

Congress of the United States
Washington, DC 20515

February 12, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

We write to express our deep concern regarding any potential plans to transfer terror suspects to facilities in the United States. Transferring Guantanamo detainees to the U.S. could have unintended consequences and may undermine our duty to protect U.S. citizens at home and abroad. We ask that you not transfer the detainees to American soil, whether prior to trial or after conviction. To do so would threaten the security of those who elected you as their President.

The 245 prisoners remaining in detention at Guantanamo Bay represent a substantial threat to the lives and security of U.S. citizens. A number of the detainees have admitted to actively recruiting extremists to carry out their terror plots and have pledged to plan and execute additional terrorist acts should they be granted the opportunity. Media sources report that, of the about 520 detainees transferred and released from Guantanamo Bay to date, the Pentagon has identified 62 (11%) who are known to have returned to the fight, including 18 who have returned to terrorism. These individuals pose a serious threat to the safety of the men and women who work in correctional facilities in the U.S. It does not make sense to take on this risk when other options are available.

Further, the reported potential U.S. locations for detainees do not currently meet the necessary criteria or do not have the capacity to hold these suspected terrorists. Of the four potential locations, only the Administrative Maximum (ADX) Florence United States Penitentiary in Florence, Colorado and the U.S. Disciplinary Barracks (USDB) at Fort Leavenworth, Kansas are dedicated maximum security facilities. ADX Florence can house 490 inmates and currently has a dedicated population of 489 (i.e., ADX Florence is operating at 99.79% of capacity), leaving room for only one additional inmate. USDB has a population of 430 with a maximum inmate capacity of 515 (i.e., USDB is operating at 83.49% of maximum capacity).

In addition, Camp Pendleton has only 60 single cells and the military brig in Charleston, SC has room for only 75 enemy combatants. Our high security prisons are also not an option as they are currently overburdened and above capacity. In 2007, for instance, the Federal Prison system's high security institutions were operating at 55 percent above capacity. Transferring Guantanamo detainees to any or all of these facilities will significantly decrease the space available for domestic military and civilian criminals.

Since mixing terror suspects with domestic military and civilian inmates could have negative consequences, it would be unacceptable to confine them in close proximity with one another. In fact, in September 2007, the Bureau of Prisons (BOP) Director stated it is unlikely that the BOP would house Guantanamo detainees with the general inmate population due to their unique status and lack of information about their histories of violent behavior. The detainees may also need to be separated from each other. In addition to separate confinement, Guantanamo detainees are likely to require special services and accommodations that these prisons are not currently funded or equipped to provide, including interpretation and translation staff to

communicate with prisoners and visitors. These specialized housing, security and service requirements will increase cost and personnel requirements at the detention facility and will further limit space and personnel attention devoted to domestic criminals.

Transferring Guantanamo detainees to U.S. prisons is likely to increase the visibility of these facilities and the communities in which they are located and elevate their status as terror targets. The increased threat of terrorism against U.S. prison facilities housing former Guantanamo detainees will compromise prison security and the security of surrounding communities and detract from the facilities' resources and mission to house and rehabilitate domestic criminals.

Since the existing maximum and high security prisons within the United States cannot adequately accommodate the 245 detainees from Guantanamo Bay, some have suggested building a new prison facility to house the detainees. This would be cost prohibitive. The Bureau of Prisons estimates that construction costs alone (not including equipping, personnel, operation) for a new 484-bed maximum security prison in the U.S. would be approximately \$260M.

Transfer of detainees to the United States is likely to complicate ongoing legal proceedings against terror suspects. Noncitizen detainees transferred to the United States may receive greater constitutional protections than those detained outside the United States. If there are no longer grounds to hold a detainee, the United States must terminate custody either through transfer or release. As evidenced in the recent Supreme Court Rulings *Boumediene v. Bush* and *Al Odah v. United States*, persons held in the United States may have greater legal redress within the United States due to the application of *Habeas Corpus* petitions.

Additionally, detainees found not to have fought on behalf of the Taliban or Al Qaeda may qualify for asylum or other forms of relief from removal if transferred to the United States due to current Immigration and Naturalization Service practices. Given the known recidivism rate (11%) of Guantanamo detainees already released to third countries, it would be dangerously unwise to release such detainees among the U.S. population.

Thank you for your time and consideration of this important matter. Closing the detention facility at Guantanamo Bay creates a perplexing problem regarding what to do with the suspected terrorists in detention there. We do not suggest that alternatives are easy to come by, only that moving them to U.S. soil is unacceptable. To do so would tax our already overburdened federal and military prison systems and create serious and unintended security threats to our country.

Sincerely,













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