

**Thomas M. Susman**  
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June 23, 2009

The Honorable John Conyers Jr.  
Chair  
Committee on the Judiciary  
United States House of Representatives  
Washington, DC 20515

The Honorable Isaac N. Skelton IV  
Chair  
Committee on Armed Services  
United States House of Representatives  
Washington, DC 20515

The Honorable Lamar S. Smith  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
Washington, DC 20515

The Honorable Howard P. McKeon  
Ranking Member  
Committee on Armed Services  
United States House of Representatives  
Washington, DC 20515

Re: Request for Hearings on Proposals to Revise the Military Commissions Act or  
Authorize New Detention Authority or Procedures

Dear Chairman Conyers, Representative Smith, Chairman Skelton and Representative  
McKeon:

I understand that you may soon consider legislative proposals to revise the Military  
Commissions Act of 2006 and create new detention authority for current and future  
detainees. On behalf of the American Bar Association, I urge you to hold hearings on  
any such proposals before markup.

Prior to enactment of the Military Commissions Act of 2006 (“the Act”), a number of  
hearings related to the legislation were held. The hearings provided Congress and the  
American people the opportunity to better understand the issues being considered and to  
discuss alternative ways to protect national security while also upholding American  
values. Three years later, as changes to the Act are considered, it is equally as important  
that hearings are held. Congress must engage in a thoughtful, deliberative process to  
examine the Act’s implementation and to make certain that the military commission  
system is revised to ensure that it adheres to established principles of due process.

Since February 2002, the ABA has urged the President and Congress to ensure that any  
military commissions comply with the rules of the Uniform Code of Military Justice, to  
provide detainees the rights afforded in courts-martial, and to comply fully with our

international treaty obligations. Most recently, in February 2009, the ABA adopted policy that “urges the U.S. Government to ensure that all individuals who have been or are expected to be charged with violations of criminal law should be prosecuted in Article III federal courts, unless the Attorney General certifies, in cases involving recognized war crimes, that prosecution cannot take place before such courts and can be held in other regularly constituted courts in a manner that comports with fundamental notions of due process, traditional principles of the laws of war, the Geneva Conventions and the Uniform Code of Military Justice.” Copies of the February 2002 and February 2009 policies are attached for your review.

Thank you for considering the ABA’s views on these matters. The Association looks forward to working with you and your colleagues on this important issue and would welcome the opportunity to testify at such time as congressional hearings might be scheduled.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman  
Director

cc: House Judiciary Committee Members  
House Armed Services Committee Members

Enclosures: ABA February 2002 and February 2009 policies