

111TH CONGRESS
1ST SESSION

H. RES. 417

Expressing the sense of the House of Representatives that President Barack Obama should immediately work to reverse damaging and illegal actions taken by the Bush/Cheney Administration and collaborate with Congress to proactively prevent any further abuses of executive branch power.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Ms. BALDWIN submitted the following resolution; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Foreign Affairs, and Select Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing the sense of the House of Representatives that President Barack Obama should immediately work to reverse damaging and illegal actions taken by the Bush/Cheney Administration and collaborate with Congress to proactively prevent any further abuses of executive branch power.

Whereas over the past several years, serious questions have been raised about the conduct of high ranking Bush/Cheney Administration officials in relation to some of the most basic elements of our democracy: respect for the

rule of law, the principle of checks and balances, and the fundamental freedoms enshrined in the Bill of Rights;

Whereas the Bush/Cheney Administration misled the American public and the U.S. Congress regarding the threat of Iraqi weapons of mass destruction and alleged, despite all evidence to the contrary, a relationship between Iraq and al Qaeda, and this deceit dragged our country into a preemptive and unjustified war that has taken the lives of more than 4,000 U.S. troops, injured 30,000 more, and will cost our Nation more than a trillion dollars;

Whereas the Bush/Cheney Administration undermined national security by manipulating and exaggerating evidence of Iran's nuclear weapons capabilities despite no real evidence that Iran had the intention or capability of attacking the U.S., and then deliberately downplayed the December 2007 National Intelligence Estimate that reported with "high confidence" that Iran stopped developing nuclear weapons in 2003 because of international pressure;

Whereas the Bush/Cheney Administration undertook a broad assault on civil liberties through the suspension of habeas corpus and claiming the power to declare any person an "enemy combatant," blatantly ignoring the Geneva Convention protections that the U.S. helped create, ratify, and which carry the weight of law;

Whereas the Bush/Cheney Administration endorsed the torture and rendition of prisoners in violation of stated American policy and values, as well as international law, and then destroyed videotapes which may have substantiated such torture;

Whereas the Bush/Cheney Administration violated the Fourth Amendment and the Foreign Intelligence Surveillance Act of 1978 by spying on Americans without a court order or oversight;

Whereas the Bush/Cheney Administration abused the state secrets privilege in recent legal challenges regarding warrantless wiretapping, torture, and rendition, and this administration's use of the state secrets privilege was to the detriment of the rights of private litigants harmed by egregious misconduct, as well as Americans' trust in the judicial system;

Whereas Bush/Cheney Administration officials consistently impeded congressional investigations into allegations of wrongdoing by refusing to comply with congressional subpoenas;

Whereas the Bush/Cheney Administration claims that then-senior presidential advisers were immune from congressional subpoenas impeded congressional oversight, undermined the rule of law, damaged our democracy, and were rejected by a U.S. District Court;

Whereas U.S. Attorneys pursued politically motivated prosecutions in violation of the law, and allegedly at the direction of the Bush/Cheney Administration;

Whereas Bush/Cheney Administration officials in the Department of Justice systematically violated the law and committed misconduct in basing hiring decisions for career prosecutor positions, detailees to senior Department offices, and immigration judgeships on the applicants' political affiliations and view;

Whereas it appears Bush/Cheney Administration officials intentionally revealed the identity of Valerie Plame Wilson

as a covert agent of the CIA for political retribution, and then intentionally obstructed justice by disseminating false information through the White House press office;

Whereas President Bush showed contempt for the legislative branch and disregard for the law through the excessive expansion of presidential power in misusing signing statements that declared his intent to ignore provisions of legislation he signed into law;

Whereas Bush/Cheney Administration officials systematically shielded from access and destroyed public documents relevant to the conduct of the Administration by utilizing non-governmental e-mail accounts for official communications;

Whereas Vice President Cheney consistently placed self-interest over serving the American people, exemplified by his claim that the Office of the Vice President is not an entity within the executive branch for the alleged purpose of shielding the activities of his office from public scrutiny;

Whereas President Bush, Vice President Cheney, and other Bush/Cheney Administration officials were presented with ample opportunities to collaborate with Congress and reverse the above listed damaging and abusive actions;

Whereas despite these opportunities, they instead chose to show contempt for the Constitution and the legislative branch, compelling Americans and Congress to look to the next administration for executive branch accountability;

Whereas, on November 4, 2008, Americans elected President of the United States Barack Obama;

Whereas, on January 20, 2009, President Obama stood before the American people and took an oath of office,

swearing to “. . . preserve, protect and defend the Constitution of the United States”;

