

## **What Are the Republicans Afraid Of? House-Passed Continuing Resolution Would Place More Roadblocks on Guantánamo Closure Efforts**

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Buried within the House-passed continuing resolution to fund the government through September are several measures that would prevent Guantánamo detainees who have been charged with crimes from being tried in federal court and that would make it even harder for the majority of detainees who have been cleared to leave the prison.

H.R. 1 passed on February 19th by a vote of 235 to 189. All House Democrats and three Republicans (Reps. Jeff Flake of Arizona, John Campbell of California, and Walter Jones of North Carolina) opposed it. Senate leadership does not plan a vote on the bill, and President Obama has threatened a veto. But expect government forces who don't want Guantánamo Bay prison to close will continue putting forward this wish list of more injustices.

Section 1112 would prevent transfers of any remaining detainees to the U.S. or its territories or possessions for any purpose, including trials. The Defense Authorization Bill had barred the use of the Defense Department budget for those purposes; this section would bar such spending by any department covered by H.R. 1 "or any other Act." The section names Khalid Sheikh Mohammed and adds "or any other detainee," to suggest that all remaining detainees are in the same league; they're not.

Section 1113 would place severe restrictions on transferring detainees from Guantánamo, with the exception of detainees who have been ordered released by a court or tribunal. It would require "the Secretary of Defense, with the concurrence of the Secretary of State" to provide written certification that the country to which a detainee is transferred will ensure that the individual will not be a threat to the U.S. in the future or engage in terrorist activity. Furthermore, the country must agree "to share any information with the United States that is related to the individual or any associates of the individual, and could affect the security of the United States, its citizens, or its allies."

As if those requirements were not sufficiently daunting to discourage foreign governments from accepting either their own citizens or the roughly 30 cleared detainees who cannot be repatriated and therefore need to be resettled elsewhere, the bill would prevent the transfer of a detainee in Guantánamo from going anywhere if there is at least one confirmed case of a former detainee who was returned to that person's home country "and subsequently engaged in any terrorist activity." The bill does not define "terrorist activity," but it would ensure that the only people who must pay for a bad decision by a government agent to release someone who later engaged in terrorism are the former detainees' countrymen who are still in Guantánamo. This subsection exempts men who have been ordered released by a court or tribunal. It also allows "the Secretary of Defense [to] waive the prohibition ... if the Secretary determines that such a transfer is in the national security interests of the United States" and he provides the certification described in the above paragraph. But don't count on Defense Secretary Robert Gates to do that: At a hearing by the Senate Armed Services Committee, Gates acknowledged that the U.S. has not been very effective at determining which detainees would return to the battlefield after their release.

Section 1114 would bar funds for constructing or modifying a facility within the U.S. or its possessions for housing Guantánamo Bay inmates. However, it takes away any appearance of cost savings by making an exception for the facilities at Guantánamo Bay.



Finally, Section 4009 cuts funding for the salaries and expenses of several "czars" and their offices, including Daniel Fried, "Special Envoy to oversee the closure of the Detention Center at Guantánamo Bay."

While some of these measures might appear at first glance to reduce the U.S. budget, they would actually be more costly to Americans' pocketbooks and to our country's already severely diminished reputation for justice. Their main objectives are to continue fearmongering and hampering any efforts the Obama administration might make toward extending justice and fairness to the men who remain at Guantánamo.

Republican politicians have worked hard for nearly a decade to portray the Guantánamo detainees as monsters, and to convince the American people that closing the prison or trying some of the men in civilian court would be reckless. The last thing they want now is for the American people to learn—by meeting some of the men, by hearing about how well they are fitting in to other societies, or by learning the truth about what the men suffered while in U.S. custody—to realize that they have been deceived. The House-passed continuing resolution was meant to ensure that never happens. At the moment it appears unlikely to become law, yet that is no cause for celebration. There are already enough roadblocks to justice in place for the men in Guantánamo and Bagram prisons, and enough misinformation and fearmongering to keep them in place for a long time to come.

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