



Guantanamo inmates to be sent to Illinois prison

US President Barack Obama has ordered the federal government to buy a prison in Illinois to take a number of inmates from Guantanamo Bay.

<http://news.bbc.co.uk/2/hi/8413230.stm>

The move is a key part of Mr Obama's plan to close the Cuba-based jail. The number of inmates for transfer to the Thomson Correctional Center has not been given officially, but US media report it could be between 35 and 90. Senior officials said security would be upgraded, making Thomson the most secure jail in the country.

Obama administration officials have said that closing Guantanamo Bay is "essential" in removing a key al-Qaeda recruiting tool. Mr Obama had given himself one year to achieve this, but with officials still trying to work out what to do with about 215 inmates at the camp, he admitted in November that a 22 January deadline had slipped to later in 2010.

A letter signed by Secretary of State Hillary Clinton and Defence Secretary Robert Gates says: "The president has directed, with our unanimous support, that the federal government proceed with the acquisition of the facility in Thomson."

A briefing by senior officials said the prison would be "the most secure in the country". There remain questions on the legality of transfers to US soil but the briefing officials said it was permissible to bring in detainees for prosecution. The briefing heard: "It would be a violation of current law to transfer individuals for anything but the purpose of prosecution - that's the [legal] change we'll be looking for."

There have been concerns in the US about inmates escaping or eventually gaining the right to live on American soil. However the Clinton/Gates letter says: "The president has no intention of releasing any detainees in the United States."

No timeframe has been given for the first transfer. Republicans criticised the move. Senate Republican leader Mitch McConnell said Americans and Congress had "already rejected bringing terrorists to US soil for long-term detention, and current law prohibits it". Human rights groups said the mere relocation of suspects continues to violate the legal principle that people cannot be held without charge or trial.

The only thing that President Obama is doing with this announcement is changing the Zip Code of Guantanamo," Amnesty International said in a statement.

ANALYSIS : Paul Reynolds, BBC News Online world affairs correspondent

- This is another important step on the way to closing Guantanamo Bay, but not the final one. Some 210 prisoners remain at Guantanamo.
- Prisoners who will be transferred to the Thomson jail will be those who face either criminal trials or military tribunals, and probably another larger group against whom there is no useable evidence, but who are deemed too dangerous to release.
- Military tribunals will be held at the newly designated jail. More than 100 other inmates whom the US would like to release would probably be held at Guantanamo until some country can be found to take them.

- President Obama set 22 January 2010 as the target for closing Guantanamo. He has accepted this date will be missed and it is not clear when he will fulfill his promise.

Near empty

The BBC's Adam Brookes in Washington says the prison transfer might go some way to addressing the problem of Guantanamo but it will not solve it.

He says European nations - who have until now taken the attitude that if the US will not house the detainees, they will not either - may be softening their stance to accept small numbers of prisoners. The near-empty Thomson prison, about 150 miles (240km) from Chicago, was promoted as an alternative by Illinois Senator Richard Durbin. The prison, built in 2001, has the capacity for 1,600 inmates, but due to budget constraints only houses 200 prisoners. It would be sold to the Federal Bureau of Prisons and then part of it leased to the Department of Defense, reports say.

Federal prisoners would be held at the facility, as well as the former Guantanamo inmates, officials said. Of the remaining Guantanamo inmates, some are expected to be sent to other countries, while others could face military tribunals or be tried in US courts.

Prisons in Colorado, Montana and elsewhere in Illinois had expressed an interest in housing Guantanamo inmates.

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Can a terror prison spark a boom?

US Officials say a prison for ‘Gitmo’ detainees will boost rural Thomson, Ill. Don’t count on it.



A prison in Carroll County, Ill., could house federal detainees. Local residents hope it would boost the economy, but studies throw doubt on that outcome.

(Melanie Stetson Freeman/Staff)

By Richard Mertens, Correspondent / March 15, 2010 at 9:30 am EDT

Chicago

It’s a familiar story: Faced with shuttered businesses, dying downtowns, and consolidated schools, rural communities across America grab the chance to host a new enterprise, maybe a meatpacking factory or a landfill. In Thomson, Ill., it’s a local prison revamped to house terror suspects from Guantánamo Bay and other federal prisoners.

Hopes are high that the proposed facility will turn Thomson’s fortunes around. “We need to be safe, we need to give people hope, we need to give people opportunities to keep their families here,” says Jerry “Duke” Hebler, village president. “This is our shot to do all three.”

The Obama administration is equally upbeat. Under federal management, the Thomson prison would create as many as 2,960 jobs and “local residents will be excellent candidates” for half of them, says a report by

the president's Council of Economic Advisers (CEA). It predicts that the county unemployment rate, 12.1 percent in December, could fall by as much as four percentage points.

But such predictions are almost always overstated, the hoped-for benefits mostly illusory, say researchers who have studied the economics of rural prisons. Studies over the past decade conclude that prisons have done little to change the economic realities of rural communities.

"Most of the communities that I've talked to have been somewhat disappointed after they see what happens," says Thomas Johnson, an agricultural economist at the University of Missouri in Columbia. "They don't think it's a mistake. But they don't find the economic benefits that were suggested."

In some circumstances, research suggests, prisons have actually done harm.

"The towns that get prisons, especially the most desperate communities, tend to be worse off," says Gregory Hooks, a sociology professor at Washington State University and author of two studies of rural prisons. "That was a surprise."

