

GENERAL JOSEPH HOAR, USMC (RET.)  
GENERAL JOHN SHALIKASHVILI, USA (RET.)  
LIEUTENANT GENERAL ROBERT G. GARD, JR., USA (RET.)  
LIEUTENANT GENERAL CLAUDIA J. KENNEDY, USA (RET.)  
VICE ADMIRAL ALBERT H. KONETZNI JR., USN (RET.)  
VICE ADMIRAL JACK SHANAHAN, USN (RET.)  
MAJOR GENERAL EUGENE FOX, USA (RET.)  
REAR ADMIRAL DON GUTER, USN (RET.)  
REAR ADMIRAL JOHN D. HUTSON, USN (RET.)  
MAJOR GENERAL GERALD T. SAJER, USA (RET.)  
BRIGADIER GENERAL JAMES P. CULLEN, USA (RET.)  
BRIGADIER GENERAL DAVID R. IRVINE, USA (RET.)  
BRIGADIER GENERAL RICHARD O'MEARA, USA (RET.)  
BRIGADIER GENERAL ANTHONY VERRENGIA, USAF (RET.)  
AMBASSADOR PETE PETERSON, USAF (RET.)  
HONORABLE WILLIAM H. TAFT IV

GENERAL MERRILL A. McPEAK (RET. USAF)  
ADMIRAL STANSFIELD TURNER, USN (RET.)  
VICE ADMIRAL LEE F. GUNN, USN (RET.)  
LIEUTENANT GENERAL DONALD L. KERRICK, USA (RET.)  
LIEUTENANT GENERAL CHARLES OTSTOTT, USA (RET.)  
MAJOR GENERAL JOHN BATISTE, USA (RET.)  
MAJOR GENERAL JOHN L. FUGH, USA (RET.)  
MAJOR GENERAL FRED E. HAYNES, USMC (RET.)  
MAJOR GENERAL MELVYN MONTANO, ANG (RET.)  
BRIGADIER GENERAL DAVID M. BRAHMS, USMC (RET.)  
BRIGADIER GENERAL EVELYN P. FOOTE, USA (RET.)  
BRIGADIER GENERAL JOHN H. JOHNS, USA (RET.)  
BRIGADIER GENERAL MURRAY G. SAGSVEEN, USA (RET.)  
BRIGADIER GENERAL STEPHEN N. XENAKIS, USA (RET.)  
COLONEL LAWRENCE B. WILKERSON, USA (RET.)

September 12, 2006

The Honorable John Warner, Chairman  
The Honorable Carl Levin, Ranking Member  
Senate Armed Services Committee  
United States Senate  
Washington, DC 20510

Dear Chairman Warner and Senator Levin:

As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, introduced last week at the behest of the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards contained in the Detainee Treatment Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely. That was particularly important, because the Administration determined that it was not bound by the basic humane treatment standards contained in Geneva Common Article 3. Now that the Supreme Court has made clear that treatment of al Qaeda prisoners is governed by the Geneva Convention standards, the Administration is seeking to redefine Common Article 3, so as to downgrade those standards. We urge you to reject this effort.

Common Article 3 of the Geneva Conventions provides the minimum standards for humane treatment and fair justice that apply to anyone captured in armed conflict. These standards were specifically designed to ensure that those who fall outside the other, more extensive, protections of the Conventions are treated in accordance with the values of civilized nations. The framers of the Conventions, including the American representatives, in particular wanted to ensure that Common

Article 3 would apply in situations where a state party to the treaty, like the United States, fights an adversary that is not a party, including irregular forces like al Qaeda. The United States military has abided by the basic requirements of Common Article 3 in every conflict since the Conventions were adopted. In each case, we applied the Geneva Conventions -- including, at a minimum, Common Article 3 -- even to enemies that systematically violated the Conventions themselves.

