

**CBS FACE THE NATION WITH BOB SCHIEFFER**

**INTERVIEW WITH ATTORNEY GENERAL ERIC HOLDER JULY 11, 2010**

**BOB SCHIEFFER:**

And we're in the Benedict Music Tent at the Aspen Ideas Festival in Aspen and we're joined by the Attorney General Eric Holder. Mr. Attorney General, thank you so much for being with us.

**ATTORNEY GENERAL ERIC HOLDER:**

Good to be here.

**BOB SCHIEFFER:**

Let's just start with the top of the news, this bizarre ring of Russian spies or whatever they were. After they pled guilty, a deal was worked out to exchange them with some people that the United States had an interest in. Just give us the details. What's this about?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, the ten people here in the United States pled guilty to acting as agents of Russia without registering with our government, and we essentially orchestrated a swap. So that we had access to, or got that four people who had been charged in

Russia with conducting intelligence activities on behalf of Western countries.

**BOB SCHIEFFER:**

What do we get here? I mean the United States, the F.B.I., spent ten years tracking these people. Did we have any indication that they stole anything of significance?

**ATTORNEY GENERAL ERIC HOLDER:**

They didn't pass any classified information, and for that reason they were not charged with espionage; on the other hand, we have broken up a pretty substantial network that consisted of what they called illegals, ten people who were in different parts of the country and who were trying to in some ways insinuate themselves into our country and finds ways in which they could get information from a variety of sources. We did actually make contact with certain people and did obtain certain information from people who were unwitting in their interaction with these people.

**BOB SCHIEFFER:**

Well, what do we get in exchange? The four people that they're being exchanged for?

**ATTORNEY GENERAL ERIC HOLDER:**

These are people, as I said, who have been charged with intelligence activities in Russia and in whom we had a great deal of interest, as well as England and we have gotten those people back.

**BOB SCHIEFFER:**

Mr. Attorney General most of the time when the F.B.I. spends that much time and that many resources on watching people like that, the prosecutors usually wanna prosecute them. They wanna put them in jail. Why did they agree to make this deal?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, there were a variety of reasons. I mean, I think chief among them being the concern with the swap that we ultimately concluded. They could have been placed in jail but we saw this as an opportunity to get back to England and get back to the United States these four people in whom we have a great deal of interest. And it was on that basis that we decided to make that decision.

**BOB SCHIEFFER:**

Why did you decide to close in on them now? Why was it decided to break it up, break this whole thing up?

**ATTORNEY GENERAL ERIC HOLDER:**

Because one of the members, one of the uh the husbands of one of the couples was in the process of going to France and then on his way to Russia and the concern was that if we let him go, we would not be able to get him back. There were other operational considerations that we've not been in a position to reveal and cannot reveal at this point, operational concerns that if we did not act at that point, the possibility existed that we would not be able to break up the ring in the totality in the way that we have now.

**BOB SCHIEFFER:**

It appears that they didn't pose much of a threat to this country. Did they?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, they were acting as agents of a foreign power. And therefore they were certainly a threat in that regard. The potential for what they might have done was, I think, a serious thing. And the reality is that we had them under observation for over ten years, monitored their activities, saw what they were trying to do.

They were supported by Russia to a very great degree, hundreds of thousands of dollars. Great amounts of communication between them and Russia. Russia considered these people very important to their intelligence gathering activities. And we agree that they were intelligent, they were important to the Russians. And it was for that reason that we monitored them and took this extremely seriously.

**BOB SCHIEFFER:**

One question that we've gotten a lot of e-mails on and a lot of calls at CBS News: What happens now to the children?

**ATTORNEY GENERAL ERIC HOLDER:**

The children have all been repatriated. We did so consistent with what their parents' wishes were, and to the extent that we had children who were, close to majority or majority, they made their own decisions as to where they wanted to go. So the children have all been handled, I think, in an appropriate way.

