

Guantánamo Bay and Habeas Corpus

More than 70 percent of Americans oppose holding detainees indefinitely at Guantánamo Bay without charges. Most of the men held at Guantánamo have been released, after years of imprisonment, without ever being charged. **If elected, would you shut down Guantánamo Bay prison, and would you ensure that all detainees held by the U.S. are afforded constitutional guarantees of habeas corpus and humane treatment?**

BORDC's position: Indefinite detention at Guantánamo Bay violates the Fifth Amendment right to due process, the Sixth Amendment right to a speedy trial, the Eighth Amendment protection against cruel and unusual punishment, and the writ of habeas corpus to challenge one's detention. Prisoners in Guantánamo must be immediately charged and tried—with all the rights of the accused provided for in the Bill of Rights and civilian courts—or released, and the prison must be closed.

Torture

The U.S. ratified the Third Geneva Convention barring cruel, inhuman, and degrading treatment. The U.S. Army has also established firm policies—written into the Army Field Manual—that prohibit torture. Yet President Bush vetoed legislation passed by Congress that would have outlawed waterboarding and other interrogation techniques widely considered to be torture. **Would you support new legislative measures to ensure that no U.S. government personnel ever use torture or so-called “enhanced interrogation techniques”?**

BORDC's position: The Eighth Amendment clearly states that cruel and unusual punishment is unconstitutional, and the Constitution states that international treaties, such as the Geneva Conventions, are the law of the land. Torture, including so-called “enhanced interrogation techniques,” are illegal and must not be practiced or supported by the U.S. government or personnel.

Executive Power

The Bush administration has used the state secrets privilege many times to prevent cases from reaching the courts. President Bush has also used signing statements more than any other president to make constitutional challenges against laws properly passed by Congress and indicate that he will not enforce them. **Would you press to create an independent agency to oversee use of the state secrets privilege? What else would you do to prevent abuse of executive power and reinstate checks and balances?**

BORDC's position: The Founders created a system of checks and balances to prevent the president from becoming a dictator. These checks and balances are integral to the U.S. democracy and must be protected. Further, all of us, including the president, are bound by U.S. law, and the administration cannot be allowed to hide behind state secrets privilege or executive privilege.

Extraordinary Rendition

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 CIA officials and private contractors accountable for violations of human rights and of laws prohibiting torture and complicity with torture?**

BORDC's position: The Eighth Amendment clearly states that cruel and unusual punishment is unconstitutional, and the Constitution states that international treaties, such as the Geneva Conventions, are the law of the land. Kidnapping and sending prisoners to other countries to avoid U.S. laws and treaties against torture cannot be tolerated. All those involved in extraordinary rendition—those who authorize it and those who implement it—must be held accountable for their actions.

National Security Letters

The PATRIOT Act broadened the government's ability to obtain U.S. residents' private records through national security letters (NSLs) and removed the requirement that the records sought must pertain to a suspected terrorist. Further, gag orders that accompany NSLs prevent recipients from disclosing the letters' existence or contents, meaning that the public rarely hears about NSL abuses. Congress has failed to put checks on NSL use to protect the privacy of law-abiding Americans' personal records. **If elected, how would you assure that innocent Americans' private records remain private?**

BORDC's position: 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 show that the FBI has abused these powers. Congress must place restrictions on the use of NSLs to protect innocent Americans' privacy.

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. **If elected, what steps will you take to end programs that allow the government to spy on Americans without individualized warrants?**

BORDC's position: Warrantless wiretapping and dragnet warrants violate the constitutional requirement that individual warrants be issued for surveillance and searches. Further, companies that violate their customers' privacy by providing the government with sensitive information without receiving a warrant must be held accountable.

The 2008 election is a critical moment for our country. The new president, new Congress, and the 2009 expiration of PATRIOT Act provisions offer the best opportunity we've had in seven years to change the direction our nation is taking. The more we organize and build broad, local coalitions to take advantage of this historic moment, the more successful we will be.

We invite you to join the Bill of Rights Defense Committee in our new grassroots initiative to hold candidates and representatives accountable for upholding their oaths to protect and defend the Constitution. Join the People's Campaign for the Constitution (www.constitutioncampaign.org) today and use the information in this brochure to put your local candidates for federal elective office on record about key constitutional issues. Visit our websites to look up incumbents' votes on civil liberties and human rights legislation and download more questions for candidates.

Find more resources online:

www.bordc.org

www.constitutioncampaign.org



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Defending the Constitution

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