



**Statement of Michael J. Bouchard, Sheriff of Oakland County
on behalf of the Major County Sheriffs' Association**

**Before the House Committee on Homeland Security Subcommittee
on Oversight and Management Efficiency**

**“Transferring Guantanamo Bay Detainees to the Homeland:
Implications for States and Local Communities”**

**April 28, 2016
Washington, DC**

Chairman Perry, Ranking Member Watson Coleman, distinguished members of the Subcommittee, thank you for the invitation to discuss local law enforcement's perspective regarding the implications of transferring Guantanamo detainees to the homeland. Today's hearing is timely and much needed; far too often local law enforcement is not consulted ahead of policy decisions that have direct and potentially dire and dangerous implications for our local communities.

I am currently serving my fourth 4 year term as Sheriff and have been in law enforcement for almost 30 years. I run one of the largest Sheriff's Offices in the country where I oversee 1,300 employees and manage an annual budget of over \$141 million dollars. We provide police, jail and court services for over 1.2 million people and nearly 1000 square miles. In addition to serving the people of Oakland County, I am also the Vice President of Government Affairs for the Major County Sheriffs' Association of America (MCSA). I am here testifying on their behalf. The MCSA is an association of elected Sheriffs representing our nation's largest counties with populations of 500,000 people or more. Collectively, we serve over 100 million Americans.

As constitutionally elected law enforcement officials, the MCSA is adamantly opposed to any effort to close the U.S detention facility on the Guantanamo Bay Naval Base and transfer detainees to U.S. soil. More so now than ever before, our nation is facing increasingly sophisticated threats from abroad and from within. Given the evolution of the threat environment, state and local law enforcement - in conjunction with our federal partners - are at the forefront of keeping our homeland secure. It goes without question that any effort to transfer Gitmo detainees to U.S. soil has immense national security implications.

The current threat environment from ISIS and other international terror groups cannot be underestimated. The nature of violence in America and around the world has evolved as has the expansion of encryption, use of social media for mass propaganda, inspiration for lone wolf attacks and selective recruitment. It is no secret that social media has played a primary role in the unprecedented uptick of ISIS sympathizers and disciples. Through the George Washington University Program on Extremism, over 300 American and/or U.S. based ISIS sympathizers have been identified online as actively spreading propagandaⁱ. Since March 2014, 85 individuals across 24 states have been charged in the U.S. with offenses related to ISIS and it has been reported that since the fall of 2015, roughly 250 Americans have traveled or attempted to travel to join ISISⁱⁱ.

Law enforcement is the first group to respond to areas in times of emergency, with the great responsibility to act quickly and effectively in times of terror and uncertainty. Securing the homeland cannot be an afterthought – law enforcement regularly and proactively prepares for the unthinkable and as the threat picture and nature of violence has evolved, so too has local law enforcement. After the attacks in Mumbai, I contacted all the chiefs in my area of responsibility and called on us to train together on a regular basis. Further, we needed to train on the same tactics so we could respond and meld together immediately should a similar scenario develop here. Local police now are directly responsible for responding to the changing threat matrix.

Law enforcement officials' ability to lawfully access digital evidence has been severely hamstrung by technological advancements and non-technological barriers to access. We in the law enforcement community find ourselves in a new age where criminals and terrorists enthusiastically operate beyond the confines of the law through encrypted networks, applications and mobile devices. The encrypted applications used for preplanning and coordination among the Paris attackers may have prevented the advance detection of the attacks, but the cell phone of one of the terrorists recovered outside the Bataclan theater helped investigators apprehend the ringleader of the attack, Abdelhamid Abaaoud. When law enforcement officials identified Abaaoud's cousin in the phone's call list and her location, Abaaoud was finally locatedⁱⁱⁱ. It was later confirmed that Abaaoud died in the detonation of a suicide bomb during the raid.

