1. Zika Virus
The Zika virus is a mosquito-borne disease that may be linked to brain damage in infants. In this Call with the Experts, Melinda Moore, a public health physician and senior natural scientist at RAND, discusses what can be done to prevent its spread.
MORE AT www.rand.org/a160209

2. The Motor Vehicle Prioritizing Interventions and Cost Calculator for States (MV PICCS)
This online tool can help state decisionmakers prioritize 14 effective motor vehicle injury-prevention interventions based on the costs and effectiveness for their states.
MORE AT www.rand.org/t/TL144

3. The Islamic State’s Money Problems
Political scientist Patrick B. Johnston describes how ISIL, once famous for being the richest terrorist group in the world, now faces considerable money problems due to coalition airstrikes, economic downturns in Iraq and Syria, and historically low global oil prices.
MORE AT www.rand.org/b160305

4. About the RAND National Security Research Division
This four-minute video features several prominent RAND researchers discussing the research agenda and capabilities of NSRD.
MORE AT www.rand.org/nsrd/about

5. Emerging Cyber Threats and Implications
Isaac Porche, associate director of the RAND Arroyo Center’s Forces and Logistics Program, testified before the House Homeland Security Committee, Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies earlier this year.
MORE AT www.rand.org/t/CT453
Taking the American Pulse
A RAND survey gives voice to the American people on health care reform, the financial crisis, and presidential politics

Science and the Healing Arts
Looking outside modern medicine for the future of health care

Justice at Guantánamo
Whether the prison closes or not, it’s time to replace the military judges with federal judges

Research Briefly
POV The missing story about women in uniform

The Q&A Reframing how we think about health and illness

Giving A cofounder of Sesame Street makes an impact at RAND

at RANDom The art of research

Thousands of people participate in RAND’s American Life Panel survey, representing a cross-section of American public opinion. Their responses have informed a decade of policy and research—and helped RAND make some of the most accurate polling predictions in the 2012 presidential election. They’re back again for 2016.
Lawyers, Guns & Money

It has become part of the sad ritual of mass shootings in America: the establishment of a charitable fund to compensate victims for their medical bills, funeral expenses, and loss.

A recent RAND study examined such victim compensation funds, especially whether they might offer victims adequate recourse to spare them the trouble of a lawsuit. The answer to that question could help victim advocates better craft compensation funds in the future.

Researchers asked more than 1,500 people in RAND’s American Life Panel survey to imagine that there had been a shooting at a concert, and a friend had been wounded. Would they advise that friend to file suit, the survey asked, even if at least some hospital and other costs were covered through a victims’ fund?

The experiment allowed researchers to assess whether and how a fund might change behavior. The researchers also compared their results to the real-world decisions that victims made following several mass tragedies.

More than half of the respondents in the survey said they would consider suing even with a fund in place—to seek not just compensation, but also justice and accountability. That suggests victim compensation funds might often be an “imperfect substitute” for litigation, the researchers concluded.

But their study also showed that funds could be structured to lower the likelihood of lawsuits, if not replace them entirely. Respondents were much less likely to push for a lawsuit when the victim’s economic losses were completely covered; partial or token payments sent more people to the courthouse.

Done right, the researchers concluded, a compensation fund can represent an important tool to help at least some victims “recover quickly without the need to resort to potentially lengthy, costly, and uncertain litigation.”

MORE AT
www.rand.org/t/EP66272

Reducing the Stigma—and Costs—of Mental Illness

A California campaign to greatly expand mental health programs on college campuses has likely kept hundreds of students in school and may yield millions of dollars in benefits to society, a recent RAND study found.

Around one in five American undergrads experiences a mental health problem. Yet their need for counseling and other services often goes unmet, both because of the limited capacity of campus clinics and because of the stigma attached to mental illness.

California committed tens of millions of dollars toward overhauling its mental health safety net beginning in 2004, with better funding in particular for early-intervention and public-awareness campaigns. The return on that investment was obvious by 2014 on California’s public and community college campuses, RAND found.

The number of students seeking treatment for mental health problems had increased 13 percent in the past year, the researchers found. They estimated that more than 300 students a year who would have either flunked out or dropped out because of mental health problems will instead be able to stay on to graduate.