Whereas this commitment and obligation is so fundamental to our democracy that our Nation’s founders proscribed this oath in our Constitution;

Whereas no President or Congress has the authority to override that document, whereby “We the People” conferred upon the branches of government limited and defined power, and provided for meaningful checks and balances;

Whereas the actions taken by President Obama will impact the conduct of future Presidents, perhaps for generations;

Whereas President Obama has already begun work to reaffirm American values of justice and freedom;

Whereas President Obama issued a January 22, 2009, executive order requiring that Guantanamo Bay detention facility be closed within one year and that until its closure, conditions of confinement at Guantanamo must comply with Common Article 3 of the Geneva Conventions and all other applicable laws;

Whereas President Obama issued a January 22, 2009, executive order to promote the safe, lawful, and humane treatment of individuals in United States custody by prohibiting any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual, and reaffirms that all terrorist suspects held by the United States abroad are protected under Common Article 3 of the Geneva Conventions;

Whereas President Obama issued a January 22, 2009, executive order to establish a Special Task Force on Detainee

Disposition to thoroughly review detention policy options and provide a report to the President within 6 months;

Whereas President Obama stated in his February 24, 2009, remarks to the Joint Session of Congress, “without exception or equivocation that the United States of America does not torture”;

Whereas President Obama issued a March 9, 2009, Memorandum for the Heads of Executive Departments and Agencies on Presidential Signing Statements to clarify his intention to issue signing statements “to address constitutional concerns only when it is appropriate to do so as a means of discharging my constitutional responsibilities” and to outline steps to promote greater transparency and accountability in issuing signing statements;

Whereas President Obama’s efforts to renew America must include restoring executive branch accountability through proactively preventing future abuses of power by his or future administrations; and

Whereas the actions detailed below may assist in his work to restore the public’s faith in our Government: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that President Obama should take the nec-
3 essary steps to do the following—

4 (1) AFFIRM OUR NATION’S COMMITMENT TO
5 UPHOLDING THE CONSTITUTION OF THE UNITED
6 STATES.—President Obama must immediately and
7 publicly reaffirm our Nation’s commitment to the
8 rule of law, the principle of checks and balances, re-

1 spect for the legislative process, and the funda-
2 mental freedoms enshrined in the Bill of Rights.

3 (2) FULLY INVESTIGATE BUSH/CHENEY ADMIN-
4 ISTRATION OFFICIALS' ALLEGED CRIMES AND HOLD
5 THEM ACCOUNTABLE FOR ANY ILLEGAL ACTS.—
6 President Obama must cooperate fully with congres-
7 sional oversight efforts to establish an independent
8 investigation, as well as to address potential statute
9 of limitation concerns, in order to hold all Bush/Che-
10 ney Administration officials accountable for any
11 crimes they may have committed.

12 (3) HOLD ACCOUNTABLE BUSH/CHENEY ADMIN-
13 ISTRATION OFFICIALS WHO SHOWED OR SHOW CON-
14 TEMPT FOR THE LEGAL DUTY TO COMPLY WITH
15 CONGRESSIONAL SUBPOENAS.—President Obama
16 must fully support Congress' constitutionally rooted
17 right of access to the information it needs to per-
18 form its legislative and oversight functions enun-
19 ciated in Article I of the Constitution.

20 (4) HOLD ACCOUNTABLE BUSH/CHENEY ADMIN-
21 ISTRATION OFFICIALS WHO DISCLOSED THE IDEN-
22 TITY OF ANY COVERT INTELLIGENCE AGENT.—
23 President Obama must cooperate fully with congres-
24 sional efforts to ensure that the disclosure of the

1 identity of any United States intelligence agent
2 could give rise to criminal liability.

3 (5) HOLD ACCOUNTABLE BUSH/CHENEY ADMIN-
4 STRATION OFFICIALS WHO PURSUED POLITICALLY
5 MOTIVATED PROSECUTIONS.—President Obama
6 must cooperate fully with congressional efforts to re-
7 store faith in the American justice system by inves-
8 tigating and censuring any officials who engage in
9 misconduct in Federal office.