We have abided by this standard in our own conduct for a simple reason: the same standard serves to protect American servicemen and women when they engage in conflicts covered by Common Article 3. Preserving the integrity of this standard has become increasingly important in recent years when our adversaries often are not nation-states. Congress acted in 1997 to further this goal by criminalizing violations of Common Article 3 in the War Crimes Act, enabling us to hold accountable those who abuse our captured personnel, no matter the nature of the armed conflict.

If any agency of the U.S. government is excused from compliance with these standards, or if we seek to redefine what Common Article 3 requires, we should not imagine that our enemies will take notice of the technical distinctions when they hold U.S. prisoners captive. If degradation, humiliation, physical and mental brutalization of prisoners is decriminalized or considered permissible under a restrictive interpretation of Common Article 3, we will forfeit all credible objections should such barbaric practices be inflicted upon American prisoners.

This is not just a theoretical concern. We have people deployed right now in theaters where Common Article 3 is the only source of legal protection should they be captured. If we allow that standard to be eroded, we put their safety at greater risk.

Last week, the Department of Defense issued a Directive reaffirming that the military will uphold the requirements of Common Article 3 with respect to all prisoners in its custody. We welcome this new policy. Our servicemen and women have operated for too long with unclear and unlawful guidance on detainee treatment, and some have been left to take the blame when things went wrong. The guidance is now clear.

But that clarity will be short-lived if the approach taken by Administration's bill prevails. In contrast to the Pentagon's new rules on detainee treatment, the bill would limit our definition of Common Article 3's terms by introducing a flexible, sliding scale that might allow certain coercive interrogation techniques under some circumstances, while forbidding them under others. This would replace an absolute standard -- Common Article 3 -- with a relative one. To do so will only create further confusion.

Moreover, were we to take this step, we would be viewed by the rest of the world as having formally renounced the clear strictures of the Geneva Conventions. Our enemies would be encouraged to interpret the Conventions in their own way as well, placing our troops in jeopardy in future conflicts. And American moral authority in the war would be further damaged.

All of this is unnecessary. As the senior serving Judge Advocates General recently testified, our armed forces have trained to Common Article 3 and can live within its requirements while waging the war on terror effectively.

As the United States has greater exposure militarily than any other nation, we have long emphasized the reciprocal nature of the Geneva Conventions. That is why we believe – and the United States has always asserted -- that a broad interpretation of Common Article 3 is vital to the safety of U.S. personnel. But the Administration’s bill would put us on the opposite side of that argument. We urge you to consider the impact that redefining Common Article 3 would have on Americans who put their lives at risk in defense of our Nation. We believe their interests, and their safety and protection should they become prisoners, should be your highest priority as you address this issue.

With respect,

**General Joseph Hoar, USMC (Ret.)**  
**General Merrill A. McPeak (Ret. USAF)**  
**General John Shalikashvili, USA (Ret.)**  
**Admiral Stansfield Turner, USN (Ret.)**  
**Lieutenant General Robert G. Gard, Jr., USA (Ret.)**  
**Vice Admiral Lee F. Gunn, USN (Ret.)**  
**Lieutenant General Claudia J. Kennedy, USA (Ret.)**  
**Lieutenant General Donald L. Kerrick, USA (Ret.)**  
**Vice Admiral Albert H. Konetzni Jr., USN (Ret.)**  
**Lieutenant General Charles Otstott, USA (Ret.)**  
**Vice Admiral Jack Shanahan, USN (Ret.)**  
**Major General John Batiste, USA (Ret.)**  
**Major General Eugene Fox, USA (Ret.)**  
**Major General John L. Fugh, USA (Ret.)**  
**Rear Admiral Don Guter, USN (Ret.)**  
**Major General Fred E. Haynes, USMC (Ret.)**  
**Rear Admiral John D. Hutson, USN (Ret.)**  
**Major General Melvyn Montano, ANG (Ret.)**  
**Major General Gerald T. Sajer, USA (Ret.)**  
**Brigadier General David M. Brahms, USMC (Ret.)**  
**Brigadier General James P. Cullen, USA (Ret.)**  
**Brigadier General Evelyn P. Foote, USA (Ret.)**  
**Brigadier General David R. Irvine, USA (Ret.)**  
**Brigadier General John H. Johns, USA (Ret.)**  
**Brigadier General Richard O’Meara, USA (Ret.)**  
**Brigadier General Murray G. Sagsveen, USA (Ret.)**  
**Brigadier General Anthony Verrengia, USAF (Ret.)**  
**Brigadier General Stephen N. Xenakis, USA (Ret.)**  
**Ambassador Pete Peterson, USAF (Ret.)**  
**Colonel Lawrence B. Wilkerson, USA (Ret.)**  
**Honorable William H. Taft IV**

