

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

STEPHEN BEHNKE, <i>et al.</i>,)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2017 CA 005989 B
)	
v.	)	Judge Todd Edelman
)	
DAVID H. HOFFMAN, <i>et al.</i>,	)	Next Event: Initial Scheduling
	)	Conference Dec. 1, 2017
<i>Defendants.</i>)	

**DEFENDANTS SIDLEY AUSTIN LLP, SIDLEY AUSTIN (DC) LLP, AND DAVID
HOFFMAN'S MEMORANDUM IN SUPPORT OF CONTESTED SPECIAL MOTION
TO DISMISS UNDER THE DISTRICT OF COLUMBIA
ANTI-SLAPP ACT, D.C. CODE § 16-5502**

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INTRODUCTION

One of the most publicly contentious issues of the post-9/11 War on Terror was the involvement of psychologists in the U.S. government's use of "enhanced interrogation techniques" on national security detainees. Part of this controversy involved longstanding public allegations that the American Psychological Association ("APA"), the leading U.S. professional organization for psychologists, secretly colluded with the government to support those techniques. In 2014, after a book by journalist James Risen gave the allegations renewed attention, APA retained the law firm Sidley Austin LLP and one of its partners, David Hoffman, (collectively "Sidley") to conduct an independent investigation into the allegations.

After an eight month investigation, Sidley presented to APA a 541-page report (the "Report") (attached as Ex. 2-A to Sidley's Motion to Compel Arbitration) detailing its findings and conclusions. Plaintiffs, three former Army psychologists and two former APA officials named in the Report, disagree with the Report's conclusions and have sued Sidley, and APA, for defamation and the related tort of false light invasion of privacy. Plaintiffs are, of course, free to disagree with the Report's conclusions and opinions and to use their free speech rights to publicly express their disagreement (which they have done and continue to do). But where, as here, Plaintiffs have no basis for a successful lawsuit, they cannot use defamation law to suppress Sidley and APA's expression of their views on this matter of substantial public interest.

The District of Columbia has enacted an "anti-SLAPP" law to protect public speakers and encourage robust debate on issues of public importance. This law provides substantive protection against lawsuits—such as this one—that are filed to "prevent the expression of opposing points of view" on matters of public interest. *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1226 (D.C. 2016) (internal quotation marks omitted). Plaintiffs' suit seeks to infringe on Sidley's speech in reporting to its D.C. client the results of an independent investigation on a

matter of public concern and APA's free speech rights to obtain information from its counsel on a matter of public concern and then release that information to its membership and the public. Plaintiffs' suit strikes not only at the heart of the First Amendment, but also at the ability of lawyers to candidly report the findings of investigations to clients.

Plaintiffs' lawsuit cannot survive application of D.C.'s Anti-SLAPP Act, D.C. Code § 16-5501, *et seq.* (the "Act"). The Act provides an efficient and straightforward way to resolve this lawsuit without the need to analyze each of the 219 sets of allegedly false statements in Plaintiffs' lengthy Complaint, and the Act's application here is consistent with the its "purpose [to] creat[e] a substantive right . . . to avoid the burdens and costs of pre-trial procedures." *Mann*, 150 A.3d at 1231. Once Defendants make a prima facie showing that Plaintiffs' claims concern speech on a matter of public interest, the burden shifts to Plaintiffs to present evidence—not just allegations—demonstrating a likelihood of success on the merits. D.C. Code § 16-5502(b). The Court must then determine whether "a jury properly instructed on the law, including any applicable heightened fault and proof requirements, could reasonably find for the claimant on the evidence presented." *Mann*, 150 A.3d at 1236. If not, the complaint is dismissed.

There are many reasons Plaintiffs cannot succeed on the merits as to any of the 219 sets of statements they allege to be false. In this motion, however, Sidley raises one discrete issue that will resolve this case *in toto*: Plaintiffs' inability to establish that Sidley published any allegedly false statement with "actual malice," i.e., with knowledge that the statements were false or with a high level of doubt as to their certainty. The actual-malice requirement in defamation law, and the heightened "clear and convincing evidence" burden of proof that accompanies it, protect the First Amendment rights of defendants who speak about the actions of public officials and public figures, such as Plaintiffs. All are either public officials (Dunivin, Banks, and James) or

limited-purpose public figures (Behnke and Newman).

To defeat this motion Plaintiffs must show that they are likely to succeed in presenting clear and convincing evidence that Sidley—a law firm retained to conduct an independent investigation for its client—knew that allegedly defamatory statements were false or had a high level of doubt as to their truthfulness, and included them in the Report anyway. *See Mann*, 150 A.3d at 1236 (actual malice and clear and convincing evidence standard are part of anti-SLAPP analysis). Demonstrating actual malice is a “daunting” standard to meet in any case. *McFarlane v. Sheridan Square Press, Inc.*, 91 F.3d 1501, 1515, 320 U.S.App.D.C. 40, 54 (D.C. Cir. 1996). It is especially difficult here. The publication at issue is a 541-page report based on an eight-month investigation and a multitude of sources. And Plaintiffs would have to establish that Sidley knowingly included false or highly doubtful information in a report it gave to its client despite its professional responsibility to provide candid advice.

It is therefore unsurprising that despite filing a complaint of 104 pages, Plaintiffs have identified no factual basis for making such a serious, and counter-intuitive, charge, let alone a way to prove it. Instead, all Plaintiffs have presented is a collection of allegations that are factually insufficient to establish actual malice.

The Complaint is the latest chapter in a long-running debate about the role of psychologists in, and APA’s ethical guidance regarding, interrogations. The issues raised in the Complaint should continue to be debated in the public arena, not litigated in a courtroom. *See N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (recognizing the “profound national commitment” to open “debate on public issues”). D.C.’s Anti-SLAPP Act and the actual malice requirement are intended to prevent what Plaintiffs seek to do here: use the courts to stifle public expression with which they do not agree. Plaintiffs’ claims should be dismissed with prejudice.

BACKGROUND

A. The Controversy Regarding Psychologists' Involvement in Interrogations.

Following the 2004 disclosure of abuses of detainees at the Abu Ghraib prison and elsewhere, the use of “enhanced interrogation techniques” and the role of psychologists in these interrogations came under intense public scrutiny. On November 30, 2004, the *New York Times* published an article reporting that the International Red Cross found “that the American military has intentionally used psychological and sometimes physical coercion . . . on prisoners at Guantanamo Bay” and that military psychologists were “advise[ing] the interrogators” who were using these techniques. Neil A. Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, N.Y. Times, Nov. 30, 2004 (Ex. 2-A);¹ see also Compl. ¶ 70. These disclosures created widespread debate about the use of these techniques and psychologists’ participation in interrogations, with some criticizing and others defending the techniques and psychologists’ involvement.

B. The PENS Task Force.

In response to the media reports, APA’s Board of Directors voted to establish a task force to “explore the ethical dimensions of psychology’s involvement and use of psychology in national security-related investigations.” Compl. ¶ 71. “This task force became known as the PENS Task Force, ‘PENS’ standing for Psychological Ethics and National Security.” *Id.* All Plaintiffs were involved in either the formation or the deliberations of the PENS Task Force. See Part D. The press covered the creation of the Task Force alongside new reporting about psychologists’ involvement in interrogations. See, e.g., Neil A. Lewis, *Interrogators Cite Doctors’ Aid at Guantánamo*, N.Y. Times, June 24, 2005 (Ex. 2-B).

The PENS Task Force met in Washington, D.C. from June 24 to 26, 2005. Compl. ¶ 75.

¹ All the exhibits cited herein are attached to the Declaration of Eli S. Schlam.

The Task Force concluded that psychologists could ethically assist in making national security interrogations effective and, therefore, did not impose a total ban on the practice. Instead, it proposed ethical guidelines for psychologists involved in interrogations. *Id.* ¶ 75. Among other guidelines, the Task Force stated that psychologists could be involved only in interrogations that were “safe, legal, ethical, and effective.” *See* PENS Guidelines (Ex. 2-C at 8). The APA Board adopted the PENS Guidelines on July 1, 2005. Compl. ¶ 77.

C. Post-PENS Task Force Debate.

In the years after the release of the PENS Task Force’s report, critics inside and outside of APA raised concerns about the Task Force and its Guidelines. Critics saw the Task Force as further evidence of collusion between APA and the U.S. Government and advocated for a total ban on psychologists participating in national security interrogations. Compl. ¶¶ 2, 176, 178. Some critics filed ethics complaints against psychologists for allegedly facilitating torture. *See id.* ¶ 176. Over the next several years, and continuing today, there has been a public debate about psychologists’ participation in national security interrogations. This debate has embroiled APA and its roughly 100,000 members. “The issue was openly debated on [the APA] Council floor and in numerous meetings, including a mini-convention on the topic.” *Id.* ¶ 131. The ongoing controversy continued to garner media attention. *See* Adam Fifield, *Policy Divides Psychologists*, Phila. Inquirer, Aug. 9, 2006 (Ex 2-D) (reporting that “[m]ore than 1,500 psychologists [] signed an online petition to protest APA guidelines that permit members to consult on ‘interrogation and information-gathering processes for national security purposes.’”); Tania deLuzuriaga, *A Push to Ban Psychologists’ Role in Torture*, Bos. Globe, Aug. 17, 2008 (Ex. 2-E) (covering protests at 2008 APA convention over psychologists’ role in interrogations).

D. Plaintiffs' Involvement in These Events.

Plaintiffs Morgan Banks, Debra Dunivin, and Larry James were all psychologists and Army Lieutenant Colonels who served in senior positions in military hospitals or other military commands. *See* Compl. ¶¶ 39, 41, 42. Dunivin and James each served as Chief of the Department of Psychology at Walter Reed Army Medical Center. *Id.* ¶¶ 41, 42. Dunivin and James also served in senior roles at Guantanamo Bay, and James was subsequently the Director of Behavioral Science at Abu Ghraib. *Id.* Banks served as the Director of Psychological Applications for the Army's Special Operations Command; in that role, he "provided ethical as well as technical oversight for all Army Special Operations Psychologists." *Id.* ¶ 39.

The Complaint states that Banks, Dunivin, and James each played a "leading role" "in drafting policies and implementing training and oversight to prohibit, and as far as possible, prevent future abuses" related to interrogations. *Id.* at 36 & ¶ 12. Dunivin and Banks drafted policies governing psychologists consulting on military interrogations at Guantanamo Bay, *id.* ¶¶ 69, 114, 129, and James and Banks investigated abuses at Abu Ghraib and "draft[ed] policies and institut[ed] procedures to prevent abusive interrogations," *id.* ¶¶ 123, 127. Banks was "an author of the Army Inspector General's report on detainee . . . operations in Iraq and Afghanistan" and consulted with the Army "on a revision to the Army Field Manual" related to interrogation techniques. *Id.* ¶ 125. Banks and James were also members of the PENS Task Force, *id.* ¶ 73; James observed in his published memoir that "[t]he results of this blue-ribbon panel were controversial," Larry C. James, *Fixing Hell* 245-46 (2008) (Ex. 2-F). Dunivin, who was stationed at Guantanamo Bay at the time, was not a member of the Task Force but made suggestions to the APA Board about who should be selected as members. Compl. ¶ 45.

Plaintiffs Stephen Behnke and Russell Newman, also psychologists, were senior APA officials who worked in APA's D.C. office at the time of the PENS Task Force. Behnke was the

Director of APA's Ethics Office. *Id.* ¶ 40. Newman was the Executive Director of APA's Practice Directorate and was responsible for "implementing legislative, legal, public education, and marketplace strategies to support psychological practitioners and to increase access to psychological services." *Id.* ¶ 43. Both Behnke and Newman were widely published on topics related to psychology. Both were involved with the PENS Task Force; Behnke "staff[ed] the Task Force," and Newman served as a non-voting observer and resource for the Task Force. *Id.* ¶ 44. Newman was also married to Dunivin. *Id.* ¶ 45.

Behnke was APA's primary spokesperson on the PENS Task Force report and for APA's position that psychologists could play an important role in making interrogations safe and effective. He was frequently quoted in the news media defending APA's position. For example, Behnke stated in a September 2005 interview, "I think people feel if the interrogation process is safe, legal, ethical, and effective [i.e., the guidelines provided in the PENS Task Force report], it's both appropriate to be involved and that psychologists have a role to ensure it remains that way." Tara McKelvey, *First Do Some Harm*, Am. Prospect, Sept. 2005 (Ex. 2-G); *see also* Ex. 2-H (25 articles in which Behnke is quoted on these topics). In 2007, Behnke testified before the Senate Select Committee on Intelligence to explain APA's view that "[p]sychologists have valuable contributions to make toward the goals of preventing violence and protecting our nation's security through interrogation processes." Ex. 2-I at 1. Behnke also published numerous articles defending the PENS Task Force and arguing that "[p]sychologists have a valuable and ethical role . . . [in] gathering information that can be used in our nation's and other nation's defense." Stephen Behnke, *Psychological Ethics and National Security*, 11 Euro. Psychologist 153, 154 (2006) (Ex. 2-J); *see* Ex. 2-K (five articles written by Behnke on these topics).

E. APA Retains Sidley to Conduct an Independent Investigation In Response to Publication of *Pay Any Price*.

In 2014, *New York Times* reporter James Risen published the book *Pay Any Price*.

Among other topics, it discussed the role of psychologists in national security interrogations and the claims that APA colluded with the U.S. Government to support torture, including that the outcome of the PENS Task Force was a result of collusion between APA and the Government.

Compl. ¶¶ 2, 3; *see also* James Risen, *Pay Any Price* 199-200 (2014) (Ex. 2-L).

In response to Risen’s book, APA engaged Sidley to conduct an independent review of allegations made regarding APA’s issuance of ethical guidance regarding interrogations. Report at 1; *see also* Compl. ¶ 3. APA asked Sidley to investigate “all the evidence” and go “wherever the evidence leads.” Compl. ¶ 15. David Hoffman, a Sidley partner, led a team of lawyers from Sidley’s D.C. and Chicago offices. Dempsey Aff. (Ex. 3) ¶¶ 4-5. Over eight months, Sidley interviewed approximately 150 people and reviewed more than 50,000 documents. *See* Report at 6-7. In July 2015, Sidley provided to APA, in Washington, D.C., the Report, which explained in great detail Sidley’s findings and the bases of its conclusions and opinions. APA made the Report and 7,600 pages of exhibits publicly available. Sidley provided a revised version of the Report in September.

Sidley reached a number of conclusions based on its review of the evidence, including that “key APA officials, principally the APA Ethics Director joined and supported at times by other APA officials, colluded with important DoD officials to have APA issue loose, high-level ethical guidelines that did not constrain DoD in any greater fashion than existing DoD interrogation guidelines.” Report at 9. It did not find any evidence that APA “knew about the existence of an interrogation program using ‘enhanced interrogation techniques.’” *Id.*

F. Plaintiffs' Ohio and District of Columbia Complaints.

On February 16, 2017, Plaintiffs sued Sidley and APA in the Montgomery County, Ohio Court of Common Pleas, filing a 101-page complaint and attaching a 45-page single-spaced exhibit listing 219 allegedly false statements in the Report. In explaining that complaint's "unusual and unfortunate length," Plaintiffs stated it was "necessary, . . . to plead the facts demonstrating actual malice." Ohio Compl. at 1 n.1. On August 25, 2017, the Ohio court dismissed the case for lack of personal jurisdiction.

Plaintiffs refiled a nearly identical complaint in the District of Columbia, naming APA, David Hoffman, Sidley Austin LLP, and Sidley's D.C. affiliate, Sidley Austin (DC) LLP, as defendants. As explained below, the allegations in the Complaint, even if Plaintiffs could prove them, do not satisfy the constitutional standard for actual malice.

ARGUMENT

The D.C. Anti-SLAPP Act creates substantive protection for individuals and entities who express views on matters of public interest. The Act was intended to protect against litigation that seeks to "chill or silence speech." *Mann*, 150 A.3d 1229.² A defendant can demonstrate that it is entitled to the protections of the Act by making a prima facie showing that the claims arise from the defendant stating views on matters of public interest. The plaintiff then has the burden to show that its claim is "likely to succeed on the merits." D.C. Code § 16-5502(b).

Sidley's Report qualifies as speech on an issue of public interest protected by the Act. Accordingly, the burden shifts to Plaintiffs to present evidence demonstrating they are likely to

² Plaintiffs complain that, after they threatened a lawsuit in 2016 and filed this litigation in February 2017 in Ohio, a planned supplemental report by Sidley to APA has "not emerged." Compl. ¶ 33. However, one of the evident consequences of a defamation lawsuit like this is to inhibit further speech on the issues over which Plaintiffs sued.

succeed on the merits. As public officials (Dunivin, Banks, and James) and limited-purpose public figures (Behnke and Newman), Plaintiffs must present clear and convincing evidence that Sidley published false and defamatory statements about them with “actual malice.” Plaintiffs cannot make this showing and, therefore this lawsuit should be dismissed with prejudice.³

I. Sidley’s Speech Qualifies for Protection of the D.C. Anti-SLAPP Act.

The claims at issue here “arise[] from an act in furtherance of the right of advocacy on issues of public interest,” D.C. Code § 16-5502(b). The Act broadly defines an “[a]ct in furtherance of the right of advocacy on issues of public interest” to include (1) “[a]ny written or oral statement made . . . [i]n a place open to the public or a public forum in connection with an issue of public interest”; or (2) “[a]ny other expression . . . that involves . . . communicating views to members of the public in connection with an issue of public interest.” D.C. Code § 16-5501. The Act defines “[i]ssue of public interest” broadly as “an issue related to health or safety . . . or community well-being; . . . [or] a public figure.” *Id.*

Sidley’s Report to APA qualifies as protected speech under the Act. First, the issues the Report addresses are “issue[s] of public interest.” They relate to the “health or safety” of detainees, the well-being of the community of APA’s more than 100,000 members, who have dealt with years of allegations about APA’s role in connection with abusive interrogations, and numerous “public figure[s]” discussed in the Report, including leading government and APA officials, as well as Plaintiffs themselves (*see* Part II.A, *infra*). *Id.*

Second, Sidley and APA contemplated that APA would make the Report public, and APA posted the Report on its website. Compl. ¶¶ 18, 61. A publicly available website qualifies

³ Under the Anti-SLAPP Act, all discovery is stayed until a special motion is resolved. D.C. Code § 16-5502(c). To obtain discovery, a plaintiff must show both that it is “likely that targeted discovery will enable the plaintiff to defeat the motion” and that the discovery will not be “unduly burdensome.” *Id.* Plaintiffs cannot satisfy these requirements here.

under the Act as a “place open to the public” because “anyone with internet access can view it.” *Boley v. Atl. Monthly Grp.*, 950 F. Supp. 2d 249, 256 (D.D.C. 2013).

II. Plaintiffs Cannot Demonstrate a Likelihood of Success on the Merits Because They Cannot Establish Actual Malice.

Defendants’ speech is protected by the Act, and Plaintiffs must “demonstrate[] that the claim is likely to succeed on the merits.” D.C. Code § 16-5502(b). To meet this standard, Plaintiffs must demonstrate that “a jury properly instructed on the law, including any applicable heightened fault and proof requirements, could reasonably find for the claimant on the evidence presented.” *Mann*, 150 A.3d at 1236. “[T]he statute requires more than mere reliance on allegations in the complaint”; Plaintiffs must present evidence that supports the claim. *Id.* at 1233. The Court must then “test the legal sufficiency of the evidence to support the claim[.]” *Id.* at 1240. If the evidence is insufficient, the case must be dismissed with prejudice.

Plaintiffs Dunivin, Banks, and James are public officials. Plaintiffs Behnke and Newman are limited-purpose public figures. All therefore must meet the heightened fault and proof requirements of the “actual malice” test, mandated by the U.S. Constitution to protect First Amendment rights. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 334-35 (1974). Proving actual malice requires “clear and convincing evidence” that defendants made a false and defamatory statement “with knowledge that it was false or with reckless disregard of whether it was false or not.” *Thompson v. Armstrong*, 134 A.3d 305, 311 (D.C. 2016) (quoting *Sullivan*, 376 U.S. at 279-80). As shown below, Plaintiffs cannot satisfy their “burden . . . to present legally sufficient evidence substantiating the merits” of their claim. *Mann*, 150 A.3d at 1237.⁴

⁴ Plaintiffs Behnke, Dunivin, and James also sue for false light invasion of privacy based on the same underlying facts and allegations as their defamation claims. *See* Compl. ¶¶ 528-535 (Count 12). Plaintiffs “may not avoid the strictures of the burdens of proof associated with defamation by resorting to a claim of false light invasion.” *Klayman v. Segal*, 783 A.2d 607, 619 (D.C.

A. Plaintiffs Must Establish Actual Malice.

1. Banks, Dunivin, and James Are Public Officials.

In *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966), the U.S. Supreme Court explained that “the ‘public official’ designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs.” Whether a plaintiff is a public official is a question of law to be decided by the court. *See id.* at 88. Military officers who have a role in shaping military policy are public officials. *See, e.g., Secord v. Cockburn*, 747 F. Supp. 779, 784 (D.D.C. 1990) (“Indeed, any individual who holds an advisory military or diplomatic position, or otherwise attempts to shape the policy of the United States, is by definition a public figure.”).⁵

Banks, Dunivin, and James were all Army Lieutenant Colonels who served in senior positions, including at Abu Ghraib and Guantanamo Bay and in the Army’s Special Operations Command—all high profile positions given the controversies regarding interrogations. *See* Compl. ¶¶ 39, 41, 42; *see supra* Background, Part D. Significantly, Banks, Dunivin, and James “were charged with drafting and implementing policies to ensure humane treatment, prevent abuses, and report any abuses that occurred.” *Id.* ¶ 69. As Plaintiffs describe it, they “stepped up” and, rather than “play[ing] it safe,” took a leading role in creating policies and procedures concerning interrogation techniques and psychologists’ role in interrogations. *Id.* ¶ 12. The

2001). Defamation and false light claims both require public officials and public figures to demonstrate actual malice. *See Parsi v. Daiouleslam*, 890 F. Supp. 2d 77, 92 (D.D.C. 2012).

⁵ *See also MacNeil v. CBS, Inc.*, 66 F.R.D. 22, 25 (D.D.C. 1975) (colonel who served as spokesman for Defense Department was public official); *Arnheiter v. Random House, Inc.*, 578 F.2d 804, 805 (9th Cir. 1978) (commander of naval ship was public official); *Davis v. Costa-Gavras*, 595 F. Supp. 982, 987 (S.D.N.Y. 1984) (U.S. military commander in Chile was public official).

Complaint alleges that Dunivin and Banks were responsible for drafting policies governing psychologists consulting on military interrogations at Guantanamo Bay, *id.* ¶¶ 69, 114, 123, 129, and James and Banks were responsible for investigating abuses at Abu Ghraib and “drafting policies and instituting procedures to prevent abusive interrogations,” *id.* ¶¶ 123, 125, 127. Indeed, an entire section of the Complaint is titled “The Military Plaintiffs Took a Leading Role in Creating Policies and Procedures to Prevent Abusive Interrogations.” *Id.* at 36.

The Complaint demonstrates that Dunivin, Banks, and James were central players in setting and implementing government policy regarding one of the most controversial aspects of the War on Terror. Given Plaintiffs’ own admissions about the “leading role” Dunivin, Banks, and James played in creating and implementing government policies, they are public officials under *Rosenblatt* and *Sullivan* and their progeny. *See, e.g., Secord*, 747 F. Supp. at 784.⁶

2. Behnke and Newman Are Limited-Purpose Public Figures.

Individuals “who assume roles in the forefront of particular public controversies in order to influence the resolution of the issues involved are deemed public figures only for purposes of the controversy in which they are influential.” *Doe No. 1 v. Burke*, 91 A.3d 1031, 1041 (D.C. 2014) (internal quotation marks omitted); *see also Gertz*, 418 U.S. at 344-45. Whether an individual is a limited-purpose public figure is a question of law for the court. *See Clampitt v. Am. Univ.*, 957 A.2d 23, 42 (D.C. 2008). District of Columbia courts have “adopted a three-part inquiry articulated by the D.C. Circuit in *Waldbaum*” to determine whether a plaintiff is a limited-purpose public figure. *Burke*, 91 A.3d at 1042. The *Waldbaum* inquiry looks at (1) whether

⁶ “That the person defamed no longer holds the same position does not by itself strip him of his status as a public official for constitutional purposes. If the defamatory remarks relate to his conduct while he was a public official and the manner in which he performed his responsibilities is still a matter of public interest, he remains a public official within the meaning of” *Sullivan. Gray v. Udevitz*, 656 F.2d 588, 590 n.3 (10th Cir. 1981).

there is a “public controversy,” i.e., “a dispute that in fact has received public attention because its ramifications will be felt by persons who are not direct participants”; (2) whether the plaintiff “purposely tr[ie]d to influence the outcome or could realistically have been expected because of his position in the controversy, to have an impact on its resolution”; and (3) whether the alleged defamation was “germane to the plaintiff’s participation in the controversy.” *Waldbaum v. Fairchild Publ’ns, Inc.*, 627 F.2d 1287, 1296-98, 201 U.S.App.D.C. 301, 310 (D.C. Cir. 1980).

First, as the Complaint acknowledges, *see, e.g.*, Compl. ¶¶ 16, 39, 240, there has been an ongoing public controversy concerning (1) the involvement of psychologists in national security interrogations, and (2) APA’s position on the ethics of psychologists participating in national security interrogations, at least since the publication of a November 2004 *New York Times* article “regarding the possible involvement of psychologists in abusive interrogations.” Compl. ¶ 70. The PENS Task Force, which figures prominently in the Report and in Plaintiffs’ allegations, arose out of this public controversy and received extensive media attention. *See, e.g.*, Neil A. Lewis, *Psychologists Warned on Role in Detentions*, N.Y. Times, July 6, 2005 (Ex. 2-M). The Report “was prompted and guided by claims that, in the aftermath of 9/11, APA colluded with the Bush administration, the Central Intelligence Agency (CIA) and the U.S. military to support torture,” including claims made in Risen’s 2014 book. Compl. ¶¶ 2, 3. These questions about the role psychologists and APA may have played in connection with enhanced interrogations involve a controversy affecting more than just the direct participants; it impacts the general public’s interest in balancing human rights with national security, and it affects national policy on these important subjects.

The Complaint also describes the ongoing dispute between those (including Plaintiffs) who believe that psychologists have a role in interrogations and those who want APA to “ban

psychologists’ participation in the interrogation process.” *Id.* ¶ 178. A key outcome of the PENS Task Force was APA’s decision to take the position that psychologists could participate in national security interrogations. This was a controversial position and one that continues to provoke heated disagreement among psychologists and the general public.⁷ *See, e.g., id.* ¶ 230. This controversy also affects the general public (and psychologists in particular) as it relates to the question of the role of psychologists in society, and specifically in interrogations.

Second, the Complaint and other publicly available sources demonstrate that Behnke and Newman purposely tried to influence the outcome of the controversy regarding the role of psychologists in interrogations. Both voluntarily chose to take part in the PENS Task Force, which determined, consistent with Behnke and Newman’s views, that psychologists could ethically participate in interrogations. *See id.* ¶¶ 73, 74. Behnke and Newman’s *voluntary* participation in the Task Force demonstrates that they tried to influence the outcome of this controversy.⁸ *See Lohrenz v. Donnelly*, 350 F.3d 1272, 1282, 358 U.S.App.D.C. 425, 435 (D.C. Cir. 2003) (navy pilot’s decision to volunteer for combat gave her “‘special prominence’ in the controversy about women in combat and established her voluntary limited-purpose public figure status”). Additionally, as heads of APA’s Practice Directorate and Ethics Office, respectively, Newman and Behnke had significant involvement in APA’s positions and advocacy on ethics and practice issues. *See Compl.* ¶¶ 40, 43. They both thus would have been “expected, because of [their] position[s] in the controversy, to have an impact on [the] resolution” of the PENS Task Force, which

⁷ For example, in 2006 the American Psychiatric Association determined psychiatrists could not ethically participate in national security interrogations. *See ApA, Position Statement* (Ex. 2-N).

⁸ The Complaint seeks to downplay Newman’s role in the PENS Task Force by pointing to incomplete notes of the PENS sessions that identify Newman as speaking 22 times. *Compl.* ¶ 229. However, the relevant inquiry is not the number of times Newman spoke but the fact that he purposefully injected himself into the controversy with the intent to influence the outcome.

affected both the ethics and practice of psychology. *Waldbaum*, 627 F.2d at 1296.

Behnke’s purposeful attempts to publicly influence and direct the outcome of the controversy regarding the role of psychologists in interrogations did not end with the PENS Task Force. He was the primary spokesperson for APA regarding the Task Force and in responding to critiques. *See* Ex. 2-G–2-K (showing statements, articles, and Senate testimony by Behnke about the PENS Task Force or psychologists’ involvement in interrogations); Ex. 2-O (Behnke advocating at public forum for positions taken by PENS Task Force); *see also supra* Background Part D. Additionally, as the Complaint acknowledges, Behnke conducted workshops related to interrogations for the Department of Defense. Compl. ¶ 216.

Like the plaintiff in *Waldbaum*, Newman and Behnke were “mover[s] and shaper[s]” of their organization’s “controversial actions.” 627 F.2d at 1300. Similarly, like the plaintiff in *Burke*, who was a limited-purpose public figure, Behnke made public statements and “g[ave] interviews” about the controversy. *Burke*, 91 A.3d at 1043. In *Tavoulareas v. Piro*, 817 F.2d 762, 773-74, 260 U.S.App.D.C. 39, 50 (D.C. Cir. 1987), the court held that an executive who “played [a] substantial role[] in spearheading a public counterattack on the movement for reform” including by making speeches, “testif[ying] before Congress,” and “publish[ing] articles” was a limited-purpose public figure. In *Jankovic v. International Crisis Group*, 822 F.3d 576, 589, 422 U.S.App.D.C. 259 (D.C. Cir. 2016), the court found a business man who made “supportive public statements” about Serbian economic reform efforts was a limited-purpose public figure. Newman and Behnke played similar roles—including through public statements and testifying before Congress—regarding APA’s response (i.e., the PENS Task Force) to the allegations that psychologists had participated in torture.

Third, the last prong of *Waldbaum* is met. The allegedly false statements in the Report

that reference Behnke and Newman all relate to their involvement in the PENS Task Force and/or related debates within APA about the role of psychologists in interrogations.

B. Plaintiffs Cannot Establish Actual Malice.

As public officials and limited-purpose public figures, Plaintiffs must prove by clear and convincing evidence that Sidley made each allegedly defamatory statement with actual malice. *See Mann*, 150 A.3d at 1236. The allegations in the Complaint are insufficient to establish actual malice. Instead, Plaintiffs fundamentally misapprehend the concept of actual malice. Under the proper application of the actual malice test, even assuming *arguendo* the truth of the non-conclusory factual allegations in the Complaint, Plaintiffs simply cannot meet their burden.

1. There Is No Evidence that Sidley Knowingly Made False Statements.

Establishing actual malice requires a showing, by clear and convincing evidence, that the defendant knew that the statements challenged by a plaintiff were false, had a “high degree of awareness of probable falsity,” or “in fact entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968).⁹ This is a “subjective” standard that requires clear and convincing evidence of the speaker’s state of mind as to the truth of the statement, specifically whether “the defendant actually entertained a serious doubt” about its truth. *McFarlane*, 91 F.3d at 1508. Additionally, the “clear and convincing” evidence standard is “significantly more onerous than the usual preponderance of the evidence standard,” *Tavoulareas*, 817 F.2d at 776, requiring that “the ultimate factfinder [have] an abiding conviction that the truth of [the] factual contentions [is] ‘highly probable,’” *Colorado v. New Mexico*, 467 U.S. 310, 316

⁹ *St. Amant* clarified the *Sullivan* Court’s use of “reckless,” explaining that actual malice “is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing.” 390 U.S. at 731. Rather, recklessness requires proof of actual subjective awareness of falsity or “serious doubts as to the truth.” *Id.*

(1984). Actual malice is thus a “daunting” standard for a public figure to attempt to satisfy.

McFarlane, 91 F.3d at 1515.

In *St. Amant*, the Supreme Court identified circumstances that could be grounds to find a defendant acted with actual malice: (1) if “a story is fabricated by the defendant, is the product of his imagination, or is based wholly on an unverified anonymous telephone call”; (2) when the “allegations are so inherently improbable that only a reckless man would have put them in circulation”; and (3) “where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports.” 390 U.S. at 732; *see also Tavoulareas*, 817 F.2d at 790. Plaintiffs do not allege—nor could they—that any of these circumstances exist here. There is no claim that Sidley fabricated the Report or that it relied on a single unverifiable or dubious source. To the contrary, the Report was the result of an eight-month investigation that included the review of over 50,000 documents and interviews with approximately 150 people. *See* Report at 6-7. The Report’s conclusions and opinions are based on this extensive record, and explanations and footnotes throughout the 541-page Report identify the source material. To prove actual malice, Plaintiffs would have to show that there were “obvious reasons to doubt the veracity” of this entire record. Nor can Plaintiffs show that any of the statements are “inherently improbable.”

Indeed, the context of the Report renders the assertion that Sidley acted with actual malice particularly implausible. APA retained Sidley to conduct an independent investigation and report on its findings. Sidley’s professional responsibilities required that it provide its client with candid and honest information, conclusions, and opinions. *See* D.C. R. Prof. Cond. 2.1 (“In representing a client, a lawyer shall . . . render candid advice.”); *see also* Ill. Rules of Prof’l Conduct r. 2.1 (2009) (same). Plaintiffs would need to present evidence that Sidley nevertheless included in the Report factual statements that it knew or strongly believed were false. It strains credulity

to suggest that Sidley would do so, making the “daunting” actual malice requirement, *McFarlane*, 91 F.3d at 1515, especially difficult to surmount in this case.

2. Plaintiffs’ Attempts to Establish Actual Malice Fail.

The Complaint contains no allegations that come close to establishing that Sidley *actually* knew that the allegedly defamatory statements were false, that it *actually had* a high degree of certainty that they were false, or that it *actually entertained* serious doubts as to the truth of those statements. Plaintiffs bear the burden, and their circumstantial allegations, even if proven true, are deficient as a matter of law to establish actual malice by clear and convincing evidence. *See Jankovic*, 822 F.3d at 590 (“[A]ctual malice does not automatically become a question for the jury whenever the plaintiff introduces pieces of circumstantial evidence tending to show that the defendant published in bad faith.”).

As an initial matter, Plaintiffs’ method for demonstrating actual malice is facially flawed. The Complaint makes only general allegations about the Report and Sidley’s investigation; it does not connect their actual malice allegations to any of the allegedly defamatory statements, nor do they explain why those allegations demonstrate that Sidley knew that any of those statements were false. Plaintiffs cannot “show actual malice in the abstract[,] they must demonstrate actual malice *in conjunction* with a false defamatory statement.” *Tavoulareas*, 817 F.2d at 794. To defeat this motion, Plaintiffs must demonstrate that Sidley specifically knew that the allegedly defamatory statements were false.¹⁰

In addition to being unmoored from any particular statement, Plaintiffs’ allegations

¹⁰ *See Parsi*, 890 F. Supp. 2d at 81 (plaintiff “failed to identify which statements they perceive as defamatory and to put forth specific evidence of actual malice relating to those statements”); *Dongguk Univ. v. Yale Univ.*, 734 F.3d 113, 131 (2d Cir. 2013) (must show that defendant “acted with actual malice in making each statement”); *Henry v. Nat’l Ass’n of Air Traffic Specs, Inc.*, 836 F. Supp. 1204, 1212 (D. Md. 1993) (same).

simply do not establish actual malice. Courts routinely hold that factual allegations and legal theories like those asserted here are *insufficient* to show actual malice. Plaintiffs have grouped their allegations of actual malice into four categories: (1) Sidley had in its possession materials which demonstrated that statements in the Report were incorrect, (2) the way Sidley conducted the investigation demonstrates actual malice, (3) the manner in which the Report is written demonstrates actual malice, and (4) Sidley’s actions after the Report was published demonstrate actual malice. *See* Compl. at i-ii. None of these allegations demonstrates actual malice nor can Plaintiffs establish actual malice by stacking together multiple insufficient arguments. *See McFarlane*, 91 F.3d at 1516 (no actual malice where each argument “provides little or no additional support for a finding of actual malice[] [and] cumulatively[] they do not amount to much, and surely not enough under the standard set by the Supreme Court”).

a. Allegations Regarding Documents in Sidley’s Possession Do Not Demonstrate Actual Malice.

Plaintiffs allege that Sidley had documents that demonstrated that three “primary conclusions” identified in the Complaint were false. *See* Compl. ¶¶ 86-153. Sidley strongly disagrees that its conclusions are false (or are factual statements that could be considered false for purposes of defamation) or that the documents referenced in the Complaint support Plaintiffs’ theories. However, even if that were the case and Sidley had in its possession some documents—among the more than 50,000 it reviewed—that suggested an alternative narrative, that does not establish actual malice. “[T]here is a significant difference between proof of actual malice and mere proof of falsity.” *Bose Corp. v. Consumers Union of United States, Inc.*, 466 U.S. 485, 511 (1984). Similarly, “[a]n honest misinterpretation does not amount to actual malice even if the publisher was negligent in failing to read the document carefully.” *Jankovic*, 822 F.3d at 594. “[E]rroneous statement is inevitable in free debate, and . . . must be protected if the freedoms of expression

are to have the breathing space [] they need to survive.” *Sullivan*, 376 U.S. at 271.

Courts are clear that the alleged failure to check documents in one’s possession does not constitute actual malice. The “[f]ailure to investigate does not in itself establish bad faith.” *St. Amant*, 390 U.S. at 733. In *Howard v. Antilla*, 294 F.3d 244, 255 (1st Cir. 2002), for example, the defendant acknowledged that she had missed critical information among the “1500 pages of notes and documents in her investigative file.” The court rejected the argument that this mistake demonstrated actual malice. Rather, it was “at worst, a negligent failure to connect the dots in a voluminous paper trail.” *Id.* Similarly, in *Von Kahl v. Bureau of National Affairs, Inc.*, 856 F.3d 106, 117 (D.C. Cir. 2017), the plaintiff argued that the defendant acted with actual malice because “a more careful reading” of a certain document would have caused the defendants to “connect[] some dots” and suspect that their reporting was incorrect. The D.C. Circuit rejected that argument because “an honest misinterpretation does not amount to actual malice even if the publisher was negligent in failing to read the document carefully.” *Id.* Again, Sidley believes that its interpretation of the events described in the Report is correct. But even assuming Plaintiffs could prove all of their allegations, the most that could be said is that, after reviewing a “voluminous paper trail” of over 50,000 documents and interviews of approximately 150 people, Sidley did not connect the dots. That is not actual malice.

Similarly, Plaintiffs’ allegations that Sidley saw documents during its investigation that should have led it to a different conclusion, even if true, do not demonstrate that Sidley actually had doubts about the veracity of any challenged statements. Sidley’s opinions and conclusions were the result of analyzing and synthesizing the information described above. That Sidley reached its conclusions after looking at all of the materials and Plaintiffs reached different conclusions does not establish actual malice. *See Time, Inc. v. Pape*, 401 U.S. 279, 290 (1971)

(“[T]he adoption of one of a number of possible rational interpretations . . . though arguably reflecting a misconception, was not enough to create a jury issue of ‘malice.’”). Indeed, Sidley had a duty to APA to provide its candid conclusion based on the evidence it reviewed. Nor can Plaintiffs establish actual malice by arguing that Sidley “omit[ed]” documents that would have supported Plaintiffs’ narrative. *See, e.g.*, Compl. ¶ 90; *see Lohrenz*, 350 F.3d at 1285 (“Even where doubt-inducing evidence could be discovered, a publisher may still opt not to seek out such evidence and may rely on an informed source, so long as there is no obvious reason to doubt that source.” (internal quotation marks omitted)); *Parsi*, 890 F. Supp. 2d at 86.

b. Allegations About the Manner in Which the Investigation Was Conducted Do Not Demonstrate Actual Malice.

Plaintiffs make a number of allegations about the conduct of the investigation. Sidley disputes these allegations, which grossly misrepresent how Sidley conducted its investigation. However, even if these allegations were true, none establishes that Sidley knew or had a high degree of awareness that the challenged statements were false or probably false. *See Jankovic*, 822 F.3d at 594 (“[R]eliance on insufficient investigation . . . is a non-starter.”); *OAO Alfa Bank v. Ctr. for Pub. Integrity*, 387 F. Supp. 2d 20, 53 (D.D.C. 2005) (allegations about conduct of investigation “focus[] *improperly* on what more a reasonable reporter might have done in the circumstances, not on the defendants’ state of mind” (emphasis added)).

Plaintiffs complain that Sidley expanded the scope of the investigation without informing Plaintiffs that the Report would be critical of them and that Sidley did not give witnesses *Upjohn* warnings. *See* Compl. ¶¶ 164-171, 200-205. Neither of these allegations is probative of Sidley’s state of mind regarding the truthfulness of the challenged statements. Courts have also held that “an author is under no duty to divulge the contents of a book prior to publication in order to provide the subject an opportunity to reply.” *Secord*, 747 F. Supp. at 788-89.

Plaintiffs also allege that in conducting its investigation, Sidley placed too much reliance on individuals (the “Accusers”) who had a negative view of Plaintiffs. *See* Compl. ¶¶ 172-180. But reliance on purportedly biased sources is not sufficient to establish that a defendant acted with actual malice. *See, e.g., St. Amant*, 390 U.S. at 733; *Lohrenz*, 350 F.3d at 1284 (“That [defendants] acted on the basis of a biased source and incomplete information does not demonstrate [actual malice] . . .”). Likewise, Plaintiffs’ allegations that Sidley was aligned with the views of the Special Committee, *see* Compl. ¶¶ 181-188, or the Accusers, *see, e.g., id.* ¶¶ 10, 16, or that the Report is a “one-sided brief” that does not present “both sides of these debates,” *id.* ¶¶ 12-15, 23, 504, are irrelevant to the question of whether Sidley knew or had serious concerns that the challenged statements are false. “[C]aselaw resoundingly rejects the proposition that a motive to disparage someone is evidence of actual malice.” *Parsi*, 890 F. Supp. 2d at 90. Nor can Plaintiffs establish actual malice by complaining that Sidley did not “interview key witnesses” or “explore Plaintiffs’ exculpatory evidence.” Compl. ¶¶ 189-199.

In *Perk v. Reader’s Digest Association*, the plaintiff similarly argued that the defendant acted with actual malice because he “intended to write a story with a particular slant,” and that he “had a responsibility to research each of [the] issues more thoroughly,” “fail[ed] to interview any members of [the plaintiff’s] administration” and “fail[ed] to follow up on statements contained within the very sources used.” 931 F.2d 408, 411-12 (6th Cir. 1991). Rejecting those arguments, the court held that “appellees have no . . . obligation to present a balanced view Nor are they liable for failing to perform the thorough professional investigation [appellant] would have preferred.” *Id.* at 412.¹¹

¹¹ *See also Lohrenz*, 350 F.3d at 1284 (“Evidence that the publishers of the alleged defamatory statements were on a mission to reinstate the ban against women being assigned to combat positions in the military does not suffice to show actual malice.”); *OAO*, 387 F. Supp. 2d at 53 (“A

c. The Manner in Which the Report Was Written Is Not a Basis to Find Actual Malice.

Plaintiffs also allege actual malice based on the “manner” in which Sidley wrote the Report. *See* Compl. ¶¶ 206-230. This assertion is contrary to Supreme Court precedent that finding malice from the “language of the publication” is an “error of constitutional magnitude.” *Greenbelt Coop. Publ’g Ass’n v. Bresler*, 398 U.S. 6, 10 (1970); *see also Wash. Post Co. v. Keogh*, 365 F.2d 965, 969, 125 U.S.App.D.C. 32, 36 (D.C. Cir. 1966) (“[C]haracter and content of the publication . . . [is] a constitutionally impermissible evidentiary basis for a finding of actual malice.”).

Even if the content of the Report were a basis to show actual malice, Plaintiffs’ complaints about the way Sidley wrote the Report do not demonstrate that Sidley knew that the challenged statements were false or had doubts as to their truth. All Plaintiffs allege in this section is that they do not agree with the conclusions Sidley drew based on the evidence and that “[w]here the facts may be open to more than one explanation, [Sidley] consistently [chose] the one that portrays Plaintiffs in the worst light.” Compl. ¶ 208.

That Plaintiffs have different interpretations of the facts does not establish actual malice. Otherwise, it would be possible to impose liability based on “errors of interpretation or judgment” rather than on “errors of historic[al] fact.” *Pape*, 401 U.S. at 290; *see also Moldea v. N.Y. Times Co.*, 22 F.3d 310, 315, 306 U.S.App.D.C. 1, 6 (D.C. Cir. 1994) (“[T]he First Amendment requires that the courts allow latitude for interpretation.”); *Von Kahl*, 856 F.3d at 117 (no actual malice where interpretation of transcript was “reasonable”). The Complaint does not allege that

plaintiff will always be able to point to ways in which the defendants could have pursued another lead, or sought another piece of corroborating evidence.”); *Westmoreland v. CBS Inc.*, 601 F. Supp. 66, 68 (S.D.N.Y. 1984) (“Publishers and reporters do not commit a libel in a public figure case by publishing unfair one-sided attacks. . . . The fact that a commentary is one sided and sets forth categorical accusations has no tendency to prove that the publisher believed it to be false. The libel law does not require the publisher to grant his accused equal time or fair reply.”)

