Prepared Statement for the Record of
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Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to discuss the Department of Defense's detention operations at Guantanamo Bay. To address the Subcommittee's concerns, I would like to speak briefly about the Department's policy of access to detainees at Guantanamo, as well as the issues and challenges of such visits.

At the outset, I would like to note that we currently hold fewer than 230 detainees at Guantanamo—less than a third of the total number ever detained there.

With regard to our detention operations at Guantanamo, it is undoubtedly the most transparent military detention center anywhere in the world. Within the Department, we have worked diligently to establish a state-of-the art facility that provides safe, humane, transparent, and legal custody for each detainee. We have allowed numerous media outlets and human rights groups access to the facilities to observe proceedings and to participate in camp tours. We have also brought senior foreign officials to Guantanamo to better understand detention operations. These visits continue, and we facilitate as much access as logistically possible to the media and these other groups, to ensure transparency and accountability in our operations.

Over the past seven years we have brought 52 US Senators, 168 Representatives, and 300 staff members to Guantanamo on official Congressional Delegations. I have personally escorted more than a dozen of these trips. Through these visits as well as congressional testimony and briefings, we have provided our respective oversight committees, as well as other dedicated and interested Congressman and Senators, an unfettered look into our operations. In every case, the visitors have expressed their appreciation for the tremendous and outstanding work our young men and women in uniform are doing in the most arduous of circumstances. It is extremely stressful duty, yet these young Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen do it with pride and excellence every single day.

To ensure the safe and humane operations of all Department of Defense detention facilities, and to comply with our obligations under international law, it is the policy of the Department of Defense to limit access to detainees under our legal control. This is not simply for detainees in Guantanamo, but for all those we continue to hold in Iraq and Afghanistan as well.

We do this for three principal reasons:

--First and foremost, to ensure the safety of the detainees and US personnel;

--Second, to shield detainees from "public curiosity" to remain consistent with the Geneva Conventions; and,

--Third, to avoid complications with ongoing litigation in US courts.

Without question, the single greatest reason to limit access to detainees is to provide for their personal safety, as well as that of the guards and other military personnel who interact with them on a daily basis. It is not unique to Guantanamo that every interaction a detainee has with an individual from outside the camp affects not only that detainee, but all those who live in the same camp with him. The arrival of individuals from outside the camp changes the mood, the demeanor, and the overall temperament of a camp, in turn affecting the security dynamics within the camp.

Second, our international law principles warrant that we limit access to detainees in our custody and control. The Third and Fourth Geneva Conventions contemplate that nation states shield detainees from the public eye and protect them from "public curiosity." The facilities at Guantanamo provide safe and secure living conditions, and the Department of Defense has determined that we simply will not permit such a deliberate departure from the principles of the Geneva Conventions. Finally, as the Committee is well aware, almost every detainee at Guantanamo is involved in some sort of litigation. Allowing broad access to detainees would potentially complicate and prolong these litigation proceedings, by raising questions about the presence of detainee counsel at interviews and the possibility of calling members of Congressional delegations as witnesses in the litigation.

I do not wish to leave the Committee the impression, however, that detainees are left alone and without contact. To the contrary, the Department of Defense recognizes the unique and primary role of the International Committee of the Red Cross (ICRC) to have unfettered access to detainees under our control and custody at Guantanamo, as well as in our theater detention facilities in Iraq and Afghanistan. Under the Geneva Conventions, nation states are required to give officials from the ICRC access to detainees. Accordingly, the United States grants the ICRC full access to all detainees interned at Department of Defense theater detention facilities. The ICRC conducts regular interviews with detainees to ensure proper treatment and to facilitate communication with their families. Our relationship with the ICRC is a productive one, and we greatly value their observations, insights, and recommendations. Senior Department officials meet regularly with the ICRC to discuss our detention operations and policies, and to address their concerns in a constructive and confidential dialogue at all levels of the chain-of-command.

Our commitment to the ICRC to keep our dialogue with them confidential requires that we handle all communication between our government and the ICRC as classified, but to ensure effective Congressional oversight—as well as access to ICRC observations and recommendations—the Department provides regular briefings to Congress on at least a quarterly basis. During these briefings, the Department shares the entire collection of correspondence exchanged between our organizations to provide insight into the full breadth and scope of the Department's relationship and communications with the ICRC. In this way we are able to

ensure that we meet our international obligation to maintain the ICRC's relationship with those in our custody while also providing Congress access to this same information so they can exercise effective oversight.

Depending on the circumstances, there are some occasions when we allow a foreign government access to a detainee if that country is considering accepting the transfer of the detainee for resettlement in their country. This is an exception to policy and is approved on a case-by-case basis.

Similarly, some of the detainees at Guantanamo have committed crimes in their homelands or other countries, or they can be crucial witnesses in the trials of other terrorists. In such instances, foreign governments have made, and continue to make, requests to interview a specific detainee to assist in law enforcement actions. If a foreign government requests a law enforcement visit with a detainee, the Department evaluates each request on a case-by-case basis to determine whether to grant such access.

Finally, the US Government has in the past requested a foreign government's assistance in helping to determine the identity of an individual we have captured, or for intelligence information they have about his terrorist links and activity. Such foreign requests for access on these grounds are extremely infrequent.

In addition, some foreign governments may request access to a detainee to assist them in their own efforts to gain intelligence to assist them in identifying and aborting potential terrorist plots in their countries. When we receive them, however, they are assessed on their individual merits in consultation with other appropriate US Government Departments and agencies, to determine whether such access should be granted.

I would like to stress to the Committee, that in each of the set of circumstances I described above, when a decision to grant access to foreign law enforcement and/or intelligence officials, it has been—and currently remains—longstanding Department policy that visiting foreign officials must agree that they will abide by all DOD policies, rules, and procedures. This is codified in DOD Directive 3115.09 and remains our policy in all of our military detention facilities worldwide. Additionally, in all of the above-noted cases, the foreign government officials who are allowed access are members of their nations' executive branch.

Finally, I would be remiss if I did not stress that DOD also allows legal counsel access to their clients at Guantanamo. . The Department goes to extraordinary lengths to facilitate attorney visits to their clients in detention facilities and to hold productive—and privileged—meetings with their clients in an environment that ensures the safety of the detainee, the counsel, and government and military personnel. In 2008, JTF-Guantanamo facilitated more than 1,800 legal visits and phone calls.

To conclude, our detention policies ensure that detainees under the control of the Department of Defense, anywhere in the world, are cared for humanely and in complete compliance with our obligations under the laws of armed conflict, applicable US law, and binding international treaties. I am proud of our outstanding service members who serve at Guantanamo, in Afghanistan, and in Iraq who are committed to ensuring that our detention mission is carried out in a safe, humane, legal, and transparent manner, while balancing the needs of operational security. They deserve our gratitude.

This concludes my statement. Mr. Chairman, I would like to thank you, and the Subcommittee, for the Subcommittee's time and attention to this important topic. As the Subcommittee's time permits, I am prepared to respond to Members' questions.