

- A publication of Mennonite Central Committee
- September–October 2005
- Volume XXXVII
- No. 5



CIVIL LIBERTIES

Safe Space for Common Ground

Crucial to Democracy

BY DAVID M. WHETTSTONE

It is evident that both populace and governments are gravely concerned about enemies, fear and security.

Civil liberties are crucial to the function of democracies. Equal protection under the law, due process and freedom of expression are just some of the rights most U.S. Americans take for granted. These rights translate into freedom of thought and worship, a sense of having one's own privacy and the privilege to freely associate, travel and to even dissent.

Recently-developed policies for the sake of national security and to help wage a "war on terrorism" have vastly changed the civil liberties that many persons have come to rely on. Residents—citizen and immigrant alike—may suffer a loss of freedoms. Further, this change in policy will affect others around the world.

This issue goes to press shortly after bombings in London and Egypt. Meanwhile, the renewal of the USA PATRIOT Act awaits passage in Congress. Through these events, it is evident that both populace and governments are gravely concerned about enemies, fear and security.

Perhaps there are some lessons that we can learn from the opening of Exodus. The king and his subjects are increasingly alarmed about people in their midst (i.e., the Israelites) who "are more numerous and more powerful than we" (Exodus 1:9b). A similar fear is practiced by our leaders and neighbors as they grapple with the presence of immigrants—folks who contribute heartily to the welfare of all, but whose loyalties are also questioned. Bethany Spicher Schonberg notes that under these circumstances, mistreatment often follows (page 5).

Overcome with fear, both the king and the people in the Exodus account see a world fraught with war and enemies. Threats and violence are constant potentials. The ugly realpolitik of a hostile, chaotic world becomes the life and spirit of an empire. Nations can positively influence other nations, as Lora Steiner's article points out (page 3).

Finally, policy changes make their way into the lives of everyday people. In ancient Egypt, Hebrew midwives are asked to work against the welfare of their people. They are asked to cooperate with authority and kill for the sake of country and status quo.

Daryl Byler reflects on the importance of the church's public witness in calling the state to uphold civil liberties equally for all people (page 2). Our guest writers, at the end of this issue, also focus on the respective roles of church and state (pages 6 and 7).

To combat terrorism, authorities today are "asking" the people for more power and more "tools." (See David Whettstone's article on civil liberties on page 4.) This appeal is sometimes rooted in creating a sense of fear—seeing others as different and as deserving recipients of the use of power and violence.

What is our response? With changes in civil liberties policies, how are we to listen to God and engage government with the goal that all are to live in peace? We fear God like the Hebrew midwives. May this proper fear grant us guidance. ■

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BY J. DARYL BYLER

Amidst growing fears of suicide bombings and other acts of violence, people of faith do well to reaffirm that God is the source of our security.

With Liberties and Justice for All?

Travelers flying out of Ronald Reagan National Airport after Sept. 11 faced a new constraint: No one was allowed to stand up for the first 30 minutes of the flight. If they did, pilots were instructed to land the plane at the nearest airport.

Because the Pentagon, Capitol and White House are so close to National Airport, officials feared that passengers might try to hijack a plane during takeoff and turn it into a missile.

Thankfully, this restriction—mild compared with other security changes since Sept. 11—was lifted in the summer of 2005.

The tension between national security and civil liberties is as old as the Bible. When the Israelites wanted a king to lead them, Samuel warned that a king would strip away their freedoms (1 Samuel 8). A king will conscript your sons and daughters into military and civilian service (vv. 12–13), cautioned the aged prophet, and will take and tax your property and make you his slaves (vv. 14–17).

Still, the Israelites were willing to sacrifice personal freedoms in order to have a king who would “govern us and go out before us and fight our battles” (v. 20).

The appeal to national security is the basis for restricting certain civil and religious liberties today as well.

The USA PATRIOT Act—which allows the government to collect personal information about what you read and buy, seize business and financial records, search your home without telling you, and track your email—is deemed necessary in order to prevent acts of terrorism.

Abusing detainees in prisons at Guantanamo Bay (Cuba) and Abu Ghraib (Iraq) is “justified” because harsh treatment might convince detainees to cough up valuable intelligence that will snare additional suspects.

In seeking a king to protect them, the Israelites were motivated by a desire to be like the other nations (vv. 5, 20). In so doing, they rejected God as the One who would provide for and protect them.

