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IN CASE YOU MISSED IT: ***President Obama: Then and Now on GITMO Detainees***

THEN:

"The record is clear: Rather than keep us safer, the prison at Guantanamo has weakened American national security. It is a rallying cry for our enemies. It sets back the willingness of our allies to work with us in fighting an enemy that operates in scores of countries. By any measure, the costs of keeping it open far exceed the complications involved in closing it."

-President Obama, May 2009

NOW:

"A Justice Department-led task force has concluded that nearly 50 of the 196 detainees at the U.S. military prison at Guantanamo Bay, Cuba, should be held indefinitely without trial under the laws of war, according to Obama administration officials."

– The Washington Post January 22, 2010.

NOTE: Last May, [Congressman Shuster](#) signed on as an original cosponsor to the "Keep Terrorists out of America Act;" legislation that objects to the release of GITMO detainees into the United States and would require governors and state legislatures to pre-approve the transfer of GITMO detainees 60 days before their release.

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The Washington Post

Justice task force recommends about 50 Guantanamo detainees be held indefinitely

By Peter Finn

Friday, January 22, 2010; A01

A Justice Department-led task force has concluded that nearly 50 of the 196 detainees at the U.S. military prison at Guantanamo Bay, Cuba, should be held indefinitely without trial under the laws of war, according to Obama administration officials.

The task force's findings represent the first time that the administration has clarified how many detainees it considers too dangerous to release but unprosecutable because officials fear trials could compromise intelligence-gathering and because detainees could challenge evidence obtained through coercion.

Human rights advocates have bemoaned the administration's failure to fulfill [President Obama](#)'s promise last January to close the Guantanamo Bay facility within a year as well as its reliance on indefinite detention, a mechanism devised during [George W. Bush](#)'s administration that they deem unconstitutional.

"There is no statutory regime in America that allows us to hold people without charge or trial indefinitely," said Anthony D. Romero, executive director of the American Civil Liberties Union.

But the efforts of the task force, which this week completed its case-by-case review of the detainees still being held at Guantanamo Bay, allows the Obama administration to claim at least a small measure of progress toward closing the facility.

"We're still moving forward and in a much more deliberate and less haphazard manner than was the case before," said an administration official, who spoke on the condition of anonymity because the recommendations have not been made public. "All policies encounter reality, and it's painful, but this one holds up better than most."

The task force has recommended that Guantanamo Bay detainees be divided into three main groups: about 35 who should be prosecuted in federal or military courts; at least 110 who can be released, either immediately or eventually; and the nearly 50 who must be detained without trial.

Administration officials argue that detaining terrorism suspects under Congress's authorization of the use of force against al-Qaeda and the Taliban is legal and that each

detainee has the right to challenge his incarceration in habeas corpus proceedings in federal court.

In a May speech, Obama said detention policies "cannot be unbounded" and promised to reshape standards. "We must have a thorough process of periodic review, so that any prolonged detention is carefully evaluated and justified," he said.

The group of at least 110 detainees cleared for release includes two categories. The task force deemed approximately 80 detainees, including about 30 Yemenis, eligible for immediate repatriation or resettlement in a third country. About 30 other Yemenis were placed in a category of their own, with their release contingent upon dramatically stabilized conditions in their home country, where the government has been battling a branch of al-Qaeda and fighting a civil war.

Obama suspended the transfer of any Guantanamo Bay detainees to Yemen in the wake of an attempted Christmas Day airliner attack, a plot that officials said originated in Yemen. Effectively, all Yemenis now held at Guantanamo have little prospect of being released anytime soon.

"The task force recommendations are based on all of the known information about each detainee, but there are variables that could change a detainee's status, such as being ordered released by the courts or a changed security situation in a proposed transfer state," an administration official said.

Moving a significant number of detainees to the United States remains key to the administration's now-delayed plan to empty the military facility. The federal government plans to acquire a state prison in Thomson, Ill., to house Guantanamo Bay detainees, but the plan faces major hurdles.

Congress has barred the transfer of the detainees to the United States except for prosecution. And a coalition of Republicans opposed to any transfers and some Democrats critical of detention without trial could derail the possibility of using the Thomson facility for anything other than military commissions, according to congressional staffers.

The task force comprised officials from the departments of Defense, State, Homeland Security and Justice, as well as agencies such as the CIA and the FBI. Officials said that the process of assessing the detainees was extremely challenging and occasionally contentious, but that consensus was reached on each case in the end.

Some European officials, who would like to see Guantanamo Bay closed without instituting indefinite detention, are advocating the creation of an internationally funded rehabilitation center for terrorism suspects in Yemen and possibly Afghanistan. They say

such a facility would gradually allow the transfer of all detainees from those countries back to their homelands, according to two sources familiar with the plan.

A majority of the detainees slated for prolonged detention are either Yemeni or Afghan, and European officials think the others could eventually be resettled under close supervision.

European officials hope to raise the issue at an international conference in London next week that will address the situations in Yemen and Afghanistan.

"We are running out of options, and the administration needs to seriously consider this," said Sarah E. Mendelson, a fellow at the Center for Strategic and International Studies and the author of a report on closing Guantanamo Bay. "There is lots of really good expertise on rehabilitation, and the administration needs to invest in it."

The Bush and Obama administrations considered helping Yemen formulate a rehabilitation program, but the idea foundered amid concerns about the Middle Eastern country's capacity to implement it, officials said.

Since Obama took office, 44 Guantanamo Bay detainees have been repatriated or resettled in third countries, including 11 in Europe.

The administration anticipates that about 20 detainees can be repatriated by this summer, and it has received firm commitments from countries willing to settle an additional 25 detainees who have been cleared for release, officials said.

Within a few days, sources said, four other detainees are slated to be transferred out.

Staff researcher Julie Tate contributed to this report.

http://www.washingtonpost.com/wp-dyn/content/article/2010/01/21/AR2010012104936_pf.html

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