

EXHIBIT 71

From: Behnke, Stephen [/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: 7/28/2005 1:02:50 AM
To: Mumford, Geoffrey [gmumford@apa.org]
CC: Honaker, Michael [mhonaker@apa.org]; Newman, Russ [rnewman@apa.org]; Breckler, Steven J. [SBreckler@apa.org]; Richmond, Marilyn S. [mrichmond@apa.org]; Kelly, Heather [hkelly@apa.org]
Subject: RE: Detainee legislation

Thanks, Geoff. I would certainly want to encourage the relationship, and I like your language: **that DoD should continue to develop relationships with professional associations whose members work in national security-related positions and which are examining the professional ethics that govern their members' work.**

-----Original Message-----

From: Mumford, Geoffrey
Sent: Wednesday, July 27, 2005 10:17 AM
To: Behnke, Stephen
Cc: Honaker, Michael; Newman, Russ; Breckler, Steven J.; Richmond, Marilyn S.; Kelly, Heather
Subject: FW: Detainee legislation

Steve,

I chatted with Diana Tabler on Senate Armed Services Committee staff this morning and she was willing to consider some language that would reinforce the notion that (however the legislation plays out) DoD should continue to nurture its relationship with professional associations that are making an effort to rigorously examine the professional ethics that obtain in these national security settings. I don't know if there's a better way of saying that or expanding upon it to include a reference to the Task Force report but I'm sure there's a way to couch it such that we insulate ourselves from the fight between the Senate and the Administration. I don't see a downside but I'd appreciate hearing from you as well as those copied. As you know this broke just as Heather was leaving for vacation and now that it looks like nothing will happen until September, there's no real hurry. But in order to be responsive to Diana's invitation, I'd like to send her something as a placeholder this week (if everyone is amenable) and let Heather pick up the ball again when she gets back.
-geoff

From: Mumford, Geoffrey
Sent: Wednesday, July 27, 2005 8:42 AM
To: 'PENS@LISTS.APA.ORG'
Subject: Detainee legislation

Dear Colleagues,

FYI, below I've copied part of a news item from this mornings Congressional Quarterly. Many of you have probably seen bits and pieces of this on-going story in the popular press. I think it would be very helpful for those considering these legislative initiatives to know that work on the commentary and illustrative examples (recommended by the Task Force report) is moving forward as it would likely inform all sides in the debate.

Regards,
-geoff

CQ TODAY

July 26, 2005 - 1:31 p.m.

GOP Clash Over Detainees Sidetracks Defense Bill

By Anne Plummer, CQ Staff

A battle of personalities and policies centered around the Bush administration's treatment of wartime detainees is likely to continue until at least September, as Republican leaders on Tuesday pulled the fiscal 2006 defense authorization from the Senate floor.

The fight, now expected to intensify when lawmakers return from the August recess, pits two Republicans with vastly different biographies against each other.

On one side is Arizona Sen. John McCain, who spent five and a half years as a prisoner of war in Vietnam. He supports legislation that would regulate treatment of captured enemy combatants held at U.S. military prisons.

Opposing him is Vice President Dick Cheney, who received draft deferments during the Vietnam War but went on to become secretary of Defense during the Gulf War. He says such legislation would interfere with President Bush's ability to protect the country against terrorist attack.

In meetings with members of the Armed Services Committee and in a statement of administration policy, the White House has threatened to veto the bill if it contains any provisions regulating the handling of enemy combatants.

But as of Tuesday, the defense bill ([S 1042 <javascript:simplePopup\('displaybillcard.do?billNumber=S1042&congress=109','billCard',680,430\);>](#) - S Rept 109-69) was left in limbo.

The Senate voted against invoking cloture on the bill, which would have limited debate to 30 hours. The motion failed on a 50-48 vote - 10 votes short of the 60 needed under Senate rules.

Citing a long list of legislative priorities including a bill that would shield gunmakers from liability lawsuits ([S 397 <javascript:simplePopup\('displaybillcard.do?billNumber=S397&congress=109','billCard',680,430\);>](#)), Majority Leader Bill Frist, R-Tenn., then pulled the defense measure from the floor and brushed aside Democrats' calls to reschedule it. Barring any surprises, the legislation is expected to languish on the back burner until at least September, when Congress returns from its monthlong August recess.

The bill would authorize \$441.6 billion in defense spending and an additional \$50 billion in war funds for Iraq and Afghanistan.

While the delay has bought McCain and Cheney time to make their cases, it is still far from clear who in the Senate will side with whom.

"I think [McCain's proposal] is going to pass" and has a strong chance of beating opposition in the House, said Carl Levin of Michigan, the top Armed Services Democrat. "I don't think the president can veto a defense authorization bill in the middle of a war."

Levin added that McCain is holding an ace that Cheney does not have: the years he spent in captivity. "It gives him more credibility than just about anybody who serves in this body," Levin said. "He speaks with tremendous authority."

McCain argues that cruel or inhumane treatment of detainees usually fails to produce useful information and puts captured U.S. troops at risk of being tortured in retaliation. One of his amendments would bar the use of torture, while another would extend Geneva Convention rights to enemy combatants by requiring the military to rely on the new Army field manual when conducting interrogations. The administration maintains that enemy combatants are not entitled to Geneva protections but should be treated humanely.

A spokeswoman for McCain said the senator believes he has enough support in the Senate to adopt his measures.

Democrats have embraced McCain's measures, and he also has the support of at least two influential Republicans. One is Lindsey Graham of South Carolina, who cosponsored the amendments. Graham is a former military lawyer who still serves in the Air National Guard as a reserve judge assigned to the Air Force Court of Criminal Appeals.

Another McCain sympathizer is John W. Warner of Virginia, chairman of the Armed Services Committee. Last week, Cheney met with Graham, Warner and McCain in an unsuccessful effort to convince them to drop the proposed legislation.

Warner subsequently deviated from McCain and offered his own amendment that would require the Defense secretary to establish clear regulations for detainee treatment. But even though Warner's proposal would give the Pentagon more flexibility than McCain's measure, the White House has spurned it as well.

"It is the administration's view that the president has all the authority he needs under the Constitution, and under existing statutes . . . to conduct effectively the war on terror," according to a statement by Lea Anne McBride, a Cheney spokesperson.

Also in McCain's corner are more than a dozen retired military officers. In a July 22 letter to McCain, a former ambassador and 13 retired officers, including former U.S. Central Command chief Gen. Joseph Hoar, said "our servicemembers were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that."

Most Senate Republicans have sided with Cheney, arguing any restrictions on interrogations could prevent the extraction of valuable intelligence in the war on terror.

John Cornyn, R-Texas, an Armed Services Committee member, said the issue is not one of McCain's credibility, or Cheney's.