That adds up to a return on every dollar that California invested of as much as $6.49 in higher wages and other societal benefits, the researchers calculated. The returns were even more pronounced at community colleges—perhaps as much as $11.39 for every dollar spent.

That success did not necessarily require costly new facilities or more mental health providers, the researchers noted. Rather, what worked for California was changing the conversation on campus; reducing the stigma of mental illness; and empowering students, faculty, and staff to better support those in need.

MORE AT
www.rand.org/t/RR1370
The End of Sexy

The shifting economics of health care, from advance-at-all-costs to progress-with-prudence, will likely transform the medical-device industry and change its approach to innovation, a recent RAND paper concluded.

The researchers called it “the end of sexy.”

The health care system has long rewarded manufacturers of medical devices—such as pacemakers—for even slight improvements in performance without regard to cost. That put the incentive on innovations that drove up health care spending, sometimes far out of proportion to patient benefits.

But the way we pay for health care is undergoing a historic transformation, driven in part by the Affordable Care Act. The focus is shifting away from the payment-per-procedure numbers game of the past, toward a more sober accounting of costs versus benefits to patients.

That will encourage a new wave of cost-conscious innovation aimed more at making medical devices more efficient and effective, and less at coming up with the next breakthrough budget-buster, the researchers concluded. It will be a future realigned to better deliver what the health care industry calls the “Triple Aim”: better health, better care—and lower costs.

“We are witnessing a fundamental change in how we pay for medical care,” wrote lead author Soeren Mattke, a senior scientist and managing director of RAND Health Advisory Services. To keep up, he added, the medical device industry will have to adapt its products to that new cost-cutting reality, “and reorient innovation from the spectacular to the prudent.”

MORE AT
www.rand.org/t/PE176

24/7 Sobriety

South Dakota may have hit upon an effective strategy in the battle against problem drinking, RAND researchers found: frequent monitoring of alcohol-involved offenders and, for any lapses, the swift justice of a night in jail.

For years now, the state has ordered repeat drunk drivers and other alcohol-abusing offenders to take twice-a-day Breathalyzer tests or wear an alcohol-monitoring bracelet. Skipping or failing a test meant the offender was heading back to jail for a day or two.

It wasn’t the toughest of sanctions, especially for repeat offenders—but it worked. The number of repeat drunk-driving arrests fell 12 percent between 2005, when the program started, and 2010, RAND researchers found. Domestic violence arrests fell 9 percent, and there was some evidence that the number of car crashes involving young men dropped as well.

The program, known as 24/7 Sobriety, was even associated with an overall decrease in adult mortality, the researchers found.

The findings held even when the researchers accounted for such potential disruptions as South Dakota blizzards and the Sturgis motorcycle rally. More than 17,000 people were enrolled in the 24/7 Sobriety program during its first six years—and collectively, they had 2.25 million days without a detected alcohol violation.

Other states have taken notice. The program is under consideration, or already under way, from Alaska to Florida; even London is trying out a version of it.

MORE AT
www.rand.org/t/EP66340 and www.rand.org/24-7
Modern medicine has a problem. It can fix a damaged heart, battle cancer into remission, and operate on the deepest recesses of the human brain. Yet it continues to struggle with the everyday anguish of an aching back.

Americans now spend billions of their own dollars seeking relief from such chronic conditions in alternative schools of health, such as acupuncture or chiropractic. RAND researchers have started to examine what it would take—and what it would mean—to more fully integrate such practices into the medical mainstream.

The obstacles are forbidding; the insurance questions alone might require an actual act of Congress to solve. But the benefits could transform health care as we know it, expanding its scope from sickness and trauma to whole-body wellness.

Unconventional medicine, once dismissed as quackery by the medical establishment, might be the missing piece of modern health care.

“How do we take two parallel systems and bring them together?” asks Ian Coulter, a senior health policy researcher who holds the RAND/Samueli Institute Chair in Policy for Integrative Medicine. “That,” he added, “is the future.”
A different model

Arnie Hagler came to integrated medicine by way of the floor at Chicago’s O’Hare International Airport. He was in between flights when the pain in his lower back finally laid him out.

