

# FACT SHEET: Falsehood of Closing Guantanamo Bay



Last week marked the latest chapter in President Obama's rush to empty GTMO before leaving office. On August 15, the Administration announced the transfer of 15 detainees to the United Arab Emirates (UAE). This brings the total number of detainees released or transferred in just the last year to 46.

The newly-transferred group includes a leader of a terrorist cell that provided weapons to al-Qaida, a weapons and explosives trainer, and former bodyguards of Usama bin Laden. The Obama Administration has affirmed one detainee provided fabricated stories to interrogators, while another offered "evasive" and "contradictory" explanations regarding his terrorist activities. Yet, the Obama Administration now justifies its transfer of these detainees based on the first being "relatively candid," while the other has been "mostly compliant" and "showed positive and constructive leadership in detention."

**This latest detainee transfer suggests, yet again, that the President is more interested in fulfilling a campaign promise at any cost than in honestly addressing the risks associated with transferring detainees from GTMO. This is worrisome - after all, this is the President who consistently underestimates the threat Islamic extremists pose to America.**

## ***The Change: From "Too Dangerous" to Cleared for Transfer***

The 15 detainees transferred last week were all evaluated by President Obama's 2009 Guantanamo Review Task Force, charged with a comprehensive review of each detainee. Years later, the detainees were evaluated again by the Periodic Review Board (PRB), to determine if any changes to the initial decisions were warranted. Both reviews included representatives from six national security agencies.

*Too Dangerous:* In the case of **eight of the 15 detainees transferred, the President's Task Force unanimously deemed them as "too dangerous to transfer," citing a high level of threat that could not be mitigated sufficiently except through continued detention.** Detainees in this category were characterized as having a significant organizational role within al-Qaida, the Taliban, or associated forces; advanced training or experience; a history of associations with extremist activity; and/or had expressed recidivist intent. The Task Force noted that it was "lawful" to continue to hold such individuals.

*Only with Appropriate Security Measures:* The President's Task Force determined that another six of the 15 detainees **could be transferred, provided appropriate security measures could be instituted elsewhere.** However, the Task Force noted nonetheless that this was not meant to suggest that each "poses no threat or no risk of recidivism."

*Prosecute Here:* The Task Force also unanimously recommended that one of 15 transferred detainees should be referred for criminal prosecution because evidence would likely allow for a sustained conviction.

*Recent Reviews:* Of the nine detainees that were "too dangerous to transfer" or recommended for "prosecution," six had their cases reviewed in the first five months of 2016. In every instance, the PRB reversed the original recommendation and determined that all should be transferred based on rationale such as being "relatively candid" or "mostly compliant." (The other three detainees had their cases heard by the PRB in 2014 and 2015.)

The PRB has been especially busy in recent months. In addition to these nine detainees, the PRB has recently reviewed many other detainees who were deemed "too dangerous to transfer" or recommended for prosecution by the President's Task Force to determine if a different outcome was warranted. Between June and mid-August, the PRB has considered at least 20 additional cases and has overturned the "continued detention" recommendation for 10 of these detainees. Thus, transfer announcements for these additional detainees may be forthcoming soon.

## ***The Risk: Reengagement and Returning to the Fight***

While the Administration refuses to acknowledge that recidivism rates for GTMO detainees are troublesome, the reality is that 30 percent of former GTMO detainees are suspected or confirmed of “returning to terrorist activities,” as of January 2016, according to the Office of the Director of National Intelligence (ODNI). In fact, this data may understate the actual reengagement rate because it may not reflect data related to recent transfers. This is because in 2010, ODNI reported that there was, on average, a window of “about 2.5 years” between the date a detainee left GTMO and the “first reporting of suspected or confirmed reengagement.”

The transfer of these 15 detainees also highlights a finding from the committee’s 2015 investigation into the transfer to Qatar of five Taliban leaders held at GTMO. The report of the investigation concluded that the Taliban Five transfer “offered the prospect of making other transfers appear to be less threatening or contentious.” The committee’s report also concluded that the Administration likely believed that, if those five were transferred in exchange for Army Sgt. Bowe Bergdahl, “it could ease the case for the departure for others presumed to be less risky.”

## ***The Details***

Information on the nine transferred detainees previously deemed “too dangerous to transfer” or recommended for prosecution, including details of their backgrounds and the basis for the new determination by the Obama Administration’s Periodic Review Board (PRB), is set forth below. This unclassified material is drawn entirely from the [PRB website](#).

### **1. Majid Mahmud Abdu Ahmed:**

- Was trained by al-Qaida and fought on the frontlines.
- Was a bodyguard for Usama bin Laden.
- **Rationale for changing determination from “continued detention” to “transfer”:** Was relatively candid in discussing his time in Afghanistan and accepting of his mistakes. He matured since entering detention and took opportunities to educate himself.

