**Benghazi Case Focuses Attention on US Interrogation Strategy**

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By ERIC TUCKER Associated Press

After a suspected militant was captured last year to face charges for the deadly 2012 attacks on Americans in Benghazi, [Libya](http://abcnews.go.com/topics/news/libya.htm), he was brought to the U.S. aboard a Navy transport ship on a 13-day trip that his lawyers say could have taken 13 hours by plane.

[Ahmed Abu Khattala](http://abcnews.go.com/topics/news/world/ahmed-abu-khattala.htm) faced days of questioning aboard the USS New York from separate teams of American interrogators, part of a two-step process designed to obtain both national security intelligence and evidence usable in a criminal prosecution.

The case, still in its early stages, is focusing attention on an interrogation strategy that the Obama administration has used in just a few recent terrorism investigations and prosecutions. Abu Khattala's lawyers already have signaled a challenge to the process, setting the stage for a rare court clash over a tactic that has riled civil liberties groups but is seen by the government as a vital and appropriate tool in prosecuting suspected terrorists captured overseas.

"I think they view it as important to show that terrorists can be prosecuted in U.S. courts, and this is an attempt to find a compromise between using people they capture as intelligence assets and prosecuting them in U.S. courts," said David Deitch, a former [Justice Department](http://abcnews.go.com/topics/news/us/justice-department.htm) terrorism prosecutor. "It's a very hard balance to strike — and may not be possible."

The administration has turned to questioning in international waters as an alternative to past practices in which suspects were sent to the U.S. detention facility at Guantanamo Bay, Cuba, or secret CIA prisons. The process ordinarily begins with questioning from a specialized team of interrogators who collect intelligence that can inform government decisions, such as for drone strikes, but cannot be used in court. Then a team of FBI investigators starts from scratch, advising the detainee of his Miranda rights, such as the right to remain silent, and gathering statements that prosecutors can present as evidence in a trial.

Some legal experts expect the hybrid interrogation technique to survive legal challenges. But defense lawyers are concerned that such prolonged detention can be used to wrangle a confession or amounts to an end-run around the government's obligation to promptly place a suspect before a judge.

"Basically by holding the suspects on a ship and delaying their presentment in federal court, they're able to get a leg up in interrogations," said Seton Hall University law professor Jonathan Hafetz, who has handled terrorism cases.

Abu Khattala is facing charges in Washington in the Sept. 11-12, 2012, attack on the U.S. diplomatic mission in Benghazi that killed U.S. Ambassador Chris Stevens and three other Americans. Following his June 2014 capture in Libya by U.S. special forces, he was placed aboard a Navy ship that his lawyers say made its way to the U.S. as slowly as possible to allow maximum time for interrogation. They say Abu Khattala was questioned for days by representatives from the High Value Detainee Interrogation Group, then for another stretch by FBI agents.

The prosecution is likely to unfold as former Secretary of State Hillary Rodham Clinton pursues her Democratic presidential bid and as a special House committee seeks answers about the attack. Clinton is scheduled to testify before that committee in October.

One early point of contention in the court case is the onboard interrogation. Abu Khattala's lawyers submitted court filings this month contending that the government held him "captive on a military ship — without the protection of and in spite of constitutional guarantees — for the explicit purpose of illegally interrogating him for almost two weeks."

Federal prosecutors have yet to respond.

Whatever a judge decides, the case taps into a broader legal debate about the prosecution of terrorist suspects and presents a rare opportunity for a possible ruling on the admissibility of statements gathered aboard a military vessel.

A similar approach was used in the case of Ahmed Abdulkadir Warsame, a Somali citizen accused of helping support and train al-Qaida-linked militants. His guilty plea — soon after he arrived in the U.S. via Navy ship — averted a trial at which his statements might have been used against him. His lawyers say they never filed a motion to suppress his statements.

It also came into play in the case of Abu Anas al-Libi, once one of the FBI's most wanted terror suspects. He was arrested in Libya in 2013 and brought to New York to face charges in the 1998 bombings of U.S. embassies in Kenya and Tanzania. His lawyers fought to keep the statements out of the case. Al-Libi died of complications from cancer before trial, making the issue effectively moot.

Matthew Waxman, a Columbia University law professor and former Defense Department adviser on detention issues, said in an email that while there's limited court precedent, he thought most judges would generally back the two-phase interrogation and would be "reluctant to create practical barriers to criminal prosecution of such terrorism cases." But he said each case relies on its own facts.

"Even if these issues get fully litigated, no single case will resolve the controversy," Waxman said. "It will take a long time for the court system to provide clarity on the limits of the government's authority to hold and interrogate terrorism suspects."

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