Unnecessarily increasing the threat outlook by transferring dangerous detainees puts our local communities at risk. A detainee housed in the backyard of an ISIS sympathizer would be powerful inspiration for a lone wolf attack and/or further recruitment – an unwarranted and avoidable inspiration. We know that ISIS even goes so far as to suggest targets. In my county, ISIS published a list of military members as a suggested kill list. Clearly, a community that houses prisoners from Guantanamo Bay could be easily added to such a list. Additionally, internal prison recruitment poses a significant and complex challenge.

As the uptick of indicted ISIS related offenses increases, additional attention must be given to radical recruitment efforts in prison. The same context that is applied to federal prisoners can also be applied to Guantanamo detainees, no matter if they are housed in a military facility. In 2011, the House Homeland Security Committee under the leadership of Congressman King (R-NY) examined post 9/11 U.S. prison radicalization cases in which converted Muslims were radicalized to Islamism in American prisons and upon release, attempted to launch terror attacks in the homeland.

Kevin James, a radicalized former Nation of Islam adherent, formed Jam'iyat Ul-Islam Is-Saheeh (JIS) while at Folsom State prison and recruited fellow prisoner, Levar Washington who proclaimed to be inspired to convert to Islam after the success of 9/11^{iv}. While in prison, James developed a target list for parolee Levar which included LAX, a military recruiting station and a Jewish children's camp – James was later convicted of seditious conspiracy to levy war against the United States. Another case example involves Jose Padilla. Padilla converted to radical Islam in a Florida jail, moved to the Middle East where he joined Al Qaeda, spent time at a military training camp and was sent back to the U.S. in 2002 to carry out a radioactive dirty bomb attack^v.

Prison radicalization and recruitment is an ongoing concern. Former Director of the Bureau of Prisons, Harley Lappin, testified back in 2003 before the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security where he stated, “We know that inmates are particularly vulnerable to recruitment by terrorists and that we must guard against the spread of terrorism and extremist ideologies...In addition, our institutions work closely with the Local Joint Terrorism Task Forces (JTTF) to share information and intelligence about these inmates^{vi}.” Many of our MCSA members devote both personnel and resources to these JTTFs without federal reimbursement.

Influential radicalized inmates pose a series of complex challenges to law enforcement officials – they can encourage other prisoners, upon release, to go to specific locations in an effort to further their extremist ideologies and can urge inmates to incite violence within the facility posing a substantial risk to prison security. Should those influential radicalized inmates or Gitmo detainees be released, additional scrutiny would need to be applied given the rate of recidivism.

In the September 2015 “Summary of the Reengagement of Detainees Formerly Held at Guantanamo Bay, Cuba” issued by the Office of the Director of National Intelligence (ODNI) it was reported that 30 percent of former Guantanamo prisoners are confirmed or suspected of reengaging in terrorism^{vii}. Additionally, just a few months ago, Spanish and Moroccan authorities arrested four suspected ISIS affiliates - including one described as a former Gitmo detainee^{viii}. With a high recidivism and penchant for extreme violence, releasing or transferring any additional detainees is simply counter intuitive.

With an increased threat environment, law enforcement has continually been tasked to do more with less. Cost implications coupled with a heightened security environment is simply unsustainable. In an era of deep budget cuts and lack of federal funding, state and local law enforcement does not have the necessary funds, and most recently the necessary lifesaving equipment, to adequately address the national security implications associated with Gitmo detainees being housed within U.S. facilities.

Grant programs such as the State Homeland Security Grant Program (SHSP) and the Urban Areas Security Initiative (UASI) work to address gaps in local agencies capabilities for responding to terrorist threats. Other programs such as the Edward Byrne Memorial Justice Assistance Grant Program (JAG) have a broader focus of providing critical funding to support a range of different program areas. Over the past few fiscal years, law enforcement has seen a steady decline in federal grant funding and most recently, President Obama's FY17 budget request cut UASI funds by 45 percent. The amount of monies we receive for these new and evolving threats is a trickle at best.

