

Torture Is Impeachable and Has Been Confessed to

By [Global Research](#)

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Region: [USA](#)

Theme: [Crimes against Humanity](#), [Law and Justice](#)

In-depth Report: [Prosecute Bush/Cheney](#)

Now that George Bush and Michael Hayden have publicly confessed to government waterboarding in a press conference on February 6, 2008, and in testimony before Congress on February 5, 2008, you may find the following information useful:

The law review article referenced below (available at no cost at: http://www.law.utah.edu/_webfiles/ULRarticles/150/150.pdf)

makes clear that waterboarding is torture and is a crime and a war crime punishable under a number of treaties to which the United States is a party and several U.S. statutes.

The article also explains that there is no defense available due to either (1) prior legal advice, or (2) circumstances (including, without limitation, terrorist acts – see citations in Footnotes 21 and 25 in the article), contrary to the claims of Bush and Hayden.

The law review article (see pages 359 to 374) also establishes that under a number of treaties to which the United States is a party, the U.S. has an obligation to initiate an official investigation regarding confessed acts of torture. For example, the 1984 U.N. Convention Against Torture, (1465 UNTS 85), Article 12 reads as follows:

“Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” (NOTE: The article also explains why “territory under its jurisdiction” includes GITMO and all DOD and CIA secret detention sites for the United States.)

The following case, among others, has held that waterboarding is torture:

In re Estate of Ferdinand E. Marcos Human Rights Litigation, 910 F. Supp. 1460, 1463 (District of Hawaii, 1995)

Waterboarding is torture regardless of the surrounding circumstances – there is no circumstantial or necessity defense to torture claims.

It is time for the appointment of a special prosecutor – General Mukasey must recuse himself because of his refusal to publicly state that waterboarding is criminal torture. As explained in the law review article and elsewhere, the following individuals played primary roles in the authorization of waterboarding and should be immediately identified as the primary subjects of the investigation:

George W. Bush
Richard "Dick" Cheney
John Ashcroft
Alberto Gonzales
Donald Rumsfeld
George J. Tenet
John E. McLaughlin
Porter Goss
David Addington
Jay S. Bybee
John Yoo
Jack Goldsmith
General Ricardo Sanchez
General Geoffrey Miller
General Janis Karpinski

Bush/Cheney Pardon Calendar

Under the circumstances – a public confession of criminal acts by George W. Bush — you should expect that immediately after the November elections George W. Bush will pardon all of the people listed above, then resign. At that point, Richard "Dick" Cheney would become President, and you should expect that in that capacity Cheney will immediately pardon George W. Bush.

Immediate Appointment of Special Prosecutor

As a result of the expected pardons, a special prosecutor should be appointed immediately

Commencement of Impeachment Proceedings

As a result of the expected pardons, on the day after the November elections, the House of Representatives should impeach George W. Bush and Richard "Dick" Cheney for high crimes — torture — violating the following statutes, among others:

18 USC 3231
18 USC Sections 2340-2340A
18 USC 2441

Please note the strategic importance of simply presenting the impeachment to members of the House with no hearings and an immediate vote on the day after the November elections. There is no reason for hearings or delay, since George W. Bush has admitted the criminal act that is the basis of the impeachment.

International Crimes Not Subject to Pardon Power

It is worth pointing out that torture violations of the Law of War and international treaties are not subject to the Presidential pardon power. We will see these individuals on trial in the Hague for their publicly confessed war crimes.

"Above the Law: Unlawful Executive Authorizations Regarding Detainee Treatment, Secret Renditions, Domestic Spying and Claims to Unchecked Executive Power," Jordan J. Paust, Utah Law Review, 2007, Number 2, Pages

345 to 419

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