



## Questions for Candidates

### 10 Summary Questions

1. Millions of Americans are concerned that our civil liberties, as articulated in the Constitution and the Bill of Rights, are threatened by provisions of the USA PATRIOT Act and other “war on terror” laws and policies. How do you respond to these concerns? If elected, what steps would you take to protect Americans’ civil liberties?
2. I am/we are concerned about decreased judicial oversight, increased police powers, and diminishing privacy rights resulting from the passage and reauthorization of the USA PATRIOT Act and other anti-terrorism laws and policies. If elected, what steps would you take to protect Americans’ privacy and restore judicial and congressional oversight of police powers?
3. Many Americans are concerned about the seemingly absolute power of the Executive to make decisions on national security that greatly affect civil liberties and human rights. Do you think the President has exceeded the constitutional limits on his power? If elected, what steps would you take to restore checks and balances on the executive branch?
4. How would you respond to many Americans’ concerns about what they see as an increase in government secrecy?
5. A clear majority of Americans disagree with President Bush’s warrantless wiretapping program.<sup>i</sup> If elected, what steps will you take to end programs that allow the government to spy on Americans’ telephone calls and e-mails without a warrant, thereby violating the Fourth Amendment?
6. A clear majority of Americans believe that waterboarding is torture and should not be allowed in terrorist interrogations.<sup>ii</sup> If elected, what steps will you take to abolish all forms of torture and abuse of detainees by the U.S. government, including waterboarding, stress positions, use of dogs, humiliation, sleep deprivation, and other forms of cruelty?
7. More than 70 percent of Americans oppose holding detainees indefinitely at Guantánamo Bay without charges.<sup>iii</sup> If elected, what steps will you take to restore habeas corpus rights for all detainees and prisoners in U.S. custody in Guantánamo Bay and throughout the world?
8. Do you believe that U.S. policy for capturing and holding detainees at Guantánamo Bay and at U.S.-run prisons in Iraq and Afghanistan have made our country safer or less safe from terrorism? What would you do to change U.S. policy?
9. What types of personal information do you believe it is legitimate to collect about law-abiding Americans without court-approved warrants? What are legitimate uses of that information?
10. What steps would you take to ensure individual privacy and protection from secret government surveillance and intelligence gathering? How would you ensure that surveillance resources are expended on real threats rather than on prying into the lives of law-abiding Americans?

## QUESTIONS ABOUT DETAINEE TREATMENT

### Guantánamo Bay

Vice President Cheney told the American people that the men sent to the U.S. naval base at Guantánamo Bay were “the worst of the worst.” However, nearly 500 of the more than 750 men who’ve been sent there have been released without any charges. **If elected, what would you do to shut down the Guantánamo prison, and how would you ensure that all detainees held by the United States are afforded constitutional guarantees of habeas corpus and humane treatment?**

More than 70 percent of Americans oppose holding detainees indefinitely at Guantánamo Bay without charges.<sup>iv</sup> **If elected, what steps will you take to restore habeas corpus rights for all detainees and prisoners in U.S. custody in Guantánamo Bay and throughout the world?**

Do you believe that U.S. policy for capturing and holding detainees at Guantánamo Bay and at U.S.-run prisons in Iraq and Afghanistan have made our country more or less safe from terrorism? What would you do to change U.S. policy?

### Military Commissions Act

In September 2006, Congress approved the Military Commissions Act, which denies habeas corpus to foreigners picked up by U.S. forces in the “war on terror.” It also allows the President to define what acts do and do not constitute torture. **In your view, does the Military Commissions Act violate the Constitution, and if so, how would you work to ensure that laws governing adjudication of foreign detainees remain constitutionally sound?**

The Military Commissions Act of 2006 gives the president the authority to designate anyone, even a U.S. citizen, as an “unlawful enemy combatant” and to deny non-U.S. citizens the right to challenge their detentions. It allows coerced testimony, even testimony acquired using torture, to be used as evidence, and it gives legal immunity to U.S. employees and officials who violated the human rights of aliens prior to 2006. **Do you believe the Military Commissions Act violates the Constitution? If elected and sworn to protect and defend the Constitution, what steps would you take to change or repeal the Military Commissions Act?**

### Torture

The U.S. Army has established firm policies—written into the Army Field Manual—that prohibit torture. Yet President Bush vetoed legislation passed by Congress that would have outlawed CIA use of waterboarding and other interrogation techniques widely considered to be torture. **Given the precedent set by the Bush administration, would you support new legislative measures to ensure that no U.S. government personnel—including the CIA—ever use torture or so-called “enhanced interrogation techniques”?**

The U.S. government ratified the Third Geneva Convention barring cruel, inhuman, and degrading treatment in order to reduce the danger that U.S. soldiers would suffer such treatment if captured by other governments. **Do you believe that the United States should obey the Geneva Conventions to which it is legally bound? Why or why not? What steps would you take to ensure that all agencies of our government follow the treaty?**

President Bush’s executive order regarding the CIA’s treatment of detainees does not forbid waterboarding or so-called “stress positions.” **Would you press for legislation that unequivocally bans all forms of**

**torture and abuse of detainees by the U.S. government, including but not limited to waterboarding, stress positions, use of dogs, humiliation, sleep deprivation, and other forms of cruelty?**

The CIA runs a program of kidnapping and “rendering” prisoners to countries known to use torture, often using private contractors to transport and interrogate detainees. **Would you support a congressional investigation and legislative action to hold both CIA officials and private contractors accountable for violations of laws prohibiting torture and complicity with torture?**

## **QUESTIONS ABOUT EXECUTIVE POWER**

**According to your interpretation of the Constitution, are members of Congress obligated to use all powers at their disposal to check any and all actions of the executive that exceed constitutional authority? If so, what specific changes must Congress make to fulfill these constitutional obligations now?**

