



Peace and Justice Commission

CONSENT CALENDAR
April 30, 2013

To: Honorable Mayor and Members of the City Council
From: Peace and Justice Commission
Submitted by: George Lippman, Chairperson, Peace and Justice Commission
Subject: Prosecute George W. Bush and Co-Conspirators for the Deaths of Alameda County Residents Killed in Iraq

RECOMMENDATION

Adopt a Resolution sending a letter to Alameda County District Attorney, Nancy O'Malley, urging her to prosecute former President George W. Bush and his co-conspirators for murder for the deaths of Alameda County residents killed in Iraq.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

At its regular meeting on February 4, 2013, the Peace and Justice Commission adopted the following recommendation:

Adopt a Resolution to send a letter to Alameda County District Attorney, Nancy O'Malley, urging her to prosecute former President George W. Bush and his co-conspirators for murder for the deaths of Alameda County residents killed in Iraq.

M/S/C: (Meola/Haney)

Ayes: El-Quolaq, Jailer Shannon, Kenin, Meola, Nicely, Sochet

Noes: Haney, Maran

Abstain: Lippman (*basis for absence*): "I support the intent of the resolution as I believe George W. Bush is liable for war crimes committed in the illegal Iraq war, including the deaths of Alameda County service members and many others. The resolution could be strengthened by the inclusion of language more clearly stating the legal basis of the charge of murder."

Absent: Walton

RATIONALE FOR RECOMMENDATION

The Peace and Justice Commission, consistent with its mandate to promote peace and justice, locally, nationally and internationally, recommends that the Council support this Resolution to send a letter to Alameda County District Attorney Nancy O'Malley urging her to prosecute former President George W. Bush and his co-conspirators for murder for the deaths of Alameda County residents killed in Iraq.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the Commission's recommendations or the contents of its Report.

CONTACT PERSON

Robert Meola, Commissioner, Peace and Justice Commission, 510-644-1102
Eric Brenman, Secretary, Peace and Justice Commission, 510-981-5114

Attachments:

1. Resolution
2. Notes, proposed letter and background materials

RESOLUTION NO. –N.S.

SEND A LETTER TO ALAMEDA COUNTY DISTRICT ATTORNEY NANCY O'MALLEY URGING HER TO PROSECUTE FORMER PRESIDENT GEORGE W. BUSH AND HIS CO-CONSPIRATORS FOR MURDER FOR THE DEATHS OF ALAMEDA COUNTY RESIDENTS KILLED IN IRAQ

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070); and

WHEREAS, the City of Berkeley adopted Ordinance No. 5,985-N.S., the "City of Berkeley Human Rights Ordinance, 1990 ADOPTING A HUMAN RIGHTS POLICY BASED ON ARTICLES 55 AND 56 OF THE UNITED NATIONS CHARTER"; and

WHEREAS, the CIA produced a 93-page classified document, the National Intelligence Estimate or NIE, before the 2003 invasion of Iraq in which all 16 intelligence agencies that contributed to the NIE all agreed that Iraq was not an imminent threat to the United States¹; and

WHEREAS, the White House and the CIA then created a 25-page declassified document known as the 'white paper'² which was presented to Congress as a summary of the NIE; and

WHEREAS, the NIE has since been declassified and a comparison shows that Congress and the American people were deceived and therefore congressional consent for the war in Iraq was invalid; and

WHEREAS, the legal justification for invading another country is not determined by the presence or absence of weapons of mass destruction, rather, an imminent threat is the only legal justification for invading another country³; and

WHEREAS, according to the peer-reviewed Lancet Survey, about 1 million people have already died as a result of the 2003 invasion of Iraq, including at least 11 residents of Alameda County; and

WHEREAS, Alameda County has the authority to prosecute this crime under the Effects Doctrine which holds that when a crime is committed outside the territorial jurisdiction of

¹ "CIA Whites Out Controversial Estimate on Iraq Weapons." *The National Security Archive*. The George Washington University, 9 July 2004. Web. 18 Jan. 2013. <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB129/index.htm>>.