Sidley's interpretations are unreasonable, just that they portray Plaintiffs negatively. *See* Compl. ¶ 208. "[P]ortray[ing] the [Plaintiffs] in a negative manner" is not a basis to find actual malice and Sidney had "no . . . obligation to present a balanced view." *Perk*, 931 F.2d at 412.

d. Allegations Regarding Conduct After Publication Do Not Establish Actual Malice.

Finally, Plaintiffs make a number of allegations regarding Sidney's conduct after the Report was published. *See* Compl. ¶¶ 231-294. But "it is hornbook libel law that post-publication events have no impact whatever on actual malice . . . the existence or non-existence of such malice must be determined as of the date of publication." *Secord*, 747 F. Supp. at 792.

None of these allegations establishes actual malice. Plaintiffs complain that Sidney advised APA to give the Report to Drs. Soldz and Reisner before releasing it publicly and express disagreement with Sidney's opinion that its materials related to the Report are privileged. Compl. ¶¶ 243, 271. Neither allegation says anything about Sidney's state of mind regarding the truthfulness of the challenged statements. Plaintiffs also allege that Sidney (and APA) did not give Plaintiffs an "adequate opportunity" to respond to the Report and have not retracted the Report. *Id.* ¶¶ 253, 286. But the law is clear that a "plaintiff cannot rely on the defendant's failure to consult with him prior to [] publication . . . as evidence of actual malice," *Secord*, 747 F. Supp. at 789, and a "publisher [cannot] be liable for defamation because it fails to retract a statement upon which grave doubt is cast after publication," *see McFarlane*, 91 F.3d at 1515.

CONCLUSION

For the reasons stated, the Complaint should be dismissed with prejudice.

Dated: October 13, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2017, a true and correct copy of the foregoing document was filed through the Court's electronic filing system, which will automatically send copies to counsel for Plaintiffs.

/s/ Thomas G. Hentoff

Thomas G. Hentoff

EXHIBIT 1

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

STEPHEN BEHNKE, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2017 CA 005989 B
)	
v.	)	Judge Todd Edelman
)	
DAVID H. HOFFMAN, <i>et al.</i>,	)	Next Event: Initial Scheduling
	)	Conference Dec. 1, 2017
<i>Defendants.</i>)	
)	

**[PROPOSED] ORDER GRANTING DEFENDANTS SIDLEY AUSTIN LLP, SIDLEY
AUSTIN (DC) LLP, AND DAVID HOFFMAN’S CONTESTED SPECIAL MOTION TO
DISMISS UNDER THE DISTRICT OF COLUMBIA
ANTI-SLAPP ACT, D.C. CODE § 16-5502**

Upon consideration of Defendants’ Special Motion to Dismiss pursuant to D.C. Code § 16-5502, it is hereby **ORDERED** that the Motion is **GRANTED** and Plaintiffs’ Complaint is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

Dated: _____

Judge Todd Edelman

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EXHIBIT 2

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

STEPHEN BEHNKE, <i>et al.</i>,)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2017 CA 005989 B
)	
v.	)	Judge Todd Edelman
)	
DAVID H. HOFFMAN, <i>et al.</i>,)	Next Event: Initial Scheduling
)	Conference Dec. 1, 2017
<i>Defendants.</i>)	
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**DECLARATION OF ELI S. SCHLAM IN SUPPORT OF DEFENDANTS' CONTESTED
SPECIAL MOTION TO DISMISS UNDER THE DISTRICT OF
COLUMBIA ANTI-SLAPP ACT, D.C. CODE § 16-5502**

I, Eli S. Schlam, state that:

1. I submit this declaration in support of Defendants Sidley Austin LLP, Sidley Austin (DC) LLP, and David Hoffman's Contested Special Motion to Dismiss Under the District Of Columbia Anti-SLAPP Act, D.C. Code § 16-5502. I make this declaration based upon personal knowledge, and I am competent to testify regarding the matters stated below.

2. I am an attorney with the law firm Williams & Connolly LLP and am counsel for Sidley Austin LLP, Sidley Austin (DC) LLP, and David Hoffman (collectively "Sidley") in the above-captioned case.

3. An accurate copy of the article by Neil A. Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, N.Y. Times, Nov. 30, 2004, is attached hereto as Exhibit 2-A.

4. An accurate copy of the article by Neil A. Lewis, *Interrogators Cite Doctors' Aid at Guantánamo*, N.Y. Times, June 24, 2005, is attached hereto as Exhibit 2-B.

5. An accurate copy of the PENS Guidelines is attached hereto as Exhibit 2-C.
6. An accurate copy of the article by Adam Fifield, *Policy Divides Psychologists*, Philadelphia Inquirer, Aug. 9, 2006, is attached hereto as Exhibit 2-D.
7. An accurate copy of the article by Tania deLuzuriaga, *A Push to Ban Psychologists' Role in Torture*, Boston Globe, Aug. 17, 2008, is attached hereto as Exhibit 2-E.
8. An accurate copy of the cited excerpt of the book *Fixing Hell* (2008) by Larry C. James is attached hereto as Exhibit 2-F.
9. An accurate copy of the article by Tara McKelvey, *First Do Some Harm*, The American Prospect, Sept. 2005, is attached hereto as Exhibit 2-G.
10. Accurate copies of 25 publicly available news articles in which Dr. Stephen Behnke is quoted or referenced related to the PENS Task Force or the role of and ethical constraints on psychologists in national security interrogations are attached hereto as Exhibit 2-H. The articles included are:
 - Neil A. Lewis, *Guantanamo Doctors Assisted Interrogators Mental Health Professionals Debating Ethical Concerns*, N.Y. Times, June 24, 2005.
 - Neil A. Lewis, *Interrogators Cite Doctors' Aid at Guantanamo*, N.Y. Times, June 24, 2005.
 - Emma Ross, *Ethicist Criticizes Role of Psychologists in Prisoner Abuse Aid to Military Interrogators Questioned*, South Florida Sun – Sentinel, Aug. 5, 2005.
 - Jeff Evans, *Experts Call for Detainee Interrogation Guidelines*, Family Practice News, Sept. 15, 2005.
 - Shankar Vedantam, *Medical Experts Debate Role in Facilitating Interrogations*, Wash. Post, Nov. 14, 2005.
 - Drake Bennett, *The War in the Mind*, Boston Globe, Nov. 27, 2005.
 - *Medical Experts Debate Ethics of Military Interrogations*, Factiva, Dec. 12, 2005.
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- *Editorial: Interrogations Have Limits*, Las Vegas Sun, Aug. 23, 2007.
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- Bob Egelko, *Psychologist Upset by Peers' Torture Role Returns Award*, S.F. Chronicle, Sept. 5, 2007.
- *News in Brief*, American Medical News, Sept. 10, 2007.
- Benedict Carey, *Psychologists Clash on Aiding Interrogations*, N.Y. Times, Aug. 16, 2008.
- Tania deLuzuriaga, *A Push to Ban Psychologists' Role in Torture*, Boston Globe, Aug. 17, 2008.
- *Referendum on Torture: Debate over Role of Psychologists in Military Interrogations Comes to a Head at APA Annual Convention*, Democracy Now, Aug. 18, 2008.
- *Psychologists and Guantanamo*, NPR Talk of the Nation, Aug. 19, 2008.
- *Guantanamo Prompts Psychologists' Soul-Searching*, New Scientist, Aug. 23, 2008.
- Joseph Goldstein, *Psychology Group Changes Policy on Interrogations*, N.Y. Sun, Sept. 18, 2008.

11. An accurate copy of excerpted testimony of Dr. Stephen Behnke before the Senate Select Committee on Intelligence, on September 25, 2007, is hereto as Exhibit 2-I.

12. An accurate copy of the article by Dr. Stephen Behnke, *Psychological Ethics and National Security: The Position of the American Psychological Association*, 11 European Psychologist 153, 153-56 (2006), is attached hereto as Exhibit 2-J.

13. Accurate copies of five other publicly available articles that Dr. Stephen Behnke authored on the role of and ethical constraints on psychologists in national security interrogations are attached hereto as Exhibit 2-K. The articles included are:

- Stephen H. Behnke, *Professional Associations and the Ethics of Interrogation*, PsycCRITIQUES, Vol. 51, July 2006.
- Stephen Behnke, *Ethics and Interrogations: Comparing and Contrasting the American Psychological, American Medical and American Psychiatric Association Positions*, Monitor on Psychology, July/August 2006, pp. 66-67.

- Stephen H. Behnke & Gerald P. Koocher, *Commentary on "Psychologists and the Use of Torture in Interrogations"*, *Analyses of Social Issues & Public Policy*, Vol. 7, No. 1, 2007, pp. 21-27.
- Stephen Behnke, *Detainee Interrogations: American Psychological Association Counters, but Questions Remain*, *Psychiatric Times*, Sept. 2008, pp. 54, 58.
- Stephen H. Behnke & Olivia Moorehead-Slaughter, *Ethics, Human Rights, and Interrogations: The Position of the American Psychological Association*, in *The Oxford Handbook of Military Psychology* 50-62 (Janice H. Laurence & Michael D. Matthews eds., 2012).

14. An accurate copy of the cited excerpt of the book *Pay Any Price: Greed, Power and Endless War* (2014) by James Risen is attached hereto as Exhibit 2-L.

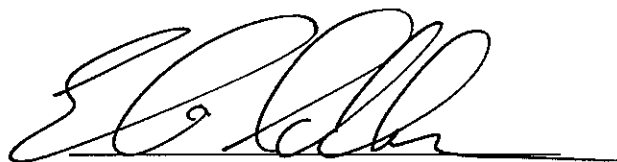
15. An accurate copy of the article by Neil A. Lewis, *Psychologists Warned on Role in Detentions*, *N.Y. Times*, July 6, 2005," is attached hereto as Exhibit 2-M.

16. An accurate copy of the publication by American Psychiatric Association, *Position Statement on Psychiatric Participation in Interrogation of Detainees* (May 2006), is attached hereto as Exhibit 2-N.

17. An accurate copy of the article *Psychological Warfare?*, *Democracy Now*, Aug. 11, 2005, is attached hereto as Exhibit 2-O.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 13, 2017.



Eli S. Schlam

EXHIBIT 2-A

The New York Times |**POLITICS**

Red Cross Finds Detainee Abuse in Guantánamo

By NEIL A. LEWIS NOV. 30, 2004

Correction Appended

WASHINGTON, Nov. 29 - The International Committee of the Red Cross has charged in confidential reports to the United States government that the American military has intentionally used psychological and sometimes physical coercion "tantamount to torture" on prisoners at Guantánamo Bay, Cuba.

The finding that the handling of prisoners detained and interrogated at Guantánamo amounted to torture came after a visit by a Red Cross inspection team that spent most of last June in Guantánamo.

The team of humanitarian workers, which included experienced medical personnel, also asserted that some doctors and other medical workers at Guantánamo were participating in planning for interrogations, in what the report called "a flagrant violation of medical ethics."

Doctors and medical personnel conveyed information about prisoners' mental health and vulnerabilities to interrogators, the report said, sometimes directly, but usually through a group called the Behavioral Science Consultation Team, or

B.S.C.T. The team, known informally as Biscuit, is composed of psychologists and psychological workers who advise the interrogators, the report said.

The United States government, which received the report in July, sharply rejected its charges, administration and military officials said.

The report was distributed to lawyers at the White House, Pentagon and State Department and to the commander of the detention facility at Guantánamo, Gen. Jay W. Hood. The New York Times recently obtained a memorandum, based on the report, that quotes from it in detail and lists its major findings.

It was the first time that the Red Cross, which has been conducting visits to Guantánamo since January 2002, asserted in such strong terms that the treatment of detainees, both physical and psychological, amounted to torture. The report said that another confidential report in January 2003, which has never been disclosed, raised questions of whether "psychological torture" was taking place.

The Red Cross said publicly 13 months ago that the system of keeping detainees indefinitely without allowing them to know their fates was unacceptable and would lead to mental health problems.

The report of the June visit said investigators had found a system devised to break the will of the prisoners at Guantánamo, who now number about 550, and make them wholly dependent on their interrogators through "humiliating acts, solitary confinement, temperature extremes, use of forced positions." Investigators said that the methods used were increasingly "more refined and repressive" than learned about on previous visits.

"The construction of such a system, whose stated purpose is the production of intelligence, cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture," the report said. It said that in addition to the exposure to loud and persistent noise and music and to prolonged cold, detainees were subjected to "some beatings." The report did not say how many of the detainees were subjected to such treatment.

Asked about the accusations in the report, a Pentagon spokesman provided a statement saying, "The United States operates a safe, humane and professional detention operation at Guantánamo that is providing valuable information in the war on terrorism."

It continued that personnel assigned to Guantánamo "go through extensive professional and sensitivity training to ensure they understand the procedures for protecting the rights and dignity of detainees."

The conclusions by the inspection team, especially the findings involving alleged complicity in mistreatment by medical professionals, have provoked a stormy debate within the Red Cross committee. Some officials have argued that it should make its concerns public or at least aggressively confront the Bush administration.

The International Committee of the Red Cross, which is based in Geneva and is separate from the American Red Cross, was founded in 1863 as an independent, neutral organization intended to provide humanitarian protection and assistance for victims of war.

Its officials are able to visit prisoners at Guantánamo under the kind of arrangement the committee has made with governments for decades. In exchange for exclusive access to the prison camp and meetings with detainees, the committee has agreed to keep its findings confidential. The findings are shared only with the government that is detaining people.

Beatrice Mégevand-Roggo, a senior Red Cross official, said in an interview that she could not say anything about information relayed to the United States government because "we do not comment in any way on the substance of the reports we submit to the authorities."

Ms. Mégevand-Roggo, the committee's delegate-general for Europe and the Americas, acknowledged that the issue of confidentiality was a chronic and vexing one for the organization. "Many people do not understand why we have these bilateral agreements about confidentiality," she said. "People are led to believe that we are a fig leaf or worse, that we are complicit with the detaining authorities."

She added, "It's a daily dilemma for us to put in the balance the positive effects our visits have for detainees against the confidentiality."

Antonella Notari, a veteran Red Cross official and spokeswoman, said that the organization frequently complained to the Pentagon and other arms of the American government when government officials cite the Red Cross visits to suggest that there is no abuse at Guantánamo. Most statements from the Pentagon in response to queries about mistreatment at Guantánamo do, in fact, include mention of the visits.

In a recent interview with reporters, General Hood, the commander of the detention and interrogation facility at Guantánamo, also cited the committee's visits in response to questions about treatment of detainees. "We take everything the Red Cross gives us and study it very carefully to look for ways to do our job better," he said in his Guantánamo headquarters, adding that he agrees "with some things and not others."

"I'm satisfied that the detainees here have not been abused, they've not been mistreated, they've not been tortured in any way," he said.

Scott Horton, a New York lawyer, who is familiar with some of the Red Cross's views, said the issue of medical ethics at Guantánamo had produced "a tremendous controversy in the committee." He said that some Red Cross officials believed it was important to maintain confidentiality while others believed the United States government was misrepresenting the inspections and using them to counter criticisms.

Mr. Horton, who heads the human rights committee of the Bar Association of the City of New York, said the Red Cross committee was considering whether to bring more senior officials to Washington and whether to make public its criticisms.

The report from the June visit said the Red Cross team found a far greater incidence of mental illness produced by stress than did American medical authorities, much of it caused by prolonged solitary confinement. It said the medical files of detainees were "literally open" to interrogators.

The report said the Biscuit team met regularly with the medical staff to discuss the medical situations of detainees. At other times, interrogators sometimes went directly to members of the medical staff to learn about detainees' conditions, it said.

The report said that such "apparent integration of access to medical care within the system of coercion" meant that inmates were not cooperating with doctors. Inmates learn from their interrogators that they have knowledge of their medical histories and the result is that the prisoners no longer trust the doctors.

Asked for a response, the Pentagon issued a statement saying, "The allegation that detainee medical files were used to harm detainees is false." The statement said that the detainees were "enemy combatants who were fighting against U.S. and coalition forces."

"It's important to understand that when enemy combatants were first detained on the battlefield, they did not have any medical records in their possession," the statement continued. "The detainees had a wide range of pre-existing health issues including battlefield injuries."

The Pentagon also said the medical care given detainees was first-rate. Although the Red Cross criticized the lack of confidentiality, it agreed in the report that the medical care was of high quality.

Leonard S. Rubenstein, the executive director of Physicians for Human Rights, was asked to comment on the account of the Red Cross report, and said, "The use of medical personnel to facilitate abusive interrogations places them in an untenable position and violates international ethical standards."

Mr. Rubenstein added, "We need to know more about these practices, including whether health professionals engaged in calibrating levels of pain inflicted on detainees."

The issue of whether torture at Guantánamo was condoned or encouraged has been a problem before for the Bush administration.

In February 2002, President Bush ordered that the prisoners at Guantánamo be treated "humanely and, to the extent appropriate with military necessity, in a

manner consistent with" the Geneva Conventions. That statement masked a roiling legal discussion within the administration as government lawyers wrote a series of memorandums, many of which seemed to justify harsh and coercive treatment.

A month after Mr. Bush's public statement, a team of administration lawyers accepted a view first advocated by the Justice Department that the president had wide powers in authorizing coercive treatment of detainees. The legal team in a memorandum concluded that Mr. Bush was not bound by either the international Convention Against Torture or a federal antitorture statute because he had the authority to protect the nation from terrorism.

That document provides tightly constructed definitions of torture. For example, if an interrogator "knows that severe pain will result from his actions, if causing such harm is not his objective, he lacks the requisite specific intent even though the defendant did not act in good faith," it said. "Instead, a defendant is guilty of torture only if he acts with the express purpose of inflicting severe pain or suffering on a person within his control."

When some administration memorandums about coercive treatment or torture were disclosed, the White House said they were only advisory.

Last month, military guards, intelligence agents and others described in interviews with The Times a range of procedures that they said were highly abusive occurring over a long period, as well as rewards for prisoners who cooperated with interrogators. The people who worked at Camp Delta, the main prison facility, said that one regular procedure was making uncooperative prisoners strip to their underwear, having them sit in a chair while shackled hand and foot to a bolt in the floor, and forcing them to endure strobe lights and loud rock and rap music played through two close loudspeakers, while the air-conditioning was turned up to maximum levels.

Some accounts of techniques at Guantánamo have been easy to dismiss because they seemed so implausible. The most striking of the accusations, which have come mainly from a group of detainees released to their native Britain, has been that the military used prostitutes who made coarse comments and come-ons to taunt some prisoners who are Muslims.

But the Red Cross report hints strongly at an explanation of some of those accusations by stating that there were frequent complaints by prisoners in 2003 that some of the female interrogators baited their subjects with sexual overtures.

Gen. Geoffrey Miller, who commanded the detention and intelligence operation at Guantánamo until April, when he took over prison operations in Iraq, said in an interview early this year about general interrogation procedures that the female interrogators had proved to be among the most effective. General Miller's observation matches common wisdom among experienced intelligence officers that women may be effective as interrogators when seen by their subjects as mothers or sisters. Sexual taunting does not, however, comport with what is often referred to as the "mother-sister syndrome."

But the Red Cross report said that complaints about the practice of sexual taunting stopped in the last year. Guantánamo officials have acknowledged that they have improved their techniques and that some earlier methods they tried proved to be ineffective, raising the possibility that the sexual taunting was an experiment that was abandoned.

Correction: December 1, 2004, Wednesday A front-page article yesterday citing a confidential report in which the International Committee of the Red Cross accused the American military of using psychological and sometimes physical coercion on prisoners at Guantánamo Bay, Cuba, misstated the rank of Jay W. Hood, commander of the detention facility there. He is a brigadier general, not a general.

EXHIBIT 2-B

The New York Times |

U.S.

INTERROGATORS CITE DOCTORS' AID AT GUANTÁNAMO

By NEIL A. LEWIS JUNE 24, 2005

WASHINGTON, June 23 - Military doctors at Guantánamo Bay, Cuba, have aided interrogators in conducting and refining coercive interrogations of detainees, including providing advice on how to increase stress levels and exploit fears, according to new, detailed accounts given by former interrogators.

The accounts, in interviews with The New York Times, come as mental health professionals are debating whether psychiatrists and psychologists at the prison camp have violated professional ethics codes. The Pentagon and mental health professionals have been examining the ethical issues involved.

The former interrogators said the military doctors' role was to advise them and their fellow interrogators on ways of increasing psychological duress on detainees, sometimes by exploiting their fears, in the hopes of making them more cooperative and willing to provide information. In one example, interrogators were told that a

detainee's medical files showed he had a severe phobia of the dark and suggested ways in which that could be manipulated to induce him to cooperate.

In addition, the authors of an article published by The New England Journal of Medicine this week said their interviews with doctors who helped devise and supervise the interrogation regimen at Guantánamo showed that the program was explicitly designed to increase fear and distress among detainees as a means to obtaining intelligence.

The accounts shed light on how interrogations were conducted and raise new questions about the boundaries of medical ethics in the nation's fight against terrorism.

Bryan Whitman, a senior Pentagon spokesman, declined to address the specifics in the accounts. But he suggested that the doctors advising interrogators were not covered by ethics strictures because they were not treating patients but rather were acting as behavioral scientists.

He said that while some health care personnel are responsible for "humane treatment of detainees," some medical professionals "may have other roles," like serving as behavioral scientists assessing the character of interrogation subjects.

The military refused to give The Times permission to interview medical personnel at the isolated Guantánamo camp about their practices, and the medical journal, in an article that criticized the program, did not name the officials interviewed by its authors. The handful of former interrogators who spoke to The Times about the practices at Guantánamo spoke on condition of anonymity; some said they had welcomed the doctors' help.

Pentagon officials said in interviews that the practices at Guantánamo violated no ethics guidelines, and they disputed the conclusions of the medical journal's article, which was posted on the journal's Web site on Wednesday.

Several ethics experts outside the military said there were serious questions involving the conduct of the doctors, especially those in units known as Behavioral

Science Consultation Teams, BSCT, colloquially referred to as "biscuit" teams, which advise interrogators.

"Their purpose was to help us break them," one former interrogator told The Times earlier this year.

The interrogator said in a more recent interview that a biscuit team doctor, having read the medical file of a detainee, suggested that the inmate's longing for his mother could be exploited to persuade him to cooperate.

Dr. Stephen Xenakis, a psychiatrist and former Army brigadier general in the medical corps, said in an interview that "this behavior is not consistent with our medical responsibility or any of the codes that guide our conduct as doctors."

The use of psychologists and psychiatrists in interrogations prompted the Pentagon to issue a policy statement last week that officials said was supposed to ensure that doctors did not participate in unethical behavior.

While the American Psychiatric Association has guidelines that specifically prohibit the kinds of behaviors described by the former interrogators for their members who are medical doctors, the rules for psychologists are less clear.

Dr. Spencer Eth, a professor of psychiatry at New York Medical College and chairman of the ethics committee of the American Psychiatric Association, said in an interview that there was no way that psychiatrists at Guantánamo could ethically counsel interrogators on ways to increase distress on detainees.

But in a statement issued in December, the American Psychological Association said the issue of involvement of its members in "national security endeavors" was new.

Dr. Stephen Behnke, who heads the group's ethics division, said in an interview this week that a committee of 10 members, including some from the military, was meeting in Washington this weekend to discuss the issue.

Dr. Behnke emphasized that the codes did not necessarily allow participation by psychologists in such roles, but rather that the issue had not been dealt with directly before.

"A question has arisen that we in the profession have to address and that is where we are now: is it ethical or is it not ethical?" he said.

Dr. William Winkenwerder Jr., assistant secretary of defense for health matters, said the new Pentagon guidelines made clear that doctors might not engage in unethical conduct. But in a briefing for reporters last week, he declined to say whether the guidelines would prohibit some of the activities described by former interrogators and others. He said the medical personnel "were not driving the interrogations" but were there as consultants.

The guidelines include prohibitions against doctors' participating in abusive treatment, but they all make an exception for "lawful" interrogations. As the military maintains that its interrogations are lawful and that prisoners at Guantánamo are not covered by the Geneva Conventions, those provisions would seem to allow the behavior described by interrogators and the medical journal. The article in the medical journal, by two researchers who interviewed doctors who worked on the biscuit program, says, "Since late 2002, psychiatrists and psychologists have been part of a strategy that employs extreme stress, combined with behavior-shaping rewards, to extract actionable intelligence."

The article was written by Dr. M. Gregg Bloche, who teaches at Georgetown University Law School and is a fellow at the Brookings Institution, and Jonathan H. Marks, a British lawyer who is a fellow in bioethics at Georgetown and Johns Hopkins Universities.

Dr. Bloche said in an interview that the use of health professionals in devising abusive interrogation strategies was unethical and led to their involvement in violations of international law. Dr. Winkenwerder said on Thursday that the article was "an outrageous distortion" of the medical situation at Guantánamo, according to Reuters news agency.

The article also challenges assertions of military authorities that they have generally maintained the confidentiality of medical records.

The Winkenwerder guidelines make it clear that detainees should have no expectation of privacy, but that medical records may be shared with people who are not in a medical provider relationship with the detainee only under strict circumstances.

Dr. Bloche said such an assertion was contrary to what he had discovered in his research. It is also in conflict with accounts of former interrogators who previously told The Times that they were free to examine any detainee's medical files. After April 2003, when Defense Secretary Donald H. Rumsfeld tightened rules on detainee treatment, one interrogator said the records had to be obtained through biscuit team doctors who always obliged.

The former interrogator said the biscuit team doctors usually observed interrogations from behind a one-way mirror, but sometimes were also in the room with the detainee and interrogator.

U.N. Inquiry on Guantánamo

(By The New York Times) UNITED NATIONS, June 23 -- A four-member team of United Nations human rights experts accused the United States on Thursday of stalling on requests over the past three years to visit detainees at Guantánamo and said it would begin its own investigation without American assistance.

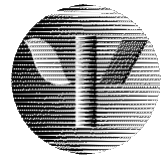
"Such requests were based on information from reliable sources of serious allegations of torture, cruel, inhuman and degrading treatment of detainees, arbitrary detention, violations of their right to health and their due process rights," the four, all independent authorities who serve the United Nations as fact-finders on rights abuses, said in a statement.

Pierre-Richard Prosper, the United States ambassador for war crimes, said the United States had been unable to meet the fact-finders' deadline to answer its request but intended to keep the matter open.

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EXHIBIT 2-C

Report of the American Psychological Association Presidential Task Force



on Psychological Ethics and National Security

NOTE: In July 2013, APA's governing Council of Representatives adopted the "[Policy Related to Psychologists' Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment](#)." This policy unifies into a single document prior APA policies dating to 1986 related to detainee welfare and interrogation. **As part of the policy reconciliation process, the council also voted to rescind the 2005 Report of the APA Presidential Task Force on Psychological Ethics and National Security (PENS) and two other APA policies dated 2007 and 2008.** These policies had become outdated or rendered inaccurate with the passage of subsequent policies, most notably a 2010 revision of the APA Ethics Code and the 2013 policy.

June 2005

REPORT OF THE PRESIDENTIAL TASK FORCE ON PSYCHOLOGICAL ETHICS AND NATIONAL SECURITY

I. Overview of the Report

The Presidential Task Force on Psychological Ethics and National Security (PENS) met in response to the Board of Directors' February 2005 charge, that the Task Force:

[E]xamine whether our current Ethics Code adequately addresses [the ethical dimensions of psychologists' involvement in national security-related activities], whether the APA provides adequate ethical guidance to psychologists involved in these endeavors, and whether APA should develop policy to address the role of psychologists and psychology in investigations related to national security.

Recognizing the ethical complexity of this work, which takes place in unique settings and constantly evolving circumstances, the Task Force was nonetheless able to set forth 12 clear and agreed-upon statements about psychologists' ethical obligations.

As a context for its statements, the Task Force affirmed that when psychologists serve in any position by virtue of their training, experience, and expertise as psychologists, the APA Ethics Code applies. The Task Force thus rejected the contention that when acting in roles outside traditional health-service provider relationships psychologists are not acting in a professional capacity as psychologists and are therefore not bound by the APA Ethics Code.

The Task Force noted that the Board of Directors' charge did not include an investigative or adjudicatory role, and as a consequence emphasized that it did not render any judgment concerning events that may or may not have occurred in national security-related settings. Nonetheless, the Task Force was unambiguous that psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment and that psychologists have an ethical responsibility to be alert to and report any such acts to appropriate authorities. The Task Force stated that it is consistent with the APA Ethics Code for psychologists to serve in consultative roles to interrogation and information-gathering processes for national security-related purposes, as psychologists have a long-standing tradition of doing in other law enforcement contexts. Acknowledging that engaging in such consultative and advisory roles entails a delicate balance of ethical considerations, the Task Force stated that psychologists are in a unique position to assist in ensuring that these processes are safe and ethical for all participants.

The Task Force Report concludes with a series of recommendations to the American Psychological Association Board of Directors.

II. Introduction to the Report

The Task Force believes it is critical for the American Psychological Association to address the ethical challenges facing psychologists whose work involves national security-related activities. APA is the world's largest association of psychologists. Article I of the Association Bylaws states:

The objects of the American Psychological Association shall be to advance psychology as a science and profession and as a means of promoting health, education and human welfare by the...improvement of the qualifications and usefulness of psychologists through high standards of ethics...[and] by the establishment and maintenance of the highest standards of professional ethics and conduct of the members of the Association...¹

Many association members work for the United States government as employees or consultants in national security-related positions. It is the responsibility of APA to think through and provide guidance on the complex ethical challenges that face these psychologists, who apply their training, skills, and expertise in our nation's service.

The Task Force addressed the argument that when psychologists act in certain roles outside traditional health-service provider relationships, for example as consultants to interrogations, they are not acting in a professional capacity as psychologists and are therefore not bound by the APA Ethical Principles of Psychologists and Code of Conduct (hereinafter the Ethics Code).² The Task Force rejected this contention. The Task Force believes that when psychologists serve in a position by virtue of their training, experience, and expertise as psychologists, the APA Ethics Code applies. Thus in any such circumstance, psychologists are bound by the APA Ethics Code.

Principle B of the Ethics Code, Fidelity and Responsibility, states that psychologists "are aware of their professional and scientific responsibilities to society." Psychologists have a valuable and ethical role to assist in protecting our nation, other nations, and innocent civilians from harm, which will at times entail gathering information that can be used in our nation's and other nations' defense. The Task Force believes that a central role for psychologists working in the area of national security-related investigations is to assist in ensuring that processes are safe, legal, and ethical for all participants.

¹ American Psychological Association (2004). *Bylaws of the American Psychological Association* [Brochure]. Washington, DC: Author. (Also available at <http://www.apa.org/governance/>)

² American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060–1073. (Also available at <http://www.apa.org/ethics/>)

The Task Force looked to the APA Ethics Code for fundamental principles to guide its thinking. The Task Force found such principles in numerous aspects of the Ethics Code, such as the Preamble, “Psychologists respect and protect civil and human rights” and “[The Ethics Code] has as its goals the welfare and protection of the individuals and groups with whom psychologists work”; Principle A, Beneficence and Nonmaleficence, “In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons”; Principle D, Justice, “Psychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices”; and Principle E, Respect for People’s Rights and Dignity, “Psychologists respect the dignity and worth of all people.” The Task Force concluded that the Ethics Code is fundamentally sound in addressing the ethical dilemmas that arise in the context of national security-related work.

III. Twelve Statements Concerning Psychologists' Ethical Obligations in National Security-Related Work and Commentary on the Statements

1. Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment. The Task Force endorses the 1986 Resolution Against Torture of the American Psychological Association Council of Representatives,³ and the 1985 Joint Resolution Against Torture of the American Psychological Association and the American Psychiatric Association.⁴ (Principle A, Beneficence and Nonmaleficence, and Ethical Standard 3.04, Avoiding Harm) The Task Force emphasizes that the Board of Directors' charge did not include an investigative or adjudicatory role and so the Task Force does not render any judgment concerning events that may or may not have occurred in national security-related settings. The Task Force nonetheless feels that an absolute statement against torture and other cruel, inhuman, or degrading treatment is appropriate.

2. Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities. This ethical responsibility is rooted in the Preamble, "Psychologists respect and protect civil and human rights...the development of a dynamic set of ethical standards for psychologists' work-related conduct requires a personal commitment and lifelong effort to act ethically [and] to encourage ethical behavior by...colleagues," and Principle B, Fidelity and Responsibility, which states that psychologists "are concerned about the ethical compliance of their colleagues' scientific and professional conduct." (Ethical Standard 1.05, Reporting Ethical Violations) The Task Force notes that when fulfilling the obligation to respond to unethical behavior by reporting the behavior to appropriate authorities as a prelude to an adjudicatory process, psychologists guard against the names of individual psychologists being disseminated to the public. Inappropriate or premature public dissemination can expose psychologists to a risk of harm outside of established and appropriate legal and adjudicatory processes. (Ethical Standard 3.04, Avoiding Harm)

3. Psychologists who serve in the role of supporting an interrogation do not use health care related information from an individual's medical record to the detriment of the individual's safety and well-being. While information from a medical record may be helpful or necessary to ensure that an interrogation process remains safe, psychologists do not use such information to the detriment of an individual's safety and well-being. (Ethical Standards 3.04, Avoiding Harm, and 3.08, Exploitative Relationships)

³ American Psychological Association Council of Representatives. (1986). American Psychological Association resolution against torture. Retrieved from <http://www.apa.org/about/division/cpminternatl.html#3>

⁴ American Psychiatric Association & American Psychological Association. (1985). Against torture: Joint resolution of the American Psychiatric Association and the American Psychological Association. Retrieved from http://www.psych.org/edu/other_res/lib_archives/archives/198506.pdf

4. Psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights. Psychologists involved in national security-related activities follow all applicable rules and regulations that govern their roles. Over the course of the recent United States military presence in locations such as Afghanistan, Iraq, and Cuba, such rules and regulations have been significantly developed and refined. Psychologists have an ethical responsibility to be informed of, familiar with, and follow the most recent applicable regulations and rules. The Task Force notes that certain rules and regulations incorporate texts that are fundamental to the treatment of individuals whose liberty has been curtailed, such as the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the Geneva Convention Relative to the Treatment of Prisoners of War.⁵

The Task Force notes that psychologists sometimes encounter conflicts between ethics and law. When such conflicts arise, psychologists make known their commitment to the APA Ethics Code and attempt to resolve the conflict in a responsible manner. If the conflict cannot be resolved in this manner, psychologists may adhere to the requirements of the law. (Ethical Standard 1.02) An ethical reason for psychologists to not follow the law is to act “in keeping with basic principles of human rights.” (APA Ethics Code, Introduction and Applicability) The Task Force encourages psychologists working in this area to review essential human rights documents, such as the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the Geneva Convention Relative to the Treatment of Prisoners of War.⁶

5. Psychologists are aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.

Psychologists have a special responsibility to clarify their role in situations where individuals may have an incorrect impression that psychologists are serving in a health care provider role. (Ethical Standards 3.07, Third-Party Requests for Services, and 3.11, Psychological Services Delivered to or Through Organizations)

The Task Force noted that psychologists acting in the role of consultant to national security issues most often work closely with other professionals from various disciplines. As a consequence, psychologists rarely act alone or independently, but rather as part of a group of professionals who bring together a variety of skills and experiences in order to provide an ethically appropriate service. (Ethical Standard 3.09, Cooperating with Other Professionals)

⁵ United Nations. (1987, June 26). *Convention against torture and other cruel, inhuman or degrading treatment or punishment*. Retrieved from http://www.unhchr.ch/html/menu3/b/h_cat39.htm

United Nations. (1950, October 21). *Geneva convention relative to the treatment of prisoners of war*. Retrieved from <http://www.unhchr.ch/html/menu3/b/91.htm>

⁶ Ibid.

Regardless of their role, psychologists who are aware of an individual in need of health or mental health treatment may seek consultation regarding how to ensure that the individual receives needed care. (Principle A, Beneficence and Nonmaleficence)

6. Psychologists are sensitive to the problems inherent in mixing potentially inconsistent roles such as health care provider and consultant to an interrogation, and refrain from engaging in such multiple relationships. (Ethical Standard 3.05, Multiple Relationships, “A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist’s objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.”)

7. Psychologists may serve in various national security-related roles, such as a consultant to an interrogation, in a manner that is consistent with the Ethics Code, and when doing so psychologists are mindful of factors unique to these roles and contexts that require special ethical consideration. The Task Force noted that psychologists have served in consultant roles to law enforcement on the state and federal levels for a considerable period of time. Psychologists have proven highly effective in lending assistance to law enforcement in the vital area of information gathering and have done so in an ethical manner. The Task Force noted special ethical considerations for psychologists serving as consultants to interrogation processes in national security-related settings, especially when individuals from countries other than the United States have been detained by United States authorities. Such ethical considerations include:

- How certain settings may instill in individuals a profound sense of powerlessness and may place individuals in considerable positions of disadvantage in terms of asserting their interests and rights. (Ethical Standards 1.01, Misuse of Psychologists’ Work, and 3.08, Exploitative Relationships)
- How failures to understand aspects of individuals’ culture and ethnicity may generate misunderstandings, compromise the efficacy and hence the safety of investigatory processes, and result in significant mental and physical harm. (Principle E, “Psychologists are aware of and respect cultural, individual, and role differences, including those based on...race, ethnicity, culture, national origin... and consider these factors when working with members of such groups”; Ethical Standard 2.01(b), Boundaries of Competence, “Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with...race, ethnicity, culture, national origin...is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals...”; and Ethical Standard 3.01, Unfair Discrimination, “In their work-related activities, psychologists do not engage in unfair discrimination based on...race, ethnicity, culture, national origin...”)

- How the combination of a setting's ambiguity with high stress may facilitate engaging in behaviors that cross the boundaries of competence and ethical propriety. As behavioral scientists, psychologists are trained to observe, respond to, and ideally correct such processes as they occur. (Principle A, Beneficence and Nonmaleficence, and Ethical Standard 3.04, Avoiding Harm)

8. Psychologists who consult on interrogation techniques are mindful that the individual being interrogated may not have engaged in untoward behavior and may not have information of interest to the interrogator. This ethical obligation is not diminished by the nature of an individual's acts prior to detainment or the likelihood of the individual having relevant information. At all times psychologists remain mindful of and abide by the prohibitions against engaging in or facilitating torture and other cruel, inhuman, or degrading treatment. Psychologists inform themselves about research regarding the most effective and humane methods of obtaining information and become familiar with how culture may interact with the techniques consulted upon. (Principle E, Respect for Peoples' Rights and Dignity; Ethical Standards 2.01, Boundaries of Competence; 2.03, Maintaining Competence; and 3.01, Unfair Discrimination)

9. Psychologists make clear the limits of confidentiality. (Ethical Standard 4.02, Discussing the Limits of Confidentiality). Psychologists who have access to, utilize, or share health or mental health related information do so with an awareness of the sensitivity of such information, keeping in mind that "Psychologists have a primary obligation and take reasonable precautions to protect confidential information..." (Ethical Standard 4.01, Maintaining Confidentiality) When disclosing sensitive information, psychologists share the minimum amount of information necessary, and only with individuals who have a clear professional purpose for obtaining the information. (Ethical Standard 4.04, Minimizing Intrusions on Privacy) Psychologists take care not to leave a misimpression that information is confidential when in fact it is not. (Ethical Standards 3.10, Informed Consent, and 4.02, Discussing the Limits of Confidentiality)

10. Psychologists are aware of and do not act beyond their competencies, except in unusual circumstances, such as set forth in the Ethics Code. (Ethical Standard 2.02, Providing Services in Emergencies) Psychologists strive to ensure that they rely on methods that are effective, in addition to being safe, legal, and ethical. (Ethical Standards 2.01, Boundaries of Competence; 2.04, Bases for Scientific and Professional Judgments; 9.01, Bases for Assessments)

11. Psychologists clarify for themselves the identity of their client and retain ethical obligations to individuals who are not their clients. (Ethical Standards 3.07, Third-Party Requests for Services, and 3.11, Psychological Services Delivered to or Through Organizations) Regardless of whether an individual is considered a client, psychologists have an ethical obligation to ensure that their activities in relation to the individual are safe, legal, and ethical. (Ethical Standard 3.04, Avoiding Harm) Sensitivity to the entirety of a psychologist's ethical obligations is especially important where, because of a setting's unique characteristics, an individual may not be fully able to assert relevant rights and interests. (Principle A, Beneficence and Nonmaleficence, "In their professional

actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons...”; Principle D, Justice, “Psychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices”; Principle E, Respect for People’s Rights and Dignity, “Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making”; Ethical Standard 3.08, Exploitative Relationships)

12. Psychologists consult when they are facing difficult ethical dilemmas. The Task Force was emphatic that consultation on ethics questions and dilemmas is highly appropriate for psychologists at all levels of experience, especially in this very challenging and ethically complex area of practice. (Preamble to the Ethics Code, “The development of a dynamic set of ethical standards for psychologists’ work-related conduct requires a personal commitment and lifelong effort to act ethically...and to consult with others concerning ethical problems”; and Ethical Standard 4.06, Consultations)

The Task Force drew several other conclusions:

- The development of professional skills and competencies, ethical consultation and ethical self-reflection, and a willingness to take responsibility for one’s own ethical behavior are the best ways to ensure that the national security-related activities of psychologists are safe, legal, ethical, and effective.
- It is critical to offer ethical guidance and support especially to psychologists at the beginning of their careers, who may experience pressures to engage in unethical or inappropriate behaviors that they are likely to find difficult to resist.
- APA should develop a process whereby psychologists whose work involves classified material and who need ethical guidance or consultation may consult their national organization for assistance and support.
- Psychologists should encourage and engage in further research to evaluate and enhance the efficacy and effectiveness of the application of psychological science to issues, concerns and operations relevant to national security. One focus of a broad program of research is to examine the efficacy and effectiveness of information-gathering techniques, with an emphasis on the quality of information obtained. In addition, psychologists should examine the psychological effects of conducting interrogations on the interrogators themselves to explore ways of helping to ensure that the process of gathering information is likely to remain within ethical boundaries. Also valuable will be research on cultural differences in the psychological impact of particular information-gathering methods and what constitutes cruel, inhuman, or degrading treatment.
- The Task Force noted a potential area of tension between conducting research that is classified or whose success could be compromised if the research purpose and/or methodology become known and ethical standards that require

debriefing after participation in a study as a research subject. (Ethical Standards 8.07, Deception in Research, and 8.08, Debriefing) APA should identify and further examine the ethical dimensions of such tensions.

- Psychologists working in this area should inform themselves of how culture and ethnicity interact with investigative or information-gathering techniques, with special attention to how failing to attend to such factors may result in harm.

The Task Force engaged in vigorous discussion and debate and did not reach consensus on several issues:

- *The role of human rights standards in an ethics code.* While all Task Force members felt that respect for human rights is critical, some task force members felt strongly that international standards of human rights should be built into the ethics code and others felt that the laws of the United States should be the touchstone.
- *The degree to which psychologists may ethically disguise the nature and purpose of their work.* While all members of the Task Force agreed that full disclosure of the nature and purpose of a psychologist's work is not ethically required or appropriate in every circumstance, members differed on the degree to which psychologists may ethically dissemble their activities from individuals whom they engage directly.
- *Whether the discussions of the Task Force should have been made available outside the Task Force.* Some members believed that sharing the substance of the discussions, debates, and disagreements of the Task Force would be helpful to others in fostering the development of professional ethics in other areas of national security. Others felt that not sharing information beyond this report and other public statements would facilitate richer and more productive exchanges during the Task Force meeting. The Task Force voted on this issue. By a vote of seven to one, with one abstention, the Task Force voted to limit what information is disclosed concerning its deliberations to this report and other public statements made by the Task Force as a whole.

III. Recommendations

The Task Force recommends that APA:

1. Publicly reaffirm its 1986 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment.
2. Develop a document that will serve as a companion to the 12 statements contained in this report, for the purpose of providing illustrative examples and commentary. Such a document will be especially important if APA adopts the statements as guidelines or if the Ethics Committee deems the statements appropriate interpretations and applications of the Ethics Code.
3. Continue to examine the goodness of fit between the Ethics Code and this area of practice. While the Task Force believes the Ethics Code is fundamentally sound and adequately addresses the great majority of ethical dilemmas that arise in national security-related settings, there are certain aspects in which the Code does not speak as well to this area of practice as the Code speaks to other areas of practice. The Task Force believes the Ethics Committee could undertake this task.
4. Develop a process to offer ethics consultation to psychologists whose work involves classified material and who seek ethical guidance.
5. Continue to develop a strong relationship with psychologists working in national security-related settings, with special attention to the unique ethical challenges these psychologists confront in their daily work, and collaborate with organizations having national security-related responsibilities to promote psychological practice consistent with APA Ethical Standards.
6. Forward a copy of this Task Force Report, or a summary of the report, to the United States Department of Defense and other relevant government agencies and bodies, as the government develops policy on these complicated and challenging ethical issues.
7. Encourage psychologists to engage in further research relevant to national security, including evaluation of the efficacy and effectiveness of methods for gathering information that is accurate, relevant, and reliable. Such research should be designed to minimize risks to research participants such as emotional distress, and should be consistent with standards of human subject research protection and the APA Ethics Code.
8. Recognize that issues involving terrorism and national security affect citizens in all countries and so encourage behavioral scientists to collaborate across disciplines, cultures, and countries in addressing these concerns.
9. Consider supporting the creation of a repository to record psychologists' contributions to national security. Such information, divided into classified and unclassified sections, could serve as a historical record and a resource concerning how psychologists involved in national security-related activities have met the ethical challenges of their work.

