



COMMITTEE ON APPROPRIATIONS

DAVID R. OBEY (WI-07), CHAIRMAN

FACT SHEET

HOMELAND SECURITY: GUANTANAMO BAY DETAINEE PROHIBITIONS

For generations, the United States has prided itself on being the principal advocate of due process and human rights in the world. Unfortunately, thanks in part to the chaos of Abu Ghraib and the ongoing use of the Guantanamo Bay Detention Facility, we have come to be seen by some as apologists for torture and imprisonment without review or remedy. During the last election, BOTH presidential candidates pledged to close Guantanamo because it has become, in the court of world opinion, a major liability and, in some cases, a recruiting tool for the very forces that we wish to contain. To ensure that the President can keep Americans safe even as we defend American values, H.R. 2892, the FY2010 Homeland Security Appropriations Conference Agreement expands upon the prohibitions contained in the House-passed bill and:

- **Prohibits the Release of Guantanamo Detainees, detained as of June 24, 2009, into the U.S.** (continental United States, Alaska, Hawaii, or the District of Columbia or into any of the U.S. territories).
- **Prohibits the Transfer of Guantanamo Detainees, detained as of June 24, 2009, into the U.S.** except for legal proceedings and only 45 days after a comprehensive plan for such detainee is received. The comprehensive plan for each individual must include: (1) A determination of the risk that the individual might instigate an act of terrorism within the U.S. or its territories if the individual were so transferred; (2) A determination of the risk that the individual might advocate, coerce, or incite violent extremism, ideologically motivated criminal activity, or acts of terrorism, among inmate populations at incarceration facilities within the U.S. or its territories if the individual were transferred to such a facility; (3) The costs associated with transferring the individual in question; (4) The legal rationale and associated court demands for transfer; (5) A plan for mitigation of any risks; (6) A copy of a notification to the Governor of the State, Mayor of DC, or U.S. territory to which the individual will be transferred with a certification by the Attorney General of the United States in classified form at least 14 days prior to such transfer (with supporting documentation) that the individual poses little or no security risk to the U.S.; and (7) An assessment of any risk to the national security of the U.S. or its citizens, including members of the Armed Services of the U.S., that is posed by such transfer and the actions taken to mitigate such risk.
- **Prohibits the Transfer of Guantanamo Detainees, detained as of June 24, 2009, to All Other Countries,** except in instances where the President submits to Congress, in classified form, at least 15 days prior to such transfer, information about the detainee; the risk the detainee poses to the United States or its citizens, including members of the Armed Services of the United States, and the actions taken to mitigate such risk; and the terms of any agreement with the country for the acceptance of that individual, including any financial assistance related to such agreement.
- **Prohibits Immigration Benefits for Guantanamo Detainees, detained as of June 24, 2009,** other than for purposes of prosecution.
- **Prohibits the Termination of Guantanamo Bay Detention Operations** until the President submits to Congress a classified report describing the disposition or legal status of each individual detained at Naval Station, Guantanamo Bay, Cuba, as of the date of enactment of this Act.
- **Mandates Inclusion of Guantanamo Detainees on No Fly List:** Requires the inclusion of any individual who was a detainee held at the Naval Station, Guantanamo Bay, Cuba, on the No Fly List unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies.