I negate the resolution.

I offer the following definitions in order to clarify the resolution:

Due process: Fair treatment through the normal judicial system, esp. as a citizen's entitlement.

(Google Dictionary)

The negative advocates the Value of National Security.

The standard to achieve this value will be through the Criterion of Ensuring societal safety.

The link that the value and criterion have with the resolution is explicit in that the affirmative’s plan will directly impact the government of the United States, and as such, the implementation of their plan will be evaluated on the basis of the negative framework. This is because a government always keeps its security and the safety of its citizens at a top priority so these points become almost natural for a government to pursue, and as such, any government based plan must meet this framework. The link with the criterion and the value is that if the American society is safe, than national security can be strengthened.

My sole contention is that Military Commissions are adequate to take care of accused terrorists.

Sub-point A: The federal courtroom doesn’t protect classified information of the government.

Analysis: Allowing classified information from outside nations in a US court is hard to justify and it is also really difficult to understand which piece of classified information is going to prove important down the road, so perquisites such as those for the CIPA for access aren’t very practical. The federal court system has no way to 100% ensure the protection of classified government secrets, and not just ours, even secrets brought in from other nations can prove to be a problem later on.

Sievert furthers:

**RONALD J. SIEVERT, “CONGRESS’S CONSISTENT INTENT TO UTILIZE MILITARY COMMISSIONS IN THE WAR AGAINST AL-QAEDA AND ITS ADOPTION OF COMMISSION RULES THAT FULLY COMPLY WITH DUE PROCESS”** St. Mary’s Law Journal, 2011

**It is extremely important to protect classified information in a trial; however, the reasons why particular information should not be disclosed are not always obvious to those who have not worked in the intelligence community.** The American Bar Association sponsored a workshop in July 2009 composed of attorneys, academics, and intelligence professionals, at which they drafted a report explaining the exact concerns that prompt the need to carefully apply legal procedures to safeguard this information.167 **The most commonly cited concern is the need to protect intelligence sources and methods because we definitely do not want to provide the enemy with a playbook that details how we are obtaining intelligence on their plans and capabilities.168 In addition, the disclosure of information provided by a foreign government can pose a major obstacle to future cooperation between the United States and that government.169 Informants also frequently provide intelligence on the condition that they will remain anonymous, and most countries are not likely to hand over their intelligence agents and sources to a U.S. court.170 Of course, some information may have been obtained by the U.S. after covert, nonconsensual entry into a nation–state that will subsequently be needed as an ally.**

The difficulty in handling intelligence can be even more complex than indicated by the above list of concerns. As the ABA report stated, “**it is not always clear at the outset which intelligence information will be valuable in the future.”171 Added to this is the “mosaic” problem, which can make one piece of information that appears fairly innocuous to the layman extremely important in the grand scheme of intelligence analysis.172**

**There will very likely be major differences in how classified information is reviewed and disclosed in civilian trials versus military trials**. These differences, however, will not be due to a substantial variation in the rules. **The distinction is** much more **likely to be caused by the attitude of a military judge attuned to protecting sensitive sources and methods, as opposed to a civilian judge who has no experience and may be less understanding of the tremendous damage that can be caused by the disclosure of certain items of classified information.**

Impact: If we allow access to classified information on either side of the case, a country’s secrets can be exposed as well as certain things that they don’t want other nations to know either. These secrets can anger more people or governments and lead to attacks or war, of which both are an immediate threat to both national security and societal safety.

Sub-point B: Military Commissions administer proper justice and at the same time uphold the basic human rights

Analysis: The NSCS system is the best alternative to the court and strict military systems discussed in the past, as it combines the good of both while filtering out the human rights violations and public safety issues. It keeps the accused “terrorist” away from doing harm to the people while they are in the stages of trial, and at the same time it also saves this person from being tortured or treated badly while they haven’t been proven guilty.

