

**Troubling Obama Administration Positions
Threaten the Constitution
March 30, 2009**

President Obama sent a powerful message to the country and the world during the first week of his presidency by ordering the closure of Guantanamo Bay, reviewing detention options, and ensuring lawful interrogations. The Constitution Project, an independent think tank dedicated to promoting and defending constitutional safeguards, joined with other constitutionalists in commending these executive orders as a declaration of our nation's most fundamental values.

Our optimism is, and must always be, tempered with vigilance against compromising constitutional values. While much has changed, we are troubled that the administration has already rejected several opportunities to renounce policies of the former administration that have undermined our constitutional system. The attached staff document sets forth the particular actions, relating to the detention of accused terrorists, access to DNA evidence, presidential signing statements, the state secrets privilege, warrantless wiretapping, and extraordinary rendition, that concern us.

Restraining executive power and restoring checks and balances is not a partisan issue. Indeed, regardless of political party, presidents throughout history have attempted to enhance their power. Restraint on this inclination was the reason that our country's framers created the separation of powers and checks and balances that are at the heart of our constitutional system of government.

We are conservatives and liberals, Republicans and Democrats. We criticized President Bush for a variety of actions, including the detention and treatment of so-called enemy combatants, presidential signing statements, the wiretapping of Americans without a warrant, excessive secrecy, attempts to strip the federal courts of their jurisdiction, and other sweeping assertions of executive branch authority.

At the same time, we have criticized Congress for repeatedly surrendering its responsibility as a separate and independent branch of government by failing to exercise its clear constitutional obligation to make the laws. We have also called upon Congress to ensure through oversight that the executive branch is enforcing the laws Congress has enacted, and to carry out its responsibilities in a manner consistent with the laws and the Constitution.

We believe that the system of checks and balances created by our country's founders is required to preserve Americans' freedoms and liberties and our country's security. No matter who is president, we insist on true cooperation among the three branches of government. Thus, we will continue to call President Obama and the new Congress to account.

When President Obama took office, he inherited a myriad of complex legal problems, many difficult to solve or reform. We recognize that it is still early in the administration, but we are concerned that decisions now being made will both create unfortunate legal precedent and cause great suffering for people who are adversely affected. We are apprehensive about what these decisions say about our country's commitment to the rule of law and to our constitutional values.

The restoration of the rule of law will be a long and difficult process. President Obama's early executive orders, while important first steps, are only that. We cannot sit idly by, allowing the recent shift to broad executive powers to become permanent. Nor can we defer to a popular president, such as President Obama, to justify inaction or to rationalize missteps.

President Obama expects, as he should, to be held accountable to the Constitution. His [responses](#) to a *Boston Globe* survey circulated to all major presidential candidates in 2007 reveal an appreciation for the role that Congress and the courts play in our constitutional system. President Obama must fulfill these promises, and those that he made when he took the oath of office - to "preserve, protect, and defend the Constitution of the United States."

Signed: The Board of the Constitution Project: Mickey Edwards; Morton H. Halperin; Stephen F. Hanlon, Chair; Paul Saunders; Virginia Sloan, President;