10. View the work of this Task Force as an initial step in addressing the very complicated and challenging ethical dilemmas that confront psychologists working in national security-related activities. Viewed as an initial step in a continuing process, this report will ideally assist APA to engage in thoughtful reflection of complex ethical considerations in an area of psychological practice that is likely to expand significantly in coming years.

EXHIBIT 2-D

Policy divides psychologists; It lets them take part in military interrogations - and could be a focus of their annual convention.

The Philadelphia Inquirer
August 9, 2006 Wednesday

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Byline: Adam Fifield, Inquirer Staff Writer

Body

Controversy over a year-old American Psychological Association policy allowing members to participate in military prisoner interrogations threatens to dominate the group's annual convention this week.

The debate, fueled by reports of alleged abuses of detainees at the U.S. military prison at Guantanamo Bay, focuses on whether the psychologists are more likely to serve as ethical monitors or to become accomplices to cruelty.

More than 1,500 psychologists have signed an online petition to protest APA guidelines that permit members to consult on "interrogation and information-gathering processes for national security purposes."

"We will not stand by and remain silent while our profession throws overboard its concern for human dignity by becoming complicit in inhumane institutions," the petition states.

Army Surgeon General Kevin Kiley is to address the 150,000-member group's governing body in New Orleans today, on the eve of the convention.

Locally, some psychologists said they supported the APA policy, which also bans members from assisting in torture or degrading treatment, and requires them to report such conduct. But most worried that mental-health professionals could be overruled, or co-opted, in military settings.

Psychologists help ensure that interrogations remain "safe, legal, ethical and effective," said Stephen Behnke, director of the APA ethics office. "You want to have people who understand the science, and who understand that torture and abusive treatment lead to bad information."

Psychologists can help elicit information to prevent terrorist attacks, said Frank Farley, a Temple University psychology professor and former APA president, who backs the policy.

There is a need to interview people, Farley said, adding that to think otherwise is "naive."

"Having a person who subscribes to APA ethics in the room at the time can only be a good thing," Farley said.

Policy divides psychologists; It lets them take part in military interrogations - and could be a focus of their annual convention.

Others are grappling with the issue. "I'm not sure this is where psychology belongs," said Julie Levitt, of Center City, who will be in New Orleans.

Levitt leans toward opposing psychologists as consultants, she said, because of concerns about the military interrogators.

If they are "basically moral people" and "adhere to Geneva conventions, then it's certainly appropriate to help," said John Rooney, head of La Salle University's master's program in clinical counseling. But, he said, it's hard for an outsider to know.

Reported abuses of detainees at Guantanamo Bay have cast a pall over the debate. Critics of the APA policy cite news reports - and a 2005 New England Journal of Medicine article - charging that health-care professionals helped interrogators design coercive practices. The military has disputed the allegations.

"You get the best information from rapport-building and relationship-building, and the psychologists here do that," said Lt. Col. Lora Tucker, a Guantanamo spokeswoman.

Under military guidelines released in June, psychologists and psychiatrists on behavioral science consultation teams can "observe, but shall not conduct or direct, interrogations."

The teams have been responsible for reviewing detainees' medical histories for "depression, delusional behaviors, manifestations of stress, and 'what are their buttons,'" a 2005 Army surgeon general's report said. They have also helped determine "when to push or not push harder" for information.

The military typically uses psychologists rather than psychiatrists, William Winkenwerder, assistant secretary of defense for health affairs, said in June. The American Psychiatric Association and the American Medical Association take positions more restrictive of their members' roles in interrogations.

"I was shocked and embarrassed at my organization's being chosen by the military to be the sole representative on these... teams in Guantanamo," said Steven Reisner of Columbia University's International Trauma Studies Program, who will speak against the policy in New Orleans.

Of the APA's 10-member task force behind the policy, six members have military ties, Salon.com reported last month. Four, including a Navy psychologist who reportedly protested abuses at Guantanamo, are on active duty. According to the APA Web site, others on the force have been in Afghanistan and Abu Ghraib.

"That seemed to stack the deck," Reisner said.

The task force unanimously agreed on its primary recommendations, Behnke countered.

Emily K. Filardo, who teaches psychology at Kean University in Union County, N.J., said she worried that having psychologists at interrogations would legitimize practices over which they have no control.

"The Army can say, 'You see, things are OK. We have psychologists who've checked it out,'" Filardo said.

Andrew Jensen, a Cherry Hill psychologist who treats veterans, favors the APA position and suspects its foes are motivated by "the current political climate."

Behnke said his group recognized the obligations of psychologists to individuals and to the nation.

"We need to take a look at how we balance those against one another," he said.

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EXHIBIT 2-E

A push to ban psychologists' role in torture

The Boston Globe

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Section: METRO; Pg. B1

Length: 596 words

Byline: Tania deLuzuriaga Globe Staff

Body

Holding signs that read, "Do no harm" and "Abolish torture," about 100 people attended a rally outside the American Psychological Association's annual convention yesterday, urging the organizations to ban its members from being involved in military interrogations and torture as part of the war on terrorism.

A resolution to that effect is being weighed by the organization's 148,000 members, and debate on the topic has permeated the discussion at this year's meeting, held at the Boston Exhibition and Convention Center. Members are sending in their votes on the issue this month.

The actions of psychologists have been called into question lately as their role in the Bush administration's interrogation policies in detention centers around the globe increasingly has been made public.

"We need to make policy changes to ensure that this never happens again," said Steven Reisner, a New York psychologist who spoke at the rally and is running for president of the association.

He noted that psychologists' involvement in interrogations that include prolonged isolation, sleep deprivation, or sensory overload violates the primary responsibility of all medical personnel to do no harm.

"These are standard operating procedures," Reisner said.

But some have opposed the measure, saying resolution by the group passed last year that prohibits taking part in specific acts of torture is enough. The measure bans direct or indirect participation in 19 forms of torture including mock execution, rape, use of drugs, and exposure to extreme temperatures, and urged the US government to discontinue such practices.

"Torture and abuse are always unethical and prohibited," said Stephen Behnke, who directs the association's ethics office. "The question is how to best fight an administration policy that permits such practices."

Under the association's ethics code, psychologists may "serve in consultative roles to interrogation and information-gathering processes for national-security related purposes" as long as they don't include the 19 prohibited torture acts.

Members are divided on whether that should change.

"For some, any involvement is complicity," Behnke said. "Others maintain that you have to be present to make it clear that these acts are never permissible."

A push to ban psychologists' role in torture

Leonard Rubenstein, who heads Physicians for Human Rights, a Washington-based group, suggested that the psychologists' group should follow the lead of the American Medical Association, which has a policy of not getting involved with interrogations and prohibits physicians from verifying a prisoner's health so that torture can begin or continue.

"Psychologists are very directly engaged," he said. "Behavioral science teams make sure everything a detainee sees or hears enhances the interrogation process ... they are involved in the whole effort to break detainees down."

Psychologists have helped define lines of questioning for detainees, suggested techniques to get them to divulge information, and advised military personnel on when a person has had enough or when they should push harder in a confrontation. Some say such practices are tantamount to torture.

"They are really at the heart of it," Rubenstein said. "It's not enough to say that you can't participate in torture, it's the interrogations."

While the association can't dictate individual members' actions, state licensing boards often take professional groups' ethics codes into consideration when determining their own rules or considering whether to suspend or revoke a license, Reisner said.

Tania deLuzuriaga can be reached at deluzuriaga@globe.com

Graphic

Dressed as an enemy combatant, psychologist Antonia Cedrone staged a protest yesterday outside the convention.

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EXHIBIT 2-F

FIXING HELL

AN ARMY PSYCHOLOGIST
CONFRONTS ABU GHRAIB

Col. (ret.) Larry C. James, Ph.D.
with Gregory A. Freeman

Foreword by Dr. Philip Zimbardo



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American Psychological Association took the *Time* article as conclusive evidence that Leso had tortured people. Most of his accusers had never read the article, much less the actual interrogation notes, and they just blindly accepted the claims of anti-war activists that Major Leso had violated his duty as a psychologist by helping to torture a detainee. Because his name was in the record of an interrogation, and because he was an Army psychologist, critics of our work at Gitmo seized on those facts as a way to score points. He was demonized for abusing detainees, instead of the two CIA contract psychologists who actually conducted abusive interrogations prior to Major Leso's arrival on the island.

I sincerely believe that the allegations against Major Leso are not only false, they are also in direct opposition to what he did at Gitmo. I never saw any data and never received any information to document that he, a doctor, was teaching interrogators how to torture detainees at Gitmo, and I just can't imagine Major Leso in that role. Unlike me and how I welcome taking charge all the time, Major Leso was uncomfortable telling others what to do. He felt that his role was only an advisory one. And as such, he had no legal authority to tell other soldiers what to do. Despite being uncomfortable with his new role at Gitmo, Major Leso made a positive impact on the Intelligence Control Element and the Joint Task Force and it is a damn shame that anyone thought otherwise.

Because of the debate and attention on this subject, the American Psychological Association put together what is now known as the PENS (Psychological Ethics and National Security) Task Force, of which I was a member. This task force was directed to come up with special guidelines for psychologists working within

the intel community. The results of this blue-ribbon panel were controversial. The panel issued twelve statements concerning psychologists' ethical obligation in national security-related work, making it clear that torture was wrong and also that all psychologists, regardless of the setting, have an obligation to protect the welfare of those who cannot protect themselves. These were the twelve statements of the PENS Task Force:

1. Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment.
2. Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.
3. Psychologists who serve in the role of supporting an interrogation do not use health care related information from an individual's medical record to the detriment of the individual's safety and well-being.
4. Psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights.
5. Psychologists are aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.
6. Psychologists are sensitive to the problems inherent in mixing potentially inconsistent roles such as health care provider and consultant to an interrogation, and refrain from engaging in such multiple relationships.

EXHIBIT 2-G

FIRST DO SOME HARM;
Physicians and psychologists are now taking part in interrogations. But are they
following their professions' rules, or the military's?

The American Prospect

September, 2005

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Byline: BY TARA McKELVEY

Body

MOHAMMED, A 36-YEAR-OLD graduate of Baghdad University's College of Art, says he was examined by an American physician in a detention facility near Baghdad International Airport shortly after being arrested in late 2003. "The doctor said, 'Maybe you have a bullet wound you are not aware of,'" recalls Mohammed, sitting in a hotel room in Amman, Jordan, with a journalist and two American attorneys a year later. "I said, 'Do you want me to take off my pants?' He said, 'No, I'll just lift up your pant leg.'"

The physician pronounced Mohammed fit and ready for interrogation. But if the physician had been familiar with the ethical guidelines of the American Medical Association (AMA), he would have known that what he'd done was in violation of the AMA code, which states that "physicians should not treat individuals to verify their health so that torture can begin or continue." And if the physician had remained in the vicinity after conducting a medical exam, he would have heard the screech of a horn blasted next to Mohammed's ear. Mohammed, who was released without charge on January 6, 2004, now suffers from hearing loss (his eardrum was ruptured) and has scars on his wrists from being manacled.

This physician is among dozens of doctors, psychiatrists, and psychologists who have taken on an entirely new role in the U.S. military. Their newly defined activities -- which include examining detainees before they're subjected to harsh interrogation techniques, preparing interrogation plans, and even participating in some interrogations in which detainees may be harmed -- raise questions about whether or not health professions should play such a role in the military's intelligence-gathering efforts. There has been little public discussion of the subject, and much of the debate at the AMA and at the American Psychological Association (APA) has taken place behind closed doors -- in some instances, with a number of military officers helping to guide the discussions.

PHYSICIANS IN CHILE, IRAQ, ARGENTINA, and other countries have been asked in past decades to participate in interrogation and torture sessions. The use of medical personnel and psychologists in U.S. interrogations, however, is a phenomenon that has emerged only in the global "war on terror." Physicians and psychologists were initially assigned to this duty, according to a recent U.S. Army report, at Guantanamo Bay, Cuba, in 2002 and in Iraq in December 2003.

The report, which looked at detainee medical operations in Afghanistan, Iraq, and Guantanamo Bay, was based on interviews with 993 medical personnel and released by U.S. Army Surgeon General Kevin C. Kiley on July 5. Forty-eight medical personnel interviewed for the report say they were present during an interrogation in Iraq. Seven individuals say they provided medical care to an Iraqi detainee to allow the questioning to continue, including one individual who supplied IV fluids to a

FIRST DO SOME HARM; Physicians and psychologists are now taking part in interrogations. But are they following their professions' rules, or the military's?

suspect who was dehydrated. Seventy-two medical personnel say they witnessed, documented, or were told about abuse in Iraq.

The author of the report, Major General Lester Martinez-Lopez, recommends that physicians and psychiatrists not be used in interrogations. Yet in a cover letter, Kiley rejects that recommendation. A senior Department of Defense official, speaking on background because the subject is "still under scrutiny," says he believes physicians and psychiatrists will continue to be used in interrogations because they have special knowledge of human behavior and provide a "safety valve" for interrogations that could otherwise spin out of control. "Not to use them would be irresponsible," he says.

It's true that the presence of physicians and behavioral scientists may help to curb any sadistic streak an interrogator might possess. In addition, the desire among physicians, psychiatrists, and psychologists to help protect the homeland from terrorist attacks is understandable. The AMA has clearly condemned the use of torture in public statements. But some human-rights activists have criticized the organization for not going far enough. "I would have liked to see the AMA take a stronger stand to address the specific allegations of medical complicity that have surfaced," says Leonard S. Rubenstein, executive director of Physicians for Human Rights, which promotes worldwide health and human rights.

An AMA spokeswoman says she believes the association has addressed the subject forcefully. In June 2005, the AMA reaffirmed its support for the ethical treatment of detainees, she says, and encouraged medical schools to include "ethics training" on the issue. "As a result of media coverage regarding allegations, the AMA has provided its policy to the Department of Defense," she writes in an e-mail. "AMA policy regarding physician participation in torture and/or abuse of prisoners is very clear -- it is unethical and unacceptable."

With regard to the American Psychological Association, the situation is a bit murkier. The APA issued a report on "psychological ethics and national security" in June. The statement says psychologists can participate in interrogations if they follow military standards -- despite the fact that some experts say certain interrogative techniques used by the U.S. military violate international law.

"They say it's OK to follow the military's interpretation of the law even though the military is interpreting the law in a perverse way, allowing techniques that are considered to be torture," says Rubenstein. Adds Robert Jay Lifton, a visiting professor at Harvard who's written extensively on the relationship of the medical professions to the state: "The statement sounds to me a bit scandalous because it fails to respect the traditional standards of being a psychologist. All this has to do with an increasing militaristic tendency in this country and a pressure on people to accept what are seen as military needs and to have them supercede ordinary ethical codes."

Dr. Stephen Behnke, director of the APA's ethics office, sees it differently. "If you take a look at the report," he says, "it uses four words to characterize the process: 'Safe. Legal. Ethical. Effective.' I think people feel if the interrogation process is safe, legal, ethical, and effective, it's both appropriate to be involved and that psychologists have a role to ensure it remains that way."

Interestingly, those same four words also appear in the Army report's description of Behavioral Science Consultation Teams, which use "forensic psychological expertise and consultation to assist the command in conducting safe, legal, ethical, and effective interrogation and detainee operations." The echo may result from the fact that, of the task force's 10 members, five have either a national-security background or work for the Army. Colonel Morgan Banks, director of the Psychological Applications Directorate, U.S. Army Special Operations Command, at Fort Bragg, North Carolina, consults with "Army psychologists providing interrogation support," according to a biographical statement on the APA Web site and confirmed by the military, and another, Colonel Larry C. James, chief of the Department of Psychology at Tripler Army Medical Center in Honolulu, Hawaii, served as chief psychologist at Guantanamo Bay in 2003 and as director of Abu Ghraib's Joint Interrogation and Debriefing Center in 2004.

"I'm not saying they acted in bad faith," says Rubenstein. "But they ended up with people who were part of the interrogation apparatus."

As long as physicians, psychiatrists, and psychologists are involved in interrogations, say human-rights experts, ethical challenges will remain, both for them and for lay people concerned about their role in society.

FIRST DO SOME HARM;Physicians and psychologists are now taking part in interrogations. But are they following their professions' rules, or the military's?

"I would emphasize the vulnerabilities of psychiatrists and psychologists to this kind of behavior -- both because they're sought out for it and also because they're drawn to it," says Lifton. "Just because they're healers, not everything they do -- or are asked to do -- has a healing function."

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EXHIBIT 2-H

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document 1 of 1

GUANTANAMO DOCTORS ASSISTED INTERROGATORS MENTAL HEALTH PROFESSIONALS DEBATING ETHICAL CONCERNS: [REGION Edition]

Neil A. Lewis The New York Times. **Pittsburgh Post - Gazette; Pittsburgh, Pa.** [Pittsburgh, Pa]24 June 2005: A-9.

Abstract

The former interrogators said the military doctors' role was to advise them and their fellow interrogators about ways of increasing psychological duress on detainees, sometimes by exploiting their fears, in the hopes of making them more cooperative and willing to provide information. In one example, interrogators were told that a detainee's medical files showed that he had a severe phobia of the dark and suggested ways in which that could be manipulated to induce him to cooperate.

Bryan Whitman, a senior Pentagon spokesman, declined to address the specifics in the accounts. But he suggested the doctors advising interrogators were not covered by ethics strictures because they were not acting as caregivers to patients, but rather as behavioral scientists. He said that while some health care personnel are responsible for "humane treatment of detainees," some medical professionals "may have other roles," like serving as behavioral scientists assessing the character of detainees.

The guidelines include prohibitions against doctors' participating in abusive treatment, but they all make an exception for "lawful" interrogations. As the military maintains that its interrogations are lawful, and that prisoners at Guantanamo are not covered by the Geneva Conventions, those new Pentagon provisions would seem to allow the behavior described by interrogators and The New England Journal of Medicine.

Full Text

Military doctors at Guantanamo Bay, Cuba, have aided interrogators in conducting and refining coercive interrogations of detainees, including providing advice on how to increase stress levels and exploit fears, according to new, detailed accounts given by former interrogators.

The accounts, in interviews with The New York Times, come as mental health professionals are debating whether the doctors -- psychiatrists and psychologists at the prison camp -- have violated professional ethics codes. The Pentagon and mental health professionals have been examining the ethical issues involved.

The former interrogators said the military doctors' role was to advise them and their fellow interrogators about ways of increasing psychological duress on detainees, sometimes by exploiting their fears, in the hopes of making them more cooperative and willing to provide information. In one example, interrogators were told that a detainee's medical files showed that he had a severe phobia of the dark and suggested ways in which that could be manipulated to induce him to cooperate.

In addition, the authors of an article published this week by The New England Journal of Medicine said their interviews with doctors who helped devise and supervise the interrogation regimen at Guantanamo showed that the program was explicitly designed to increase fear and distress among detainees as a means to obtaining intelligence.

The accounts shed light on how interrogations were conducted and raise new questions about the boundaries of medical ethics in the nation's fight against terrorism.

The military refused to give The Times permission to interview medical personnel at the isolated Guantanamo camp about their practices, and the medical journal, in an article that criticized the program, did not name the officials interviewed by its authors. The handful of former interrogators who spoke to The Times about the practices at Guantanamo spoke on condition of anonymity; some said they welcomed the assistance of the doctors.

Pentagon officials said in interviews that the practices at Guantanamo violated no ethics guidelines and disputed the conclusions of the medical journal's article, which was posted Wednesday on the journal's Web site.

Bryan Whitman, a senior Pentagon spokesman, declined to address the specifics in the accounts. But he suggested the doctors advising interrogators were not covered by ethics strictures because they were not acting as caregivers to patients, but rather as behavioral scientists. He said that while some health care personnel are responsible for "humane treatment of detainees," some medical professionals "may have other roles," like serving as behavioral scientists assessing the character of detainees.

Several ethics experts outside the military said there were serious questions involving the conduct of the doctors, especially those in Behavioral Science Consultation Teams, which advise interrogators.

"Their purpose was to help us break them," one former interrogator told The Times in an interview earlier this year.

The interrogator said in a more recent interview that a team doctor, having read the medical file of a detainee, suggested the inmate's longing for his mother could be exploited to persuade him to cooperate.

Dr. Stephen Xenakis, a psychiatrist and former Army brigadier general in the medical corps, said in an interview, "This behavior is not consistent with our medical responsibility or any of the codes that guide our conduct as doctors."

Use of psychologists and psychiatrists in interrogations prompted the Pentagon to issue a policy statement last week that officials said was supposed to ensure that doctors do not participate in unethical behavior. While the American Psychiatric Association has guidelines that specifically prohibit the kinds of behaviors described by the former interrogators for their members who are medical doctors, the rules for psychologists are less clear.

Dr. Spencer Eth, a professor of psychiatry at New York Medical College and chairman of the ethics committee of the American Psychiatric Association, said in an interview that there was no way that

psychiatrists at Guantanamo, who are medical doctors, could ethically counsel interrogators about ways to increase distress on detainees.

But in a statement issued in December, the American Psychological Association said the issue of involvement of its members in "national security endeavors" is a new one. Dr. Stephen Behnke, who heads the group's ethics division, said in an interview this week that a committee of 10 members, including some from the military, is meeting in Washington this weekend to discuss the issue.

Dr. William Winkenwerder Jr., assistant secretary of defense for health matters, said the new Pentagon guidelines make clear that doctors may not engage in unethical conduct. But in a briefing for reporters last week, he declined to say whether the guidelines would bar some activities described by former interrogators. He said medical personnel "were not driving the interrogations," but were there as consultants.

The guidelines include prohibitions against doctors' participating in abusive treatment, but they all make an exception for "lawful" interrogations. As the military maintains that its interrogations are lawful, and that prisoners at Guantanamo are not covered by the Geneva Conventions, those new Pentagon provisions would seem to allow the behavior described by interrogators and The New England Journal of Medicine.

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INTERROGATORS CITE DOCTORS' AID AT GUANTANAMO

The New York Times

June 24, 2005 Friday, Late Edition - Final

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Byline: By NEIL A. LEWIS

Dateline: WASHINGTON, June 23

Body

Military doctors at Guantanamo Bay, Cuba, have aided interrogators in conducting and refining coercive interrogations of detainees, including providing advice on how to increase stress levels and exploit fears, according to new, detailed accounts given by former interrogators.

The accounts, in interviews with The New York Times, come as mental health professionals are debating whether psychiatrists and psychologists at the prison camp have violated professional ethics codes. The Pentagon and mental health professionals have been examining the ethical issues involved.

The former interrogators said the military doctors' role was to advise them and their fellow interrogators on ways of increasing psychological duress on detainees, sometimes by exploiting their fears, in the hopes of making them more cooperative and willing to provide information. In one example, interrogators were told that a detainee's medical files showed he had a severe phobia of the dark and suggested ways in which that could be manipulated to induce him to cooperate.

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The accounts shed light on how interrogations were conducted and raise new questions about the boundaries of medical ethics in the nation's fight against terrorism.

Bryan Whitman, a senior Pentagon spokesman, declined to address the specifics in the accounts. But he suggested that the doctors advising interrogators were not covered by ethics strictures because they were not treating patients but rather were acting as behavioral scientists.

He said that while some health care personnel are responsible for "humane treatment of detainees," some medical professionals "may have other roles," like serving as behavioral scientists assessing the character of interrogation subjects.

The military refused to give The Times permission to interview medical personnel at the isolated Guantanamo camp about their practices, and the medical journal, in an article that criticized the program, did not name the officials interviewed by its authors. The handful of former interrogators who spoke to The Times about the practices at Guantanamo spoke on condition of anonymity; some said they had welcomed the doctors' help.

INTERROGATORS CITE DOCTORS' AID AT GUANTANAMO

Pentagon officials said in interviews that the practices at Guantanamo violated no ethics guidelines, and they disputed the conclusions of the medical journal's article, which was posted on the journal's Web site on Wednesday.

Several ethics experts outside the military said there were serious questions involving the conduct of the doctors, especially those in units known as Behavioral Science Consultation Teams, BSCT, colloquially referred to as "biscuit" teams, which advise interrogators.

"Their purpose was to help us break them," one former interrogator told The Times earlier this year.

The interrogator said in a more recent interview that a biscuit team doctor, having read the medical file of a detainee, suggested that the inmate's longing for his mother could be exploited to persuade him to cooperate.

Dr. Stephen Xenakis, a psychiatrist and former Army brigadier general in the medical corps, said in an interview that "this behavior is not consistent with our medical responsibility or any of the codes that guide our conduct as doctors."

The use of psychologists and psychiatrists in interrogations prompted the Pentagon to issue a policy statement last week that officials said was supposed to ensure that doctors did not participate in unethical behavior.

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But in a statement issued in December, the American Psychological Association said the issue of involvement of its members in "national security endeavors" was new.

Dr. Stephen Behnke, who heads the group's ethics division, said in an interview this week that a committee of 10 members, including some from the military, was meeting in Washington this weekend to discuss the issue.

Dr. Behnke emphasized that the codes did not necessarily allow participation by psychologists in such roles, but rather that the issue had not been dealt with directly before.

"A question has arisen that we in the profession have to address and that is where we are now: is it ethical or is it not ethical?" he said.

Dr. William Winkenwerder Jr., assistant secretary of defense for health matters, said the new Pentagon guidelines made clear that doctors might not engage in unethical conduct. But in a briefing for reporters last week, he declined to say whether the guidelines would prohibit some of the activities described by former interrogators and others. He said the medical personnel "were not driving the interrogations" but were there as consultants.

The guidelines include prohibitions against doctors' participating in abusive treatment, but they all make an exception for "lawful" interrogations. As the military maintains that its interrogations are lawful and that prisoners at Guantanamo are not covered by the Geneva Conventions, those provisions would seem to allow the behavior described by interrogators and the medical journal. The article in the medical journal, by two researchers who interviewed doctors who worked on the biscuit program, says, "Since late 2002, psychiatrists and psychologists have been part of a strategy that employs extreme stress, combined with behavior-shaping rewards, to extract actionable intelligence."

The article was written by Dr. M. Gregg Bloche, who teaches at Georgetown University Law School and is a fellow at the Brookings Institution, and Jonathan H. Marks, a British lawyer who is a fellow in bioethics at Georgetown and Johns Hopkins Universities.

Dr. Bloche said in an interview that the use of health professionals in devising abusive interrogation strategies was unethical and led to their involvement in violations of international law. Dr. Winkenwerder said on Thursday that the article was "an outrageous distortion" of the medical situation at Guantanamo, according to Reuters news agency.

INTERROGATORS CITE DOCTORS' AID AT GUANTANAMO

The article also challenges assertions of military authorities that they have generally maintained the confidentiality of medical records.

The Winkenwerder guidelines make it clear that detainees should have no expectation of privacy, but that medical records may be shared with people who are not in a medical provider relationship with the detainee only under strict circumstances.

Dr. Bloche said such an assertion was contrary to what he had discovered in his research. It is also in conflict with accounts of former interrogators who previously told The Times that they were free to examine any detainee's medical files. After April 2003, when Defense Secretary Donald H. Rumsfeld tightened rules on detainee treatment, one interrogator said the records had to be obtained through biscuit team doctors who always obliged.

The former interrogator said the biscuit team doctors usually observed interrogations from behind a one-way mirror, but sometimes were also in the room with the detainee and interrogator.

U.N. Inquiry on Guantanamo

(By The New York Times) UNITED NATIONS, June 23 -- A four-member team of United Nations human rights experts accused the United States on Thursday of stalling on requests over the past three years to visit detainees at Guantanamo and said it would begin its own investigation without American assistance.

"Such requests were based on information from reliable sources of serious allegations of torture, cruel, inhuman and degrading treatment of detainees, arbitrary detention, violations of their right to health and their due process rights," the four, all independent authorities who serve the United Nations as fact-finders on rights abuses, said in a statement.

Pierre-Richard Prosper, the United States ambassador for war crimes, said the United States had been unable to meet the fact-finders' deadline to answer its request but intended to keep the matter open.

<http://www.nytimes.com>

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ETHICIST CRITICIZES ROLE OF PSYCHOLOGISTS IN PRISONER ABUSE AID TO MILITARY INTERROGATORS QUESTIONED: [Broward Metro Edition]

Emma Ross The Associated Press. **South Florida Sun - Sentinel; Fort Lauderdale, Fla.** [Fort Lauderdale, Fla]05 Aug 2005: 6A.

Abstract

Debate over the role of psychologists and psychiatrists in interrogations has intensified following reports that some were involved in the abuse scandals at the U.S. Guantanamo Bay detention center in Cuba and at Abu Ghraib prison in Iraq. Some experts have questioned whether it is possible for doctors and psychologists to maintain ethics while acting as consultants to military interrogators.

Full Text

A leading British medical ethicist is calling on medical bodies in the United States to take a stronger stand against psychologists and psychiatrists working alongside U.S. military interrogators at detention centers from Guantanamo Bay to Abu Ghraib.

Writing this week in The Lancet medical journal, Dr. Michael Wilks singles out the American Psychological Association as "a disgrace" for sanctioning the idea that psychologists can act as advisers to interrogators.

Debate over the role of psychologists and psychiatrists in interrogations has intensified following reports that some were involved in the abuse scandals at the U.S. Guantanamo Bay detention center in Cuba and at Abu Ghraib prison in Iraq. Some experts have questioned whether it is possible for doctors and psychologists to maintain ethics while acting as consultants to military interrogators.

Allegations of psychologist and psychiatrist involvement in the prison abuse scandals have included the health professionals advising interrogators about how to break detainees to make them cooperate and helping increase distress in prisoners by exploiting fears.

Wilks condemned an American Psychological Association report for accepting that psychologists can have a role in assisting military interrogators.

"The use of such knowledge in creating techniques intended to damage the minds of people under interrogation, and to advise how these techniques can be refined, is grossly unethical, and the fact that a professional body can support such activity is a disgrace," he wrote.

The American Psychological Association rejected Wilks' characterization of its views.

"Psychologists have been consulting with law enforcement for many years. We feel they can do that in an ethical manner and that it is a very valuable contribution to law enforcement and to national security," said Stephen Behnke, director of ethics at the American Psychological Association.

"He makes an assertion that this is intended to damage. There is an entire body of thought on this that is referred to as `rapport building,' that is designed not to harm."

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Experts call for detainee interrogation guidelines: current operations lack clear guidance on holding and interrogating detainees, former general says; Mental Health

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Body

Washington -- Detailed ethical codes from professional organizations would help set a clearer path for health professionals to follow on national security--related issues.

That sentiment was expressed by several experts at a recent panel discussion on the medical ethics of military medical professionals' interrogations sponsored by the Center for American Progress.

Active and retired medical officers also think the policy that guides medical personnel in these matters needs to be clarified, Stephen Xenakis, M.D., said at the meeting. Dr. Xenakis, formerly the commanding general of the Southeast Regional Army Medical Command, is now the director of child and adolescent psychiatry at the Psychiatric Institute of Washington.

At Guantanamo Bay and Abu Ghraib prison, mental health professionals, such as psychiatrists and psychologists, are known to have observed interrogations, provided interrogators with the medical records of detainees, and in some cases, developed individualized interrogation plans or provided advice on how best to conduct an interrogation. These acts have been made public by various documents obtained through military sources, Freedom of Information Act requests, declassification, interviews with witnesses, or testimony (N. Engl. J. Med. 2005;352:3-6; N. Engl. J. Med. 2005;353:6-8).

"The legal barriers are likely to be crossed long before detainees' mental or physical health is implicated, particularly when those detainees are protected by the Geneva Conventions," Jonathan H. Marks, said at the panel discussion.

"Medical personnel, if they stand by, will be complicit in violations of the Geneva Conventions if they approve of these techniques or fail to intervene," said Mr. Marks, a barrister who is currently a fellow at Georgetown University Law Center, Washington.

The civilian leadership at the Pentagon has argued that when physicians and other health professionals serve in the interrogation process and other nontherapeutic roles, they are not acting as physicians or health professionals, and medical ethics do not apply, noted M. Gregg Bloche, M.D., a member of the panel. "This is a deeply disturbing argument with little or no precedent elsewhere," said Dr. Bloche, a law professor at Georgetown.

In previous operations, the Army has worked on the principle of very detailed, exhaustive training for its medical personnel, Dr. Xenakis noted. The current operations lack "clear guidance for what one does when one confronts scenarios of large

Experts call for detainee interrogation guidelines: current operations lack clear guidance on holding and interrogating detainees, former general says; Mental Health...

volumes of detainees who have recently been apprehended, how they will be triaged, how they will be held, how they will be interrogated."

Dr. Xenakis said he would like to see the American Medical Association and the American Psychiatric Association define the guidance policy on what military medical personnel should and should not be expected to do. Such statements would be affirming to the internal principles and ethics of physicians and other health professionals, he added.

New absolute standards must limit the physician's role in the military to the doctor-patient relationship in which a physician cannot participate in interrogations, he suggested.

Indeed, the APA is in the process of hammering out a position on the role that mental health professionals should play in the interrogation of detainees at Guantanamo Bay and other prison sites around the world, Paul S. Appelbaum, M.D., told this newspaper.

Representatives from several key APA committees will meet this month to come up with a proposed position. That proposal will then go through a formal chain of approvals, including the APA assembly and the board of trustees, said Dr. Appelbaum, chairman of the APA's Council on Psychiatry and the Law and a former president of the organization.

However, the debate about this issue also needs to take place in the public domain, Edmund G. Howe, M.D., said in an interview.

Dr. Howe, professor of psychiatry and director of the program in ethics at the Uniformed Services University of the Health Sciences, Bethesda, Md., said he would like to see a code in print representing as many military and civilian views as possible.

Codes of ethics "can accomplish all sorts of things by giving general guidelines that most persons find useful and maybe [help them] do better than they would without those guidelines. The question here is, what are the pluses and minuses of any group's spelling out its particular moral priorities?" Dr. Howe said.

It would be problematic for the military to articulate its moral biases and perspectives and then impose them without outside input, Dr. Howe said. He added that while that might be obvious, it's less obvious that any organization--whether it be the AMA or the APA--also has its own biases and perspectives.

For example, why shouldn't the American Bar Association or a patients' association, for that matter, have its own code? "Is medical expertise tantamount to ethical expertise? No," Dr. Howe said.

When patients sacrifice their money and personal privacy so that medical students can perform physical exams and develop their skills, society has implicit expectations about what the students will do with the knowledge they gain from encounters with patients. Some would say that there's an implicit promise from the doctor--like the Hippocratic Oath--when the patient is making those sacrifices in order for the doctor to do good. Then the question is, "Does doing good include getting involved in interrogations?" Dr. Howe asked.

Even if society is willing, in theory, to say that it will make these sacrifices so that students can be trained to become doctors to heal medical and psychiatric problems and also to save lives by participating in some way in interrogations, "it does not necessarily mean that it should fly, even if most psychiatrists would go along with it. Additional ethical assessment is necessary," he said.

Contrary to the position taken by key experts, the American Psychological Association's approach to this issue appears to be different. That organization's Presidential Task Force states that psychologists can "serve in the role of supporting an interrogation" and make use of confidential information in medical records of detainees or prisoners to advise interrogators, as long as it is not used to the detriment of the individual's safety and well-being.

The task force's report does warn psychologists working in a national security-related setting that they should "clarify their role in situations where individuals may have an incorrect impression that psychologists are serving in a health care provider role."

Experts call for detainee interrogation guidelines: current operations lack clear guidance on holding and interrogating detainees, former general says; Mental Health...

In addition, the report says psychologists should refrain from mixing potentially inconsistent roles with the same individual, in those cases when the roles "could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness ... or otherwise risk exploitation or harm to the person with whom the professional relationship exists."

In the panel discussion, Dr. Bloche argued that the American Psychological Association's statement "allows for a wholesale breach of confidentiality."

However, Stephen Behnke, director of ethics for the American Psychological Association, said in an interview that there should be an absolute barrier between work that is treatment related and work related to interrogations.

"Under no circumstances should the two be mixed," Mr. Behnke said.

He pointed out that his association had provided its task force report to the U.S. government and that training is needed.

But overcoming the obstacle of health care providers serving as consultants to interrogators by creating separate schools or training for each type, "doesn't really address what the real problems are," Dr. Howe said.

The real problems are determining how humans should treat other humans--and who should decide, he asserted.

[GRAPHICS OMITTED]

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Medical Experts Debate Role In Facilitating Interrogations

The Washington Post

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Byline: Shankar Vedantam, Washington Post Staff Writer

Body

On Oct. 19, leaders of several medical organizations flew to the U.S. Navy detention facility at Guantanamo Bay, Cuba. After meeting with officials and two psychologists who served as consultants during interrogations with detainees, a vigorous debate sprang up among the experts over the ethics of physicians and caregivers participating in the debriefing of prisoners.

The debate, which participants said was conducted in earnest over a lengthy dinner at Andrews Air Force Base after they returned from Cuba, explored concerns that medical experts in general, and psychiatrists and psychologists in particular, have aided U.S. government interrogations in Guantanamo Bay, Iraq and Afghanistan, often by applying their insights into human behavior to break the will of prisoners.

Although the Bush administration has asserted that it does not condone or practice torture, articles in prominent medical forums such as the New England Journal of Medicine have said that doctors and behavioral scientists have violated ethical norms while interrogating terrorism suspects at the behest of the U.S. government and become "complicit in torture."

This weekend, the American Psychiatric Association came to the conclusion that psychiatrists should never participate in coercive interrogations, or even lend advice to government officials carrying out interrogations that involve sleep deprivation, threats, humiliation, sensory deprivation or the use of prolonged stress positions, according to the group's president, Steven S. Sharfstein.

The move comes as officials of the American Medical Association are weighing the ethics of doctors helping interrogators, and it follows a call by the American Psychological Association this summer for its members to abjure participation in cruel and degrading techniques. All the groups have long proscribed torture.

The psychiatrists' policy effectively says that numerous techniques practiced by interrogators at Guantanamo Bay and elsewhere are unethical for psychiatrists to be involved with, said Sharfstein, who is also president and chief executive of the nonprofit Sheppard Pratt behavioral health system based in Baltimore. "It has to do with the profession and the perception of the profession," said Sharfstein, who explained that the restrictions applied even to psychiatrists who did not have a doctor-patient relationship with prisoners. "You are never not a physician."

Medical Experts Debate Role In Facilitating Interrogations

While the American Psychological Association also ruled this summer that cruel and degrading techniques were out of bounds for psychologists, the group has not spelled out exactly what specific techniques that would allow and disallow.

Many techniques to break the will of prisoners have come from psychological studies of normal people, as well as animal experiments that have explored the boundaries of extreme fear and helplessness.

Ironically, criticism of such techniques has also come from behavioral scientists who have studied what happens to people when they are given the power to inflict suffering. In one famous experiment conducted by Stanford psychologist Philip G. Zimbardo, ordinary people turned into sadists when they were given the authority of prison guards over other volunteers who were "prisoners." They were dehumanized by being stripped, searched and subjected to various humiliations.

Stripping detainees was routine practice during interrogations at the Abu Ghraib prison in Baghdad, according to the report of an independent panel led by former defense secretary James R. Schlesinger in August 2004, and has been reported at other U.S.-run detention centers, including Guantanamo Bay.

That technique does not qualify as torture according to the definitions of U.S. officials. But the report concluded that "the stripping away of clothing may have had the unintended consequence of dehumanizing detainees" and that "the process of dehumanization lowers the moral and cultural barriers that usually preclude the abusive treatment of others."

"It is possible that some doctors, nurses, or medics took steps, of which we are not yet aware, to oppose the torture," psychiatrist Robert Jay Lifton wrote in a New England Journal of Medicine article last year that called attention to the role of doctors in prison abuse. "It is certain that many more did not." Stephen Behnke, director of the American Psychological Association's ethics office, said a task force had decided that psychologists could participate in interrogations because they had expertise that could aid national security and law enforcement.

But while the association says members should never participate in torture or cruel, inhuman and degrading treatment, Behnke and Ronald F. Levant, president of the association, did not offer clear definitions of what techniques those terms would not permit. "There are going to [be] behaviors that will fall into a gray area," Behnke said in an interview. "For example, isolation for a very brief period of time, for a matter of minutes, will not constitute cruel or unusual or degrading treatment."

About whether removing detainees' clothes during interrogations, as described in the Schlesinger report, crossed the boundary, Behnke said the association's ethics committee would soon be coming out with a casebook that explored specific behaviors and prohibitions. In his own view, Behnke said, "forcibly removing a detainee's clothes for the purpose of eliciting information . . . is degrading."

James Coyne, a psychologist at the University of Pennsylvania, said the ethics task force that came up with the guidelines included psychologists who were involved with U.S. government interrogations of detainees. Coyne has previously criticized the psychological association for not ruling out participation in the kind of interrogations reported from Guantanamo Bay and elsewhere.

He said the association had "called in the foxes to look after the henhouse." Sharfstein, the American Psychiatric Association president, said military officials were themselves debating about the appropriate role for doctors.

"There is a long history in military ethics of not putting doctors in positions where they can harm or kill," said Nancy Sherman, a former teacher of ethics at the U.S. Naval Academy in Annapolis, who was part of the team that visited the Guantanamo Bay facility last month. "The doctor's role is to the healing profession and not to the mission."

Load-Date: November 14, 2005

**; THE WAR IN THE MIND; PSYCHOLOGY AND PSYCHIATRY HAVE LONG HAD
AN UNEASY RELATIONSHIP WITH THE DARK ART OF INTERROGATION.;
BUT WHAT, IF ANYTHING, CAN PSYCHOLOGISTS AND PSYCHIATRISTS TELL
US ABOUT THE EFFECTIVENESS, AND THE EFFECTS, OF COERCIVE
INTERROGATIONS - AND THE MORAL QUESTIONS THEY RAISE?**

The Boston Globe

November 27, 2005 Sunday, THIRD EDITION

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Section: IDEAS; Pg. K1

Length: 1907 words

Byline: BY DRAKE BENNETT

Body

TWO WEEKS AGO, as the White House continued to fight a measure sponsored by Senator John McCain, and overwhelmingly approved by the Senate, to prohibit the use of "cruel, inhuman, or degrading treatment or punishment" against anyone in United States custody, the American Psychiatric Association passed a draft of its own resolution opposing torture.

The organization, which represents the majority of American psychiatrists, declared that psychiatrists should not in any way assist in torture or in so-called "coercive interrogations"-also commonly referred to as "torture lite"-which the APA draft defined as "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." All of these tactics have been described by detainees and leaked government documents as being practiced by interrogators at Guantanamo Bay and other American military detention sites.

At the same time, a debate has roiled the American Psychological Association. The organization is unequivocally opposed to torture of any kind, its ethics director Stephen Behnke emphasized in a recent interview. However, he added, "the American Psychological Association has approached this issue with an appreciation of its complexity." That means, for example, setting up a task force to look at the psychological research literature to determine which interrogation techniques are most effective-a decision that some of the association's members see as sully the whole profession by associating it with breaking people rather than helping to cure them.

This debate-about what role, if any, psychiatrists and psychologists could play in interrogations-stems in large part from widely reported revelations this summer that military psychologists and psychiatrists were advising interrogators at Guantanamo. The subtext of this collective soul-searching has been that those with a special understanding of the human mind have a special ethical responsibility when it comes to prying secrets out of the recalcitrant.

While arguments about torture and coercive interrogations are moral arguments at heart, they do hinge on questions of efficacy. And yet the suggestion that psychologists and psychiatrists have much to contribute to interrogations may rest on a perception that interrogation itself is more of a science than a dark art. Historically, scientific and medical research has been of only limited use to interrogators, and what literature there is on interrogation relies on the recollections of interrogators and the interrogated rather than on controlled clinical studies.

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In recent years, however, there has been a renewed effort by psychologists and psychiatrists to create a more truly scientific literature on torture and interrogation, looking not only at the effectiveness of different methods, but at their long-term effects on those subjected to them-the very questions vital to the ethical and moral debates currently embroiling politicians, psychiatrists, and psychologists alike.

...

During the Cold War, the enlistment of psychiatric and psychological research in the service of the state made for some of the era's strangest episodes. In the 1950s and '60s, the CIA and the US military saw immense promise in the hallucinogen LSD as a "truth serum," and experimented on unwitting soldiers, intelligence agents, and even men lured by CIA-hired prostitutes from San Francisco bars to a "safe house" where they were given LSD-laced cocktails.