## BIOGRAPHICAL INFORMATION

### **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 Merrill A. McPeak (Ret. USAF)**

General McPeak served as the Chief of Staff of the U.S. Air Force. Previously, General McPeak served as Commander in Chief of the U.S. Pacific Air Forces. He is a command pilot, having flown more than 6,000 hours, principally in fighter aircraft.

### **General John Shalikashvili, USA (Ret.)**

General Shalikashvili was Chairman of the Joint Chiefs of Staff (Department of Defense) from 1993 till 1997. Prior to serving as Chairman, he served as NATO's Supreme Allied Commander for Europe, and also as the commander-in-chief of the United States European Command. He was until recently a visiting professor at The Stanford Institute for International Studies.

### **Admiral Stansfield Turner, USN (Ret.)**

During his service in the United States Navy, Admiral Turner commanded a mine sweeper, a destroyer, a guided-missile cruiser, a carrier task group and a fleet. He also was President of the Naval War College. Admiral Stansfield Turner's last naval assignment was as Commander in Chief of NATO's Southern Flank.

In 1977 President Jimmy Carter appointed Turner as Director of the Central Intelligence Agency. He served in the post until January 1981. In recent years he has worked as a lecturer, writer and TV commentator. Since 1991 he has been teaching at the University of Maryland School of Public Policy. Admiral Turner serves on the Board of Direction of the American Association of Rhodes Scholars, as well as on the boards of other organizations.

### **Lieutenant General Robert G. Gard, Jr., USA (Ret.)**

General Gard is a retired Lieutenant General who served in the United States Army; his military assignments included combat service in Korea and Vietnam. He is currently a consultant on international security and president emeritus of the Monterey Institute for International Studies.

### **Vice Admiral Lee F. Gunn, USN (Ret.)**

Vice Admiral Gunn served as the Inspector General of the Department of the Navy until his retirement in August 2000. Admiral Gunn commanded the USS BARBEY and the Destroyer Squadron "Thirty-one," a component of the U.S. Navy's Anti-Submarine Warfare Destroyer Squadrons. Gunn is from Bakersfield, California and is a graduate of the University of California, Los Angeles. He received his commission from the Naval ROTC program at UCLA in June 1965.

**Lieutenant General Claudia J. Kennedy, USA (Ret.)**

General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

**Lieutenant General Donald L. Kerrick, USA (Ret.)**

Lieutenant General Kerrick retired from the U.S. Army in 2001 after a 30-year military career. His assignments included Deputy National Security Advisor to the President of the United States; Assistant to the Chairman of the Joint Chiefs of Staff; Chief of Staff/Staff Director, the National Security Council, The White House; Director of Operations, Defense Intelligence Agency; the Army Staff, Commander 701st Military Intelligence Brigade and Field Station Augsburg, Germany; and Commander 3rd Military Intelligence Battalion (Aerial Exploitation), Korea. General Kerrick also served, by Presidential appointment, as a principal negotiator on the international Bosnia Peace Delegation that ended the Bosnian War. He later was appointed by President Clinton to serve on the Steering Committee for the Protection of United States Critical Infrastructure that developed the blueprint for the structure and procedures designed to protect national critical infrastructure. Kerrick currently serves as the vice president of strategic business development for a major defense company.