Mr. Hooks and other researchers have used census data to compare rural counties with and without prisons. These studies show that prisons fail to increase total employment, raise incomes, or reduce poverty. It's not clear why. One reason may be that local people get relatively few prison jobs because they lack the skills and qualifications needed to work as guards or administrative staff. Researchers also speculate that prisons may displace other economic activity.

Moreover, unlike factories and other economic development, prisons generate little extra business. They are centralized institutions with their own distant suppliers. "Prisons have had nowhere the positive economic benefits people say they will have," says Boyce Sherwin, a former director of community development in Malone, N.Y., a town with three prisons.

Before the 1980s, most prisons were built in urban areas. But the 1980s and '90s saw a prison boom in rural areas, in part because stricter sentencing guidelines spawned a growing population of prisoners. Rural towns welcomed and even competed for prisons. Some struggling areas, like Michigan's Upper Peninsula, have become centers of the prison industry.

No surge in Rush City

When Minnesota opened a prison in Rush City in 2000, some officials predicted big economic benefits. But it generated fewer jobs for residents and less economic boost than many hoped. “I guess I’ve not seen where it’s made any difference in our city,” says Mayor Nancy Schroeder.

In recent years, the opening of new prisons has ebbed. Budget woes have forced some states to close prisons. But new prisons are still under construction, such as a federal prison in Berlin, N.H.

The White House says studies “confirm the essential point that prison openings tend to raise employment and prosperity in the local community.” Researchers object that their studies confirm no such thing. “There’s nothing in the literature I’ve seen to justify the optimistic predictions the CEA makes,” says Hooks. (Neither the White House nor the CEA responded to requests for comment.)

Decision may await federal budget

Illinois aims to sell the Thomson prison, built in 2001 and virtually empty. The White House’s fiscal 2011 budget plan includes \$237 million to buy and renovate the prison. But Republicans oppose moving Guantánamo prisoners to the mainland and may try to block the purchase. President Obama has said he can’t close the facility as soon as he had promised.

Experts on rural development say that prisons are just one example of a number of controversial enterprises, including landfills and power stations, that end up in desperate rural communities. These communities have alternatives, they say.

“The strategies that work build on assets in the community rather than pulling in something it doesn’t have,” says Deborah Tootle, community development professor at the University of Arkansas and president-elect of the National Association of Community Development Extension Professionals. A prison “is going to bring in a few jobs. [But] is it going to benefit the community over time? It’s really a question of scale and time.”

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The Obama GITMO myth

New vindictive restrictions on detainees highlights the falsity of Obama defenders regarding closing the camp

BY GLENN GREENWALD



Accused Sept. 11 co-conspirator Ramzi Binalshibh is shown while attending his military hearing at the Guantanamo Bay U.S. Naval Base in Cuba. (AP/Janet Hamlin)

Most of the 168 detainees at Guantanamo have been imprisoned by the U.S. Government for close to a decade without charges and with no end in sight to their captivity. Some now die at Guantanamo, thousands of miles away from their homes and families, without ever having had the chance to contest accusations of guilt. During the Bush years, the plight of these detainees was a major source of political controversy, but under Obama, it is now almost entirely forgotten. On those rare occasions when it is raised, Obama defenders invoke a blatant myth to shield the

President from blame: *he wanted and tried so very hard to end all of this, but Congress would not let him.* Especially now that we're in an Election Year, and in light of very recent developments, it's long overdue to document clearly how misleading that excuse is.

Last week, the Obama administration imposed new arbitrary rules for Guantanamo detainees who have lost their first habeas corpus challenge. Those new rules eliminate the right of lawyers to visit their clients at the detention facility; the old rules establishing that right were in place since 2004, and were bolstered by the Supreme Court's 2008 *Boumediene* ruling that detainees were entitled to a "meaningful" opportunity to contest the legality of their detention. The DOJ recently informed a lawyer for a Yemeni detainee, Yasein Khasem Mohammad Esmail, that he would be barred from visiting his client unless he agreed to a new regime of restrictive rules, including acknowledging that such visits are within the sole discretion of the camp's military commander. Moreover, as SCOTUSblog's Lyle Denniston explains:

Besides putting control over legal contacts entirely under a military commander's control, the "memorandum

of understanding” does not allow attorneys to share with other detainee lawyers what they learn, and does not appear to allow them to use any such information to help prepare their own client for a system of periodic review at Guantanamo of whether continued detention is justified, and may even forbid the use of such information to help prepare a defense to formal terrorism criminal charges against their client.

The New York Times Editorial Page today denounced these new rules as “spiteful,” cited it as “the Obama administration’s latest overuse of executive authority,” and said “the administration looks as if it is imperiously punishing detainees for their temerity in bringing legal challenges to their detention and losing.” Detainee lawyers are refusing to submit to these new rules and are asking a federal court to rule that they violate the detainees’ right to legal counsel.

But every time the issue of ongoing injustices at Guantanamo is raised, one hears the same *apologia* from the President’s defenders: *the President wanted and tried to end all of this, but Congress — including even liberals such as Russ Feingold and Bernie Sanders — overwhelming voted to deny him the funds to close Guantanamo*. While those claims, standing alone, are true, they omit crucial facts and thus paint a wildly misleading picture about what Obama actually did and did not seek to do.

What made Guantanamo controversial was **not** its physical location: that it was located in the Caribbean Sea rather than on American soil (that’s especially true since the Supreme Court ruled in 2004 that U.S. courts have jurisdiction over the camp). What made Guantanamo such a travesty — and what still makes it such — is that it is a system of indefinite detention whereby human beings are put in cages for years and years without ever being charged with a crime. President Obama’s so-called “plan to close Guantanamo” — even if it had been approved in full by Congress — did not seek to end that core injustice. It sought to do the opposite: Obama’s plan would have continued the system of indefinite detention, but simply re-located it from Guantanamo Bay onto American soil.