"To me it's more a question of what ability we have to use every legal means to extract actionable intelligence," Cornyn said.

Trent Lott, R-Miss., called efforts to regulate military detentions and interrogations "totally ridiculous."

"McCain has a lot of credibility having been through what he's been through," Lott said. But "the timing is not good" as long as terrorists withhold information that could stop future attacks.

"I think we ought to do whatever it takes to get it out of them," Lott added. "If it means we have to put a snarling dog in their face, do that."

But like many others, Cornyn said he needed time to review McCain's proposal. And in light of the latest round of votes, it "looks like I'll have plenty of time to study it," Cornyn said.

EXHIBIT 72

To: 'Levant,Ronald F'[levant@uakron.edu]; 'Gerry Koocher'[gerald.koocher@simmons.edu]; 'Barry Anton'[anton@ups.edu]; Anderson, Norman[NAnderson@apa.org]
Cc: Farberman, Rhea[rfarberman@apa.org]; Gilfoyle, Nathalie[ngilfoyle@apa.org]; Breckler, Steve[SBreckler@apa.org]; Newman, Russ[rnewman@apa.org]; Mumford, Geoff[gmumford@apa.org]; Kelly, Heather[hkelly@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Tue 11/15/2005 3:31:06 AM (UTC)
Subject: Position of the American Psychiatric Association on interrogations
[Psychiatrists&Interrogation.doc](#)

I thought it might be helpful for all of us to be aware of the position of the American Psychiatric Association, in case we are asked.

The Board of the American Psychiatric Association passed a statement that declared that psychiatrists should not participate in interrogations. This past weekend, the psychiatrists' Assembly adopted an alternative formulation, which states that psychiatrists should not participate in "coercive" interrogations. The alternative statement gives several examples of what constitutes a "coercive" method. Because the Board and the Assembly must both concur on Association positions, at the current time the American Psychiatric Association has no position on the role of psychiatrists in interrogations. The earliest the Psychiatric Association could have a position is December, when its Board meets and will vote on the alternative position adopted by its Assembly. (I therefore think we need to be cautious when people compare our position to that of the psychiatrists, as an interviewer attempted to do this afternoon, because currently the psychiatrists have no position.)

It is noteworthy that the American Medical Association currently has no position on the role of medical personnel in interrogations. They are moving forward to examine the issue.

Attached please find the original statement adopted by the Psychiatric Board. The alternative motion is largely the same, except for the third paragraph. (The third, alternative paragraph, adopted by the Assembly, is immediately below the original third paragraph.) A careful read of the alternative third paragraph (which is likely to be adopted in December) indicates: 1) the alternative position is a substantial pull-back from their original position; and 2) **the alternative position is remarkably similar to our position.**

Steve

DRAFT APA Position Statement on Psychiatric Participation in Interrogation* of Detainees

1. The American Psychiatric Association reiterates its position that psychiatrists should not participate in, or otherwise assist or facilitate, the commission of torture of any person. Psychiatrists who become aware that torture has occurred, is occurring, or has been planned must report it promptly to a person or persons in a position to take corrective action.

2. Every person in military or civilian detention, whether in the United States or elsewhere, is entitled to adequate medical care under domestic and international humanitarian law. Psychiatrists providing medical care to individual detainees owe their primary obligation to the well-being of their patients and should not participate or assist in any way, whether directly or indirectly, overtly or covertly, in the interrogation of their patients on behalf of military or civilian agencies. Nor should any part of the medical records of any patient, or information derived from the treatment relationship, be disclosed to persons conducting interrogation of the detainee.

3. Psychiatrists should not participate in the interrogation of persons held in custody by military or civilian investigative or law enforcement authorities, whether in the United States or elsewhere. Nor should they provide information or advice to military or civilian investigative or law enforcement authorities regarding the likely consequences of specific techniques of interrogation that is in any way particularized in its application to an individual detainee.

ALTERNATIVE PARAGRAPH 3

3. Psychiatrists should not participate in or assist any coercive interrogation of persons held in custody by military or civilian authorities, whether in the United States or elsewhere. Nor should they provide information or advice to military or civilian investigative or law enforcement authorities regarding the likely medical consequences of specific coercive methods. For purposes of this statement, coercive methods of interrogation include degradation, threats, isolation, imposition of fear, humiliation, sensory deprivation or excessive stimulation, sleep deprivation, exploitation of phobias, or intentional infliction of physical pain such as use of prolonged stress positions.

*As used in this statement, "interrogation" refers to a deliberate attempt to elicit information from a detainee for the purposes of incriminating the detainee, identifying other persons who have committed or may be planning to commit acts of violence or other crimes, or otherwise obtaining information that is believed to be of value for criminal justice or national security purposes. It does not include interactions with judges or attorneys in connection with adjudication or preparation for adjudication; interviews or other

interactions with a detainee authorized by a court or by counsel for the detainee; or interviews or other interactions with a prisoner serving a sentence conducted by or on behalf of correctional authorities.

EXHIBIT 73

To: 'Levant,Ronald F'[levant@uakron.edu]; Gerry Koocher[gerald.koocher@simmons.edu]
Cc: Anderson, Norman[NAnderson@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Gilfoyle, Nathalie[ngilfoyle@apa.org]; Newman, Russ[rnewman@apa.org]; Breckler, Steve[SBreckler@apa.org]; Kelly, Heather[hkelly@apa.org]; Mumford, Geoff[gmmumford@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Wed 2/22/2006 3:14:19 AM (UTC)
Subject: RE: FW: [DIVISION] Report from division of social justice

This issue of the New Yorker has an article titled, "The Memo," by Jane Mayer, with the subtitle, "How an internal effort to ban the abuse and torture of detainees was thwarted." The article (which I've not had the chance to read carefully) describes a very troubling situation at Guantanamo.

On the New Yorker's website is a memo, the "Mora" memo, which the article discusses. While I have not had the opportunity to read the memo carefully, a cursory read suggests that one of our PENS members, Michael Gelles, was front and center in the effort to stop abusive interrogation practices.

Rhea, I think we should have a brief text prepared, to respond to any inquiries about this article. While calling attention to a particular individual is complicated in the national security community—and we need not refer to this individual by name—given the high profile of this material and its wide distribution, I think we can safely address the issues without worry about causing any additional difficulties for Mike (whom I just got off the phone with—it will be ideal if we could run a draft of anything we distribute by him first)

Steve

From: Division 51 Board of Directors list [<mailto:DIV51BD@LISTS.APA.ORG>] **On Behalf Of** Englar-Carlson, M.
Sent: Tuesday, February 21, 2006 1:41 PM
To: DIV51BD@LISTS.APA.ORG
Subject: [DIVISION] Report from division of social justice

To the Division 51 Board-

As many of you know, I am the D51 rep for the Divisions of Social Justice. I wanted to inform the D51 board about an action happening within DSJ that D51 may want to be a part of. I discussed this issue with Larry and he wanted me to put to out to the D51 Board for input.