Today, amidst growing fears of suicide bombings and other acts of violence, people of faith do well to reaffirm that God is the source of our security. The *Confession of Faith in a Mennonite Perspective* (1995) declares that we “trust in the power of God’s love for our defense” and that the church “needs no violence for its protection” (Article 23).

The church—God’s “holy nation” (1 Peter 2:9)—should not operate “like the other nations.” Jesus exhorted his follower not to be like the “kings of the Gentiles” who lord it over the people but rather to be “like the one who serves” (Luke 22:25).

Still, we can affirm a positive role for government in preserving order by rewarding good behavior and punishing wrongdoers (Romans 13:1–4; 1 Peter 2:14). But when do governing authorities cross the line in restricting human freedoms?

Any government restraints on civil liberties should clearly be seen as increasing the well-being of the whole community. They should not depend on using lethal or abusive force. And they must be applied equally—not targeted at specific racial, ethnic, national or religious groups. ■

WASHINGTON MEMO is written by Mennonite Central Committee U.S. Washington Office staff. It interprets national legislation and policy, seeking to reflect biblical concerns for justice and peace as represented in the work and statements of MCC U.S. and Mennonite and Brethren in Christ churches. All biblical quotes are from the New Revised Standard Version, unless otherwise noted.

Staff: J. Daryl Byler (Director), Bethany Spicher Schonberg, Lora Steiner (Managing Editor), David Whettstone.

To contact the MCC U.S. Washington Office, please see our address on the back page. See our weekly commentary at www.thirdway.com and visit our web site at www.mcc.org/us/washington.

Washington Memo (USPS 130-310) is published bi-monthly by Mennonite Central Committee, Akron, PA. Periodical postage paid at Akron, PA. This issue went to press August 16, 2005.

HOW TO SUBSCRIBE: Washington Memo subscription rates are \$10 for one year; \$18 for two years. Send request and check to MCC, PO Box 500, Akron, PA 17501-0500. For address changes, send your old address with your new address to MCC. Allow 2–4 weeks for address change. POSTMASTER: Send address changes to MCC, PO Box 500, Akron, PA 17501.

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Rights Around the World

A few years ago, I marked my birthday by asking everyone I worked with if they knew what their rights were. This may seem a bit odd, but it was, in fact, appropriate: I share my birthday (December 10) with International Human Rights Day.

Many of my co-workers seemed baffled by my question. And even I'll admit that the right to marry whom one chooses (Article 16 of the Universal Declaration of Human Rights), the right to freedom of expression and opinion (Article 19) and the right to a free, basic education (Article 26) are things I've always taken for granted.

In many countries, though, things like the right to freedom of peaceful association, to not be subjected to torture, to not be arbitrarily detained and to have a fair and public trial, are not taken for granted.

The United States says it holds these things dear and that matters to many people around the world. Nepal, for example, gets about one-third of its military aid from the United States. It's a small amount for the United States, but when Congress passed legislation last year which required the Royal Nepalese Army, rife with human rights abuses, to "clean up its act" if it wanted to continue receiving aid, it made front-page news in Nepal.

The United States should care about human rights and work hard to apply this standard equally to all countries. Working toward greater consistency is important if the United States wants to lead by example.

Recently, the Senate voted to maintain most restrictions on military aid to Indonesia because of its human rights record. The Department of State, which is required to certify the Colombian military's human rights record before millions of dollars of aid can be released to Colombia, delayed this process for months, due to massacres earlier this year.

Many in Congress are deeply concerned about human rights abuses in places like Vietnam, North Korea and Burma, and the champions of these issues are often evangelical Christians, perhaps inspired partly by the words of James, who reminds his readers to care for others:

"What good is it, my brothers and sisters, if you say you have faith but do not have works? . . . So faith by itself, if it has no works, is dead" (2:14-17). ■

BY LORA STEINER

In many countries, the rights to freedom of peaceful association, to not be subjected to torture, or to not be arbitrarily detained, are things not taken for granted.

CAPITAL QUOTES

"If you call it war, then you think of people in uniform as being the solution."