Long before, and fully independent of, anything Congress did, President Obama made clear that he was going to preserve the indefinite detention system at Guantanamo even once he closed the camp. President Obama fully embraced indefinite detention — the defining injustice of Guantanamo — as his own policy.

In February, 2009, the Obama DOJ told an appellate court it was embracing the Bush DOJ’s theory that Bagram detainees have no legal rights whatsoever, an announcement that shocked the judges on the panel hearing the case. In May, 2009, President Obama delivered a speech at the National Archives — in front of the U.S. Constitution — and, as his plan for closing Guantanamo, proposed a system of preventative “prolonged detention” without trial inside the U.S.; *The New York Times* — in an article headlined “President’s Detention Plan Tests American Legal Tradition” — said Obama’s plan “**would be a departure from the way this country sees itself, as a place where people in the grip of the government either face criminal charges or walk free.**” In January, 2010, the Obama administration announced it would continue to imprison several dozen Guantanamo detainees without any charges or trials of any kind, including even a military commission, on the ground that they were “**too difficult to prosecute but too dangerous to release.**” That was all Obama’s doing, completely independent of anything Congress did.

When the President finally unveiled his plan for “closing Guantanamo,” it became clear that it wasn’t a plan to “close” the camp as much as it was a plan simply to re-locate it — import it — onto American soil, at a newly purchased federal prison in Thompson, Illinois. William Lynn, Obama’s Deputy Defense Secretary, sent a letter to inquiring Senators that expressly stated that the Obama administration intended to continue indefinitely to imprison some of the detainees with no charges of any kind. The plan was classic Obama: a pretty, feel-good, empty symbolic gesture (get rid of the symbolic face of Bush War on Terror excesses) while preserving the core abuses (the powers of

indefinite detention), even strengthening and expanding those abuses by bringing them into the U.S.

Recall that the ACLU immediately condemned what it called the President's plan to create "GITMO North." About the President's so-called "plan to close Guantanamo," Executive Director Anthony Romero said:

The creation of a "Gitmo North" in Illinois is **hardly a meaningful step forward**. Shutting down Guantánamo will be nothing more than a symbolic gesture if we continue its lawless policies onshore.

Alarming, all indications are that **the administration plans to continue its predecessor's policy of indefinite detention without charge or trial for some detainees, with only a change of location**. Such a policy is completely at odds with our democratic commitment to due process and human rights whether it's occurring in Cuba or in Illinois.

In fact, **while the Obama administration inherited the Guantánamo debacle, this current move is its own affirmative adoption of those policies**. It is unimaginable that the Obama administration is using the same justification as the Bush administration used to undercut centuries of legal jurisprudence and the principle of innocent until proven guilty and the right to confront one's accusers. . . . The Obama administration's announcement today contradicts everything the president has said about the need for America to return to leading with its values.

In fact, Obama's "close GITMO" plan — if it had been adopted by Congress — would have done something worse than merely continue the camp's defining injustice of indefinite detention. It would likely have **expanded** those powers by importing them into the U.S. The day after President Obama's speech proposing a system of "prolonged detention" on U.S. soil, the ACLU's Ben Wizner told me in an interview:

It may to **serve to enshrine into law the very departures from the law that the Bush administration led us on, and that we all criticized so much**. And I'll elaborate on that. But that's really my initial reaction to it; that what President Obama was talking about yesterday is **making permanent some of the worst features of the Guantanamo regime**. He may be shutting down the prison on that camp, but what's worse is he may be importing some of those legal principles into our own legal system, where they'll do great harm for a long time.

So even if Congress had fully supported and funded Obama's plan to "close Guantanamo," the core injustices that made the camp such a travesty would remain. In fact, they'd not only remain, but would be in full force within the U.S. That's what makes the prime excuse offered for Obama — *he tried to end all of this but couldn't* — so misleading. He only wanted to change the locale of these injustices, but sought fully to preserve them.

Indeed, as part of that excuse, one frequently hears that even liberal civil liberties stalwarts in the Senate — such as Russ Feingold and Bernie Sanders — voted to deny funding for the closing of Guantanamo: as though it is they who are to blame for these enduring travesties, rather than Obama. But this, too, is misleading in the extreme.

The reason these Democratic Senators voted to deny funds for closing Guantanamo is **not** because they lacked the courage to close Guantanamo. It's because they did not want to fund a plan to close the camp without knowing exactly what Obama planned to do with the detainees there — because people like Feingold and Sanders did not want to fund the importation of a system of indefinite detention onto U.S. soil. Here's what actually happened when the Senate, including most Democrats, refused to fund the closing of Guantanamo:

[White House Press Secretary Robert Gibbs] added Obama **has not yet decided where some of the**

detainees will be sent. A presidential commission is studying the issue. . . .

Sen. Daniel Inouye, D-Hawaii, chairman of the Appropriations Committee, favors closing Guantanamo, and the legislation his panel originally sent to the floor provided money for that purpose **once the administration submitted a plan for the shutdown.**

In changing course and seeking to delete the funds, he said, **“The fact that the administration has not offered a workable plan at this point made that decision rather easy.”**

Can that be any clearer? They would have voted to fund the closing of Guantanamo, but only once they knew what Obama’s plan was for the detainees there. Feingold — whose vote against funding the closing of Guantanamo is invariably cited by Obama defenders — wrote a letter to the President specifically to object to any plan to import the system of indefinite detention onto U.S. soil:

My primary concern, however, relates to your reference to the possibility of indefinite detention without trial for certain detainees. While I appreciate your good faith desire to at least enact a statutory basis for such a regime, any system that permits the government to indefinitely detain individuals without charge or without a meaningful opportunity to have accusations against them adjudicated by an impartial arbiter violates basic American values and is likely unconstitutional.

