

Statement of Rep. Danny K. Davis Introduction of Anti-Torture Bill

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The Jon Burge trial has ended with a verdict of guilty to the charge of perjury and obstruction of justice, which to me and countless others is simply not enough. It is simply not enough because Jon Burge, while a high ranking Chicago police officer, was accused of torturing 110 individuals to confess to crimes which resulted in death row and other prison sentences, which were ultimately overturned.

Jon Burge was convicted of obstruction of justice and perjury because these were the only charges for which he would be charged because the statute of limitations had run out on the torture and brutality allegations. As a result of these circumstances, I am introducing today legislation which is designed to provide a criminal penalty for torture committed by law enforcement officers and others acting under color of law.

Whoever, acting under color of local, state, or federal law, commits or attempts or conspires to commit torture shall be imprisoned for not more than ten years, but if death results to any person from the offense, the offender shall be imprisoned for any term of years or for life.

A person may be prosecuted, tried, or punished for an offense under this section at any time without limitation.

The bill defines torture in the following way so that it is easily understood:

The term "torture" means intentionally inflicting severe pain or suffering whether physical or mental on a person for such purposes as obtaining from that person or another information or a confession, punishing that person, or intimidating or coercing that person or another, for any reason based on discrimination of any kind, but does not include pain or suffering arising only from inherent in or incidental to lawful sanctions.

The term "inflicting severe pain or suffering" means:

a.
causing or threatening to inflict severe pain or suffering.

b.
the administration or affliction or threatened administration or application of mind—altering substances or other procedures calculated to disrupt profoundly the sense or the personality.

c.
the threat of imminent death

d.
the threat that another person will imminently be subjected to death, severe physical

pain, or suffering, or the administration of or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

Because the U.S. Government has not made torture a distinct federal crime with no statute of limitations when committed within U.S. territory, former Chicago Police Commander Jon Burge and other detectives under his command cannot be prosecuted for their torture of 110 African American men and women.

While there are federal laws that criminalize acts of torture that occur within the United States territory, they all have short statutes of limitations and none of these statutes prescribe acts of torture as crimes of torture. The federal laws generally used to prosecute law enforcement officers who use excessive force bar those acting under color of law from depriving or conspiring to deprive persons of their constitutional rights. Certainly, a crime of torture committed by a law enforcement official violates a person's rights guaranteed under the U.S. Constitution, with respect to the Burge case, he could not be prosecuted under these statutes because the five year statute of limitations for these laws have expired.

Had this bill been in effect, former Chicago Police Detective Jon Burge would be guilty of torture and not just perjury.