—General Richard B. Myers, Chairman of the Joint Chiefs of Staff, objecting to use of the phrase "war on terrorism"

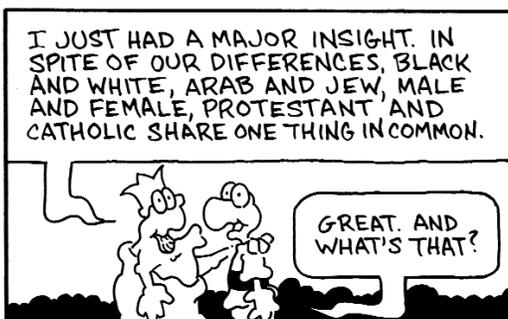
"For half of the world's population the brutal reality is this: you'd be better off as a cow. The average European cow receives \$2.20 a day from the taxpayer in subsidies and other aid. Meanwhile, 2.8 billion people in developing countries around the world live on less than \$2 a day."

—Charlotte Denny, Economic Correspondent for *The Guardian*

"If they think they've got Social Security problems in 2041, wait until they see what this one looks like."

—Marine physicist Tim Barnett, on global warming

Pontius' Puddle



Civil Liberties: Essential Freedoms?

BY DAVID M. WHETTSTONE

First of all, then, I urge that supplications, prayers, intercessions, and thanksgivings be made for everyone, for kings and all who are in high positions, so that we may lead a quiet and peaceable life in all godliness and dignity (1 Timothy 2:1–2).

Throughout their history, Anabaptists have particularly recognized that their lives and the welfare of others are gravely affected by the powers exercised by those in authority.

Throughout their history, Anabaptists have particularly recognized that their lives and the welfare of others are gravely affected by the powers exercised by those in authority—the state. Since September 11th, many changes have occurred in the area of civil liberties policy in the United States. Within a month of that disastrous event, Congress passed the USA PATRIOT Act.

Daily freedoms and privileges (equal protection under the law; due process; the right to travel freely, live life minimally encumbered by government, publicly dissent, etc.) can no longer be taken for granted. All of these rights have been affected by this law and other policy actions of this administration.

Secret searches of homes, unreported inquiries into what one reads and other personal records, “easy” designation of persons and groups as alleged terrorists, and indefinite detentions without due process are now established law enforcement means with little or no judicial supervision.

Elected and administration officials responsible for national security make strong claims that these are the tools necessary to fight “the war on terrorism,” more recently called “a global struggle against violent extremists.”

All but two of the PATRIOT Act’s 16 expiring provisions could be made permanent before the end of September. In July, the

U.S. House of Representatives voted, 257–171, toward that end. Presently, the members of the Senate would like a four-year sunset (as opposed to the House’s suggestion of 10 years) on the two additional provisions which allow the government the power to demand business, library, medical and other records and to conduct roving wiretaps. A joint conference committee will formulate the final reauthorizing version of the bill for the president to sign into law.

Nationwide, 385 counties and municipalities and 7 states have passed resolutions against the PATRIOT Act and/or upholding general civil liberties; 279 similar efforts are underway. Common concerns include:

- detentions of immigrants without charges—sometimes in secret and correlated with physical abuses by prison guards, denial of access to court proceedings for their family members, and arbitrary detentions and deportations for minor infractions;
- broad arrests or charges of people with Middle Eastern or Islamic background with no conclusive terrorist connections;
- jailing of American citizens as “enemy combatants” without access to lawyers or the courts;
- rendition (i.e., sending) of terror suspects to places where torture is used for interrogation;
- library record searches—over 200 cases verified by the American Library Association;
- tens of thousands of pages of FBI records which may indicate spying on as many as 150 civil rights, peace, and antiwar groups since 2001.

Concerns about civil liberties are deep and far-reaching. It would be a mistake to think that all alleged civil liberties abuses flow from the PATRIOT Act. There is a need to encourage Congress and the public to engage a broad range of civil liberties issues. Everyone deserves a life of quietness and dignity, both within peace and security. ■

NEW RESOURCES

On our web site, we include two new links in our civil rights/civil liberties section:

Writings on Christian Nonresistance and Pacifism from Anabaptist-Mennonite Sources

<http://www.bluffton.edu/~MastG/pacifism.htm#sermons>

Menno Simons' Reply to False Accusations (1552)

<http://tiger.arbor.edu/~cwhite/menno.pdf>

Rights for Some, Not for Others

The subcontracted workers at an air force base in North Carolina thought they were attending a mandatory safety training with the Occupational Safety and Health Administration (OSHA) this July. But after the coffee and donuts were served, immigration agents swarmed the room and arrested forty-eight undocumented employees.

