



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 13, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5351 – Guantanamo Detainee Transfer Prohibition Act

(Rep. Walorski, R-IN, and 67 cosponsors)

The Administration strongly objects to H.R. 5351, which would prohibit the use of funds to transfer any individual detained at the detention facility at Guantanamo Bay, Cuba, either to the United States or any foreign country. As the Administration has said many times before, the continued operation of the detention facility at Guantanamo Bay weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists. In February, the Administration submitted a comprehensive plan to safely and responsibly close the detention facility at Guantanamo Bay, Cuba, and to bring this chapter of our history to a close. Rather than constructively engage with the Administration on the imperative of closing the facility, this bill would seek to prohibit any and all transfers of detainees, even where such transfers are conducted securely and responsibly and to further substantial U.S. national security interests. This bill represents an effort not only to extend the facility's operation – as have the other unwarranted legislative restrictions on transfers – but to bring to a standstill the substantial progress the Administration has made in safely and securely reducing the facility's population.

As the Administration has repeatedly emphasized, detainees are transferred from Guantanamo Bay only after a rigorous interagency review process assesses, based on all relevant facts and circumstances, that potential receiving countries are capable of successfully reintegrating them and implementing appropriate security measures, consistent with our humane treatment policy. The restrictions contained in this bill would seek to foreclose entirely the Executive Branch's ability to determine appropriate disposition options for detainees, including to transfer them consistent with our national security and our humane treatment policy, as well as its flexibility to determine when and where to prosecute them, based on the facts and circumstances of each case and our national security interests. Moreover, by purporting to prohibit all transfers of individuals detained at Guantanamo Bay, the bill would in some circumstances violate constitutional separation of powers principles, and could interfere with the ability to transfer a detainee who has been granted a writ of habeas corpus.

If the President were presented with H.R. 5351, his senior advisors would recommend he veto the bill.

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