Prescription drugs couldn’t touch it. And so Hagler, now 74, a biophysicist who spent his career working with the pharmaceutical industry, took a chance on a chiropractor. “Saved me from surgery,” he says now. He’s come to see integrated medicine as a way to “stack the deck” for his own health and wellbeing. After all: “You can’t solve a problem with the 15 minutes that you get in a standard medical service these days.”

That’s a common refrain from the millions of Americans who now balance their care between medical science and the healing arts. Practices such as acupuncture, naturopathy, and therapeutic massage were once considered New Age; now, they’re more often called Complementary and Alternative Medicine, or CAM.

What they share is a focus on holistic wellness, on helping the body heal itself—on making the patient as much a partner in health as the practitioner.

Americans spent nearly $34 billion out-of-pocket on CAM treatments and products in 2007, the most recent year for which reliable data are available. Most of that went toward treating quality-of-life conditions such as chronic pain, and lifestyle conditions such as obesity or high cholesterol—the soft spots of clinical medicine. Complementary approaches to back pain alone accounted for nearly $9 billion of that spending, one study found.

“There’s something going on. People appreciate these kinds of visits,” said study coauthor Patricia M. Herman, a senior behavioral scientist at RAND and a licensed naturopathic doctor.

“The health care system is built for trauma,” she added. “The big things that are killing us now and affecting quality of life are those chronic conditions and lifestyle diseases, and those require a different model.”

Policy hurdles

To get a sense of why those different models of medicine remain a step outside the mainstream, start with a mild October day in 1893, when medical students lined the streets of Philadelphia to jeer at a parade of homeopaths. “Sugar pill, sugar pill,” they chanted, “never cured, and never will.”

The medical establishment spent decades deriding most other practitioners as dangerous charlatans—“unconscionable quacks,” according to a pivotal paper in 1910 that set the tone for generations of doctors. The American Medical Association tried to run chiropractors out of business until 1980, dismissing their practice as an “unscientific cult”; a federal judge later ruled its boycott amounted to an illegal conspiracy.

“We’ve come a long way,” said John Scaringe, a professional chiropractor and the president of Southern California University of Health Sciences. Its students of Eastern medicine and chiropractic will soon share their classrooms with future physician assistants, a pioneering attempt to integrate even the training of health care professionals.

“We’re not looking at it as holistic versus traditional health care, but contemporary health care,” Scaringe said. “We’re hoping that in the future, we don’t have those distinctions.”

Mainstream medicine has started to reassess the potential of some CAM treatments to relieve health problems ranging from headaches to depression and PTSD to the chronic pain of fibromyalgia and cancer. The U.S. Veterans Health Administration, for example, now makes such routine use of chiropractors that it no longer considers them alternative. Georgetown University offers its
Dr. David Paris performs a chiropractic treatment for veteran Adam Ingram at the Redding Outpatient Clinic in Northern California.

VA Butler Healthcare recently started a new acupuncture clinic for veterans at its main facility in Butler, Pa. During a veteran’s first acupuncture appointment, a VA doctor will take a detailed history, evaluate the area of complaint, and determine an appropriate care plan.

Currently, 17 states, the District of Columbia, and the U.S. territories of Puerto Rico and the U.S. Virgin Islands have licensing or regulation laws for naturopathic doctors.
medical students a course in mind–body techniques—to help them cope with the high stress of medical school.

Yet the road from here to fully integrated health care, uniting the best of modern medicine and its alternatives, remains a long one, full of barriers, RAND researchers have found.

Some states, for example, still forbid medical doctors from partnering with complementary health providers; naturopathy is entirely outlawed in South Carolina and Tennessee. Many states license CAM practitioners but limit the scope of their practice and don’t treat them as primary health care providers.

Then there’s the tangle of insurance regulations. No insurance codes even exist for some CAM specialties. Government-sponsored health plans, including Medicare, also don’t include most CAM providers, a situation that in some cases only Congress can change.

One section of the Affordable Care Act seemed to open the door to greater coverage of CAM practices and providers; but another section allowed insurers to quietly nudge it closed again.

**Toward an integrated vision of care**

The result has been what one RAND paper called “siloed chaos,” with mainstream and complementary medicine practicing independently of—and sometimes wholly unaware of—each other. It also has built a double standard into America’s health care system, with the full suite of treatment options available only to those who can afford to pay out of pocket for them.