While I recognize that your administration inherited detainees who, because of torture, other forms of coercive interrogations, or other problems related to their detention or the evidence against them, pose considerable challenges to prosecution, **holding them indefinitely without trial is inconsistent with the respect for the rule of law that the rest of your speech so eloquently invoked. Indeed, such detention is a hallmark of abusive systems that we have historically criticized around the world.** It is hard to imagine that our country would regard as acceptable a system in another country where an individual other than a prisoner of war is held indefinitely without charge or trial.

Once a system of indefinite detention without trial is established, the temptation to use it in the future would be powerful. And, while your administration may resist such a temptation, future administrations may not. **There is a real risk, then, of establishing policies and legal precedents that rather than ridding our country of the burden of the detention facility at Guantanamo Bay, merely set the stage for future Guantanamos, whether on our shores or elsewhere,** with disastrous consequences for our national security.

Worse, those policies and legal precedents would be **effectively enshrined as acceptable in our system of justice, having been established not by one, largely discredited administration, but by successive administrations of both parties** with greatly contrasting positions on legal and constitutional issues.

Feingold was not going to vote for a plan to close Guantanamo if it meant that its core injustice — indefinite detention — was going simply to be re-located onto American soil, where it would be entrenched rather than dismantled. **That**, as all of this evidence makes clear, is why so many Democratic Senators voted to deny funding for the closing of Guantanamo: not because they favored the continuation of indefinite detention, but precisely because they did not want to fund its continuation on American soil, as Obama clearly intended.

Now, here we are, almost four years after the vow to close Guantanamo was enshrined in an Executive Order, and the rights of detainees — including the basic right to legal counsel — are being constricted further, in plainly vindictive

ways. Conditions at Guantanamo are undoubtedly better than they were in 2003, and some of the deficiencies in military commissions (for the few who appear before them) have been redressed. But the real stain of Guantanamo — keeping people locked up in cages for years with no charges — endures. And contrary to the blatant myth propagated by Obama defenders, that has happened not because Obama tried but failed to eliminate it, but precisely because he embraced it as his own policy from the start.



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The Washington Post

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Guantanamo Bay: Why Obama hasn't fulfilled his promise to close the facility

By [Peter Finn](#) and Anne E. Kornblut, Published: April 23, 2011

The sputtering end of the Obama administration's plans to [prosecute Khalid Sheik Mohammed in federal court](#) came one day late last month in a conversation between the president and one of his top Cabinet members.

Attorney General [Eric H. Holder Jr.](#) had called [President Obama](#) to inform him that he would be returning the case to the [Defense Department](#), a decision that would mark the effective abandonment of the president's promise to close the military detention center at Guantanamo Bay, Cuba.

During the call, Obama did not press Holder to find a way to resurrect the federal prosecution of Mohammed and four co-defendants, according to senior administration officials familiar with the conversation. He did not object. Instead, he called it a pragmatic decision.

It was a fittingly quiet coda to the effort to close the military detention center. For more than two years, the [White House](#)'s plans had been undermined by political miscalculations, confusion and timidity in the face of mounting congressional opposition, according to some inside the administration as well as on Capitol Hill. Indeed, the failed effort to close Guantanamo was reflective of the aspects of Obama's leadership style that continue to distress his liberal base — a willingness to allow room for compromise and a passivity that at times permits opponents to set the agenda.

The president answered questions about his Guantanamo policy when asked, but only once in two years, other than in a major speech at the National Archives, did he raise the issue on his own. Guantanamo was competing with other legislative priorities, particularly [health care](#), that consumed most of the administration's attention.

"During 2009 and early 2010, he is totally engaged in the struggle to get health-care reform," a White House participant said when asked about the president's engagement with the effort to close Guantanamo. "That occupies his mind, and his time."

Obama has conceded that Guantanamo will not close anytime soon. "Obviously I haven't been able to make the case right now, and without Congress's cooperation, we can't do it," he said this month in an interview with the Associated Press. "That doesn't mean I stop making the case."

Administration officials lay blame for the failed initiative on Congress, including Democrats who

deserted the president, sometimes in droves. The debate, they said, became suffused with fear — fear that transferring detainees to American soil would create a genuine security threat, fear that closing Guantanamo would be electoral suicide. Some Democratic lawmakers pleaded with the White House not to press too hard, according to administration officials.

The White House asserts it was fully engaged in the effort to close Guantanamo.

“Any claim that the White House didn’t fight to close Guantanamo is just flat wrong,” spokesman [Tommy Vietor](#) said.

This account of the unraveling of Obama’s pledge to close Guantanamo is based on interviews with more than 30 current and former administration officials, as well as members of Congress and their staff, members of the [George W. Bush](#) administration, and activists. Many of them would speak about internal or sensitive deliberations only on the condition of anonymity.

The one theme that repeatedly emerged in interviews was a belief that the White House never pressed hard enough on what was supposed to be a signature goal. Although the closure of Guantanamo Bay was announced in an executive order, which Obama signed on Jan. 22, 2009, the fanfare never translated into the kind of political push necessary to sustain the policy.

