

## TESTIMONY OF MAJOR GENERAL PAUL D. EATON

### BEFORE THE SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS

#### “CLOSING GUANTANAMO: THE NATIONAL SECURITY, FISCAL AND HUMAN RIGHTS IMPLICATIONS”

JULY 24, 2013

#### I. Introduction

Chairman Durbin, Ranking Member Cruz and Members of the Subcommittee, thank you for inviting me to be here today to share my views on closing the Guantanamo Bay Detention Center. My name is Paul D. Eaton, and I am a retired United States Army Major General. I served over thirty-three years as an infantry officer serving in command and staff positions in the United States and Europe, Somalia, Bosnia and in Iraq, culminating as the Chief of Infantry and Commander of the Infantry Center at Fort Benning, Georgia. My last operational mission was to establish and lead the command to design, man, train and equip new Iraqi security forces, including National Police, Border Troops, Army, Navy and Air Force.

The greatest challenge to me in developing Iraqi soldiers was to overcome obedience to three decades of despotism and instill adherence to the rule of law. We worked the problem rigorously in the classroom and by our display of personal example. We stressed the nature of personal discipline, of team, of initiative, and of self-reliance. We drilled daily the notion of civilian control of the military, military justice, prisoner management and battlefield discipline. We stressed that higher rank did not bring greater privilege, rather the opposite. We stressed accountability.

Then Abu Ghraib blew up on us. The day the Abu Ghraib story broke, my senior Iraqi advisor, a retired Iraqi Air Force Brigadier General, walked into my office, visibly upset, and said, “General, you have no idea how badly this will play on the Arab street – and in your command.” He turned on his heel, and walked out. That man was and is my friend, but his message was clear. The United States had sacrificed its ability to teach good order, discipline and morale when it had failed to follow the law itself by torturing Iraqis.

Abu Ghraib was the spawn of Guantanamo and one reason why I am convinced that Guantanamo should close.

#### II. How Guantanamo Veered Away From Military Doctrine and the Rule of Law

In January 2002, then Brigadier General Mike Lehnert took his command, JTF-160, to Guantanamo with the mission to construct and operate the detention facility for Taliban and Al Qaeda detainees. He ordered that the Geneva Conventions would apply, over the opposition of civilian leadership. He invited the International Committee of the Red Cross to visit and advise on detention conditions and appointed a Muslim chaplain.

General Lehnert's conduct was consistent with how we train our military to deal with our prisoners. Said a member of his command, Colonel Terry Carrico at the time, "The Geneva Conventions don't officially apply, but they do apply."

After MG Lehnert left, the Bush administration adopted guidelines that permitted torture, and cruel, inhuman and degrading treatment in contravention of the Geneva Conventions, the Convention Against Torture, the Uniform Code of Military Justice, and domestic and international law. The use of torture, which was later exported to Abu Ghraib, created the reputation Guantanamo holds internationally today: of an American Gulag where detainees were tortured and continue to be denied the legal due process for which the United States is normally so highly regarded.

The investigation of Abu Ghraib by Major General Tony Taguba, an American hero, found that torture implemented at Guantanamo was exported to detainee operations in Iraq. Abu Ghraib was a logical outcome of our Guantanamo experience. Men who had served in Guantanamo during the worst days of enhanced interrogation techniques were deployed to Iraq to "Gitmo-ize interrogations." That, along with failures in the chain of command, allowed a complete breakdown in discipline, resulting in the Abu Ghraib fiasco. The pictures of Abu Ghraib were seared into the world's consciousness, and devastated my mission to bring rule of law to Iraq and its soldiers and policemen, whose cynicism about American moral authority was significant.

Guantanamo cannot be buffed enough to shine again after the sins of the past. Improvements in detainee treatment and new military commission rules will not change the belief in the minds of our allies and our enemies that Guantanamo is a significant problem to the prosecution of the U.S. national security agenda in general and the U.S. military in particular.

### III. How Guantanamo Has Undermined Our National Security

Let me explain how Guantanamo had undermined our national security. There are four elements of national power that contribute to our security:

- Moral leadership
- Political leadership
- Military power
- Economic power

#### A. The moral component of national power

First, the moral component of national power is essential to our armed forces and our national security.

In individual soldiers, we address the physical, the skill sets and the moral component. What sets the American Soldier apart from his or her international peers is the latter, and it is the easiest to develop. Our young men and women come into the service with a very

clear understanding and belief in the institutions that make America the great country she is. Our citizens have a fundamental belief in our Constitution and Bill of Rights and the judicial system that was established based on those documents. They have faith in their civilian leadership and the military leadership appointed by civilians. They have faith in their families, their society, their elected officials and the many faiths that inspire our men and women. My experience in developing soldiers in other countries revealed just how special we are, and how challenging development of the moral component can be in young men in many other countries on this planet.

Our moral component is one reason why we are so admired around the world. It is why we are the number one emigration choice on the planet. It is our rule of law that makes America the country of choice for day to day life, for safe development of families and to build a business. The U.S. judicial system really is our bright and shining gem and more than anything else, the justification for President Reagan's 'Bright and Shining City on the Hill.' In the armed forces, in the absence of a lawful order, we rely on, the Constitution, the Uniform Code of Military Justice, and the international treaties and conventions we have signed, as Brigadier General Lehnert demonstrated when he established the detention facility at Guantanamo.