² "White Paper on Iraq's Weapons of Mass Destruction Programs." *The National Security Archive*. The George Washington University, n.d. Web. <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB129/part10-whitepaper.pdf>>.

³ "Would an Invasion of Iraq Be a "Just War"?" *United States Institute of Peace*. N.p., Jan. 2003. Web. 18 Jan. 2013. <<http://www.usip.org/publications/would-invasion-iraq-be-just-war>>.

the state, but has injurious effects within the state, then the state has the authority to prosecute⁴; and

WHEREAS, only one overt act in furtherance of the crime of Conspiracy to Commit Murder is necessary to complete the corpus delicti and place jurisdiction in any particular place, and the broadcasting via radio and television, by media, into the homes of residents in the County of Alameda, California, of each of the many lies and misrepresentations regarding the reasons for going to war with Iraq constitute overt acts in furtherance of the Conspiracy to Commit Murder; and

WHEREAS, the recruitment of soldiers in the County of Alameda, California to conduct the illegal war, based on lies, constitutes another overt act in furtherance of the Conspiracy to Commit Murder; and

WHEREAS, there is a list of co-conspirators, including former Vice President Dick Cheney, and former Secretary of State Condoleeza Rice, among others; and

WHEREAS, the Berkeley City Council stated in Resolution No. 63,613-N.S. entitled, "SUPPORTING PROSECUTION OF FORMER SECRETARY OF DEFENSE DONALD RUMSFELD AND OTHER GOVERNMENT OFFICIALS" and adopted on March 13, 2007:

"NOW THEREFORE, BE IT RESOLVED that the council of the city of Berkeley endorses the case of Rumsfeld *et al.* and requests the City Manager to send a copy of this resolution to the Center for Constitutional Rights.

"BE IT FURTHER RESOLVED that the Council of the City of Berkeley supports all efforts throughout the world to hold Donald Rumsfeld and other United States officials who have prosecuted the War on Terror in violation of any applicable law to be held both civilly and criminally accountable for their actions before any tribunal with jurisdiction over the matter, whether such legal proceedings are pursued in this country or abroad."; and

WHEREAS, George W. Bush is one of the "other United States officials who have prosecuted the War on Terror in violation of any applicable law" including the law of murder; and

WHEREAS, to hold George W. Bush "criminally accountable for their actions before any tribunal with jurisdiction over the matter", in this case, includes the County of Alameda in the State of California; and

⁴ Alameda County jurisdiction, see: *Strasheim vs. Daily*, 221 U.S. 280, 285 (1910), *Skiriotes vs. Florida*, 313 U.S. 69, 73, 76 (1941), *State vs. Bundrant*, 546 P. 2d 530, 534-535, 554-556 (1976), *State vs. Jack*, 125 P. 3d 311, 318-322 (2005). California Penal Code §§: 778 and 778a.

WHEREAS, renowned author and former Los Angeles County Deputy District Attorney, Vincent Bugliosi, has made the case to Prosecute former President George W. Bush and his co-conspirators for murder in Alameda County in his 2008 book, The Prosecution of George W. Bush for Murder; and

WHEREAS, that case enables any state Attorney General or any District Attorney in the United States, to prosecute Bush for the murder of any military personnel who lived in their state or county and Vincent Bugliosi stated, “I have set forth in my book the jurisdictional basis for the Attorney General in each of the fifty states – plus the hundreds upon hundreds of district attorneys in counties within the states – to prosecute George Bush for the murders of any soldier or soldiers from their state or county who were killed in Iraq fighting George Bush’s war.”^{5 6}

WHEREAS, Bush and his co-conspirators do not have immunity from prosecution⁷ and there is no statute of limitations for the crime of murder⁸; and

WHEREAS, the City of Berkeley has found that “Peace is inseparable from justice” BMC 3.60.010.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a copy of this resolution and the accompanying letter be sent to Alameda County District Attorney Nancy O’Malley with the intent that it is an affirmation of the support of the City of Berkeley for Alameda County District Attorney Nancy O’Malley to file the case for the Prosecution of George W. Bush and his co-conspirators for the Murder of United States military personnel who were residents of Alameda County when they were murdered in Iraq following the 2003 invasion.