Other research, however, was more productive. Work in the 1950s by the neuroscientist John Lilly, of the National Institute of Mental Health, suggested that extended sensory deprivation-in Lilly's study, subjects were suspended in water while wearing blacked-out goggles-created unbearable levels of stress in certain people. Sensory deprivation has been a staple of coercive interrogations ever since.

Today there remains interest among military interrogators in psychological research. According to an article by Jane Mayer in The New Yorker last July, interrogators at Guantanamo were particularly interested in research done in the 1970s by Martin Seligman, a psychologist at the University of Pennsylvania, into what he termed "learned helplessness"-the process by which animals (and, Seligman extrapolated, humans) lapsed into submission in the face of uncontrollable punishment. Seligman, Mayer reported, has presented his work to military interrogation specialists. (He declined to be interviewed for this article.)

According to Jonathan Moreno, a bioethicist at the University of Virginia who is writing a book on neuroscience and national security, there has also been a renewal of interest on the part of the Pentagon in truth drugs. Instead of hallucinogens, he says, the focus is on compounds that disarm the subject by targeting the levels of neurotransmitters like dopamine and serotonin. "We may be getting to the point," Moreno says, "where you could actually administer a drug with a protein that helps to stimulate a certain neural center, and that might create an attitude of confidence and trust and low stress in the person being interrogated. It would be much faster than doing it the old-fashioned good cop/bad cop way." It would also, Moreno argues, be more humane, or at least more gently coercive. (Many psychiatrists and neuroscientists are skeptical about the possibilities for such drugs.)

Still, despite the government's interest in predictions like Moreno's, at places like Guantanamo much of the interrogator's arsenal has little to do with contemporary research on the brain or behavior. One of the most influential texts, on which US military and CIA interrogation manuals have drawn heavily over the years, was written 50 years ago by Harold Wolff and Lawrence Hinkle, neurologists at Cornell Medical School. Their book, "Communist Interrogation and Indoctrination of 'Enemies of State,'" was based not on their own research but on the recollections of former KGB interrogators and of American POWs held by the Chinese during the Korean War. (Similar research at around the same time by the psychiatrist Robert Jay Lifton-who spoke to POWs, missionaries, and even Chinese citizens tortured by the Chinese Communist government-is often cited today to illustrate the unreliability of confessions extracted under torture.)

Interrogators themselves can be dismissive of the help provided by mental health professionals. According to Avi Dicter, the former head of Shin Bet, the Israeli Security Agency, over the course of his 30-year career, "I remember maybe once or twice when we were completely hopeless in an interrogation we tried to get some assistance" from a psychiatrist or a psychologist hidden behind a curtain in the interrogation room. "I think the psychiatrist was as helpful as my mother [would have been]."

This makes sense, says Michael Grodin, a psychiatrist at the Boston University School of Public Health. He's not sure what help psychiatrists would be in an interrogation. "They're trained to listen, to empathize, they're trained to heal. Those are not the kinds of things that one does in the context of most interrogations."

"People have this notion that there are secrets," says Moreno. But, he points out, "You don't need a PhD in psychology to be a torturer."

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Nevertheless, a few psychiatrists and psychologists have continued to research interrogation and coercion, trying to figure out whether and how they work and what sort of marks they leave on those who go through them.

Grodin's work, for example, focuses on torture's human costs. It's a subject that presents obvious difficulties. "There's not a huge amount of literature," Grodin says. "You obviously can't do a randomized clinical trial." Still, he has spoken to around a thousand torture survivors and is looking at how symptoms vary with different forms of torture and across cultures.

New work is also being done on interrogation methods, though most of it focuses on criminal rather than military interrogations. One of the leaders in the field is Saul Kassin, a psychology professor at Williams College whose work focuses in particular on false confessions, which he says occur with alarming frequency in police interrogations. "Modern police interrogation is something of a steamroller," he says. "It produces confessions from the guilty, but it also puts the innocent at risk." (Kassin also points out that police interrogators are prohibited from using most of the coercive methods reportedly allowed in Guantanamo.)

There are, Kassin readily concedes, fundamental differences between criminal and military interrogations. The former are meant to elicit confession, the latter to extract information. In both, though, reliability is important, and in both, he argues, coercion leads to unreliable information. "Everyone has a breaking point. You can certainly get people to talk." But interrogators, he argues, "are not nearly as good at determining if what they're getting is true or not."

On this last point, Kassin has done the sort of falsifiable, controlled study that is rare in a fraught field like interrogation: He set up an experiment in which college students and police investigators were asked to judge both video- and audiotapes of prison inmates' confessions, some of them false, some true. The police, though more confident in their judgment, did worse than the students, and in some instances did worse than if they had randomly guessed. What that means, Kassin argues, is that the interrogator's gut instinct and hard-earned experience leads, as often as not, to the wrong conclusion.

Kassin and others are also looking at how to design a better interrogation, though most of the research is very new. "Researchers have been so busy identifying some of the problems with interrogations that the next step, techniques that might produce good information, is only really starting," he says. In one promising study, for example, Par Anders Granhag and Maria Hartwig, psychologists at the University of Gothenberg, have shown how, by strategically holding back key information about the crime in question, interrogators can lower the incidence of false confessions while still trapping guilty suspects.

Such work, researchers hope, might help turn interrogation into a little bit less of a dark art and a little bit more of a science. But in the end, it can't resolve the larger ethical questions about what sort of interrogation methods we should allow and in what setting-and if there is any role for psychiatrists or psychologists in the process.

For Grodin, the answer is simple. "It's bad. Don't do it. Just say no." There needs to be, he believes, "a bright line and a big wall between using psychiatry as an agent of the state versus using psychiatry to benefit patients." A psychiatrist is a doctor, and a doctor's Hippocratic oath, he argues, makes the choice clear.

Kassin is less categorical. Part of this may reflect the fact that he is a psychologist, not a psychiatrist. "I don't define psychology as a mental health profession," he says. "I define psychology as the science of human behavior." But, he emphasizes, there is a social as well as scientific benefit in his work. In interrogations, he believes, "effective and humane may not in the end be contradictory." His job is to figure out how.

Notes

Drake Bennett is the staff writer for Ideas. E-mail drbennett@globe.com.

Graphic

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PHOTO

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Medical Experts Debate Ethics of Military Interrogations

Voice of America Press Releases and Documents

December 12, 2005 Monday

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Length: 1012 words

Body

VOA English Service

DATELINE: Washington DC

Leaders in medicine and mental health care in the U.S. are divided over whether people in their professions should take part in U.S. military interrogations of alleged terrorists.

Specifically, psychiatrists and psychologists are reported to have advised the military on ways to produce mental duress, through sleep deprivation, isolation, humiliation, and anxiety- and phobia-inducing questioning. News reports say U.S. military personnel at the detention center in Guantanamo Bay, Cuba, have reportedly received guidance from healthcare professionals on these kinds of interrogation techniques.

In response to the reports, Dr. Steven Sharfstein, the president of the American Psychiatric Association, says the organization is drafting new guidelines prohibiting its members from taking part. "As physicians, we are concerned that that kind of process, that kind of situation," he says, "which is involuntary and by its very nature coercive -- that it can slip very easily into an 'ethical no-man's land -- a kind of 'slippery slope,' if you will -- where the advice given to interrogators could be used against detainees in a way that would be medically unethical."

The American Medical Association, or AMA, the nation's largest physicians group, has issued a statement saying that physician participation in torture and/or abuse is unethical and unacceptable.

Both the AMA and the American Psychiatric Association have scheduled a vote at member meetings next year to formally adopt new ethical guidelines for doctors and psychiatrists working for the military. But there is some dissent on this issue among mental health care professionals. Dr. Stephen Behnke is the director of ethics at the American Psychological Association, the largest U.S. mental health care society, with about 150,000 members.

"By virtue of the complexity of the issues, there may be differences in how people view these issues," Dr Behnke says. But he emphasizes that news reports that psychologists under contract with the military have been involved in detainee abuse have not been verified. And on the wider issue of whether or not psychologists should be involved at all in military interrogations, Dr. Behnke says his association has a longstanding policy on that issue.

"For over 20 years, the American Psychological Association's position on this issue has been clear and unwavering: it is unethical for a psychologist to participate in torture or other cruel, inhuman, or degrading treatment under any circumstances, at

Medical Experts Debate Ethics of Military Interrogations

any time, for any reasons," he says. "There are no exceptions. A threat of war, a national emergency, or law, regulation, or order can never justify a psychologist's participation in any of these acts."

But Dr. Behnke says the organization does not oppose some forms of participation in some forms of interrogation. "We talk about words like 'isolation' and 'sleep deprivation.' We need to be careful," he says. "If one talks about isolation about a very few minutes, say, five minutes, I don't think anyone would argue seriously that isolating someone for five minutes rises to the level of torture or cruel, inhuman, or degrading treatment. So isolation, in and of itself, needs to be further defined to make sure it never rises to the level of cruel, inhuman, or degrading treatment. Now, stripping, disrobing someone for the purpose of eliciting information, clearly is going to constitute degrading treatment. That is a clear violation of the statements contained in the American Psychological Association report."

The APA's director of ethics believes psychologists have an obligation to take part in prisoner interrogations -- in an ethical manner, when doing so can help protect Americans from terrorists and other dangerous criminals.

"Take as an example an individual that law enforcement believes has abducted a young child," he says. "Law enforcement comes to a psychologist and says, 'Please help us develop ways to question the individual so we may learn information that would protect that innocent child's life.' The American Psychological Association says 'we absolutely want psychologists involved in those processes, in contributing to law enforcement in that manner.' That is an ethical thing to do. That is an appropriate thing to do, contributing our expertise in important valuable ways to society."

Dr. Nancy Sherman, an expert on military ethics with Georgetown University in Washington, D.C., disagrees. "Putting doctors in roles and even psychologists in roles where they could potentially harm individuals, violate Geneva Accords [on the humane treatment of prisoners], not take seriously enough the claims of the dignity of a person, is morally objectionable," she says.

About 15 civilian experts on ethics in the fields of medicine and psychology were invited last month by the U.S. Department of Defense to visit the detention center at Guantanamo Bay, which houses some 500 prisoners alleged to have ties with global terror networks. Dr. Sherman was among them.

"We were given about a five- or six-hour tour of the base by the general in charge there, [U.S. Army Brig.] Gen. [Jay W.] Hood," she recalls. "There was a genuine and earnest concern (among our group) to have some more input on the nature of the [Pentagon] regulations on the role of doctors and other health providers and non-clinical psychologists in detention centers."

A top Defense Department official, Assistant Secretary for Health Affairs William Winkenwerder, recently issued a statement asserting that, "health care personnel working for the armed forces have a duty to protect the physical and mental health [of detainees] and to uphold the humane treatment of detainees."

The U.S. Congress is currently considering legislation that would ban all U.S. military or civilian personnel from engaging in cruel, inhumane, and degrading treatment. Whether the ban is approved or not, the debate over the role of health care professionals in military interrogations is likely to continue.

Notes

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National Briefing Washington: Psychologists Preferred For Detainees

The New York Times

June 7, 2006 Wednesday, Late Edition - Final

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Section: Section A; Column 5; National Desk; Pg. 19

Length: 126 words

Byline: By NEIL A. LEWIS (NYT)

Body

Pentagon officials said Tuesday they would try to use only psychologists, not psychiatrists, to help interrogators devise strategies to get information from detainees at places like Guantanamo Bay, Cuba. The new policy follows by little more than two weeks an overwhelming vote by the American Psychiatric Association discouraging its members from participating in those efforts. Stephen Behnke, director of ethics for the counterpart group for psychologists, the American Psychological Association, said psychologists knew not to participate in activities that harmed detainees. But he also said the group believed that helping military interrogators made a valuable contribution because it was part of an effort to prevent terrorism. NEIL A. LEWIS (NYT)

<http://www.nytimes.com>

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The Guantanamo suicides reopen a festering question of medical ethics

The Times (London)

June 26, 2006, Monday

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Section: FEATURES; Pg. 19

Length: 695 words

Byline: Anjana Ahuja

Body

Guantanamo Bay, the US detention camp in Cuba, has become a synonym for inhumanity: prolonged isolation with no recourse to the law; alleged beatings and torture; forcible feeding of hunger strikers; and now suicides.

The recent deaths of three detainees are certain to reopen a festering debate among psychologists and psychiatrists about whether they should be sharing their expertise on the human mind with military interrogators. The rumours that particular prisoners have suffered unusual punishments -one is said not to have seen sunlight for years -have stoked suspicions that mental health experts with access to detainees' medical records have customised interrogation techniques (the prisoner allowed out only at night is reported to have a phobia of the dark). In the eyes of many, such assistance constitutes a violation of an ethical code, because it is about breaking minds rather than healing them.

Last year the ethics committee of the American Psychological Association (APA) published a report suggesting that it was ethically acceptable for "psychologists to serve in consultative roles to interrogation or information gathering processes for national security-related purposes". Stephen Behnke, the APA's director of ethics, maintained that consulting with military personnel constituted a "very valuable contribution to law enforcement and to national security".

The APA's emphasis, said Dr Behnke, is on "benign" information-gathering. But critics suggest that, in such a context, information-gathering amounts to breaking a prisoner's will and is anything but benign.

Michael Wilks, chairman of the British Medical Association's ethics committee, has condemned the APA's position, calling it an example of "governments and professional bodies rewriting existing ethical guidance in the service of abuse".

Earlier this year Dr Wilks wrote an unequivocal editorial in the British Medical Journal entitled "Guantanamo: a call for action", in which he accused Guantanamo doctors of abandoning their ethical duty. He gave warning that a similar creeping complicity saw German doctors become part of Hitler's killing machine.

Those running Guantanamo have apparently shown interest in studies by Martin Seligman, a past president of the APA, on "learned helplessness". This theory, dating back to the Sixties, suggests that individuals who suffer persistent ill-treatment eventually submit wholly to their tormentor. Professor Seligman has since achieved worldwide fame as a researcher in the field of happiness. The irony is almost too grim to bear.

ASIDE FROM noting my sartorial commitment to the England team -a cheap sparkly T-shirt with "England" spelt out in sequins -I have refrained from gratuitous mentions of the World Cup. Tragically the Royal Society of Chemistry has failed to display similar judgment.

The Guantanamo suicides reopen a festering question of medical ethics

"England Players in their Element!" shrieked the subject line of an e-mail that reached me last week. My heart slipped anklewards as I read the society's desperate refashioning of the Periodic Table in honour of Sven's men.

"Wayne Rooney -W -Tungsten. The striker is known for being fast, on target and breaking through defences on the pitch, so should be pleased to know that the uses of this metal include the making of missiles, rocket nozzles and armour piercing bullets!"

David Beckham is reduced to "lightweight yet strong" beryllium (Be), and defender Rio Ferdinand to iron (Fe), used for "building bridges, cars, boats and tools, not forgetting goalposts!" Peter Crouch becomes chromium (Cr) which -wait for it - can be combined with iron to make stainless steel, which is used in robotics providing the lanky striker with his post-goal celebratory robotic dance.

Do not cease groaning yet. Theo Walcott ends up as thorium (Th) for no other reason that the element is found in camera lenses, which have been trained on the young striker since he was plucked from obscurity. Joe Cole ends up as cobalt (Co), some salts of which are blue, the colour of his club's strip.

Take some golden words of advice from an Ahuja (Au, gold). The trouble with issuing a trivial press release like this is that you can end up looking like a right titanium.

Load-Date: June 26, 2006

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Psychological warfare

Salon.com

July 26, 2006 Wednesday

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Section: FEATURE

Length: 2723 words

Byline: Mark Benjamin

Highlight: Angered that their professional organization has adopted a policy condoning psychologists' participation in "war on terror" interrogations, many psychologists are vowing to stage a battle royal at the APA's annual meeting.

Body

The 150,000-member American Psychological Association is facing an internal revolt over its year-old policy that condones the participation of psychologists in the interrogations of prisoners during the Bush administration's "war on terror."

Last summer, the APA adopted new ethical principles drafted by a task force of 10 psychologists, who were selected by the organization's leadership. That controversial task-force report, which is now official APA policy, stated that psychologists participating in terror-related interrogations are fulfilling "a valuable and ethical role to assist in protecting our nation, other nations, and innocent civilians from harm."

But Salon has learned that six of the 10 psychologists on the task force have close ties to the military. The names and backgrounds of the task force participants were not made public by the APA; Salon obtained them from congressional sources. Four of the psychologists who crafted the permissive policy were involved with the handling of detainees at Guantánamo Bay, Cuba, at Abu Ghraib prison in Iraq, or served with the military in Afghanistan -- all environments where serious cases of abuse have been documented.

APA president Gerald Koocher, who handpicked the task-force members along with the organization's former president Ronald Levant, said in an interview that the psychologists' military and national-security backgrounds did not raise conflict of interest or broader questions about the task force and its report. He defended choosing psychologists with such backgrounds, saying "they had special knowledge to contribute."

The 10-member task force enunciated the new principles for interrogations in a June 2005 report. The 11 pages of ethical obligations include 12 statements on interrogations, including one directing psychologists to report abuse and remember that suspects may be innocent. But detractors say its ban on "torture or other cruel, inhuman, or degrading treatment" is pro forma, an insufficient safeguard in the post-9/11 atmosphere.

Critics of the APA's interrogation policy are planning an all-out assault during the organization's annual meeting Aug. 10-13 in New Orleans, using tactics that include taking out a full-page advertisement in the local newspaper.

Opponents argue that when psychologists use their technical training to help break down the resistance of a prisoner, they are performing in a role diametrically at odds with their professional mission to serve as a healer. "I do not believe that psychologists should be involved in interrogations which are intrinsically coercive and inherently harmful to the person being

Psychological warfare

interrogated," said Steven Reisner, a psychologist and senior faculty member at Columbia University's International Trauma Studies Program.

Joining in this chorus of dissent, former APA president Philip Zimbardo said psychologists used "the wrong model" to come up with the interrogation ethics principles. As the architect of a famous 1971 Stanford prison experiment in which students who were instructed to pretend they were guards in a mock prison quickly began to exhibit sadistic behavior, Zimbardo has more than a passing familiarity with the dynamics of cruelty. He warned against "abandoning the high moral ground in unquestioned support for ideological banners of 'national security.'"

Reisner said in an interview that the revelations of the close ties between the Department of Defense and a majority of psychologists on the task force would help galvanize opposition to the policy. The biographies of the task force members underscore these extensive and questionable connections.

Task force member Col. Larry James was the chief psychologist for the intelligence group at Guantánamo in 2003. In 2004, James was at Abu Ghraib working as the director of the behavioral sciences group in the interrogation unit there. His biography said he was sent to Abu Ghraib "in response" to the abuse scandal. Requests to interview James were rebuffed; U.S. Army Medical Command spokeswoman Cynthia Vaughn referred Salon back to the APA.

Col. Morgan Banks spent four months during the winter of 2001 and 2002 "supporting combat operations" at Bagram Airfield in Afghanistan, where serious abuses have been reported. Banks told Jane Mayer of the New Yorker last summer he had also "consulted generally" on Guantánamo interrogations, but could not recall any specific cases. Banks' biography lists him as one of the founders and the senior psychologist at the Army's secretive Survival, Evasion, Resistance and Escape (SERE) program at Fort Bragg, N.C., where the military trains elite soldiers to resist torture in case of capture. The techniques used to harden those soldiers against torture -- sleep deprivation, isolation, sexual humiliation, bags on the head, long exercise -- have been used on detainees in Afghanistan, Guantánamo and Abu Ghraib. (Salon reported last month on a military document showing that SERE instructors taught their techniques to interrogators at Guantánamo.)

APA task force member Capt. Bryce Lefever was assigned to the Navy's SERE school in the early 1990s and deployed with Special Forces to Afghanistan in 2002, "where he lectured to interrogators and was consulted on various interrogation techniques," according to his bio. Two other members of the task force worked for the Department of Defense Counterintelligence Field Activity, which coordinates Pentagon security efforts. One of them, R. Scott Shumate, was in charge of a team of psychologists who "engaged in risk assessments of the Guantanamo Bay detainees." Another psychologist on the APA task force worked for the Navy.

Requests to interview the APA task force members who had military ties were unsuccessful, even though Salon approached them through both the APA and, in most cases, the military.

Zimbardo, the former APA president, warned that the task force members' independence could be curtailed by their ties to the Pentagon. "There likely would be implicit pressures on them to keep the scope of their recommendations restricted," Zimbardo said.

Some psychologists go so far as to wonder if the APA has allowed its interrogation policy to be set by the military. "The military seemed to be very well represented on that committee," Reisner said. "This issue, which is never spoken about, is the relationship between the American Psychological Association and the military. This has been in the back of my mind throughout this whole debate."

That relationship appeared to be codified last month, when the Pentagon effectively embraced the psychologists' interrogation guidelines. In May, the American Psychiatric Association reacted to the detainee-abuse scandal by barring psychiatrists' participation in interrogations. A month later, in June, Assistant Secretary of Defense for Health Affairs William Winkenwerder Jr. unveiled a new policy clarifying the role of medical professionals in interrogations. It laid out a preference for psychologists (rather than psychiatrists) to advise on interrogations. That 10-page document also set other guidelines for military medical professionals who deal with detainees, such as establishing a barrier between acting as caregivers and those who advise interrogators.

Psychological warfare

Speaking to reporters last month, Winkenwerder said that, when the system works correctly, psychologists assess "the character, personality, social interactions and other behavioral characteristics of detainees." The psychologists, he explained, do not conduct the interrogations themselves, but instead "coach and counsel the interrogator in a way that allows him or her to build a relationship with the detainee."

Dr. Steven Miles, the author of "Oath Betrayed: Torture, Medical Complicity and the War on Terror," said that the use of psychologists in these interrogations flowed from Secretary of Defense Donald Rumsfeld's orders to get tough with prisoners. "They devised interrogation plans to exploit the physical and emotional vulnerabilities of the prisoners," Miles said in a telephone interview. "They turned to psychologists because they wanted to find every way of breaking people down."

APA president Koocher, the editor of the journal *Ethics and Behavior* and a former associate professor at Harvard Medical School, said it was unfair to link task force members to abuses at Guantánamo or elsewhere, just because they worked there. "The conceptual leap required to conclude that the particular person on our task force was involved is unreasonable," Koocher said.

The task force was empaneled last summer as news reports were piecing together a disturbing portrait of medical professionals stationed at Guantánamo and in Afghanistan and Iraq -- rifling through medical files for interrogation tips, withholding medical treatment from detainees, omitting evidence of abuse from records, or just remaining silent about what went on around them. "Physicians have a checkered past on this," said Dr. Allen Keller, director of the Bellevue/NYU Program for Survivors of Torture. "Who knows better how to inflict pain and suffering, physically and psychologically, than somebody who has studied the human body?"

In response to the scandals, some medical organizations have raced to develop new ethical standards that would bar anyone from using their professional training to assist in breaking down prisoners. Typical was the unequivocal new policy of the American Psychiatric Association, adopted in May, that forbids participation in interrogations.

"I think it is wrong to use one's professional knowledge in the service of breakdown -- breaking people down," author and psychiatrist Robert Jay Lifton said in a phone call from his home at Cape Cod, Mass. He called the psychological association's willingness to participate in interrogations "wrong." Lifton added, "Even though they do not take the Hippocratic oath, they are in the healing profession."

In defense of his association's position, Koocher pointed out that many psychologists are behavioral scientists, and as such aren't caregivers. The APA president cited examples such as psychologists who evaluate people's competence to stand trial or who train hostage negotiators.

To underscore the difference between caregiver and interrogation consultant, the APA's ethics principles bar the same person from performing both functions, stating that psychologists should "refrain from engaging in such multiple relationships." APA director of ethics Stephen Behnke added that psychologists may actually help keep interrogations safe, by encouraging interrogators to talk to prisoners rather than employ harsher methods. "Psychologists take advisory or consultative roles in relation to interrogations to help ensure interrogations are safe, legal, ethical, and effective," Behnke wrote in an e-mail.

That may be true in some cases, but the presence of a psychologist did not prevent the interrogation of so-called 20th hijacker Mohammed al-Khatani at Guantánamo from turning brutal. Khatani was stripped naked, isolated, given intravenous fluids and forced to urinate on himself, and exercised to exhaustion during interrogations that lasted 18 to 20 hours a day for 48 of 54 days.

Part of the plan was to humiliate Khatani and submit him to extreme psychological stress. He became exhausted, disoriented and hopeless. He was called a homosexual, forced to wear a mask and dance, and leashed and made to perform dog tricks. Interrogators hung pictures of fitness models on his neck and had a female interrogator "invade his personal space," according to the unredacted interrogation log obtained by Salon.

To help break down Khatani's psyche, the interrogation team included a psychologist, Maj. John Leso, a member of the military's Behavioral Science Consultation Teams, called BSCTs. The teams are a newly minted tool in the "war on terror." They include psychologists who are supposed to help interrogators break down resistance and pry loose useful information.

Psychological warfare

Former Guantánamo commander Maj. Gen. Geoffrey Miller called the teams "essential in developing interrogation strategies" in a September 2003 internal military report.

At various points during the questioning of Khatani, Leso's BSCT operators instructed interrogators to keep the prisoner awake, force him to stop staring at a wall, and advised on the effectiveness of techniques. "BSCT observed that detainee does not like it when the interrogator points out his nonverbal responses," reads an entry in the log from Dec. 29, 2002.

Leso's actions may not be typical. But the press has obtained a much more detailed record of Khatani's interrogation than that of any other "high-value" prisoner.

Leso's behavior would appear to violate the ethics principles that were later established by the APA task force, which bar "torture or other cruel, inhuman or degrading treatment." Those prohibitions might ordinarily appear to be unequivocal, but the Bush administration's "war on terror" has made them far murkier. As Zimbardo, the former APA president, noted, that kind of terminology is precisely the lexicon that Bush administration lawyers have turned into Swiss cheese. The Bush administration has "changed the definition of torture, the definition of detained prisoners, and the nature of their prolonged confinement without due process," Zimbardo said. In the Bush administration's eyes, Zimbardo said, "nothing done to such detainees qualifies as torture."

Several civilians close to the APA task force criticized the final product for failing to make a clear statement about the excesses of the "war on terror" and failing to explicitly say what psychologists can and cannot do. "It is a bunch of platitudes without any situational reality to it," said Jean Maria Arrigo, a civilian psychologist who served on the APA task force and founder of the Intelligence Ethics Collection at the Hoover Institution at Stanford University. "This was not a politically adequate document. There are no specifics in it. We needed to at least say that we can't do waterboarding," Arrigo said.

Arrigo said she doesn't have any complaints with the military members of the task force. Instead, she blames Koocher for the vagueness of the APA position statement, which allows psychologists broad latitude in interrogations. "Koocher was involved in appointing the task force, he strongly guided and monitored it and had taken the position of representing the document," she said.

Other civilian psychologists on the task force agree that the fault lies not with individual military members of the task force, but with the APA leadership. Task force member Michael Wessells, a psychology professor at Randolph-Macon College, resigned from the task force in protest early this year. According to his resignation letter, which he provided to Salon, "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."

Wessells said that the ethics guidelines, which sailed through the APA's board of directors and Council of Representatives to become APA policy, never addressed such controversial questions. "I think by going this route, strategically, the organization was playing it safe," he said. "As a response to the nature of the situation, it was completely inadequate." Despite promises that the standards would be further debated, Wessells said that there was never any follow-up. As a result, he said, "I felt more than a little exploited."

Both sides expect intense debate next month over the interrogation standards -- and the question may overwhelm the other items on the APA's agenda at the convention. Koocher has asked Lt. Gen. Kevin C. Kiley, the surgeon general of the Army, to come to New Orleans and address the organization's leadership.

Koocher acknowledged that his organization could revisit the issue in the future. "Remember that as far as APA is concerned, the issue is not over," Koocher said in a phone call.

But some psychologists are not satisfied with bland promises of further review. "At the moment, the American Psychological Association is complicit in the mode of interrogations going on at Guantánamo, by focusing on the justification for interrogation," said Reisner. "We are being used to further the ends of what amounts to torture."

Load-Date: July 27, 2006

Psychological warfare

End of Document

Policy divides psychologists; It lets them take part in military interrogations - and could be a focus of their annual convention.

The Philadelphia Inquirer
August 9, 2006 Wednesday

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Section: NATIONAL; Pg. A03

Length: 1690 words

Byline: Adam Fifield, Inquirer Staff Writer

Body

Controversy over a year-old American Psychological Association policy allowing members to participate in military prisoner interrogations threatens to dominate the group's annual convention this week.

The debate, fueled by reports of alleged abuses of detainees at the U.S. military prison at Guantanamo Bay, focuses on whether the psychologists are more likely to serve as ethical monitors or to become accomplices to cruelty.

More than 1,500 psychologists have signed an online petition to protest APA guidelines that permit members to consult on "interrogation and information-gathering processes for national security purposes."

"We will not stand by and remain silent while our profession throws overboard its concern for human dignity by becoming complicit in inhumane institutions," the petition states.

Army Surgeon General Kevin Kiley is to address the 150,000-member group's governing body in New Orleans today, on the eve of the convention.

Locally, some psychologists said they supported the APA policy, which also bans members from assisting in torture or degrading treatment, and requires them to report such conduct. But most worried that mental-health professionals could be overruled, or co-opted, in military settings.

Psychologists help ensure that interrogations remain "safe, legal, ethical and effective," said Stephen Behnke, director of the APA ethics office. "You want to have people who understand the science, and who understand that torture and abusive treatment lead to bad information."

Psychologists can help elicit information to prevent terrorist attacks, said Frank Farley, a Temple University psychology professor and former APA president, who backs the policy.

There is a need to interview people, Farley said, adding that to think otherwise is "naive."

"Having a person who subscribes to APA ethics in the room at the time can only be a good thing," Farley said.

Policy divides psychologists; It lets them take part in military interrogations - and could be a focus of their annual convention.

Others are grappling with the issue. "I'm not sure this is where psychology belongs," said Julie Levitt, of Center City, who will be in New Orleans.

Levitt leans toward opposing psychologists as consultants, she said, because of concerns about the military interrogators.

If they are "basically moral people" and "adhere to Geneva conventions, then it's certainly appropriate to help," said John Rooney, head of La Salle University's master's program in clinical counseling. But, he said, it's hard for an outsider to know.

Reported abuses of detainees at Guantanamo Bay have cast a pall over the debate. Critics of the APA policy cite news reports - and a 2005 New England Journal of Medicine article - charging that health-care professionals helped interrogators design coercive practices. The military has disputed the allegations.

"You get the best information from rapport-building and relationship-building, and the psychologists here do that," said Lt. Col. Lora Tucker, a Guantanamo spokeswoman.

Under military guidelines released in June, psychologists and psychiatrists on behavioral science consultation teams can "observe, but shall not conduct or direct, interrogations."

The teams have been responsible for reviewing detainees' medical histories for "depression, delusional behaviors, manifestations of stress, and 'what are their buttons,' " a 2005 Army surgeon general's report said. They have also helped determine "when to push or not push harder" for information.

The military typically uses psychologists rather than psychiatrists, William Winkenwerder, assistant secretary of defense for health affairs, said in June. The American Psychiatric Association and the American Medical Association take positions more restrictive of their members' roles in interrogations.

"I was shocked and embarrassed at my organization's being chosen by the military to be the sole representative on these... teams in Guantanamo," said Steven Reisner of Columbia University's International Trauma Studies Program, who will speak against the policy in New Orleans.

Of the APA's 10-member task force behind the policy, six members have military ties, Salon.com reported last month. Four, including a Navy psychologist who reportedly protested abuses at Guantanamo, are on active duty. According to the APA Web site, others on the force have been in Afghanistan and Abu Ghraib.

"That seemed to stack the deck," Reisner said.

The task force unanimously agreed on its primary recommendations, Behnke countered.

Emily K. Filardo, who teaches psychology at Kean University in Union County, N.J., said she worried that having psychologists at interrogations would legitimize practices over which they have no control.

"The Army can say, 'You see, things are OK. We have psychologists who've checked it out,' " Filardo said.

Andrew Jensen, a Cherry Hill psychologist who treats veterans, favors the APA position and suspects its foes are motivated by "the current political climate."

Behnke said his group recognized the obligations of psychologists to individuals and to the nation.

"We need to take a look at how we balance those against one another," he said.

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Load-Date: August 9, 2006

Psychologists Debate Ethics of Their Involvement in Interrogations

The Chronicle of Higher Education

September 1, 2006 Friday

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Section: RESEARCH; Pg. 28; Vol. 53; No. 2

Length: 1028 words

Byline: PAULA WASLEY

Dateline: New Orleans

Body

Psychologists' roles and ethical responsibilities in relation to war, terrorism, torture, and coercion were a hot topic of debate inside and outside the halls at the American Psychological Association meeting, which held its annual conference here in August.

The day before the conference opened, the association's governing council adopted a resolution that prohibits psychologists from engaging in or offering training in torture and establishes an ethical obligation for association members to report acts of torture or cruel, inhuman, or degrading treatment or punishment.

Much of the council meeting was devoted to the issue and the resolution, which replaces and expands upon a 1986 human-rights resolution condemning torture. Unlike that earlier measure, the new resolution explicitly invokes international law by defining torture according to the United Nations Convention Against Torture.

However, the general statement condemning torture made no reference to whether psychologists should participate in military interrogations such as those conducted by American authorities at Guantanamo Bay, Cuba -- an issue that has embroiled the association in debate since June 2005, when a committee on psychological ethics and national security deemed it was ethical for psychologists "to serve in consultative roles to interrogation and information-gathering processes for national-security purposes."

Controversy has centered in particular around the fact that six of the 10 members of the committee that wrote the guidelines had ties to the military, including four who have worked at Guantanamo Bay, at Iraq's Abu Ghraib prison, or in Afghanistan.

The psychological association's position stands in contrast to guidelines issued by the American Psychiatric Association and the American Medical Association, both of which ban member practitioners from any involvement in prisoner interrogations.

As a result, the U.S. military has stated that it will use only psychologists for behavioral-science consultation teams -- known as "Biscuit" teams -- that advise interrogators on how to obtain information from detainees.

Many in the psychological association are calling for similar bans on psychologists' participation in interrogations. Activists in the organization have gathered almost 1,500 signatures from psychologists protesting the association's new policy.

Sixteen association members have sponsored a motion by Neil E. Altman, a psychoanalyst and chairman of the association's divisions for social justice, proposing a moratorium on psychologists' participation in military interrogations at detention

Psychologists Debate Ethics of Their Involvement in Interrogations

centers that "operate in a questionable legal framework." Mr. Altman hopes that resolution will be put before the governing council at the association's next meeting, scheduled for February.

Ethics and Interrogation

In panel discussions at the associationwide meeting, debate over the psychologists' obligations in upholding human rights and the extent to which practitioners should be involved in military interrogations of foreign detainees were fierce and wide-ranging.

Among those who said the new resolution did not go far enough was Leonard S. Rubenstein, executive director of Physicians for Human Rights, who spoke on a panel on ethics. Mr. Rubenstein has asked the psychologists' association to adopt a "bright line" policy that would ban practitioners from any involvement in military interrogations.

In his comments on the topic of "ethical dilemmas for psychologists dealing with war, terrorism, torture, and coercion," he questioned whether it was ethically sound to allow psychologists to act as behavioral consultants in environments such as Guantanamo Bay. He described such environments as closed and "without due process, where the law allows coercive interrogations," and where "the social psychology of the situation so much leaves the psychologist to identify with the intelligence function that ethical independence is impossible."

Another speaker, Jean Maria Arrigo, a founder of the Intelligence Ethics Collection at the Hoover Institution at Stanford University and a member of the committee that deemed it was ethical for psychologists to consult on interrogations, raised questions about the obligation the new resolution placed on psychologists to report acts of torture or cruel, inhuman, or degrading treatment or punishment.

Speaking at a symposium on human rights, torture, and professional responsibility, she encouraged the association to promote support systems for psychologists, such as providing alternative transitional jobs that would allow and encourage military psychologists to become whistle-blowers if they witnessed human-rights abuses.

Stephen Behnke, director of the association's ethics office, emphasized that psychologists' ethical obligations to individuals must be weighed against their ethical obligations to society at large, citing as an example a California case in which the state's Supreme Court found that a psychologist could have prevented a murder if he had violated client-confidentiality codes by reporting his patient's threats of violence.

Mr. Behnke has commented recently, including in an article in *Monitor on Psychology*, a publication of the association, about the positive role that psychologists can play in interrogations. He pointed out their potential to safeguard, for instance, against "behavioral drift," a phenomenon in which interrogators in high-stress situations can tend toward increasingly coercive techniques.

But others argued that psychologists had no place in assisting or advising on military interrogations.

Pointing to the ambiguous legal status of detention centers such as Guantanamo Bay, Michael G. Wessells, a psychology professor at Randolph-Macon College, said it was "specious and self-serving" to believe that most psychologists' ethics could withstand the situational pressures of such an environment.

Mr. Wessells was another member of the committee that set the 2005 guidelines on interrogations. He was among the four members who did not have military connections, and he resigned from the committee to register his protest at the way the committee's work was conducted.

Load-Date: November 29, 2007

Psychologists clash over aiding military interrogators

THE SAN FRANCISCO CHRONICLE (California)

August 18, 2007 Saturday, FINAL Edition

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San Francisco Chronicle

Section: BAY AREA; Pg. B2

Length: 935 words

Byline: Bob Egelko, Chronicle Staff Writer

Body

When military interrogators devised new methods to extract information from prisoners at Guantanamo Bay, starting in 2002, psychologists and psychiatrists assisted them, according to a recently declassified Defense Department report.

The American Psychiatric Association quickly adopted new ethical standards that said psychiatrists should not take part in the interrogations after an early version of the report surfaced last year. But the American Psychological Association, which represents most of the nation's psychologists, left its rules unchanged and merely reiterated its previous condemnation of torture and abuse. The Pentagon then began using only psychologists to train its interrogators.

As the 150,000-member psychologists' organization holds its annual meeting in San Francisco this weekend, a dissident faction is pushing to prohibit members from playing any role in the military interrogations, which it views as tantamount to torture.

"Our first ethical principle is that psychologists should do no harm," said Ruth Fallenbaum, a Berkeley clinical psychologist who works with torture victims. "We should not contribute our expertise, our training to breaking down people in these environments where there's no respect for human rights."

APA officials have argued that psychologists have a legitimate role in working with interrogators to make sure that their methods are safe and ethical as well as effective.

"Psychologists involved with the APA's position have played important roles in making very clear that there is no role for abuse in interrogation," said Stephen Behnke, the organization's ethics director.

"We all agree that torture, abuse and harsh interrogation techniques are never permissible. The question then becomes, what is the best strategy to ensure that torture and abuse never take place?"

The issue comes to a head Sunday when competing resolutions are scheduled for votes in the association's Council of Representatives, which consists of delegates from state associations and professional groups.

One proposal, by APA leaders, would prohibit any involvement in interrogations that use any of 14 specified methods that might be associated with torture, including mock executions, the use of dogs to threaten or intimidate a prisoner, sexual humiliation, and the simulated drowning technique called waterboarding. The rival resolution backed by a group called Coalition for an Ethical APA would forbid all participation by psychologists in interrogations at Guantanamo and similar military facilities.

Psychologists clash over aiding military interrogators

Disavowing specific interrogation techniques would be "a major step forward," said New York psychologist Steven Reisner, an outspoken member of the dissident group. But he said the APA leaders' resolution is full of loopholes - for example, it applies only to interrogations and not to the use of some of the same methods used during confinement to "soften up" a prisoner before questioning.

"Participating in that environment is (the equivalent of) giving your approval" to what goes on there, Reisner said. With psychiatrists and other health professionals shunning the interrogations, he said, psychologists provide the remaining veneer of legitimacy to the Bush administration's claim that the United States does not torture or abuse prisoners.

The controversy has simmered for years in the psychologists' organization, which, according to Reisner, has had close ties with the military since World War II.

Media reports alleging that mental health professionals had helped develop abusive interrogation methods prompted APA leaders in 2005 to appoint a task force, which concluded that psychologists were playing a "valuable and ethical role" in assisting the military.

When the task force members were identified a year later, a majority proved to have military affiliations. Behnke, the APA ethics director, found nothing wrong with those connections and said some military members of the task force have been responsible for preventing abuses at Guantanamo and the Abu Ghraib prison in Iraq.

The dissidents say the report by the Defense Department's inspector general, issued in an abbreviated version a year ago and declassified in May, provided public confirmation of their claims that psychologists have taken part in the abuse of prisoners.

The report described a September 2002 conference at Fort Bragg, N.C., at which Army psychologists briefed interrogators, including a task force from Guantanamo, on methods designed to break down prisoners' resistance.

The report said the methods were learned from a military program called Survival, Evasion, Resistance and Escape, or SERE, which was established in the late 1940s to train Special Operations forces and other personnel in resisting the coercive techniques of communist countries if they were taken prisoner.

The APA dissidents said the report also showed that military psychologists brought SERE-derived interrogations to Guantanamo as members of behavioral science consulting teams that instruct interrogators.

Rather than acting as protectors, psychologists at the military base have "developed the torture techniques and, in some cases, applied them," said Stephen Soldz, a Boston psychologist. He said the mental health consultants have also advised interrogators "whether that person can take more abuse."

Behnke said he's unaware of any such cases involving APA members. He offered a different interpretation of the Defense Department report.

"It describes conditions under which abuses occur," he said. "We think all psychologists should study it very carefully so that we can make sure it doesn't happen again."

Load-Date: August 18, 2007

AMERICAN PSYCHOLOGICAL ASSOCIATION CALLS ON U.S. GOVERNMENT TO PROHIBIT USE OF UNETHICAL INTERROGATION TECHNIQUES

States News Service

August 20, 2007 Monday

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Length: 485 words

Byline: States News Service

Dateline: WASHINGTON

Body

The following information was released by the American Psychological Association (APA):

The Council of Representatives of the American Psychological Association (APA) has approved a resolution prohibiting specific techniques sometimes used in interrogations and calling on the U.S. government to ban their use.

The resolution, passed at the APA's annual convention in San Francisco, unequivocally condemns and strictly prohibits psychologists from direct or indirect participation in a list of 19 unethical interrogation techniques including: mock execution; water-boarding or any other form of simulated drowning or suffocation; sexual humiliation; rape; cultural or religious humiliation; exploitation of phobias or psychopathology; induced hypothermia; and the use of psychotropic drugs or mind-altering substances for the purpose of eliciting information. In addition, the following acts were banned for the purpose of eliciting information in an interrogations process: hooding; forced nakedness; stress positions; the use of dogs to threaten or intimidate; physical assault including slapping or shaking; exposure to extreme heat or cold; threats of harm or death; and isolation and/or sleep deprivation used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm; or the threatened use of any of the above techniques to the individual or to members of the individual's family.

Yesterday's vote further articulates that the identified interrogation techniques are strictly out-of-bounds for psychologists, according to Stephen Behnke, JD, PhD, Director of the APA Ethics Office. "We have had a long-standing position that torture and other forms of inhuman and degrading treatment are unethical. The strength of this new resolution is that it adds specificity to that prohibition," Behnke said.

The new resolution calls upon the United States Government, including the Congress, Department of Defense and Central Intelligence Agency, to prohibit the use of the identified techniques. The resolution additionally noted the likelihood that torture and other forms of cruel treatment lead to unreliable and/or inaccurate information. For that reason, it calls upon U.S. legal systems to reject testimony that results from torture or cruel, inhuman or degrading treatment.

This latest resolution builds on a 2006 Council of Representatives resolution reasserting the organization's absolute opposition to all forms of torture and abuse, regardless of circumstance and linking the Association's position to the United Nations Universal Declaration of Human Rights and the Geneva Convention.

APA policy condemns and absolutely prohibits psychologists from planning, designing, assisting in or participating in any activities including interrogations which involve the use of torture or other forms of cruel, inhuman or degrading treatment.

AMERICAN PSYCHOLOGICAL ASSOCIATION CALLS ON U.S. GOVERNMENT TO PROHIBIT USE OF
UNETHICAL INTERROGATION TECHNIQUES

Load-Date: August 21, 2007

End of Document

Will psychologists still abet torture?

Salon.com

August 21, 2007 Tuesday

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Section: FEATURE

Length: 1085 words

Byline: Mark Benjamin

Highlight: At their annual convention, psychologists officially condemned some brutal interrogation techniques, but critics decry a resolution they say isn't stringent enough.

Body

The American Psychological Association has adopted a new resolution on the interrogation of detainees in the so-called war on terror, denouncing a list of specific interrogation techniques including some allegedly employed by the CIA.

The move comes after months of revelations that exposed how psychologists helped develop coercive interrogation programs after 9/11 for the intelligence agency and the military, and weeks after the White House announced the renewal of the CIA's "black site" interrogations -- likely to be overseen by psychologists.

