

Country File

UNITED STATES OF AMERICA



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Region	America
Legal system	Common Law
UNCAT Ratification/ Accession (a)/ Succession (d)	21 October 1994
Relevant Laws	Federal Legislation <ul style="list-style-type: none">• Title 18 of the United States Code Collection, Crimes and Criminal Procedures• Title 28 of the United States Code Collection, Torture Victim Protection Act• Title 8 of the Code of Federal Regulations
Relevant Articles	Federal Legislation <ul style="list-style-type: none">• Prohibition of Torture:• Definition of Torture:<ul style="list-style-type: none">- Title 18 § 2340 of the United States Code Collection- Title 8 § 208.18 of the Code of Federal Regulations- Title 28 § 1350 of the United States Code Collection• Penalties: Title 18 §2340A of the United States Code Collection• Others:1. Lawful Sanctions:<ul style="list-style-type: none">- Title 18 § 2340 of the United States Code Collection- Title 8 § 208.18 of the Code of Federal Regulations- Title 28 § 1350 of the United States Code

Association for the Prevention of Torture (APT) www.apr.ch

For any suggestions and/or comments, please contact us at laws@apr.ch.

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	<p>Collection</p> <p>2. Jurisdiction: Title 18 § 2340 of the United States Code Collection</p> <p>3. Participation in torture: Title 18 § 2340 of the United States Code Collection</p>
Languages Available	<ul style="list-style-type: none"> • English (official language)
Other Relevant Information	<p>Consult http://www.gpoaccess.gov/cfr/index.html and http://uscode.house.gov/pdf/2007/ for complete texts of prevailing US codes.</p>

Relevant Articles – UNITED STATES OF AMERICA

ENGLISH

United States Code Collection

Title 18 Crimes and Criminal Procedures

Chapter 13 Civil Rights

§ 242 – *Deprivation of rights under color of law*

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Chapter 113C Torture

§ 2340 – *Definitions*

As used in this chapter—

- (1) “torture” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;
- (2) “severe mental pain or suffering” means the prolonged mental harm caused by or resulting 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.

§2340 A – Torture

- (a) Offense.— Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.
- (b) Jurisdiction.— There is jurisdiction over the activity prohibited in subsection (a) if—
 - (1) the alleged offender is a national of the United States; or
 - (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.
- (c) Conspiracy.— A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

Title 28 Torture Victim Protection Act of 1991

§ 1350

Section 3 - Definitions

Torture.—For the purposes of this Act—

- (1) the term ‘torture’ means any act, directed against an individual in the offender’s custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and
- (2) mental pain or suffering refers to prolonged mental harm caused by or resulting 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 individual 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.

Code of Federal Regulations

Title 8 CFR § 208.18 Implementation of the Convention against Torture.

(a) Definitions

The definitions in this subsection incorporate the definition of torture contained in Article 1 of the Convention Against Torture, subject to the reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

- (1) Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her 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.
- (2) Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture.
- (3) Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Lawful sanctions include judicially imposed sanctions and other enforcement actions authorized by law, including the death penalty, but do not include sanctions that defeat the object and purpose of the Convention Against Torture to prohibit torture.
- (4) In order to constitute torture, mental pain or suffering must be prolonged mental harm caused by or resulting from:
 - (i) The intentional infliction or threatened infliction of severe physical pain or suffering;
 - (ii) 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;
 - (iii) The threat of imminent death; or
 - (iv) 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 sense or personality.
- (5) In order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering. An act that results in unanticipated or unintended severity of pain and suffering is not torture.
- (6) In order to constitute torture an act must be directed against a person in the offender's custody or physical control.
- (7) Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.
- (8) Noncompliance with applicable legal procedural standards does not per se constitute torture.