



Written by [Thomas R. Eddlem](#) on May 9, 2009

Conservative Judge Napolitano: Bush Is a Felon

Napolitano cited a May 4 [New York Times report](#) that President Bush personally authorized nine torture techniques to be used on detainees after both the U.S. Supreme Court ruled that detainees are entitled to Prisoner of War status and Bush himself signed into law a [bill authored by Republican Senator John McCain](#) that banned all nine torture techniques by name. Napolitano said he had independent confirmation from a “neutral” source that the *New York Times* report was accurate.



“If the *New York Times* article is accurate,” Napolitano said, “that would mean that the President of the United States of America committed a felony for each act of torture he authorized and which was carried out after the [Supreme Court ruling](#) or after he signed the [McCain bill into law.](#)”

A media furor ensued after the April release of Justice Department legal memoranda (i.e., the [“torture memos”](#)). The memoranda excused waterboarding (which the United States government judged a “war crime” when Japanese soldiers conducted it against Americans during the Second World War) and nine other torture techniques. The theme of the memoranda can be summed up as follows: it is okay for U.S. interrogators to inflict as excruciating pain as possible upon those they are questioning, so long as they don’t leave a permanent mark.

Napolitano is non-plussed about the [60 percent of Americans who now believe the Bush administration engaged in torture](#) even though less than a majority of Americans support criminal charges. It’s not about the numbers, Napolitano argues:

Is it right, is it proper, for the Obama Administration to prosecute someone in the Bush administration for doing what they thought was right. My answer is: Yes! We are a nation of laws and not of men. And when people break the law, no matter what their motivation is, they should be prosecuted... Is the motivation a defense to law-breaking? It is not.

Napolitano is simply ahead of the curve. While many self-professed conservatives backed the Bush



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administration's use against torture, it's only a matter of time before the more unsavory use of torture against innocent detainees becomes more widely known (click [here](#), [here](#), and [here](#) for a few of the many examples). Even if their hearts are not rendered by the price innocent men have paid for torture under the Bush administration, their heads will eventually be swayed by the [recent efforts by the Obama administration's Department of Homeland Security to label all conservatives and military veterans as terrorist suspects](#). The power to torture terrorism suspects without trial is simply too dangerous a power to be left in the hands of the Obama administration or any other government official, which explains why the Founding Fathers banned "cruel and unusual punishments" in the [Eighth Amendment](#) to the U.S. Constitution.



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