### **2. Mahmud Abd Al Aziz al-Mujahid:**

- Once served as a bodyguard for Usama bin Laden.
- Traveled from Yemen to Afghanistan, almost certainly to participate in jihad.
- **Rationale for changing determination from “continued detention” to “transfer”:** Had a positive and constructive role in detention since 2009. Has extensive family support in Yemen. Displayed candor in recent interactions with US officials.

### **3. Saeed Ahmed Mohammed Abdullah Sarem Jarabh:**

- Traveled to Afghanistan, almost certainly to take part in jihad. Stayed at al-Qaida guesthouses.
- Received at least basic weapons training at al-Qaida camps and possibly fought on the frontlines.
- Committed numerous disciplinary infractions and maintained contact with his brother, who is probably a member of al-Qaida in the Arabian Peninsula (AQAP), throughout his detention at Guantanamo.
- **Rationale for changing determination from “continued detention” to “transfer”:** Was a low-level fighter and lacked a leadership position in the Taliban or al-Qaida. Showed improved behavior while in detention. Expressed willingness to sever ties with family members who harbor extremist beliefs.

### **4. Hamid al-Razak (aka Haji Hamidullah):**

- Probably ordered and conducted attacks against Afghan and coalition personnel.

- Most likely led a group of militants with ties to both Hizb-I-Islami Gulbuddin and the Taliban in planning an attack against an Afghan Government unit during Operation Freedom.
- **Rationale for changing determination from “continued detention” to “transfer”:** Does not support a jihadist ideology. Has been highly compliant, and has sought to moderate the behavior of others. He is also older and has health problems, and there is a lack of clear information regarding his involvement with extremist al-Qaida or the Taliban.

#### 5. Mohammed Kamin:

- Was aligned with several extremist groups, including al-Qaida, and helped facilitate their operations against US forces in eastern Afghanistan.
- Trained with al-Qaida in early 2003
- Led a cell that procured, delivered, and stored weapons for al-Qaida and the Taliban, and also cased targets,
- **Rationale for changing determination from “continued detention” to “transfer”:** Displayed a high degree of candor regarding his past activities and acknowledged mistakes that led to his detention. Has not expressed extremist views while at Guantanamo. Has family and tribal support available and the review board found him credible in his desire to pursue nonextremist goals.

#### 6. Zahar Omar Hamis bin Hamdoun:

- Trained at an al-Qaida camp in Afghanistan before acting as a weapons and explosives trainer.
- Probably fought under the command of an al-Qaida leader during Operation Enduring Freedom and possibly commanded foreign fighters.
- Phone numbers found among Hamdoun's captured documents have been linked to senior al-Qaida-associated extremists.
- **Rationale for changing determination from “continued detention” to “transfer”:** Pursued educational opportunities while in detention. Has a credible desire to start a new life, including the acceptance that the most stable environment may be a third country. His family and others are willing to support him after a transfer.

#### 7. Ayub Murshid Ali Salih:

- Was trained in military tactics at an al-Qaida camp in Afghanistan.
- **Rationale for changing determination from “continued detention” to “transfer”:** Was a low-level fighter and was candid in discussing his time in Afghanistan. Accepted his mistakes and displayed a credible desire not to repeat them. Acknowledged that he benefitted from his time in detention and took advantage of educational opportunities.

#### 8. Bashir Nasir Ali al-Marwalah:

- Supported the jihadist cause in Chechnya and train to fight with Muslims against the Russians.
- Fought on the front lines.
- Received instruction and military training at an al-Qaida camp.
- Was arrested with a group other Yemenis that were part of a large pool of fighters that senior al-Qaida planners considered potentially available to support future operations. Although his role in al-Qaida operational plotting is unverified, his last will and testament found in the Karachi raids included a martyrdom statement.
- **Rationale for changing determination from “continued detention” to “transfer”:** Showed a relatively high level of candor regarding his time in Afghanistan despite trying to minimize his prior associations. Took personal responsibility for his actions and understands the impact of those actions. Took extensive efforts to improve himself in detention through classes and keeping up with his medical knowledge. Has credible plans for the future, and has shown an ability to achieve those plans.

## 9. Obaidullah: (Initially referred for prosecution)

- Received training in explosives from the Taliban and was part of an al-Qaida associated improvised explosive device cell that targeted coalition forces in Afghanistan.
- Was captured by US Special Forces during a raid of his compound in Khowst, Afghanistan, where 23 antitank landmines as well as a notebook containing electronic and detonator schematics involving explosives and mines were recovered.
- **Rationale for changing determination to “recommend for prosecution” to “transfer”:** The review board found that the risk Obaidullah presents can be “adequately mitigated.” Has been mostly compliant while at Guantanamo and has taken advantage of educational opportunities. Showed positive and constructive leadership in detention, such as mediating concerns raised between other detainees and between detainees and the guard staff.