I know that at the mid winter meeting you got some information about the PENS report and some of the reactions to it. The Divisions of Social Justice and many individual members of other divisions (including D51) have been working to provide some critiques of the PENS report. In the last issue of the APA Monitor APA President Gerry Koocher used his column to write about the PENS report & committee (of which he was a member). I would encourage you to look at that column <http://www.apa.org/monitor/feb06/pc.html>

As you can see below, many found fault with his column and there is a letter circulating (which you can see below) in response that will be sent to the Monitor. This letter was created by the executive committee of Division 9 and sent to DSJ with a request to see if other divisions wanted to also endorse this letter. As of today, Divisions 9 and 48 have signed on to this letter below. Divisions 27 and 35 are debating it right now. Division 39 has sent their own letter. I also included the letter from Mike Wessells that is alluded as an attachment.

The purpose of my email to the D51 Board is to see if you want to endorse the letter below. I can say that for me, the question at stake here is not necessarily about the PENS report but more Gerry's stance on it that he presented in the Monitor column. Maybe this is a good example of the difference between content and process. I personally think that the PENS report is flawed, yet it had a limited mandate. What it does state is clearly a step in the right direction, though there may be many other steps yet to take. That is the content part. Yet most of the critiques that I see have more to do with the process aspect (who was on the PENS committee, how decisions were made, the strength of the APA stance on torture, and most of all, opening up the report for review and critique by the APA membership). It is that process aspect that is being questioned. When I read Gerry's letter in the Monitor (in particular the 2nd half of the letter), he explained the PENS report, yet his openness to the process of critique is what seems to be upsetting many. >From his column you would never pick up that there is an open forum for critique on the PENS report and that this period was extended due to the overwhelming amount of critique from the APA membership.

Here is the letter from Division 9:

We write to express dismay at APA President Gerald Koocher's disparagement of critics of APA and the Task Force on Psychological Ethics and National Security (PENS) as "opportunistic commentators masquerading as scholars" in his February, 2006 Monitor column. Dr. Koocher states that "All our members can take pride in the work of the PENS task force and the strong ethical positions held by APA," and implies that any criticism of the task force or APA's position, stems from the failure to read the report carefully. We disagree. Many APA members who have read the report remain critical. To suggest otherwise devalues alternative perspectives and the open dialogue so critical to any scientific organization.

Dr. Mike Wessells, who served on the PENS Task Force, recently resigned from it because, in his words, "continuing work with the Task Force tacitly legitimates the wider silence and inaction of the APA on the crucial issues at hand. At the highest levels, the APA has not made a strong, concerted, comprehensive, public and internal response of the kind warranted by the severe human rights violations at Abu Ghraib and Guantanamo Bay." Dr. Wessells clarified that his central concern is not with the Task Force itself, which "had a very limited mandate and was not structured in a manner that would provide the kind of comprehensive response or representative process needed." Rather the problem is the lack of "a strong, proactive, comprehensive response" from APA "affirming our professional commitment to human well-being and sounding a ringing condemnation of psychologists' participation not only in torture but in all forms of cruel, inhumane and degrading treatment of detainees, including the use or support of tactics such as sleep deprivation."

We request that Dr. Koocher to fully embrace his leadership role by fostering open debates rather than closing the door to such dialogues of such critical importance to all of us. We also hope that he will lead APA to the sort of strong, proactive, and comprehensive response Dr. Wessells calls for.

Marybeth Shinn

President, Society for the Psychological Study of Social Issues On behalf of the SPSSI governing Council, as voted at its midwinter meeting

<<Wessells_letter.doc>>

Matt Englar-Carlson, Ph.D.
Assistant Professor
Department of Counseling
California State University, Fullerton
Fullerton, CA 92834-6868
(714) 278-5062 office
(714) 278-4456 fax

Entia non sunt multiplicanda praeter necessitatem

EXHIBIT 74

To: 'Gerry Koocher'[gerald.koocher@SIMMONS.EDU]; 'Levant,Ronald F'[levant@uakron.edu]; 'SSB'[ssb@indiana.edu]
Cc: Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[rnewman@apa.org]; Anderson, Norman[NAnderson@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Mon 6/12/2006 5:09:43 PM (UTC)
Subject: American Medical Association policy

The Associated Press has contacted us in response to the AMA issuing a position on the role of physicians in interrogations. I have not had a chance to study their position carefully, but a first read indicates the following:

The positions of the American Psychological Association and the American Medical Association are based on precisely the same ethical analysis. Both associations state "Do No Harm" as a first principle, and both associations state explicitly that in order to protect third parties and the public, psychologists and physicians may act as consultants in the interrogations of specific individuals. Also, both associations prohibit serving in a health care provider role while consulting to an interrogation. The two association positions fit very comfortably with one another.

I think it is important that Council be made aware of how closely the American Medical Association is to APA on this issue, and I will draft a message for your review when I have had the opportunity to study the AMA statement more closely.

Steve

EXHIBIT 75

To: 'Gerry Koocher'[gerald.koocher@SIMMONS.EDU]; 'Levant,Ronald F'[levant@uakron.edu]; 'SSB'[ssb@indiana.edu]
Cc: Anderson, Norman[NAnderson@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[newman@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Mon 6/12/2006 5:15:13 PM (UTC)
Subject: FW: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

The document I have states explicitly that physicians MAY consult in the interrogations of specific detainees...either I have an earlier draft, or this reporter gets it exactly wrong. I will check.

-----Original Message-----

From: Ken Pope [mailto:kspope@kspope.com]
Sent: Monday, June 12, 2006 1:02 PM
Subject: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

From Reuters:

AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations
By M. Mary Conroy

CHICAGO (Reuters Health) Jun 12 - Psychiatrists and other physicians should not help the military or police interrogate prisoners, according to a new report from the American Medical Association's Council on Ethical and Judicial Affairs (CEJA).

Helping with interrogations, including the planning of the interrogation or monitoring the prisoner with the "intention of intervening in the process" are actions that are outside the bounds of ethical behavior, CEJA said here Sunday.

Dr. Priscilla Ray of Houston Texas, who serves as chair of CEJA said, "Physicians must neither conduct nor directly participate in an interrogation, because a role as physician-interrogator undermines the physician's role as a healer and thereby erodes trust in the individual physician interrogator and in the medical profession."

The CEJA report follows closely action taken last month by the American Psychiatric Association, which ruled that psychiatrists should not participate in interrogations. The new CEJA ruling came in a report, which can be adopted by the AMA House of Delegates or sent back to CEJA for fine-tuning. The AMA house, which begins voting on this and other actions today, cannot, however, amend the report.

