
House Joint Memorial 4027

State of Washington

60th Legislature

2008 Regular Session

By Representatives Chase and Hasegawa

1 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
2 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
3 UNITED STATES, IN CONGRESS ASSEMBLED:

4 We, your Memorialists, the Senate and House of Representatives of
5 the State of Washington, in legislative session assembled, respectfully
6 represent and petition as follows:

7 WHEREAS, The citizens of Washington state expect and require their
8 highest elected officials be subject to the laws of the land, like any
9 citizen, and uphold the constitutional oath taken by them upon assuming
10 office; and

11 WHEREAS, The Fourth Amendment to the United States Constitution
12 guarantees Americans privacy and freedom from warrantless search; and

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

17 WHEREAS, In 1978, Congress passed a law making it a criminal
18 offense to eavesdrop on Americans without judicial oversight; and

19 WHEREAS, In 2001, the President signed a secret executive order

1 authorizing warrantless surveillance of American citizens in direct
2 conflict with the United States Constitution and United States law; and

3 WHEREAS, The President both demonstrated knowledge of the law he
4 was breaking, and lied about breaking the law by stating on April 20,
5 2004, "... a wiretap requires a court order. Nothing has changed, by the
6 way. When we're talking about chasing down terrorists, we're talking
7 about getting a court order before we do so."; and

8 WHEREAS, The President again demonstrated knowledge of the law he
9 was breaking and again lied about his lawlessness by stating on July
10 20, 2005, "Law enforcement officers need a federal judge's permission
11 to wiretap a foreign terrorist's phone, or to track his calls, or to
12 search his property. Officers must meet strict standards to use any of
13 the tools we're talking about."; and

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

21 WHEREAS, Five days later, on December 17, 2005, the President said,
22 "I have reauthorized this program more than thirty times since the
23 September the 11th attacks, and I intend to do so for as long as our
24 nation faces a continuing threat from al Qaeda and related groups.";
25 and

26 WHEREAS, The Director of National Intelligence, Mike McConnell,
27 indicated in a letter to Senator Arlen Specter that the President's
28 executive order in 2001 authorized additional secret surveillance
29 activities and undisclosed activities beyond the warrantless
30 surveillance of e-mails and phone calls that Bush had confirmed in
31 December 2005; and

32 WHEREAS, The President denied the necessary security clearances to
33 investigators from the Office of Professional Responsibility in the
34 Justice Department who were to have investigated this matter, but could
35 not and did not; and

36 WHEREAS, On March 10, 2004, Alberto Gonzales and the President's
37 Chief of Staff, Andrew H. Card, Jr. tried to bypass Acting Attorney

1 General James Comey by meeting directly with a sick Mr. Ashcroft in his
2 hospital bed. According to the testimony of James Comey before the
3 Senate Judiciary Committee, the purpose of this visit was to
4 reauthorize the secret wiretapping program, which Comey had refused to
5 reauthorize; and

6 WHEREAS, The President subsequently appointed Mr. Gonzales to the
7 Attorney General post, who continued to reauthorize the warrantless
8 surveillance program until he tendered his resignation on August 26,
9 2007, under threat of impeachment; and

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

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

18 WHEREAS, On August 17, 2006, the United States District Court for
19 the Eastern District of Michigan, in *ACLU v. NSA*, ruled that the NSA
20 wiretapping program violated privacy and free speech rights,
21 constitutional separation of powers, and the 1978 Foreign Intelligence
22 Surveillance Act, and stated that "It was never the intent of the
23 framers to give the President such unfettered control, particularly
24 where his actions blatantly disregard the parameters clearly enumerated
25 in the Bill of Rights"; and

26 WHEREAS, This unwarranted and unlawful, and seemingly
27 unconstitutional surveillance program is still being used to spy on
28 American citizens; and

29 WHEREAS, United States and international law forbid invading a
30 foreign country without provocation; and

31 WHEREAS, International laws ratified by Congress are part of United
32 States law according to Article VI of the United States Constitution,
33 which states "This Constitution, and the Laws of the United States
34 which shall be made in Pursuance thereof; and all Treaties made, or
35 which shall be made, under the Authority of the United States, shall be
36 the supreme Law of the Land"; and

37 WHEREAS, The United Nations Charter was ratified by the United
38 States in 1945 and requires that member states, including the United

1 States, not attack or threaten attack of another country without
2 explicit Security Council approval except for self-defense against an
3 armed attack; and

4 WHEREAS, There was no armed attack upon the United States by Iraq,
5 and the United Nations Security Council did not vote to approve the use
6 of force against Iraq; and

7 WHEREAS, On September 16, 2004, the Secretary General of the United
8 Nations Kofi Annan, commented on the United States invasion of Iraq by
9 stating: "It was not in conformity with the United Nations charter.
10 From our point of view, from the charter point of view, it was
11 illegal."; and

12 WHEREAS, In October 2002, Congress authorized the President to use
13 his discretion to decide whether or not to use force against Iraq; and

14 WHEREAS, The President and Vice President mislead Congress and the
15 American people about the potential threat of Iraq; and

16 WHEREAS, The President and Vice President were either deliberately
17 deceitful or willfully ignorant about the potential threat of Iraq; and

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

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

26 WHEREAS, International law forbids torture and the United States
27 has bound itself to this unconditional prohibition by the American
28 Convention on Human Rights signed in 1977, the International Covenant
29 on Civil and Political Rights signed in 1977 and ratified in 1992, and
30 the United Nations Convention against Torture and Other Cruel, Inhuman
31 or Degrading Treatment or Punishment signed in 1988 and ratified in
32 1994; and