“We have evolved into a dangerous situation,” said Dr. Mimi Guarneri, a cardiologist who once placed hundreds of coronary stents a year but now helps run a fully integrated health clinic in La Jolla, Calif. Its exam rooms and blood lab are just down the hall from a massage room, a yoga studio, and soft easy chairs for vitamin infusions.

“We’re trained to treat every ill with a pill,” Guarneri said. “We translate the science of disease into practice. But what about the science of health? If you have a sick tree with bad fruit, do you just cut off the branches? Eventually, you look at the soil. It’s the same thing with health.”

RAND researchers have started to champion a new way of thinking about medicine in all its forms, one not necessarily based on the double-blind clinical trials that have become the gold standard of modern health care. The question should not always be whether a treatment can outperform a placebo under the strict controls of a clinical trial, they argue, but whether real patients get real relief from it.

What those patients want to know, RAND’s Coulter says, is not so much how a specific spinal realignment performed in a clinical trial, but whether it’s safe to go to a chiropractor in the first place—and whether the visit will help that aching back.

“We know that patients appreciate CAM, we know they give it very good satisfaction scores, we know they’re willing to pay for it,” he says. “We should start paying attention to this. This is worthy of attention.”

RAND has some history here. It helped pioneer modern health insurance with a groundbreaking experiment in the 1970s and ‘80s that enrolled thousands of people in test coverage plans. At a time when the medical establishment still disavowed most outside treatments, those early RAND plans offered participants a rare benefit: full coverage for chiropractic care.
“We know that patients appreciate CAM. We should start paying attention to this.”
Just from a logical point of view, how can you ignore such a large part of the system?

**Biomedicine Plus—Not Versus—Alternative Medicine**

**Q** How do you define integrated medicine?

**A** Let’s say I’m suffering from cancer and getting mainstream medical treatment—but in addition, I’m getting acupuncture to control my pain and nausea. That’s adjunctive therapy. What I mean by integrative care is when the people who are providing that care come together to agree about how they’re going to manage the patient. They make joint decisions. That’s true cooperative care. You’re looking at these new types of relationships between CAM providers and biomedicine.

You’re a sociologist by training. What brought you into this field?

I was recruited in Canada to join a major project at the University of Toronto School of Medicine. They were doing this study of chiropractors. Nobody had a clue what went into the making of a chiropractor or the nature of chiropractic practice. So we put together this huge body of data about a profession that up until then had never really been studied.

**What did you find?**

Actually, it was quite intriguing. They were treating people, had a patient population that gave them unbelievably high satisfaction scores, and seemed to be getting good outcomes. And in return they ended up being discriminated against, being labeled as quacks. And so the result of the study was: There’s such a disconnect between the way that they were portrayed by mainstream medicine and what the reality actually was.

**What would a research center at RAND add to the conversation?**

Because these [CAM] providers weren’t part of the mainstream, they also haven’t been part of the research enterprise. This group makes up a pretty big chunk of the health care system, and yet in all kinds of ways we know virtually nothing about them.

You sort of know what medicine does, you know what surgery does, you know what doctors look like. You were born in a hospital; you went to the doctor as a kid. All of us have a tremendous amount of cultural information about medicine. Name me one CAM person who’s been portrayed in a significant role on TV.

Just from a logical point of view, how can you ignore such a large part of the system? The same questions that we ask for the health care system—access, utilization, cost and outcome, quality—they’re the same questions you’d want to ask these people. What kind of outcomes do they get? What are they actually doing?

**Why now?**

Because of integrative medicine. As long as these two parallel systems weren’t coming together that much, you could, in a way, ignore one of them. But now they are starting to come together.

We need to reframe how we think about health and illness. It turns out, here we have a group that’s been doing this for 100 years. These guys have always thought of illness differently, they’ve always thought of the role of the provider differently. And now there’s increasing urgency to do the research, because of these new partnerships and the policy questions that arise when bringing these groups together.
On how recent conflicts changed the role of military women
There was a security gap on the battlefield. In the most conservative and traditional parts of Afghanistan, where the insurgency was strongest, there was no way, culturally, that women were going to be able to talk to male soldiers. And you couldn’t clear rooms that had women in them of weapons or explosives because you couldn’t enter them. So Afghan women and everything they knew, everything they saw, everything they understood about their communities was being left behind and remained unknown.

