

## Resolution on Charging Bush and Cheney with Impeachable Offences

**WHEREAS** President Bush and Vice President Cheney appear to have committed impeachable offences including authorizing warrantless surveillance of American citizens, misleading Congress and the American people to start an unprovoked war and illegally authorizing torture;

**WHEREAS** the citizens of Washington State expect and require their highest elected officials to be subject to the laws of the land, like any citizen, and uphold the constitutional oath taken by them upon assuming office;

**WHEREAS** the Fourth Amendment to the United States Constitution guarantees Americans privacy and freedom from warrantless search;

**WHEREAS** in 1967, the Supreme Court held in *Katz v. United States*, that the monitoring and recording of private conversations constitutes a “search” for Fourth Amendment purposes, and that the government must obtain a warrant before domestic wiretapping;

**WHEREAS** in 1978, Congress passed a law making it a criminal offense to eavesdrop on Americans without judicial oversight;

**WHEREAS** in 2001, the President signed a secret executive order authorizing warrantless surveillance of American citizens in direct conflict with the United States Constitution and United States law;

**WHEREAS** the President both demonstrated knowledge of the law he was breaking, and lied about breaking the law by stating:

- On April 20, 2004, “... a wiretap requires a court order. Nothing has changed, by the way. When we’re talking about chasing down terrorists, we’re talking about getting court order before we do”, and
- On July 20, 2005, “Law enforcement officers need a federal judge’s permission to wiretap a foreign terrorist’s phone, or to track his calls, or to search his property. Officers must meet strict standards to use any of the tools we’re talking about”;

**WHEREAS** on December 12, 2005, *the New York Times* published a government leak that revealed the unlawful surveillance program, stating that according to government officials, “Months after the September 11 attacks, President Bush secretly authorized the National Security Agency to eavesdrop on Americans and others inside the United States to search for evidence of terrorist activity without the court-approved warrants ordinarily required for domestic spying”;

43 **WHEREAS** five days later, on December 17, 2005, the President said, "I have  
44 reauthorized this program more than thirty times since the September 11<sup>th</sup> attacks, and I  
45 intend to do so for as long as our nation faces a continuing threat from Al Qaeda and  
46 related groups";

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48 **WHEREAS** the Director of National Intelligence, Mike McConnell, indicated in a letter  
49 to Senator Arlen Specter that the President's executive order in 2001 authorized  
50 additional secret surveillance activities and undisclosed activities beyond the  
51 warrantless surveillance of e-mails and phone calls that Bush has confirmed in  
52 December 2005;

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54 **WHEREAS** the President denied the necessary security clearances to investigators from  
55 the Office of Professional responsibility in the Justice Department who were to have  
56 investigated this matter, but could not and did not;

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58 **WHEREAS** on March 10, 2004, Alberto Gonzales and the President's Chief of Staff,  
59 Andrew H. Card, Jr., tried to bypass Acting Attorney General James Comey by meeting  
60 directly with Mr. Ashcroft, sick in his hospital bed. According to the testimony of James  
61 Comey before the Senate Judiciary Committee, the purpose of this visit was to  
62 reauthorize the secret wiretapping program, which Comey had refused to reauthorize;

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64 **WHEREAS** the President subsequently appointed Mr. Gonzales to the Attorney  
65 General post, who continued to reauthorize the warrantless surveillance program until  
66 he tendered his resignation on August 26, 2007, under threat of impeachment;

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68 **WHEREAS** the secret surveillance program uses a "splitter" to send a copy of internet  
69 traffic and phone calls to a secure room operated by the NSA in the San Francisco office  
70 of AT&T, according to the testimony of Mark Klein, the retired AT&T communications  
71 technician, who admitted to connecting the "splitter" that copied the data in 2003;

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73 **WHEREAS** Mark Klein also indicated that similar spy rooms were being constructed in  
74 other cities, including Seattle, Washington, and San Jose, Los Angeles and San Diego;

