

**STATEMENT BY RETIRED GENERALS AND ADMIRALS AND FORMER  
JUDGE ADVOCATE GENERALS OPPOSING MEASURES THAT WOULD  
RESHAPE THE MILITARY JUSTICE SYSTEM IN COUNTER TERRORISM  
OPERATIONS**

We urge Congress to reject proposals in the Senate and House National Defense Authorization Acts that would transform our armed forces into judge, jury and jailor for foreign terrorism suspects. The military's mission is to prosecute wars, not terrorists.

Set aside the debate over Guantanamo, and consider the unintended consequences that could be wrought if the armed forces were required to detain and prosecute all future foreign terrorism suspects.

One such consequence is that it would be difficult to prosecute and convict individuals of terrorism-related offenses in military commissions. While civilian courts can prosecute a wide array of offenses related to terrorism – producing false documents, laundering money, trafficking goods and people, and unlawfully procuring weapons, for example – military commissions have traditionally been limited to prosecuting war crimes committed during armed conflict. As a result, trying to force military commission prosecutions for most terrorism suspects is like trying to fit a square peg in a round hole, and creates unnecessary litigation risk for the government. Put it this way: if Al Capone had been a member of al Qaeda, military commissions would not have been able to convict him on tax evasion.

An unintended consequence of mandating military custody of all foreign terror suspects, including those in America, is that we would disrupt and dislocate FBI and local law enforcement investigations that could let terrorists slip through our hands. We believe too that the Posse Comitatus Act, passed after the civil war is a fundamental and wise principle that separates domestic law enforcement from international military activity.

The military custody and prosecution provisions would also mean that we would not be able to extradite some foreign terror suspects to the United States because allies might refuse to transfer them to military custody or for prosecution before a military tribunal. A Canadian judge recently denied a request to transfer a terror suspect to the United States because of concerns that commissions, with lower standards of due process, are inferior to federal courts. John Brennan, President Obama's top counterterrorism advisor, has said that some foreign governments have refused to share criminal evidence to be used in military commission prosecutions.

We should not forfeit one of the most effective tools to incapacitate terrorists – federal courts. Federal courts have convicted more than 400 individuals on terrorism related charges since 9/11 compared to only a handful before military commissions. Federal courts have more than 200 years of experience and precedent to guide them, while tribunals are new, untested and constitutionally suspect.

We appreciate those who seek smart solutions to countering terrorism and assuring the

safety of all Americans. We should base those decisions on evidence of what works, while remaining true to the values and ideals that have always defined us as a nation of laws. Asking our armed forces to assume the new role of judge, jury and jailor for foreign terror suspects would undermine the multi-layered counter terrorism response critical to our security.

### **Signatories**

#### **General Joseph Hoar, USMC (Ret.)**

General Hoar served as Commander-in-Chief, U.S. Central Command. After the first Gulf War, General Hoar led the effort to enforce the naval embargo in the Red Sea and the Persian Gulf, and to enforce the no-fly zone in the south of Iraq. He oversaw the humanitarian and peacekeeping operations in Kenya and Somalia and also supported operations in Rwanda, and the evacuation of U.S. civilians from Yemen during the 1994 civil war. He was the Deputy for Operations for the Marine Corps during the Gulf War and served as General Norman Schwarzkopf's Chief of Staff at Central Command. General Hoar currently runs a consulting business in California.

#### **General Charles Krulak, USMC (Ret.)**

General Krulak served as the 31st Commandant of the Marine Corps from July 1995 to June 1999. He is a graduate of the U.S. Naval Academy; the Amphibious Warfare School; the Army Command and General Staff College; and the National War College. He also holds a master's degree in labor relations from George Washington University. General Krulak has held a variety of command and staff positions including Commanding Officer of a platoon and two rifle companies during two tours of duty in Vietnam. He was also assigned duty as the Deputy Director of the White House Military Office in September 1987, and he commanded the 6th Marine Expeditionary Brigade and 2d FSSG during the Gulf War.

#### **Rear Admiral Don Guter, JAGC, USN (Ret.)**

Admiral Guter served in the U.S. Navy for 32 years, concluding his career as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter currently serves as President and Dean of the South Texas College of Law in Houston, TX.