But it was a step still mired in controversy. At their annual meeting in San Francisco over the weekend, the psychologists voted against a proposal that would have aligned them with the position taken by the equivalent associations of American medical doctors and psychiatrists, which have banned their members altogether from participating in interrogations at places like the military prison in Guantánamo Bay. Moreover, the group's new condemnation of nearly 20 specific interrogation techniques, in a 174-line resolution that "unequivocally condemns torture," contains gray areas that left some psychologists wondering if the APA played right into the CIA's hands.

The APA has condemned torture in the past. But this year the organization was responding, in part, to intense internal pressure from some members who were angered by the Bush administration's permissive interpretation of prohibitions on abuse. The new resolution aims to be more precise and detailed, articulating "an absolute prohibition for psychologists against direct or indirect participation" in brutal interrogation methods, from mock executions to waterboarding.

"The APA came in line with the minimum of its responsibilities by condemning, in certain circumstances, the most egregious forms of torture being committed in our name," said Steven Reisner, a psychologist who has been pressing the organization to withdraw from detainee interrogations. "But they left huge loopholes that permit these techniques to be used in other circumstances."

For example, the resolution denounces isolation and sleep deprivation only when "used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm." Yet, isolation and sleep deprivation are hallmark interrogation techniques reportedly used by the CIA at the black sites, and they have been honed with eerie precision by decades of practice. The CIA's infamous 1963 KUBARK interrogation manual describes sensory deprivation and the disruption of sleep patterns as central tenets of coercive interrogations, quickly provoking hallucinations and stress that become "unbearable for most subjects." That manual also notes the "profound moral objection to applying duress past the point of irreversible psychological damage."

Will psychologists still abet torture?

What worries psychologists like Reisner is that the potential loophole in the APA's resolution echoes a similar one in the Military Commissions Act, which had a provision allegedly inserted into it at the behest of the Bush administration. President Bush signed that bill into law last October, setting new definitions in U.S. law for violations of the Geneva Conventions, which ban torture internationally. The potential loophole in the law comes with the criminalization of mental pain and suffering, but only damage that is "serious and non-transitory." Bush said last fall the new law would allow the CIA to continue its interrogations at the black sites.

Interrogations were clearly the hot topic at the convention, with at least a dozen packed meetings on ethics and interrogations. The convention drew protesters, including people staging Abu Ghraib-style stress positions both inside and outside the premises.

There is disagreement about whether the language adopted by the APA with Sunday's vote really does give psychologists carte blanche to keep helping the CIA use brutal mental coercion against al-Qaida suspects. Leonard Rubenstein, the president of Physicians for Human Rights and a lawyer, first suggested the explicit condemnation of CIA tactics in a June 14 letter to APA president Sharon Stephens Brehm. Rubenstein wrote that the list would provide "explicit, operational guidance" to psychologists. After the vote, he said that the long-term mental damages of psychological techniques such as long-term sensory deprivation are well documented. "We interpret this as a condemnation of the CIA's interrogation program," Rubenstein said after the vote.

But getting a straight explanation from the APA leadership on the loophole issue was not easy. Brehm, the APA president, would not discuss the interrogation issue with Salon at all when confronted after a conference panel on Saturday. Stephen Behnke, the director of the APA's ethics office who drafted the resolution, insisted on Saturday that Physicians for Human Rights had suggested some qualifying language with respect to sleep and sensory deprivation. In fact, PHR had fought vigorously against any qualifying language, including a letter sent to Behnke asking for the removal of any "qualifications" regarding sensory and sleep deprivation.

But Rhea Farberman, an APA spokeswoman, dismissed the idea of a CIA loophole. "We want to step in and say these enumerated acts are unethical and should not be happening," Farberman said. "In being specific in what we think would be unethical, we are trying to add specificity where it has been lacking, to the detriment of some detainees."

But the new resolution remained a disappointment to psychologists who believe the profession should not support the interrogation of so-called unlawful enemy combatants at all, not least because detainees have been robbed of due process at places like Guantánamo. "These detention centers by their very nature impose cruel, inhuman and degrading treatment on detainees," argued Bernice Lott, a member of the APA's council.

What's at stake with the APA's role was made clear when President Bush signed a new executive order last month reauthorizing the CIA interrogation program: The White House emphasized that all interrogations would be overseen by medical officials, as a way of ensuring the safety of prisoners. Since doctors and psychiatrists have ruled themselves out as professional groups, that leaves the psychologists to do the work. And some of them worry that the APA's latest position will still allow the abuse of detainees psychologically, so long as the pain doesn't last too long.

Load-Date: August 22, 2007

Editorial: Interrogations have limits

Las Vegas Sun: Blogs

August 23, 2007 Thursday

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Section: NEWS

Length: 299 words

Body

The American Psychological Association has joined other medical associations in ruling that certain interrogation techniques used on terrorism suspects in U.S. detention facilities are immoral, psychologically damaging and not effective in extracting useful information.

In a ruling issued during the group's annual meeting on Sunday, the association said it opposes methods such as simulated drowning or "water-boarding," humiliation on sexual or religious grounds, sleep deprivation and the use of mock executions, stress positions, dogs and hoods.

Psychologists still are allowed to work in the U.S. detention facilities, where they serve to protect detainees from inhumane treatment. But they could be stripped of their APA memberships if they participate in planning such abuse or witness use of the barred techniques and fail to intervene. They also must report the incidents.

Because APA membership is a licensing requirement of many state boards, psychologists who break these new rules and lose their professional membership also could lose their licenses to practice.

The American Medical Association and the American Psychiatric Association have issued similar decisions, The Washington Post reported in a story on Tuesday.

In a statement issued Monday, Stephen Behnke, the APA's ethics director, said the organization has "had a long-standing position that torture and other forms of inhuman and degrading treatment are unethical" and that the new resolution "adds specificity to that prohibition."

Torture is a dubious method of obtaining information about suspected terrorist activity, because it often elicits unreliable or inaccurate information, the association says.

It also is a revolting and unspeakably barbaric method of interrogation that no civilized nation should employ.

Load-Date: August 6, 2014

Group protests firm's CIA ties; Office reportedly helped develop interrogation tactics

Spokesman Review (Spokane, WA)

August 24, 2007 Friday, Metro Edition

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Section: B; Pg. 2

Length: 693 words

Byline: Karen Dorn Steele Staff writer

Body

More than two dozen people, some dressed in black hoods and orange jumpsuits to resemble Guantanamo detainees, gathered Thursday evening at Riverside and Washington to protest the work of a Spokane psychology firm in the spotlight for working with the CIA at its secret interrogation sites.

"Mitchell and Jessen - How Do You Sleep at Night?" and "Torture - Spokane's Shame," read two of the signs waved at motorists during the evening rush hour in front of the American Legion Building, where Mitchell Jessen & Associates leases offices on the second floor. During the protest, the office was locked and dark, and there were no vehicles in the firm's parking spaces.

Some motorists honked and gave the thumbs-up as they drove by the line of protesters. One tattooed man in a muscle shirt, who said he worked in the building but refused to give his name, came outside to yell at the people picketing and call them "uneducated." And one bemused worker at the Jaazz Salon & Day Spa in the same building jokingly said, "I hope they don't think our haircuts are that bad."

The protest was organized by the Peace and Justice Action League of Spokane after The Spokesman-Review and three national magazines reported this summer that the work of James Mitchell and Bruce Jessen for the CIA at "black," or secret, military detention sites was under investigation by the Senate Armed Services Committee. Sen. Carl Levin, D-Mich., asked the Pentagon to retain all records of the work done by the Spokane-based psychologists.

In June, the online magazine Salon.com identified Mitchell and Jessen as key developers of the CIA's interrogation program. Vanity Fair and the New Yorker followed suit with more details of the controversial interrogation methods, which violate the Geneva Conventions on the humane treatment of prisoners.

Mitchell and Jessen "should have to close up their office and do community service for the rest of their lives," said Marianne Torres, one of the protesters. "Spokane is getting credit as a leader in torture policy - it makes me sick," she said.

"We did this because so many people in Spokane are oblivious to what is going on in their backyards," said Nancy Nelson of PJALS, who wore a black hood and orange jumpsuit.

According to a recently declassified Pentagon report reviewed by the newspaper, the techniques used at the CIA sites included painful stress positions, long periods of sensory deprivation and waterboarding, or simulated drowning.

Mitchell Jessen's partners include Randall W. Spivey and Roger L. Aldrich, according to a 2005 city of Spokane business license. Other "governing people" include David M. Ayers, president of Tate Inc., a private contractor with training contracts at

Group protests firm's CIA ties; Office reportedly helped develop interrogation tactics

Fairchild and other military sites, and Joseph D. Matarazzo, an emeritus psychology professor at Oregon Health Sciences University in Portland and the former president of the American Psychological Association.

The Mitchell Jessen revelations have sparked controversy among psychologists about whether they should assist military interrogations of al-Qaida members. Last weekend in San Francisco at the American Psychological Association's annual conference, members voted a compromise - not to participate in torture techniques but to stay at the military sites. The vote disappointed dissenting psychologists who had called for a moratorium on any involvement.

Willow Moline, who just finished her psychology degree at Eastern Washington University and joined Thursday's protest, said the work of Mitchell and Jessen "gives psychology an extraordinarily bad name."

In a June 29 Spokesman-Review story, Stephen Behnke, director of the APA's Ethics Directorate, distanced the organization from Mitchell and Jessen, saying neither man is an APA member.

But after the newspaper reported on Aug. 12 that Matarazzo, the APA's former president, is a partner in the Spokane company, the APA declined further comment.

Mitchell and Jessen have repeatedly declined interview requests and have released one statement since finding themselves in the media spotlight. In the statement, the company said it is proud of its work and opposes torture.

Notes

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Load-Date: August 25, 2007

Psychologist upset by peers' torture role returns award

THE SAN FRANCISCO CHRONICLE (California)

September 5, 2007 Wednesday, FINAL Edition

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San Francisco Chronicle

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Byline: Bob Egelko, Chronicle Staff Writer

Body

A prominent psychologist and author of a best-selling book on restoring girls' self-esteem has returned an award from the American Psychological Association in protest of the organization's recent vote to let its members continue to take part in military interrogations at Guantanamo and other sites.

"I do not want an award from an organization that sanctions its members' participation in the enhanced interrogations at CIA Black Sites and at Guantanamo," Mary Pipher said in an Aug. 21 letter to the APA, referring to secret CIA prisons for terror suspects.

"The presence of psychologists has both educated the interrogation teams in more skillful methods of breaking people down and legitimized the process of torture in defiance of the Geneva Conventions."

Pipher wrote the letter two days after delegates at the association's convention in San Francisco voted down a proposal to prohibit psychologists from taking part in interrogations at facilities where prisoners lack the right to challenge in court their confinement or treatment.

Delegates approved another measure, backed by association leaders, that barred members from participating in interrogations that use abusive methods such as mock executions, sexual humiliation or the simulated drowning technique known as waterboarding. The ban also includes sleep deprivation, isolation or temperature extremes if any of those methods causes lasting harm.

Leaders of the 145,000-member association said the presence of psychologists prevents abuses at interrogations and promotes an approach that is ethical as well as effective, by relying on rapport and persuasion rather than coercion.

But dissidents argued that psychologists are responsible for devising coercive interrogation techniques and that their presence constitutes an endorsement of the system, especially since professional organizations of doctors, nurses and psychiatrists have enacted bans like the one the APA rejected.

Pipher, a UC Berkeley graduate who lives in Lincoln, Neb., is best known as the author of the 1994 book "Reviving Ophelia: Saving the Selves of Adolescent Girls," which examines the pressure on teenagers to conform to sex roles in a culture fixated on physical appearance.

Psychologist upset by peers' torture role returns award

She received a presidential citation from the APA for her early works in 1998, and another one in 2006 that cited her writings on resettling refugees. She returned only the 2006 award, explaining that the association's president at the time, Gerald Koocher, was a strong defender of psychologists' participation in military interrogations.

Pipher also noted that the 2006 citation praised her for "compassionate guidance" of the profession.

"I wanted to be compassionate," she said in an interview. "I know a lot about trauma and about torture. ... Many innocent people are tortured, and torture victims never recover.

"We are not innocent bystanders at those sites, doing our best to protect people. We are responsible for training these interrogators. ... We are the only people left, the only medical professionals, who are lending (the sites) legitimacy."

Pipher said she let her APA membership lapse in 2000 when she ended her clinical practice to concentrate on writing. Since she returned her award, she said, she has heard from many psychologists, some of whom said they were considering leaving the association. Membership is voluntary.

Stephen Behnke, the APA's ethics director, said the organization has lost some members and gained others since the Aug. 19 vote. He said he didn't know the totals.

Behnke, who has debated dissidents on the interrogation issue, insisted the two sides have the same goals.

"The APA and Dr. Pipher are in complete agreement that the techniques that constitute 'enhanced interrogation' are unethical and should be prohibited," he said.

The only difference between them, he said, is the question of "what is the best way to insure that interrogations remain ethical and utterly free from torture and abuse."

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Highlight: 'Colorado to open the state's first public health school' and other items

Body

Colorado to open the state's first public health school

Three Colorado universities have joined forces to open the Colorado School of Public Health, the first of its type in the state. The first class is slated to start in 2008.

The school will oversee residencies for medical graduates in occupational health and preventive medicine.

Among other things, it will offer master of public health degrees in biostatistics; community behavioral health; environmental and occupational health; epidemiology; and health systems management and policy.

"The Colorado School of Public Health will fill a significant regional void and no doubt will play a vital role in the national public health arena," said M. Roy Wilson, MD, chancellor of the University of Colorado at Denver and Health Sciences Center.

Administrative offices will be at the University of Colorado Denver campus, with classes held in Denver and at Colorado State University in Fort Collins and the University of Northern Colorado in Greeley.

The University of Colorado schools raised \$4 million in grants and gifts to develop the new school. Funding for the \$15 million annual operating budget will come from the University of Colorado at Denver and Health Sciences Center's preventive medicine program, which will become part of the public health school.

Lawsuit dropped after North Carolina revamps medical board appointments

A physician and three patients dropped a lawsuit that claimed the North Carolina Medical Society had too much control over the state medical board.

The move came Aug. 21, two weeks after the governor signed a law that changes who makes nominations to the medical board. The measure takes effect Jan. 1.

On Feb. 28, family physician John Faulkner, MD, and three patients sued the North Carolina Medical Board, Gov. Michael Easley, the state and the medical society.

The lawsuit asked that the process of the medical society nominating seven of the 12 board members to the governor be declared unconstitutional. The society and medical board said the nomination process was fair.

In March, state legislators introduced a bill to change the practice. The medical society supported the proposal.

The new law calls for a nine-member review panel, which will include six physicians, to make recommendations of potential board members to the governor.

University of New Mexico housestaff signs first union contract

Residents, interns and fellows at the University of New Mexico approved their first union contract in August, a move they hope will give them more say in patient care issues.

The new contract gives the doctors pay raises that range from 5.3% for those in their first year of training to 10.3% for those in their fifth year.

The agreement also creates a \$25,000 annual Patient Care Fund to help doctors pay for hospital equipment. Qualified physicians can receive tuition reimbursements. In addition, taxi reimbursements are available to residents who cannot drive home after a 24-hour shift.

The 550 physicians unionized in February through the Committee of Interns & Residents, an affiliate of the Service Employees International Union.

Psychologists specify unethical interrogation techniques

The American Psychological Assn. last month adopted a resolution condemning psychologists who participate in any of 19 interrogation techniques it says are unethical.

The policy falls short of the stricter standards the American Psychiatric Assn. and the AMA set last year. Those say that physicians should not conduct, monitor or directly participate in the interrogation of prisoners.

The psychologists' new policy says that it is unethical to directly or indirectly participate in activities such as mock execution; simulated drowning or suffocation; sexual, religious or cultural humiliation; exploitation of phobias; extreme sleep deprivation; or induced hypothermia. The group also called on the U.S. government to prohibit the techniques.

"We have had a long-standing position that torture and other forms of inhuman and degrading treatment are unethical," said Stephen Behnke, PhD, director of the American Psychological Assn.'s Ethics Office.

"The strength of this new resolution is that it adds specificity to that prohibition," Dr. Behnke said.

Behavioral-science consultant teams composed partially of psychologists helped to devise brutal interrogation tactics that were employed against suspected terrorists at Guantanamo Bay Naval Base, according to numerous government reports, medical journal articles, leaked classified documents, human rights groups, court filings and news accounts.

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Psychologists Clash on Aiding Interrogations

The New York Times

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Byline: By BENEDICT CAREY

Body

They have closely studied suspects, looking for mental quirks. They have suggested lines of questioning. They have helped decide when a confrontation is too intense, or when to push harder. More than those in the other healing professions, psychologists have played a central role in the military and C.I.A. interrogation of people suspected of being enemy combatants.

But now the profession, long divided over this role, is considering whether to make any involvement in military interrogations a violation of its code of ethics.

At the American Psychological Association's annual meeting this week in Boston, prominent members are denouncing such work as unethical by definition, while other key figures -- civilian and military -- insist that restricting psychologists' roles would only make interrogations more likely to harm detainees.

Like other professional organizations, the association has little direct authority to restrict members' ability to practice. But state licensing boards can suspend or revoke a psychologist's license, and experts note that these boards often take violations of the association's ethics code into consideration.

The election for the association's president is widely seen as a referendum on the issue. Human rights groups, including Amnesty International, plan a protest on Saturday afternoon.

And last week, for the first time, lawyers for a detainee at the United States Navy base at Guantanamo Bay, Cuba, singled out a psychologist as a critical player in documents alleging abusive treatment.

"It's really a fight for the soul of the profession," said Brad Olson, a psychologist at Northwestern University, who has circulated a petition among members to place a moratorium on such consulting.

Others strongly disagree. "The vast majority of military psychologists know the ethics code and know exactly what they can and cannot do," said William J. Strickland, who represents the Society for Military Psychology before the association's council. "This is a fight about individual psychologists' behavior, and we should keep it there."

At the center of the debate are the military's behavioral science consultation teams, informally known as biscuits, made up of psychologists and others who assist in interrogations. Little is known about these units, including the number of psychologists who take part. Neither the military nor the team members have disclosed many details.

Defenders of that role insist that the teams are crucial in keeping interrogations safe, effective and legal. Critics say their primary purpose is to help break detainees, using methods that might violate international law.

Psychologists Clash on Aiding Interrogations

In court documents filed Thursday, lawyers for the Guantanamo detainee Mohammed Jawad asserted that a psychologist's report helped land Mr. Jawad, a teenager at the time, in a segregation cell, where he became increasingly desperate.

According to the documents, the psychologist, whose name has not been released, completed an assessment of Mr. Jawad after he was seen talking to a poster on his cell wall. Shortly thereafter, in September 2003, he was isolated from other detainees, and many of his requests to see an interrogator were ignored. He later attempted suicide, according to the filing, which asks that the case be dismissed on the ground of abusive treatment.

The Guantanamo court is reviewing the case. Military lawyers have denied that Mr. Jawad suffered any mental health problems from his interrogation. On Thursday, the psychologist in the case invoked Article 31 of the Uniform Code of Military Justice, the military's equivalent of the Fifth Amendment.

"This is what it's come to," said Steven Reisner, an assistant clinical professor at the New York University School of Medicine and a leading candidate for the presidency of the psychological association. "We have psychologists taking the Fifth."

Dr. Reisner has based his candidacy on "a principled stance against our nation's policy of using psychologists to oversee abusive and coercive interrogations" at Guantanamo and the so-called black sites operated by the Central Intelligence Agency.

The psychological association's most recent ethics amendments strongly condemn coercive techniques adopted in the Bush administration's antiterrorism campaign. But its current guidelines covering practice conclude that "it is consistent with the A.P.A. ethics code for psychologists to serve in consultative roles to interrogation and information-gathering processes for national-security-related purposes," as long as they do not participate in any of 19 coercive procedures, including waterboarding, the use of hoods and any physical assault.

How these guidelines shape behavior during interrogations is not well understood. Documents from Guantanamo made public in June suggested that at least some of the coercive methods the military has used were derived from SERE, for Survival, Evasion, Resistance, Escape, a program based on Chinese techniques used in the 1950s that produced false confessions from American prisoners.

These techniques included "prolonged constraint," "exposure" and "sleep deprivation," known informally as the frequent flier program.

In this kind of environment, "health professionals, bound by strong ethical imperatives to do no harm, may become calibrators of harm," said Nathaniel Raymond of Physicians for Human Rights, which has been strongly critical of the psychological association's position.

According to the standard operating procedure for Camp Delta, at Guantanamo, the "behavior management plan" for new detainees "concentrates on isolating the detainee and fostering dependence of the detainee on his interrogator."

Some psychologists, though appalled by these techniques, emphasize that there is a danger in opting out as well.

"There's no doubt that the psychologist's presence can be abused," said Robert W. Resnick, who is in private practice in Santa Monica, Calif., "but if there's no presence at all, then there's no accountability, and you walk away feeling noble and righteous, but you haven't done a damned thing."

Stephen Behnke, director of ethics at the psychological association, said in an interview on Friday that Defense Department standards for interrogation appeared to have improved in recent years.

"If you take the position that interrogation cannot be done ethically, then the discussion stops there," Dr. Behnke said. "But if the answer is yes, then you don't shut down the whole operation because certain individuals behaved unethically."

Interrogators, too, are split on the question of whether psychologists provide valuable assistance. Some say that their advice can be helpful; others point out that there is no evidence that it improves the quality of the information obtained.

"I take a hybrid view of this," said Steven Kleinman, a veteran interrogator and trainer who has worked in Iraq and strongly opposes coercive techniques. "The idea that a psychologist or psychiatrist is going to systematically unlock any prisoner's

Psychologists Clash on Aiding Interrogations

resistance and provide some unique strategy is completely false -- it's a fantasy. Their role should be protecting the rights of both the interrogator and the prisoner. That's far more valuable, and anything they might whisper in the interrogator's ear, like 'This person seems to have issues with his mother, play that up.' "

However the field addresses the issue, scholars say it may not alter the relationship much between psychologists and the military. Psychologists have helped screen recruits and study morale going back to World War I, and in Iraq, some military psychologists have worked long tours under fire, managing troops' mental reactions at the front.

"American psychology really grew up with the military," said Jean Maria Arrigo, a psychologist who has studied the profession's relationship to military intelligence. "It was barely considered a science before the collaboration began, and the entanglement goes very deep."

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A push to ban psychologists' role in torture

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Byline: Tania deLuzuriaga Globe Staff

Body

Holding signs that read, "Do no harm" and "Abolish torture," about 100 people attended a rally outside the American Psychological Association's annual convention yesterday, urging the organizations to ban its members from being involved in military interrogations and torture as part of the war on terrorism.

A resolution to that effect is being weighed by the organization's 148,000 members, and debate on the topic has permeated the discussion at this year's meeting, held at the Boston Exhibition and Convention Center. Members are sending in their votes on the issue this month.

The actions of psychologists have been called into question lately as their role in the Bush administration's interrogation policies in detention centers around the globe increasingly has been made public.

"We need to make policy changes to ensure that this never happens again," said Steven Reisner, a New York psychologist who spoke at the rally and is running for president of the association.

He noted that psychologists' involvement in interrogations that include prolonged isolation, sleep deprivation, or sensory overload violates the primary responsibility of all medical personnel to do no harm.

"These are standard operating procedures," Reisner said.

But some have opposed the measure, saying resolution by the group passed last year that prohibits taking part in specific acts of torture is enough. The measure bans direct or indirect participation in 19 forms of torture including mock execution, rape, use of drugs, and exposure to extreme temperatures, and urged the US government to discontinue such practices.

"Torture and abuse are always unethical and prohibited," said Stephen Behnke, who directs the association's ethics office. "The question is how to best fight an administration policy that permits such practices."

Under the association's ethics code, psychologists may "serve in consultative roles to interrogation and information-gathering processes for national-security related purposes" as long as they don't include the 19 prohibited torture acts.

Members are divided on whether that should change.

"For some, any involvement is complicity," Behnke said. "Others maintain that you have to be present to make it clear that these acts are never permissible."

A push to ban psychologists' role in torture

Leonard Rubenstein, who heads Physicians for Human Rights, a Washington-based group, suggested that the psychologists' group should follow the lead of the American Medical Association, which has a policy of not getting involved with interrogations and prohibits physicians from verifying a prisoner's health so that torture can begin or continue.

"Psychologists are very directly engaged," he said. "Behavioral science teams make sure everything a detainee sees or hears enhances the interrogation process ... they are involved in the whole effort to break detainees down."

Psychologists have helped define lines of questioning for detainees, suggested techniques to get them to divulge information, and advised military personnel on when a person has had enough or when they should push harder in a confrontation. Some say such practices are tantamount to torture.

"They are really at the heart of it," Rubenstein said. "It's not enough to say that you can't participate in torture, it's the interrogations."

While the association can't dictate individual members' actions, state licensing boards often take professional groups' ethics codes into consideration when determining their own rules or considering whether to suspend or revoke a license, Reisner said.

Tania deLuzuriaga can be reached at deluzuriaga@globe.com

Graphic

Dressed as an enemy combatant, psychologist Antonia Cedrone staged a protest yesterday outside the convention.

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Referendum on Torture: Debate Over Role of Psychologists in Military Interrogations Comes to a Head at APA Annual Convention

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The debate over the role that psychologists should play in military interrogations heated up this weekend at the annual convention of the American Psychological Association. After years of back-and-forth discussion and several resignations from the association, APA members are now voting on a referendum that could make any participation in coercive prisoner interrogations a violation of their code



Assistant Research Professor at Northwestern University. He is a founding member of the Psychologists for an Ethical APA.

Leonard Rubinstein

executive director of Physicians for Human Rights.

Stephen Soldz

Psychoanalyst, Psychologist, Researcher and Activist. He is a faculty member at the Boston Graduate School of Psychoanalysis and a co-founder of the Psychologists for an Ethical APA.

Sen. Mark Ridley-Thomas

Democratic State Senator from Los Angeles. Introduced Senate Joint Resolution 19 to prevent California health professionals from participating in coercive interrogations.

of ethics. Meanwhile, California became the first state in the nation to officially condemn the participation of health professionals — including psychologists — in coercive interrogations of prisoners in the so-called war on terror. [includes rush transcript]

LINKS

[Blog of Stephen Soldz](#)

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TRANSCRIPT

This is a rush transcript. Copy may not be in its final form.

JUAN GONZALEZ: The debate over the role that psychologists should play in military interrogations heated up this weekend at the annual convention of the American Psychological Association, or the APA. Over a hundred people were at a rally Saturday urging the APA to explicitly ban its members from participating in interrogations of prisoners held in Guantanamo Bay, Iraq, Afghanistan and the secret CIA black sites.

After years of debate and numerous resignations from the association, APA members are now voting on a referendum that would make any participation in detainee interrogations a violation of their code of ethics.

Dissident psychologist Steven Reisner, a co-founder of the Coalition for an Ethical Psychology, is also one of the leading candidates for the APA presidency. He spoke at Saturday's rally in Boston.

DR. STEVEN REISNER: [...] exists for one reason. It exists to prohibit psychologist participation at sites, by their very existence which violate international law and human rights and perpetrate war crimes. The sites — let me give you an example. In the fall of 2002, the CIA were looking to capture Khalid Sheikh Mohammed, and when they went to where they thought he was, they found his two children there instead, two boys, aged seven and nine, whom they captured instead and brought them to a CIA black site, where they were held both, at first, to pressure their father to give up, to get information from them about his whereabouts, and later on, after he was captured, they kept them there to pressure their father into talking. When the people who were holding the children of Mohammed were asked about their care, they said, "They are being overseen by child psychologists. They are being given the best of care."

When I hear that story, when I hear about psychologists participating in CIA black sites in the kidnapping of children, I know that something is wrong in the state of psychology and how psychology is being used. At this moment, there is no policy at the APA that prohibits psychologists from being present and behaving in that manner at CIA black sites, even though — and I have this on the word — I spoke to the UN rapporteur on torture from the UN Committee Against Torture, and I asked him whether participating in the operations, whether participating in what is taking place at CIA black sites, where people are being disappeared, is that a war crime? And he said that is prosecutable as acquiescence to a war crime. And yet, to this day, that is not a violation of APA policy or ethics on psychologist behavior. This referendum has a clear intent, and it is to stop participation in war crimes and human rights violations in the name of national security and psychology around the world.

AMY GOODMAN: Psychologist Steve Reisner, running for presidency of the American Psychological Association. He was speaking at a rally outside the APA convention this weekend in Boston. This year's convention comes on the heels of a string of revelations that psychologists played a key role in designing the

CIA's so-called "enhanced" interrogation techniques.

Last week, lawyers for the Afghan Guantanamo prisoner Mohammad Jawad asserted that a psychologist had recommended a month-long isolation program that allegedly drove Jawad to attempt suicide. But the psychologist refused to testify, invoking the military equivalent of the Fifth Amendment right against self-incrimination.

Independent filmmaker and writer for *The Nation*, Ross Tuttle, asked APA Ethics Office director, Dr. Stephen Behnke, about the significance of this development.

DR. STEPHEN BEHNKE: There's been a report that has appeared that there was a psychologist who was involved in an abusive interrogation. I think we're deeply concerned about that. We've been very clear that the acts, as they have been reported on a blog, would be against our professional rules, and we will take a very close look at that. We have jurisdiction only over our members. But whenever a psychologist is involved in any torture or abuse, that reflects on the entire profession.

AMY GOODMAN: Dr. Behnke and the APA leadership are opposed to the referendum that has currently been put forward.

We're joined now by two guests who support the referendum. Stephen Soldz is a faculty member at the Boston Graduate School of Psychoanalysis, co-founder of the Coalition for an Ethical Psychology. He blogs at psychoanalystsopposewar.org/blog. And Brad Olson is a faculty member at Northwestern University, also a member of the Coalition for an Ethical Psychology. They join us from Boston. We're also joined in Washington, D.C. by Leonard Rubinstein, who is the head of Physicians for Human Rights.

I want to first go to Brad Olson. You're one of the authors of this referendum that the APA leadership has opposed that is now being voted on by the members of the American Psychological Association. Can you explain what it is?

DR. BRAD OLSON: Yes. The referendum is focused on the problem in Guantanamo Bay and the CIA black sites. I mean, these are settings that are against the law. I mean, they're extralegal, extra illegal. And what we're basically saying in this referendum, that psychologists should work in these settings, but psychologists should not work in these settings when they're working for the chain of command. We'd like to see psychologists from human rights organizations working with the International Committee of the Red Cross. So, basically, what the referendum is saying is that psychologists should work independently for the detainee or should not be at these settings at all.

JUAN GONZALEZ: If the referendum were passed, what direct effect would it have on the individual practices of these psychologists?

DR. BRAD OLSON: Well, the American Medical Association and the American Psychiatric Association, back prior to the American Psychological Association's policy, they made very similar policies that basically said physicians and psychiatrists should not play a role in these national security interrogations. And we had the Department of Defense say that they preferred psychologists in these behavioral science consultation roles. So, what we're hoping to is we're hoping in 2008 to get back to where we should have been in 2005.

AMY GOODMAN: Leonard Rubinstein in Washington, D.C. with Physicians for Human Rights, the significance of this referendum in the broader picture in this country around the issue of torture?

LEONARD RUBINSTEIN: Well, the referendum, in the broad picture, is really whether we're going to have psychologists and other health professionals participate in disorienting, breaking down, destroying detainees as part of the interrogation process. We know very clearly now from documents from the Pentagon that the behavior management plans at Guantanamo were designed to exploit and enhance disorientation or disorganization of the personality, and that was done through isolation and other means and that psychologists were at the center of this.

The problem is that it's not enough, as the APA has said, "Don't participate in torture, don't use these techniques." We have had a system in which the entire

purpose of the system was to break people down. It's like telling people to go to a slaughterhouse and advise the people killing the animals and advise them not to hurt the animals. It's an impossible position to say, "You can participate, so long as you don't harm," when the entire system is designed to inflict harm.

JUAN GONZALEZ: Leonard Rubinstein, what about the issue of the liability or the responsibility of psychologists, in terms of the Geneva Conventions or internationally accepted rules of behavior for psychologists?

LEONARD RUBINSTEIN: Well, the problem is that the structure and the system invited violations of all those standards, whether they were international ethical standards or international legal standards like the Geneva Conventions. And try as the association might to carve out a role that enables psychologists to participate without being engaged in the violations is an impossible task.

AMY GOODMAN: We're going to break, and when we come back, we will also be joined by a California state legislator, Mark [Ridley- Thomas], who sponsored a resolution that just got passed by the California legislature that prohibits members of the health profession from participating in coercive interrogations. This is *Democracy Now!*, democracynow.org, the War and Peace Report. We'll be joined by all of our guests in just a minute.

[break]

AMY GOODMAN: California has just become the first state in the nation to officially condemn the participation of health professionals, including psychologists, in coercive interrogations of prisoners in the so-called war on terror. Senate Joint Resolution 19, which passed in the state legislature Thursday, instructs the state's licensing boards to inform California health professionals they may one day be subject to prosecution if they participate in interrogations that don't conform with international standards of treatment of prisoners.

The resolution was introduced by Democratic State Senator from Los Angeles, Mark Ridley-Thomas. Senator Ridley-Thomas joins us now on the phone from Los Angeles.

Can you talk about what inspired you to introduce this legislation and the significance of the state legislature adopting it?

SEN. MARK RIDLEY-THOMAS: Well, thanks very much. I'm glad to do so. This was brought to our attention by the American Friends Services Committee, the Physicians for Social Responsibility and a campaign sponsored by Californians to Stop the Torture. And it seems to me that it is entirely appropriate, in light of the radical departure from international, federal and state law initiated by the Bush administration, that made it more possible and tolerable for physicians, psychologists, psychiatrists, dentists, nurses, just the whole range of those in the helping profession, health professions, to become complicit. And we deemed it appropriate to call it to the attention of the nation and start in the California state legislature, and I'm pleased that my colleagues, albeit on a partisan vote, chose to send this message to all our licensees. And it will be significant.

JUAN GONZALEZ: Now, this was a resolution. Would it have any actual impact on the licensing of psychologists in California who violated it, the spirit or the intent of the resolution?

SEN. MARK RIDLEY-THOMAS: The resolution is very clear in that regard. It makes it abundantly clear that any California licensee is subject to prosecution, and obviously then they could lose their license, pursuant to it being determined that they participated in any way in acts of torture.

AMY GOODMAN: I want to go to Steve Soldz, faculty member at Boston Graduate School of Psychoanalysis, co-founder of Coalition for an Ethical Psychology. Can you talk about the significance of what California has done and then the significance of this referendum that is now being voted on by members of the American Psychological Association?

DR. STEPHEN SOLDZ: Well, the California resolution is a landmark one. It establishes a clear line that health professionals have no role in this organized system of abuse that our government has been perpetrating these last number of years. It is — though it is a resolution, it makes a clear public statement that the legislature and the citizens of California repudiate both the system of torture and the role of health professionals in it. The referendum in the American Psychological

Association is a similar and parallel effort to try and get members of that association, psychologists, to make a similar statement, that we will not cooperate with this organized system of abuse that our country has constructed.

AMY GOODMAN: I want to turn back to Stephen Behnke, the director of the APA Ethics Office. He spoke near the rally on Saturday.

DR. STEPHEN BEHNKE: Taking as a starting point everyone is against torture and abuse — there's complete consensus on that point — the question then becomes, do you pursue a strategy of engagement or disengagement, of involvement or non-involvement?

That question is the subject of deep debate within the association. Some of our members, many of whom are here today, feel that any engagement implies complicity with an illegitimate administration. Other members say, no, we must be very present for the very reasons that we have been called rebuking the administration's policies, that we have to be clear and present where interrogations take place that an interrogation, ethical interrogation, never involves torture or abuse.

Then we need to ask the question, can an interrogation be done in an ethical manner? If the answer to that question is no, the conversation stops, because if an interrogation can't be done in an ethical manner, no one should be doing interrogations. If an interrogation can be done in an ethical manner, then we pose the question, what is the appropriate role for a psychologist in that process?

AMY GOODMAN: That was Dr. Stephen Behnke, a member of the APA leadership, which has opposed this referendum. Your response, Dr. Stephen Soldz?

DR. STEPHEN SOLDZ: Well, clearly interrogations can be done in an ethical manner. Veteran military interrogators that we have talked to — and we've talked to many of them — are aghast at what this administration is doing. But what they also say is many of them do not want psychologists there. They say they don't help. And what one of these veteran interrogators I've talked to said, and I think it's so clear, he says, "As a citizen, I don't want psychologists. Your profession is based on a principle of 'do no harm.' Your job is to help people, to serve the public and help

distressed people. If we have you here, that violates your professional ethics of 'do no harm,' and it's a loss for all of us, because we can no longer count on your profession to uphold the highest ethical standards." The medical doctors and psychiatrists have said that participation in interrogations violates the standard of "do no harm." And psychologists have to do the same thing. We need that as citizens.

We're hearing from soldiers in Iraq that they will not go to psychologists, some of them, because they've heard about their participation in interrogations, and there's a lack of trust. Our profession needs that trust, that we will always look out for the good of people and not participate in efforts to break them down.

JUAN GONZALEZ: I'd like to ask Brad Olson, assistant research professor at Northwestern University, about ten colleges and universities have gone on record as — the psychology departments — as opposing this kind of participation by psychologists in coercive interrogations, including Guilford College, Smith College, University of Rhode Island, California State at Long Beach. But that's a very small group compared to the number of universities out there. Why have not more university psychology departments not taken a stand on this issue?

DR. BRAD OLSON: Well, those departments, really are just brave great people at those universities who decided to organize their own efforts in their departments. We really haven't pushed an initiative in that area. But I think that's exactly what's happening here, that we're seeing, and what we're trying to do with the referendum is we're really trying to bring it to the membership, because we know that the American Psychological Association's governing body, council and their board are just really not — have come up with policy after policy that secures psychologists in these detention sites and in the interrogation role.

AMY GOODMAN: How is this different from last year when you put forward a resolution? How is this referendum different? And what does it mean that you're now bringing it directly to the membership? How are people voting?

DR. BRAD OLSON: People are voting by September 15th. They're getting a ballot in the mail right now, as we speak, and then they're supposed to send that in September 15th. And the difference from the past resolution is this one focuses on

settings. These are — I mean, the CIA black sites and Guantanamo Bay have, as we all know, just systemic harm. And so, what this is saying is that there is no role for psychologists at those sites unless those psychologists are focused directly on the detainees.

AMY GOODMAN: Let me go back to the state legislator, Ridley-Thomas. Are you saying that, given the current guidelines, the American Psychological Association, a psychologist could be brought up on charges for participating in coercive interrogations at, say, Guantanamo?

SEN. MARK RIDLEY-THOMAS: That's essentially what the resolution asserts, and it's been transmitted by the secretary of the Senate to all of the boards that govern health professions. And we have sent this in a rather unequivocal way. It is also being sent to the federal government to cause them to know that we stand against torture and the participation of those whose oath causes them to do no harm. Yes, the resolution is being taken seriously by all the boards who are specifically affected by state law, in this instance, first, and then federal law and then obviously international law. We are very serious about this issue.

JUAN GONZALEZ: Well, at a hearing this June, the Armed Forces Senate Committee released a series of previously classified documents detailing how the Pentagon and the CIA transformed the military's SERE resistance training program into a blueprint for interrogating terrorist suspects. Committee chair, Senator Carl Levin, explained the timeline of implementing the SERE, or Survival, Evasion, Resistance, Escape, techniques and the role of military psychologists in devising these routines.

SEN. CARL LEVIN: On October 2nd, 2002, a week after John Rizzo, the acting CIA general counsel, visited Gitmo, a second senior CIA lawyer, Jonathan Fredman, who was chief counsel to the CIA's Counterterrorism Center, went to Guantanamo, attended a meeting of Gitmo staff and discussed a memo proposing the use of aggressive interrogation techniques. That memo had been drafted by a psychologist and psychiatrist from Gitmo who a couple of weeks earlier had attended that training given at Fort Bragg by instructors by the SERE school.

AMY GOODMAN: Leonard Rubinstein, we only have about thirty seconds, but can you sum up right now the significance of the special role that psychologists have played, as opposed to medical doctors and psychiatrists?

LEONARD RUBINSTEIN: It's been very unfortunate that psychologists were at the very heart of the design and implementation of the techniques of torture that have been used at Guantanamo and by the CIA and that that was part of an effort that was quite deliberate to destroy people as a way of getting information. It's good that the American Psychological Association has come out against torture in very explicit ways, but their policy now is asking people to be heroic, that is, going to places where the policy is to destroy people and say —

AMY GOODMAN: We're going to have to leave it there. Leonard Rubinstein, thanks for joining us, also Senator Mark Ridley-Thomas, Steve Soldz and Brad Olson.

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NEWS

Psychologists and Guantanamo

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August 19, 2008 10:00 AM ET

Heard on [Talk of the Nation](#)

Over the weekend, the American Psychological Association debated a resolution that would restrict the role of psychologists in military interrogations at Guantanamo. Two psychologists weigh in.

NEAL CONAN, host:

This is Talk of the Nation. I'm Neal Conan in Washington. Over the weekend, the American Psychological Association held its annual convention in Boston. Outside the hall, about 100 anti-torture activists staged a protest rally. The big issue inside and outside was psychologists' role in military and CIA interrogations.

Members debated a resolution to bar the practice. Those in favor argued that working with the military in places like Guantanamo Bay legitimizes and condones cruel and abusive treatments of detainees. Opponents say the resolution harms the people that it seeks to protect, vulnerable populations and ethical psychologists. Today, we'll hear from psychologists on both sides. Later in the hour, too wealthy for a Bentley? Inside one rich man's world.

But first, psychologists and interrogation. If you're a psychologist or a mental health professional, should psychologists work with military and intelligence interrogators? Give us a call, 800-989-8255. Email us, talk@npr.org. You can also join the conversation on our blog at npr.org/blogofthenation. We begin with Robert Resnick, a professor of psychology at Randolph-Macon College, with us today from member station WCVE in Richmond, Virginia. Nice to have you on the program with us today.

Dr. ROBERT J. RESNICK (Psychology, Randolph-Macon College): Thank you.

CONAN: And as I understand it, we're talking about a unit called behavioral-science consultation teams that work with the military. They're made of psychologists and others who assist in interrogations.

Dr. RESNICK: The BSCTs, yes.

CONAN: They're called BSCTs, informally. OK. Now, you wrote the argument against this proposal, and given the abuses that we've heard reported from Bagram in Afghanistan, from Guantanamo, CIA black sites, how can it be ethical to aid in what many consider torture?

Dr. RESNICK: It's never ethical, and the APA has never ever, ever said it was ethical. Since the early '80s, APA and American psychologists had been saying torture is not permitted under any conditions. You know, the major issue is, do no harm.

CONAN: The major issue is, do no harm, yet if psychologists participate in those BSCT teams that were involved in some of these situations, as they're reported to be, maybe that's not always obtained.

Dr. RESNICK: That may be true, and it's disheartening to hear that psychologists may have been involved in that, but I don't think that this petition does anymore than our very strong ethical code that says torture, under any conditions, is unethical and inappropriate.

CONAN: What's wrong, then, with reinforcing that?

Dr. RESNICK: Well, because as written, there are some very poor intentions that may happen. Very ethical and caring psychologists will be forced to leave a job, or be out of the job, or not take a job, in situations where they can help detainees or patients in psychiatric hospitals or prisons, because the language is a little bit loose in the details.

CONAN: And how would that work? I mean, what do you mean specifically?

Dr. RESNICK: Well, follow a prison psychologist, and prisoners often charge their constitutional rights had been breached. If that is the allegation and this petition were part of the APA policy, I would immediately have a problem, because I'm now working in a place that violates the U.S. Constitution. Psychiatric hospitals, the same thing, involuntary commitments, the same way, people allege their rights have been abridged, and if so, that would put me in conflict with the language of this petition.

CONAN: And that's how you argue it would harm those it seeks to protect.

Dr. RESNICK: Exactly. People in those institutions do great work helping disadvantaged persons, persons who are incarcerated or have psychiatric mental illness, and under this petition, they may be forced to move out of those situations.

CONAN: Also with us is Brad Olson. He's a psychologist at Northwestern University in Evanston, Illinois, with us today from Avenue Edit Studios in Chicago. Nice to have you in the program as well.

Dr. BRADLEY D. OLSON (Human Development and Social Policy, Northwestern University): Thank you. Nice to be on here.

CONAN: And inadvertently, might Robert Resnick's argument - obtain (ph), might it harm people who are threatened and ethical psychologists?

Dr. OLSON: No, I don't think it would, and I understand the worry, the concern, that exists, but this is very - the resolution is very clearly focused on settings that are tied to the Global War on Terror and national security settings. And we're not even saying that psychologists should not be part of these settings.

What we're basically saying is that in these places, where the major role of psychologists is to exploit

vulnerable detainees, in places where the U.S. Constitution is violated, places where international law is violated - I mean, if we look at these settings, if you look at the first twelve articles of the Universal Declaration of Human Rights, a place like a CIA black site, eleven those of articles apply to the CIA black sites. Those CIA black sites are violating those articles. Now, that's not true of U.S. prisons or U.S. psychiatric facilities, even though, you know, there are some concerns about those settings. But we've made it very clear that these are tied to Global War on Terror settings.

