

BERKELEY RESOLUTION RE JOHN YOO

The Berkeley City Council Resolution Recommended:

The Berkeley Peace and Justice Commission recommended at its July 7, 2008 meeting that the Berkeley City Council adopt the following resolution:

- 1) Contact Carlos Villareal, Executive Director of the San Francisco Chapter of the National Lawyers Guild at carlos@nlgsf.org and communicate that the City of Berkeley wishes to be listed amongst the signers of the Call to Investigate Professor John Yoo, which is a letter to University of California Chancellor, Robert Birgeneau (Attachment I); and
- 2) The City should state that no student of U.C. Berkeley should be required to choose between taking a course with Professor John Yoo or waiting another semester to take and complete a required course. If the Law School is to permit Professor Yoo to teach non-elective courses, the school should make available to students the opportunity to take these non-elective courses with another professor during the same semester so as to assure students are not sanctioned or delayed in their fulfillment of non-elective courses due to their distaste for taking a class with someone who wrote memoranda that authorized the use of pain, violence and degrading treatment as a method of treatment of persons held in U.S. custody; and
- 3) Ask the U.S. Attorney for Northern California to bring charges of war crimes against John Yoo, now teaching in the City of Berkeley at [U.C. Berkeley School of Law](#); and
- 4) Send another letter in February, 2009 to the then-Attorney General of the United States asking him/her to bring charges of war crimes against John Yoo, if such charges have not yet been brought; and
- 5) That a letter be sent to the President of the University of California, the Chancellor of U.C. Berkeley and the Dean of U.C. Berkeley School of Law incorporating the language of the above recommendations and advising them of the City's position.

BACKGROUND

In June 2008 the National Lawyers Guild initiated a Call to Investigate Professor John Yoo. The Call states that "Professor Yoo was the principal author for several memoranda that provided legal cover for officials in the Bush Administration, CIA and Pentagon to ignore domestic and international laws in interrogating military detainees."

The criticism of Professor Yoo is not based on academic activity that is protected as academic freedom. "Rather," continues the Call, "it amounts to professional

misconduct, providing not sound legal advice but the illusion of legality to patently immoral and actually illegal activities, i.e. the torture and murder of military detainees.”

The Call requests the Chancellor of the University of California to investigate "whether Yoo violated the UC Faculty Code of Conduct" by authoring "legal memoranda justifying illegal torture techniques...that failed professional standards of lawyerly competence, as well as heightened ethical duties of certain government attorneys." The Call goes on to argue that "Whenever a faculty member engages in professional conduct that causes the kind of harm or attempts to shield the type of harm caused by the Yoo memos, it raises serious concerns that the University must address by formal investigation."

After researching academic policy it was determined that the General University Policy (APM - 015) Regarding Academic Appointees provides flexibility in its Faculty Code of Conduct. While the Code specifies conviction for a criminal act as a type of unacceptable act in the sphere of the Community at large, it is clear that this is not an exhaustive criterion, and that "Faculty may be subjected to disciplinary action under [the] Code for any type of conduct which, although not specifically enumerated herein, meets the standards for unacceptable faculty behavior."

Under these circumstances asking for a University investigation is an appropriate step that will allow the University to determine whether or not Mr. Yoo should be sanctioned by the University.