“Vulnerable senators weren’t going out on a limb and risk being Willie Hortonized on Gitmo when the White House, with the most to lose, wasn’t even twisting arms,” said a senior Democratic aide whose boss was one of 50 Democrats to vote in 2009 against funding to close Guantanamo. “They weren’t breathing down our necks pushing the vote or demanding unified action.”

“The one thing we could never figure out is who was in charge of it,” said a senior Republican staffer on Capitol Hill, whose boss, a senator, was initially supportive of the goal of closing Guantanamo. “Everybody seemed to have a piece of it, but nobody was in charge of it.”

It was often assumed on the Hill and elsewhere that White House counsel [Gregory B. Craig](#) was in charge, but he rejected that characterization in an interview and said he was pushing the boundaries of his office to be as involved as he was.

“There was a real serious problem of coordination in this whole thing,” Craig said. “No one was coordinating.”

The White House, often without much internal deliberation, retreated time and again in the face of political opposition.

“At each turn, when faced with congressional opposition, the instinct was to back off, and the result was not what the White House hoped,” said a senior U.S. official involved in Guantanamo policy. “We kept retreating, and the result was more pressure to retreat more.”

Executive order: One year till closure

On Obama’s inauguration night, when the new administration instructed military prosecutors to seek the suspension of all proceedings at Guantanamo Bay, defense lawyers at the base formed a boisterous

conga line.

“Rule of law, baby!” they shouted.

The celebrations, though, were short-lived.

While the Pentagon had plans to close the detention center on the books for several years, the logistics of finding a replacement facility were difficult, to say nothing of the politics. Additionally, the legal process by which Guantanamo would be emptied presented formidable challenges.

The [executive order signed by Obama](#) established a task force to review the case of every detainee — there were 241 when he took office — and recommend what should happen to them. But the issue proved highly controversial.

The president’s liberal base, as well as civil liberties groups, had long pressed for a system by which detainees would be prosecuted or transferred out, ending indefinite military detention and jettisoning military commissions in favor of federal courts, also called Article III courts.

But the executive order did not rule out military commissions.

Anthony Romero, executive director of the American Civil Liberties Union, [immediately wondered](#) about “ambiguities . . . regarding the treatment of certain detainees that could either be the result of the swiftness with which these orders were issued or ambivalence within the Obama administration.”

Indeed, within the administration, which had held extensive discussions during the transition with Bush administration officials about Guantanamo, there was uncertainty about the possible need for continued use of military detention or military commissions.

But what the administration took as something of a certainty was that there was bipartisan support to close Guantanamo.

Bush, after all, had [expressed a desire to close Guantanamo](#). And [Sen. John McCain](#) (Ariz.), the Republican candidate for president, [spoke during the 2008 campaign](#) about closing the detention center in Cuba and moving the detainees to Fort Leavenworth in Kansas.

Just before Obama’s inauguration, Craig briefed senior congressional leaders, including then-House Minority Leader [John A. Boehner](#) (R-Ohio), on the incoming president’s plans.

“There were good questions, and I thought I answered the questions pretty well,” Craig said. “I felt comfortable.”

Under Obama’s executive order, the administration had one year to close Guantanamo.

Hitting a roadblock in Northern Virginia

The first concrete step toward closing the detention center was agreed upon during an April 14, 2009, session at the White House. It was to be a stealth move.

With chief of staff [Rahm Emanuel](#) at the helm of the meeting, senior national security officials agreed that eight of the 17 Uighurs being held at the off-shore facility would be resettled in the United States, most in Virginia. The Chinese Muslims would be brought in two at a time; the first two to come were chosen, in part, because they could speak reasonably good English and were likely to make a good impression given the intense media attention they probably would draw.

The transfer seemed like an uncontroversial move. The Bush administration had concluded that the Uighurs, although accused of separatist activities by Beijing, were not enemies of the United States, and a federal judge had ordered their release the previous October. The FBI and the [Department of Homeland Security](#) had expressed some qualms about being able to monitor them fully in the United States, but those were quickly overcome.

Within the administration, the transfer was seen as critical to efforts to persuade European and other governments to resettle Guantanamo detainees. Indeed, some European governments, including Germany, said they wanted to see at least a symbolic resettlement in the United States before they would accept detainees.

“They were going to show up here, and we were going to announce it,” said one senior official, describing the swift, secretive operation that was designed by the administration to preempt any political outcry that could prevent the transfer.

But before the plane could leave Cuba, word leaked to [Rep. Frank R. Wolf](#) that Guantanamo detainees were on their way to his district in Northern Virginia. Wolf, a Republican, had not been briefed on the matter by the White House, despite his history of defending the Uighur community in his district, and was infuriated by the move.

He [faxed a letter to the Obama administration](#) and released it to the news media, declaring that the “American people cannot afford to simply take your word that these detainees, who were captured training in terrorist camps, are not a threat if released into our communities.”

The outrage from a single congressman was enough to spook the Obama administration, which quickly shelved its Uighur plan. Craig as well as a current senior official and a former senior official said they don’t know who stopped the transfer.

“They did not reconvene the principals,” Craig said. “They did not have a meeting in the Oval Office to discuss this and change the direction. It just happened: ‘We’re not doing it.’”

In fact, the transfer was stopped by Emanuel, according to officials familiar with Emanuel’s thinking. They said he and other senior West Wing aides did not think they could overcome congressional opposition after hearing Wolf’s outcry.

Others argued that the White House was simply not prepared to wage full battle with Congress over Guantanamo. Obama had been in office only four months, and he had too much else to do.

