

Congress of the United States
Washington, DC 20515

November 19, 2009

Governor Pat Quinn
Office of the Governor
207 State House
Springfield, IL 62706

Dear Governor Quinn:

As we move forward with a dignified and precise discussion regarding the cost, security and legal issues regarding the transfer of Al Qaeda/Taliban detainees from U.S. Naval Station, Guantanamo Bay to a future military-controlled detention facility in Thomson, Illinois, we would like you to provide answers to the following questions so that our delegation, state legislature and people of Illinois can learn the details of your proposal.

After informal briefings by the Bureau of Prisons and Department of Defense, the Administration has not scheduled any follow-up briefings for members of Congress in Illinois. No future briefings are scheduled.

As you know, Kansas Gov. Sebelius formally raised concerns with Secretary Gates when she was approached by the Administration with a similar proposal. We have attached a copy of her letter of January 28 for your reference.

We ask that you consider these issues which must in any case be resolved if this plan moves forward. We believe the elected representatives of Illinois, in Washington and Springfield, should review the answers to these questions as we consider this proposal.

Sincerely,










Encl. Gov. Sebelius Letter to Secretary of Defense Gates, January 28, 2009

Topic A: Military Commissions, Civilian Trials, Prolonged Detention

Background:

In his May 21st speech at the National Archives, President Obama divided the detainees into five categories: 1) those to be tried by civilian courts, 2) those to be tried by military commission, 3) those ordered released by the courts, 4) detainees determined safe for release to foreign countries, and 5) detainees so dangerous that they can never be prosecuted and must be held indefinitely.

Questions:

1. Of detainees set to be transferred to Thomson, how many would be selected for trial by civilian court?
 - a. By what legal precedent will you be prosecuting enemy combatants in a civilian court?
 - b. Without having been read Miranda rights, what are the chances enemy combatants could win release by entering civilian court?
 - c. Where would these trials take place?
 - d. Where would such detainees be housed during the trial?
 - e. What steps will be needed to ensure the security of prosecutors, judges, juries and their families?
2. Of detainees set to be transferred to Thomson, how many would be selected for trial by military commission?
 - a. Where would these commissions take place?
 - b. Where would such detainees be housed during the trial?
 - c. What steps will be needed to ensure the security of the prosecutors, judges, and their families?
3. Of detainees set to be transferred to Thomson, how many fall into President Obama's fifth category – those too dangerous for trial or release?

Topic B: Legal Issues – Authorization for Detention on U.S. Soil

Background:

Earlier this year, President Obama issued Executive Order 13492, which removed the formal legal foundation for the detention of enemy combatants of the United States held at Guantanamo Bay, Cuba as of January 27, 2010. Since a large number of detainees are deemed too dangerous to be charged or released, on May 21, 2009, President Obama pledged to work with Congress to enact new legislation to authorize the permanent detention of enemy combatants on U.S. soil.

Many legal experts believe that the courts will defer to a new precedent following the now defunct Executive Order if the Administration and Congress speak through new legislation. In September, however, the Administration announced it would not seek legislation to authorize these detentions. This increases the likelihood that detainees will mount strong court challenges. The government and prosecutors currently have no legal foundation for detention and adjudication by military commission.

Questions:

1. How many detainees who fall into the status of “too dangerous for trial or release” would be brought to Thomson, Illinois?
2. Will the Administration agree to pass legislation authorizing the permanent detention without trial of such enemy combatants as the President pledged in his May 21st, speech?
3. If Congress does not pass such legislation and detainees are brought to Thomson, how will you prevent the detainee’s legal representation from mounting a strong case for release by a court?

Topic C: Legal Issues – Political Asylum and Consular Visits

Background:

As you know, anyone who enters the United States and proves a “well-founded fear of persecution” may apply for political asylum under federal law. Detainees brought to United States territory may make political asylum claims. In addition, the United States may be asked to provide foreign governments with consular access to detainees.

Questions:

1. Have you received a written opinion by the Justice Department that detainees lack legal grounds to apply for political asylum under federal law?
2. Have you received written legal opinions from the Justice Department that you will be able to deny a request by a foreign government to provide consular services to detainees?
3. Should consular access be granted, what steps will be taken to prevent communication or coordination with outside actors?

Topic D: Protection for Detention Personnel**Background:**

Guantanamo inmates are currently guarded by American military personnel who cannot readily be identified by detainees. Moving them to American prisons poses a new risk to corrections personnel, their families, and their communities.

Question:

1. What steps will be taken to avoid the identity release of civilian or military detention personnel at the facility?
2. What steps will be taken to provide security for said detention personnel their families and their communities?

Topic E: Medical Treatment and Associated Risks**Background:**

In January, former Kansas Governor and current Secretary of Health and Human Services Kathleen Sebelius objected to the transfer of detainees to Fort Leavenworth. In her letter to Secretary Gates, she wrote:

"Fort Leavenworth currently does not have a medical facility, and it is estimated that it will take three to five years to build the required class three medical facilities for GTMO detainees. In the meantime, high risk detainees would be transported through the community to a nearby VA hospital. Based on past escape/break out experiences with the United States Penitentiary, this is an unacceptable risk to local citizens. Additionally, the local law enforcement staff will need to be increased and

the County ambulance would need to be used to move the detainees. This is another negative economic impact to the community."