**BOB SCHIEFFER:**

Because some of those children, because they were born here, would actually be U.S. citizens.

**ATTORNEY GENERAL ERIC HOLDER:**

Right. And to the extent that they had the ability to make choices, they were old enough to make them they made their decisions and they've gone back with their parents.

**BOB SCHIEFFER:**

Let's turn to the other big story of the week. You filed suit to ask a judge to overturn Arizona's new immigration law. It has put Republicans in a rage. Here's what Senate Republican Leader Mitch McConnell said. He said, "Suing the people of Arizona for what the federal government has utterly failed to do will not help secure our borders."

Senators Kyl and McCain, the Arizona Senators, say, "Attorney General Holder speaks to the federal government's responsibility to enforce immigration law, but what are people of Arizona to do when the federal government fails its responsibility?" So why did you file this lawsuit?

**ATTORNEY GENERAL ERIC HOLDER:**

I understand, first off, the frustration of the people of Arizona and the concerns that they have with regard to the amount of illegal immigration that occurs. But the solution that the

Arizona legislature came up with is inconsistent with our federal constitution.

It is responsibility of the federal government to decide immigration policy. And what the Arizona con-- the Arizona legislature came up with was a statute that is inconsistent with the federal constitution. It's preempted by the federal constitution. On the basis of preemption, we decided to file a lawsuit. We have an immigration policy that takes into account a whole variety of things; international relations, national security concerns, and it is the responsibility of the federal government, as opposed to states doing it on a patchwork basis to decide exactly what it is our policy should be with regard to immigration. And it was on that basis that we filed a lawsuit.

**BOB SCHIEFFER:**

You've heard the same criticism that I have. Some are saying that it's just all politics, what you're trying to do is to brand Republicans as anti-immigration, or in fact anti-Hispanic, before the elections in November.

**ATTORNEY GENERAL ERIC HOLDER:**

Not true at all. The basis for this was a legal determination by

those of us at the Justice Department that the law was inconsistent with the constitution. And there, I think one has to also understand that there are a substantial number of Republicans and people in law enforcement who thought that the decision that we made to file this lawsuit was, in fact, the correct one. So it is not a monolith. It's not a Republican monolith here where people are saying in the Republican Party that this was an inappropriate decision.

**BOB SCHIEFFER:**

When the Arizona law was first passed, both you and the president expressed concerns that it would lead to racial profiling because it allows the police, if they think someone might be in this country illegally it gives them the right to stop them and they have to produce papers to show that in fact they are citizens. Yet, your lawsuit doesn't talk at all about racial profiling, or if it even mentions it it's just barely. It just talks about the federal government is being preempted from a duty that it has to perform. Why did you choose to go that route?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, we wanted to go out with what we thought was our strongest

initial argument and to focus on what we thought is the most serious problem with the law as it now exists. It doesn't mean that if the law, for whatever reason, happened to go into effect that six months from now, a year from now, we might not look at the impact the law has had and whether or not-- see whether or not there has been that racial profiling impact. And if that was the case we would have the tools and we would bring suit on that basis.

**BOB SCHIEFFER:**

Are you saying, though, that states and local governments have no responsibility when it comes to enforcing immigration policy, that that's solely the responsibility of the federal government?

**ATTORNEY GENERAL ERIC HOLDER:**

States and local governments can certainly help the federal government enforce immigration laws. What we're saying is that they cannot pass laws that are inconsistent with the federal laws, or do things that contravene federal policy when it comes to the enforcement of our immigration laws. And the Arizona statute, if you look at the guts of it, really puts in place a whole variety of things that are inconsistent with what we have decided to do as

a federal government. And it is on that basis that we decided to file a lawsuit.