BE IT FURTHER RESOLVED that copies of this resolution and accompanying letter be sent to United States Representative Barbara Lee, Senators Barbara Boxer and Dianne Feinstein, Vincent Bugliosi, and Prosecute Bush Alameda County. A record signature copy of said Resolution to be on file in the office of the City Clerk.

⁵ "Why Vincent Bugliosi Wants to Prosecute George W. Bush for Murder." Counterpunch. N.p., n.d. Web. 29 Jan. 2013. <<http://www.counterpunch.org/2008/05/28/why-vincent-bugliosi-wants-to-prosecute-george-w-bush-for-murder/>>.

⁶ Conspiracy to commit murder and murder, see: California Penal Code §§s: 182, 187, 190, 190.2(3).

⁷ “Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to indictment, Trial, Judgment and Punishment, according to law.” (*U.S. Constitution*. Art. I, Sec. 3, Clause 7), “The President, Vice President and all civil officers of the United States, shall be removed from office on Impeachment for, and conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” (*U.S. Constitution*. Art. II, Section 4)

⁸ “Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without the possibility of parole, or for the embezzlement of public money, may be commenced at any time.” (California Penal Code §: 799)

EXPLANATION OF NOTES

- 6) CPC §§'s 182, 187, 190, 190.2(3): 182 is conspiracy to commit any crime. When a conspirator is convicted of violating section 182, s/he is then automatically guilty of the underlying crime. In this case, it is murder. 187 is murder, the unlawful killing of another human being, with malice aforethought. A killing must be justified or excused, under the law, for it to be lawful. Self-defense is one such excuse. It has been well established that the 2003 invasion of Iraq was not a defensive war because American intelligence had determined that Iraq was not an imminent threat. Sections 190, 190.2(3) discuss sentencing.

- 7) These are cases whereby court rulings established the Effects Doctrine. The Effects doctrine of the territorial jurisdiction of a state is long established. [<http://www.jstor.org/discover/10.2307/2197353>]. On page 310 of Mr. Bugliosi's book, The Prosecution of George W. Bush for Murder, he wrote, "Indeed, the state can extend jurisdiction under the effects doctrine even where the conduct adversely affecting the state takes place within the territorial jurisdiction of another country. See *State v. Jack*, 125 P. 3d 311, 319-322 (2005), where the state was Alaska, and the country Canada. For a discussion of this issue, see Robinson, Paul H., *Criminal Law*, pp. 102—103, Aspen Publishers, New York, 1997)."

City of Berkeley Letterhead

Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, room 900
Oakland, CA 94612

February 4, 2013 [appropriate date to be substituted]

Dear District Attorney O'Malley:

The Berkeley, California City Council formally requests that you prosecute George W. Bush and his co-conspirators for murder for the deaths of Alameda County residents that were killed in Iraq as a result of the 2003 invasion of that country. The facts and resources have been well established.

Our federal government is primarily responsible for prosecuting the defendants for these deaths. However, in 2009, federal officials announced that they would not be prosecuting any member of the Bush administration for any crime. This means that Alameda County now has a responsibility to prosecute Bush, et al. for the deaths of the Alameda County residents that were killed as a result of the criminal conspiracy.

Further, we recommend that you make contact with attorney Vincent Bugliosi, California State Bar No. 35570. He and a team of other experts have researched the crime exhaustively. Mr. Bugliosi is willing to be appointed special prosecutor or volunteer his services as a consultant.

The names of the eleven Alameda County residents that were killed as a result of the criminal conspiracy are available upon request.

Thank you for your attention to this matter.