In addition to ruling that participation in interrogations is unethical, the CEJA report warns physicians that if they "have reason to believe that interrogations are coercive, they must report their observations to appropriate authorities. If authorities are aware of coercive interrogations but have not intervened, physicians are ethically obligated to report the offenses to independent authorities that have the power to investigate or adjudicate such allegations."

CEJA said that physicians may ethically "perform physical and mental assessments of detainees to determine the need for and to provide medical care," but when they do so they must tell the prisoner that others will have access to that medical information.

CEJA also ruled that it is permissible to "participate in developing effective interrogation strategies for general training purposes," but physicians can't develop a specific strategy for use with a specific prisoner, Dr. Ray said.

The CEJA report comes in response to a request from Burlington, Vermont child psychiatrist Dr. David Fassler who last November asked the AMA for an ethical ruling on involvement of physicians in prisoner interrogations.

Dr. Fassler thanked CEJA for the report, which he called "thoughtful and responsive."

APA0003872

The report was also praised by a number of military physicians who are members of the AMA House. Speaking for that group, Air Force Surgeon General Dr. George P. Taylor Jr. said, "This report provides valuable ethical guidance which is consistent with our commitment as military physicians to the practice of ethical medicine and to the defense of our great nation."

But Physicians for Human Rights, led by Dr. Stephen Xenakis, a psychiatrist and retired brigadier general in the U.S. Army, said the report was too soft and used too much qualifying language. The result, he said, was an ambiguous statement. He warned that the military would find loopholes and use those loopholes to make a case for physician involvement in interrogations.

Ken

Responding to Victims of Torture--Clinical Issues, Professional Responsibilities, & Useful Resources:
<<http://kspope.com/torvic/torture1.php>>

"First they came for the communists but I was not a communist so I kept quiet. Then they came for the socialists and the trade unionists but I was neither, so I did not speak out. Then they came for the Jews, but I was not a Jew, so I did not speak out. And when they came for me, there was no one left to speak out for me."
--Martin Niemoller, after being released from Dachau, 1945

EXHIBIT 76

To: 'Gerry Koocher'[gerald.koocher@SIMMONS.EDU]; 'Levant,Ronald F'[levant@uakron.edu]; 'SSB'[ssb@indiana.edu]
Cc: Anderson, Norman[NAnderson@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[rnewman@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Mon 6/12/2006 5:19:09 PM (UTC)
Subject: RE: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

P.S. The problem is that the AMA will not allow access on their website to the position statement itself, except to members, so it's difficult to see precisely where the problem is (with me or the reporter)

-----Original Message-----

From: Behnke, Stephen
Sent: Monday, June 12, 2006 1:15 PM
To: 'Gerry Koocher'; 'Levant,Ronald F'; 'SSB'
Cc: Anderson, Norman; Farberman, Rhea; Newman, Russ
Subject: FW: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

The document I have states explicitly that physicians MAY consult in the interrogations of specific detainees...either I have an earlier draft, or this reporter gets it exactly wrong. I will check.

-----Original Message-----

From: Ken Pope [mailto:kspope@kspope.com]
Sent: Monday, June 12, 2006 1:02 PM
Subject: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

From Reuters:

AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations
By M. Mary Conroy

CHICAGO (Reuters Health) Jun 12 - Psychiatrists and other physicians should not help the military or police interrogate prisoners, according to a new report from the American Medical Association's Council on Ethical and Judicial Affairs (CEJA).

Helping with interrogations, including the planning of the interrogation or monitoring the prisoner with the "intention of intervening in the process" are actions that are outside the bounds of ethical behavior, CEJA said here Sunday.

Dr. Priscilla Ray of Houston Texas, who serves as chair of CEJA said, "Physicians must neither conduct nor directly participate in an interrogation, because a role as physician-interrogator undermines the physician's role as a healer and thereby erodes trust in the individual physician interrogator and in the medical profession."

The CEJA report follows closely action taken last month by the American Psychiatric Association, which ruled that psychiatrists should not participate in interrogations. The new CEJA ruling came in a report, which can be adopted by the AMA House of Delegates or sent back to CEJA for fine-tuning. The AMA house, which begins voting on this and other actions today, cannot, however, amend the report.

In addition to ruling that participation in interrogations is unethical, the CEJA report warns physicians that if they "have reason to believe that interrogations are coercive, they must report their observations to appropriate authorities. If authorities are aware of coercive interrogations but have not intervened, physicians are ethically obligated to report the offenses to independent authorities that have the power to investigate or adjudicate such allegations."

CEJA said that physicians may ethically "perform physical and mental assessments of detainees to determine the need for and to provide medical care," but when they do so they must tell the prisoner that others will have access to that medical information.

CEJA also ruled that it is permissible to "participate in developing effective interrogation strategies for general training purposes," but

APA0003874

physicians can't develop a specific strategy for use with a specific prisoner, Dr. Ray said.

The CEJA report comes in response to a request from Burlington, Vermont child psychiatrist Dr. David Fassler who last November asked the AMA for an ethical ruling on involvement of physicians in prisoner interrogations.

Dr. Fassler thanked CEJA for the report, which he called "thoughtful and responsive."

The report was also praised by a number of military physicians who are members of the AMA House. Speaking for that group, Air Force Surgeon General Dr. George P. Taylor Jr. said, "This report provides valuable ethical guidance which is consistent with our commitment as military physicians to the practice of ethical medicine and to the defense of our great nation."

But Physicians for Human Rights, led by Dr. Stephen Xenakis, a psychiatrist and retired brigadier general in the U.S. Army, said the report was too soft and used too much qualifying language. The result, he said, was an ambiguous statement. He warned that the military would find loopholes and use those loopholes to make a case for physician involvement in interrogations.

Ken

Responding to Victims of Torture--Clinical Issues, Professional Responsibilities, & Useful Resources:

<<http://kspope.com/torvic/torture1.php>>

"First they came for the communists but I was not a communist so I kept quiet. Then they came for the socialists and the trade unionists but I was neither, so I did not speak out. Then they came for the Jews, but I was not a Jew, so I did not speak out. And when they came for me, there was no one left to speak out for me."

--Martin Niemoller, after being released from Dachau, 1945

EXHIBIT 77

To: 'Gerry Koocher'[gerald.koocher@SIMMONS.EDU]; 'Levant,Ronald F'[levant@uakron.edu]; 'SSB'[ssb@indiana.edu]; Anderson, Norman[NAnderson@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[newman@apa.org]
From: Behnke, Stephen[O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Mon 6/12/2006 7:25:22 PM (UTC)
Subject: FW: American Psychological Association

[Statement to an AP reporter, regarding our position in relation to the AMA's position.](#)

From: Behnke, Stephen
Sent: Monday, June 12, 2006 3:22 PM
To: 'ltanner@ap.org'
Subject: American Psychological Association

Dear Ms. Tanner,

Thank you for contacting the American Psychological Association on this important issue. I apologize for not being able to have responded more quickly to you.

