunal for embassy bombing suspect

By JOSH MEYER
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WASHINGTON — The Pentagon charged a Guantanamo detainee with capital murder and terrorism Monday for his alleged role in the 1998 bombing of the U.S. Embassy in Tanzania and his suspected ties to Al Qaeda.

The Defense Department's chief military commissions prosecutor filed nine charges against Ahmed Khalfan Ghailani, and is seeking the death penalty if the Tanzanian is convicted of playing a central role in planning and preparing the truck bombing that killed 11 people and injured dozens. A nearly simultaneous bombing of the U.S. Embassy in neighboring Kenya, also blamed on Al Qaeda, killed 213 including 12 Americans on Aug. 7, 1998.

The Pentagon's action was sharply criticized by civil rights advocates and some federal law enforcement officials who wondered why the government was pursuing a war crimes tribunal considering that Ghailani was indicted in the bombings along with 10 others nearly a decade ago by a federal grand jury in New York City. Four of them were tried and convicted in 2001 and sentenced to life without parole. The others had not been captured at the time.

Said one former FBI official who helped build the criminal case against Ghailani and the 10 other suspected Al Qaeda members in 1998: "I'm shocked and amazed at this. He's already been charged with all of that in federal court. Why the hell do they need to do this? Are they afraid of the court system?" He spoke on the condition of anonymity because he might be called to testify against Ghailani.

Air Force Brig. Gen. Thomas W. Hartmann, the legal advisor to the Office of Military Commissions, defended the Pentagon's handling of the case, saying that the Military

Commission Act of 2006 was passed so that enemy combatants could be tried through a military system of justice.

"Through the act, the president and Congress have determined that alleged war criminals detained on Guantanamo Bay, to the extent that they are tried, will be tried through the commission process," he said. "That is the case with this accused. That is not to say cases pending in other venues are negatively impacted. Prosecutors could still proceed with those cases."

Hartmann and other military officials described the charges against Ghailani as the latest success stemming from a collaboration with civilian authorities that has also resulted in similar charges against 14 other detainees at the U.S. naval base at Guantanamo Bay, Cuba. The Pentagon is seeking the death penalty against six of those men in the Sept. 11 attacks.

Ghailani is charged with war crimes, murder and attacking civilians in the embassy bombing. And he is charged with material support for terrorism for his alleged activities in support of Al Qaeda.

The military charge sheet said Ghailani purchased TNT, detonators and detonation cord and transported them to Dar es Salaam, Tanzania, where the embassy was. It also said Ghailani moved the bomb components to various safe houses; escorted the bomb engineer between Tanzania and Kenya after the bomb was assembled; scouted the embassy with the suicide bomb driver; and joined co-conspirators on a flight from Nairobi to Pakistan a day before the bombing. The other bombed embassy was in Nairobi.

After the bombings, the charge sheet said, Ghailani helped Al Qaeda as a forger, training camp teacher, and bodyguard to Osama bin Laden.

Ghailani was caught in Pa-

kistan in 2004 and held in secret CIA custody somewhere overseas until he and 13 other "high-value detainees" were brought to Guantanamo in September 2006 for military commission trials. In a preliminary appearance in 2007, he admitted helping buy explosives components, but he has denied belonging to Al Qaeda or knowing the supplies were to blow up the embassy.

A Pentagon overseer of the war crimes court must approve the charges. Then, for the death penalty to apply, a unanimous panel of at least 12 would have to convict him. He will have the right to appeal up to the Supreme Court.

The Bush administration has faced fierce criticism for its detention and proposed military trials of suspected terrorists at Guantanamo, as well as for allowing the CIA to hold suspected Al Qaeda operatives like Ghailani at "black sites" overseas for years at a time, where they may have been subjected to coercive interrogation techniques that many say amount to torture.

Some said Monday's charges against Ghailani were an end run around the criminal justice system. They said the Pentagon and the Bush administration were essentially "militarizing" his alleged acts to hide controversial CIA tactics behind the veil of the military commissions, which may allow the use of secret evidence obtained through coercive interrogations.

The Center for Constitutional Rights was one of several organizations that said Ghailani should be tried in federal court. "If the administration believes Mr. Ghailani has committed a crime, he should be charged and tried in a lawful proceeding worthy of our country," the center said in a statement. "No military commission can ever achieve justice. Regardless of the results, no one will ever have confidence in the outcome."



Susan F. Hirsch, who was injured in the Tanzania bombing and whose husband was killed, said she was angry and disappointed that Ghailani would probably be tried in a military tribunal rather than in an open civilian court where the public can hear the case against him.

She said his treatment by the CIA "taints this entire proceeding."

"I have a hard time understanding why Ghailani is not treated similar to his alleged co-conspirators who were indicted and tried in U.S. court," said Hirsch, who wrote a book about the bombing trials. "The indictment could have been enforced the moment he was arrested in Pakistan."

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FBI

AHMED K. GHAILANI
A federal grand jury indicted him in 1998. So why a military trial? an ex-FBI official asks.