Questions:

1. Does the Thomson Correctional Facility currently house the required class three medical facilities for detainees?
2. If not, how long will it take to build?
3. In the interim construction period, will detainees be treated at Mercy Medical Center in Clinton (9 miles), Morrison Community Hospital in Morrison (13 miles), CGH Medical Center in Sterling (21 miles) or another location?
4. What security measures will be needed to secure the detainee transport to and from the medical facility?
5. What security measures will be needed at the medical facility?

Topic F: Protestors and Emergency Responder Capacity

Background:

In January, former Kansas Governor and current Secretary of Health and Human Services Kathleen Sebelius objected to the transfer of detainees to Fort Leavenworth. In her letter to Secretary Gates, she wrote:

"Local citizens are concerned that the communities near the Fort will become a focal point for protestors, thereby posing a risk to local citizens. Local emergency responders have not been prepared for this type of risk."

Questions:

1. How many protestors are expected to come to Thomson from around the country and world?
2. Does Thomson currently have adequate police and public safety officers to handle crowd control and make arrests, if necessary?
3. Does Thomson have sufficient jail capacity to house a significant number of law breakers?

Topic G: Military Housing and Education Costs

Background:

According to Assistant Secretary of Defense Phillip Carter, up to 1,500 troops will be posted to Thomson's new military detention facility to stand guard over the detainees.

Questions:

1. Will these military homes be subject to local property tax?
2. How many children may reasonably be expected to accompany 1,500 service members?
3. Does West Carroll District #314 have the capacity to absorb all new military family students?
4. Will West Carroll District #314 receive federal Impact Aid payments to subsidize these new education costs? Is so, how much per student?

Enclosure A

January 28, 2009

Robert Gates
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Gates,

I fully support President Obama's position to shut down the terrorist detention center on Guantanamo Bay. Closing this facility is an important step toward helping America regain its moral stature in the international community.

Closing the terrorist detention center on Guantanamo Bay (GTMO) raises some very complex issues, particularly when it comes to relocating the prisoners to other detention centers. It is my understanding that Fort Leavenworth is being considered as one possible sight to relocate the prisoners. As Governor of Kansas, I wanted to communicate with you at the outset of this decision-making process and share with you that I do not support prisoners being moved to the Fort. I will continue to seek input from local elected officials, community and military leaders in the area as your process moves forward, but their input is represented in the reasons listed below.

- The current United States Disciplinary Barracks (USDB) at Fort Leavenworth is a campus-style construction and would not support the requirement to separate detainees from inmates and still retain its current mission to provide rehabilitative operations versus detention operations. Further, the USDB is designed to be secure from the inside out. Placing maximum security detainees in the facility will require significant changes to the USDB so it can be protected from security risks from outside the complex. It is my understanding that the USDB was largely built as a medium security prison with a maximum security section.
- If GTMO detainees are sent to Fort Leavenworth, it is likely that eminent domain would be used to obtain additional land around the Fort needed for the increased security requirements for this base of less than nine square miles. Some of the land expected to be included in eminent domain is prime development land for the region. The economic viability of the region will be significantly affected if this land is no longer available for development.
- Fort Leavenworth currently does not have a medical facility, and it is estimated that it will take three to five years to build the required class three medical facilities for GTMO detainees. In the meantime, high risk detainees would be transported through the community to a nearby VA hospital. Based on past escape/break out experiences with the United States Penitentiary, this is an unacceptable risk to local citizens. Additionally, the local law enforcement staff will need to be increased and the County ambulance would need to be used to move the detainees. This is another negative economic impact to the community.

- More than 120 international students attend the Command and General Staff College. In all likelihood, international student participation would cease since many of the countries from which these students come have publicly stated they are opposed to GTMO and the treatment of prisoners. The elimination of this program will have national and international implications for decades to come.
- Fort Leavenworth and its Combined Arms Center have been acknowledged as the Intellectual Center of the Army. There is a realistic potential that current Fort Leavenworth missions such as Command and General Staff College will be moved to other locations and that future growth planning will cease. This would have a significant economic and quality of life impact on the communities near the Fort, as well as impact for the training and education of future leaders of our military services.
- The local airport is on Fort Leavenworth, and that airport will most likely no longer be available to local citizens. Furthermore, Congress granted a right of way to a rail line to pass through the installation more than 100 years ago, and today more than 50 trains a day use the line to transport goods to Omaha. Additionally, the river running through the Fort has commercial barge traffic. The airport, rail line and river traffic can become security risks, and making them inaccessible will significantly impact the economics of the area.
- Currently there are approximately 1,700 military dependents attending schools on Fort Leavenworth. It is expected that the large majority of the families assigned to the Fort will not want their children to attend schools in a high terrorism/high risk environment. This will reduce the number of families moving to the communities near the Fort, which will have a significant negative economic impact on the communities.
- Local citizens are concerned that the communities near the Fort will become a focal point for protestors, thereby posing a risk to local citizens. Local emergency responders have not been prepared for this type of risk.

As you can see, I believe Fort Leavenworth lacks the capability to host any number of GTMO detainees. Both the unique requirements associated with housing GTMO detainees and some physical limitations at Fort Leavenworth make Leavenworth an undesirable location for the detainees. In addition, their presence would greatly disrupt the largely educational mission of the Army's intellectual school house.

Thank you for continuing to serve as the Secretary of Defense in the Obama administration. I am proud there is no one more qualified to serve in this critical position than a fellow Kansan.

Sincerely,

Kathleen Sebelius
Governor of the State of Kansas