Defended by the Department of Homeland Security as part of an effort to crack down on undocumented immigrants at “sensitive facilities,” the operation undermined future safety education for undocumented immigrants everywhere. And the incident is only one in a disturbing list of recent civil liberties violations against immigrants in the name of national security.

In May, masked and armed immigration agents broke into Hassan Khalil’s Virginia home at night and took him away in handcuffs. He was charged with immigration fraud, but questioned about his ties to terrorists. A judge freed him after finding no connection.

Similarly, last October, a Bangladeshi woman from New York City visited the Department of Motor Vehicles (DMV) to inquire about her drivers license. Three days later, immigration agents pounded on her door, DMV documents in hand and arrested the mother of two young sons. Eventually, she was deported for overstaying her visa.

In April, a group of armed men from across the country gathered on the border to—in their words—stem the “invasion of mobs of illegal aliens.” The Border Patrol initially criticized the Minuteman Project, as it was called. But now the top border enforcement official has publicly expressed interest in recruiting civilians to help apprehend migrants, in what he calls “something akin to a Border Patrol auxiliary.”

Between March and August 2004, more than 11,000 people were interrogated by the Border Patrol in Southern California—on public transportation, outside public schools, near supermarkets and on the streets. Over 99 percent of those stopped were of Latino background.

Since Sept. 11, 2001, the targets of roundups, raids, arrests and detentions have increasingly been arrested in the name of the “war on terror,” but charged with immigration violations.

For the U.S. government, immigration law is a useful ruse, because non-citizens have no right to an attorney and may be detained even after a judge has freed them on bond. For enforcement officers, immigrants’ threat to “national security” excuses racial profiling; for civilian groups, it justifies vigilante activity.

Orlando Redekopp, a Christian Peacemaker Team (CPT) delegation member, reflected on his trip to the U.S./Mexico border. “The Border Patrol has referred to migrant deaths as ‘collateral damage,’” Redekopp wrote. “Maybe Herod and Pilate told Rome that Jesus’ execution was collateral damage—necessary to maintain the empire.”

As U.S. Christians, we are citizens of a kingdom based on loving neighbors and welcoming strangers, as well as residents in an empire that sees migrant deaths and civil liberty violations as necessary tradeoffs for security.

We can be “ambassadors of reconciliation” (2 Corinthians 5:18–20) from the kingdom to the empire by advocating for just trade laws that allow migrants to stay home if they choose, and by seeking sustainable immigration reform that protects non-citizens already among us.

The Secure America and Orderly Immigration Act (S. 1033, H.R. 2330), bipartisan legislation introduced this spring, is a good start. The bill would protect laborers, reunify families, legalize undocumented immigrants and provide visas for future workers. ■

Visit www.cirnow.org (“CIR” is comprehensive immigration reform) or www.nomoredeaths.org for more information.

BY BETHANY SPICHER
SCHONBERG

As U.S. Christians, we are citizens of a kingdom based on loving neighbors and welcoming strangers, as well as residents in an empire that sees migrant deaths and civil liberty violations as necessary tradeoffs for security.

Civil Liberties: Two Perspectives

Changes in civil liberties policies since Sept. 11 may be an occasion that reopens church-state issues for some Anabaptists. The *Washington Memo* asked Malinda E. Berry and David L. Miller to share their views on this issue.

Separation of church and state means that we Christians do not want the state involved in what is outside of the realm of their God-given assignment. Let us be careful not to exceed the boundaries of our God-given roles.

—DAVID L. MILLER

Washington Memo: *How should Mennonites regard civil liberties and personal freedoms? What is the role of government in preserving those liberties or freedoms? Do you think there are any circumstances in which government should limit those freedoms?*

David: To me, religious freedom is an inherent and primary ingredient in the consideration of civil liberties and personal freedoms. Both history and current events in many places teach us that such liberties should not be taken for granted. Mennonites, I believe, should cultivate an attitude of gratitude toward government for these precious freedoms.

Government clearly plays a key role in providing and protecting such liberties. The unbridled exercise of personal freedom would result in social chaos. There are obvious reasons why personal liberty needs to be subject to the rules of the road. Personal freedom should never endanger corporate safety and social well-being.

