



**Statement by Senator Benjamin L. Cardin
Co-Chairman**

Commission on Security and Cooperating In Europe

**Hearing on
“*Guantanamo Detainees after Boumediene: Now What?*”
July 15, 2008**

Mr. Chairman, as you and I know from our work in the OSCE Parliamentary Assembly, the detention facility at Guantanamo Bay serves as a lightning rod for international human rights criticism of the United States. As I’ve said before, I am happy to defend the United States when we’re right – even if we’re alone – but in this case, I’d don’t think we are right. I think the detention facility there should be closed.

I therefore welcome your convening this hearing so we can revisit some of the issues we addressed at last year’s hearing on Guantanamo, now taking into consideration the Supreme Court’s recent decision in *Boumediene*.

In fact, in light of the latest defeat for the administration’s detention policies at the hands of the Supreme Court, as well as several unfavorable lower court rulings, I think it is high time to stop tinkering with a failed system and re-open entirely the question of how we handle terrorism suspects.

In that regard, the United States has an opportunity to act on one of the unimplemented recommendations of the 9/11 Commission, which is “to engage its friends and allies to develop a common coalition approach toward the detention and trial of captured terrorists, including drawing on Article 3 of the Geneva Conventions on the law of armed conflict.”

I’m not sure that the various national systems in Europe for handing terror suspects provide a model that can be transposed to the United States – many European

countries have restrictions on religious clothing, permit broad surveillance in public places including of demonstrations, criminalize mere membership in organizations, criminalize speech based on content alone, and have other substantive law provisions that I think many Americans would find unacceptable.

But so far, there has been precious little discussion in this town of what other countries do, and I think we need to broaden our examination of these issues to at least consider what European countries are doing with their terror suspects. And I certainly believe that whatever detainee policies are developed by the next administration must have more support from countries that we look to for critical counter-terrorism cooperation.

I would also note for the record that the Senate Judiciary Committee, on which I sit, is holding a hearing tomorrow on how the Administration's failed detainee policies have hurt the fight against terrorism. The Committee will examine how to put the fight against terrorism on sound legal foundations.

I look forward to the testimony of our distinguished witnesses. Thank you.