Admiral [Eric T.] Olson, who was the first Navy SEAL to lead U.S. Special Operations Command, had a distinct view that we will never kill our way to the end of this war—what we will need is more knowledge. And if you want to get more knowledge, you want access to half the population. So this opening of all military occupations to women was about a social program or political issue. It was always about purpose and patriotism and filling a security gap that was threatening the well-being and the mission of American soldiers in uniform—and the Afghans who were at that point transitioning to taking the lead in the Afghan war.

On “being the girl”
One woman, a military police officer, was on a ranger mission. Horrendous terrain. So steep that you’d be on hands and knees climbing up. Her legs were burning and [all she’s thinking is] ‘I cannot be the one who falls or breaks. Please, God, do not let it be the girl who falls. Because it won’t just be me—it’ll be all of us.’ She felt this huge responsibility to all of these young women who were so ready and hungry to be out on these kinds of missions, and if she were to be the one, it would not be ‘a soldier fell out,’ it would be ‘the girl fell out.’

On how we see service members
There’s a story in North Carolina about a woman in the Air Force who parked in a veterans parking lot only to be scolded by somebody for taking a service member’s spot. It’s on all of us as a country to acknowledge what women have already been out there doing. Officially, the combat ban may have been in place but the battlefield realities required their skill.

One study came out and people were shocked that the suicide rate among women service members was comparable to that of men. But in terms of what they’ve spent the last several years doing, these women have so much more in common with the men they were serving alongside than with the women in the civilian population. There is an enormous imagination gap, when it comes to imagining what a veteran is or what a hero is. I would tell people, ‘Oh, I’m doing a story on U.S. Special Operations.’ And they’d say, ‘That’s amazing!’ … everybody had seen American Sniper and Lone Survivor. And then I’d say, ‘This story has women in it.’ And their next question would be, ‘So is it about rape or PTSD?’

The missing story about women in uniform is valor. They’ve been out there for years with the American public barely noticing because they are a minority within a minority. I never set out to tell a story about women in uniform. I set out to tell a war story we hadn’t heard about a group of Americans who answered a call to serve. But if I say, ‘Imagine a veteran,’ my guess is, nine times out of ten, you don’t see a woman.
Taking the American Pulse

BY Doug Irving, Staff Writer

What’s on your mind, America? For the past decade, a RAND survey has asked and answered that question on topics as diverse as the economic crisis, health care reform, and the political force of one Donald J. Trump.
THE LAST TIME RAND TOOK THE PULSE OF THE NATION DURING A PRESIDENTIAL ELECTION, IN 2012, IT CAME WITHIN ABOUT HALF A PERCENTAGE POINT OF PREDICTING THE FINAL VOTE COUNT.
It's called the RAND American Life Panel, and whereas many surveys present snapshots of public opinion, this one offers a stop-motion film of changing tastes and evolving attitudes. That approach helped make it one of the most accurate surveys in the 2012 presidential elections—and it's about to face another test in the crucible of 2016.

RAND designed the survey not just to predict winners and losers, though, but to get inside the black box of political and social science—how people see the world, and how that shapes their decisions.

“We want to go beyond the sound bites,” said Krishna Kumar, director of RAND Labor and Population. “We want to understand how people vote, how their opinions align with those of the candidates. We're really trying to feel the pulse of the nation.”

One big question the survey will seek to answer this year, for example: Do voters side with candidates whose views most closely fit their own, as conventional wisdom suggests? Or is it the other way around, the tail wagging the dog, with strong candidates reshaping the national conversation and bringing voters along with them?

That's the kind of question the American Life Panel was made to answer. Unlike many other polls that dip into random samples of people, RAND's survey follows the same 6,000 or so people over time. That allows it to capture not just their attitudes at a particular moment, but also how outside forces—from world events to local politics—shape and shift those attitudes.

This year's presidential survey taps into a subset of around 3,000 respondents—what pollsters call a nationally representative sample, big enough to allow them to draw conclusions about American thought in general. The presidential survey, like the American Life Panel itself, is conducted online, an important innovation as traditional telephone surveys falter in the age of the unlisted cellphone.

To make sure the surveys really do represent the nation at large, RAND even provides laptops and internet connections to around 400 people who otherwise would not have them, so they too can participate.