33 WHEREAS, In 1947, the United States charged a Japanese officer,
34 Yukio Asano, with war crimes for waterboarding a United States
35 civilian; and

36 WHEREAS, In March 2006, the United States Department of State's

1 Bureau of Democracy, Human Rights and Labor released a 2005 report on
2 human rights practices in Tunisia in which it formally recognized
3 "submersion of the head in water" as torture; and

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

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

12 WHEREAS, The President and Vice President used "war on terror" as
13 part of their justification for authorization of the abusive
14 techniques; and

15 WHEREAS, The CIA has reportedly used waterboarding on Abd al-Rahim
16 al-Nashiri, one of the prisoners; and

17 WHEREAS, In November 2005, the CIA destroyed video evidence of
18 their interrogations of Abd al-Rahim al-Nashiri; and

19 WHEREAS, All the details Abd al-Rahim al-Nashiri made of his claims
20 of torture were redacted from his transcript; and

21 WHEREAS, Federal attorneys defended the abusive treatment of
22 prisoners by arguing that antitorture provisions did not apply to
23 Guantanamo Bay captives; and

24 WHEREAS, When Congress sought to reaffirm the United States
25 prohibition on torture by passing a 2005 antitorture law, the President
26 signed the law with a signing statement that effectively states that
27 the President has the right to torture at his discretion because, "The
28 executive branch shall construe...the Act, relating to detainees, in a
29 manner consistent with the constitutional authority of the President to
30 supervise the unitary executive branch..."; and

31 WHEREAS, The abusive techniques authorized by the President were
32 inflicted on people the President declared "enemy combatants"; and

33 WHEREAS, The abusive techniques authorized by the President were
34 committed during an armed conflict; and

35 WHEREAS, The abusive techniques authorized by the President have
36 previously been classified as torture and prosecuted as a war crime by
37 the United States; and

1 WHEREAS, International law defines torture during an armed conflict
2 as a war crime; and

3 WHEREAS, International law defines that a commander involved in
4 ordering, allowing, or insufficiently preventing and prosecuting a war
5 crime is criminally liable under the Command Responsibility doctrine;
6 and

7 WHEREAS, The President appears to be guilty of war crimes by simple
8 application of the Command Responsibility doctrine to the publicly
9 known facts; and

10 WHEREAS, Based on the overwhelming evidence that has been presented
11 to the American people as established in this resolution, numerous
12 grounds for impeachment appear to exist; and

13 WHEREAS, Illegally authorizing torture in violation of United
14 States and international laws, and committing war crimes would seem to
15 constitute an impeachable offense; and

16 WHEREAS, The President's authorization and subsequent lies about an
17 unwarranted, unlawful, and apparently unconstitutional surveillance
18 program would seem to constitute an impeachable offense; and

19 WHEREAS, Misleading the Congress and the American people to justify
20 invading another country in direct violation of international and
21 United States laws would seem to constitute an impeachable act; and

22 WHEREAS, Such offenses, if committed, are subversive of
23 constitutional government to the great prejudice of the cause of law
24 and justice, and to the manifest injury of the people of Washington
25 state and of the United States of America; and

26 WHEREAS, Petitions from the country at large may be presented by
27 the Speaker of the House according to Clause 3 of House Rule XII; and

28 WHEREAS, Jefferson's Manual section LIII, 603, states that
29 impeachment may be set in motion by charges transmitted from the
30 legislature of a state; and

31 WHEREAS, Impeachment is a process defined in the United States
32 Constitution by which charges are brought against a President or Vice
33 President or civil officers of the United States in the House of
34 Representatives; and

35 WHEREAS, The filing of these charges is followed by a trial in the
36 United States Senate that determines guilt or innocence; and

37 WHEREAS, If the President or Vice President committed such

1 offenses, ignoring these offenses would undermine core American values
2 of truth and justice; and

3 WHEREAS, Failing to impeach the President and Vice President if
4 they have committed such offenses would signal tacit approval of these
5 activities and sanction their use by future administrations; and

6 WHEREAS, Failing to impeach the President and Vice President simply
7 because they are serving their second term would signal future
8 administrations that any high crime or misdemeanor, if committed or
9 covered up until their second term, will be tolerated until an upcoming
10 election; and

11 WHEREAS, Freedom and liberty, and the laws and the Constitution of
12 the United States of America can only be protected by Americans; and

13 WHEREAS, America has only until January 20, 2009, to signal to
14 history that America will not sanction torture, America will not
15 sanction unprovoked war, and America will not sanction illegal spying;
16 and

17 WHEREAS, America will defend herself from all enemies foreign and
18 domestic; and

19 WHEREAS, America will protect the integrity of the Constitution and
20 the Executive branch; and

21 WHEREAS, We, your Memorialists, have each sworn an oath to protect
22 the United States Constitution;

23 NOW, THEREFORE, Your Memorialists, exhort our Representatives in
24 the United States Congress to charge President George W. Bush and Vice
25 President Richard B. Cheney with the above offenses and commence a full
26 investigation and trial in the United States Senate.

27 BE IT RESOLVED, That copies of this Memorial be immediately
28 transmitted to the President of the United States Senate, the Speaker
29 of the House of Representatives, and each member of the United States
30 Congress.

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