**Vice Admiral Albert H. Konetzni Jr., USN (Ret.)**

Vice Admiral Konetzni served as the Deputy and Chief of Staff, of the U.S. Atlantic Fleet and Deputy Commander, U.S. Fleet Forces Command, where he was responsible for 160 ships, nearly 1,200 aircraft and 50 bases manned by more than 133,000 personnel. He has also served as Commander, Submarine Force, U.S. Pacific Fleet; Commander, Submarine Group Seven (Yokosuka, Japan); and Assistant Chief of Naval Personnel for Personnel Policy and Career Progression. Admiral Konetzni has received two Distinguished Service Medals, six awards of the Legion of Merit, and three awards of the Meritorious Service Medal for his Naval Service. His Homeland Security efforts have earned him the U.S. Coast Guard Distinguished Service Medal.

**Lieutenant General Charles Otstott, USA (Ret.)**

General Otstott served 32 years in the Army. As an Infantryman, he commanded at every echelon including command of the 25th Infantry Division (Light) from 1988-1990. His service included two combat tours in Vietnam. He completed his service in uniform as Deputy Chairman, NATO Military Committee, 1990-1992.

**Vice Admiral Jack Shanahan, USN (Ret.)**

Admiral Shanahan served in the Navy for 35 years before his retirement in 1977. A former commander of the North Atlantic fleet, Admiral Shanahan served in combat in WWII, Korea and Vietnam.

**Major General John Batiste, USA (Ret.)**

General Batiste commanded the First Infantry Division in Kosovo and Iraq. Prior to that he was the Senior Military Assistant to Deputy Secretary of Defense Paul Wolfowitz. He is currently President of Klein Steel Services in Rochester, NY.

**Major General Eugene Fox, USA (Ret.)**

Major General Fox retired from the U.S Army in 1989 after 33 years of service. He commanded Field Artillery and Air Defense Units from platoon to brigade level, instructed in a service school, and served in various capacities in the acquisition of DoD weapons systems to include several years as program manager. His last active duty position was the Deputy Director of the Strategic Defense Initiative Office. Subsequent to military retirement General Fox has served as a Defense Consultant for various companies and government agencies.

**Major General John Fugh, USA (Ret.)**

General Fugh was The Judge Advocate General of the U.S. Army, retiring from that post in July 1993 as a Major General. General Fugh was 15 years old when he migrated to the United States with his family from China. He was the first Chinese-American to attain General officer status in the U.S. Army. General Fugh currently lives in the Washington, D.C. metropolitan area.

**Rear Admiral Don Guter, 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 the Dean of Duquesne University Law School in Pittsburgh, PA

**Major General Fred E. Haynes, USMC (Ret.)**

Major General Haynes is a combat veteran of World War II, Korea and Vietnam. He was a captain in the regiment that seized Mt Suribachi, Iwo Jima and raised the American flag there, 23 February 1945. In Korea, he was Executive Officer of the 2nd Bn, 1st Marines. During Vietnam, he commanded the Fifth Marines, and was G-3 of the Third Marine Amphibious Force. During the Kennedy and Johnson eras, he served as Pentagon Director, Near Eastern and South Asian Affairs. As a general officer he commanded the Second and Third Marine Divisions. He was the Senior Member of the United Nations Military Armistice Commission in Korea, and was Deputy Chief of Staff for Marine Corps Research and Development. He is chairman of the Combat Veterans of Iwo Jima, Chairman Emeritus Of the American Turkish Council and a member of the Council on Foreign Relations. Haynes lives in New York and is currently writing a book, We Walk By Faith, the story of Combat Team Twenty-eight and the Battle of Iwo Jima.

**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 now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire. He also joined Human Rights First's Board of Directors in 2005.

