

**Opening Statement of U.S. Senator John McCain
Chairman, Senate Armed Services Committee**

**Room SD-G50
Dirksen Senate Office Building
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**To receive testimony on the Guantanamo Detention Facility and the future of
U.S. detention policy.**

(As Prepared for Delivery)

This committee meets today to review U.S. detention policy and the President's ongoing efforts to close the detention facility at Guantanamo Bay, Cuba.

For many years, I have believed that it would further U.S. national security interests to close the Guantanamo detention facility. I still do. In no way is that a criticism of the honorable service and professionalism of our men and women in uniform, who ensure that our detention operations at Guantanamo are conducted responsibly and consistent with our nation's values.

Let me also say that the recent successes of radical groups like ISIL, Al-Qaeda, and Boko Haram, as well as our lack of a strategy to counter them, are a far more powerful source of radicalization and terrorist recruitment today than anything happening at Gitmo. All of that said, I still believe we can, and should, look beyond the detention facility at Guantanamo Bay.

The problem is that, for more than six years now, the Obama Administration has offered no comprehensive plan to responsibly close the Guantanamo detention facility. It has not provided the Congress with clear, compelling, and specific answers to the many challenging questions that must be resolved if the American people, and their elected representatives, are to have confidence that closing Guantanamo can be done in a way that supports our national security, rather than undermines it. Such questions include:

- How, and in what kind of venue, will we bring charges against those detainees who can and should be tried for their crimes?
- What are the specific conditions that must be put in place in order to ensure that the foreign transfer or repatriation of those Guantanamo detainees who

have been cleared for release by our military and intelligence professionals can be done in a way that is secure, responsible, and sustainable?

- What will be done with those detainees who could be responsibly transferred but whose countries of origin are governed by state sponsors of terrorism or are currently beset by chronic instability, insurgency, or large-scale and growing presences of violent Islamist groups like al-Qaeda or ISIL?
- More specifically, what is to be done with the dozens of Guantanamo detainees who come from Yemen -- a country that is collapsing into chaos as Al-Qaeda fighters and an Iranian-backed insurgency battle for control?
- And perhaps the most difficult question of all: What is the plan for the dozens of detainees that the Administration's own internal review categorized as those that we are incapable of trying but who are too dangerous for release? How would the long-term detention of these individuals occur? Would it occur inside the United States? If so, how, where, at what cost, and pursuant to what legal authority? Would there be mechanisms for periodic judicial review, such as a habeas proceeding or something like it? How could we ensure that there will not be a court-ordered release of a dangerous terrorist that is in long-term detention inside the United States? What would we do if that happened?

I could go on.

Instead of providing answers to these and other questions, which we have consistently sought, and which is difficult but not impossible, what we now have instead is the perception of a President rushing to fulfill a political promise, including through reported efforts to pressure the Secretary and the Department of Defense to move faster, without having explained whether these recent foreign transfers are being done responsibly and in furtherance of a comprehensive plan to close the Guantanamo detention facility.

What's equally troubling is that, in the absence of resolution to Guantanamo, our nation continues to lack a clear policy to detain and humanely interrogate terrorist detainees for the purpose of intelligence gathering in what is a rapidly expanding conflict against violent extremist enemies.

The simple question is: If we were to capture a high-value terrorist today, where would he be detained and for how long? Would he be interrogated as long as

necessary to exploit his full intelligence value, or would that important process be cut short when he is read his Miranda rights and sent into the criminal justice system? What signal does this send to our young men and women in uniform, who may feel that they are left with an unsettling choice: whether killing our enemies is preferable to detaining them, watching them released, and having to face them another day on the battlefield?

This is not an unfair question. Especially in the absence of a clear detention and interrogation policy. Especially when 30 percent of former Guantanamo detainees are either known to, or suspected to have, returned to the fight. And especially when one of the five Taliban detainees who were sent to Qatar last year in a prisoner swap is already suspected, according to published media reports, of re-engaging in the fight.

As these questions remain unanswered, this Committee intends to mark up legislation introduced by Senator Ayotte concerning U.S. detention policy and the Guantanamo Bay detention facility. We will do this through regular order with fulsome debate and amendments. And this Committee will continue to press for a coherent detention policy.

As General James Mattis testified before this Committee, the implication of a perplexing lack of detention policy is that we are not even certain of ourselves enough to hold as prisoners those we have captured in the fight. This confusion must end. Our armed forces deserve a comprehensive detention strategy that allows them to fight this metastasizing, global, and brutal enemy without their eyes closed.