

H.R. 4580

THE TERRORIST RELEASE TRANSPARENCY ACT

On January 20, 2009, President Obama issued Executive Order 13492 mandating the closure of the prison at Guantanamo Bay, Cuba. Among other things, this Order directs the Department of State to participate in a thorough review of each detainee and negotiate with foreign governments to accept their transfer. Since 2009, the Department has facilitated the release of 147 detainees – a large number of whom have been transferred in the past three years.

Before the Department of Defense transfers a detainee, the Administration is required by law to notify Congress of any impending release. This notice must contain the name, origin, destination, and a certification of the host country's ability to prevent recidivism of that individual. There is no requirement that the Administration transmit the information to Congress in a classified format.

Despite the lack of any requirement, the Administration routinely classifies the notice before submitting it to House and Senate committees. These documents routinely contain information that should not be classified. The countries to which they are headed often have limited ability or intent to monitor and/or prevent the terrorist from returning to the battlefield. One can only conclude that the Administration shields this information from public scrutiny because the details would reveal a strategy that recklessly compromises national security.

If the Administration believes that the closure of Guantanamo Bay serves the public interest, then it should be transparent with the American people. H.R. 4580 compels transparency by directing the State Department to provide an unclassified notice to Congress that contains pertinent details about the prisoners it intends to release – especially since those who remain are the most hardened and likely to reengage in terrorist activity. It is designed to work hand-in-glove with existing requirements under the National Defense Authorization Act for Fiscal Year 2016. The American people deserve to know who the Administration is releasing, when, and details about where they are going.

Specifically, H.R. 4580 requires the Department of State to provide an unclassified notice to Congress containing:

- The name, country of origin, and country of destination of the individual being transferred;
- The number of individuals detained at Guantanamo previously transferred to that country; and
- The number of such individuals who have reengaged in terrorist activity after being transferred to that country.

Separately, the Department of State is required to tell Congress why it chose that country and which countries are next on its list.