For any government to forbid freedom of religion is another matter. Valid religion does not violate the freedom of others.

Malinda: I must start with a confession: I don't think about civil liberties very much; I take them for granted to the point that they've become almost invisible. Yet, they are so essential that many people, like me, who cannot conceive of life in the United States without these liberties. Describing my life without "freedom" is like trying to make shoofly pie without molasses.

In New York City, we subway commuters must be ready to have our bags and packages searched in case anyone has decided to try to blow up an explosive device inside the transportation system. I am not happy about cops being able to go through my stuff—my stuff is my private property. I am very "American" in this way. I am not happy about some people wanting blow other people up—violence is contrary to God's will. I am very "Mennonite" in this way. I am not happy about a government that claims to protect me not trying harder

to make peace not war. Using political and military might does not build lasting security. I am very "American Mennonite" in this way.

WM: *What biblical texts or themes undergird your view of government's appropriate role in preserving order while respecting civil liberties?*

Malinda: My views about civil liberties vis-à-vis my commitment to biblical Christianity are filtered through reading the stories of the Hebrew Scriptures in a way that puts God's injunction to the exiled Hebrews up front: "'Thus says YHWH Omnipotent, the God of Israel, to all the exiles I deported from Jerusalem to Babylon: . . . Multiply while you are there. Do not decrease. Rather seek the [welfare,] peace and prosperity of the city to which I exiled you. Pray to YHWH for it, for if it prospers, you will prosper'" (Jeremiah 29:4, 6b–7, *The Inclusive Hebrew Scriptures*).

I also believe that throughout the Old Testament God is concerned about what happens when people rely on armaments to build a sense of common identity, destiny, and security . . . For example, a 21st-century-"upside-down" reading of the parting of the Sea of Reeds in Exodus demonstrates that God does not necessarily favor the Hebrews over the Egyptians. Rather, the demise of Pharaoh's army is connected to his belief that military might could and would allow him to prevail over the "non-violent" flight of runaway slaves (Exodus 13:17–14:31). Indeed, the Scriptures declare, "Thus Our God saved Israel on that day from the power of Egypt" (Exodus 14:30a, *The Inclusive Hebrew Scriptures*).

David: In Acts 22 to 26, the Apostle Paul was arrested and repeatedly accused unjustly. His response to his accusers does not mention injustice. Neither does he mention the unwelcome Roman occupation. He emphasizes his life-changing encounter with Christ on the Damascus Road. He expresses his fervent desire that all would know the Lord. He also calls attention to his Roman citizenship and the fact that those rights had been violated.

Jesus teaches us to recognize God and Caesar and to give both their just dues (Matthew 22:21). He also tells us that His kingdom is not of this world and that His servants don't fight (John 18:36). The Scriptures also teach us to pray for those in authority that we may live "quiet and peaceable lives in all godliness and honesty" (1 Timothy 2:2, KJV).

WM: *Should Mennonites uphold the state's responsibility to protect and provide security for all? Or should Mennonites speak prophetically about abuses of governmental power/authority? Can they do both?*

David: The institution of civil government is God-ordained to keep order in unruly society. Civil government is referred to as "A revenger to execute wrath on him that doeth evil" in Romans 13:4b, and 1 Peter 2:14 says that God sends civil authorities "for the punishment of evildoers . . ." (KJV). These two Scriptures make it clear that the two kingdoms operate by different rules. A violent criminal cannot reasonably expect to be treated with Christian non-resistance.

Terrorists have created a situation in which the divine charge to keep order has been greatly complicated: "How should we respond?" "Should we speak prophetically to our government about this?" Let us remember that the spirit of Christ includes a willingness to suffer unjustly.

It seems to me that whenever it is necessary to approach our government, we should do so in the spirit of respectful entreaty. Since there have been and, no doubt will continue to be, issues of conscience, I would have serious reservations about approaching the government about lesser issues. Separation of church and state means that we Christians do not want the state involved in what is outside of the realm of their God-given assignment. Let us be careful not to exceed the boundaries of our God-given roles.

Malinda: While we all have "equal protection under the law," the law does not treat people the same. This reality is in tension with biblical promises and expectations: sin is sin and grace and forgiveness are grace and forgiveness.

