AMERICAN BAR ASSOCIATION

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
TASK FORCE ON TREATMENT OF ENEMY COMBATANTS
CRIMINAL JUSTICE SECTION
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
SECTION OF INTERNATIONAL LAW AND PRACTICE
SECTION OF LITIGATION
CENTER FOR HUMAN RIGHTS
BEVERLY HILLS BAR ASSOCIATION
BAR ASSOCIATION OF SAN FRANCISCO
NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE
SECTION OF BUSINESS LAW
NEW YORK STATE BAR ASSOCIATION
VIRGIN ISLANDS BAR ASSOCIATION
NEW YORK COUNTY LAWYERS’ ASSOCIATION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED, That the American Bar Association condemns any use of torture or other cruel, inhuman or degrading treatment or punishment upon persons within the custody or under the physical control of the United States government (including its contractors) and any endorsement or authorization of such measures by government lawyers, officials and agents;

FURTHER RESOLVED, That the American Bar Association urges the United States government to comply fully with the Constitution and laws of the United States and treaties to which the United States is a party, including the Geneva Conventions of August 12, 1949, the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and related customary international law, including Article 75 of the 1977 Protocol I to the Geneva Conventions, to take all measures necessary to ensure that no person within the custody or under the physical control of the United States government is subjected to torture or other cruel, inhuman or degrading treatment or punishment;
FURTHER RESOLVED, That the American Bar Association urges the United States government to: (a) comply fully with the four Geneva Conventions of August 12, 1949, including timely compliance with all provisions that require access to protected persons by the International Committee of the Red Cross; (b) observe the minimum protections of their common Article 3 and related customary international law; and (c) enforce such compliance through all applicable laws, including the War Crimes Act and the Uniform Code of Military Justice;

FURTHER RESOLVED, That the American Bar Association urges the United States government to take all measures necessary to ensure that all foreign persons captured, detained, interned or otherwise held within the custody or under the physical control of the United States are treated in accordance with standards that the United States would consider lawful if employed with respect to an American captured by a foreign power;

FURTHER RESOLVED, That the American Bar Association urges the United States government to take all measures necessary to ensure that no person within the custody or under the physical control of the United States is turned over to another government when the United States has substantial grounds to believe that such person will be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment;

FURTHER RESOLVED, That the American Bar Association urges that 18 U.S.C. §§2340(1) and 2340A be amended to encompass torture wherever committed, and regardless of the underlying motive or purpose;

FURTHER RESOLVED, That the American Bar Association urges the United States government to pursue vigorously (1) the investigation of violations of law, including the War Crimes Act and the Uniform Code of Military Justice, with respect to the mistreatment or rendition of persons within the custody or under the physical control of the United States government, and (2) appropriate proceedings against persons who may have committed, assisted, authorized, condoned, had command responsibility for, or otherwise participated in such violations;

FURTHER RESOLVED, That the American Bar Association urges the President and Congress, in addition to pending congressional investigations, to establish an independent, bipartisan commission with subpoena power to prepare a full account of detention and interrogation practices carried out by the United States, to make public findings, and to provide recommendations designed to ensure that such practices adhere faithfully to the Constitution and laws of the United States and treaties to which the United States is a party, including the Geneva Conventions, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and related customary international law, including Article 75 of the 1977 Protocol I to the Geneva Conventions;
FURTHER RESOLVED, That the American Bar Association urges the United States government to comply fully and in a timely manner with its reporting obligations as a State Party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

FURTHER RESOLVED, That the American Bar Association urges that, in establishing and executing national policy regarding the treatment of persons within the custody or under the physical control of the United States government, Congress and the Executive Branch should consider how United States practices may affect (a) the treatment of United States persons who may be captured and detained by other nations and (b) the credibility of objections by the United States to the use of torture or other cruel, inhuman or degrading treatment or punishment against United States persons.