**BOB SCHIEFFER:**

The trouble in the Gulf continues. You said couple a weeks, or it's getting to be months ago you announced that the government is going to open an investigation to determine if the conduct of BP officials constituted criminal behavior. It was a very unusual thing for a law enforcement or a prosecutor to announce that. Number one, and when you did announce it, I would add the stock of BP fell. It really tumbled. Why did you choose to make that announcement?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, I was very careful in what I said when I did not say that BP was under investigation. What I did say was that we had opened a criminal investigation but did not indicate who the subject of the investigation was. And that is a very serious thing because there are a variety of entities and a variety of people who are the subjects of that investigation. And for people to conclude that BP is the focus of this investigation might not be correct. So

**BOB SCHIEFFER:**

But it might be correct?

**ATTORNEY GENERAL ERIC HOLDER:**

I am not going to go any further than what I said in New Orleans and what I've said today. But the-- given the extraordinary nature of what our nation is facing there, we thought it was appropriate to let the American people know that the federal government was understand what was going on here, and that we were using the full panoply of our powers to open both a criminal investigation and a civil inquiry to ensure that the American people don't pay a cent for the clean up, that we want to do all that we could to restore the environment to that which it was looked like before and perhaps improve it, and to make sure that we held accountable anybody who was responsible for the spill.

**BOB SCHIEFFER:**

So where is the investigation now? Should we be expecting indictments any time soon, or any actions?

**ATTORNEY GENERAL ERIC HOLDER:**

I mean, the investigation is ongoing. Our primary concern at this point is getting the spill stopped. And hopefully we'll that will

happen relatively quickly. The investigation is ongoing. We are in the process of accumulating documents, talking to witnesses on both the criminal side as well as the civil side. But I wouldn't put a time table on when we'll be

**BOB SCHIEFFER:**

All right. Let's take a break here. And when we come back in 60 seconds, we'll talk about a lot of the other things that are on your plate, including what are you going to do about Khalid Shaikh Muhammad, the mastermind of 9/11. Back in a minute.

(END PART ONE)

**BOB SCHIEFFER:**

And we're back now with the Attorney General Eric Holder. Mr. Attorney General, what is your current thinking on what is to be done with the 9/11 mastermind Khalid Sheikh Muhammad? You at first were going to try him in New York. Now, it appears that-- he's going to be tried some place else. Where are you on this?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, no decision's been made yet as to exactly where the trial is going to occur. What we want to do is to hold accountable as effectively as we can the people who are responsible for what

happened on September the 11th. We've had to deal with a variety of things. Funding, and dealing with Congress.

The concerns that have been expressed by local officials. We're trying to work our way through that and as soon as we can, we will make a decision as to where that trial-- will occur. But we are bound and determined to hold Khalid Sheikh Muhammad and those who worked with him, hold them responsible for happened on September 11th

**BOB SCHIEFFER:**

Have you decided yet whether it'll be before a military tribunal or a civilian court?

**ATTORNEY GENERAL ERIC HOLDER:**

We are still in the process of considering that as well. The recommendation I made was that it should be done in a civilian court.

**BOB SCHIEFFER:**

Are you still leaning in that direction?

**ATTORNEY GENERAL ERIC HOLDER:**

That is something that we are in the process still of working our way through.

**BOB SCHIEFFER:**

Can I ask you the obvious question?

What is taking so long to make this decision?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, I mean, it-- there were certainly unanticipated things that happened. One looks at the way in which Congress has looked at this and the question of whether or not we will have sufficient funding in order to bring these cases.

There have been restrictions that have been talked about by Congress, some of which have been imposed. We're going to have to work with Congress in order, I think, ultimately to bring this case to trial. And I think that given the magnitude of what happened on September the 11th and the need to bring justice and closure to this that people in Congress need to work with us in the executive branch to come up with a way in which we can put these people on trial. Justice has been denied too long.

**BOB SCHIEFFER:**

Well this controversy now that goes on and on and on some argue that a person you know, that these people, that many people feel are not criminals, that they're military combatants, that they

should not be read their rights.

They should not enjoy all the rights that those of us of in America have. Why can't you try them before a military tribunal?