A definitive vote against funding

In late April, Obama heard some jarring news during a Situation Room meeting with the interagency

task force reviewing the case of every detainee at Guantanamo.

The president asked [Matthew G. Olsen](#), the [Justice Department](#) lawyer heading the task force, approximately how many Guantanamo detainees could be prosecuted, according to administration officials.

Probably fewer than 20, Olsen said.

The president seemed peeved that the number was so small, in contrast with the optimistic predictions during his election campaign that nearly all of the remaining detainees could face trial or be transferred. The number would eventually rise to 36, but even that low figure came as a shock to Obama aides who had been counting on a cleaner sweep.

White House officials were in such disbelief that they asked Justice Department participants to write up a memo explaining exactly why they couldn't bring more of the men to trial. In many cases, the intelligence gathered on the men was not court-worthy evidence.

But a bigger surprise was yet to come.

On May 20, 2009, as part of a war-funding request, the Senate voted 90 to 6 against appropriating \$80 million to close Guantanamo. "Americans don't want some of the most dangerous men alive coming here," [Senate Minority Leader Mitch McConnell](#) (R-Ky.) said on the floor of the chamber, adding that he commended Senate Democrats for "fulfilling their oversight responsibilities."

Senior administration officials said they were stunned by the vote. In hindsight, officials said, they should have taken the budding Republican narrative more seriously. "We weren't very effective at rebutting it," one senior official said.

"I got calls all the time: 'Where are you guys?' 'Why aren't you up here working the issue?'" Craig said.

Obama had already been preparing to deliver a major address on Guantanamo the next day at the National Archives.

Inside the administration, there was some expectation that the speech could help change the story line away from the Senate vote — and put Obama on the offensive again. "We thought we could draft off of that," said one official, who hoped the momentum from the Archives address would help drive a strategy toward closing the facility in the months ahead.

But the Archives speech reflected the difficulty of the issue. In it, the president described a five-pronged approach to handle detainees and close Guantanamo: federal prosecutions, military commissions, court-ordered releases, transfers home or to third countries, and prolonged detention for those who could not be prosecuted but were too dangerous to release.

The embrace of military commissions irritated Obama's Democratic liberal base, and the acceptance of some indefinite detentions without trial was anathema to large sections of the human rights and civil liberties community.

On top of it all, the speech was quickly overshadowed.

Shortly after Obama finished speaking, former vice president [Dick Cheney addressed the American Enterprise Institute](#) and launched a blistering attack on the administration's national security policies, blunting Obama's message.

"I think the president will find, upon reflection," Cheney said, "that to bring the worst of the worst terrorists inside the United States would be cause for great danger and regret in the years to come."

'The plan' never gets off the ground

Doubts were beginning to creep into the White House. In June 2009, Congress, as part of a supplemental war-funding bill, banned the transfer of Guantanamo detainees into the United States except for prosecution.

Without funding, and without the ability to immediately start the process of acquiring and refurbishing a prison, the one-year deadline was looking unachievable. "By the time he spoke at the National Archives, the prospect of getting it done by the end of the year was very slim," Craig said.

Moreover, the polling on Guantanamo was worrying some of Obama's political advisers. Public disapproval of Obama's decision to close the facility was creeping steadily up, and by June had reached 50 percent, up from 39 percent when he took office.

"They told Obama, 'You can fight this, and you'll lose, and it'll spill over into everything else,'" one administration official said, referring to the president's political advisers.

With Congress demanding a blueprint in order to release funds to close Guantanamo, the White House set about preparing what became known internally as "the plan."

The goal was not only to create a set of documents detailing the closure sequence but to roll out the effort with national security heavyweights such as [Gen. David H. Petraeus](#), then commander of the [U.S. Central Command](#).

"I am working seriously on it with folks," Craig said. "We thought there would be a moment some time in the fall where we could say: Here is how many people we are going to bring in, here's how many people we are going to try, here's where we think the military tribunals will be and here's how much money we need to do it."

The administration also worked with Congress to reform military commissions, and provide more due process to detainees, an effort that led to the passage of 2009 Military Commissions Act in October. Officials also zeroed in on a state prison in Illinois to hold the detainees.

In the end, however, the plan never emerged, lost in uncertainty about when and how to release it.

"It's as if the wind just dies away," an administration official said.

Efforts to bring a 9/11 figure to trial

There were still glimmers of fight. When the ability to use federal courts to try Guantanamo detainees was threatened by Congress, the White House political machine kicked into gear.

In fall 2009, [Sen. Lindsey O. Graham \(R-S.C.\)](#) led an effort designed to bar the administration from putting Khalid Sheik Mohammed and four co-defendants on trial in federal court. With Holder on the brink of announcing just such a prosecution, the White House fought to kill the measure, and the Senate rejected it in a 55 to 45 vote.

“The administration engaged hard,” said Chris Anders, senior legislative counsel for the ACLU, which opposed the Graham measure.

A second crippling amendment, proposed by [Sen. James M. Inhofe \(R-Okla.\)](#), was also defeated. “We thought we were darn close to closing Guantanamo,” a senior administration official said.

On Nov. 13, Holder [announced at the Justice Department](#) that Mohammed and his co-conspirators would be tried in a Manhattan federal courthouse less than a mile from Ground Zero. It was the boldest act yet by the Obama administration. “Our nation has had no higher priority than bringing those who planned and plotted the attacks to justice,” the attorney general said.

In New York, the decision was initially welcomed by the city’s leadership. “It is fitting that 9/11 suspects face justice near the World Trade Center site where so many New Yorkers were murdered,” [Mayor Michael R. Bloomberg](#) said.