CONAN: And why are, then, the strictures that Bob Resnick told us about, that have been in place since 1980 against torture, strictly prohibiting participation in any way in torture, why are they inadequate?

Dr. OLSON: Well, they're inadequate - I think, probably the single most reason that they're inadequate is it's extraordinarily - I mean, these

settings in CIA black sites and Guantanamo Bay exists where they are, sequestered from the mainland of the U.S. for a reason, to avoid some of our laws, and to make it very difficult for information to come out of these settings. So, it's impossible to sort of say, you know, this psychologist - even though we know standard operating procedures - say that a job of the psychologists is exploitation, and our ethics code says, do not exploit, it's impossible to know what is happening in these centers. And so therefore, we're focusing on the settings themselves.

CONAN: Given that, how would this be enforced?

Dr. OLSON: Well, you know, the American Psychiatric Association and American Medical Association came out before the APA's 2005 PENS Report, basically saying that physicians and psychiatrists have no role in these interrogations. And one of the criticisms that the American Psychological Association leveled at them was, well, this is not

enforceable. But the truth is, the Department of Defense - because of these policies, because the APA's resolutions have really tried to secure the psychologists in these roles - the Department of Defense clearly now favors psychologists in these BSCT roles. So, what we really want is we want a clear policy, and we're going to work to enforce it. It's going to take some work, but we think that can be achieved.

CONAN: Bob Resnick, I'd like you to respond to what Brad Olsen had to say.

Dr. RESNICK: Well, I respectfully disagree. I think that we have ethical statements on the book. I'll read one sentence: Psychologists are absolutely prohibited from knowingly planning, designing, participating or assisting in the use of all condemned techniques. There's over two dozen listed and more can be added as they are evolved. I don't know how to make it any clearer than that. And moving from our ethical code to this resolution, we're talking about location rather

than behavior and our ethical code says you cannot do this behavior anywhere. We don't need to say especially not there, because you're can't do it anywhere.

CONAN: Brad Olson?

Dr. OLSON: Well, I mean, yes. We are focusing on location, and that's not - I mean, typically psychologists, I mean, by our trade, we focus on individuals, but the truth is, you know, the reason we haven't focused on location before, haven't focused on these specific settings, is we've never been in the situation in the United States, where we've seen anything that's this far outside of the law. And psychologists hold the key to these settings, because the torture memos, the Yoo/Bybee memos, basically says it's not torture if the interrogator is not intending to produce harm and if the mental harm is not prolonged. So, by having a psychologist, a professional, legitimize what the interrogator is doing,

you essentially - even in cases where we would say, anyone would say, this is torture - the argument could be made, this is not technically torture...

CONAN: Because that psychologist on the site said it wasn't.

Dr. OLSON: Exactly.

CONAN: But there are already restrictions against that psychologist for participating in torture.

Dr. OLSON: Well, again, it's the complete lack of transparency in these settings. I mean, we know that psychologists have played a central role going, all the way up from the Yoo/Bybee memos through the reverse engineering of the SERE program, the program that's used to inoculate U.S. soldiers against countries that violate the Geneva Conventions. Psychologists were central to reverse engineering those techniques and using them against detainees to extract information from them and orchestrating

these interrogations that involved techniques of the Army Field Manual. This is even less intense than the enhanced techniques that the CIA uses, but that escalate fear, attempt to produce, depression and - I mean, that's just antithetical to the idea of what we're about as a profession of psychologists.

CONAN: Bob Resnick, he says the psychologist's role is central. What do we actually know about what psychologists do on these BSCT teams?

Dr. RESNICK: Well, that's an interesting question, because it's not clear how many psychologists, if any - I have no idea of how many - are involved and to the extent of their involvement, and there's lots of people saying there's a great deal, but I have known of no data that says there's any number in particular. But I want to again make the point that the American Psychological Association has never said torture - patient abuse, detainee abuse - is appropriate

behavior. We have always said it's unethical and prohibited.

CONAN: But let me just go back on that point. Do the psychologists, you know, have an earpiece into the interrogators ear and say, ask him about his mother, that'll push his buttons?

Dr. RESNICK: I do not know.

CONAN: Do you know, Brad Olson?

Dr. RESNICK: Yes, I do. We have a standard SOP from - Standard Operating Procedure - from - signed by the surgeon general of the Army at one point, Kevin Kiley, and it's clear what psychologists do. I mean, their job is to make assessments of the detainee. Their job is to come up - orchestrate what the interrogation is going to look like, set up the conditions of detention to soften up the detainee, and I think, one of the primary techniques that psychologists are involved in, setting up social

isolation, so that, at one point - for 30 days, a detainee was isolated so that they would be desperate for the need for human contact. So, when the interrogator came in the room, they were looking to talk, and so - I mean, that's exactly what the psychologist does, is they work on exploitation.

CONAN: We're talking about the debate over psychologists and interrogations. We'll take your calls when we get back, 800-989-8255. Email us, talk@npr.org. Stay with us. I'm Neal Conan. You're listening to Talk of the Nation from NPR News.

(Soundbite of music)

CONAN: This is Talk of the Nation. I'm Neal Conan in Washington. We're discussing a debate that's erupted among members of the American Psychology Association. At issue, whether its members should ever be involved in military interrogations. The APA has a longstanding ban on participation in torture of any kind or abuse; but now, a new resolution argues

that that does not go far enough, that psychologists should not work at military or CIA detention centers at all. A new referendum is up for discussion. A mail ballot has been sent out, and the results are not going to be clear for some time yet. You can read more about the case that's sparked the controversy on our website at npr.org.

Today, we're talking with psychologists on both sides of the debate. If you're a psychologist or a mental health professional, should psychologists work with military and intelligence interrogators? 800-989-8255. Email is talk@npr.org. Our guests are Brad Olson, a psychologist at Northwestern University in Evanston, Illinois - He argued the pro statement on whether the APA should pass its resolution - and with us also, Robert Resnick, professor of psychology at Randolph-Macon College, author of the con statement. And let's get a caller on the line, Jared, Jared calling us from Atlantic County in New Jersey.

JARED (Caller): Hi, yes. How are you today?

CONAN: Very well, thanks.

JARED: I appreciate you taking the time to take my call. I'm a licensed professional counselor in New Jersey, and frankly, I'm a little sickened by the question that's being raised. We attribute to ourselves a set of ethical guidelines when we entered this field that suggests that we in no way, shape, or form should ever knowingly, and even by that matter, we do everything that we can to, even, not mistakenly, harm any of the people that we work with, regardless of what our title is in this field.

And my concern is that I'm hearing a tremendous slippery slope from one of your guests, that's saying that we are responsible, in this role, to knowingly put people at risk, regardless of whether we think they're the, quote/unquote, "bad guys," or not. They're human beings. And regardless of what it is that they've done, our ethical guidelines indicate to us that

we are never supposed to harm people. And putting us in a position where we have anything - in any way, shape or form - to do with potential torture, whether that "torture" word is in quotation marks or whether our government says, well, is this really torture, or is it not really torture, puts our field at risk, and...

CONAN: Let me ask you, Jared...

JARED: Yes, sir?

CONAN: Do you see any circumstances under which the psychologists should - can ethically work under any kind of interrogations with the military and intelligence?

JARED: I think the question is incredibly complex, and I think that that's probably why this debate is raging like it is. My initial answer, my go-to response is to say, no, we have an ethical response to - or an ethical responsibility to...

CONAN: So, any interrogation is inherently unethical?

JARED: Interrogation, by definition, yes.

CONAN: Robert Resnick?

Dr. RESNICK: I'm not sure with interrogation. That's asking questions. The point that I've been trying to go over and over again is this is a petition about an anti-torture drive. And my point continues to be the same. We have in place the strongest language possible. It says you cannot, under any circumstances, do this kind of behavior. And I don't think that now saying even more so in this workplace contributes in our understanding of what we should not do.

CONAN: And Brad Olson, I think the kind of revulsion we hear from Brad is - from Jared, excuse me - our caller - well, is that what's fueling this controversy, do you think?

Dr. RESNICK: Oh, I - it definitely is, and I think Jared is exactly right, that this is an incredibly complex issue, particularly the question of, should psychologists be involved in interrogations at all? And what we're trying to say with this resolution is that, you know, this is not just about interrogations. This is about settings that - like the CIA black sites - where the U.S. Constitution and international law is violated so systemically.

CONAN: But what if they weren't? I mean, Guantanamo Bay, is that - no psychologist should work at Guantanamo Bay, period? Is that what you're arguing?

Dr. RESNICK: No - well - that is what we - Guantanamo Bay, at this point, we would say absolutely yes. I mean, here's the thing. You have some psychologists...

CONAN: Absolutely, yes, they should not participate?

Dr. RESNICK: Absolutely, yes, psychologists should not be at Guantanamo Bay or CIA black sites. And this is why. You have psychologists who are using the Army Field Manual, psychologists who have designed enhanced interrogation techniques, which are indisputably torture, and you've got those psychologists there at the setting. And they're working on the detainee. They're saying what they're doing is safe, legal, ethical, and effective, and it is none of those things. They're working to harm mental health with no goal of helping the detainee.

Now, their job is basically to keep the detainee below the threshold of what they would consider torture, or severe, prolonged, permanent, mental harm. And so, then you have another psychologist, who is also a licensed professional, who is providing therapy for those detainees, and it becomes, I mean, it becomes almost absurd that one psychologist - and one thing we care about as psychologists is therapeutic alliance. So, a detainee is tortured by one set of psychologists

and then handed over to increase their mental health, what, to the ability to be interrogated again.

CONAN: Mm-hm.

JARED: We can (unintelligible)...

Dr. RESNICK: So, that, you know, those are the complications of these settings.

CONAN: Jared, go ahead.

JARED: I'm sorry. We cannot afford in our profession to play good-cop/bad-cop. We cannot afford to do that. Our role and responsibility at all times is to protect the individuals with whom we associate. We work in this field. We work with rapists, and child molesters, and the people that society would consider - and many psychologists would consider - to be the worst of the worst. Regardless of what that person has done, our role, the role we choose to endow our lives to, is to protect people.

And if the role that we're playing in these facilities - I heard one of your guests and I'm sorry, I didn't realize who it was - but one of your guests mentioned that sometimes the role of a psychologist is to indicate whether or not a person should be deprived of social contact for X amount of time. That's the thing that we know as human beings. Social contact is something that's needed. It's an absolute necessity.

So, to be part of the decision-making process where we deprive somebody of that inherent, human need is, in fact, harming them, whether it's designed to be called torture, whether our government or any other government decides to manipulate the definition of torture or not - I mean, we've been - we've heard just now that the reason that these sites are very often off of American soil is because the Constitution can kind of be evaded.

CONAN: Yeah.

JARED: And that tells you the nature of the job we're being asked to do.

CONAN: Jared, thanks very much. Appreciate it.

JARED: Thank you very much for a great show.

CONAN: Here's an email from Pat in Belleville, Illinois. I'm not a clinical psychologist, but my degree reads, Ph.D. in psychology. If licensed psychologists do not work in these interrogations, who will end up working there? Will other persons do the work that psychologists now do if this resolution passes, except less well and with more damage to the suspects? Brad Olson?

Dr. OLSON: Well, we - you know, as psychologists, we have a lot of pride in our discipline. And I think that's great. But I think we also need to recognize that psychologists, even though we're professionals, we certainly have no monopoly over ethics. And many, many of the situations that we know, interrogators,

linguists, others, other individuals in those settings, were very concerned with what's happening. And the psychologist has asked to push further.

We have the recent case of a young man - well, when he was captured, he was 16 or 17, so we'll say a boy - was crying to a picture of his mother, and had a series of actions that the interrogator was very concerned about. A behavioral science consultant was brought in, said she doesn't believe him. He was put in isolation. He later attempted suicide. And so, here we have a case of the interrogator saying, look, I'm concerned, and the psychologist is saying, push harder. And she took...

CONAN: Yet, isn't that...

Dr. OLSON: She took the fifth, the right to science - silence.

CONAN: Yeah, but isn't that the indication of - given that the strictures that Bob Resnick has told us about

- that's an indication of an individual who may have violated the ethical strictures that were already on the books, one person, an aberration, not systematic.

Dr. OLSON: Oh, well, I mean, this is a miracle that - I mean, we have worked hard to find out every bit of information that we can so that we can have accountability later on. But what we're trying to do is we're trying to prevent this from happening before it comes about. And this is not just - I mean, this is part of the Standard Operating Procedures. This is not a rotten-apple story. This is an orchard that is built for harm.

CONAN: Bob Resnick, given what he's just said, do you think that psychologists should be working at Guantanamo Bay?

Dr. RESNICK: I think, when they're helping those individuals who are detained and experiencing psychological issues, whatever - again, do no harm, help those that are in need, help those who cannot

help themselves. I - again, the restriction is absolute in APA. No torture, no abuse. The association has rebuked Bush. The administration has written letters to the CIA, to the FBI. No one says, you should be doing torture, no one.

CONAN: Let's get to Eric on the line, and Eric's with Columbia in South Carolina.

ERIC (Caller): Yes, sir, thank you for taking my call. And this is an interesting discussing, because it's a mirror image of one that has taken place in several of the past few conferences of the American Translators Association. Our membership includes interpreters. And of course, the question has arisen, how many interpreters have participated in these torture sessions? So, a draft resolution has been circulated over the past several conferences condemning such behavior and holding those accountable - who participated accountable for it, so - and a common

defense for that has been, well, APA has not yet found it necessary to pass any such resolution. So...

CONAN: Against torture? We've been told over and over again that they have that ban on torture since 1980.

ERIC: No, I mean, an additional response to the current situation, the - any further specific code or resolution concerning the current behavior that's going on in Guantanamo and...

CONAN: And again, we've heard from Bob Resnick repeatedly that the Bush administration has been condemned by the APA. There have been repeated protests to the attorney general and various other places. What more do you need?

ERIC: Well, let me ask him my question. If he found out any of his members worked - had definitively participated in any of the torture sessions, would they be removed from the APA?

CONAN: Bob Resnick?

Dr. RESNICK: They would be brought up an ethical charges, and if found guilty of those charges, could be expelled from the association, yes.

ERIC: Well, then, you're one step further than the American Translators Association. Thank you. I appreciate your discussion.

CONAN: OK, Eric, thanks very much for the call. But interesting, as Brad Olson mentioned, this is a discussion that is ongoing in several different groups. We just heard from the translators, and the APA, as he suggested, has no monopoly on ethics. We're talking with Brad Olson, a psychologist at Northwestern University, who authored the pro statement on whether the APA should pass a resolution restricting the role of psychologists at military and intelligence installations. Robert Resnick is also with us, Bob Resnick, a professor of psychology at Randolph-Macon College, author the con

statement. And you're listening to Talk of the Nation from NPR News. And let see if we can go - rather, let's go to Brendon, Brendon with us from Dayton, Ohio.

BRENDON (Caller): Yes, hi. Thanks for taking my call. I'm a graduate student and, well, actually I'm a doctoral student in clinical psychology at Wright State. And so I've been following the topic of today, based on the fact that our dean was associated with Guantanamo Bay. So, basically my question has to deal with, what is the black eye that maybe left on the profession if we don't pass this resolution? And what is the black eye left just from the inherent participation that psychologists have already had in these types of behaviors and what not?

CONAN: Well, let's hear first from Brad Olson.

Dr. OLSON: Well, is it the - I mean, there are already several black eyes from this that have occurred since 2005, since the APA put their, you know, first endorsement of the role of psychologist in the

behavioral-science consultation role. But now, you know, now, we're - now we have the opportunity. I mean, now, this referendum is going to the membership. So, it's not just an issue of - I mean, the APA leadership is trying to fight this referendum.

But the truth is that it's really the psychologists' decision for themselves. So, they've got a great opportunity now to vote yes for the referendum and say that psychologists absolutely should not be working and bolstering these settings that violate U.S. Constitution or international law, unless they're working independently for the detainee, as an attorney for the Center for Constitutional Rights would, or unless they're working for a third-party human-rights group. So, if they're coming in from the International Committee of the Red Cross, that's wonderful. And we've got a great new APA presidential candidate, Steven Reisner, who is really true - his - one of his main efforts is to build more internship programs with human-rights groups.

CONAN: Let me just say quickly, in other words, if they're working as a consultant to the military or in uniform, they should not be there? Is that what you're saying, Brad?

Dr. OLSON: In these settings...

CONAN: In those settings, OK.

Dr. OLSON: Yeah, in these settings...

CONAN: All right, just wanted to get that straight.

Dr. OLSON: Yeah, sure...

CONAN: All right. So, let's get a response there from Bob Resnick, going back to Brendon's question, would failure to pass the resolution leave the APA with a black eye?

Dr. RESNICK: I don't believe so, because what we have in place is more strongly worded than this resolution and it's much clearer. You get into a very,

very slippery slope when you talk about when and how and what circumstances our constitutional rights have been violated or when U.N. rights are violated. It allows people to bring further lawsuits against psychologist who are working in prisons, psychiatric hospitals, forensic units. The black eye isn't there, because the language - and won't be there - because the 2008 language couldn't be any stronger. They're absolutely prohibited, et cetera, et cetera.

CONAN: And do you fear that this would require the members of the APA to become sort of the amateur constitutional lawyers?

Dr. RESNICK: Well, you will have to wonder about, you know, an inmate says, my rights to - my constitutional rights have been violated, and so now I'm bringing a suit. And I'm a psychologist. I don't have a law degree. I don't know what that means for me, but somebody could take that into my licensing board with a complaint. Someone could take it into a

civil court. And even though it may be thrown out, it'd cost the psychologist several thousand dollars in legal fees to have that case dismissed. I don't think the language - while I'm sympathetic to the intent - the language is ambiguous enough that it could harm some very ethical - a psychologist doing very good work with the detainees or other persons who are incarcerated.

CONAN: Well, Brendon, thanks very much for the call. Good luck with your studies.

BRENDON: Thank you.

CONAN: And just one final quick question, Bob Resnick, results are expected when on this ballot?

Dr. RESNICK: Oh, don't ask me that.

(Soundbite of laughter)

Dr. RESNICK: In about three weeks, I believe.

CONAN: In about three weeks. Well, we'll revisit the question in some form or another then. Thank you both very much for your time today. We appreciate it after coming back from Boston.

Dr. RESNICK: Thank you.

CONAN: Bob Resnick, a professor of psychology at Randolph-Macon College, with us from member station WCVE in Richmond, Virginia. Brad Olson, thank you for your time, too.

Dr. OLSON: Thank you.

CONAN: Brad Olson, a psychologist in Northwestern University in Evanston, Illinois, with us from a studio in Chicago. Coming up, why some of the country's ridiculously wealthy cheered the economic downturn. Maybe now, owning a jumbo jet will mean something again. Jaime Johnson joins us on the culture of the WASP elite. Stay with us. I'm Neal Conan. It's Talk of the Nation from NPR News.

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Psychologists Split Over Detainee Interrogations

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RICHARD KNOX

New allegations about a psychologist at the U.S. detention center in Guantanamo Bay, Cuba, underscore a long-running dispute within the American Psychological Association about a psychologist's role in detainee interrogations. The APA is split on the issue.

ROBERT SIEGEL, host:

Recent hearings in Guantanamo Bay, Cuba, have highlighted a serious ethical dispute among psychologists: What role should they play in interrogations? Should they consult on the health of detainees or advise interrogators on how much detainees can endure? NPR's Richard Knox has this story.

RICHARD KNOX: Mohammed Jawad landed in Guantanamo five years ago, when he was about 17. He's charged in a grenade attack in Afghanistan that injured two U.S. soldiers and a translator.

Jawad's military attorney says records show that in 2003, an Army psychologist, quote, "devised a plan intentionally designed to cause emotional devastation and to break Mr. Jawad." Jawad's lawyer says he was put in an extreme form of isolation on the recommendation of the unidentified Army psychologist. He says the teenager later tried to hang himself and kill himself by banging his head against

the wall. Jawad's attorney planned to question the psychologist at a hearing yesterday, but the psychologist invoked Article 31, the military law's privilege against self-incrimination.

Colonel Larry Morris, the chief prosecutor in Guantanamo cases, said in an e-mail that Jawad did not attempt suicide. Morris says Guantanamo's medical director testified that Jawad has been in good physical and mental health throughout his confinement.

Stephen Soldz is a Boston psychologist who was called to testify as a defense expert. His testimony was canceled after the Guantanamo psychologist invoked the right to remain silent. Soldz says his review of the case does illustrate an ethical problem.

Dr. STEPHEN SOLDZ (Boston Graduate School of Psychoanalysis): The Ethics Code for psychologists says that psychologists strive to benefit those with whom they work and to do no harm, and here they are

helping exploit detainees' weaknesses to break them down.

KNOX: Soldz is a leader of a dissident group that's trying to change the American Psychological Association's policy on detention center psychologists.

Dr. SOLDZ: Our position is that psychologists should not be at these sites, period, that we're lending legitimacy to the sites by being there and certainly by participating in interrogations there.

KNOX: The psychological association agrees its members shouldn't participate in torture or abuse, but over the past three years, the APA has steadfastly refused to say that psychologists shouldn't be at detention centers at all. APA officials were disturbed when they heard about the alleged abuse of Mohammed Jawad. It comes just as thousands of psychologists are gathered in Boston for the association's annual meeting.

Stephen Behnke is director of the APA's ethics office. He says if the new allegations are true, that psychologists stepped over the line.

Dr. STEPHEN BEHNKE (Director, APA Ethics Office): The question is not what can the detainee withstand, it's what is the psychologist going to do at that moment to stop the abuse.

KNOX: The debate turns on how to prevent it in a post-9/11 world, when the U.S. government has expanded the limits of what's permissible.

Dr. BEHNKE: Do you fight those policies from the inside or from the outside? Now, that is a question on which there is a difference of opinion among our membership, and a very passionate difference of opinion.

KNOX: The controversy is coming to a head. The dissenters got enough signatures to force a referendum on the issue, the APA's first ever. It aims

to bar psychologists from working in places where people are held outside international law or in violation of the U.S. Constitution. APA leaders are working to defeat the referendum.

Dr. GERALD KOOCHER (Former APA President):
It's an example of the angry political movement not thinking through the implications of what it was doing.

KNOX: That's Gerald Koocher, a Boston psychologist who was APA's president in 2006. He says the referendum could have unintended consequences for psychologists who work every day in prisons and courtrooms. He says they often collaborate with authorities in situations many could call coercive.

Dr. KOOCHER: Well, what's a coercive interrogation? If you are in the middle of a child-custody dispute and the judge orders you to talk to a guardian for your children, you may not want to do that. If you're Ted

Kaczynski, the Unabomber, and you're ordered to have a psychiatric evaluation, is that coercive?

KNOX: The dissenters counter that places like Guantanamo, Afghanistan's Bagram Prison, and secret CIA black sites are worlds apart from domestic prisons with legal oversight and constitutional protections. Referendum ballots went out this month to APA members. The results will be in sometime next month. Richard Knox, NPR News, Boston.

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Guantanamo prompts psychologists' soul-searching; Interrogations taking place at the US military camp are leading some psychologists to question whether it is ethical for them to take part

New Scientist

August 23, 2008

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NewScientist

Section: NEWS; Upfront; Pg. 6

Length: 242 words

Byline: Staff

Body

Guantanamo Bay has become an international symbol for human rights abuse. Now psychologists are trying to decide if it is ethical for them to attend interrogations at the US military base.

Last year the American Psychological Association (APA) reaffirmed its position against cruel, inhuman or degrading treatment (*New Scientist*, 29 September 2007, p 18). It currently prohibits its members from being involved with torture or abuse. However, members are allowed to participate in military interrogations, provided they don't involve practices such as waterboarding. Psychologists can help interrogators understand detainees and the best way to question them, explains Stephen Behnke, the APA's director of ethics.

Now some APA members are attacking this stance on account of interrogation techniques used at Guantanamo, sometimes overseen by psychologists. Detainees are alleged to have been subjected to sleep deprivation and isolation techniques, practices that the UN Commission on Human Rights classifies as torture. While some APA members argue that psychologists can help make such interrogations more accountable, about 400 others are withholding their membership dues in protest. Protestors dressed in orange overalls also showed up at last week's APA meeting in Boston.

To try to resolve the issue, the APA will soon vote on a resolution that would prohibit members from working in settings where people are held in violation of international law.

Load-Date: August 22, 2008

Psychology Group Changes Policy on Interrogations

The New York Sun

September 18, 2008 Thursday

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Length: 880 words

Byline: JOSEPH GOLDSTEIN -, Staff Reporter of the Sun

Body

In a dramatic turnaround that could strain the long-standing ties between the psychology profession and the military, the American Psychological Association has reversed its policy of encouraging members to assist in the interrogation of suspected terrorists at Guantanamo Bay, Cuba, and other overseas prison sites.

The professional association's new policy, which was reached by a referendum, goes beyond telling members, even those who are military personnel, that it is off-limits to participate in interrogations at detention centers abroad. Members would be prohibited from working at such sites in any capacity that directly assists the government. The prohibition would apply to psychologists who work as psychological profilers or even as clinicians who treat detainees as mental health patients.

"This goes beyond interrogations," a Boston psychologist who has sought to change the APA's position, Stephen Soldz, said. "The thought is that if you are there and a part of the military chain of command, then you are part of the system."

The new policy represents "a significant change" in the association's policy on the involvement of psychologists in interrogations, the association said in a statement. A spokeswoman, Rhea Faberman, declined to make any officers at the APA available for comment. According to the bylaws of the APA, the policy does not go into effect for another year.

Previously the APA has generally encouraged a policy of "engagement" - or involvement in national security interrogations - for the purpose of stopping "interrogations that cross the bounds of ethical propriety," as the director of the APA's ethics office, Stephen Behnke, wrote in a letter earlier this year. APA officials also had encouraged engagement in the interrogation process by psychologists, on the grounds that psychologists have expertise to lend and ought to assist in the country's anti-terrorism efforts.

The APA had already banned its members from participating in any of 19 interrogation techniques, including the use of hoods, forced nakedness, and waterboarding.

Since June 2006, the Defense Department has relied increasingly on psychologists to staff the behavioral science consultation teams, which advise interrogators on how to attempt to elicit information from detainees. Before then, psychiatrists had participated on such teams, but the Defense Department announced it would increase its reliance on psychologists after the American Psychiatric Association began a policy of instructing its members not to participate.

The role that psychologists played in advising interrogators is not well-documented but is increasingly coming under scrutiny. During a court proceeding at Guantanamo last month, lawyers informed the court that a military psychologist would invoke her right under the military's equivalent of the Fifth Amendment, were she called as a witness. At issue was the psychologist's role in devising the conditions of detention and the tactics of the interrogation of a detainee facing war crimes charges, Mohammad

Psychology Group Changes Policy on Interrogations

Jawad. The detainee's attorney, Major David Frakt, claims in court papers that the psychologist advised that Mr. Jawad be put under extremely isolating conditions and that interrogators exploit his concerns about his family.

While not all licensed psychologists are members of the APA, a majority are, according to information provided by the association. The APA's military psychology group has 442 members, although it was not clear whether all of those were uniformed military personnel. Because the APA can conduct investigations against its members for violating APA ethics codes and forwards any adverse findings on to state psychologist licensing boards, the new policy goes far beyond a statement of principles.

It is unclear how the military will respond to the APA's new policy and whether it will remove psychologists from teams that advise interrogators. The new policy also would apply to any detention sites run by the Central Intelligence Agency, but would allow psychologists to be present at such sites if they were employed by an "independent third party working to protect human rights," such as the Red Cross.

The measure could put pressure on military psychologists involved in detainee programs to seek other work.

"These people are going to want to go back into the civilian work force some day," Dr. Soldz said. "This will make it harder for the military to recruit psychologists, if the military asks them to do things that are unprofessional."

The new policy was decided by a vote put to the 90,000 members of the APA's voting membership. Of about 15,000 members who returned ballots, 59% voted for the resolution and 41% against.

The chief executive officer of the group Physicians for Human Rights, Frank Donaghue, said the vote was a "blow against medical complicity in torture."

The text of the resolution states, in part, that "psychologists may not work in settings where persons are held outside of, or in violation of, either International Law or the US Constitution." Because the conditions at prisons in America are occasionally found, during the course of a civil rights lawsuit, to violate the Constitution, a strict reading of the new policy would suggest that APA members could not work in such facilities.

Load-Date: September 18, 2008

EXHIBIT 2-I

PENDING INTELLIGENCE MATTERS

CQ Congressional Testimony

September 25, 2007 Tuesday

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Length: 2445 words

Byline: SENATE SELECT

STEPHEN BEHNKE, DIRECTOR AMERICAN PSYCHOLOGICAL ASSOCIATION

Body

Statement of Stephen Behnke Director, Ethics Office American Psychological Association

Committee on Senate Select Intelligence

September 25, 2007

For more than two years the American Psychological Association (APA), a scientific and professional organization of more than 150,000 psychologists and affiliates, has examined in depth the ethical aspects of psychologists' involvement in interrogation settings. Members of the APA and outside groups with an interest in this issue have discussed and debated the appropriate role for psychologists in eliciting information in both domestic and foreign non-treatment related contexts.

The APA has drawn three central conclusions from its work on this complex and challenging issue:

--First, psychologists have important contributions to make in eliciting information that can be used to prevent violence and protect our nation's security;

--second, there must be clear ethical guidelines governing processes by which information is elicited from an individual who may not be willing to provide the desired information;

--third, further research on all aspects of information-educing processes is critical.

Psychologists' Contributions to Eliciting Information

Conducting an interrogation is inherently a psychological endeavor. Forming a relationship and building rapport have proven to be effective means of eliciting information. Psychology is central to this process because an understanding of an individual's belief systems, desires, motivations, culture and religion likely will be essential in assessing how best to form a connection and facilitate educating accurate, reliable and actionable intelligence. Psychologists have expertise in human behavior, motivations and relationships. The background, training, and experience offered in psychology are therefore highly relevant to the process of creating and nurturing conditions that will maximize the likelihood of obtaining good and useful information. Psychologists have valuable contributions to make toward the goals of preventing violence and protecting our nation's security through interrogation processes.

Need for Strict Ethical Guidelines within Interrogation Policy

PENDING INTELLIGENCE MATTERS

The process of eliciting information from an unwilling individual must be governed by strict ethical guidelines. The APA has issued three statements in the past three years that speak directly to the ethics of psychologists' involvement in information-eliciting processes. The central message of these texts, taken individually and as a group, is that there is no room for abuse in forming the kind of relationship that will result in gathering useful information and that respecting the individual's dignity is essential in all aspects of these endeavors.

The first of the three APA statements was issued in 2005, The Report of the Task Force on Psychological Ethics and National Security. This task force report contained twelve statements that formed the initial position for APA on psychologists' involvement in interrogation settings:

1. Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment.
2. Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.
3. Psychologists who serve in the role of supporting an interrogation do not use health care related information from an individual's medical record to the detriment of the individual's safety and well-being.
4. Psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights.
5. Psychologists are aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.
6. Psychologists are sensitive to the problems inherent in mixing potentially inconsistent roles such as health care provider and consultant to an interrogation, and refrain from engaging in such multiple relationships.
7. Psychologists may serve in various national security-related roles, such as a consultant to an interrogation, in a manner that is consistent with the Ethics Code, and when doing so psychologists are mindful of factors unique to these roles and contexts that require special ethical consideration.
8. Psychologists who consult on interrogation techniques are mindful that the individual being interrogated may not have engaged in untoward behavior and may not have information of interest to the interrogator.
9. Psychologists make clear the limits of confidentiality.
10. Psychologists are aware of and do not act beyond their competencies, except in unusual circumstances, such as set forth in the Ethics Code.
11. Psychologists clarify for themselves the identity of their client and retain ethical obligations to individuals who are not their clients.
12. Psychologists consult when they are facing difficult ethical dilemmas.

Central ethical issues that govern psychologists' involvement in interrogations emerge from these twelve statements of the Task Force Report on Psychological Ethics and National Security:

- Psychologists must never engage in, promote, or facilitate torture or cruel, inhuman, or degrading treatment or punishment;
- Psychologists who become aware that torture or cruel, inhuman, or degrading treatment or punishment is being perpetrated have an ethical responsibility to report such abuse to appropriate authorities;
- Psychologists must keep separate their roles as healthcare providers from their non-healthcare provider roles, and
- Psychologists must stay within the bounds of their competence.

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The following year, the APA's governing body, the Council of Representatives, adopted the 2006 Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment. This resolution elaborated upon key elements of the 2005 task force report. The 2006 resolution reemphasized the absolute prohibition against torture in several clauses:

BE IT RESOLVED that regardless of their roles, psychologists shall not knowingly engage in, tolerate, direct, support, advise, or offer training in torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment;

BE IT RESOLVED that psychologists shall not provide knowingly any research, instruments, or knowledge that facilitates the practice of torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment;

BE IT RESOLVED that psychologists shall not knowingly participate in any procedure in which torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment is used or threatened...;

The 2006 resolution reiterated that psychologists have an ethical responsibility to report acts of abuse:

BE IT RESOLVED that psychologists shall be alert to acts of torture and other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment and have an ethical responsibility to report these acts to the appropriate authorities,

In addition, the 2006 resolution drew from international human rights instruments by adopting the definition of torture set forth in the UN Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, and by stating that psychologists must work in accordance with human rights instruments relevant to their roles:

BE IT RESOLVED that, in accordance with Article I of the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, [7]he term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him 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 [e.g., governmental, religious, political, organizational] capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions [in accordance with both domestic and international law];

BE IT RESOLVED that based upon the APA's long-standing commitment to basic human rights including its position against torture, psychologists shall work in accordance with international human rights instruments relevant to their roles,

The 2006 Resolution thus emphasizes and elaborates upon key aspects of the 2005 Task Force Report on Psychological Ethics and National Security

In 2007, the APA issued a third resolution titled Reaffirmation of the American Psychological Association Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Its Application to Individuals Defined in the United States Code as "Enemy Combatants." The APA's 2007 resolution elaborates upon several elements central to the 2006 resolution and the 2005 task force report_ The 2007 resolution identifies techniques that fall under the definition of "torture" and other "cruel, inhuman, and degrading treatment," thus adding specificity to the concepts of torture and

BE IT RESOLVED that this unequivocal condemnation includes all techniques defined as torture or cruel, inhuman or degrading treatment under the 2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the United Nations Convention Against Torture, and the Geneva Convention. This unequivocal condemnation includes, but is by no means limited to, an absolute prohibition for psychologists against direct or indirect participation in interrogations or in any other detainee-related operations in mock executions, water-boarding or any other form of simulated drowning or suffocation, sexual humiliation, rape, cultural or religious humiliation, exploitation of phobias or psychopathology, induced hypothermia, the use of psychotropic drugs or mind-altering substances used for the purpose of eliciting information; as well as the following used for the purposes of eliciting information in an interrogation process: hooding, forced nakedness, stress positions, the use of dogs to threaten or intimidate, physical assault including slapping or shaking, exposure to extreme heat or cold, threats of harm or death; and isolation, sensory deprivation and over-stimulation and/or sleep deprivation used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm; or the threatened use of any of the above techniques to the individual or to members of the individual's family;

PENDING INTELLIGENCE MATTERS

In addition, the 2007 resolution further elaborates the ethical responsibility of psychologists to cooperate with oversight activities:

BE IT RESOLVED that the American Psychological Association asserts that all psychologists with information relevant to the use of any method of interrogation constituting torture or cruel, inhuman, or degrading treatment or punishment have an ethical responsibility to inform their superiors of such knowledge, to inform the relevant office of inspector generals when appropriate, and to cooperate fully with all oversight activities, including hearings by the United States Congress and all branches of the United States government, to examine the perpetration of torture and cruel, inhuman, or degrading treatment or punishment against individuals in United States custody, for the purpose of ensuring that no individual in the custody of the United States is subjected to torture or cruel, inhuman, or degrading treatment or punishment;

The 2007 resolution also calls upon U.S. legal systems to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment

BE IT RESOLVED that the American Psychological Association, in order to protect against torture and cruel, inhuman, or degrading treatment or punishment, and in order to mitigate against the likelihood that unreliable and/or inaccurate information is entered into legal proceedings, calls upon United States legal systems to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment.

Central to the APA's analysis of these issues in the 2005 task force report and the 2006 and 2007 resolutions is that the appropriate question is not whether psychologists may contribute to eliciting information to prevent acts of violence and protect our nation's security, but rather how they may do so in an ethical manner.

Need for Relevant Research

The third and final conclusion that the APA has drawn from its work in this area is that essential research is lacking. Creating a research agenda is critical and cannot wait. A cursory review of the issues yields questions that are central to the process of eliciting information but that have little basis in extant research. Five examples are:

- What is the most effective means of eliciting information from a recalcitrant subject?
- What indicia may be used to differentiate when a subject is providing accurate and actionable intelligence from when a subject is intentionally providing false or useless information? How may culture, ethnicity, religion and gender facilitate, or hinder, the process of eliciting information?
- What characteristics make an individual a more-or less effective interrogator?
- What background and training best prepares interrogators for their task?

These are a very few of the myriad questions for which research is necessary. In line with the November 2006 Intelligence Science Board Study Retort on Educating Information, APA recommends that this Committee authorize development and funding of a research "center of excellence" on educating information under the Director of National Intelligence. Five and ten years from now we should not be forced to rely on anecdotal accounts of what is or is not effective interrogation. The APA has been actively engaged in examining the ethical role of psychologists in interrogation settings. Research will be critical for psychologists to move our understanding of these processes to a deeper and more effective level.

Load-Date: September 27, 2007

EXHIBIT 2-J

Psychological Ethics and National Security

The Position of the American Psychological Association

For over 20 years, the American Psychological Association's position has been clear and unwavering: It is unethical for a psychologist to participate in torture or other cruel, inhuman, or degrading treatment, under any circumstances, at any time, for any reason. There are no exceptions. A state or threat of war, a national emergency, or a law, regulation, or order can never justify a psychologist's participation in any of these acts. They are always forbidden.

This position is found in numerous American Psychological Association (APA) resolutions and statements, including a 1985 Joint Resolution Against Torture with the American Psychiatric Association, a 1986 APA Resolution Against Torture, and a 2005 Report of the APA Presidential Task Force on Psychological Ethics and National Security. The APA Ethics Committee, Board of Directors, and Council of Representatives have all resoundingly affirmed this position against torture or other cruel, inhuman, or degrading treatment.

In addition to these ethical prohibitions, psychologists have an ethical responsibility to be alert to and report any acts of torture or cruel, inhuman, or degrading treatment to the authorities.

Consistent with its position on this issue, the APA strongly supported passage of the McCain Amendment. The McCain Amendment states that "No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment," and has been adopted as United States law.

In 2004, media reports raised concerns regarding the role of psychologists and health professionals in national security-related settings. Following these stories closely, APA President Ron Levant, EdD (Doctor of Education) concluded it was critical for the APA to issue specific guidelines regarding psychologists' involvement in national security-related activities. Dr. Levant believes that the APA has a responsibility to address the ethical challenges facing psychologists in all areas of their professional work, a responsibility found in the APA's Bylaws:

The objects of the American Psychological Association shall be to advance psychology as a science and profession and as a means of promoting health, education, and human welfare . . . by the improvement of the qualifications and usefulness of psychologists through high standards of ethics . . . [and] by the establishment and maintenance of the highest standards of professional ethics and conduct of the members of the Association . . .¹

To fulfill this responsibility, Dr. Levant called for the establishment of a task force on psychological ethics and national security (the "PENS" Task Force) to examine this issue and to set forth clear lines separating what behaviors are acceptable and what behaviors are not acceptable for psychologists.

Dr. Levant identified two priorities for membership on the PENS Task Force. First, it was important for the Task Force to have individuals with extensive experience in national security-related work, so the Task Force would have the information it needed to consider the issues in depth and issue a report with clear ethical guidance. Second, the Task Force would include individuals with very different backgrounds and perspectives, so that all points of view would be discussed and challenged in the process of coming to particular positions.

The Task Force endorsed the important contributions that psychologists, as experts in human behavior, are poised to make in national defense-related settings when they act within strict ethical guidelines. According to the Task Force report "Psychologists have a valuable and ethical role to assist in protecting our nation, other nations, and innocent civilians from harm, which will at times entail gathering information that can be used in our nation's and other nations' defense." Central to its ethical analysis, the Task Force stated that psychologists are bound by the APA Ethics Code in *all* their professional activities, regardless of whether they identify themselves as "behavioral scientists," "behavioral consultants," or some other term when they make these important contributions. This point is critical – psychologists are bound by the Ethics Code regard-

1 American Psychological Association (2004). *Bylaws of the American Psychological Association* [Brochure]. Washington, DC: Author. (Also available at <http://www.apa.org/governance/>).

less of how they identify themselves. Thus, while psychologists have a valuable and ethical role to play in contributing to national defense, they always work under the Ethics Code and are bound by its strictures. Psychologists may never “opt out” of or avoid their ethical obligations.

The Task Force set out 12 statements regarding the ethical role of psychologists in national security-related activities. The report’s 12 statements are derived directly from the APA Ethics Code. These 12 statements are:

1. Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment.
2. Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.
3. Psychologists who serve in the role of supporting an interrogation do not use health care-related information from an individual’s medical record to the detriment of the individual’s safety and well-being.
4. Psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights.
5. Psychologists are aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.
6. Psychologists are sensitive to the problems inherent in mixing potentially inconsistent roles such as health care provider and consultant to an interrogation, and refrain from engaging in such multiple relationships.
7. Psychologists may serve in various national security-related roles, such as a consultant to an interrogation, in a manner that is consistent with the Ethics Code, and when doing so psychologists are mindful of factors unique to these roles and contexts that require special ethical consideration.
8. Psychologists who consult on interrogation techniques are mindful that the individual being interrogated may not have engaged in untoward behavior and may not have information of interest to the interrogator.
9. Psychologists make clear the limits of confidentiality.
10. Psychologists are aware of and do not act beyond their competencies, except in unusual circumstances, such as set forth in the Ethics Code.
11. Psychologists clarify for themselves the identity of their client and retain ethical obligations to individuals who are not their clients.
12. Psychologists consult when they are facing difficult ethical dilemmas.

Thus far, APA is the only mental health organization in the United States that has stepped forward to issue clear ethical guidance on its members’ involvement in national security-related activities. Other mental health and medical asso-

ciations are examining this issue, but none has yet adopted an official position.

Following the release of the PENS Task Force report in June 2005, a number of individuals commented on the report. Mildred Solomon, EdD, an ethicist from Harvard Medical School, described APA’s Task Force report as “an impressive first step” and called upon other health associations to follow “the principled actions of the APA.” Other characterizations, some in prominent publications, have unfortunately grossly mischaracterized the Task Force report.

An essay in the *Lancet* was highly critical of APA’s position, yet the author had mischaracterized the report to such an extent that the *Lancet* subsequently agreed to post a response from APA on its website. The *Lancet* essay stated “In effect, it becomes acceptable for a health professional to dispense with any ethical responsibilities when their training and expertise is used outside a strictly therapeutic context.” In reality, the report explicitly and emphatically takes precisely the *opposite* position. The report states “As a context for its statements, the Task Force affirmed that when psychologists serve in any position by virtue of their training, experience, and expertise as psychologists, the APA Ethics Code applies. The Task Force thus rejected the contention that when acting outside traditional health-service-provider relationships, psychologists are not acting in a professional capacity as psychologists and are, therefore, not bound by the APA Ethics Code.” The report’s language is crystal clear: The Ethics Code applies to *all* of a psychologist’s professional activities.

The PENS Task Force fully acknowledged the complexity of the issues involved and the necessity of addressing competing interests. Ethical Principle B in the APA Ethics Code, Fidelity and Responsibility, states that psychologists “are aware of their professional and scientific responsibilities to society.” Psychologists have a valuable and ethical role to assist in protecting our nation, other nations, and civilians from harm. This role will sometimes entail gathering information that can be used in our nation’s and other nations’ defense, which is appropriate when psychologists act in accordance with the PENS Task Force statements. Psychologists working in the area of national security-related investigations are in a unique position to assist in ensuring that processes are safe, legal, ethical, and effective for all participants. Thus, psychologists *both* protect innocent life *and* always abide by the clear strictures against torture and cruel, inhuman, or degrading treatment. In other words, whenever a psychologist fulfills a responsibility to society, the psychologist does so abiding by Principle A in the APA Ethics Code, “Do no harm.”