The Law Enforcement Support Office (LESO) military surplus and federal grant programs are examples of a good partnership between the federal government and local government entities. It is fiscally responsible and assists in equipping our nation's law enforcement with equipment that saves lives. In areas of our nation that are fiscally stressed, it is potentially the only way their law enforcement officers would ever receive that type of support. The transfer of equipment from federal inventory saves taxpayers a significant amount of money, simply because federal surplus items have already been purchased once. In fact, many of the same items that they receive through federal assistance programs have been used by law enforcement agencies for decades.

Through executive action and not legislation, the Administration has recalled certain 1033 controlled military surplus equipment. While the ultimate goals of law enforcement remain the same: to protect the public; to solve, deter and respond to criminal acts; and to enforce the law in a responsible and constitutional manner, the Administration has sought to inappropriately legislate through perception at the cost of public safety. On the very same day as the San Bernardino terror attack - our nation's worst attack since 9/11 - my office received an order to return our armored personnel carrier back to the federal government. The recall of certain types of controlled equipment will undoubtedly leave America's law enforcement less prepared and at a disadvantage to protect local communities against terror attacks and dangerous situations.

Guantanamo detainees housed in U.S. facilities would require an exorbitant amount of resources from state and local law enforcement agencies. Resources ranging from man power associated with hospital watch, medical and/or court transfers, to a coordinated escapee and riot response plans. Local law enforcement would also be tasked with preparing and responding to any protestors or sympathizers outside of the facility gates and into our local communities. When an emergency arises, federal officials and the military are not the first to respond – local law enforcement are and as such, need to be adequately prepared to properly address the situation at hand. That means both a significant investment in planning, training and equipment by the affected local jurisdictions. Some have lauded the closure of Gitmo as a cost saving measure, but that is most assuredly shortsighted – both from a national security and taxpayer perspective. Additionally, with the recent efforts to transfer detainees to other countries the argument that so few are left it only makes sense to close the base is neither subtle nor supported.

As stewards of the rule of law, the MCSA respectfully reminded the President that he signed two separate pieces of legislation into law that explicitly bar the use of funds to transfer, release or assist in the transfer or release of Gitmo detainees to or within the continental United States^{ix}. In compliance with current law and in full understanding of the inherent national security risk,

MCSA believes Gitmo detainees should, under no circumstance, be brought to the homeland where they will pose a threat to the communities we serve.

For many years politicians and pundits have discussed the closure of Gitmo and at no single point has the Administration requested local law enforcement's perspective or opinion on the matter. MCSA has always sought to be a positive source of ideas and collaboration and we applaud the Committee's interest in our unique perspective as the chief elected law enforcement officials in America. Speaking on behalf of our robust membership, we are committed to the protection of our communities and believe the closing of Guantanamo Bay poses an unnecessary threat to the safety of the citizens we are sworn to protect.

ⁱ <https://cchs.gwu.edu/sites/cchs.gwu.edu/files/downloads/ISIS%20in%20America%20-%20Full%20Report.pdf>

ⁱⁱ <https://cchs.gwu.edu/sites/cchs.gwu.edu/files/downloads/ISIS%20in%20America%20-%20Full%20Report.pdf>

ⁱⁱⁱ <http://www.nytimes.com/2016/03/20/world/europe/a-view-of-isis-evolution-in-new-details-of-paris-attacks.html>

^{iv} <https://homeland.house.gov/press/background-information-prominent-post-911-us-prison-radicalization-cases/>

^v <http://www.chicagotribune.com/news/chi-jose-padilla-prison-sentence-20140909-story.html>

^{vi} https://www.judiciary.senate.gov/imo/media/doc/lappin_testimony_10_14_03.pdf

^{vii} https://www.dni.gov/files/documents/September_2013_GTMO_Reengagement_UNCLASS_Release_FINAL.pdf

^{viii} <http://www.haaretz.com/middle-east-news/1.705003>

^{ix} http://www.mcsheriffs.com/pdf/news/mcsa_gitmo_closure_letter_to_potus.pdf