



## Model Resolution for Local Governments

*Resolution seeking executive accountability for torture, human experimentation, and other potential war crimes or human rights abuses by current or former federal officials*

This model resolution offers local legislative bodies an opportunity to promote the rule of law by seeking executive accountability for torture, human experimentation, and other potential war crimes or human rights abuses committed by current or former federal officials.

The resolution calls for federal measures to ensure accountability, including a robust investigation of all officials complicit in torture—including policymakers responsible for approving interrogation and detention policies—and an independent commission to ensure transparency.

This document also includes optional provisions through which local accountability movements and elected officeholders can support the jurisdiction of state courts to adjudicate potential prosecution under well-settled international principles of universal jurisdiction. BORDC has further legal research materials supporting these provisions available upon request.

Each of these sections can be removed, supplemented, or modified to suit the needs of any particular jurisdiction. If you develop a modified version of this legislation, please [share it with BORDC](#).

***Resolution seeking executive accountability for torture and other potential war crimes or human rights abuses by federal officials***

Whereas the international Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was ratified by the United States, of which this jurisdiction is a part, on October 21, 1994;

Whereas Article 2 of the CAT unambiguously prohibits torture and other degrading treatment, expressly holding that “[n]o exceptional circumstances whatsoever, whether a state of war...or any other public emergency, may be invoked as a justification of torture”;

Whereas Articles 4-7 of the CAT require competent officials to investigate instances of alleged torture and human rights abuse wherever they occur, without the discretion normally enjoyed by prosecutors;

Whereas torture policies promulgated in secret by government officials are even more odious than specific instances of torture by threatening not only human rights, but also the rule of law;

Whereas federal authorities have undertaken no investigation of potential crimes committed by former senior officials who authorized policies that enabled torture and degrading treatment, whether in the guise of enhanced interrogation, prisoner management, or training foreign militaries;

Whereas the Obama administration has supported executive secrecy over evidence of torture, with the support of Congress and the U.S. Supreme Court;

Whereas our nation’s greatest strength has historically resided in its commitment to principles including limits on executive power, respect for individual rights, due process and equality before the law;

Whereas the criminal justice systems of this jurisdiction, and our nation, lose their legitimacy when enforcing laws only against our society’s most vulnerable individuals, or when former officials are allowed to violate statutory, constitutional, and international laws with impunity;

Whereas an underinclusive investigation limited to junior level scapegoats undermines national security, by sapping the morale of intelligence agents, and eroding America’s international legitimacy as a defender of democratic principles;

Whereas our nation’s historical legacy includes the establishment of international institutions to protect universal human rights against abuses by state actors who disregard them;

Whereas torturers in other countries could cite under-inclusive investigation of potential war crimes committed by U.S. authorities as a precedent in the future to justify their own attempts to evade justice for potential human rights abuses; and

Whereas the people of this jurisdiction share an interest in protecting and defending human rights, from whatever actors or institutions that threaten them,

BE IT RESOLVED:

[The City of \_\_\_\_] urges the United States federal government, its various branches, representatives and employees, to seek transparency into potential war crimes and human rights abuses, such as torture, human experimentation, or other cruel, degrading or inhumane treatment by former federal officials throughout the chain of civilian and military command, as well as private contractors. These efforts should include a thorough investigation of all individuals allegedly complicit in torture by an independent commission.

*[Additional optional provisions enabling prosecution by local authorities:]*

Local law enforcement and prosecutorial authorities shall initiate an investigation into potential war crimes or other human rights abuses committed by former federal officials and contractors, including policymakers responsible for approving interrogation and detention policies. Investigators shall seek access to all relevant evidence, whether public or classified, wherever it may be found.

[The City] holds jurisdiction to enforce international human norms under principles of universal jurisdiction and authorizes [the District Attorney] to assert jurisdiction in [name of lowest state court]. Upon request, local law enforcement agencies shall extradite officials detained under this authority to a foreign state pursuing an investigation or prosecution.

If discovered in this jurisdiction, any former government official or contractor accused of complicity in torture (related either to that person's conduct, or acts by third parties that he or she had authorized) shall be arrested by local law enforcement agencies and detained pending investigation and potential prosecution by [the District Attorney] to the fullest extent allowed by local, state, federal, constitutional or international law.]

The [City executive official] shall send copies of this ordinance to our U.S. Congressional and Senate representatives, the U.S. Senate Committee on the Judiciary, the U.S. Senate Select Committee on Intelligence, the U.S. House of Representatives Committee on the Judiciary, the U.S. House of Representatives Permanent Select Committee on Intelligence, the U.S. Attorney General, and the President of the United States.