The American Psychological Association issued a Report (Report of the Task Force on Psychological Ethics and National Security) that unequivocally prohibits psychologists from engaging in, participating, or countenancing torture or other cruel, inhuman, or degrading treatment. As the basis for its position, the Task Force looked first to Principle A in the *Ethical Principles of Psychologists and Code of Conduct*, "Do No Harm," and then to Principle B, which addresses psychologists' responsibilities to society. Both ethical responsibilities are central to the profession of psychology. By virtue of Principle A, psychologists do no harm. By virtue of Principle B, psychologists use their expertise in, and understanding of, human behavior to aid in the prevention of harm.

In national security-related settings, these ethical principles converge as psychologists are mandated to take affirmative steps to prevent harm to individuals being questioned and, at the same time, to assist in eliciting reliable information that may prevent harm to third parties and the public.

It is interesting to note that the American Medical Association has used precisely the same ethical analysis to determine the manner in which physicians may participate in interrogations. For both associations, the question is not *whether* psychologists and physicians may consult on interrogations, but rather *how* they may do so in an ethical manner. A careful read of the two association statements indicates that both associations set forth virtually identical conditions for their members' involvement.

I hope this message is responsive to your question, and again I apologize for not having responded sooner.

Stephen Behnke
(202) 336-6006

EXHIBIT 78

To: 'Gerry Koocher'[gerald.koocher@simmons.edu]; Anderson, Norman[NAnderson@apa.org]; Gilfoyle, Nathalie[ngilfoyle@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[rnewman@apa.org]
From: Behnke, Stephen[/O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Fri 6/23/2006 11:49:42 PM (UTC)
Subject: Ethics and Interrogation/Petition/Supreme Court Case

Over the past several weeks there has been significant attention to APA's position on ethics and interrogations. Much of the discussion has not been terribly well informed, and the petition which people are being asked to sign is based on distortions of both law and fact. My strong sense is that it will not be terribly productive to try and correct the misinformation, since our attempts thus far have been unsuccessful. I believe Trish Crawford's message to Council, in which she said that much of this is not about ethics and psychologists at all, is exactly right. For reasons that Dr. Crawford captures, I do not think the forces at work are amendable to reasoned arguments.

That said, a decision of the United States Supreme Court, *Hamdan v. Rumsfeld*, is due by the end of the Court's term, which is next week. The *Hamdan* case has potentially enormous implications for APA, since the case involves what due process should be afforded detainees, and whether the Geneva Conventions (specifically the third Geneva Convention) apply in a setting such as Guantanamo. Due process and the application of the Geneva Conventions are central to many of the current discussions about APA's position.

When the decision comes out we will want to look at it very closely, and depending on the holding, we may wish to inform Council of what the Court has done.

Steve

EXHIBIT 79

To: 'Gerry Koocher'[gerald.koocher@simmons.edu]; 'Levant,Ronald F'[levant@uakron.edu]; 'SSB'[ssb@indiana.edu]
Cc: Anderson, Norman[NAnderson@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Gilfoyle, Nathalie[ngilfoyle@apa.org]; Newman, Russ[rnewman@apa.org]; Honaker, Michael[mhonaker@apa.org]; Breckler, Steve[SBreckler@apa.org]
From: Behnke, Stephen[O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Thur 6/29/2006 3:48:21 PM (UTC)
Subject: Excellent news from US Supreme Court re: Guantanamo

In my excitement I failed to include the "copy" line. Steve

From: Behnke, Stephen
Sent: Thursday, June 29, 2006 11:42 AM
To: 'Gerry Koocher'; 'Levant,Ronald F'; 'SSB'
Subject: Excellent news from US Supreme Court re: Guantanamo

The Supreme Court has just handed down the Hamdan decision. I have not read the decision yet, but the first line in the Washington Post story is:

"The Supreme Court today delivered a stunning rebuke to the Bush administration over its plans to try Guantanamo detainees before military commissions, ruling that the commissions are unconstitutional."

This is excellent news for us, and speaks directly to many concerns of our members. As far as I can determine from the coverage, the Court's decision states that the 3rd Geneva Convention DOES apply and that as a consequence detainees are accorded significant due process. I will read the decision carefully this afternoon.

I will be working on a short column/article/piece on this case. I would like to consider how we can get this information into APA discussions. We may want to wait until after the holiday weekend.

This comes as very welcome news indeed.

Steve

EXHIBIT 80

To: Anderson, Norman[NAnderson@apa.org]; Gilfoyle, Nathalie[ngilfoyle@apa.org]; Farberman, Rhea[rfarberman@apa.org]; Newman, Russ[rnewman@apa.org]; Strassburger, Judy[jstrassburger@apa.org]
From: Behnke, Stephen[O=APA/OU=DC/CN=RECIPIENTS/CN=SVB]
Sent: Tue 7/11/2006 4:34:20 PM (UTC)
Subject: Gitmo and Geneva Rights

News outlets (e.g., CNN, New York Times, Washington Post, and Associated Press) are reporting a major shift in the Pentagon policy, in favor of giving Guantanamo detainees Geneva Rights.

This should turn the temperature down considerably. Bernice Lott was the first to call this development to Council's attention.

Steve

EXHIBIT 81

Sender: Behnke, Stephen </O=APA/OU=DC/CN=RECIPIENTS/CN=SVB>
Sent: Monday, June 12, 2006 2:49:32 PM
Recipient: 'Gerry Koocher' <gerald.koocher@SIMMONS.EDU>; 'Levant, Ronald F' <levant@uakron.edu>; 'SSB' <ssb@indiana.edu>
Cc: Anderson, Norman <NAnderson@apa.org>; Farberman, Rhea <rfarberman@apa.org>; Newman, Russ <mewman@apa.org>
Subject: RE: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

We have received a fax copy of the AMA's resolution. As I understand their process, they are voting on this resolution today. (I don't understand why reporters are publishing stories before the vote.)

While there are some differences between the draft I was reviewing and the position statement we received from AMA, the ethical analyses remain the same. The document is relatively dense, and will require a careful read, but the AMA position talks about ethical obligations to the individual AND ethical obligations to society. This is the ethical analysis we use. There is NO absolute prohibition against consulting to an interrogation. In fact, the document makes clear that under certain conditions such consultation is ethically permissible, and as I read the text those conditions are nearly the same as to the conditions the PENS report sets forth. Here are some relevant quotations:

"The question of whether it is ethically appropriate for physicians to participate in the development of interrogation strategies may be addressed by balancing obligations to society against those to individuals...a physician may help to develop general guidelines or strategies, as long as they are not coercive and are neither intended nor likely to cause harm, and as long as the physician's role is strictly that of a consultant, not a caregiver." This quotation could easily have come directly from the PENS report.