My early church history professor often points out that in the Constantinian era, emperors frequently waited until they were on their death beds before they received baptism because they could not run their empire based on the principles of forgiveness. They took seriously the fact that to be Christian meant to affirm the fundamental call to love one's neighbor.

Clearly, this is a prominent theme in the ministry of Jesus. A contemporary rendering of the story of the woman caught in adultery (John 8:3-11) by Joel Kauffmann offers a redemptive vision for government's relationship with its citizens: "Jesus was once asked for his support of the death penalty. His reply: Let one who is without sin cast the first stone." I believe this is a "message of possibility" that we should share with our systems of government.

WM: *What ambiguities do you have about your viewpoint(s)?*

Malinda: None of this feels very conclusive to me; all I see are moral ambiguities. The way we human beings organize ourselves into "nations" and "civilizations" is a very complex process and I don't think we're very good at it. This hubris shows up in ways that can be absolutely cruel and destructively self-interested in the face of . . . wisdom-infused alternative ways of being in the world.

In the end, I believe that is the role of the Christian in U.S. society is to see the ambiguities while holding tenaciously to Jesus' demand, plea, and invitation to let go of our swords, stones, and the attitude that our varied Christian identities supersede or otherwise exclude seeking the welfare of our nation and its citizenry.

David: I am thankful for our rulers, though often disappointed in some of the things they do. They are human and therefore fallible. As a citizen of Christ's kingdom, I cannot offer unqualified loyalty to any earthly regime. I am still on the journey. I have not arrived. I want to be open and teachable. I do not want this openness to compromise the teachings of Jesus. ■

Malinda E. Berry studies theology at Union Theological Seminary (New York). She is a member of Manhattan Mennonite Fellowship.

David L. Miller has been an ordained minister for 50 years serving at Center (Beachy) Amish Mennonite Church, in Partridge, Kansas, since its founding in 1958. He also performed alternative service at the end of World War II through the Civilian Public Service.

In the Constantinian era, emperors frequently waited until they were on their death beds before they received baptism . . . They took seriously the fact that to be Christian meant to affirm the fundamental call to love one's neighbor.

—MALINDA E. BERRY



21 South 12th Street
PO Box 500
Akron, PA 17501-0500

ADDRESS SERVICE REQUESTED

CALENDAR OF EVENTS

October 21–23, 2005

Partnering for Peace: Colombian and North American Communities in Solidarity is a conference which will explore how to build and strengthen sister relationships. For more information, go to www.chicagoans.net/conference2005/ or contact the MCC Washington Office

October 21–23, 2005

Amnesty International USA's annual National Weekend of Faith in Action on the Death Penalty (NWFA), an observance to reflect, discuss, and take action on abolishing the death penalty. NWFA produces an excellent resource book, useful at any point of the year. For more information: AIUSA—Abolish the Death Penalty, 600 Pennsylvania Avenue, SE, 5th Floor, Washington, DC 20003; (202) 544-0200 x496; E-mail: khoule@aiusa.org; Web site: www.amnestyusa.org/faithinaction/

October 27–30, 2005

The annual conference of the National Coalition to Abolish the Death Penalty (NCADP) will be held this fall in Austin, Texas. For more information contact the NCADP at 920 Pennsylvania Avenue, SE, Washington, DC 20003; Phone: (202) 543-9577; E-mail: info@ncadp.org; Web site: www.ncadp.org.

March 5–7, 2006

Every year, around cherry-blossom time in the capital, the Washington Office hosts its annual spring seminar. Our theme this year will focus on globalization, food and farming issues. The event will include a biblically-based reflection from an Anabaptist speaker, workshops led by MCC Washington Office staff, a presentation from a member of Congress, time for participant sharing and visiting congressional offices. Contact the Washington Office for more information or watch our web site for updates.

USEFUL ADDRESSES



MCC U.S. Washington Office
110 Maryland Ave NE
Suite 502
Washington DC 20002
(202) 544-6564
mccwash@mcc.org

Senator _____
U.S. Senate
Washington DC 20510
(202) 224-3121
www.senate.gov

Representative _____
U.S. House of Representatives
Washington DC 20515
(202) 224-3121
www.house.gov

President George W. Bush
The White House
Washington DC 20500
(202) 456-1111
president@whitehouse.gov