10 (6) ENSURE THAT ANY BUSH/CHENEY ADMINIS-
11 TRATION OFFICIAL GUILTY OF A WAR CRIME IS
12 PROSECUTED UNDER THE WAR CRIMES ACT AND
13 THE ANTI-TORTURE ACT.—President Obama must
14 cooperate fully with congressional efforts to repeal
15 the redefinition of grave abuses of Common Article
16 3 of the Geneva Conventions included in the Military
17 Commissions Act of 2006, which limits the scope of
18 the original War Crimes Act and makes this repeal
19 retroactively operable to the beginning of the inva-
20 sion of Iraq. President Obama must also cooperate
21 fully with congressional investigations into the lack
22 of prosecutions under the War Crimes Act and the
23 Federal Anti-Torture Act despite countless allega-
24 tions of serious violations.

1 (7) AFFIRM THAT IT IS THE SOLE LEGAL
2 RIGHT OF CONGRESS TO DECLARE WAR.—President
3 Obama must cooperate fully with congressional ef-
4 forts to tighten the standards for when a declaration
5 of war is required for military action.

6 (8) CRIMINALIZE LYING TO CONGRESS AND THE
7 AMERICAN PUBLIC ABOUT THE REASONS FOR GOING
8 TO WAR.—President Obama must cooperate fully
9 with congressional efforts to strengthen Federal per-
10 jury laws to prohibit the issuance of false state-
11 ments, concealment, or false documentation in any
12 matter related to a presidential request for a dec-
13 laration of war.

14 (9) RESTORE THE WRIT OF HABEAS CORPUS AS
15 AN ESSENTIAL PRINCIPLE OF OUR DEMOCRACY.—
16 President Obama must reaffirm our Nation’s treaty
17 obligations under the Geneva Conventions and en-
18 sure all individuals held by the United States have
19 access to the courts to petition for a writ of habeas
20 corpus.

21 (10) ENSURE TORTURE IS UNIFORMLY PROHIB-
22 ITED UNDER UNITED STATES LAW.—While recog-
23 nizing that President Obama has taken important
24 steps in asserting his position that torture is anti-
25 thetical to American values, he must cooperate fully

1 with congressional efforts to codify strong anti-tor-
2 ture language and approve uniform standards for in-
3 terrogation techniques applicable to individuals
4 under control or custody of the United States Gov-
5 ernment.

6 (11) ENSURE RENDITION IS UNIFORMLY PRO-
7 HIBITED UNDER UNITED STATES LAW.—President
8 Obama must cooperate fully with congressional ef-
9 forts to outlaw torture “outsourcing” by prohibiting
10 the direct or indirect transfer or return of persons
11 by the U.S. for the purpose of detention, interroga-
12 tion, trial, or otherwise to a country listed by the
13 Secretary of State as supporting torture, cruel, or
14 degrading treatment used in detention or interroga-
15 tion of individuals.

16 (12) RESPONSIBLY CLOSE THE GUANTANAMO
17 BAY DETENTION CAMP.—While President Obama
18 has boldly declared his intention to close Guanta-
19 namo by January 2010, he must do everything in
20 his power to ensure that all suspected terrorists held
21 at Guantanamo are immediately tried in fair judicial
22 proceedings and are not subjected to trial by secret
23 evidence. He must also engage the international
24 community to swiftly ensure the release of innocent
25 detainees, including the Chinese Uighurs.

1 (13) ENSURE THAT AMERICANS CAN BRING
2 CLAIMS AGAINST THEIR GOVERNMENT.—President
3 Obama must guarantee that the state secrets privi-
4 lege shall not constitute grounds for dismissal of a
5 case or claim and instead require independent judi-
6 cial review of claims of state secrets privilege by ex-
7 ecutive branch officials.

8 (14) IMMEDIATELY TAKE AFFIRMATIVE STEPS
9 TO PROTECT ALL BUSH/CHENEY ADMINISTRATION
10 DOCUMENTS.—President Obama must publicly reaf-
11 firm that the Office of the Vice President is part of
12 the executive branch.

13 (15) PUBLICLY REVIEW POTENTIAL ABUSES OF
14 THE PRESIDENTIAL PARDON PROCESS.—President
15 Obama must collaborate fully with Congress to in-
16 vestigate the granting of presidential pardons and
17 articulate comprehensive standards to guide future
18 presidential pardons.

19 (16) FURTHER REFORM THE USE OF PRESI-
20 DENTIAL SIGNING STATEMENTS.—While President
21 Obama has affirmed his intention to issue signing
22 statements sparingly and with a high degree of
23 transparency, he must commit to providing all sign-
24 ing statements for publication, affirm Congress'
25 right to participate in court proceedings regarding

1 the constitutionality of any presidential signing
2 statements, and ensure that Congress can obtain
3 testimony from administration officials who may at-
4 tempt to claim executive privilege to explain or jus-
5 tify any signing statements.

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