A very similar quotation, from the "Conclusion" section:

"Questions about the ethical propriety of physicians participating in interrogations and in the development of interrogation strategies may be addressed by balancing obligations to society with obligations to individuals. Direct participation in interrogation of an individual detainee is not justified, because non-medical personnel can be trained to be expert interrogators, minimizing the need for presence of a physician. But, out of an obligation to aid in protecting third parties and the public, a physician may help to develop general guidelines or strategies for interrogations, as long as the strategies are not coercive, and as long as the physician's role is strictly that of consultant, not as caregiver."

Again, this statement could easily have come from the PENS report.

The PENS report and this position/statement of the AMA are very similar.

—Original Message—

From: Behnke, Stephen
Sent: Monday, June 12, 2006 1:19 PM
To: 'Gerry Koocher'; 'Levant, Ronald F'; 'SSB'
Cc: Anderson, Norman; Farberman, Rhea; Newman, Russ
Subject: RE: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

P.S. The problem is that the AMA will not allow access on their website to the position statement itself, except to members, so it's difficult to see precisely where the problem is (with me or the reporter)

—Original Message—

From: Behnke, Stephen
Sent: Monday, June 12, 2006 1:15 PM
To: 'Gerry Koocher'; 'Levant, Ronald F'; 'SSB'
Cc: Anderson, Norman; Farberman, Rhea; Newman, Russ
Subject: FW: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

The document I have states explicitly that physicians MAY consult in the interrogations of specific detainees...either I have an earlier draft, or this reporter gets it exactly wrong. I will check.

—Original Message—

From: Ken Pope [mailto:kpope@kspope.com]
Sent: Monday, June 12, 2006 1:02 PM
Subject: AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations

From Reuters:

AMA Panel Says Physicians Cannot Ethically Participate in Prisoner Interrogations
By M. Mary Conroy

CHICAGO (Reuters Health) Jun 12 - Psychiatrists and other physicians should not help the military or police interrogate prisoners, according to a new report from the American Medical Association's Council on Ethical and Judicial Affairs (CEJA).

Helping with interrogations, including the planning of the interrogation or monitoring the prisoner with the "intention of intervening in the process" are actions that are outside the bounds of ethical behavior, CEJA said here Sunday.

Dr. Priscilla Ray of Houston Texas, who serves as chair of CEJA said, "Physicians must neither conduct nor directly participate in an interrogation, because a role as physician-interrogator undermines the physician's role as a healer and thereby erodes trust in the individual physician interrogator and in the medical profession."

The CEJA report follows closely action taken last month by the American Psychiatric Association, which ruled that psychiatrists should not participate in interrogations. The new CEJA ruling came in a report, which can be adopted by the AMA House of Delegates or sent back to CEJA for fine-tuning. The AMA house, which begins voting on this and other actions today, cannot, however, amend the report.

In addition to ruling that participation in interrogations is unethical, the CEJA report warns physicians that if they "have reason to believe that interrogations are coercive, they must report their observations to appropriate authorities. If authorities are aware of coercive interrogations but have not intervened, physicians are ethically obligated to report the offenses to independent authorities that have the power to investigate or adjudicate such allegations."

CEJA said that physicians may ethically "perform physical and mental assessments of detainees to determine the need for and to provide medical care," but when they do so they must tell the prisoner that others will have access to that medical information.

CEJA also ruled that it is permissible to "participate in developing effective interrogation strategies for general training purposes," but physicians can't develop a specific strategy for use with a specific prisoner, Dr. Ray said.

The CEJA report comes in response to a request from Burlington, Vermont child psychiatrist Dr. David Fassler who last November asked the AMA for an ethical ruling on involvement of physicians in prisoner interrogations.

Dr. Fassler thanked CEJA for the report, which he called "thoughtful and responsive."

The report was also praised by a number of military physicians who are members of the AMA House. Speaking for that group, Air Force Surgeon General Dr. George P. Taylor Jr. said, "This report provides valuable ethical guidance which is consistent with our commitment as military physicians to the practice of ethical medicine and to the defense of our great nation."

But Physicians for Human Rights, led by Dr. Stephen Xenakis, a psychiatrist and retired brigadier general in the U.S. Army, said the report was too soft and used too much qualifying language. The result, he said, was an ambiguous statement. He warned that the military would find loopholes and use those loopholes to make a case for physician involvement in interrogations.

Ken

Responding to Victims of Torture—Clinical Issues, Professional Responsibilities, & Useful Resources:

<<http://hspppa.com/torture/texture1.php>>

"First they came for the communists but I was not a communist so I kept quiet. Then they came for the socialists and the trade unionists but I was neither, so I did not speak out. Then they came for the Jews, but I was not a Jew, so I did not speak out. And when they came for me, there was no one left to speak out for me."

—Martin Niemöller, after being released from Dachau, 1945

EXHIBIT 82

Sender: Behnke, Stephen </O=APA/OU=DC/CN=RECIPIENTS/CN=SVB>
Sent: Tuesday, June 13, 2006 1:07:14 AM
Recipient: 'Gerry Koocher' <gerald.koocher@SIMMONS.EDU>; 'Levant, Ronald F' <levant@uakron.edu>; 'SSB' <ssb@indiana.edu>; Anderson, Norman <NAnderson@apa.org>; Farberman, Rhea <rfarberman@apa.org>; Newman, Russ <mewman@apa.org>; Gilfoyle, Nathalie <ngilfoyle@apa.org>
Subject: FW: AMA opposes doctor involvement in detainee interrogation

The AP reporter did not go as far as I had hoped, but I actually think we're moving in the right direction.

Below please find an exchange with an APA member (who writes me occasionally on this issue) regarding the AP story.

Steve

-----Original Message-----

From: Behnke, Stephen
Sent: Tuesday, June 13, 2006 12:47 AM
To: 'jneafs1@luc.edu'
Subject: RE: AMA opposes doctor involvement in detainee interrogation

John, have you read the AMA position statement? A close read indicates that the AMA has used PRECISELY the same ethical analysis as has the American Psychological Association, allows PRECISELY the same involvement in military interrogations, and prohibits PRECISELY the same behaviors. There are entire passages that could be lifted directly from either report and placed in the other. The two position statements are virtually interchangeable in terms of what they allow and prohibit and how they approach the issue.

I'm sorry about sounding so frustrated, but I just left the website of Physicians for Human Rights, which has generally laudatory comments about the AMA position ("PHR Welcomes American Medical Association's Adoption of Rules Against Physician Involvement in Interrogation," posted June 12), even though PHR has been publicly critical of APA's position and the AMA position violates nearly every principle that PHR has said should govern health care provider involvement. I seriously question whether the person who wrote the text on the website had actually read the AMA report.

