



**Statement by Congressman Alcee L. Hastings  
Chairman**

**Commission on Security and Cooperating In Europe**

**Hearing on**

***“Guantanamo Detainees after Boumediene: Now What?”***

*July 15, 2008*

In January 2005 – 3 ½ years ago – Brig. Gen. Jay Hood, at that time the U.S. commander in charge of the detention facility at Guantanamo Bay, gave an interview to the Wall Street Journal in which he acknowledged, “sometimes we just didn’t get the right folks.” *Sometimes we just didn’t get the right folks.*

The Wall Street Journal article continued: “[i]n theory, once a detainee is thought no longer to present a threat to the U.S. or possess any valuable intelligence, he should be sent home. [ . . . ] In practice, the system is stuck. Releasing a prisoner requires the approval of the Defense Department headquarters, as well as the State Department, Central Intelligence Agency and the FBI.” General Hood further observed, “nobody wants to be the one who signs the release papers . . . there’s no muscle in the system.” [WSJ, January 26, 2005]

Unfortunately, 3 ½ years after General Hood made those comments – and six years after the Guantanamo camp was opened – there seems to be little progress made in addressing the fundamental problems that plague that detention facility.

In fact, the shortcomings of the Guantanamo system are perhaps best illustrated by the fate of the extremes among those detained there.

Last month, the United States Court of Appeals for the District of Columbia Circuit ordered that one of 17 Chinese Uighurs be released or given a new military hearing. The United States had previously cleared this man, Huzaifa Parhat, of the

charge of being an enemy combatant, but none the less has kept him imprisoned at GTMO. He's not an enemy of the United States, but our country keeps him imprisoned.

At the other end of spectrum, there has not been a single completed trial of those suspected of the most serious crimes committed against our country, including Khalid Sheik Mohammed, who is believed to be responsible for helping to plan the 9/11 attacks. The case against alleged "20<sup>th</sup> hijacker" Mohammed al Qahtani has been dismissed without prejudice, for reasons that were not announced. In his case, it is speculated that there is insufficient evidence against him that is not completely tainted by the means used to extract it, or that the methods of interrogation used against him have rendered him incapable of participating in his trial.

The fact that GTMO is still open is testament to the genuine challenges we face in relocating its residents, and we discussed those challenges at the hearing the Commission held last year, but it also speaks to a lack of political leadership in fixing the problems there.

Today, in light of last month's Supreme Court's decision in the *Boumediene* case upholding the right of Guantanamo detainees to *habeas corpus*, I believe it is timely and appropriate to revisit the policy questions related to our detention policies.

For that purpose, we have invited Matthew Waxman and Gabor Rona to join us and share their considerable insights. Gabor Rona testified at our Guantanamo hearing last year, and has just returned from visiting Guantanamo.

In addition, we are joined by Jeremy Shapiro, who will discuss the question of what Europe is doing with its terror suspects – the United States is not the first country to struggle with terrorism, and perhaps there is something we can learn from European experiences.

Clearly, no European country has thrown the prohibition against torture out the window, or tried to defend waterboarding as a "professional interrogation technique." But at the same time, if we look carefully at the civilian criminal procedures used in Europe, they seem to present their own set of challenges. At a minimum, we can say that many European countries are struggling with some of the same issues we are, and I look forward to hearing more from Mr. Shapiro.

The biographies of all our witnesses, of course, have been printed out and made available to everyone attending this hearing, and I look forward to all their remarks.

Finally, I would like to note that we did invite witnesses from the administration to join us here today – we asked people from the Department of Defense and the Department of State, and the Department of Justice. Unfortunately, they are apparently unprepared to discuss this issue at this time, and, in light of the vital implications of this subject for our country, I sorely regret the absence of administration witnesses.