

111TH CONGRESS
1ST SESSION

S. 370

To prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2009

Mr. INHOFE (for himself, Mr. DEMINT, Mr. THUNE, Mr. ROBERTS, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guantanamo Bay De-
5 tention Facility Safe Closure Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 The Senate makes the following findings:

1 (1) Since the United States began its Global
2 War on Terrorism, terrorists have been captured by
3 the United States and their allies and detained in
4 facilities at Guantanamo Bay Detention Facility
5 (GTMO), Cuba.

6 (2) The detainee complex at Guantanamo Bay,
7 Cuba, is the only complex in the world that can safe-
8 ly and humanely hold individuals that pose a high-
9 security risk to the United States. It is a secure lo-
10 cation away from population centers, provides max-
11 imum security required to prevent escape, provides
12 multiple levels of confinement opportunities based on
13 compliance of the detainee, and provides medical
14 care not available to a majority of the population of
15 the world.

16 (3) GTMO is the single greatest repository of
17 human intelligence in the war on terror. This intel-
18 ligence has prevented terrorist attacks and saved
19 lives in the past and continues to do so today.

20 (4) New intelligence being collected from de-
21 tainees at GTMO is being used to fight terrorists in
22 Iraq, Afghanistan, and around the globe.

23 (5) Intelligence information obtained from ques-
24 tioning detainees includes—

1 (A) the organizational structure of al-
2 Qaida and other terrorist groups;

3 (B) the extent of terrorist presence in Eu-
4 rope, the United States, and the Middle East;

5 (C) al-Qaida's pursuit of weapons of mass
6 destruction;

7 (D) methods of recruitment and locations
8 of recruitment centers;

9 (E) terrorist skill sets, including general
10 and specialized operative training; and

11 (F) how legitimate financial activities are
12 used to hide terrorist operations.

13 (6) The Expeditionary Legal Complex (ELC)
14 located at GTMO is the only one of its kind in the
15 world. It provides a secure location to secure and try
16 detainees charged by the United States Government,
17 full access to sensitive and classified information,
18 full access to defense lawyers and prosecution, and
19 full media access by the press.

20 (7) There are on average two lawyers for every
21 detainee that has been charged or had charges pre-
22 ferred against them at GTMO.

23 (8) There are 127 doctors, nurses, and medical
24 technicians dedicated to caring for and maintaining

1 the health of each detainee—a ratio of 1:2 (one
2 health care professional for every two detainees).

3 (9) GTMO is operated by the Department of
4 Defense and only interrogation techniques approved
5 by the Secretary of Defense have been used.

6 (10) Detainees are being treated humanely.

7 (11) There are no solitary confinement facilities
8 at Guantanamo.

9 (12) Water boarding has never occurred at
10 GTMO.

11 (13) Current treatment and oversight exceed
12 any maximum-security prison in the world.

13 (14) Since 2002, more than 520 detainees have
14 departed Guantanamo for other countries, including
15 Albania, Afghanistan, Australia, Bangladesh, Bah-
16 rain, Belgium, Denmark, Egypt, France, Great Brit-
17 ain, Iran, Iraq, Jordan, Kuwait, Libya, Maldives,
18 Mauritania, Morocco, Pakistan, Russia, Saudi Ara-
19 bia, Spain, Sweden, Sudan, Tajikistan, Turkey,
20 Uganda, the United Kingdom, and Yemen.

21 (15) There are approximately 245 detainees
22 from over 30 countries remaining at GTMO. These
23 detainees include terrorist trainers, terrorist fin-
24 anciers, bomb makers, Osama bin Laden body-
25 guards, recruiters and facilitators, and would-be sui-

1 cide bombers. Detainees remaining at GTMO fall
2 into three categories:

3 (A) Detainees who have been cleared for
4 release but the United States has not been able
5 to find a foreign country willing to accept them.

6 (B) Detainees who have been tried, had
7 charges referred to trial, or are awaiting for re-
8 ferral to trial.

9 (C) Detainees who are either of high threat
10 to the United States or are from countries
11 where the United States is unable to get suffi-
12 cient assurances that the country will mitigate
13 their threat if transferred.

14 (16) The Pentagon claims that 61 of released
15 GTMO detainees have “returned to the fight”.

16 (17) Said Ali al-Shihri, suspected of involve-
17 ment in the bombing of the United States Embassy
18 in Yemen on 17 September 2008, was released to
19 Saudi Arabia in 2007, passed through a Saudi reha-
20 bilitation program, and has resurfaced as the new
21 deputy leader of al-Qaida in Yemen.

22 (18) In 2007, the Senate passed a resolution,
23 94–3, stating, “detainees housed at Guantanamo
24 should not be released into American society, nor

1 should they be transferred stateside into facilities in
2 American communities and neighborhoods.”.

3 (19) On January 20, 2009, President Obama
4 instructed military prosecutors to seek a 120-day
5 suspension of legal proceedings at GTMO or what
6 administration officials called “a continuance of the
7 proceedings”.

8 (20) On January 22, 2009, President Obama
9 ordered the closing of the GTMO prisons within a
10 year.

11 (21) The United States is still in a global war
12 on terror, engaged in armed conflict with terrorist
13 organizations, and will, in all probability, continue to
14 capture terrorists who will be detained in a facility.

15 (22) If the detention facility at GTMO is
16 closed, some United States domestic or overseas
17 prison will have to house these detainees while they
18 await disposition.

19 **SEC. 3. PROHIBITION ON USE OF FUNDS TO TRANSFER DE-**
20 **TAINÉES AT NAVAL STATION GUANTANAMO**
21 **BAY, CUBA, TO ANY FACILITY IN THE UNITED**
22 **STATES OR CONSTRUCT ANY FACILITY FOR**
23 **SUCH DETAINEES IN THE UNITED STATES.**

24 None of the funds appropriated or otherwise made
25 available to any department or agency of the United

1 States Government may be obligated or expended for a
2 purpose as follows:

3 (1) To transfer any detainee of the United
4 States housed at Naval Station, Guantanamo Bay,
5 Cuba, to any facility in the United States or its ter-
6 ritories.

7 (2) To construct, improve, modify, or otherwise
8 enhance any facility in the United States or its terri-
9 tories for the purpose of housing any detainee de-
10 scribed in paragraph (1).

11 (3) To house or otherwise incarcerate any de-
12 tainee described in paragraph (1) in the United
13 States or its territories.

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