We really are working to do the right thing, and I welcome, encourage, and will call attention to your contributions and those of your many colleagues. But I'm increasingly coming to believe that commentators on this subject have agendas of their own and are not interested in an honest discourse, which makes productive discussion and debate extremely difficult.

Steve

-----Original Message-----

From: jneafs1@luc.edu [mailto:jneafs1@luc.edu]
Sent: Monday, June 12, 2006 11:55 PM
To: Behnke, Stephen; jneafs1@apa.org
Subject: AMA opposes doctor involvement in detainee interrogation

This story was sent to you by: Neafsey

Stephen, A Chicago Tribune article reporting that the AMA has now joined the American Psychiatric Association in officially forbidding its members from participating in interrogations. So what is the problem with the APA? Is this not a source of extreme embarrassment that the APA stands alone in

AMA opposes doctor involvement in detainee interrogation

By LINDSEY TANNER
AP Medical Writer

June 12, 2006, 5:14 PM CDT

CHICAGO – Doctors' direct involvement in prisoner interrogation is unethical and violates their oath to do no harm, the American Medical Association said Monday in a new policy stemming from concerns about treatment of detainees at Guantanamo Bay and elsewhere.

"Physicians in all circumstances must never be involved in activities that are physically or mentally coercive. If physicians engage in such activities, the whole profession is tainted," according to the new policy adopted by delegates at the AMA's annual meeting.

The policy says doctors may participate in developing non-coercive interrogation techniques for general training purposes. They may also provide medical care for detainees, but not if that treatment is conditional on a patient's participation in interrogation, according to the policy.

Doctors who learn of any coercive interrogation are ethically obligated to report it to authorities, the policy says.

The measure stems from concerns about military use of psychiatrists and psychologists as behavioral science consultants, or "biscuit" teams, to help interrogators obtain information from detainees. These teams observe but don't conduct the interrogation process, according to Dr. William Winkenwerder, assistant secretary of defense for health affairs.

Media reports have said these teams have helped interrogators create techniques involving coercive tactics including sleep deprivation and playing on detainees' fears or phobias to extract information. But in a press briefing last week about military guidelines for medical involvement with detainees, Winkenwerder said he did not think those actions had occurred.

Delegates to the nation's largest physician group adopted the policy without debate during their five-day annual meeting, which ends Wednesday.

The policy was recommended by the AMA's Council on Ethical and Judicial Affairs, whose report on the issue "provides valuable and ethical guidance," said Lt. Gen. George Taylor, the Air Force surgeon general. He spoke in support of the measure at an AMA committee meeting Sunday.

Dr. David Fassler, an AMA member and Vermont psychiatrist, said the policy underscores that doctor involvement in detainee interrogation is "simply incompatible with our primary obligation to do no harm."

The AMA's new stand "affirms a really profound ethical principle that physicians are there for the well-being of people, whoever they are – not to induce distress or monitor and calibrate the level of distress, which is what the Pentagon really wants," said Leonard Rubenstein, executive director of Physicians for Human Rights.

The new policy puts the AMA on the same page as the France-based World Medical Association and the American Psychiatric Association, which last month said psychiatrists, who are medical doctors, should not be involved in detainee interrogation.

Winkenwerder said the behavioral teams have mostly involved psychologists but that given the psychiatrists' new stance, the military would generally seek not use them except when psychologists aren't available.

The AMA stance does not affect psychologists, who are not medical doctors. But Stephen Vehnke, ethics director at the American Psychological Association, said his group's position states that psychologists should not be involved in direct interrogation of detainees, or in tactics that could lead to cruel and abusive treatment of detainees.

On the Net:

AMA: <http://www.ama-assn.org>

Department of Defense: <http://www.defenselink.mil>

Copyright (c) 2006, The Associated Press

EXHIBIT 83

Sender: Behnke, Stephen </O=APA/OU=DC/CN=RECIPIENTS/CN=SVB>
Sent: Wednesday, November 09, 2005 2:54:38 PM
Recipient: Farberman, Rhea <rfarberman@apa.org>; Kelly, Heather <hkelly@apa.org>; Mumford, Geoff <gmumford@apa.org>; Breckler, Steve <SBreckler@apa.org>; Garrison, Ellen <egarrison@apa.org>; Levitt, Nina <nlevitt@apa.org>; Tomes, Henry <htomes@apa.org>; Belar, Cynthia <CBelar@apa.org>; Gilfoyle, Nathalie <ngilfoyle@apa.org>; Anderson, Norman <NAnderson@apa.org>; Newman, Russ <rnewman@apa.org>; Honaker, Michael <mhonaker@apa.org>; Keita, Gwen <gkeita@apa.org>
Subject: RE: NYT Article

It is only a matter of time.

-----Original Message-----

From: Farberman, Rhea
Sent: Wednesday, November 09, 2005 2:18 PM
To: Kelly, Heather; Mumford, Geoff; Breckler, Steve; Garrison, Ellen; Levitt, Nina; Tomes, Henry; Belar, Cynthia; Gilfoyle, Nathalie; Anderson, Norman; Newman, Russ; Honaker, Michael; Keita, Gwen
Cc: Behnke, Stephen
Subject: RE: NYT Article

Just FYI – **no calls on this so far.**
Rhea

From: Kelly, Heather
Sent: Wednesday, November 09, 2005 10:00 AM
To: Mumford, Geoff; Breckler, Steve; Garrison, Ellen; Levitt, Nina; Farberman, Rhea; Tomes, Henry; Belar, Cynthia; Gilfoyle, Nathalie; Anderson, Norman; Newman, Russ; Honaker, Michael; Keita, Gwen
Cc: Behnke, Stephen
Subject: FW: NYT Article

Good morning, wanted to make sure you'd all seen this from today's New York Times – read down halfway to see the potentially bad sentence for us in bold type.
Heather

Heather O'Beirne Kelly, Ph.D.
Senior Legislative and Federal Affairs Officer
Science Public Policy Office
American Psychological Association
750 First Street, N.E., 5th Floor
Washington, D.C. 20002
phone 202.336.5932
fax 202.336.6063
email hkelly@apa.org

From: Paul Rocklin [<mailto:PRocklin@phrusa.org>]
Sent: Wednesday, November 09, 2005 9:25 AM
To: Behnke, Stephen; Kelly, Heather
Subject: NYT Article

Dear Steve and Heather,

You've probably seen this story in today's New York Times but here it is, just in case. The sentence that may be of greatest concern to APA reads: "The list of 10 techniques, including feigned drowning, was secretly drawn up in early 2002 by a team that included senior C.I.A. officials who solicited recommendations from foreign governments and from agency psychologists, the officials said."

