



November 15, 2016

The Honorable Donald J. Trump
President-Elect of the United States
c/o Presidential Transition Team
1717 Pennsylvania Avenue NW
Washington, D.C. 20006

Dear President-Elect Trump:

We understand and respect the awesome task you and your transition team are presently engaged in but we are compelled to bring an urgent matter to your attention. The disposition of detainees at Guantanamo Bay Naval Base is of unparalleled concern to our states and we are requesting your intervention with President Obama. Specifically, it is our understanding that Colorado, Kansas and South Carolina have been targeted – without public consultation or cooperation – by the outgoing administration as the likely domestic locations where dangerous terrorists may be moved in order to close the detention facility at Guantanamo Bay Naval Base.

President Obama has been steadfast in his commitment to close Guantanamo in order to fulfill his long-time promise. Until the President has withdrawn his Executive Order, we would be derelict to accept conclusory press reports and assume he will leave office with Guantanamo operational. There remains a very real possibility the President may choose to push beyond his executive authority and move these terrorists to our country. The President could only move the detainees to a domestic facility by flaunting overwhelming public opinion and clear restrictions set in law. As the chief legal officers of Colorado, Kansas and South Carolina, we ask you to ensure detainees are not transferred to the United States. On January 22, 2009, two days after he took office, the President ordered the government to “promptly” close Guantanamo. The January 22 Executive Order was the President’s first official act toward his goal to stop Guantanamo from operating. Eight years later in February of this year, the President submitted to the Congress his plan to close the base which included a proposal to move the worst of the worst detainees to United States soil. However, the plan lacked any transparency about where or how these detainees would be housed if moved. While the President’s plan appears not to have advanced in the intervening months, his plan has not been rescinded and the Executive Order remains in effect.

In November 2015, it was widely rumored that President Obama was considering unilateral action to transfer the detainees to the United States. Such an act is unacceptable and illegal. We jointly wrote the President and expressed our strong disagreement with not only the idea of transferring detainees to our states, but explained why such an action would be illegal. We remain committed to exercising all legal options available to us to stop any effort to transfer detainees to American soil. We have attached our letter to the President for your convenience; we did not receive a response from the Administration.

Any transfer of detainees from Guantanamo to the United States is illegal in part because Congress has forbidden the use of “funds appropriated or otherwise made available” in any act for such purpose.¹ Critically, this restriction expires in less than one month on December 11, 2016. We implore you to work closely with the Congress to renew and extend this law.

In addition, we respectfully request that you raise this issue personally with President Obama and procure his commitment that the outgoing administration will not seek to close Guantanamo or transfer any current detainees to our homeland. If President Obama is unwilling to make such a commitment to you during this transition, we hope you will not only make that fact widely known to the public but that you contact us and the Congress so we can work together to exercise all legal options to disrupt any effort to transfer these dangerous terrorists to our country.

We thank you in advance for your consideration and your support of our position that Guantanamo should remain open and advances the United States national security and domestic safety. Congratulations on your historic election and please contact us with any questions about this or any other issue involving our states. We look forward to working with you and your administration in the future.

Sincerely,



Cynthia Coffman
Colorado Attorney General



Derek Schmidt
Kansas Attorney General



Alan Wilson
South Carolina Attorney General

¹ See, 2014 National Defense Authorization Act, Pub. L. 113-66, § 1034, 128 Stat. 672, 851, as amended by 2015 National Defense Authorization Act, Pub. L. 113-291, § 1034, 128 Stat. 3292, 3492; 2015 Consolidated and Further Continuing Appropriations Act, Pub. L. 113-235, Div. C (“Department of Defense Appropriations Act”), §§ 8112–13, 128 Stat. 2130, 2280, extended by 2016 Continuing Appropriations Act, P.L. 114-53, §§ 101(a)(3), 106, 129 Stat. 502, 505–06 (extending until Dec. 11, 2015 DOD appropriations).