**ATTORNEY GENERAL ERIC HOLDER:**

I look at it the other way. Why can't we use a great criminal justice system that has proven effective in these kind of cases over the years, that has proven effective in a wide range of cases over the last 200 years, why can't we use that system?

It is that system that we have often said distinguishes us from other countries. It is one that I am extremely proud of and one that I think is extremely capable. We have tried over 300 terrorists in our criminal justice system. We've gotten very long sentences where that was appropriate. There have been a really limited number of people who have been tried in the in the military tribunals, which is not to say that they should not be used. But at the exclusion, I think if we try to exclude the federal criminal justice system we are taking away one of the tools that we have. And I think ultimately we make this nation much weaker. That's a very dangerous thing, I think, to take that tool out of our hands.

**BOB SCHIEFFER:**

There was some talk at one point that you might move this trial to perhaps a military base in Virginia. Is that still an option?

**ATTORNEY GENERAL ERIC HOLDER:**

There are any number of possibilities that we are considering. And we have not made any final decisions.

**BOB SCHIEFFER:**

Can you, in fact, seek the death penalty when you take someone before a military tribunal? I know you can in a civilian court. Because I've had some lawyers tell me that that might not be possible.

**ATTORNEY GENERAL ERIC HOLDER:**

You can certainly seek the death penalty. There is real question as to whether or not somebody can plead guilty and get the death penalty on the military side. You can certainly do that in a civilian setting.

**BOB SCHIEFFER:**

But you might not be able to do that if they plead guilty in a military tribunal?

**ATTORNEY GENERAL ERIC HOLDER:**

Right. There's real question about that.

**BOB SCHIEFFER:**

It's interesting that nobody has made much of that, that this has become so controversial. I'm surprised that those of you who favor the civilian trials haven't said to some who want to put these people before a military tribunal, "But look, we might not be able to get the death penalty."

**ATTORNEY GENERAL ERIC HOLDER:**

One of the things I think that is particularly bothersome to me is that this really has become something that has become political. And the politicization of this issue when we're dealing with ultimate national security issues is something that disturbs me a great deal.

We are dealing with the deaths of 3,000 people on September the 11th. We're dealing with the mastermind of the 9/11 attacks, the person who was a key part of al-Qaeda. And to have Republicans and Democrats arguing about this in a political way, as opposed to dealing with the substance that we have to really focus on, is something that I think is regrettable and has resulted, I think,

in the delays that that we have seen.

**BOB SCHIEFFER:**

One of the president's first acts when he became president was to say that he would close Guantanamo, our prison facility, within a year. Guantanamo is still open. When is that question going to be resolved? And is that, in fact, any more a priority for the administration?

**ATTORNEY GENERAL ERIC HOLDER:**

It is still a priority. Guantanamo is serves as a recruiting tool for al-Qaeda. The intelligence shows that, continues to show that that is true. It has served as a wedge between us and our traditional allies. We have done all that we can to try to close Guantanamo.

I think people have to understand we've done a substantial amount of work. When we started there, there were 240 people who were in Guantanamo. We're down to about 180. We have looked at each one of those prisoners who were there, each one of those detainees, and made individualized determinations as to what ought to happen to them, those who can be tried those who can be repatriated, those who will be detained under the laws of war. That has been

done.

Again, we need Congress to come up with an alternative facility. We've identified one in Illinois, the Thompson facility, that we think we could bring people to. We have not gotten the funding from Congress in order to do that. But this is still a priority for this administration.

**BOB SCHIEFFER:**

Do you think that this decision will be made before the November election?

**ATTORNEY GENERAL ERIC HOLDER:**

I-- you know, we have made the decision. This is something that we want to do. We need congressional support in order to do it. We have put in the requests that we have for the 2011 budget, money to acquire the Thompson facility and to change at least a portion of it so that we could hold people that are not in Guantanamo, hold them in that facility. We need Congress to appropriate the money to do it.