#### **Rear Admiral John D. Hutson, JAGC, USN (Ret.)**

Rear Admiral John D. Hutson served in the U. S. Navy from 1973 to 2000. He was the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson is Dean Emeritus & Philosopher in Residence at the University of New Hampshire School of Law in Concord, New Hampshire. He also joined Human Rights First's Board of Directors in 2005.

#### **Major General Thomas J. Romig, USA (Ret.)**

Major General Romig served for four years as the 36th Judge Advocate General of the Army from October 2001 to October 2005. His other significant military legal positions included Chief of Army Civil Law and Litigation and Chief of Military Law and Operations. His other military legal assignments included Chief of Planning for the JAG

Corps; Chief Legal Officer for the 32d Army Air Defense Command in Europe; and Chief Legal Officer for U.S. Army V Corps and U.S. Army forces in the Balkans. Prior to becoming a military lawyer, he served six years as a military intelligence officer. Major General Romig graduated with honors from the Santa Clara University School of Law in 1980. After 34 years of service, he retired from the Army JAG Corps. He served as Deputy Chief Counsel for Operations and Acting Chief Counsel for the Federal Aviation Administration and is currently Dean of Washburn University School of Law in Topeka, Kansas.

**Major General Frank D. Terrell, USAR (Ret.)**

Major General Terrell served in Vietnam as an Infantry regimental staff advisor and a senior advisor. After joining the Reserve in 1977, he served in the 4<sup>th</sup> Judge Advocate General Corps as defense counsel, military justice officer, chief international law/claims and commander of the 64<sup>th</sup> Military Court Marshall Defense Attachment. He served at headquarters, 77<sup>th</sup> ARCOM as deputy staff judge advocate, staff judge advocate, deputy chief of staff for operations and deputy commanding general before assuming command of the 77<sup>th</sup> ARCOM in May 1993. He became the first commander of the 77<sup>th</sup> Regional Support Command and a member of the Armed Reserve Forces Policy Committee. In his civilian capacity, he is the director of the Greenberg Center for Legal Education and Urban Policy for the City College of New York.

**Brigadier General David M. Brahms, USMC (Ret.)**

General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

**Brigadier General James P. Cullen, USAR (Ret.)**

Mr. Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

**Brigadier General Dennis P. Geoghan, USAR (Ret.)**

Brigadier General Geoghan commanded the 220<sup>th</sup> Military Police Brigade during Operation Iraqi Freedom, and served in the United States Army Reserve Judge Advocate General's Corps from 1992 to 2002 and Military Police Corps from 1980 to 1991. He was the Staff Attorney for the New York Stock Exchange Enforcement Division and is currently the Assistant District Attorney for Kings County, New York.

**Brigadier General David R. Irvine, USAR (Ret.)**

Brigadier General Irvine enlisted in the 96th Infantry Division, United States Army Reserve, in 1962. He received a direct commission in 1967 as a strategic intelligence officer. He maintained a faculty assignment for 18 years with the Sixth U.S. Army Intelligence School, and taught prisoner of war interrogation and military law for several hundred soldiers, Marines, and airmen. He retired in 2002, and his last assignment was Deputy Commander for the 96th Regional Readiness Command. General Irvine is an

attorney, and practices law in Salt Lake City, Utah. He served 4 terms as a Republican legislator in the Utah House of Representatives, has served as a congressional chief of staff, and served as a commissioner on the Utah Public Utilities Commission.

**Brigadier General Richard O'Meara, USAR (Ret.)**

General O'Meara is a retired Brigadier General in the United States Army and a combat veteran of the War in Vietnam. Following his Vietnam service he earned a law degree and joined the Judge Advocate General's Corps. He retired from the United States Army in 2002, after 35 years of service. Following his retirement he earned graduate degrees in History and International Relations and took up teaching posts at Rutgers University-Newark and Richard Stockton College where he teaches courses in Security Studies, Human Rights and Global Studies. He continues to serve as Adjunct Faculty with the Defense Institute of International Legal Studies where he has taught rule of law, governance, and peacekeeping subjects in such diverse locations as El Salvador, Peru, Cambodia, Rwanda, Philippines, Chad, Sierra Leone, Guinea, Ukraine, Moldova, and Iraq. He is a qualified Emergency Medical Technician and served at the World Trade Center Site in the months after 9/11.