

1 [Resolution Against Torture]

2
3 **Resolution urging the United States Government to comply with international law**
4 **regarding the use of torture.**

5
6 WHEREAS, San Francisco is proud to have been the birthplace of the United Nations;
7 and,

8 WHEREAS, San Francisco remains dedicated to the principles articulated in that
9 Charter, including the pledge to reaffirm faith in fundamental human rights, in the dignity and
10 worth of the human person and to establish conditions under which justice and respect for the
11 obligations of international law can be maintained; and,

12 WHEREAS, Members of the United States armed forces and their affiliates have used
13 torture, as documented in two reports, by an Army panel chaired by Major Gen. George Fay
14 and by a commission headed by former Defense Secretary James Schlesinger; and

15 WHEREAS, The torture has been conducted on a widespread scale, suggesting a
16 serious failure of governmental policy, if not actual official acceptance; and,

17 WHEREAS, Official government statements have authorized or permitted the use of
18 interrogation techniques that clearly violate the common sense meaning of the word "torture,"
19 as well as its interpretations given by the courts of the United States and by international
20 tribunals; and,

21 WHEREAS, The threat or use of torture is universally condemned under international
22 law, including the Four Geneva Conventions, the International Covenant on Civil and Political
23 Rights and the United Nations Convention Against Torture, and admits of no exceptions or
24 derogations; and

1 WHEREAS, The threat or use of torture places the United States government in
2 violation of these international treaties to which it is a party; and,

3 WHEREAS, The use of torture violates the US Constitution in (a) the Fourth
4 Amendment's right to be free of unreasonable search or seizure (which encompasses the
5 right not be abused by the police), (b) the Fifth Amendment's right against self-incrimination
6 (which encompasses the right to remain silent during interrogations), (c) the Fifth and the
7 Fourteenth Amendments' guarantees of due process (ensuring fundamental fairness in
8 criminal justice system) and (d) the Eighth Amendment right to be free of cruel or unusual
9 punishment; and,

10 WHEREAS, The use of torture violates our commitment to the rule of law as a protector
11 of the integrity and dignity of the human person; and,

12 WHEREAS, The secrecy which attends the use of torture violates our commitment to
13 open government and the dissemination of true and accurate information of our government's
14 actions; and,

15 WHEREAS, The use of torture by the United States armed forces or its affiliates
16 undermines the moral authority of United States' endeavors to improve international human
17 rights and the human conditions at home and abroad; and,

18 WHEREAS, The use of torture increases the likelihood that members of the United
19 States armed forces will be subjected to torture in the future; and,

20 WHEREAS, The use of torture by the United States armed forces sets a bad example
21 for domestic security policies and increases the likelihood that torture could be condoned
22 domestically within States and Municipalities, like the City and County of San Francisco; now,
23 therefore be it

1 RESOLVED, That the Board of Supervisors hereby urges the United States
2 government to renounce forevermore the covert or public use or threat of torture, for any
3 purpose whatsoever; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors hereby condemns the use or
5 threat of torture by the United States government as a barbarous violation of human rights,
6 intellectual freedom, and the rule of law; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors urges the United States
8 government to (a) comply fully with the four Geneva Conventions of August 12, 1949,
9 including timely compliance with all provisions that require access to protected persons by the
10 International Committee of the Red Cross; (b) observe the minimum protections of their
11 common Article 3 and related customary international law; and (c) enforce such compliance
12 through all applicable laws, including the War Crimes Act and the Uniform Code of Military
13 Justice; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors urges the United States
15 government to take all measures necessary to ensure that all foreign persons captured,
16 detained, interned or otherwise held within the custody or under the physical control of the
17 United States are treated in accordance with standards that the United States would consider
18 lawful if employed with respect to a captive American; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors urges the United States
20 government to take all measures necessary to ensure that no person within the custody or
21 under the physical control of the United States is turned over to another government when the
22 United States has substantial grounds to believe that such person will be in danger of being
23 subjected to torture or other cruel or inhuman or degrading treatment or punishment; and, be
24 it

25
SUPERVISOR CHRIS DALY
BOARD OF SUPERVISORS

1 FURTHER RESOLVED, That the Board of Supervisors urges the President and
2 Congress to establish an independent, bipartisan commission with subpoena power to
3 prepare a full account of detention and interrogation practices carried out by the United
4 States, to make public findings, and to provide recommendations designed to ensure that
5 such practices adhere faithfully to the Constitution and laws of the United States and treaties
6 to which the United States is a signatory, including the Geneva Conventions, the International
7 Covenant on Civil and Political Rights, the Convention Against Torture, and other Cruel,
8 Inhuman or Degrading Treatment or Punishment, and related customary international law,
9 including Article 75 of the 1977 Protocol 1 to the Geneva Conventions; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors urges the United States
11 government to comply fully and in a timely manner with its reporting obligations as a State
12 Party to the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or
13 Punishment; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors urges that, in establishing and
15 executing national policy regarding the treatment of persons within the custody or under the
16 physical control of the United States government, Congress and the Executive Branch should
17 consider how the United States practices may affect (a) the treatment of United States
18 persons who may be captured and detained by other nations and (b) the credibility of
19 objections by the United States to the use of torture or other cruel, inhuman or degrading
20 treating or punishment against United States persons; therefore, be it

21 RESOLVED, That Board of Supervisors requests the Clerk of the Board send a copy of
22 this resolution to President George Bush, Secretary of Defense Donald Rumsfeld, Secretary
23 of State Condoleezza Rice, Attorney General Alberto Gonzales, Senator Dianne Feinstein,
24 Senator Boxer, Congresswoman Nancy Pelosi and Congressman Tom Lantos.

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SUPERVISOR CHRIS DALY
BOARD OF SUPERVISORS



City and County of San Francisco

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San Francisco, CA 94102-4689

Tails
Resolution

File Number: 050259

Date Passed:

Resolution urging the United States Government to comply with international law regarding the use of torture.

February 22, 2005 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 050259

I hereby certify that the foregoing Resolution was ADOPTED on February 22, 2005 by the Board of Supervisors of the City and County of San Francisco.

[Signature]
Gloria L. Young
Clerk of the Board

Date Approved

Mayor Gavin Newsom

Date: March 4, 2005

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

[Signature]
Clerk of the Board

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