

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

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May 3, 2013

President Barack H. Obama
The White House
1600 Pennsylvania Avenue
Washington D.C. 20500

Dear President Obama:

The Association of the Bar of the City of New York writes to urge you to take immediate steps to release or transfer the 86 detainees at Guantanamo Bay who have already been cleared for release. The continued, indefinite detention of these individuals has become legally and morally indefensible, and remains, in the words of 25 retired military flag officers, “an effective recruiting tool for our enemies.”¹ We further urge you to take concrete steps to restart the process toward closure of the Guantanamo Bay facility, including the eventual prosecution, transfer or release of the remaining individuals currently held there.

The hunger strikes that have been ongoing at Guantanamo for the last months reflect the suffering and hopelessness inflicted by a policy of unjustified indefinite detention that undermines the rule of law. Many of the detainees have been incarcerated for more than 11 years and see no hope of leaving the prison alive. The decision to close the prison was sound when you announced it in 2009; recent events only strengthen the reasons to move forward without delay.² We were pleased to hear you reconfirm your commitment to do that at your press conference of April 30, 2013.

We recognize that Congress has put significant obstacles in your path, designed to frustrate the fulfillment of your promise to close Guantanamo, but Section 1028 of the National Defense Authorization Act of 2013 provides a path, albeit arduous, for release or transfer of detainees through Executive action that culminates in a national security waiver by the Secretary of Defense. We urge the Administration to direct the Secretary of Defense to take actions to satisfy the requirements, wherever possible, for issuing waivers as specified in Section 1028.

¹ Letter from Retired Generals and Admirals to President Barack Obama (Jan. 9, 2012), available at <http://www.humanrightsfirst.org/wp-content/uploads/Retired-Generals-Admirals-on-Ten-Year-Anniversary-of-GTMO.pdf>.

² See Letter from Carey L. Dunne to President Barack Obama (Dec. 19, 2012), available at <http://www2.nycbar.org/pdf/report/uploads/LettertoPresidentre.NationalSecurity12.19.12.pdf>, at 2-4.

Senator Dianne Feinstein, Chairman of the Senate Intelligence Committee, in her letter of April 25, 2013 to Assistant to the President for National Security Affairs Thomas E. Donilon, urged the Administration to take steps to transfer or resettle the 86 detainees previously cleared for release or transfer and offered her assistance to the Administration to do so.³ As part of that effort she asked that you reexamine the halt of transfers to Yemen that, according to her letter, affects 56 of the 86 detainees in light of the election of a new President in Yemen. She also asked you to fill the vacancy of the office of Special Envoy for the Closure of Guantanamo caused by the transfer of Ambassador Daniel Fried or “to appoint another senior Administration official with the specific responsibility to achieve the conditions necessary to close Guantanamo.” We wholeheartedly join in her requests.

We submit that the steps urged here are necessary not only to cleanse the stain on our Nation’s reputation as a staunch defender of the rule of law and international human rights but also to remove what has become a serious threat to our national security.

Respectfully,

A handwritten signature in black ink, appearing to read "Carey R. Dunne", with a long horizontal flourish extending to the right.

Carey R. Dunne

cc: Hon. Chuck Hagel
Secretary of Defense

Hon. John Kerry
Secretary of State

Hon. Thomas Donilon
Assistant to the President for National Security Affairs

³ Letter from Senator Dianne Feinstein to Thomas E. Donilon (Apr. 25, 2013), available at <http://www.feinstein.senate.gov/public/index.cfm/press-releases?ID=2966b770-f7bb-42da-8dcb-4e8d584cde53>.