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76 **WHEREAS** on August 17, 2006, the United States District Court for the Eastern District  
77 of Michigan, in *ACLU v. NSA*, ruled that the NSA wiretapping program violated  
78 privacy and free speech rights, constitutional separation of powers, and 1978 Foreign  
79 Intelligence Surveillance Act, and stated that "it was never the intent of the framers to  
80 give the President such unfettered control, particularly where his actions blatantly  
81 disregard the parameters clearly enumerated in the Bill of Rights";

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83 **WHEREAS** this unwarranted and unlawful, and seemingly unconstitutional  
84 surveillance program is still being used to spy on American citizens;

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86 **WHEREAS** United States and international law forbid invading a foreign country  
87 without provocation;

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89 **WHEREAS** international laws ratified by Congress are part of United States law  
90 according to Article VI of the United States Constitution, which states, "This  
91 Constitution, and the Laws of the United States which shall be made in Pursuance  
92 thereof; and all Treaties made, or which shall be made, under the Authority of the  
93 United States, shall be the supreme Law of the Land";

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95 **WHEREAS** the United Nations Charter was ratified by the United States in 1945 and  
96 requires that member states, including the United States, do not attack or threaten  
97 attack of another country without explicit Security Council approval except for self-  
98 defense against an armed attack;

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100 **WHEREAS** there was no armed attack upon the United States by Iraq, and the United  
101 Nations Security Council did not vote to approve the use of force against Iraq;

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103 **WHEREAS** on September 16, 2004, the Secretary General of the United Nations, Kofi  
104 Annan, commented on the United States invasion of Iraq by stating, "It was not in  
105 conformity with the United Nations charter. From our point of view, from the charter  
106 point of view, it was illegal";

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108 **WHEREAS** in October 2002, Congress authorized the President to use his discretion to  
109 decide whether or not to use force against Iraq;

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111 **WHEREAS** the President and Vice President mislead Congress and the American  
112 people about the potential threat of Iraq;

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114 **WHEREAS** the President and Vice president were either deliberately deceitful or  
115 willfully ignorant about the potential threat of Iraq;

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117 **WHEREAS** on March 19, 2003, the President, acting on his sole discretion, ordered the  
118 illegal invasion of Iraq, according to his letter to Congress dated March 21, 2003, stating,  
119 "I directed U.S. Armed Forces, operating with other coalition forces, to commence  
120 combat operations on March 19, 2003, against Iraq";

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122 **WHEREAS** United States law, 18 U.S.C Sec 2340A, forbids a United States citizen from  
123 committing or conspiring to commit the offense of torture outside of the United States;

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125 **WHEREAS** international law forbids torture, and the United States has bound itself to  
126 this unconditional prohibition by the American Convention on Human Rights signed in  
127 1977, the International Covenant on Civil and Political Rights signed in 1977 and  
128 ratified in 1992, and the United Nations Convention against Torture and Other Cruel,  
129 Inhuman and Degrading Treatment or Punishment signed in 1988 and ratified in 1994;

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**WHEREAS** in 1947, the United States charged a Japanese officer, Yukio Asano, with war crimes for waterboarding a United States civilian;

**WHEREAS** in March 2006, the United States department of State's Bureau of Democracy, Human Rights and Labor released a 2005 report on human rights practices in Tunisia, in which it formally recognized "submersion of the head in water" as torture;

**WHEREAS** the CIA has confirmed using waterboarding and former CIA agency official, John Kiriakou, has told news agencies that the White House and Justice Department knew of and authorized the use of new harsh questioning techniques, including waterboarding;

**WHEREAS** the President, acting with the support of the Vice President and the same former Attorney General who resigned under threat of impeachment, authorized the abusive treatment of prisoners;

**WHEREAS** the President and Vice President used "war on terror" as part of their justification for authorization of the abusive techniques;

**WHEREAS** the CIA has reportedly used waterboarding on Abd al-Rahim al-Nashiri, one of the prisoners, and destroyed video evidence of their interrogations;

