



Written by [Jack Kenny](#) on August 25, 2014

## Bergdahl Swap Broke Law, and Obama Isn't Stopping There

The Obama administration, being sued by House Republicans over delayed implementation of ObamaCare and pilloried in advance for the president's promised executive action on immigration reform, violated a "clear and unambiguous law" with the release of five Guantanamo Bay detainees in exchange for Army Sgt. Bowe Bergdahl (shown), according to a Government Accountability Office report released last Thursday.



The Department of Defense "violated section 8111 because it did not notify the relevant congressional committees at least 30 days in advance of the transfer," the GAO report said. "In addition, because DOD used appropriated funds to carry out the transfer when no money was available for that purpose, DOD violated the Antideficiency Act. The Antideficiency Act prohibits federal agencies from incurring obligations exceeding an amount available in an appropriation."

According to *National Review*, the GAO report said, "It is not our role or our practice to determine the constitutionality of duly enacted statutes. In our view, where legislation has been passed by Congress and signed by the President, thereby satisfying the bicameralism and presentment requirements in the Constitution, that legislation is entitled to a heavy presumption in favor of constitutionality."

Bergdahl was reported to be held prisoner by Taliban forces in Afghanistan from June 2009 until May of this year. According to some members of his unit, he had walked away from his post and was AWOL before being taken captive. Critics of the exchange said President Obama freed high-ranking and dangerous members of al-Qaeda in order to obtain Bergdahl's release.

Too, the House voted before going into summer recess on August 1 to sue the president over his unilateral postponing of deadlines for implementing the employer mandate for employee health care coverage under ObamaCare that Congress passed and Obama signed into law in 2010.

And some congressional Republicans have also warned of a constitutional crisis if the president acts, as is widely anticipated, on the promise he made on June 30 to move ahead without Congress in making changes in enforcement of immigration law, a pledge he made after Speaker John Boehner (R-Ohio) announced that the House would take no action this year on immigration reform. The Senate passed a bipartisan immigration reform bill over a year ago that has been left unattended by the House.

Obama has already offered protection from deportation to those among the nation's estimated 11 million illegal aliens, who are 30 years of age or younger, were brought here before their 16th birthday, and have no criminal record. Those who qualify may also apply for work permits. The Deferred Action for Childhood Arrivals effectively implements provisions of the Development Relief and Education for Alien Minors (DREAM) Act that has been introduced in Congress several times since 2001, but was never passed. Congressional Republicans have accused Obama of overstepping the limits of his constitutional authority and usurping legislative powers by effectively rewriting laws.



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