But within just two months, the prosecution collapsed. At the Justice Department, officials thought they had been sandbagged by inflated security estimates made by the New York Police Department, and exaggerated concerns about disruption to the life of the city. NYPD Commissioner Ray Kelly spoke about creating security rings around the courthouse at an annual cost of approximately \$200 million.

In New York, there was anger that when Bloomberg was facing increased local opposition to the trial, the administration was silent and did nothing to help him, despite pleas from City Hall that someone in Washington should speak up to ameliorate public concerns.

By the end of January 2010, the [sense of dismay inside the administration](#) was profound.

Emanuel turned to Graham to help resurrect the Guantanamo policy. In exchange, the senator — who supported closing Guantanamo and had met with Obama about it even before the inauguration — insisted on legislation creating an overarching detention framework for future captures.

Bob Bauer, brought in to replace Craig as White House counsel, led the negotiations alongside Emanuel, conducting a series of meetings at the White House and on Capitol Hill through the first part of 2010. Both sides talked about a “grand bargain” — a comprehensive piece of legislation that would close Guantanamo, give new legislative backing to law-of-war detention, allow some federal trials of Guantanamo detainees but send the prosecution of Mohammed back to a military commission.

“We negotiated very strongly and heavily about the pathway forward,” said Graham, adding that he met with the president two or three times on the subject.

“I think what the president misunderstood is there was an anxiousness about these defendants in America,” Graham continued. “Polls would ask, ‘Should we close Guantanamo Bay?’ and [support] got up to 60 percent. But underneath that, people still wanted to be reassured they would be safe.”

The only way to fix that, Graham thought, was to create a framework in which terrorism suspects like Mohammed would be tried by military commissions, something the administration would not sanction.

From the administration’s perspective, negotiating with Graham was a long shot. Some Democrats were furious that the administration was now contemplating what they saw as an about-face.

And so, like so many previous efforts, the negotiations simply withered. By May, the discussions with Graham were over. “I was never told why,” Graham said. “I guess it got to be too hard a sell.”

Military commissions are revisited

In August 2010, the Defense Department began to advocate forcefully for a full resumption of military commissions. A handful of cases that had been charged and referred under the Bush administration had proceeded at Guantanamo, but Defense Secretary Robert M. Gates had put a hold on the swearing of new charges. Senior defense officials argued that unless commissions resumed, and quickly, the Pentagon would start to lose key military prosecutors who in some cases had devoted years to building cases that were now in limbo.

At an Aug. 10 meeting of the [National Security Council](#), defense officials made their case. Secretary of State [Hillary Rodham Clinton](#) responded with what one official called a “fairly elaborate speech” arguing forcefully against any piecemeal return to military commissions. The Guantanamo policy, she said, needed a comprehensive approach that followed the road map set down by the president in the National Archives speech.

Any resumption of military commissions, she said, must be accompanied by federal trials. Otherwise, she said, it’s going to look like “we’re not closing Gitmo,” one participant said.

To the surprise of some in the Situation Room, Gates seemed to relent, saying that commissions and federal trials should operate in tandem, like “two wheels on a bicycle.”

But, Gates said, he wanted to be able to lift the hold on commissions in 90 days. What was needed, he said, was a plan.

Holder said he was working on a fresh one. The attorney general continued to study the possibility of bringing Mohammed to trial in the Southern District of New York, even if not in New York City. Surreptitiously, he sent his then chief of staff, [Kevin Ohlson](#), to see if a federal prison in Otisville might work as a venue. Under the guise of a visit to his family in the area, Ohlson dropped by the prison as if it were a routine check on behalf of the Justice Department.

Ultimately, Holder and other Justice officials concluded that the politics of moving to Upstate New York would probably be no better than they were in Manhattan.

The administration began to consider what some called the “no name strategy.” A number of detainees, through their lawyers, had expressed an interest in reaching plea agreements with the government. Of the six cases prosecuted in military commissions at Guantanamo, four had ended in pleas with relatively mild sentences.

Some in the administration began to advocate doing a series of deals in federal court in which detainees would be brought into New York or Virginia with a plea agreement already in hand.

“The idea was you could do five or six successful Article III cases, and then go to KSM,” said an administration official, using the common abbreviation for Mohammed.

But the Justice Department was reluctant to start moving on other cases until the trial of the one Guantanamo Bay detainee who had already been brought into the United States was over.

Ahmed Ghailani, a former high-value detainee at Guantanamo Bay, was charged with multiple counts of murder and attempted murder for his alleged role in the 1998 bombings of U.S. embassies in East Africa. Ghailani was first moved to Manhattan in June 2009, and his trial began in October 2010.

“We were watching the trial like hawks,” the administration official said. Prosecutors assured nervous officials in the administration that despite some setbacks in rulings by the judge, they would secure a conviction.

On Nov. 17, [a jury found Ghailani guilty](#) of conspiracy to damage or destroy U.S. property, but acquitted him of 284 other counts, including all the murder charges. Although Ghailani ended up getting a life sentence in January, the optics for the administration were terrible. Critics seized on the number of acquittals and said an al-Qaeda terrorist almost got off.

The only plan that remained viable was [doomed](#).

Avoiding a showdown with Congress

In December, in the provisions of a major defense bill, Congress imposed the tightest restrictions yet on the handling of Guantanamo detainees, barring the administration from bringing any into the United States even for prosecution.

To some in the administration, by attempting to dictate prosecution decisions, Congress had clearly stepped on an executive prerogative, and they wanted the president to declare the provision unconstitutional in a signing statement in which he would indicate that he was not bound by certain provisions.