The result is a unique look under the surface of American policy and politics. The first wave of results from the Presidential Election Panel Survey, released earlier this year, showed some of what gave Donald Trump's candidacy its clout. It found a campaign fueled both by voter resentment of minorities and immigrants and by populist support for more liberal economic policies, such as tax hikes for the wealthy.

The one statement that best determined whether a likely Republican in the primaries leaned Trump: “People like me don't have any say about what the government does.”

On the Democratic side, survey participants perceived a small shift to the center by Hillary Clinton in recent months, widening the ideological gap between her and Bernie Sanders, who they considered significantly more liberal. The survey also found that fully 10 percent of respondents were leaning toward supporting neither the Republican nor Democratic candidates in the early months of the campaign, but “some other” candidate—more than enough to swing the election.

Those answers lay the groundwork for a running tally of voter sentiment through Election Day, allowing researchers to watch the inner workings of presidential politics, what works and what doesn't, in near-real time.

“As soon as a question comes up, we can get a survey out,” said Michael Pollard, a sociologist who helps run the survey. “We can get a really rich history of what people are going through.”

That's true for much more than just presidential politics. In recent years, for example, the RAND surveys have found that 44 percent of adults don't want their children playing football; that a third of Americans think they might catch Ebola; and that nearly 60 percent of workers still clock in while on vacation.

When the American economy congealed into the Great Recession, the surveys helped put hard numbers to the hardships of average Americans. They showed that nearly 40 percent of American households experienced a financial shock during the recession and its sluggish aftermath, from a mortgage slipping underwater to a layoff. They also showed that Americans were not just cutting back on dinners out, but also on doctor's visits and retirement savings.

A few years later, amid the blistering debate over the Affordable Care Act, RAND's survey uncovered a fundamental problem: Americans were largely unprepared to make good decisions about their own health care. More than 40 percent could not correctly define a deductible. The result: public-information campaigns that attempted to translate health care basics and benefits into plain English.

More recently, RAND spun off a survey of teachers and school leaders inspired by the American Life Panel. A first wave of results released earlier this year found widespread need for instructional support to help students meet math and language-arts standards.

“You simply cannot understand public policy without understanding how that policy affects decisionmaking at the individual level, at the household level, at the community level,” RAND's Kumar said. The surveys, he said, represent a “crown jewel” of what RAND stands for: “We want to further the public good.”

In other words: This is no horse-race poll. Just don't tell the pundits and politicians that. The last time RAND took the pulse of the nation during a presidential election, in 2012, it came within about half a percentage point of predicting the final vote count.
16% of American households have neither a savings account nor a checking account. (2011)

62% support legalizing gay marriage, and most say it should be a federal matter and not state by state. (2014)

59% of U.S. workers who took a vacation reported working for part of it. (2014)

33% think there’s some chance they could contract Ebola in the next six months. (2014)

42% could not correctly describe a health insurance deductible. (2013)

44% would not be comfortable with their sons playing football. (2014)

19% of hourly employees are paid less than the “time-and-a-half” standard for overtime. (2015)

59% of hourly employees are paid less than the “time-and-a-half” standard for overtime. (2015)

62% believe children of undocumented immigrants should pay in-state tuition for college. (2015)

To learn more, visit alpdata.rand.org
No matter what Congress decides to do with President Obama’s latest attempt to close the prison at Guantánamo Bay, there should be agreement that the existing legal process is fundamentally flawed and the best way to fix it is to replace the military judges now assigned to the Guantánamo trials with federal judges—whether the trials proceed at Guantánamo or in the United States. This shift to federal judges would expedite the process of resolving the Guantánamo cases in ways that would reflect better on the credibility and legitimacy of the U.S. justice system while serving the interests of Congress, the president, survivors, and victims’ families.
That is the conclusion reached recently by the Pacific Council on International Policy’s GTMO Task Force, of which we are members. The task force consists of 17 attorneys and policy specialists, the majority of whom have traveled to Guantánamo as official civilian observers. We observed the proceedings at different times, but we shared persistent concerns that the legal conundrum the United States has constructed at Guantánamo will haunt it into the future.