**BOB SCHIEFFER:**

At this point, Congress has not been willing to do that. Do you have any state other than Illinois, I guess it is, that that says

that they would be willing to do this? And I don't think that's even certain, is it. Is there any place else that has agreed they'd be willing to have this facility?

**ATTORNEY GENERAL ERIC HOLDER:**

We actually have had expressions of interest from a couple of other states. I don't want to necessarily talk about them now because I think we have a very firm commitment from the people in Thompson and from state officials in Illinois that they are willing to convert a portion of that facility that is underused and would be sold to the federal government for the detention of people who are now held in Guantanamo.

**BOB SCHIEFFER:**

You know, I remember during the campaign President O-- I mean, Senator Obama said he wanted to close Guantanamo said he wanted to close Guantanamo. Senator McCain said that he wanted to close Guantanamo. And I think those of us in the press bear a little responsibility in all of this. Because we forgot to ask the follow up: "How are you going to do it?" It's..has it not proven to be a lot more difficult than you thought it was?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, it's proven more difficult because there have been people who have changed their positions. I think as you said, Senator McCain certainly was in favor of closing Guantanamo. President Bush has expressed a desire to close Guantanamo. Our military leaders have indicated a desire to close Guantanamo. Those are people who are on the front lines who have said Guantanamo should be closed.

This is another instance where I think politics, unfortunately has entered into this discussion. I think there's a lot of misinformation out there. We have proven an ability to hold in our federal prison system people convicted of, charged with terrorist offenses very effectively, very safely.

There is no reason to believe that people held in Guantanamo cannot be held wherever we put them in the United States. Again, very safely and very effectively. And so it is our hope that we will be able to persuade Congress to give us the ability to open that Thompson facility.

**BOB SCHIEFFER:**

You know, early on in the administration you created quite a stir

when you said in a speech that we had become a nation of cowards because we weren't talking enough about the race. a lot of people criticized you for that. A lot of people applauded you for saying that. Are you sorry now that you said that? Or what exactly did you mean by that, and how do you feel today after some time has passed?

**ATTORNEY GENERAL ERIC HOLDER:**

I think that this is ours is a great nation. But one of the great things that we have always tried to we have always wrestled with from the inception of this nation, is the question of race. If one looks at the history of this country in the 19th century, race was, I think, the dominant issue. If you look at history of this country in the 20th century, race was one of the dominant issues. It remains an issue that-- I think still divides us. And if you look at the demographic changes this nation is about to undergo, we have to have, I believe-- an open and honest discussion about race, ethnicity the diversity that we are about to see.

An unprecedented diversity in this country can be a great source of strength for this nation, but if not dealt with appropriately can also be something that is very divisive. And what I was

trying to say in that speech is that we should be honest with one another and not feel that we have to retreat into our cocoons and only say that which we consider to be safe. That we ought to have the strength of character to say that which we really feel and people who are receiving it should understand that those things are said in good faith. To just have an open, honest dialogue about something that I think for too long we have not been willing to discuss.

**BOB SCHIEFFER:**

Do you see any sign that we are doing better on that?

**ATTORNEY GENERAL ERIC HOLDER:**

Well, slightly. I think certainly that speech that I gave generated some conversation. I'm not sure that I heard all the applause that you were talking about with regard to those remarks. I think perhaps we are getting to a place where a better place.

I think the fact that we have an African American as president, perhaps an African American as an attorney general is a spur in that regard. But I think there's still a lack of desire and understandable, I think in some ways. People feel uncomfortable

talking about racial issues out of fear that if they express things they will be characterized in a way that's not fair. I think that there is still a need for a dialogue about things racial that we have not engaged in.

**BOB SCHIEFFER:**

Mr. Attorney General, thank you for being with us in Aspen on Face the Nation.

**ATTORNEY GENERAL ERIC HOLDER:**

Thank you.