Sincerely,

Tom Bates, Mayor of Berkeley,
on behalf of the City Council of Berkeley

Background for the Prosecution of Bush in Alameda County

(information obtained from Prosecute Bush Alameda County)

Former Los Angeles County Deputy District Attorney Vincent Bugliosi is best known for the prosecution and conviction of Charles Manson in the early 1970s. He successfully prosecuted 105 out of 106 felony jury trials during his career, all of which resulted in jury verdicts and not plea bargains. He prevailed in 21 out of 21 murder trials that he prosecuted. His contemporaries consider him the most effective prosecutor in American history. He's still an active member of the California State Bar and he wants to be appointed special prosecutor in Alameda County. He is willing to be appointed or to act as a consultant on the case. He has laid out the entire case for this prosecution in his 2008 book, The Prosecution of George W. Bush for Murder.

Before the 2003 invasion of Iraq, the CIA produced a 93-page classified document, the National Intelligence estimate or NIE. The 16 intelligence agencies that created the NIE all agreed that Iraq was not an imminent threat to the United States. The White House and the CIA then created a 25-page declassified document known as the 'white paper.' This is what congress saw and it was supposed to be a summary of the NIE. It wasn't a summary because all dissent and key judgments were removed. The fact that Iraq was not an imminent threat was not included in the white paper. The NIE was de-classified years ago and Vincent Bugliosi compared it against the white paper. Congress and the American people were deceived and therefore congressional consent was invalid.

This is the most important part of the case: The legal justification for invading another country is not determined by the presence or absence of weapons of mass destruction. We know for a fact that countries such as North Korea, China, France and Israel have WMD. We don't invade these countries because American intelligence has determined that they aren't an imminent threat. An imminent threat is the only legal justification for invading another country.

According to the Lancet Survey, about 1 million people have already died as a result of the 2003 invasion of Iraq. The Lancet is one of the oldest medical journals in the world and the study was peer-reviewed. We can only prosecute Bush for the deaths of Alameda County residents that were killed in Iraq. The state has this authority due to the Effects Doctrine: If a crime is committed outside the territorial jurisdiction of the state, but has injurious effects within the state, then the state has the authority to prosecute.

Alameda County District Attorney Nancy O'Malley needs to receive several hundred letters urging her to begin the prosecution of George W. Bush for the murder of Alameda County residents who were killed while they were serving in Iraq. According to Prosecute Bush Alameda County, all of the legal and financial resources have been established. The prosecution will be privately funded and this is legal. The only thing necessary to move the case into court is Nancy O'Malley's signature.

For more information, please contact prosecutebush.org or attend an information meeting. You can find the meeting schedule on the website: prosecutebush.org

Other information:

Hans Blix and 150 United Nations weapons inspectors were in Iraq and had no access problems in the months leading to the March 2003 invasion. They found nothing and reported this to the U.N. Bush forced the inspectors out of Iraq before they could deliver their final report to the U.N. Blix has training in international law and he has declared that the Iraq war was illegal.

The Congressional Budget Office (CBO) has estimated that the cost of the 2003 Iraq invasion will cost America \$1.9 trillion. This is more than double what the corporate media usually reports. The \$1.9 trillion includes long-term health care for returning veterans and interest payments. There is little or no health care for injured and maimed Iraqis.

There is enough evidence to compel Bush and his co-conspirators to defend themselves in court.

Organizing is important. Writing letters to Nancy O'Malley is vital and we would also like to be able to estimate the number of letters that are being sent to her office. Please contact us because we must organize:

web: www.prosecutebush.org
email: prosecutebushac@hotmail.com
voice: 510-509-7573

Contact the district attorney by mail. Tell her that you want her to prosecute George W. Bush for the deaths of Alameda County residents that were killed in Iraq. Be sure to tell her that you're registered to vote.

Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, room 900
Oakland CA 94612

Further information:

http://en.wikipedia.org/wiki/The_Prosecution_of_George_W._Bush_for_Murder

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