We left Guantánamo with the impression that many decent, dedicated, and professional military personnel have been deployed to serve in a court system that is itself nearly beyond rehabilitation. Shifting to federal judges offers the best and most politically feasible hope for rectifying the damage being done at Guantánamo since the military tribunals, known as the Guantánamo Commissions, opened 14 years ago in the anxious aftermath of the 9/11 terrorist attacks.

Why would it make a difference to replace the military judges with federal judges? Two reasons. First, almost everyone agrees that the Guantánamo Commissions are broken. Their inefficiency, expense, and ambiguity over something as basic as a trial date have undermined their legitimacy and America’s credibility on the world stage. Regardless of one’s political views, it is hard to deny that the on-again, off-again pursuit of justice, for at best a week or two every other month, serves nobody’s interests, neither deciding guilt nor doling out punishment nor affirming the integrity of the U.S. legal system.

Second, U.S. district judges—assigned full-time to Guantánamo—would apply standard case-management techniques that could go a long way toward clearing the logistical and procedural hurdles that have stymied the military judges since 2002. Many federal judges are versed in the protocols for reviewing classified evidence and have already presided over high-profile terrorism trials in their own courts. Experienced federal judges would be better positioned than military judges to evaluate the millions of pieces of classified information that have mired the Guantánamo cases in years-long discovery disputes. Because they are civilians, the federal judges would also deflect perceptions of improper “command influence,” and their lifetime appointments would shield them from political interference.

Federal judges could adjudicate the Guantánamo trials either at Guantánamo (if Congress rejects Obama’s plan) or on U.S. soil (if Congress accepts his plan). There is historical precedent for appointing federal judges to preside over courts for special purposes abroad. President Eisenhower created one such court in Germany after World War II—the United States Court for Berlin. This precedent also shows that the federal judiciary is empowered to apply an external body of law—then, it was German law; now, it would be U.S. military law—in a jurisdiction outside the judge’s own. For the Guantánamo trials, federal judges would simply be empowered to apply military commission law.

To make this happen would require an amendment to the Military Commissions Act of 2009, which says that “a military judge shall be detailed to each military commission.” The amendment would say that “a U.S. district judge shall be detailed to each military commission.” Such an amendment would require congressional approval but would not require the closure of Guantánamo. If anything, the amendment would put in place the jurists who could best advance the will of Congress to prosecute terrorist suspects in a timely fashion.

It would also require approval from the U.S. Supreme Court Chief Justice or his designee, but any U.S. Supreme Court justice would presumably have faith in the resolve of U.S. federal judges to bring the Guantánamo cases to just conclusions.
To further equip federal judges to advance the interests of justice at Guantánamo, the Pacific Council task force proposes four additional steps:

• Allow the federal judges at Guantánamo to use modern technology. There is no reason every pretrial motion involving a Guantánamo detainee should have to be heard in person, as is now the case. Stateside lawyers, witnesses, and interpreters should be able to participate in routine pretrial matters and attorney-client communications via secure video-conference. A secure trans-ocean connection, consisting of an underwater fiber-optic cable from Florida to Guantánamo, is scheduled to become active any day now.

• Make commonsense use of timelines. The Guantánamo commissions should require each federal judge to set the earliest possible dates for trials to begin. This requirement is not imposed on military judges.

• Allow the survivors of terrorist attacks and the families of deceased victims to testify even before trials begin, capturing a record of the human losses for the court to consider if and when sentencing occurs. Knowing that their testimony will endure for posterity can lend comfort to the survivors and families who now wonder if justice will ever be served.

• Practice a policy of openness. The Guantánamo proceedings should be made available for broadcast or internet streaming to promote public engagement, demystify a process mired in misunderstanding, and articulate for the world how the military commissions advance American values and interests.

As recent atrocities involving Islamic State suggest, the 9/11 attacks are unlikely to be the last time the U.S. government will feel compelled to take extraordinary legal action under emergency conditions. It is one thing to be a nation of laws in peacetime. It is quite another to uphold laws in times of peril. It is at those latter times when America defines its true brand of justice. Putting federal judges in charge of the Guantánamo Commissions would help Americans regain pride in the U.S. justice system.


A version of this commentary appeared on newsweek.com in March 2016.
Lloyd Morrisett has served RAND as the chairman of its board, as a longtime trustee, and as a reliable donor for more than 30 years.

