

**Opening Statement of U.S. Senator Jack Reed
Ranking Member, Senate Armed Services Committee**

**Room SDG-50
Dirksen Senate Office Building
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To receive testimony on Guantanamo detention policy.
(As Prepared for Delivery)

Welcome to our witnesses this morning. This morning's hearing is an opportunity to hear from the Administration on its policy relating to the Guantanamo detention facility and the recent progress in transferring detainees out of that facility.

Senior government officials, both Democrats and Republicans, have called for closing the Guantanamo detention facility because of the harm its continued operation causes for U.S. national security interests. President Bush set the goal of closing GITMO because he said "the detention facility had become a propaganda tool for our enemies and a distraction for our allies." Former Secretary of Defense Bob Gates called GITMO a "taint" on the United States' international standing, and former Chairman of the Joint Chiefs Admiral Mike Mullen said he was concerned that GITMO's continued existence because it has been "a recruiting symbol for those extremists and jihadists who would fight us." I have a recent letter to Chairman McCain and myself from 42 general and flag officers calling for the closure of Guantanamo, and I would ask that it be submitted for the record.

This Committee has played an instrumental role in setting the U.S. detention policy at Guantanamo. We have required the Department of Defense to assess and address risks before transferring any GITMO detainee, but we have never prohibited such transfers. Two years ago, in fact, we modified the law to ensure that the Department had greater flexibility in balancing and addressing risks. The result of this legislation has been that the Department has had a dramatically better record on recidivism under the Obama Administration than it did under his predecessor.

However, other legislative provisions have significantly restricted the transfer of GITMO detainees. In particular, Congress has imposed a prohibition on modifying or constructing any facility in the United States to hold GITMO detainees. Congress has also imposed a ban on bringing GITMO detainees to the United States for any reason. The effect of these prohibitions has been to deprive the President of a critical and successful tool in the fight against terrorism, the ability to try suspected terrorists in federal courts, where hundreds of dangerous individuals have been convicted on terrorism-related charges or to hold enemy combatants in the United States subject to the

due process requirements acknowledged in Hamdan v. Rumsfeld. These congressionally-imposed restrictions also interfere with our military leaders' ability to manage detainees as part of the armed conflict with Al Qaeda and associated forces.

In the last Congress, under the leadership of Senator Levin and Senator McCain, this Committee and the Senate sought to ease these restrictions. In 2013, the Senate voted 55 to 43 to authorize the transfer of GITMO detainees to the United States, subject to stringent conditions. In 2014, the version of the National Defense Authorization Act that was overwhelmingly approved by this committee included a similar provision, after the committee voted 26-0 in favor of an amendment offered by Senator Graham to require expedited congressional review of the Administration's plan to implement such transfers. Unfortunately, neither provision was enacted into law.

Now, legislation introduced in the Senate would take a dramatic step, blocking all transfers of GITMO detainees for any reason, based on some judgments about risk that were made as much as a decade ago. Administration critics have cited the figure that around 30 percent of GITMO detainees are suspected or confirmed of returning to the fight. But the fact is that most of these detainees were released during the Bush Administration, not the Obama Administration. Under the Obama-era review procedures, my understanding is that fewer than 10 percent of transferred GITMO detainees are even suspected, never mind confirmed, of having re-engaged in terrorist activities. I hope our witnesses this morning will provide us the latest recidivism numbers and help us better understanding exactly what those numbers mean.

The blanket prohibition in the proposed legislation would negate our military's ability to evaluate and mitigate risks, and transfer detainees consistent with the best judgments of our senior-most military leaders. It would also render meaningless the administrative review boards, known as Periodic Review Boards or PRBs, which regularly review individual detainee cases to determine whether they continue to pose a threat to U.S. national security interests. Under this proposed legislation, even if a board found that a detainee no longer posed a threat to the United States, the Department would be legally prohibited from transferring that individual out of detention at Guantanamo.

I hope you will address how the detention of terrorist suspects will be handled in the future. In recent years, a number of suspected terrorists captured overseas have been subject to interrogation for national security and intelligence purposes, then brought to custody in the United States, and tried in court. These include Ahmed Warsame; Abu Gaith, who was Osama bin Laden's son-in-law; and al-Libi, captured in Libya and brought to New York for trial. These cases demonstrate alternatives to GITMO that result in terrorist suspects being brought to justice.

I thank the witnesses and look forward to their testimony.