Another lively internal administration debate arose about the degree to which the administration should challenge Congress. Some officials were skittish about employing a maneuver — the signing statement — that the president had criticized the Bush administration for using to disregard the parts of laws it didn’t like. Others argued that Congress’s action was so clearly unconstitutional it had to be challenged, according to administration officials.

In the end, Obama called the restrictions a “dangerous and unprecedented challenge” to the executive

branch, but he stopped short of saying he could lawfully ignore them.

There would be no standoff with Congress.

In March, Obama [signed an executive order](#) creating review procedures for detainees whom it planned to hold indefinitely and without trial.

Administration officials insisted that the president was still committed to closing the detention center, although Obama made no mention of that goal in a short statement. But he did endorse federal trials. “I strongly believe that the American system of justice is a key part of our arsenal in the war against al-Qaeda and its affiliates, and we will continue to draw on all aspects of our justice system — including Article III courts,” he said.

Inside the administration, there was much less confidence. Over several weeks in March, Holder informed Cabinet officials of his conclusion that congressional restrictions on bringing Guantanamo Bay detainees into the United States made a federal trial all but impossible for the 9/11 defendants. Holder decided that after [years of delay](#), it would be politically untenable to wait any longer before bringing Mohammed to justice, especially with the 10th anniversary of the Sept. 11 attacks approaching.

Less than a month later, on the the day [Obama announced that he would seek reelection](#), a clearly crestfallen Holder took to the lectern at the Justice Department to scuttle the federal prosecution of Mohammed, which he once expected would be the “defining event” of his time at the helm of the department.

Mohammed is to be tried at Guantanamo in a purpose-built courthouse, just a few miles from the camps that continue to hold 172 detainees.

Staff researcher Julie Tate contributed to this report.

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Democratic platform again seeks Guantanamo closure

By [JOSH GERSTEIN](#) |
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The [2012 Democratic Party platform released Monday night](#) reaffirms President Barack Obama's unfulfilled pledge to close the prison for terror suspects at Guantanamo Bay but backs away from a 2008 plank suggesting that terror suspects are entitled to a day in court.

"We are substantially reducing the population at Guantanamo Bay without adding to it. And we remain committed to working with all branches of government to close the prison altogether because it is inconsistent with our national security interests and our values," the new platform says.

[The 2008 platform](#) contained an affirmative promise to close Gitmo, though it didn't mention the one-year time frame Obama embraced early in his administration. "We will close the detention camp in Guantanamo Bay, the location of so many of the worst constitutional abuses in recent years," the old platform said.

The 2012 platform omits a promise in the 2008 platform about trials for terror suspects as well as vows to respect prisoners' rights to challenge their detention in court.

"We will not ship away prisoners in the dead of night to be tortured in far-off countries or detain without trial or charge prisoners who can and should be brought to justice for their crimes or maintain a network of secret prisons to jail people beyond the reach of the law. We will respect the time-honored principle of habeas corpus, the seven-century-old right of individuals to challenge the terms of their own detention that was recently reaffirmed by our Supreme Court," the old platform said.

In the eyes of civil liberties groups, the Obama administration has backtracked on some of the 2008 pledges. The administration has decided that approximately 50 prisoners at Guantanamo should be detained indefinitely without trial or charge, a policy acknowledged by the "substantially reducing" language in the new platform. (When Obama took office, 242 men were imprisoned at Guantanamo. Today, there are 168 detained there.)

In addition, while the administration has litigated habeas corpus cases brought by Guantanamo prisoners, it has asked courts to reject such cases out of hand when filed by prisoners in Afghanistan — even when they were filed by prisoners who say they were picked up outside the theater of war.

With a Democrat in the presidency who has been aggressive about his use of some of his commander in chief powers, the new platform is also vaguer about the limits on such authority.

The 2008 platform railed against "illegal wiretapping of American citizens" and denounced a series of other Bush-era actions Democrats decried. "We reject the use of national security letters to spy

on citizens who are not suspected of a crime. We reject the tracking of citizens who do nothing more than protest a misguided war. We reject torture. We reject sweeping claims of 'inherent' presidential power. We will revisit the Patriot Act and overturn unconstitutional executive decisions issued during the past eight years," the old platform said. It also promised "not [to] use signing statements to nullify or undermine existing law."

The 2012 edition glosses over or omits some of those points and no longer paints executive power as a looming threat.

"Advancing our interests may involve new actions and policies to confront threats like terrorism, but the president and the Democratic Party believe these practices must always be in line with our Constitution, preserve our people's privacy and civil liberties and withstand the checks and balances that have served us so well. That is why the president banned torture without exception in his first week in office," the new platform says.

Unsurprising, there is a mention in the 2012 edition of the president's best-known action as commander in chief: the raid he authorized to take out Osama bin Laden. "We have struck major blows against Al Qaeda, bringing Osama bin Laden and other senior Al Qaeda leaders to justice and putting the terrorist organization on the path to defeat," the new platform declares.

However, aside from the nonspecific mention of "new actions and policies" related to terrorism, there's no explicit reference in the new platform to Obama's dramatically ramped-up use of drone strikes to kill suspected terrorists. And despite the new platform's shout out for "checks and balances," the administration has asserted the right to use deadly force against U.S. citizens like Anwar al-Awlaki without any judicial review, even when the targets are outside any declared war zone.

Attorney General Eric Holder has argued that a robust but secret internal process gives American targets like al-Awlaki all the due process they're entitled to.