Hope you are well,

Paul

Paul Rocklin, JD

Senior Program Associate

Physicians for Human Rights

2 Arrow Street, Suite 301

Cambridge, MA 02138

617-301-4242

617-301-4250 fax

procklin@phrusa.org

November 9, 2005

Classified Report Warned on C.I.A.'s Tactics in Interrogation

By DOUGLAS JEHL

WASHINGTON, Nov. 8 - A classified report issued last year by the Central Intelligence Agency's inspector general warned that interrogation procedures approved by the C.I.A. after the Sept. 11 attacks might violate some provisions of the international Convention Against Torture, current and former intelligence officials say.

The previously undisclosed findings from the report, which was completed in the spring of 2004, reflected deep unease within the C.I.A. about the interrogation procedures, the officials said. A list of 10 techniques authorized early in 2002 for use against terror suspects included one known as waterboarding, and went well beyond those authorized by the military for use on prisoners of war.

The convention, which was drafted by the United Nations, bans torture, which is defined as the infliction of "severe" physical or mental pain or suffering, and prohibits lesser abuses that fall short of torture if they are "cruel, inhuman or degrading." The United States is a signatory, but with some reservations set when it was ratified by the Senate in 1994.

The report, by John L. Helgerson, the C.I.A.'s inspector general, did not conclude that the techniques constituted torture, which is also prohibited under American law, the officials said. But Mr. Helgerson did find, the officials said, that the techniques appeared to constitute cruel, inhuman and degrading treatment under the convention.

The agency said in a written statement in March that "all approved interrogation techniques, both past and present, are lawful and do not constitute torture." It reaffirmed that statement on Tuesday, but would not comment on any classified report issued by Mr. Helgerson. The statement in March did not specifically address techniques that could be labeled cruel, inhuman or degrading, and which are not explicitly prohibited in American law.

The officials who described the report said it discussed particular techniques used by the C.I.A. against particular prisoners, including about three dozen terror suspects being held by the agency in secret locations around the world. They said it referred in particular to the treatment of Khalid Sheikh Mohammed, who is said to have organized the Sept. 11 attacks and who has been detained in a secret location by the C.I.A. since he was captured in March 2003. Mr. Mohammed is among those believed to have been subjected to waterboarding, in which a prisoner is strapped to a board and made to believe that he is drowning.

In his report, Mr. Helgerson also raised concern about whether the use of the techniques could expose agency officers to legal liability, the officials said. They said the report expressed skepticism about the Bush administration view that any ban on cruel, inhuman and degrading treatment under the treaty does not apply to C.I.A. interrogations because they take place overseas on people who are not citizens of the United States.

The current and former intelligence officials who described Mr. Helgerson's report include supporters and critics of his findings. None would agree to be identified by name, and none would describe his conclusions in specific detail. They said the report had included 10 recommendations for changes in the agency's handling of terror suspects, but they would not say what those recommendations were.

Porter J. Goss, the C.I.A. director, testified this year that eight of the report's recommendations had been accepted, but did not describe them. The inspector general is an independent official whose auditing role at the agency was established by Congress, but whose reports to the agency's director are not binding.

Some former intelligence officials said the inspector general's findings had been vigorously disputed by the agency's general counsel. To date, the Justice Department has brought charges against only one C.I.A. employee in connection with prisoner abuse, and prosecutors have signaled that they are unlikely to bring charges against C.I.A. officers in several other cases involving the mishandling of prisoners in Iraq and Afghanistan.

But the current and former intelligence officials said Mr. Helgerson's report had added to apprehensions within the agency about gray areas in the rules surrounding interrogation procedures.

"The ambiguity in the law must cause nightmares for intelligence officers who are engaged in aggressive interrogations of Al Qaeda suspects and other terrorism suspects," said John Radsan, a former assistant general counsel at the agency who left in 2004. Mr. Radsan, now an associate professor at William Mitchell College of Law in St. Paul, would not comment on Mr. Helgerson's report.

Congressional officials said the report had emerged as an unstated backdrop in the debate now under way on Capitol Hill over whether the C.I.A. should be subjected to the same strict rules on interrogation that the military is required to follow. In opposing an amendment sponsored by Senator John McCain, Republican of Arizona, Mr. Goss and Vice President Dick Cheney have argued that the C.I.A. should be granted an exemption allowing it extra latitude, subject to presidential authorization, in interrogating high-level terrorists abroad who might have knowledge about future attacks.

The issue of the agency's treatment of detainees arose shortly after the attacks of Sept. 11, after C.I.A. officers became involved in interrogating prisoners caught in Afghanistan, and the agency sought legal guidance on how far its employees and contractors could go in interrogating terror suspects, current and former intelligence officials said.

The list of 10 techniques, including feigned drowning, was secretly drawn up in early 2002 by a team that included senior C.I.A. officials who solicited recommendations from foreign governments and from agency psychologists, the officials said. They said officials from the Justice Department and the National Security Council, which is part of the White House, were involved in the process.

Among the few known documents that address interrogation procedures and that have been made public is an August 2002 legal opinion by the Justice Department, which said that interrogation methods just short of those that might cause pain comparable to "organ failure, impairment of bodily function or even

death" could be allowable without being considered torture. The administration disavowed that classified legal opinion in the summer of 2004 after it was publicly disclosed.

A new opinion made public in December 2004 and, signed by James B. Comey, then the deputy attorney general, explicitly rejected torture and adopted more restrictive standards to define it. But a cryptic footnote to the new document about the "treatment of detainees" referred to what the officials said were other still-classified opinions. Officials have said that the footnote meant that coercive techniques approved by the Justice Department under the looser interpretation of the torture statutes were still lawful even under the new, more restrictive standards.

It remains unclear whether all 10 of the so-called enhanced procedures approved in early 2002 remain authorized for use by the C.I.A. In an unclassified report this summer, the Senate Intelligence Committee referred briefly to Mr. Helgeson's report and said that the agency had fully put in effect only 5 of his 10 recommendations. But in testimony before Congress in February Mr. Goss said that eight had.

Some former intelligence officials have said the C.I.A. imposed tighter safeguards on its interrogation procedures after the abuses at Abu Ghraib prison came to light in May 2004. That was about the same time Mr. Helgeson completed his report.

The agency issued its earlier statement on the legality of approved interrogation techniques after Mr. Goss, in testimony before Congress on March 17, said that all interrogation techniques used "at this time" were legal but declined, when asked, to make the same broad assertion about practices used over the past few years.

On March 18, Jennifer Millerwise Dyck, the agency's director of public affairs, said that "C.I.A. policies on interrogation have always followed legal guidance from the Department of Justice."

- [Copyright 2005 The New York Times Company](#)