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POLITICS

Obama Looks More Likely to Close Guantanamo Via Executive Action

President making last-ditch effort to get Congress on board, but his allies say move won't work



Guards moving a shackled detainee at the detention facility in Guantanamo Bay, Cuba, in 2010. *PHOTO: LOUIE PALU/ZUMA PRESS*

By **CAROL E. LEE** And **KRISTINA PETERSON**

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WASHINGTON—President Barack Obama appears increasingly likely to have to resort to executive action to close the detention center at Guantanamo Bay, Cuba, a move that would fulfill one of his earliest promises.

The president is making a last-ditch effort to work through Congress to shut down the prison, but his timing is expected to trigger a battle with lawmakers that allies said he can't win.

Guantanamo Bay held 112 detainees as of Oct. 30, down from 240 when Mr. Obama took office. Closing the detention facility, which Mr. Obama has called a national-security threat and a recruitment tool for terrorists, has been his goal since he campaigned for the White House in 2008.

Mr. Obama plans to send a revised plan on the prison to Congress in coming days. White House officials have said the facility can be closed only if some detainees are relocated to prisons in the U.S.

However, lawmakers have settled on legislation continuing a ban on transferring detainees to the U.S. through 2016.

The House is scheduled to vote on that bill, the National Defense Authorization Act, on Thursday, to be followed by a vote in the Senate later this year. It is expected to pass both chambers.

Rep. Adam Smith of Washington, the top Democrat on the House Armed Services Committee, said Wednesday that Mr. Obama doesn't have enough support in Congress for shutting the prison.

"I'd like to close it yesterday, but we don't have the votes," Mr. Smith said, noting there are provisions in legislation other than the defense bill that prevent closing the facility. To close the prison through congressional action, Mr. Obama and his allies would have no choice but to work on expanding support for such a move next year, Mr. Smith said.

The president threatens every year to veto the National Defense Authorization Act over the policy it sets on Guantanamo Bay, but eventually signs it. However, the stakes are higher this time, as the current bill will set U.S. policy on the facility for his final year in office.

The administration had planned to send the new Guantanamo plan to lawmakers over the summer, but administration officials delayed it in order for the Pentagon to survey possible U.S. sites where detainees could be held.

Submitting the plan at this stage in the current legislative process leaves Mr. Obama with few options.

He could veto the defense bill after Congress approves it and try to force lawmakers to come up with new language on Guantanamo Bay policy.

He could also try to persuade lawmakers to incorporate his new plan for closing the

facility into the defense bill that Congress will negotiate next year, setting policy for 2017. Such a move would require the president to set aside his goal of closing the facility by the time he leaves office in January 2017.

Lastly, Mr. Obama could take executive action to circumvent Congress and close the facility unilaterally. The White House has been working on options for executive action, including legal justifications. Administration officials have been increasingly candid that it is a route the president is willing to take.

“We would like to work with Congress where we can,” White House press secretary Josh Earnest said Wednesday. But, he added, “I wouldn’t rule out the president using every element of his authority” if Congress balks.

The White House has left open the possibility of working toward an acceptable policy for 2017. Mr. Obama recently vetoed the defense authorization bill in part because of the current Guantanamo provisions, but also over budget provisions.

The House and the Senate are voting soon on a new version of the defense bill that incorporates budget changes the White House and congressional leaders agreed to after the president’s initial veto.

Mr. Obama has ramped up his use of executive authority during his second term and shown a willingness to buck Congress on issues from immigration to climate change.

Bipartisan opposition in Congress has hampered Mr. Obama’s efforts on Guantanamo. The White House hopes it will find support in Congress for Mr. Obama’s new plan, particularly from Sen. John McCain (R., Ariz.) who supports closing the detention facility but has demanded a more detailed proposal from the administration.

White House officials, however, hold out little hope of a legislative solution.

—*Jess Bravin contributed to this article.*

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