

**DRAFT STATUTE:  
CRIMINALIZING ACTS OF TORTURE COMMITTED BY LAW ENFORCEMENT OFFICERS  
IN THE UNITED STATES**

**1. Definitions:**

- (1) “Torture” means any act committed by any local, state or federal law enforcement officer or agent or any other person acting under color of law by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.
- (2) Severe mental pain or suffering is caused by or results from
  - (A) the intentional infliction or threatened infliction of severe physical pain or suffering;
  - (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
  - (C) the threat of imminent death; or
  - (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.
- (3) “Discriminatory animus” shall include, but is not limited to, animus premised on, or motivated by, race, gender, gender identity, sexual orientation, political affiliation, or class.

**2. Offense:**

Any local, state or federal law enforcement officer or agent or any other person acting under color of law who commits or attempts to commit torture under this title shall be imprisoned for not more than 30 years; if, however said torture is committed with racial or

other discriminatory animus, said offender shall be imprisoned for not more than 45 years; if death results to any person from conduct prohibited by this subsection, said offender shall be imprisoned for any term of years or for life.

### **3. Conspiracy:**

A person who conspires to commit an offense under this section shall be subject to the same penalties as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

### **4. Statute of limitations:**

Given the egregious nature of the offense of torture by law enforcement officers, this offense shall have no statute of limitations.

### **ALTERNATIVE:**

The statute of limitations for this offense shall be 10 years; given, however, that said statute shall be tolled if:

(A) the alleged offender, either under oath or in an official report, denies that said torture occurred. In such circumstances, the statute shall be tolled for the time period from the date the torture occurred until the date said denial is made. If multiple denials are made, said tolling period shall extend until the date of the last such denial; or

(B) if the alleged victim of torture is charged with a criminal offense, prosecuted, convicted, and imprisoned in significant part as a result of a tortured confession, the statute shall be tolled for the time period from the date of charging until the date the prosecution is terminated or the term of imprisonment is complete, whichever is greater.

In circumstances where both (A) and (B) apply, the greater of the two tolling periods shall be utilized.

### **5. Exclusive remedy:**

Nothing in this chapter shall be construed as precluding the application of state or local laws on the same subject.

**[drafted by the People's Law Office, for more information contact JoeyMogul@aol.com]**