Logman expands on this idea:

***Andrea K. Logman, “*A HYBRID COURT FOR A HYBRID WAR”** Case Western Reserve Journal International, 2010

Under this system, the death penalty would still be an authorized punishment, but only if the accused is a citizen of a country where such punishment is authorized. For example, if a citizen of Great Britain is detained, life in prison would be the highest level of punishment authorized. Since the death penalty is viewed as a human rights violation within the European Union (EU), it is important in this global conflict to maintain support from our traditional allies.45 **Even if deemed applicable in a particular case, the death penalty would be authorized only in those cases deemed sufficiently egregious** to warrant it **and those that severely impact** the **national security** of the U.S.Certain aggravating factors would have to be developed and codified by Congress to distinguish between what cases are appropriate for life sentence and what could merit capital punishment. Recognizing that this would still cause concern among our European and other international colleagues, this proposal certainly requires further elaboration by the Congress and the White House prior to implementation. One way of ensuring support would be to recognize the expectations and rights of citizens of other nations. The unique nature of this war demands that we be overtly conscious that the enemy we fight is not from one or two nations as in traditional armed conflict. Many detainees are from nations that are allies of the U.S. Every effort should be made not to alienate such allies and their citizens from the ongoing, generational struggle. Overt gestures such as the modification of the death penalty standard within the NSCS are not “the solution” but rather one step toward healing wounds incurred in relationships over the past seven years.

A “speedy trial” rule will be part of the NSCS. Again**, the national security court system** we propose **would be presumptively adjudicatory while still providing sufficient opportunity for intelligence professionals to do their jobs and glean valuable, current information from those detained.** Distinguishing the system from the military commissions and other proposals for a new security court, **rules will regulate both the length of time before detainees are charged and the time required for commencement of a trial. The NSCS requires all detainees, from point of capture, to be charged within three months. Further, all trials must be initiated within one year from the date of being charged. In this way, the system permits legitimate, lawful interrogation of suspects over a period of time but does not permit indefinite detention.** It accounts for the needs of intelligence professionals and also promotes the rule of law.

Furthermore, as leaders in this fight against international terrorism, it is the duty of the U.S. to take responsibility and try these detainees. **Select military bases will be used as detention centers and the military courtrooms located on the base will be used for the actual prosecution. Military bases are ideal for several reasons: (1) They are secure; (2) there is room to house the detainees; (3) the professional military can oversee the detentions; (4) using military bases captures and reaffirms the notion that these are war criminals; (5) the military base can provide adequate safety for the civilian judges as they perform their work; and (6) using military bases will appropriately limit the access of those interested in attending the proceedings.** **This would keep the detainees held in a location that is secure** (similar to the stated rationale for holding the al-Qaeda suspects at Guantánamo) but will incur less of the controversy associated with the U.S. holding citizens of other nations at a remote location. **This would, in part, also remove some of the international concerns about the detention center having been previously located in Guantánamo. Under the NSCS, the detainees will now be located on U.S. soil.** In using the military bases, the thousands of unlawful belligerents held in Afghanistan, and Iraq, could be brought to these bases to be detained and tried both now and in the future. Under the NSCS, alleged and convicted U.S. military criminals will be held at the same location as the international terrorist. **Locating the alleged al-Qaeda fighters within the U.S. will answer myriad allegations of arbitrary treatment, and even suggestions of torture of the detainees will likely be mitigated. Such steps forward, in and of themselves, will help to reduce some international cynicism of U.S. intentions and actions regarding the detainees.** Without question, sections of the brigs would have to be separated for only those convicted by the NSCS. Doing so would be for the safety of our own armed forces, but **it would also distinguish the war criminals from ordinary military criminals.** Keeping unlawful combatants or even POWs on a military base but separated from ordinary military criminals has been the practice in ordinary armed conflict for generations.

Impact: In the court system, it is a hazard to the common man to be in a society where a potential terrorist is roaming freely. If the NSCS system isn’t implemented, we will utilize a federal court system where these suspects, innocent or not, are roaming around on the streets, which is comparable but worse in degree to a suspect rapist doing the same thing. We need to implement this system or else everything that the system aims to protect will get out of control.

Conclusion: The issue of handling terrorism suspects is a legitimate concern, yet the only way to substantially handle both national and societal security is to not thrust these potential terrorists into the constitutional due process system for citizens.