When our leaders violate the rule of law, it makes our armed forces and our nation weaker. Guantanamo's reputation for torture and lack of due process of law cannot be rectified. Continued problems with the latest incarnation of military commissions make us look at once incompetent and hypocritical.

#### B. The political component of national power

The second component of national power is political and diplomatic leadership. Guantanamo has greatly strained our alliances.

We have a great many allies and alliances created for many reasons, most providing for mutual defense. Those alliances were entered into because of American national values and trustworthiness. Many of those same allies abhor the story of Guantanamo. My team in Iraq was composed of nine nations, military and civilian. In late night discussions, our Guantanamo problem would come up from time to time, and, after Abu Ghraib, often.

At the national level, our closest allies have refused to send us detainees because of Guantanamo. We are losing intelligence opportunities when this happens.

Those countries with a history of human rights abuses generally perform poorly on the international stage. The United States, during World War II, solidified its reputation as a leader in human rights by how it managed a very large prisoner of war population. Prisoners were housed in appropriate conditions and when interrogated, interrogated humanely. Marine Corps Major General Fred Smith, now unfortunately deceased, would tell the story about how Marines in his command accepted a Japanese soldier's surrender during operations on Iwo Jima and subsequent humane treatment and interrogation. The

return intelligence from that treatment proved invaluable. And the number of former German and Italian POWs who immigrated to the United States after the war carries a very powerful message. Guantanamo stands in sharp contrast to the leadership America has demonstrated in the past.

C. Military power is integral to our national power

Military power is the third component of national power. The United States Armed Forces are second to none in the world. Guantanamo makes us look weak, imperils our security, and forces our soldiers to bear an all-too-heavy burden.

First, Guantanamo makes us look weak, and it makes the enemy look strong. Let me explain. From a military perspective, some, but not all, of the prisoners in Guantanamo *may be* dangerous on an individual level, but they aren't an existential threat. They are not super villains. They are not organized, like our armed forces, to project violence. Releasing any individual Guantanamo detainee does not change our national security posture. That does not mean that we should release detainees who stand accused of war crimes. They should face justice.

To this soldier, the fear based argument to keep the Guantanamo Bay detention facility open is hard to understand. If brought to the United States for prosecution, incarceration or medical treatment, the detainees will pose no threat to our national security. The 86 men who have been cleared for transfer should be transferred. We must find lawful dispositions for all law of war detainees as we have done in every conflict.

Second, Guantanamo places our soldiers and nation at risk not only because it makes America look hypocritical as we promote the rule of law but because it makes the detainees look like warriors. Our leaders in Iraq would pose the question to me and my colleagues early and often, "Did we create more terrorists today than we managed to take off the street?" Guantanamo is a terrorist creating institution and is a direct facilitator in filling out the ranks of Al Qaeda and other terror organizations that would attack the U.S. or our interests. Guantanamo, in military terms, is a recruiting tool of the first order.

Third, to operate Guantanamo, the facility requires the manpower of hundreds of service members. These brave men and women are obliged to carry out policies and procedures that are wholly inconsistent with the American values and ideals that they have sworn to uphold and protect. As a result, the members of our military serving at Guantanamo are forced to bear the burden of our failure to close the facility.

D. Economic power is integral to our national power

American economic power is a final component of national power. Guantanamo is an expense we do not need.

Launching the wars in Iraq and Afghanistan without revenue to pay for them has now required the United States to tighten its fiscal belt. The U.S. economy is improving slowly. The sequester, however, is taking a big bite out of our national security interests.

The comparison between per prisoner cost at the Guantanamo facility and a typical US high security prison is outrageous. Today's calculation, depending on how you work the numbers, gives us a per prisoner cost per year of between \$900K and \$1.6 million. The equivalent cost for an inmate at a high security facility is under \$35K today.<sup>1</sup>

Soldiers who see the Defense Department planning to spend up to an additional \$200 million dollars to upgrade a facility that detracts from the individual safety of every American military man and woman shake their collective head. In the austere environment we have today, this is unconscionable. It is time to close a facility that is harming our national security and is in need of an expensive upgrade.

#### IV. Conclusion

We as a nation are strongest when we uphold the Constitution, the Bill of Rights, the Geneva Conventions, and the other laws, treaties and conventions to which we subscribe. We are weakest when we stray from the rule of law. We have an opportunity and an imperative to close Guantanamo now as we wind down combat operations in Afghanistan.

There is no national security reason to keep Guantanamo open. This is a matter of perspective and understanding of scale. For many years we built up our Russian adversary to be a ten foot tall super opponent, only to discover otherwise. The whole point of terrorism is to instill fear, and maintaining a counterproductive detention facility at Guantanamo because we are afraid to bring criminals the United States for trial and punishment, and transfer to other countries those who have been cleared for transfer, is simply not a reasonable action by a serious society. In the words of one of my colleagues, they don't win unless they change us. We must resist that attempt at change.

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<sup>1</sup> See David Alexander, *Guantanamo camp burns through \$900,000 a year per inmate*, Reuters, (May 3, 2013), <http://www.reuters.com/article/2013/05/03/us-usa-guantanamo-costs-idUSBRE94211N20130503>; Press Release, Rep. Adam Smith, *The Cost of Detention at Guantanamo Bay*, (June 5, 2013), <http://adamsmith.house.gov/blog/?postid=336801>.