

113TH CONGRESS
2D SESSION

H. RES. 644

Condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2014

Mr. RIGELL (for himself, Mr. RIBBLE, Mr. BARROW of Georgia, and Mr. RAHALL) submitted the following resolution; which was referred to the Committee on Armed Services

RESOLUTION

Condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.

Whereas section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) clearly requires the Secretary of Defense to notify the appropriate committees of Congress at least 30 days before the transfer or release of an individual de-

tained at United States Naval Station, Guantanamo Bay, Cuba;

Whereas, on May 31, 2014, the Department of Defense executed the release of five senior Taliban detainees held at United States Naval Station, Guantanamo Bay, Cuba;

Whereas the five released Taliban detainees are all senior Taliban leaders: Abdul Haq Wasiq was the Taliban Deputy Minister of Intelligence, Mullah Norullah Noori was the Taliban military commander at Mazar-e-Sharif, Mullah Mohammad Fazl was the Taliban Deputy Minister of Defense, Khairullah Said Wai Khairkwa was the Taliban Minister of Interior, and Mohammad Nabi Omari was the Taliban commander of secret police;

Whereas these five senior Taliban leaders have associations with al-Qaeda or have engaged in hostilities against the United States or its coalition partners;

Whereas these five senior Taliban detainees held leadership positions within the Taliban when it provided safehaven for al-Qaeda to conduct planning, training, and operations for the September 11, 2001, attacks;

Whereas the President has stated that there is “absolutely” a possibility of the released detainees returning to activities that are detrimental to the United States, and, according to media reports, United States intelligence officials told members of the Senate that four of the five detainees are expected to return to the battlefield;

Whereas Secretary Hagel stated before the Committee on Armed Services of the House of Representatives on June 11, 2014, that the threat, “should these five detainees return and reintegrate with the Taliban, their focus would almost certainly be on Taliban efforts inside Afghani-

stan,” where the United States and coalition partners will retain military and civilian personnel;

Whereas in 2010, after an extensive evaluation meant to identify detainees who could be transferred out of the detention facility at United States Naval Station, Guantanamo Bay, Cuba, the Obama administration determined that these five should remain in United States detention because they were “too dangerous to transfer” because each “poses a high level of threat that cannot be mitigated sufficiently except through continued detention”;

Whereas the Obama administration negotiated, through intermediaries in the Government of Qatar, with the Taliban, with whom the United States remains engaged in active combat, and with the Haqqani Network, which the State Department has designated as foreign terrorist organization, and who had held Sergeant Bowe Bergdahl captive;

Whereas congressional notification was not received until June 2, 2014, three days after such individuals were released, and 33 days after the date on which such notification was required by law;

Whereas the Obama administration admits that it made no effort to comply with the 30-day notification requirement;

Whereas Obama administration officials acknowledge that approximately 80 or 90 employees within the administration were knowledgeable of the transfer of the five Taliban detainees prior to their release;

Whereas the Obama administration has offered differing, unconvincing, and conflicting explanations of why it failed to comply with the 30-day notification requirement and has described the failure to notify Congress as an “oversight”;

Whereas article II, section 3 of the Constitution states that the President “shall take care that the laws be faithfully executed”;

Whereas, on January 15, 2009, the Office of Legal Counsel in the Department of Justice acknowledged that Congress possesses under article I of the Constitution “significant war powers”, including legislative authority concerning the detention and release of enemy combatants;

Whereas the Obama administration has complied with section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76) in all previous detainee transfers from United States Naval Station, Guantanamo Bay, Cuba, since the date of the enactment of each such Act; and

Whereas the leadership and the leaders of the national security committees of the Senate and House of Representatives are on record, specifically in 2011, as opposing the transfer of detainees in exchange for a prisoner of war: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) condemns and disapproves of the failure of
3 the Obama administration to comply with the lawful
4 30-day statutory reporting requirement in executing
5 the release of five senior members of the Taliban
6 from detention at United States Naval Station,
7 Guantanamo Bay, Cuba;

1 (2) expresses grave concern over national secu-
2 rity implications that may arise due to the release of
3 Taliban officials, including the national security
4 threat to the people and Armed Forces of the United
5 States and complications of the current efforts of
6 the United States to combat terrorism worldwide;

7 (3) expresses grave concern over the repercus-
8 sions of negotiating with terrorists, and the risk that
9 such negotiations with terrorists may further en-
10 courage hostilities and the abduction of Americans
11 as a means of further prisoner exchanges;

12 (4) stipulates that further violations of the law
13 set forth in section 1035 of the National Defense
14 Authorization Act for Fiscal Year 2014 (Public Law
15 113–66; 10 U.S.C. 801 note) and section 8111 of
16 the Department of Defense Appropriations Act,
17 2014 (Public Law 113–76) are unacceptable;

18 (5) declares grave misgivings about the prospect
19 of any other similar transfers from United States
20 Naval Station, Guantanamo Bay, Cuba, even if un-
21 dertaken pursuant to statutory requirements; and

22 (6) expresses that the Obama administration’s
23 release of the five detainees has burdened unneces-
24 sarily the trust and confidence in the administra-
25 tion’s commitment and ability to constructively en-

1 gage and work with the legislative branch, and
2 therefore works against what is in the best interest
3 of the people of the United States.

