

111TH CONGRESS
1ST SESSION

S. 147

To require the closure of the detention facility at Guantanamo Bay, Cuba, to limit the use of certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International Committee of the Red Cross of detainees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WYDEN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To require the closure of the detention facility at Guantanamo Bay, Cuba, to limit the use of certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International Committee of the Red Cross of detainees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lawful Interrogation
5 and Detention Act”.

1 **SEC. 2. INTELLIGENCE COMMUNITY DEFINED.**

2 In this Act, the term “intelligence community” has
3 the meaning given that term in section 3(4) of the Na-
4 tional Security Act of 1947 (50 U.S.C. 401a(4)).

5 **SEC. 3. CLOSURE OF DETENTION FACILITY AT GUANTA-**
6 **NAMO BAY.**

7 (a) **REQUIREMENT TO CLOSE.**—Not later than 1
8 year after the date of the enactment of this Act, the Presi-
9 dent shall close the detention facility at Guantanamo Bay,
10 Cuba operated by the Secretary of Defense and remove
11 all detainees from such facility.

12 (b) **DETAINEES.**—Prior to the date that the Presi-
13 dent closes the detention facility at Guantanamo Bay,
14 Cuba, as required by subsection (a), each individual de-
15 tained at such facility shall be treated exclusively through
16 one of the following:

17 (1) The individual shall be charged with a viola-
18 tion of United States or international law and trans-
19 ferred to a military or Federal civilian detention fa-
20 cility in the United States for further legal pro-
21 ceedings, provided that such a Federal civilian facil-
22 ity or military facility has received the highest secu-
23 rity rating available for such a facility.

24 (2) The individual shall be transferred to an
25 international tribunal operating under the authority

1 of the United Nations that has jurisdiction to hold
2 a trial of such individual.

3 (3) The individual shall be transferred to the
4 custody of the government of the individual's coun-
5 try of citizenship or a different country, provided
6 that such transfer is consistent with—

7 (A) the Convention Against Torture and
8 Other Forms of Cruel, Inhuman or Degrading
9 Treatment or Punishment done at New York,
10 December 10, 1984;

11 (B) all relevant United States law; and

12 (C) any other international obligation of
13 the United States.

14 (4) If the Secretary of Defense and Director of
15 National Intelligence determine, jointly, that the in-
16 dividual poses no security threat to the United
17 States and actions cannot be taken under paragraph
18 (1) or (3), the individual shall be released from fur-
19 ther detention.

20 (5) The individual shall be held in accordance
21 with the law of armed conflict.

22 (c) REPORTING REQUIREMENTS.—

23 (1) REQUIREMENT FOR REPORT.—Not later
24 than 90 days after the date of the enactment of this
25 Act, the President shall submit to Congress a report

1 that describes the President's plan to implement this
2 section.

3 (2) REQUIREMENT TO UPDATE.—The President
4 shall keep Congress fully and currently informed of
5 the steps taken to implement this section.

6 (d) CONSTRUCTION.—

7 (1) IMMIGRATION STATUS.—The transfer of an
8 individual under subsection (b) shall not be consid-
9 ered an entry into the United States for purposes of
10 immigration status.

11 (2) NO ADDITIONAL DETENTION AUTHORITY.—
12 Nothing in this section may be construed as altering
13 or adding to existing authorities for, or restrictions
14 on, the detention, treatment, or transfer of individ-
15 uals in United States custody.

16 **SEC. 4. LIMITATION ON INTERROGATION TECHNIQUES.**

17 No individual in the custody or under the effective
18 control of personnel of an element of the intelligence com-
19 munity or a contractor or subcontractor of an element of
20 the intelligence community, regardless of nationality or
21 physical location of such individual or personnel, shall be
22 subject to any treatment or technique of interrogation not
23 authorized by the United States Army Field Manual on
24 Human Intelligence Collector Operations.

1 **SEC. 5. PROHIBITION ON INTERROGATIONS BY CONTRAC-**
2 **TORS.**

3 The Director of the Central Intelligence Agency shall
4 not allow a contractor or subcontractor to the Central In-
5 telligence Agency to carry out an interrogation of an indi-
6 vidual. Any interrogation carried out on behalf of the Cen-
7 tral Intelligence Agency shall be conducted by an employee
8 of such Agency.

9 **SEC. 6. NOTIFICATION OF THE INTERNATIONAL COM-**
10 **MITTEE OF THE RED CROSS.**

11 (a) REQUIREMENT.—The head of an element of the
12 intelligence community or a contractor or subcontractor
13 of such element who detains or has custody or effective
14 control of an individual shall notify the International Com-
15 mittee of the Red Cross of the detention of the individual
16 and provide access to such individual in a manner con-
17 sistent with the practices of the Armed Forces.

18 (b) CONSTRUCTION.—Nothing in this section shall be
19 construed—

20 (1) to create or otherwise imply the authority to
21 detain; or

22 (2) to limit or otherwise affect any other rights
23 or obligations which may arise under the Geneva
24 Conventions, other international agreements, or
25 other laws, or to state all of the situations under

- 1 which notification to and access for the International
- 2 Committee of the Red Cross is required or allowed.

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