The Bush administration has used the state secrets privilege more often than any previous administration. This has prevented cases from reaching the courts, such as the lawsuits of Khaled el Masri and Maher Arar, both victims of the CIA’s extraordinary rendition program. **If elected, would you press to create an independent agency to oversee the use of the state secrets privilege? What other methods would you support to prevent the U.S. government from withholding evidence of wrongdoing by its own officials?**

## **QUESTIONS ABOUT PRIVACY RIGHTS**

### **National Security Letters**

The PATRIOT Act broadened the government’s ability to obtain private records of U.S. residents through the use of national security letters (NSLs) and did away with the requirement that the records sought had to pertain to a suspected terrorist. A federal judge has struck down NSLs as unconstitutional because they violate the First, Fourth and Fifth Amendments, and two internal audits by the Justice Department’s Inspector General have shown conclusively that these powers have been misused and abused by the FBI. However, Congress has failed to place checks on the power to protect the privacy of law-abiding Americans’ sensitive personal records from these warrantless searches. **If elected, what would you do to assure Americans that their private records are safe from government prying if they haven’t done anything wrong?**

National security letters, provisions of the PATRIOT Act, and the Foreign Intelligence Surveillance Act require businesses to hand over private client records, whether or not they believe the FBI’s requests are justified. The gag orders that accompany these requests prevent recipients from disclosing the letters’ existence or contents to anyone other than legal counsel. Because the law gives the Justice Department a huge advantage, only three challenges to the gag orders have been mounted out of hundreds of thousands of NSLs, and only two gag orders have been lifted. **If elected, would you act to give business people a fair opportunity to challenge the FBI’s permanent gag orders?**

### **Warrantless Surveillance**

In December 2005, the New York Times revealed that the Bush administration had authorized the National Security Agency to eavesdrop on U.S. citizens and residents without obtaining individual search warrants, as was required by the Foreign Intelligence Surveillance Act of 1978. The FISA Amendments Act of 2008 removed this warrant requirement and gave retroactive immunity to the telecommunications companies that cooperated with the administration. **In your view, was Congress acting within its appropriate role by retroactively legalizing such previously illegal activity?**

Former Attorney General Ashcroft's policy guidelines, which are still in place, authorize the FBI to monitor and conduct surveillance of religious and political groups without evidence of wrongdoing. Those guidelines replaced the guidelines issued following COINTELPRO, which stipulated that investigations could only be brought where "specific and articulable facts" indicated criminal activity. **If elected, what steps will you take to reinstate the requirement for evidence of criminal activity or intent before the government is allowed to infiltrate religious and political groups? What other steps would you take to protect Americans' First Amendment rights of association and dissent?**

A clear majority of Americans disagree with President Bush's warrantless wiretapping program.<sup>v</sup> If elected, what steps will you take to end programs that allow the government to spy on Americans' telephone calls and e-mails without a warrant, thereby violating the Fourth Amendment?

When Congress passed the FISA Amendments Act, it allowed the administration to tap private communications based on little evidence and to store whole streams of calls, emails, and web traffic data for later use. This change raises the concern that intelligence resources are being wasted on gathering erroneous data on innocent Americans, thereby making our nation less safe. **If elected, what steps would you take to ensure that innocent Americans' privacy is respected and intelligence resources are put towards identifying actual terrorists?**

### OTHER QUESTIONS

According to the published policy of the Department of Homeland Security, the government reserves the right to look through and copy data from any laptop or electronic device crossing the border, saying it is no different from any other luggage. DHS has even seized laptops, holding them indefinitely. **Do you believe the Constitution requires the government to establish a reason to suspect wrongdoing before seizing and searching travelers' electronic devices, and if so, how would you protect the data privacy rights of travelers?**

What is your position on the Department of Homeland Security's treatment of immigrants, including citizens and legal residents, which has involved warrantless raids on homes and workplaces, locking people up without allowing them to make a phone call or see a lawyer, and denying them lifesaving medical care while in detention? **The Constitution guarantees due process of law to all persons. What needs to change in our government agencies and laws to ensure that rights to due process are afforded to immigrants?**

An unprecedented number of whistleblowers from government agencies involved in national security have been relieved of their duties for revealing what they perceived as government wrongdoing, including alleged unconstitutional activities and programs, to their supervisors, members of Congress, or the public. **If elected, what would you do to protect the jobs and rights of whistleblowers?**

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<sup>i</sup> John Diamond & David Jackson. "Surveillance program protects country, Bush says." *USA Today*. 23 Jan. 2006. 10 Sep. 2008. <[http://www.usatoday.com/news/washington/2006-01-23-bush\\_x.htm](http://www.usatoday.com/news/washington/2006-01-23-bush_x.htm)>.

<sup>ii</sup> "Poll Results: Waterboarding is Torture." *CNN*. 6 Nov. 2007. 10 Sep. 2008. <<http://www.cnn.com/2007/POLITICS/11/06/waterboard.poll>>.

<sup>iii</sup> "Guantánamo Bay poses political problem." *ABC News*. 27 Jun. 2006. 10 Sep. 2008. <<http://abcnews.go.com/GMA/SupremeCourt/story?id=2123053>>.

<sup>iv</sup> "Guantánamo Bay poses political problem." *ABC News*. 27 Jun. 2006. 10 Sep. 2008. <<http://abcnews.go.com/GMA/SupremeCourt/story?id=2123053>>.

<sup>v</sup> John Diamond & David Jackson. "Surveillance program protects country, Bush says." *USA Today*. 23 Jan. 2006. 10 Sep. 2008. <[http://www.usatoday.com/news/washington/2006-01-23-bush\\_x.htm](http://www.usatoday.com/news/washington/2006-01-23-bush_x.htm)>.