

July 23, 2009

Dear Senator:

The undersigned organizations urge you to oppose Senate Amendment 1559, offered by Senator James Inhofe, to the National Defense Authorization Act for Fiscal Year 2010 (S. 1390). This amendment, which would prohibit the transfer of Guantánamo detainees to the United States for any purpose, would needlessly tie the President's hands in resolving the problem of Guantánamo and disposing of cases in ways that comport with the rule of law and basic rights. The amendment would also restrict his ability to employ one of the most valuable counterterrorism tools available—criminal prosecutions in U.S. federal courts.

The Inhofe amendment is very different than the Guantánamo provision included in the war supplemental that was enacted earlier this year. There are two important differences: 1) the war supplemental provision was a three-month prohibition on transfer of detainees to the United States, while the Inhofe amendment is a permanent prohibition; and 2) the war supplemental provision had an important if conditional exception that permitted transfer of detainees for prosecution, while the Inhofe amendment blocks transfer—including for purposes of criminal trial. Even if you voted for restrictions in the war supplemental, you can and should vote no on this very different legislation.

Senate Amendment 1559 would hinder efforts to put to rest a legacy of a failed detention policy. The detentions at Guantánamo Bay are a blot on the reputation of the United States that harms U.S. national security and foreign policy interests. There is widespread agreement among national security and foreign policy experts—including General David Petraeus and five former Secretaries of State from both parties—that closing the Guantánamo Bay detention facility is essential to U.S. counterterrorism efforts and to repairing the standing of the United States as a country committed to the rule of law.

Senate Amendment 1559 would deny the President a highly effective tool to incapacitate terrorists—trial before U.S. federal courts. U.S. federal courts have handled over a hundred complex international terrorism cases since 2001 without compromising national security. The Federal Bureau of Prisons has also proven fully capable of securely detaining individuals convicted of the most serious crimes of terrorism, such as co-conspiracy in the 9/11 attacks, as the 1993 World Trade Center bombing, and the 1998 East Africa embassy bombings, without harm to the surrounding communities—and, of course, without escape. The passage of Senate Amendment 1559, by preventing prosecution of accused terrorists in our federal criminal courts, would amount to abdication of Congress' obligation to protect America.

We urge you to vote against Senate Amendment 1559.

Sincerely,

American Civil Liberties Union
Amnesty International USA
Alliance for Justice
Appeal for Justice
Center for American Progress Action Fund
Center for National Security Studies
Center for Victims of Torture
Constitution Project
Government Accountability Project

Human Rights First
Human Rights Watch
International Justice Network
Physicians for Human Rights
National Association of Criminal Defense
Lawyers
National Institute for Military Justice
National Religious Campaign Against Torture
Open Society Policy Center
Roderick MacArthur Justice Center