**WHEREAS** all the details Abd al-Rahim al-Nashiri made of his claims of torture were redacted from his transcript;

**WHEREAS** federal attorneys defended the abusive treatment of prisoners by arguing that anti-torture provisions did not apply to Guantanamo Bay captives;

**WHEREAS** when Congress sought to reaffirm the United States prohibition on torture by passing a 2005 anti-torture law, the President signed the law with a signing statement effectively stating that the President has the right to torture at his discretion because, "the executive branch shall construe... the Act, relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch...";

**WHEREAS** the abusive techniques authorized by the President were inflicted on people the President declared "enemy combatants";

**WHEREAS** the abusive techniques authorized by the President were committed during an armed conflict;

173 **WHEREAS** the abusive techniques authorized by the President have previously been  
174 classified as torture and prosecuted as a war crime by the United States;

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176 **WHEREAS** international law defines torture during an armed conflict as a war crime;

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178 **WHEREAS** international law defines that a commander involved in ordering, allowing  
179 or insufficiently preventing and prosecuting a war crime is criminally liable under the  
180 Command Responsibility doctrine;

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182 **WHEREAS** the President appears to be guilty of war crimes by simple application of  
183 the Command Responsibility doctrine to the publicly known facts;

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185 **WHEREAS** based on the overwhelming evidence that has been presented to the  
186 American people as established in this resolution, numerous grounds for impeachment  
187 appear to exist;

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189 **WHEREAS** illegally authorizing torture in violation of United States and international  
190 laws, and committing war crimes would seem to constitute an impeachable offense;

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192 **WHEREAS** the President's authorization and subsequent lies about an unwarranted,  
193 unlawful, and apparently unconstitutional surveillance program would seem to  
194 constitute an impeachable offense;

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196 **WHEREAS** misleading the Congress and the American people to justify invading  
197 another country in direct violation of international and United States laws would seem  
198 to constitute an impeachable offense;

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200 **WHEREAS** such offenses, if committed, are subversive of constitutional government to  
201 the great prejudice of the cause of law and justice, and to the manifest injury of the  
202 people of Washington state and of the United States of America;

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204 **WHEREAS** impeachment is a process defined in the United States Constitution by  
205 which charges are brought against a President or Vice President, or civil officers of the  
206 United States in the House of Representatives;

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208 **WHEREAS** the filling of these charges is followed by a trial in the United States Senate  
209 that determines guilt or innocence;

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211 **WHEREAS** if the President or Vice President committed such offenses, ignoring these  
212 offenses would undermine core American values of truth and justice;

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214 **WHEREAS** failing to impeach the President and Vice President if they have committed  
215 such offenses would signal tacit approval of these activities and sanction their use by  
216 future administrations;

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218 **WHEREAS** failing to impeach the President and Vice President simply because they are  
219 serving their second term would signal future administrations that any high crime or  
220 misdemeanor, if committed or covered up until their second term, will be tolerated  
221 until an upcoming election;

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223 **WHEREAS** freedom and liberty, and the laws and the Constitution of the United States  
224 of America can only be protected by Americans; and

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226 **WHEREAS** America has only until January 20, 2009, to signal to history that America  
227 will not sanction torture, America will not sanction unprovoked war, and America will  
228 not sanction illegal spying;

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230 **THEREFORE BE IT RESOLVED** that the Washington State Democrats implore the  
231 Washington Congressional Delegation to charge President George W. Bush and Vice  
232 President Richard B. Cheney with the above offenses and commence a full investigation  
233 and trial in the United States Senate.

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236 Submitted by the Clark County Democrats to the Democratic Central Committee for  
237 consideration at its June 14 convention in Spokane. (Date Submitted 4/23/2008)

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239 The Resolutions Committee "AMENDED THIS RESOLUTION AND RECOMMENDED  
240 A PASS" at its May 31, 2008 meeting in Ellensburg.

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242 The Washington State Democratic Convention "PASSED" this resolution at its June 14,  
243 2008 meeting in Spokane.