The Task Force report addressed a number of other aspects of psychologists’ involvement in national security-related activities. The Task Force emphasized the role of culture and ethnicity by underscoring that an awareness of and sensitivity to the role of culture and ethnicity minimizes the likelihood of harm and bias while maximizing the likelihood that the information gathering process will be safe

and effective. The Task Force emphasis on an understanding of culture and ethnicity and the central role they play in this work is highly consistent with the current APA Ethics Code. The Task Force also addressed a number of other critical issues that are relevant to psychologists, such as:

- how particular settings may instill a profound sense of powerlessness and may compromise an individual's capacity to assert interests and rights;
- that psychologists retain ethical obligations to *all* those involved in an interrogation or information-gathering process;
- how a setting's ambiguity, combined with high stress, may facilitate behaviors that cross the boundaries of ethical propriety;
- that a willingness to take responsibility for one's own ethical behavior will help ensure that the national security-related activities of psychologists are safe, legal, ethical, and effective;
- that it is especially important to provide ethical guidance and support to psychologists at the beginning of their careers, when they may experience pressures to engage in unethical or inappropriate behaviors in national security-related settings that they are likely to find difficult to resist;
- that psychologists should engage in further research, one focus of which should be to examine the psychological effects of conducting interrogations on the interrogators

themselves, in order to explore ways of helping to ensure that the process of gathering information remains within strict ethical boundaries.

In a list of recommendations at the end of its report, the Task Force urged APA to continue to think through these very challenging issues and consider the report an "initial step in addressing the very complicated and challenging ethical dilemmas that confront psychologists working in national security-related activities." The Task Force explained: "Viewed as an initial step in a continuing process, this report will ideally assist APA to engage in thoughtful reflection of complex ethical considerations in an area of psychological practice that is likely to expand significantly in coming years." The APA believes that its work exploring and understanding the ethical aspects of these complex issues will continue, and that by embracing our responsibility to provide ethical guidance in this area of practice, the APA will serve both the public and psychologists well.

The Task Force report can be found at: <http://www.apa.org/releases/PENSTaskForceReportFinal.pdf>

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EFPA and Council of Europe Start Collaboration in the Field of Disaster and Crisis Psychology

Delegates of EFPA and the Council of Europe met on October 20, 2005, in Strasbourg and discussed a possible collaboration as well as EFPA's contribution in planning and producing psychosocial support and services in the aftermath of disasters and crises. Tuomo Tikkanen, President of EFPA, Pierangelo Sardi, member of the Executive Council, Salli Saari, convenor of the EFPA Task Force on Disaster and Crisis Psychology, were the members of the EFPA delegation; Eladio Fernandez-Galliano, Executive Secretary of the Euro-Mediterranean Major Hazards Agreement and Francesc Pla Castellort from the Directorate of Culture and Cultural and Natural Heritage represented the Council of Europe. In addition, Riccardo Venturini, a psychologist from the Republic of San Marino, took part in the meeting. During the meeting we also had the possibility to meet a lawyer who works with terrorism matters.

The EFPA Task Force on disaster and crisis had prepared a report for the Council of Europe, and this report was accepted in the EFPA General Assembly in July 2005 in Granada. The report was then sent to the delegates of the Council of Europe before the meeting.

The delegates of the Council of Europe thanked EFPA for the report and said that it would make a very good basis for future work. They also expressed their satisfaction about making contact with EFPA: They had been searching for a partner with psychological expertise in the disaster and crisis area for some time.

We from the EFPA delegation had been concerned about their eagerness for collaboration, and we had been prepared to put much effort in motivating them to understand the importance of psychological knowledge in disaster and crisis work and to get an acceptance for EFPA as a body of special expertise in this field. However, from the very beginning of our meeting we realized that there was no need for such motivational efforts. The delegates of the Council of Europe even promised to make psychological readiness in disasters and crises one of their main priorities in their plan for the next 5 years.

The meeting resulted in some concrete agreements being made:

- 1) A printed publication based on the EFPA Task Force report will be produced in collaboration between the

EXHIBIT 2-K

Commentary on “Psychologists and the Use of Torture in Interrogations”

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[Correction added after online publication 19-Apr-2007: Simmons College has been updated as the primary academic affiliation of author Koocher]

In “Psychologists and the Use of Torture in Interrogations,” Costanzo, Gerrity, and Lykes (2007) make a number of important points. They repeatedly make clear their absolute and emphatic stance against the use of torture and other cruel, inhuman, or degrading treatment or punishment by psychologists. Perhaps most important, by crystallizing a particular aspect of the discussions on this challenging issue, the authors seek to move our understanding of the ethical aspects of psychologists’ involvement in interrogations to a deeper level.

To capture the importance of this article in moving discussions on the issue of ethics and interrogations forward, we suggest beginning at the end, where the authors make four recommendations to “APA [American Psychological Association] and other scholarly and professional associations of psychologists” (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). Recommendation 3 of these four is that the associations

Expressly forbid psychologists from planning, designing, assisting, or participating in interrogations that involve the use of torture and any form of cruel, inhuman or degrading treatment of human beings.

At the end of this recommendation the authors have a footnote:

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This is in sharp contrast to the *Report of the American Psychological Association Presidential Task Force on Psychological Ethics and National Security* (PENS; American Psychological Association Presidential Task Force on Psychological Ethics and National Security, 2005), which supports psychologists' participation in interrogation activities as part of national-security-related and law enforcement roles.

Consider the authors' characterization of a "sharp contrast" between their recommendation and APA's position in the context of several texts adopted as official APA policies. To begin, the PENS report makes 10 statements, the first of which is:

Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment.

The second statement in the PENS report is:

Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.

In this context, the authors' assertion that Recommendation 3 is in "sharp contrast" to the PENS report is puzzling. Contrary to their assertion, juxtaposing the texts indicates that the authors' Recommendation 3 and the PENS report use virtually identical language. In fact, the PENS report goes beyond the authors' recommendation by imposing an ethical obligation on psychologists to report on behavior that both the PENS task force and Costanzo et al. would unequivocally prohibit. The authors' characterization of the texts as representing a "sharp contrast" therefore invites their elaboration.

Considering other actions the APA has taken highlights a second need—for the authors' to elaborate on their characterization of a "sharp contrast" between their recommendations and APA's position. By identifying the article's final four points as "recommendations," the authors suggest that the APA has not taken these steps. However, as illustration, a comparison of Recommendation 3 with other texts adopted by the APA's governing body, the Council of Representatives, indicates that APA has already taken precisely the actions the authors recommend. As an example, at the APA's 2006 annual convention in New Orleans, LA, the Council of Representatives adopted the *Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment* (APA, 2006). The following texts are taken directly from that resolution:

BE IT RESOLVED that the APA reaffirms its 1986 condemnation of torture and other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment wherever it occurs;

BE IT RESOLVED that the APA reaffirms its support for the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and its adoption of Article 2.2, which states

[T]here are no exceptional circumstances whatsoever, whether induced by a state of war or a threat of war, internal political instability or any other public emergency, that may be invoked as a justification of torture;

BE IT RESOLVED that based upon the APA's long-standing commitment to basic human rights including its position against torture, psychologists shall work in accordance with international human rights instruments relevant to their roles;

BE IT RESOLVED that regardless of their roles, psychologists shall not knowingly engage in, tolerate, direct, support, advise, or offer training in torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment;

BE IT RESOLVED that psychologists shall not provide knowingly any research, instruments, or knowledge that facilitates the practice of torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment;

BE IT RESOLVED that psychologists shall not knowingly participate in any procedure in which torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment is used or threatened. . .

In their article, the authors fail to reconcile how these statements in official APA texts represent a "sharp contrast" to Recommendation 3, which, at the risk of repetition, recommends that APA and other professional associations of psychologists

Expressly forbid psychologists from planning, designing, assisting, or participating in interrogations that involve the use of torture and any form of cruel, inhuman or degrading treatment of human beings.

Given that the authors have clearly given a great deal of thought to this issue, we find it striking that their article does not examine why they believe their position differs at all from—much less stands in "sharp contrast" to—APA policy. The authors would make a significant contribution to the discussion by elaborating on the precise reasons why they view their position as discrepant with that of APA. Such details would serve to define the terms of the debate absent to date in most discussions of this issue.

It is important to note that the authors have not focused solely on military interrogations when, throughout the article, they appear to equate "interrogation" with "torture." The footnote attached to Recommendation 3 refers to interrogations "as part of national-security-related *and* [italics added] law enforcement roles" (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). Moreover, the introduction to Recommendation 4 refers to "contexts of war *and* [italics added] imprisonment" (Costanzo et al., doi: 10.1111/j.1530-2415.2007.00118.x). Thus, the authors address interrogations across a wide range of contexts.

A number of other points in the article bear mention. All of these comments occur in the context of an article that forcefully and clearly calls for absolute condemnation of torture and other cruel, inhuman, or degrading treatment or punishment. As such, these points constitute minor comments relative to the important central theme of the article, which merits the attention and unequivocal support of all mental health professions.

First, in the opening paragraph of the article, the authors make a series of statements: that psychologists should have no involvement in any aspect of torture and other forms of cruel, inhuman, or degrading treatment; that psychologists' ethics make any use of torture as an interrogation device anathema; and that torture

will not prove effective as a means of extracting reliable information and has long-term negative consequences for both individuals and society. The APA fully supports each of these positions.

Second, the authors state, "The World Medical Association (WMA, 1975) has also established that it is not ethically appropriate for physicians or other health professionals to serve as consultants or advisors in interrogations" (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). A careful examination of documents from the WMA and the United Nations (UN) reveals the positions of the WMA and the UN regarding mental health professionals' involvement in interrogations as far more nuanced and not accurately described as a prohibition. As an example, the *Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment* adopted by APA (2006) quotes Principle 4a of the (UN 1982) *Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, which sets forth the conditions for physician involvement in interrogations.

Recent documents from the WMA lend themselves to mixed interpretations. For example, in 2006 the WMA revised its *Declaration of Tokyo, Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*. (Adopted by the 29th World Medical Assembly, Tokyo, Japan, October 1975, and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005, and the 173rd Council Session, Divonne-les-Bains, France, May 2006; <http://www.wma.net/e/policy/c18.htm>) The revised Declaration of Tokyo can be read as highly consistent with the PENS report. A more careful analysis of the document in relation to the position of the APA and other professional associations would prove very useful.

The authors later state that the American Psychiatric Association has "a complete prohibition" against members' participation in interrogation (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). That statement is simply not correct. The American Psychiatric Association released its position on May 22, 2006. That same day, *Medpage Today* (Smith, 2006) published an article regarding an interview with American Psychiatric Association President Steven Sharfstein, which stated: "Dr. Sharfstein acknowledged that psychiatrists in the military might have a conflict between obeying the APA's [American Psychiatric Association's] policy and following direct orders, noting the position statement is not 'an ethical rule.' 'Individual psychiatrists wouldn't get in trouble with the APA [American Psychiatric Association]' for failing to follow the guidelines, he said."

Third, the authors state, "the use of torture is frequently justified as an interrogation device. However, there is no evidence that torture is an effective means of gathering reliable information" (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). Readers will find it worth noting that the Intelligence

Science Board (2006) report on educating information casts significant doubt that any evidence whatsoever exists to support claims that abusive interrogations lead to reliable information. Several psychologists involved in writing the PENS report contributed to the Intelligence Science Board report.

Fourth, the authors make numerous statements throughout the article that capture important points worthy of emphasis. As one example, the authors state that well-documented reports of torture “serve as disturbing reminders that it is essential for military authorities to issue clear directives about unacceptable practices in the interrogation of prisoners” (Costanzo et al., 2007, doi: 10.1111/j.1530-2415.2007.00118.x). This point, regarding the necessity of clear guidance, remains central to the work of the APA on interrogations. The APA’s positions on this issue align congruently with the authors’ Recommendation 4 to “develop specific guidelines and explicit codes of conduct for psychologists working in contexts of war and imprisonment.”

Finally, the second of Costanzo et al.’s four recommendations calls upon APA to “conduct an independent investigation of the extent to which psychologists have been involved in using torture or other cruel, inhuman, or degrading treatment as interrogation tools” (Costanzo et al., doi: 10.1111/j.1530-2415.2007.00118.x). The authors continue, “If psychologists are found to have participated in the design or conduct of interrogations that have made use of torture, they should be appropriately sanctioned by APA.” Olivia Moorehead-Slaughter, who served as chair of the PENS Task Force and chair of the APA Ethics Committee, has made clear on multiple occasions that any psychologist found to have any involvement in torture or cruel, inhuman, or degrading treatment or punishment will face sanction by the APA Ethics Committee (comments before the APA Council of Representatives, February 2006, Washington, DC). Although we completely understand the impetus behind a call for APA to conduct an independent investigation into the activities of psychologists, APA has neither subpoena power nor access to materials requiring a security clearance to review. Nowhere in the article do the authors propose how APA, a private association, would address these significant and potentially insurmountable impediments to a competent investigation. Nor do the authors acknowledge either that it would potentially violate the law for individuals to provide classified information to APA that is relevant to the investigation or that multiple investigations into abuses have already taken place and are publicly available for review.

In “Psychologists and the Use of Torture in Interrogations,” the authors make a clear and emphatic statement against any psychologist’s involvement in torture or cruel, inhuman, or degrading treatment or punishment. They make excellent points throughout the article that should stimulate important discussions. The APA will benefit from further exploration of this issue in light of the authors’ comments on the relationship between their four recommendations and the APA’s position on this issue of critical importance to psychologists and to society.

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STEPHEN H. BEHNKE, the Director of Ethics at the American Psychological Association, received his J.D. from Yale Law School and his Ph.D. in clinical psychology from the University of Michigan. He was the chief psychologist at Day Hospital Unit at the Massachusetts Mental Health Center until 1998, when he was named a faculty fellow in Harvard University's program in Ethics and the Professions. Dr. Behnke directed a program in research integrity in the Division of Medical Ethics at Harvard Medical School; he also holds an appointment in the Department of Psychiatry at Harvard Medical School. His research interests focus on issues at the convergence of law, ethics, and psychology, and he has written on multiple personality disorder and the insanity defense, on issues involving competence and informed consent to treatment and research, on forced treatment of the severely mentally ill, and on state laws relevant to the work of mental health practitioners.

GERALD P. KOOCHER completed his B.A. degree in Psychology at Boston University (1968), and his MA (1970) and PhD (1972) in clinical psychology at the University of Missouri. From 1971 through 2001 he served successively as an intern, post-doctoral fellow, and ultimately as Chief of Psychology at Boston's Children's Hospital and Judge Baker Children's Center. During this period he also served as a full time faculty member at Harvard Medical School. In June, 2001 Dr. Koocher became Professor and Dean of the School for Health Studies at Simmons College (Boston). He currently holds appointments as Lecturer in Psychology at Harvard Medical School and Boston College's Lynch School of

Education. Elected a Fellow of twelve divisions of the American Psychological Association (APA) and the American Association for the Advancement of Science, he has earned five specialty diplomas from the American Boards of Professional Psychology and licensing as a psychologist in Massachusetts, New Hampshire, and the District of Columbia. Currently Editor of the journal */Ethics & Behavior/*, Dr. Koocher previously served as Editor of the */Journal of Pediatric Psychology/* and */The Clinical Psychologist/*. He has published more than 180 articles and book chapters and authored or edited ten books. He served as President of the APA in 2006.

Ethics and interrogations: Comparing and contrasting the American Psychological, American Medical and American Psychiatric Association positions

BY STEPHEN BEHNKE, JD, PHD

In 2004, the American Psychological and Psychiatric Associations began to explore the ethical aspects of psychologist and psychiatrist involvement in military interrogations. That summer and early fall, the associations held separate meetings in Washington, D.C. Each association invited representatives from the other to participate in their respective discussions. In June of 2005 APA issued the Report of the Task Force on Psychological Ethics and National Security (PENS report). In May of 2006 the psychiatrists issued their position statement, and a few weeks later, this June, our colleagues from the American Medical Association followed with their report. Comparing and contrasting the three association positions in terms of their conceptual approach to member involvement in military interrogations, as well as in terms of what the associations actually allow their members to do, can be helpful in coming to a fuller understanding of this pressing societal issue.

Of the three associations, the two most closely related are those of the American Medical and American Psychological Associations. So closely related are these two positions that entire passages could easily be exchanged between the two reports, without any change in meaning. The reason behind the similarity in positions is that both rely on the same ethical analysis: Psychologists and physicians have ethical responsibilities to the individual under questioning, *as well as* to third parties and the public. APA derives its position from Principle A, “Do No Harm,” in the Ethical Principles of Psychologists and Code of Conduct (2002), and from

Principle B, which addresses psychologists’ responsibilities to society. 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 a similar vein, the AMA report states, “Questions about the propriety of physicians participation in interrogations and in the development of interrogation strategies may be addressed by balancing obligations to individuals with obligations to protect third parties and the public.” AMA emphasizes the ethical obligation to society by defining interrogation as questioning related “to military and national security intelligence gathering, designed to prevent harm or danger to individuals, the public, or national security.” These near-identical ethical analyses generate very similar rules that govern member behavior.

The first rule governing the behavior of psychologists and physicians is the ethical mandate that applies in all circumstances: Never engage in, facilitate or countenance torture or other cruel, inhuman or degrading treatment. These behaviors are always and in every instance antithetical to our professional identities. Both associations unequivocally repudiate any member involvement in such activities. This rule derives directly from the mandate “Do No Harm.”

A corollary to this first rule is that psychologists and physicians may not participate in interrogations that rely on coercion. In the words of the AMA report, coercion entails “threatening or causing harm through physical injury or mental suffering.” The APA PENS report likewise prohibits threatening or causing harm through physical injury

or mental suffering, since threatening or causing such harm, if not rising to the level of torture, would constitute cruel, inhuman or degrading treatment.

Second, psychologists and physicians have “indirect” rather than “direct” involvement in military interrogations, to use the language of the AMA report. Conducting the interrogation constitutes direct involvement. What is meant by “indirect” participation can be best understood in the context of a third rule, requiring the absolute demarcation between the role of treater and the role of consultant to an interrogation.

This third rule, shared by both associations, is that psychologists and physicians never mix the roles of health-care provider and consultant to an interrogation. According to the APA PENS report, psychologists are prohibited “from engaging in such multiple relationships.” The absolute demarcation between caregiver and consultant to an interrogation is fundamental to both association positions.

From rules that APA and AMA share comes what both associations allow: Psychologists and physicians may consult to interrogations under strict ethical guidelines—namely, that the interrogation is not coercive and that the roles of health-care provider and consultant are never mixed. Explaining that the purpose of an interrogation is “to prevent harm or danger to individuals, the public, or national security,” and that a physician’s ethical obligations to individuals must be balanced against obligations to protect the public, the AMA report states that physicians may consult to interrogations by developing interrogation strategies that do “not threaten or cause physical injury or mental suffering” and

that are “humane and respect the rights of individuals.” Substitute “psychologist” for “physician,” and the relevant passages in the AMA report could be inserted into the PENS report with no change in APA’s position whatsoever—that “It is consistent with the APA Ethics Code for psychologists to serve in consultative roles to interrogation and information-gathering processes for national-security related purposes” when acting in accordance with strict conditions. While one recommendation in the AMA report places physician consultation in a training context, numerous statements in the body of the report and in the report’s “Conclusion” convey a scope of involvement that extends well beyond training. As one example, the AMA report states explicitly that the presence of a psychiatrist at an interrogation may serve to benefit the individual under questioning by virtue of a trust that can facilitate the interrogation, i.e., information-eliciting process. The AMA report must be carefully read in its entirety to understand and appreciate the breadth of its position on the appropriate role for physicians in interrogations.

Additional agreement between the associations involves the obligation to report interrogations in which unethical behavior occurs, the prohibition against using information from a medical record to construct an interrogation strategy, and the obligation to adhere to the associations’ ethics code in all instances, including when consulting to an interrogation.

While AMA and APA rely on the same conceptual framework and as a consequence set forth nearly identical guidelines to govern physicians and psychologists who consult to interrogations, there is an important respect in which the associations differ. APA frames a role that psychologists have unique training to fill: the role of observing interrogations in order to guard against “behavioral drift” on the part of interrogators. Behavioral drift, which may arise in high stress situations where there is insufficient ethical guidance or oversight, involves a deviation from professionally and ethically acceptable behavior and so may lead to coercive interrogation

techniques. Psychologists, as experts in human behavior, are trained to observe and intervene to prevent behavioral drift. AMA, while allowing physicians to monitor interrogations, states that physicians may not, however, monitor interrogations “with the intention of intervening.” This difference, which stems from psychologists’ unique competencies, represents an important distinction between what role psychologists and physicians may take in interrogations and arises in the context of what social psychology has taught regarding the influence of setting on human behavior.

The American Psychiatric Association uses a somewhat different analysis in assessing the appropriate role for its members in interrogations. Rather than deriving its position from two ethical principles—Do No Harm, and contribute to society by preventing harm—the psychiatrists appear to focus solely on the first, Do No Harm. While the psychiatrists’ much briefer (three paragraphs and a footnote) statement does not offer a conceptual framework for their position, the apparent attention to a single principle—Do No Harm—leads the psychiatrists to de-emphasize the role of protecting society. Thus, the psychiatric association states that psychiatrists should not participate in an interrogation by “being present in the interrogation room, asking or suggesting questions, or advising authorities on the use of specific techniques of interrogations with particular detainees,” even if the interrogation is conducted for the purpose of “identifying other persons who have committed or may be planning to commit acts of violence.” The difference between the psychologists and physicians, on one hand, and the psychiatrists, on the other, becomes understandable when placed in the context of how the associations have conceptualized the issue differently.

Immediately following the release of the American Psychiatric Association position, its president was quoted by the media as stating (*Medpage Today News*, May 22) that the psychiatrists’ position statement is not “an ethical rule” and that a military psychiatrist following orders “wouldn’t get in trouble with

the APA [American Psychiatric Association]” for participating in interrogations. This clarification from the president of the American Psychiatric Association places the psychiatric association alongside APA and AMA in terms of enforcement actions: Military psychologists, physicians and psychiatrists, following orders, abiding by clear prohibitions against coercive interrogations, acting strictly as consultants to interrogations and not as caregivers, and reporting coercive or abusive acts to the appropriate authorities, will not be subject to discipline from their professional associations. While indicating a preference for psychologists over psychiatrists, the Department of Defense has laid out a process for psychiatrists continuing to serve in the role of consultants to military interrogations.

The APA Board of Directors understands that members have deeply felt and diverse opinions on the role of psychologists in military interrogations, and encourages members to make their positions known. There are members who feel strongly that the very presence of psychologists in national-security settings around the world serves to legitimate what human rights organizations have condemned. Other members feel that our colleagues in the military have reached out to APA for ethical guidance, and that APA should respond by supporting these psychologists in their work to ensure that interrogations are conducted in a safe and ethical manner. To ensure that APA’s discussions continue to allow for all points of view to be clearly heard and fully considered, the issue of psychologists’ involvement in military interrogations will be addressed when the Council of Representatives meets this August in New Orleans.Ψ

Stephen Behnke is director of APA’s Ethics Office.

Quotations are taken from the AMA Council on Ethical and Judicial Affairs Report on Physician Participation in Interrogation, the Report of the APA Task Force on Psychological Ethics and National Security (PENS), and the American Psychiatric Association Position Statement on Psychiatric Participation in Interrogation of Detainees.

Professional Associations and the Ethics of Interrogation

[Behnke, Stephen H. Author Information](#) *

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Abstract

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Reviews the book, *A Question of Torture: CIA Interrogation, From the Cold War to the War on Terror* by Alfred W. McCoy (see record 2006-01819-000). The current review was written from the perspective of the American Psychological Association Ethics Office and to comment on how the American Psychological Association, the American Medical Association, and the American Psychiatric Association have addressed this complex issue. The American Psychological Association began to consider in a direct, structured, and explicit manner the ethical aspects of psychologists' involvement in national security-related interrogations in the summer of 2004, when members of the military and investigative communities approached the association and asked for guidance. In 2006, the American Medical Association and the American Psychiatric Association issued their positions on member involvement in interrogations. The American Psychiatric Association came out with its position first, announcing in a press release that the association "passes [a] position statement barring psychiatric participation in interrogation of detainees" (American Psychiatric Association, 2006). On the same day this position statement was issued, however, the then-president of the American Psychiatric Association was quoted in the media as stating the position was not "an ethical rule" and that military psychiatrists following orders "wouldn't get in trouble with" the association for participating in interrogations. He also acknowledged in the interview that psychiatrists continue to serve in this role (Smith, 2006). McCoy's brief treatment of how the three associations have addressed the issue of member involvement in military interrogations did not have the benefit of this history, but he was nonetheless able to make several interesting observations. *A Question of Torture* addresses a hugely important and complex topic. McCoy's impressive research into this area will be read by many, and his comments on the ongoing work of professional associations that are examining this topic is certain to play a helpful and elucidating role. More important than the history, as McCoy would certainly agree, are the efforts of individuals and associations alike to ensure that no individual ever suffers torture or cruel, inhuman, or degrading treatment at the hands of a health professional. These statements left a measure of uncertainty regarding the status of the American Psychiatric Association's position. (PsycINFO Database Record (c) 2016 APA, all rights reserved)

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I have been asked to review Alfred W. McCoy's book from the perspective of the American Psychological Association Ethics Office and to comment on how the American Psychological Association, the American Medical Association, and the American Psychiatric Association have addressed this complex issue. A brief history is instructive and seems in keeping with McCoy's approach. Because the American Medical Association and the American Psychiatric Association issued their positions following the publication of *A Question of Torture: CIA Interrogation, From the Cold War to the War on Terror*, certain aspects of this unfolding story, which I will discuss, were not available to McCoy when he was writing.

The American Psychological Association began to consider in a direct, structured, and explicit manner the ethical aspects of psychologists' involvement in national security–related interrogations in the summer of 2004, when members of the military and investigative communities approached the association and asked for guidance. That summer, the American Psychological Association and the American Psychiatric Association held meetings on this subject, and representatives of each attended the other's meetings. The following year, when media stories had emerged about the abusive treatment of detainees, the American Psychological Association convened a task force to set forth guidelines for psychologists' involvement in interrogations. The mandate for the task force was to determine whether the current Ethics Code adequately spoke to ethical issues related to interrogations.

The task force began its *Report of the Task Force on Psychological Ethics and National Security* (2005) by clarifying that psychologists, regardless of their nomenclature, are always bound by the association's Ethics Code. The task force then issued 12 statements. The first statement, taking language directly from the United Nations Convention Against Torture, is “Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment,” and the second statement imposes an ethical obligation to report any such acts: “Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.” The *Report* is a consensus document, insofar as all members agreed to its positions, with the exception of three issues explicitly addressed at the report's end. The American Psychological Association's Council of Representatives, meeting after the task force had issued its report, elaborated by stating that no circumstances whatsoever—including war, threat of war, or national emergency—can ever justify torture.

In 2006, the American Medical Association and the American Psychiatric Association issued their positions on member involvement in interrogations. The American Psychiatric Association came out with its position first, announcing in a press release that the association “passes [a] position statement barring psychiatric participation in interrogation of detainees” (American Psychiatric Association, 2006). On the same day this position statement was issued, however, the then-president of the American Psychiatric Association was quoted in the media as stating the position was not “an ethical rule” and that military psychiatrists following orders “wouldn't get in trouble with” the association for participating in interrogations. He also acknowledged in the interview that psychiatrists continue to

serve in this role (Smith, 2006). These statements left a measure of uncertainty regarding the status of the American Psychiatric Association's position.

Several weeks following the issuance of the American Psychiatric Association statement, the American Medical Association (AMA) issued its position statement. While the AMA used slightly different nomenclature than the American Psychological Association or the American Psychiatric Association, a careful read of the AMA report in its entirety indicates that the associations are in near-complete agreement about the rules governing member involvement in interrogations. These very similar rules stem from a more conceptual agreement about how psychologists and physicians have ethical obligations both to individuals and to the public.

McCoy's brief treatment of how the three associations have addressed the issue of member involvement in military interrogations did not have the benefit of this history, but he was nonetheless able to make several interesting observations. Citing a Pentagon argument that physicians advising interrogators are behavioral scientists and therefore exempt from professional ethics codes, McCoy notes that "many psychiatrists unreservedly rejected the Pentagon's logic" (p. 183). The American Psychological Association's Task Force Report also explicitly rejected this position. McCoy notes with approval the AMA's application of concepts from the World Medical Association's ban of "torture" and "cruel, inhuman, or degrading" treatment, language that the American Psychological Association incorporated directly into its report. McCoy quotes from the United Nations 1982 Principles of Medical Ethics, but he does so in a selective manner. In addition to Paragraph 3, prohibiting contact which is not solely to "evaluate, protect, or improve" health, Paragraph 4 in the 1982 Principles describes the conditions under which a physician may assist in an interrogation (United Nations General Assembly, 1982). Also selective is McCoy's unfortunately provocative statement that "the APA [American Psychological Association] Ethics Code has stricter, more specific standards for the treatment of laboratory animals than for human subjects such as Guantanamo detainees" (p. 183). This statement ignores the fact that the Ethics Code addresses the treatment of animals in a single (out of 89) ethical standard.

Finally, McCoy appears to find it problematic that the American Psychological Association's report calls for research into the effectiveness of techniques designed to gather information. The report calls for research into a number of areas, such as the effects of conducting interrogations on the interrogators themselves and the role of culture in defining what constitutes "cruel, inhuman, or degrading treatment." In addition, the report states that studies should be conducted in a manner consistent with the Ethics Code. It is unclear why this research could not make a valuable contribution and be conducted in an ethical manner.

A Question of Torture addresses a hugely important and complex topic. McCoy's impressive research into this area will be read by many, and his comments on the ongoing work of professional associations that are examining this topic are certain to play a helpful and elucidating role. More important than the history, as McCoy would certainly agree, are the efforts of individuals and associations alike to ensure that no individual ever suffers torture or cruel, inhuman, or degrading treatment at the hands of a health professional.

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Blood Tests

Continued from page 53

found a number of sequences that converged well with the genes they previously obtained from the blood sample.

The third category was cross-validation using human genetic data linked to mood disorders. This work also involved extensive use of an Internet-borne database. An online sequence-based integrated map of the human genome is published by the University of Southampton in the United Kingdom. (There is a similar collection of information called the Marshfield Clinic Research Foundation database in the United States.) These databases on gene sequences include previously published works shown to have a genetic linkage to mood disorders.

Taken together, 3 separate vetting procedures were used to screen the sequences isolated from the original living human cohorts. At each step, a single question was asked: "Do any of the sequences match?" Answering this question was not straightforward, and statistical analyses were then performed to determine convergence. The researchers termed the entire protocol "convergent functional genomics."

That any genes could still be present after such screening is a testament to both the rigor of the work and the insightful nature of the experimental design. The researchers did indeed find matches. A total of 10 candidate

genes survived the screenings. Five came from the selection in the high-mood, or manic population: *Atxn1*, *EdnRb*, *Edg2*, *Fzd3*, and *Mbp*. Five came from the selection in the low-mood, or depressive population: *ErbB3*, *FGfr1*, *Mag*, *Pmp22*, and *Ugt8*.

What do these gene sequences do? This is probably the most biologically interesting aspect of the work, and it is easily the most opaque. Some of the gene sequences are involved in the normal myelination of neurons. These included the sequences *Edg2*, *Mag*, *Mbp*, *Pmp22*, and *Ugt8*. Several of these are involved in growth factor signaling: *ErbB3*, *FGfr1*, *Fzd3*, *Igf1*, and *Ptprn*.

What does the isolation of these sequences mean to our biological understanding of mood disorders? Not much, unfortunately. Growth factor and signal transduction sequences seem to hold the greatest promise for obtaining early leads. The presence of so many myelination-specific genes in an affective disorder, however, is less intuitive and certainly more surprising, and their roles are nearly a complete mystery.

Discovering biological roles was not the point of this work, however. There was a more practical issue: Given the blood data, how well did these sequences actually predict a mood disorder?

The answer makes these data especially compelling for the future clinic. Using the original populations, these 10 biomarkers were tasked to predict which patients had what dis-

order and which phase they were experiencing at the time of the test.

Such prediction is relatively easy. The researchers calculated a score on the basis of the ratio of high-mood to low-mood genes, using both sensitivity scores and specificity inventories. Their results were a stunner. In the first cohort (high mood only), sensitivity was 84.6% and specificity was 68.8%. In the second cohort (high mood only), sensitivity was 70.0% and specificity was 66.7%.

Similar results were obtained when predicting low mood. In the first cohort (low mood only), sensitivity was 76.9% and specificity was 81.3%. In the second cohort (low mood only), sensitivity was 66.7% and specificity was 61.5%.

These are extraordinary figures. As the researchers themselves pointed out, these scores are comparable to results obtained in prenatal tests that can predict Down syndrome. They do indeed seem to have uncovered a working blood test for an affective disorder.

Conclusion

These data were obtained with adults who were experiencing a specific disorder in an even more specific phase. The test was conducted with an assay that could be administered in any clinic capable of drawing someone's blood. Although not mentioned in this space, similar results were obtained in predicting disease states in the psychoses cohort. Some believe that blood test kits that are capable of such diagnostic discrimina-

tion could be available in as few as 5 years.

Of course, the robustness of these findings immediately suggests the commissioning of larger, more prospective studies. It also suggests something equally extraordinary: the critical role of the creation of specific databases and how their unfettered, online access took part in uncovering such big science.

That is the convergence that hit me as I finished reading some of the articles describing this work and gazed up to look at my son. There he was, fully engaged in a beautifully interactive Web site that described the Vikings' impact on medieval European life while my nose was buried in GeneCards. Two very different purposes, one very handy information source.

The Internet does not always have a great reputation, and some of the criticism is deserved. Nonetheless, I knew that such easy access to online information has—like my son and the field I love so much—quite a future indeed.

Dr Medina is a developmental molecular biologist and private consultant, with research interests in the genetics of psychiatric disorders.

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FROM OUR READERS

Detainee Interrogations: American Psychological Association Counters, but Questions Remain

I am writing to correct several inaccurate assertions in the essay, "The American Psychological Association and Detainee Interrogations: Unanswered Questions" (*Psychiatric Times*, July 2008, page 16), by Kenneth S. Pope, PhD, and Thomas G. Gutheil, MD. I have enormous respect for Drs Gutheil and Pope. I have studied Dr Pope's writings for many years, and I have had the opportunity to work with Dr Gutheil in Harvard's Program in Psychiatry and the Law.

The authors are correct in stating that the American Psychological Association and the American Psychiatric Association differ on the issue of member involvement in interrogations. According to the American

Psychiatric Association, psychiatrists should not be involved in interrogations even if the purpose is "identifying other persons . . . who may be planning to commit acts of violence." According to the American Psychological Association, it is ethical for psychologists to consult with interrogators to prevent acts of violence. This fundamental difference sets our associations apart on this issue.

In characterizing the psychologists' position, these authors assert—erroneously—that the American Psychological Association's prohibition against torture is somehow not enforceable under the American Psychological Association's Code of Ethics. The American Psychological

Association's Ethics Code absolutely prohibits torture and cruel, inhuman, and degrading treatment and punishment, as the Ethics Committee itself has asserted. Moreover, the American Psychological Association has been public and emphatic that following orders is never a defense of torture. The American Psychological Association's position is based on Article 2 of the United Nations' Convention Against Torture and states:

BE IT RESOLVED that the American Psychological Association affirms that there are no exceptional circumstances whatsoever, whether induced by a state of war or threat of war, internal political instability or any other public emergency, that may be invoked as a justification for torture or cruel, inhuman, or degrading treatment or punishment, including the in-

vocation of laws, regulations, or orders. . . .

Following orders can *never* justify or excuse torture or cruel, inhuman, or degrading treatment or punishment. The American Psychological Association has emphasized this point repeatedly in communications to US government officials and to the public.

The authors' discussion of ethical standard 1.02 is misdirected. The relevant aspect of standard 1.02, on conflicts between ethics and law, was drafted in the fall 2000 and thus has no connection whatsoever to the events of September 11, 2001. Moreover, this standard was written largely in response to conflicts regarding confidentiality, arising most often when courts issue subpoenas for psy-

(Please see Detainee Interrogations, page 58)

Detainee Interrogations

Continued from page 54

chologists' records (eg, psychological test data), usually in custody disputes. The drafters of the Ethics Code revision did not believe psychologists should be caught in a bind between a court and a licensing board or an ethics committee. They therefore concluded that psychologists should

be able to follow a valid court order, were the psychologist's attempts to resolve the conflict unsuccessful. This standard provides *no* defense to torture.

I would also emphasize that civil disobedience is entirely consistent with ethical standard 1.02. The American Psychological Association's 2007 resolution—which the *Washington Post* deemed a “rebuke” of this administration's interrogation policy

—explicitly affirms the prerogative of psychologists to engage in civil disobedience under the American Psychological Association Ethics Code. The resolution then endorses civil disobedience specifically in the context of military interrogations.

BE IT RESOLVED that the American Psychological Association, in recognizing that torture and other cruel, inhuman or degrading treatment and punishment can result

not only from the behavior of individuals but also from the conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights, *affirms the prerogative of psychologists to refuse to work in such settings, and will explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture* [emphasis added].

These aspects of the American Psychological Association's position are to be read in conjunction with other ethical parameters of psychologists' involvement in interrogations, such as the duty to intervene to stop torture or abuse, the obligation to report torture or abuse, and the absolute prohibition against mixing the roles of health care provider and consultant to an interrogation.

The authors make no mention whatsoever of psychologists who have used their professional positions to fight abuse. One stellar example is found in *The Dark Side*, in which author Jane Mayer reports that psychologist Michael Gelles, an American Psychological Association member, took heroic steps to fight abuse at Guantánamo. Another example comes from an unredacted government report (mentioned by the authors) that was recently obtained by the American Civil Liberties Union, in which a psychologist is described as *intervening to stop* an abusive interrogation and calling in medical personnel to evaluate the detainee.

The American Psychological Association's position is the result of informed and thoughtful debate that has continued for more than 3 years. Our membership has passionate feelings on this issue and the American Psychological Association has ensured that all voices and perspectives have been part of our dialogue. In the final analysis, psychologists all share the same goal: to end torture and abuse and to safeguard the welfare and human rights of everyone with whom we work.

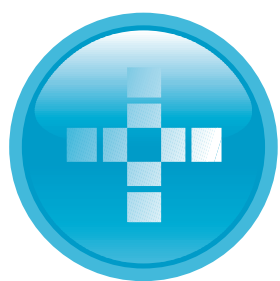
Stephen Behnke, JD, PhD
Washington, DC

Dr Behnke is director of ethics at the American Psychological Association.

The authors respond:

We respect Dr Behnke and appreciate his response. However, we respectfully disagree with his claims. We believe it is important to examine all claims in this area in light of the original documents and evidence.

Here are a few points of disagreement. First, Mayer's work and the



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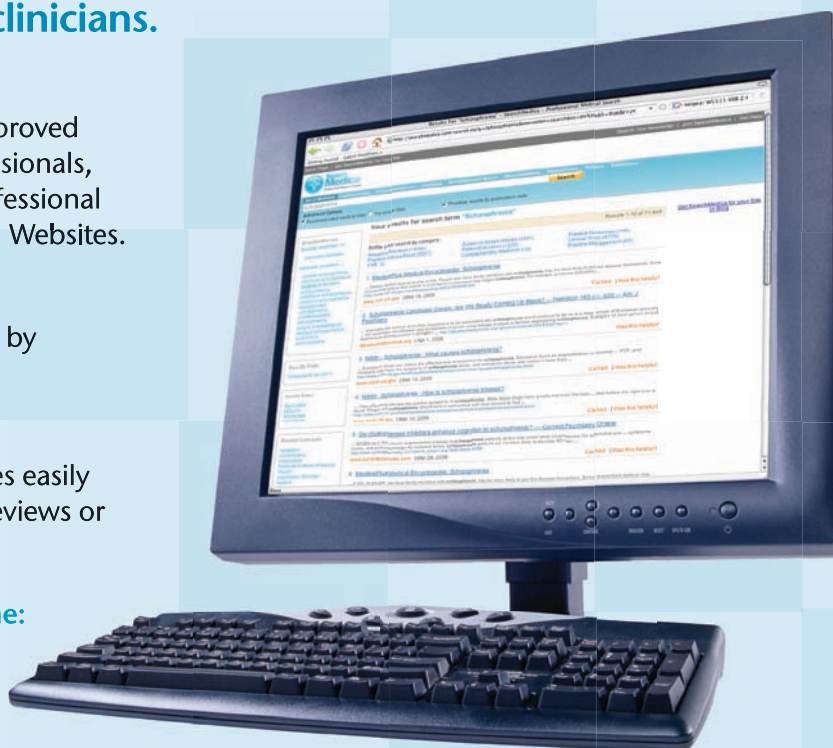
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government report obtained by the American Civil Liberties Union (ACLU), if read in their entirety, do not seem to support the American Psychological Association's positive view of psychologists' involvement in detainee interrogations.

Mayer's *The Dark Side* contains accounts of how "[General] Dunlavey soon drafted military psychologists to play direct roles in breaking detainees down. The psychologists were both treating the detainees clinically and advising interrogators on how to manipulate them and exploit their phobias." Mayer cites classic psychology experiments in which "shocking a dog repeatedly . . . could brutalize it into a state of complete passivity." Mayer's other works include accounts of how "psychologists were heavily involved in drawing up and monitoring interrogation plans, which were designed individually for each detainee. . . . Sleep deprivation was such a common technique. . . . Pornography [was used] to manipulate detainees. Detainees were routinely shackled in painful 'stress positions.'" Mayer cites one source's description of psychologists who "believed that to get someone to talk 'you have to hurt that person.'"

Dr Behnke described a government report obtained by the ACLU as providing an example of psychologists fighting abuse. The ACLU headed its news release for the report: "Newly Unredacted Report Confirms Psychologists Supported Illegal Interrogations in Iraq and Afghanistan." The ACLU had previously informed Dr Behnke: "We do not, however, agree with your conclusion that documents recently obtained by the ACLU . . . demonstrate that the [American Psychological Association's] 'policy of engagement served the intended purpose.' . . . Rather, we are deeply concerned by the fact that, viewed in context, these documents warrant the opposite conclusion."

Such revelations invite reexamination of the American Psychological Association's assurances that "psychologists knew not to participate in activities that harmed detainees" and that "psychologists all share the same goal: to end torture and abuse, and to safeguard the welfare and human rights of everyone with whom we work," as well as the data on which these assurances are based.

Second, instances in which individual psychologists attempt to stop abuse are admirable. However, citing them should not substitute for or prevent the careful examination of an organization's ethical standards and public statements and their relationship to what happened in settings like

Abu Ghraib and Guantánamo, which was the focus of our article.

Third, the problem with the American Psychological Association's ethical standard 1.02 is not implicitly allowing civil disobedience but explicitly endorsing the Nuremberg defense of "just following the law." The Nuremberg courts rejected the notion that defendants could escape accountability for violating ethical responsibilities by claiming that they had adhered to laws, regulations, and other forms of state authority.

Section 1.02, however, was changed after September 11, 2001, to affirm that when "psychologists' ethical responsibilities" were in unresolvable conflict with governmental authority, "psychologists may adhere to the requirements of the law, regulations, or other governing legal authority."

Section 1.02 contains no qualifications or restrictions, appears in the code's enforceable section, and explicitly permits psychologists to set aside all "ethical responsibilities"—whether they appear elsewhere in the code, in formal policies and resolutions, or in American Psychological Association's public statements—if they are in irreconcilable conflict with the specified forms of state authority.

Dr Behnke suggests that section 1.02 was "written largely in response to conflicts regarding confidentiality, arising most often when courts issue subpoenas for psychologists' records." Rather than provide a blanket endorsement of the Nuremberg defense applicable to all ethical responsibilities, the American Psychological Association might have rewritten the standard on confidentiality to allow psychologists to release records in response to a valid subpoena, a court order, and so on.

What is puzzling is that since 1992, the American Psychological Association Ethics Code already addressed this problem. Both the 1992 code (section 5.05a) and the current 2002 code (section 5.05b) include a statement that allows disclosure of confidential information when mandated or permitted by law: "Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose."

Finally, it is unfortunate that Dr Behnke did not address the major section of our article, which was reflected in the article's subtitle: "Unanswered Questions." We hope that the American Psychological Association will not consider basic questions like those in our original article off-limits. Traditionally, psychology has been a

scientific discipline that is empirically grounded and open to questions. Why not disclose the methodology and evidence for its public reassurances over the years to those who are concerned about the interrogations in settings like Abu Ghraib and Guantánamo?

Psychologists are in a strong position to confront these difficult questions. Psychological studies have made us aware of the many cognitive, social, and institutional factors that can blunt an organization's readiness and ability to rethink years of commitment to a particular approach. They have also taught us to be open to the possibility of harmful outcomes and unintended consequences.

The American Psychological Association's willingness to provide the methodology and data on which it has based its assurances will enable an informed discussion and open a re-examination of these complex issues.

Kenneth S. Pope, PhD, ABPP
Thomas G. Gutheil, MD
Boston

Dr Pope is a licensed psychologist and diplomate in clinical psychology. He is a recipient of the American Psychological Association (APA) Award for Distinguished Contributions to Public Service and the APA Division 12 Award for Distinguished Contributions to Clinical Psychology, and has chaired the Ethics Committee of the APA and the American Board of Professional Psychology. His most recent book is Ethics in Psychotherapy and Counseling: A Practical Guide, 3rd ed (coauthored with Melba Vasquez). A fellow of 9 APA divisions, he resigned from the APA after 29 years of membership, stating his respectful disagreement with the changes APA had made in its ethical stance that had moved the APA far from its ethical foundation, historic traditions, and basic values, and beyond what he could in good conscience support with his membership.

