

Center for the Victims of Torture

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.thedailybeast.com/joe-biden-promised-to-close-guantanamo-bay-instead-hes-upgrading-it>

Public Facing Advocacy Writing

SEARCH

President Joe Biden's administration is funding a new \$4 million courtroom.

National Security Reporter

President Joe Biden was clear on the campaign trail that he wanted to close Guantanamo Bay. But nearly one year into his presidency, not only is the Biden administration not closing [Guantanamo Bay](#), its funding millions of dollars worth of upgrades, leaving prisoners languishing there with no end in sight.

Namely, in the coming year, the administration is planning on building a new courtroom on [Guantanamo Bay](#), according to Ron Flevsig, a spokesman for the Office of Military Commissions. The courtroom is expected to cost American taxpayers \$4 million, according to [The New York Times](#), which first reported the news.

Nearly 800 detainees have passed through Guantanamo Bay detention center since the terrorist attacks of 9/11, many of whom haven't been charged with a crime or even been to trial yet. And while a new courtroom could signal an interest in getting proceedings to chug along, advocates of closing Guantanamo Bay tell The Daily Beast constructing the new courtroom doesn't even come close to signaling that Guantanamo Bay closure is on the horizon anytime soon.

Building another courtroom suggests that the plan is to forge ahead with trials in the commissions, Scott Roehm, Washington director for the Center for Victims of Torture, told The Daily Beast. That's not only a fool's errand, but a slap in the face to victims' family members who've watched or at least watched as best they can given the secrecy that still surrounds the commissions[trials] crumble for two decades.

The new courtroom is directly contradictory to Biden's stated objective to close Guantanamo Bay, and squaring that circle won't be easy moving forward, said Wells Dixon, senior staff attorney at the Center for Constitutional Rights.

I think what this reflects is the Biden administration's policy incoherence if not policy failure on Guantanamo, Dixon, who challenges unlawful detentions at the Guantanamo prison, told The Daily Beast. The decision to spend millions of dollars to build another courtroom is inconsistent with the administration's stated policy objective of closing the prison.

The new courtroom is drawing criticism from Capitol Hill as well.

For nearly 20 years, the detention facility at Guantanamo has defied our constitutional values and the rule of law, Sen. Dick Durbin, chair of the Senate Judiciary Committee, told The Daily Beast. It's long past time to recognize the failure of the military commissions, close Guantanamo's detention facility, and end indefinite detention. It makes no sense to continue pouring millions of taxpayer dollars into a military commission system, including by building a new and secretive courtroom, that is inconsistent with our values and has failed to deliver justice for the 9/11 victims.

Biden's troubles with justifying not closing Guantanamo Bay nearly one year into his presidency only begin there. The news comes months after the Biden administration pulled the U.S. out of Afghanistan, which has led Guantanamo Bay lawyers to argue that the conclusion of the war invalidated the United States detention authority.

The detainees remaining at Guantanamo Bay, then, must be released, they have argued in court, as [The Daily Beast reported](#). According to the Geneva Convention, when there is a cessation of active hostilities, prisoners must be repatriated.

The Biden administration clearly isn't doing that. Hina Shamsi, the director of the ACLU's National Security Project, told The Daily Beast this move is unconscionable, as it is a further stain on America's human rights record.

It's part of the literal and figurative architecture that successive administrations have built to facilitate the censorship of torture which is the ongoing original sin of Guantanamo. It is confounding that the Biden administration would allow this to go forward even in the face of the president's promise to close Guantanamo, Shamsi told The Daily Beast. The fundamental problem remains, which is that this is a system that is now a symbol and reality of gross human rights violations.

The Biden administration has had trouble threading the needle on its Guantanamo Bay policy in other ways. When the Senate Judiciary Committee held a hearing on Guantanamo Bay last month, not a single representative from the administration dared to testify, which drew criticism from lawmakers on both sides of the aisle.

Of course, the Biden administration has appeared to make some progress it [transferred one detainee](#) out of the prison in July of last year, and White House press secretary Jen Psaki has said the administration aims to close Guantanamo Bay by the end of Bidens presidency.

But its easy to see that timeline slipping. The negotiations and approvals for that prisoner transfer the first of the Biden administration were made during the Obama administration. And, as [Durbin](#) pointed out last month, if prisoners are to be transferred out at that pace, detainees would remain even if Biden were re-elected to a second term.

Advocates for closure say the addition of the courtroom is not a step in the right direction, in particular because the real reason behind the snails pace on Guantanamo Bay cases isnt the lack of space.

There is a consensus that the commissions have failed but they havent failed because of a lack of courtrooms, Roehm said. Theyve failed because they were never about justice. Its a trial system the government hoped would allow for prosecuting the defendants while hiding [its] torture and denying [detainees] fundamental rights.

Its widely accepted that the military commissions have failed to achieve justice for anybody. And building another courtroom at Guantanamo in 2022 is throwing good money after bad, Dixon told The Daily Beast. Its doubling down on a system that has failed.

Lawyers and victims families have long lamented the slow pace of proceedings at Guantanamo Bay, which they say stems from difficulties of running proceedings on a remote island, procedural and personnel issues along the way, and the lack of attention to due process and human rights.

Just this week, a set of hearings in the case of Abd al-Hadi al-Iraqi, who is accused of coordinating suicide bombings, was [canceled](#) because the judge presiding decided to take a post over at the FBI and is leaving. Hes the fourth judge to preside over the case and then bail, setting the case back along the way.

Critics of Bidens lagging approach to Gitmo say the failure of the administration to make progress on closure is self-inflicted: While the Obama administration had a special envoy on Guantanamo closure at the State Department, no such office has been carved out during the Biden administration.

Last year, [Secretary of State Tony Blinken](#) expressed interest in reviving the office, but its not clear that any progress has been made. The State Department did not immediately return a request for comment.

For now, the path forward from here is not clear and neither is the Biden administrations plan to close Guantanamo Bay.

Many [victims families](#) have been arguing that plea deal agreements may be the best route for the U.S. government to take at this point. But if the Biden administration were truly interested in making progress on that front, it wouldnt be about adding a new courtroom, according to Roehm, who says it all comes down to political will or lack thereof to take other steps.

Pleas are the only realistic way to try to salvage a modicum of justice. This administration doesnt need to throw money away at new courtrooms to do that, Roehm said. It just needs to decide its going to chart a new course.

Until the White House intervenes, its going to be business as usual at Guantanamo, Dixon said.