He's also RAND's direct-line connection to Sesame Street.

Morrisett, an experimental psychologist, once dreamed of joining the research ranks at RAND. Instead, he cofounded the most popular children's television program in history with what was at heart a research question: Can television teach?

He consulted social scientists and child-development experts as he developed Sesame Street, including M. Rebecca Kilburn, a senior economist at RAND who specializes in early-childhood investment and interventions. “I’ve always believed that social-science research should be used to improve people’s lives,” he said.

“Certainly, that was the reason for creating Sesame Street,” he added. “That’s also what makes people interested in RAND.”

Morrisett joined RAND’s Board of Trustees in 1973 and served until 2007. He was the chairman of the board from 1986 until 1995.

During his time on the board, RAND partnered with the nonprofit Sesame Workshop to produce a special version of Sesame Street for children in Afghanistan; he was not directly involved in the project but followed it from the board. The 10-episode program, Koche Sesame, was designed to excite children about education, foster awareness of other cultures, and highlight opportunities for girls and women.

Morrisett also partnered with RAND to apply social-science research to telecommunications policy as president of the Markle Foundation, which seeks to advance information technology.

He has donated to RAND every year since 1986 in an effort to help its research find a greater audience. How that research is communicated, he said, helps determine its impact. He points for one example to a mid-1990s study that showed how email could save the federal government hundreds of millions of dollars. It was important research that made an impact, but never found a wide audience outside of government.

“Even if you do a piece of good work like that, it’s extremely hard to continue to tell that information effectively and be persistent at it,” he said. It’s the same approach that inspired Sesame Street: “If you want an idea to have an impact, you have to find a good way to sell it—to make it more accessible, more appealing.”

And that, he said, underscores the importance of donor funding. “I’d tell prospective donors that they need to get to know RAND and the variety of things going on,” he said. “It’s a nonpartisan organization, doing terrific research—the kinds of research with significant impact. External funding helps it advance that research, and tell that story.”

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"If you want an idea to have an impact, you have to find a good way to sell it—to make it more accessible, more appealing.”
LLOYD MORRISETT
RAND artist-in-residence Phillip Ratner (top photo, center) held several interactive workshops at RAND’s headquarters campus in Santa Monica.

Absence Makes the Art Grow Fonder

Decades After a Controversial Artist-in-Residence, RAND Tries Again

Rand staffers may not know art, but they know what they like. And in 1969 they didn’t much like artist John Chamberlain.

Chamberlain became RAND’s artist-in-residence as part of the Los Angeles County Museum of Art’s ambitious “Art & Technology” initiative that paired 76 artists with leading corporations like Disney, IBM, and the Jet Propulsion Laboratory.

The sculptor and filmmaker never quite connected with RAND staff. “I can’t get into any of their circuits,” he wrote to an associate. “They’re very 1953. … You know, like the girls wear too much underwear.”

Chamberlain began taking provocative measures. He suggested RAND cut off its phones for a day. He proposed photographing RAND headquarters, then airbrushing out the building. And he sent a memo asking staff “for ANSWERS. Not questions!” (after another artist-in-residence asked Hudson Institute staff for questions, not answers). RAND employees let him have it: “The answer is to terminate Chamberlin [sic],” one responded.

Chamberlain’s residency ended in 1970, but interested readers can see all 136 staff responses to John’s question in LACMA’s archives today.

It took nearly 50 years, but RAND invited another artist—sculptor Phillip Ratner—to take up residence in 2016. Ratner’s experience was vastly different. As he put it, “Once the word got out—‘Hey, this guy is adorable! And this guy is funny! And he’s fairly bright. So let’s go do Phil.’”

Rand employees let him have it: “The answer is to terminate Chamberlin [sic],” one responded.

So decades later, the outcomes are opposite. As Bob Ross, everyone’s favorite art instructor, said, “We don’t make mistakes, just happy little accidents.”

For more, see Catherine Wagley’s “Closed Circuits: A Look Back at LACMA’s First Art and Technology Initiative” at eastofborneo.org and Stephanie Young’s “Would Your Questions Spoil My Answers? Art and Technology at the RAND Corporation” in Where Minds and Matters Meet (Huntington Library and University of California Press, 2012, Volker Janssen, editor).
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