**Major General Melvyn Montano, ANG (Ret.)**

General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

**Major General Gerald T. Sajer, USA (Ret.)**

Major General Sajer was the Adjutant General of Pennsylvania from 1987-1995. He served as the assistant Division Commander for maneuver of the 28th Infantry Division, and previously served as the Division's chief of staff and G-3. During the Korean War, he served as a Captain. A graduate of Tufts University and Harvard Law School, General Sajer practiced law in the Harrisburg area for 30 years, specializing in civil litigation. He and his wife have been married for 50 years and have 6 children and 15 grandchildren. They live on a farm near Gettysburg.

**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, USA (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 Evelyn P. Foote, USA (Ret.)**

General Foote was Commanding General of Fort Belvoir in 1989. She was recalled to active duty in 1996 to serve as Vice Chair of the Secretary of the Army's Senior Review Panel on Sexual Harassment. She is President of the Alliance for National Defense, a non-profit organization.

**Brigadier General David R. Irvine, USA (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 John H. Johns, USA (Ret.)**

Brigadier General John H. Johns, USA (Ret), Ph.D., served in Vietnam and was a key member of a group that developed the Army's counterinsurgency doctrine in the early 1960s at Ft. Bragg and later in the Pentagon. After retirement from active duty, he served as a Deputy Assistant Secretary of Defense and then as a professor at the National Defense University for 14 years, where he specialized in National Security Strategy.

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

Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in

2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

**Brigadier General Murray G. Sagsveen, USA (Ret.)**

Brigadier General Sagsveen entered the U.S. Army in 1968, with initial service in the Republic of Korea. He later joined the North Dakota Army National Guard. His assignments included Staff Judge Advocate for the 164th Engineer Group, Staff Judge Advocate for the State Area Command, Special Assistant to the National Guard Bureau Judge Advocate, and Army National Guard Special Assistant to the Judge Advocate General of the Army. He completed the U.S. Army War College in 1988. At the time of his retirement in 1996, he was a brigadier general and the senior judge advocate in the Army National Guard. General Sagsveen currently serves as the general counsel of the American Academy of Neurology in St. Paul, Minnesota. In February 2004, he participated in a medical conference in Baghdad, Iraq, and he has been participating in an effort among U.S. specialty medical societies to assist physicians in that country.

**Brigadier General Anthony Verrengia, USAF (Ret.)**

**Brigadier General Stephen N. Xenakis, USA (Ret.)**

Dr. Stephen N. Xenakis has served in the U.S. Army, as well as in healthcare management, academic medicine, and clinical practice. He retired from the Army in 1998 at the rank of Brigadier General and held many high level positions, including Commanding General of the Southeast Regional Army Medical Command. He currently serves as the Director of Child and Adolescent Psychiatry at the Psychiatric Institute of Washington.

**Ambassador Pete Peterson, USAF (Ret.)**

Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

**Colonel Lawrence B. Wilkerson, USA (Ret.)**

Colonel Wilkerson joined General Colin L. Powell in March 1989 at the U.S. Army's Forces Command in Atlanta, Georgia as his Deputy Executive Officer. He followed the General to his next position as Chairman of the U.S. Joint Chiefs of Staff, serving as his special assistant. Upon Powell's retirement from active service in 1993, Colonel Wilkerson served as the Deputy Director and Director of the U.S. Marine Corps War College at Quantico, Virginia. Upon Wilkerson's retirement from active service in 1997, he began working for General Powell in a private capacity as a consultant and advisor.

**Honorable William H. Taft IV**

William H. Taft, IV served as the Legal Adviser to the Department of State for four years beginning in 2001. His government service also includes service as: U.S. Permanent Representative to NATO from 1989 to 1992; Deputy Secretary of Defense from January 1984 to April 1989; and General Counsel for the Department of Defense from 1981 to 1984. Mr. Taft also served as Acting Secretary of Defense from

January to March 1989. Mr. Taft is currently Of Counsel at in the Washington, DC office of Fried, Frank, Harris, Shriver & Jacobson LLP. Mr. Taft received his JD in 1969 from Harvard Law School and his BA in 1966 from Yale University.