Dr Gutheil is professor of psychiatry and co-founder of the Program in Psychiatry and Law, Beth Israel Deaconess Department of Psychiatry, Harvard Medical School, in Boston. He is a nationally known forensic psychiatrist and author of some 250 publications, and was president of the American Academy of Psychiatry and Law in 2000 and is current president of the International Academy of Law and Mental Health. He teaches the forensic ethics unit for the American Academy of Psychiatry and Law Board Review course and has written the forensic ethics chapter for a textbook on psychiatric ethics. In addition, he was chair

of the Ethics Committee of the American Board of Forensic Psychiatry. He is a recipient of every major award in the forensic field and is listed under forensic psychiatry in the 1994 and 2005/2006 editions of Best Doctors in America. □

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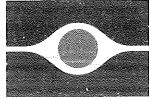
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Ethics, Human Rights, and Interrogations

The Position of the American Psychological Association

Stephen H. Behnke and Olivia Moorehead-Slaughter

Abstract

From 2004 through 2010, the American Psychological Association expended considerable time and resources examining the ethical aspects of psychologists' involvement in national-security-related interrogations. In this chapter, the authors examine APA's evolving position, beginning with the reasons that stimulated APA to begin its work on ethics and interrogations. The authors discuss in detail the policies adopted by the APA during these years and identify the motivations that led to each further development in APA policy. In addressing a series of policies adopted by APA, the authors highlight the considerable debate within the Association concerning the appropriate position for the APA to adopt and provide an overview of why the issue was so challenging for the APA membership.

Keywords: ethics, human rights, interrogation, military, national security

In 2004, the American Psychological Association (APA) began to explore the ethical aspects of psychologists' involvement in national-security-related interrogations. APA's decision to address this issue on the Association level came primarily from questions that members raised regarding ethics and national-security-related activities. As these members pointed out, the "Ethical Principles of Psychologists and Code of Conduct" (APA, 2002)—APA's Ethics Code—offered substantial guidance on issues that had been central to the practice of psychology for many decades, such as informed consent, research ethics, and authorship. The Ethics Code appeared to offer less guidance, at least in an explicit manner, regarding the ethical challenges that national-security-related work presented. For the next several years, APA's Council of Representatives, the Association's governing body, spent significantly more time exploring the ethical aspects of psychologists' involvement in national-security-related interrogations than it spent considering any other single issue. Council adopted a series of resolutions on the involvement of psychologists in

interrogations and took the rare step of amending the APA Ethics Code outside a full Ethics Code revision process. In addition to the work of Council, the APA membership passed a resolution related to national-security-related settings which established new APA policy.

In this chapter, we review APA's positions related to ethics and interrogations. The review is not intended to capture or explain every aspect of the Association's extensive work since 2004 on this topic nor, given the number and complexity of the issues, could it do so. Rather, the review is intended to highlight central aspects of the actions taken by the Association. Readers are strongly encouraged to read the original Association texts and related documents (<http://www.apa.org/news/press/statements/interrogations.aspx>) for a comprehensive understanding of the Association's evolving position.

The policies set forth in the sections that follow were the subject of considerable discussion, debate, and contention both while they were being drafted and after. Certain members in the Association felt strongly that psychologists should have no

involvement whatsoever in interrogations. Other members felt that psychologists did have a role in interrogations but should not be involved in settings that were out of compliance with international law. Still other members felt that psychologists should be present *wherever* interrogations are conducted to help ensure that interrogations are conducted in a safe, legal, ethical, and effective manner. All of these members brought great passion and energy to their positions, and all contributed their voices to APA's evolving position.

The Report of the Presidential Task Force on Psychological Ethics and National Security

In 2004, APA President Ron Levant determined that a presidential task force was the most appropriate vehicle for analyzing the ethical aspects of psychologists' involvement in national-security-related work. He therefore appointed the Presidential Task Force on Psychological Ethics and National Security (PENS). Meeting in February 2005, the APA Board of Directors charged the Task Force to

[E]xamine whether our current Ethics Code adequately addresses [the ethical dimensions of psychologists' involvement in national-security-related activities], whether the APA provides adequate ethical guidance to psychologists involved in these endeavors, and whether APA should develop policy to address the role of psychologists and psychology in investigations related to national security.

At the time the Task Force met in June 2005, media reports had surfaced regarding individuals having been abused in U.S. detention facilities. Nonetheless, the PENS Task Force did not adopt an investigative or adjudicatory role:

The Task Force noted that the Board of Directors' charge did not include an investigative or adjudicatory role, and as a consequence emphasized that it did not render any judgment concerning events that may or may not have occurred in national-security-related settings.

The Task Force members reasoned that any competent investigation would require both subpoena power and security clearances. As a private association, APA does not have subpoena power and many of the individuals who would be involved in some aspects of conducting such an investigation, such as APA staff, do not have the necessary security clearances. As a result, the Task Force determined that

any attempt to conduct an investigation would be ineffective and would serve only to demonstrate the futility of such an endeavor by APA. The subsequent work of the Senate Armed Services Committee, among other congressional committees, has underscored the superiority of congressional investigations into the relevant events.

As an introduction to the 12 statements that the Task Force set forth in its report to guide psychologists' national-security-related work, the Task Force made two points. The Task Force viewed each of these points as critical to the context in which the report would be read. The first point was in response to an argument that advising or consulting to interrogations, because this role is outside the scope of a health-care-provider role, is likewise outside the purview of the Ethics Code. The Task Force felt it necessary to reject this argument forcefully at the outset of the report. In doing so, the Task Force emphasized that regardless of their role, psychologists are always bound by the Ethics Code:

when psychologists serve in any position by virtue of their training, experience, and expertise as psychologists, the APA Ethics Code applies. The Task Force thus rejected the contention that when acting in roles outside traditional health-service-provider relationships psychologists are not acting in a professional capacity as psychologists and are therefore not bound by the APA Ethics Code.

The second point emphasized by the Task Force is that psychologists have unique contributions to make when advising and consulting to interrogation processes:

Acknowledging that engaging in such consultative and advisory roles entails a delicate balance of ethical considerations, the Task Force stated that psychologists are in a unique position to assist in ensuring that these processes are safe and ethical for all participants.

In this statement, the Task Force affirmed that psychologists have a valuable contribution to make to interrogation processes. The report goes on to expound on this notion by identifying contributions in both the operational and the research arenas.

Thus, the context for the main thrust of the PENS Task Force report—the report's 12 guiding statements—is that psychologists are always bound by the Ethics Code and that psychologists have valuable and ethical contributions to make in

interrogation processes (APA, Presidential Task Force on Psychological Ethics and National Security, 2005). Put simply, the Task Force viewed the 12 statements as flowing directly from what was already contained in the APA Ethics Code, which governs national-security-related work as it governs all areas of psychologists' professional lives.

Having set this context, the Task Force set forth its 12 statements as guidance for psychologists' involvement in interrogation processes. These 12 statements became a foundation for further Association work in the following years:

1. Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment.
2. Psychologists are alert to acts of torture and other cruel, inhuman, or degrading treatment and have an ethical responsibility to report these acts to the appropriate authorities.
3. Psychologists who serve in the role of supporting an interrogation do not use health-care-related information from an individual's medical record to the detriment of the individual's safety and well-being.
4. Psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights.
5. Psychologists are aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.
6. Psychologists are sensitive to the problems inherent in mixing potentially inconsistent roles such as health care provider and consultant to an interrogation, and refrain from engaging in such multiple relationships.
7. Psychologists may serve in various national-security-related roles, such as a consultant to an interrogation, in a manner that is consistent with the Ethics Code, and when doing so psychologists are mindful of factors unique to these roles and contexts that require special ethical consideration.
8. Psychologists who consult on interrogation techniques are mindful that the individual being interrogated may not have engaged in untoward behavior and may not have information of interest to the interrogator.
9. Psychologists make clear the limits of confidentiality.

10. Psychologists are aware of and do not act beyond their competencies, except in unusual circumstances, such as set forth in the Ethics Code.

11. Psychologists clarify for themselves the identity of their client and retain ethical obligations to individuals who are not their clients.

12. Psychologists consult when they are facing difficult ethical dilemmas.

The 12 statements are based on themes central to the Ethics Code. First, psychologists do not inflict harm; second, psychologists retain ethical obligations to *all* individuals they work with, even those who may not be identified as "clients"; third, psychologists keep separate incompatible roles; and fourth, psychologists do not go beyond their competencies. In keeping with the Board of Directors' mandate to explore whether the Ethics Code adequately addresses the ethical challenges faced by psychologists in national-security-related roles, the PENS report specifies how the Task Force derived its statements from the Ethics Code. A careful reading of the report thus reveals how the Task Force took themes central to the Ethics Code and applied them to a national-security-related context, specifically that of interrogations.

The PENS report emphasized how the locus of moral agency must reside in the individual psychologist:

The development of professional skills and competencies, ethical consultation and ethical self-reflection, and *a willingness to take responsibility for one's own ethical behavior* [emphasis added] are the best ways to ensure that the national-security-related activities of psychologists are safe, legal, ethical, and effective.

This point is important because it serves to recognize the limits of ethics codes and professional associations in the ethical behavior of individual psychologists. Ultimately, in the eyes of the Task Force, each psychologist serving in this role must make a decision for which he or she will accept ethical responsibility.

The report called for research into effective ways of gathering information:

Psychologists should encourage and engage in further research to evaluate and enhance the efficacy and effectiveness of the application of psychological science to issues, concerns and operations relevant to national security. One focus of a broad program of research is to examine the efficacy and effectiveness of

information-gathering techniques, with an emphasis on the quality of information obtained.

The report issued a further call for research on interrogators themselves:

In addition, psychologists should examine the psychological effects of conducting interrogations on the interrogators themselves to explore ways of helping to ensure that the process of gathering information is likely to remain within ethical boundaries.

The report's calls for research are noteworthy, both by virtue of underscoring the value of the *scientific* contributions psychologists are poised to make in this area of practice and because such calls highlight how little information is available to guide current practices.

The report also placed significant emphasis on culture and ethnicity:

Psychologists working in this area should inform themselves of how culture and ethnicity interact with investigative or information-gathering techniques, with special attention to how failing to attend to such factors may result in harm.

The report returned several times to the importance of understanding culture and ethnicity in eliciting information. This emphasis highlights the notion of competence, insofar as to be competent in this role, psychologists must be knowledgeable about and sensitive to how culture and ethnicity are factors in the process of gathering information.

Each of these points—identifying the individual psychologist as the ultimate locus of moral agency, calling for a broad range of research, and repeatedly underscoring the centrality of culture and ethnicity in information-eliciting processes—is critical to understanding the significance of the PENS report.

The Task Force was mindful that the PENS report would be APA's initial statement on a complex and challenging topic and that much work would inevitably follow. The Task Force therefore explicitly located itself in an unfolding story by stating that the APA should

View the work of this Task Force *as an initial step* [emphasis added] in addressing the very complicated and challenging ethical dilemmas that confront psychologists working in national-security-related activities. *Viewed as an initial step in a continuing process* [emphasis added], this report will ideally assist APA to engage in thoughtful reflection of complex ethical considerations in an area of psychological

practice that is likely to expand significantly in coming years.

Thus, rather than to end ethical exploration, the PENS report was written to begin APA's discussion. Read in this manner, the PENS report, far from foreclosing further consideration of ethics and interrogations, was an invitation to the Association to embrace the challenging ethical questions raised by an area of practice that is not explicitly and comprehensively delineated in the 2002 APA Ethics Code, but whose ethical foundation, like that of the rest of psychology, can be found in the Code's principles and standards.

Following the issuance of the PENS report, criticism arose because of the composition of the Task Force. It was pointed out that the majority of members on the PENS Task Force had Department of Defense or national-security-related affiliations. Such affiliations, it was argued, compromised the objectivity of the Task Force's work. In response to this criticism, others argued that it was necessary to have a task force composed primarily of individuals with extensive subject-matter knowledge who could fashion a report that would be most useful to individuals engaged in intelligence-gathering activities.

2005 Actions by the APA Ethics Committee, Board of Directors, and Council of Representatives

The PENS Task Force met on the final weekend of June 2005. On completion of the final draft of its report, the Task Force forwarded the report to the APA Ethics Committee, which found the 12 statements appropriate interpretations and applications of the APA Ethics Code. Thus, the Ethics Committee determined that the PENS Task Force had properly applied relevant aspects of the Ethics Code in deriving its conclusions about the guidelines that govern psychologists' involvement in interrogations.

Following review by the Ethics Committee, the Board of Directors reviewed the PENS report. The Board has available to it a mechanism in the APA bylaws whereby it may adopt policy for the Association without prior review by APA's governing body, the Council of Representatives. Relying on this mechanism, in July 2005, the Board adopted the 12 statements in the PENS report as APA policy. The reason for the Board's acting without delay was to provide immediate guidance for psychologists engaged in this area of work.

The following month, in August 2005, at the APA annual convention in Washington, DC, the

Council of Representatives reviewed the PENS report. The Council was not asked to adopt the PENS report as APA policy—the Board of Directors had taken action the previous month—but the Council did approve a series of motions in response to the PENS report. Several of these motions adopted recommendations made by the PENS Task Force, for example, that the APA write a casebook and commentary on the report and that the APA explore the possibility of creating a mechanism to provide ethics consultation to psychologists working in national security roles.

In addition to affirming several of the recommendations in the PENS report, Council adopted the following language:

Council acknowledges, based on the U.N. Convention Against Torture, that there are no exceptional circumstances whatsoever, whether induced by a state of war or a threat of war, internal political instability or any other public emergency, that may be invoked as a justification for torture, including the invocation of laws, regulations, or orders.

This statement, that there is no justification for torture, was adopted in two subsequent Council resolutions discussed in the sections that follow. In this manner, the APA's governing body had affirmed and reaffirmed that torture is always and in every instance unethical.

The 2006 Resolution

Following the Council's review of the PENS report at the 2005 annual convention, APA members had an opportunity to read the PENS report and provide feedback on their reactions. Many statements in the PENS report—for example, that “psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment”—met with universal agreement and support. Others drew critical reaction, such as the fourth of the 12 Task Force statements that “psychologists do not engage in behaviors that violate the laws of the United States, although psychologists may refuse for ethical reasons to follow laws or orders that are unjust or that violate basic principles of human rights.” Criticism of this statement arose because it made U.S. law, rather than international human rights norms, the standard to which psychologists who are members of the American Psychological Association must adhere. Between the 2005 and 2006 meetings, a consensus had emerged among Council members that the PENS report required elaboration.

As August 2006 approached, a group of APA division leaders and Council members began drafting a resolution that would be placed before Council at the APA's annual convention in New Orleans. The drafters focused on several issues from the PENS report that they believed merited further clarification or elaboration. At the same time, the drafters wanted to write a resolution that would not be bound to the interrogation context. As a consequence, they used language that would apply broadly across the entire range of work that psychologists do. The breadth of the resolution's scope is captured by its title, “Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment” (APA, 2006). The resulting resolution is applicable in all contexts in which psychologists engage in professional activities and so is not limited to advising or consulting to interrogations.

Aspects of the APA's position that drafters of the 2006 resolution felt invited further clarification and elaboration included the role of international human rights texts in guiding psychologists' behavior, the definition of torture, and the responsibility of psychologists who become aware of torture to respond. Psychologists drafting language to amend the Ethics Code also believed it important to reaffirm the APA's “no justification” policy, namely, that there is never a justification for psychologists to engage directly or indirectly in torture. Each of these points was incorporated in the resolution adopted by Council in New Orleans on August 9, 2006.

The 2006 resolution takes three steps to emphasize the role of international human rights texts. First, the resolution identifies specific international texts as relevant to psychologists' work:

BE IT RESOLVED that, based upon the American Psychological Association 1986 Human Rights Resolution, the APA reaffirms its support for the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as well as the joint congressional Resolution opposing torture that was signed into law by President Reagan on October 4, 1984, and further supports the McCain Amendment, the United Nations Basic Principles for the Treatment of Prisoners, and the United Nations Principles on the Effective

Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

The second step in the 2006 resolution emphasizing the importance of international human rights texts draws directly on Council's action in August 2005, by invoking texts that impose an absolute prohibition against torture:

BE IT RESOLVED that the APA reaffirms its support for the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and its adoption of Article 2.2, which states [T]here are no exceptional circumstances whatsoever, whether induced by a state of war or a threat of war, internal political instability or any other public emergency, that may be invoked as a justification of torture. . . .

The third step in the 2006 resolution emphasizing the importance of international human rights texts is its statement that

based upon the APA's long-standing commitment to basic human rights including its position against torture, psychologists shall work in accordance with international human rights instruments relevant to their roles.

Thus, the 2006 resolution expands the PENS report's focus on U.S. law by bringing international human rights texts to the center of the Association's ethical analyses and by stating that psychologists work in accordance with human rights instruments relevant to psychologists' roles.

In keeping with the focus on international human rights texts, and responding to a debate regarding the definition of torture occurring in the public arena, the 2006 resolution incorporates a definition of *torture* from a United Nations Convention:

BE IT RESOLVED that, in accordance with Article 1 of the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, [T]he term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him 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 [e.g., governmental, religious, political, organizational] capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions [in accordance with both domestic and international law]. . . .

By using a definition of torture taken from a United Nations text, the 2006 resolution moved the Association away from reliance on definitions of torture that had been suggested by individuals within the administration of President George W. Bush and that had been widely rejected. The language in the 2006 resolution therefore explicitly "de-linked" the APA's work on interrogations from reliance on U.S. administration definitions of torture.

In addition to emphasizing the importance of international human rights texts and providing a definition of torture, the 2006 resolution elaborates the PENS report statement that psychologists have an ethical obligation to report acts of torture and cruel, inhuman, or degrading treatment or punishment (CIDTP). The 2006 resolution states that over and above this reporting obligation, psychologists have an ethical obligation to intervene:

BE IT RESOLVED that should torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment evolve during a procedure where a psychologist is present, the psychologist shall attempt to intervene to stop such behavior, and failing that exit the procedure

The Council adopted the 2006 "Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment" (APA, 2006) enthusiastically. In relatively short order, however, it became clear that APA's work on this issue was not yet done. This sense—that the APA had more work to do on the issue—was stimulated by the passion of APA members with widely divergent views on the subject matter and by unfolding events in the public domain. As time went on and more information about what had occurred in national-security-related interrogations came to light, APA members believed that further commentary by the Association on the ethical aspects of interrogation was critical.

The 2007 Resolution

The 2006 resolution spoke broadly across the range of psychologists' activities. Events in the public

domain had been unfolding in a manner that led Council members to believe further elaboration and specification of the APA's position against torture in the PENS report and the 2006 resolution were necessary. In anticipation of the Council's 2008 meeting at the annual convention in San Francisco, Council members began to draft a resolution that would reaffirm the APA's position against torture and apply the PENS report and 2006 resolution to a particular set of individuals: lawful and unlawful enemy combatants, as those terms are defined in the Military Commissions Act of 2006.

The history and development of the 2007 resolution must be viewed in the context of a second proposed resolution that was referred to as the "moratorium resolution." The moratorium resolution called for a moratorium on psychologists' involvement as advisors or consultants to interrogations in settings for foreign detainees. At the 2007 annual convention, two possible resolutions were before the Council: an elaboration of the 2006 resolution and the moratorium resolution. Ultimately, the Council decided to vote on a resolution that had wide support within that body and then to vote on a revised moratorium resolution as an amendment to the main resolution. (At that point the amendment was no longer properly a moratorium resolution because it now called for an end—not just a moratorium—to roles for psychologists other than as health care providers at certain detention facilities.) The council adopted the main resolution but did not accept the amendment.

The drafters of the 2007 resolution focused on several areas in which they believed the 2006 resolution would benefit from further elaboration and clarification because it would be applied to enemy combatants. At the same time, the drafters wanted to make clear their strong and continuing support for everything in the 2006 resolution. To achieve these two goals, the 2007 resolution was titled "Reaffirmation of the American Psychological Association Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Its Application to Individuals Defined in the United States Code as 'Enemy Combatants'" (APA, 2007). By this title, the drafters made it clear that the 2007 resolution was both reaffirming and drawing on work the APA had already done as well as demonstrating how the APA's position applied to a particular set of individuals.

The 2007 resolution was therefore intended to achieve multiple goals. These goals included reiterating the APA's absolute condemnation of

torture and CIDTP, identifying specific techniques associated with abusive interrogations in order to condemn and prohibit them, stating that conditions of confinement could themselves constitute torture, endorsing civil disobedience as the ethical response to an order to engage in torture or CIDTP, and calling on U.S. courts of law to reject evidence obtained through torture or CIDTP.

As an initial matter, the resolution reiterated the APA's prohibition against torture and CIDTP in any and all circumstances:

BE IT RESOLVED that the American Psychological Association unequivocally condemns torture and cruel, inhuman, or degrading treatment or punishment, under any and all conditions, including detention and interrogations of both lawful and unlawful enemy combatants as defined by the U.S. Military Commissions Act of 2006.

Consistent with this prohibition, the resolution reiterated what was, by then, the APA's longstanding position that there is never a justification for torture or CIDTP:

BE IT RESOLVED that the American Psychological Association affirms that there are no exceptional circumstances whatsoever, whether induced by a state of war or threat of war, internal political instability or any other public emergency, that may be invoked as a justification for torture or cruel, inhuman, or degrading treatment or punishment, including the invocation of laws, regulations, or orders.

The 2007 resolution thereby reaffirmed previous APA statements and resolutions. The 2007 resolution then moved beyond what the APA had previously done in an important way. The 2006 resolution had defined torture according to a United Nations definition. As events in the public domain unfolded, drafters of the 2007 resolution believed that much greater specificity regarding what constitutes torture in the context of interrogations was needed. The drafters therefore identified a list of specific prohibited techniques:

BE IT RESOLVED that this unequivocal condemnation includes all techniques defined as torture or cruel, inhuman or degrading treatment under the 2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the United Nations Convention Against Torture, and the Geneva Convention. This unequivocal condemnation includes, but is by no means limited to, an absolute prohibition for

psychologists against direct or indirect participation in interrogations or in any other detainee-related operations in mock executions, water-boarding or any other form of simulated drowning or suffocation, sexual humiliation, rape, cultural or religious humiliation, exploitation of phobias or psychopathology, induced hypothermia, the use of psychotropic drugs or mind-altering substances used for the purpose of eliciting information; as well as the following used for the purposes of eliciting information in an interrogation process: hooding, forced nakedness, stress positions, the use of dogs to threaten or intimidate, physical assault including slapping or shaking, exposure to extreme heat or cold, threats of harm or death; and isolation, sensory deprivation and over-stimulation and/or sleep deprivation used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm; or the threatened use of any of the above techniques to the individual or to members of the individual's family. . . .

Although this list was well received by members of the Association following the Council's adoption of the resolution, critics later pointed out that placing the techniques into three categories was problematic. The first category in the list consisted of techniques that are absolutely prohibited, such as mock executions, waterboarding, and sexual humiliation. The second category consisted of techniques such as hooding and forced nakedness "used for the purposes of eliciting information in an interrogation process." Considered especially problematic was the description of the third and final category—consisting of isolation, sensory deprivation, and overstimulation and/or sleep deprivation—insofar as these techniques were prohibited only when used "in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm." Although there were sound reasons for this categorization, the wording adopted by the Council lent itself to the interpretation that psychologists were to "calibrate" the amount of suffering that a detainee was allowed to experience during an interrogation. Though this possibility had never been the drafters' intent, soon after convention had ended a consensus emerged that this wording would need to be addressed.

Drafters of the 2007 resolution felt it important to elaborate even further on the concept of torture, beyond identifying specific techniques. Discussions in the public domain had focused primarily on

techniques that the resolution identified and prohibited. Over and above specific behaviors, however, were the very conditions of confinement. The 2007 resolution states that conditions of detention settings can themselves constitute torture:

BE IT RESOLVED that the American Psychological Association, in recognizing that torture and other cruel, inhuman or degrading treatment and punishment can result not only from the behavior of individuals, but also from the conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights, affirms the prerogative of psychologists to refuse to work in such settings, and will explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture. . . .

This statement, that conditions of confinement in addition to specific behaviors, may constitute torture, was accompanied by an explicit endorsement of civil disobedience as the ethical response to torture. This endorsement was reiterated in the resolution as consistent with the APA Ethics Code:

BE IT RESOLVED that the American Psychological Association commends those psychologists who have taken clear and unequivocal stands against torture and cruel, inhuman or degrading treatment or punishment, especially in the line of duty, and including stands against the specific behaviors (in lines 81 through 100) or conditions listed above; and that the American Psychological Association affirms the prerogative of psychologists under the Ethical Principles of Psychologists and Code of Conduct (2002) to disobey law, regulations or orders when they conflict with ethics.

In two separate places, then, the 2007 resolution endorsed disobedience in the face of an order to engage in torture or CIDTP and tied this endorsement explicitly to the Ethics Code's support of civil disobedience.

The 2007 resolution reached beyond psychology in several ways. In one example, the resolution spoke directly to those in government who are in a position to influence interrogation policy:

BE IT RESOLVED that the American Psychological Association calls on the United States government—including Congress, the Department of Defense, and the Central Intelligence Agency—to prohibit the use of these methods in all interrogations and that the American Psychological Association shall inform

relevant parties with the United States government that psychologists are prohibited from participating in such methods. . . .

Following adoption of the resolution, in response to this “Be It Resolved,” the APA wrote letters to the President of the United States, the director of the Central Intelligence Agency, the Attorney General, the Secretary of Defense, and key members of Congress informing them of the APA’s position. In another example of reaching beyond psychology, the 2007 resolution called on U.S. courts to reject testimony derived from torture or CIDTP:

BE IT RESOLVED that the American Psychological Association, in order to protect against torture and cruel, inhuman, or degrading treatment or punishment, and in order to mitigate against the likelihood that unreliable and/or inaccurate information is entered into legal proceedings, calls upon United States legal systems to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment.

Thus, the 2007 resolution spoke to members of the Association and to those outside the Association who were in a position to influence policy. Given the significance of this issue to the field of psychology and to the country, the APA felt it entirely appropriate to address both groups to convey both the Association’s absolute prohibition against torture as well as the Association’s analysis that specific techniques associated with harmful and abusive interrogations were considered torture.

The 2008 Amendment

Initial reaction to the 2007 resolution, in particular to the prohibition of specific techniques, was positive. Of particular note to commentators was the resolution’s specificity. As far as the APA could determine, no other mental health association had said precisely what was meant by the word *torture* in the interrogation context. In adopting the resolution, the APA had now done so.

At the same time the resolution was being well received, a growing consensus began to emerge that language in the paragraph identifying specific techniques lent itself to an interpretation never considered by the drafters. The language in question applied to a category of techniques that were prohibited when “used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm.” According to this interpretation, the role of

a psychologist in consulting or advising on an interrogation was to calibrate the degree of pain so that it would not reach the level of significant pain or suffering and so be prohibited by the resolution. The initial reaction of the Council members most closely involved in drafting the resolution’s language was that they had never conceptualized such a role for psychologists. Nonetheless, it became clear that many reading the resolution were confused about what the language meant.

In seeking to clarify the confusion, the drafters revisited why particular language had been applied to the techniques in question, “isolation, sensory deprivation and over-stimulation and/or sleep deprivation.” The reason was that the administration of a detention or correctional facility might require segregating individuals from other inmates or detainees, adhering to specific sleep routines, or depriving detainees or inmates from sensory input that could then expose information regarding a facility’s vulnerabilities. The original wording of the resolution was intended to make it clear that although certain techniques had no legitimate purpose at any time, in any place—sexual humiliation, for example—other activities might have a legitimate role in a detention facility.

In the fall of 2007, several members of the Council began to collaborate in an effort to clarify the resolution’s true intent. There was consensus on what the resolution was intended to accomplish: to identify and prohibit specific techniques associated with interrogations that constitute torture. There was likewise consensus that the resolution was never intended to prohibit a range of activities associated with the efficient and ethical administration of a facility. Over the course of several weeks, a number of editorial possibilities were considered, until the drafters finally proposed language that the Council enthusiastically adopted:

BE IT RESOLVED that this unequivocal condemnation includes all techniques considered torture or cruel, inhuman or degrading treatment or punishment under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; the Geneva Conventions; the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; the Basic Principles for the Treatment of Prisoners; or the World Medical Association Declaration of Tokyo.

An absolute prohibition against the following techniques therefore arises from, is understood in the context of, and is interpreted according to these texts: mock executions; water-boarding or any other form of simulated drowning or suffocation; sexual humiliation; rape; cultural or religious humiliation; exploitation of fears, phobias or psychopathology; induced hypothermia; the use of psychotropic drugs or mind-altering substances; hooding; forced nakedness; stress positions; the use of dogs to threaten or intimidate; physical assault including slapping or shaking; exposure to extreme heat or cold; threats of harm or death; isolation; sensory deprivation and over-stimulation; sleep deprivation; or the threatened use of any of the above techniques to an individual or to members of an individual's family. Psychologists are absolutely prohibited from knowingly planning, designing, participating in or assisting in the use of all condemned techniques at any time and may not enlist others to employ these techniques in order to circumvent this resolution's prohibition.

The language of the amended paragraph was written to make it clear that the prohibition extends to techniques "considered torture or cruel, inhuman or degrading treatment or punishment" under five international human rights texts. Thus, the starting point for the analysis is asking whether a technique is considered torture or CIDTP under the named documents. The amended paragraph underscores these texts as the touchstone for determining what constitutes torture and CIDTP when the paragraph continues, "An absolute prohibition against the following techniques therefore arises from, is understood in the context of, and is interpreted according to these texts." The drafters of the amended paragraph thus used these international texts to anchor the APA's position against specific techniques of interrogation. A careful review of the five international texts and the definitions contained therein is therefore essential to understand the APA's position fully.

During the Council meeting, questions arose to confirm that the amended language would not be unduly broad. As examples, questions were asked regarding whether strip searches are appropriate, whether it is acceptable for a psychologist to advise a hostage negotiation team, whether an individual might be segregated in a cell for safety reasons or to prevent a cover story from being fabricated, and whether an individual might be prevented from seeing his or her surroundings during transporta-

tion for security reasons. There was immediate and complete consensus that each of these activities, when reviewed in the context of the five relevant texts and their definitions, did not fall within the prohibition. The point was reemphasized that the texts named in the resolution's amended paragraph provide the necessary context for the ethical analysis determining whether a particular behavior is prohibited.

The Petition Resolution

The PENS report, the 2006 and 2007 resolutions, and the 2008 amendment had focused almost exclusively on psychologists' behaviors. These texts set forth rules for psychologists regarding what behaviors were permitted, required, or prohibited. Although psychologists across the Association considered establishing such rules as essential—indeed, all roles for psychologists have governing rules—there was another aspect to the interrogation issue that was stimulating considerable discussion. A large number of APA members believed that in addition to setting forth rules governing specific behaviors for psychologists, the APA should address whether special rules should apply to settings that violate international or U.S. law.

Following adoption of the February 2008 amendment, a group of APA members drafted and brought forth a petition under a provision in the APA bylaws that allows a matter to go before the membership for a direct vote. The petition's resolution clause stated the following:

Be it resolved that psychologists may not work in settings where persons are held outside of, or in violation of, either international law (e.g., the UN Convention Against Torture and the Geneva Conventions) or the U.S. Constitution (where appropriate), unless they are working directly for the persons being detained or for an independent third party working to protect human rights.

A footnote to this paragraph read, "It is understood that military clinical psychologists would still be available to provide treatment for military personnel."

The petition was submitted in accordance with the relevant provision of the bylaws. Having received the petition, the APA's Board of Directors determined that the process should move forward as expeditiously as reasonably possible. Over the next several weeks, pro and con statements were drafted, and the petition resolution was mailed to the APA membership for a vote. In September 2008, the membership adopted the petition resolution.

Following adoption of the petition resolution, a number of questions arose regarding the meaning of the resolution clause. On its surface, the meaning of the clause seemed straightforward. In settings that violate international law or the U.S. Constitution, psychologists are limited to three roles: (a) working directly for the detainee, (b) working for an independent third party that protects human rights, and (c) providing treatment to military personnel. On deeper scrutiny, however, it became clear that the language of the clause raised significant questions that the petition resolution itself did not answer: How was it to be determined whether international law or the U.S. Constitution should apply in a given situation? Who was to determine whether a site was in violation of international law or the U.S. Constitution? Who should arbitrate competing claims regarding whether a site was in or out of compliance with the petition resolution? Does the petition resolution apply to domestic correctional facilities and psychiatric settings, many of which have been adjudicated out of compliance with the U.S. Constitution? In response to these and other questions and in anticipation of the Council's February 2009 meeting, APA President Alan Kazdin appointed a presidential advisory group.

Leading up to the Council's February 2009 meeting, two significant events occurred. First, the group appointed by President Kazdin completed the "Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution" (2008). The 18-page report set forth a series of options for the Council to consider in implementing the petition resolution and addressed a number of the questions that had arisen about the petition resolution's meaning and implications.

The second significant event that occurred prior to the Council's meeting was the inauguration of President Barack Obama. On his second day in office, President Obama issued three executive orders that addressed directly the APA's work on the issue of interrogations. President Obama's (2009a, 2009b, 2009c) three orders—"Ensuring Lawful Interrogations," "Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities," and "Review of Detention Policy Options"—addressed interrogation behaviors as well as the characteristics of the settings in which detainees are held, including the legal framework that governs the settings. The executive orders were thus highly relevant to the issues at the center of the APA's attention over the past four years. The Council's discussion regarding the petition resolution

would therefore take place in the context of the advisory group report and the President's executive orders.

At its February 2009 meeting, with APA President James Bray, the Council took three actions relevant to the petition resolution and the advisory group report. First, the Council took action to render the petition resolution official APA policy as of the February meeting. Had the Council not taken this action, the petition resolution would not have become policy until the following August, in accordance with a provision in the Association Rules. Second, the Council adopted a title for the petition resolution to clarify that it was not intended to be applied broadly to U.S. jails, detention centers, and psychiatric hospitals. The title, "Psychologists and Unlawful Detention Settings With a Focus on National Security," limited the scope of the petition resolution and made it clear that the petition resolution applied only to detention settings that are unlawful. Each of these limitations is important. Without the limiting title, psychologists in domestic facilities that have nothing to do with national-security-related work might mistakenly believe they are out of compliance with APA policy, and psychologists working in lawful detention settings could mistakenly believe that the petition resolution applies to their work. Third, and finally, the Council received the "Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution" and forwarded the report to relevant staff and boards and committees for review and appropriate action. Although the advisory group report does not constitute APA policy, the report has been used as a template for APA staff to move forward in implementing the petition resolution. An up-to-date description of the extensive implementation efforts can be viewed on the APA website at <http://www.apa.org/news/press/statements/interrogations.aspx>.

Amending the Ethics Code

The APA revises its Ethics Code on a periodic basis. These revisions highlight that the field of psychology evolves over time. The revisions also highlight that ethics is a developmental process.

The previous Ethics Code, "Ethical Principles of Psychologists and Code of Conduct" (APA, 1992), contained a standard that addressed conflicts between ethics and law. The 1992 standard stated that when a conflict arose between ethics and law, a psychologist had an ethical obligation to engage in a process of attempting to resolve the conflict.

The 1992 Ethics Code did not address what the psychologist should do if attempts to resolve the conflict were unsuccessful; the Ethics Code was simply silent on this point. In such a situation, some psychologists might engage in civil disobedience, whereas others might choose to obey the law. The 1992 Ethics Code did not guide psychologists toward either outcome.

During the 1997–2002 revision process leading up to the adoption of the 2002 Ethics Code, a significant concern arose primarily among forensic psychologists that a psychologist could be “caught” between ethics and law. Such a situation might arise, for example, if a judge ordered a psychologist to render a child custody recommendation without the psychologist’s having conducted an appropriate custody evaluation or if a judge ordered a psychologist to release information that the psychologist believed should be kept confidential. There was an impetus to make clear that if the psychologist was not able to resolve the conflict between ethics and law, the psychologist could follow the law without ethical sanction. In October 2000, at a regularly scheduled meeting of the Ethics Code Revision Task Force, draft language was added to the ethical standard on conflicts between ethics and law (Standard 1.02), to make clear that in cases in which the psychologist could not resolve the conflict between ethics and law, the psychologist could follow the law and not be disciplined. The Council adopted this language in August 2002.

Subsequent to the Council’s adoption of the 2002 Ethics Code, legal memoranda from the Bush administration were released that determined that techniques widely regarded as torture could lawfully be used in interrogations. The language in Standard 1.02, which had been drafted in October 2000 and thus had predated by several years any discussions in the Association regarding interrogation, nonetheless appeared to dovetail with the Bush administration legal memoranda to permit a psychologist to engage in interrogations tantamount to torture and then to use the Ethics Code as a defense. In such a case, the defense would be that the revised Standard 1.02 allowed a psychologist to follow the law in cases in which law and ethics conflict.

As the APA membership and the Council of Representatives came to realize that Standard 1.02 could be interpreted in a way that the drafters of the 2002 code had never considered, an impetus grew to amend the standard. The Ethics Committee put out calls for proposed language. At its February 2010 meeting, the Council adopted the following

amended language, which states that Standard 1.02 cannot be used as a defense to a violation of human rights:

Standard 1.02, Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority
If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

Similar language was added to Ethical Standard 1.03, Conflicts Between Ethics and Organizational Demands. The amended language of 2010 put to rest the concern that Standards 1.02 and 1.03 could be used in a manner neither the drafters of the 2002 Ethics Code nor the Council of Representatives had ever anticipated.

Conclusion

Ethics can be viewed as a developmental process. As psychologists face new challenges in their professional lives, they encounter ethical dilemmas that have not been fully analyzed and resolved. Ideally, the APA will serve as a resource for its members by supporting a thoughtful, informed approach to addressing the ethical aspects of evolving areas of practice.

This approach was in evidence in San Francisco during the 2007 annual convention when the APA sponsored extensive programming on the ethical aspects of psychologists’ involvement in interrogations. “Ethics and Interrogations: Confronting the Challenge” was a convention program consisting of nine two-hour sessions and 44 participants with widely divergent views on the appropriate role for psychologists in military interrogations. The Board of Directors strongly supported the program as a way to ensure that all points of view were presented, as a prelude to the Council’s deliberations and further action. From the Board’s perspective, it was essential for the APA to embrace the debate, and the Board ensured an open and collegial forum for APA members to come together and voice their views.

From 2005 through 2010, APA’s governing body and the APA membership together expended extraordinary resources addressing the issue of psychologists’ involvement in interrogations. A review of statements and resolutions during this period

shows the development and elaboration of the Association's position. The APA's work was respectful of the importance and complexity of the issue and was intended to provide ethical guidance to its members and send an unambiguous and emphatic message to the public: The world's largest association of psychologists recognizes the valuable and ethical contributions of its members involved in work related to our nation's security and forcefully condemns and will not tolerate torture.

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EXHIBIT 2-L

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be tied up. . . . He and I decided that rather than delay the initial meeting, we should just go ahead. He and I will consult on the issues that concern CIA and DOD and I will represent both of us on July 20. I'll then brief him."

The invitation to the lunch meeting showed that the APA was opening the door to psychologists and other behavioral science experts inside the government's national security apparatus to provide advice and guidance about how to address the furor over the role of psychologists in torture before the APA went to its own membership. The insiders were being given a chance to influence the APA's stance before anyone else.

In fact, this secret meeting of top government psychologists was held months before the APA finally began a public process among its members to address the controversy surrounding the involvement of psychologists in the enhanced interrogation program. On January 3, 2005, Gerwehr and others who had been invited to the meeting in July 2004 received an e-mail including a draft proposal for an APA task force to deal with the role of psychologists in interrogations. They were receiving the draft proposal more than a month before it was made public to APA members.

Jean Maria Arrigo, an independent social psychologist who was a member of the PENS task force, said that the first she heard about the APA's plans to deal with the interrogation issue was in February 2005, when the APA issued a public notice of its plans for a task force. Arrigo now believes she was placed on the PENS task force to give the CIA- and Pentagon-backed psychologists the cover they needed to make it appear legitimate. "I was there as a dupe, purposefully," she said.

In fact, the deck appears to have been stacked on the task force. Of the ten psychologists appointed to it, six had connections with the defense or intelligence communities; one member was the chief psychologist for U.S. Special Forces. In addition, a senior APA official who attended meetings of the task force was married to a psychologist assigned to one of the military's Behavioral Science Consultation Teams — military units involved in interrogations.

Arrigo said that Russ Newman, then the head of APA's practice directorate and one of the most powerful officials in the organization, attended the task force sessions as an observer, but she later came to believe that he was actually helping to set the task force's agenda. He told the group that "we have to put out the fires of controversy, and we have to do it fast," Arrigo recalled. She only learned much later about Newman's wife's involvement with the military. Newman was married to Lt. Col. Debra Dunivin, a member of the Guantánamo Behavioral Science Consultation Team. "A year after the task force, I talked to a couple of counterintelligence people I knew, who told me that this was a social legitimization process," she added. "This was an effort by the Bush administration to gain legitimacy through the APA."

After succeeding in getting the PENS task force to endorse the continued involvement of psychologists in the interrogation program, congratulations were in order among the small number of behavioral scientists with connections to the national security community who had been part of the effort. In a July 2005 e-mail to Hubbard from Geoffrey Mumford (on which Gerwehr was copied), Mumford thanked Hubbard for helping to influence the outcome of the task force. "I also wanted to semi-publicly acknowledge your personal contribution . . . in getting this effort off the ground," Mumford wrote. "Your views were well represented by very carefully selected task force members." Mumford also noted that Susan Brandon had served as an "observer" at the PENS task force meetings and "helped craft some language related to research" for the task force report.



At the time of the release of the task force report, Hubbard had just retired from the CIA to begin consulting for Mitchell and Jessen. "Now I do some consulting work for Mitchell and Jessen Associates," Hubbard wrote in a mass e-mail to many of his friends and colleagues in June 2005.

Hubbard tried to recruit Gerwehr to join him. In a May 2006 e-mail to Gerwehr, Hubbard told him there was an opening for a psychologist at Mitchell and Jessen's firm, and that he would be the ideal

EXHIBIT 2-M

The New York Times |

POLITICS

Psychologists Warned on Role in Detentions

By NEIL A. LEWIS JULY 6, 2005

WASHINGTON, July 5 - The American Psychological Association, responding to reports that some of its members may have advised officials on how to conduct harsh interrogations of detainees, issued a report Tuesday telling its members of the ethical dangers of such activities.

The report by a group convened to study the ethical boundaries for psychologists at places like the detainment center at Guantánamo Bay, Cuba, concluded that it was acceptable to act as behavioral consultants to interrogators of the prisoners from Afghanistan who are held there.

The report said the psychologists should not use a detainee's medical information "to the detriment and safety of an individual's well-being." It also said that psychologists serving as consultants to interrogations involving national

security should be "mindful of factors unique to these roles and contexts that require special ethical consideration."

The report thus appears to avoid explicit answers to questions as to whether psychologists may advise interrogators on how to increase stress on detainees to make them more cooperative if the advice is not based on medical files but only on observation of the detainees.

The report comes after accounts from former interrogators at Guantánamo who said that doctors had advised them on how to "break" the detainees and make them more cooperative. In an article in The New York Times last month, former interrogators said in interviews that doctors, who may have been either psychiatrists or psychologists, counseled them on how to use a detainee's fears and longings to increase distress. One example was taking advantage of a prisoner's fear of the dark, which was known from his medical records.

The report, which has been formally adopted by the organization, comes as some American lawyers who are representing detainees have begun to gather the names of the military doctors who have served as part of Behavioral Science Consultation Teams at Guantánamo. The teams, which are known informally as biscuit teams, were typically composed of a psychologist, a psychiatrist and a medical assistant.

The purpose of finding out the doctors' names, the lawyers say, is to bring ethics complaints against them before civilian professional ethics boards in their home states.

The task force that produced the report by the American Psychological Association included military psychologists, among them an officer who helps run the Army's psychological warfare program at Fort Bragg, N.C.

The report was prepared when the group's officials said they realized that their ethics codes did not explicitly address the issue. At the same time, officials of the American Psychiatric Association said there was no doubt that its members may not ethically engage in the kind of behavior described by the former interrogators.

The report said that psychologists may not engage in torture or cruel, inhuman and degrading treatment. But in seeming to refer to the situations reported at Guantánamo, which might fall short of torture or cruel treatment, it said only that they "require special ethical consideration."

Leonard S. Rubenstein, executive director of Physicians for Human Rights, said the report is not explicit enough in setting ethical boundaries.

"It says psychologists shouldn't engage in torture, but we know that rhetoric like that is not effective," he said. "In view of what has happened at places like Guantánamo, we need clarity, and what's lacking here is an explicit commitment not to participate in coercive interrogations."

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EXHIBIT 2-N

Position Statement on Psychiatric Participation in Interrogation* of Detainees

Approved by the Board of Trustees, May 2006

Reaffirmed by the Board, December 2014

Approved by the Assembly, May 2006

Reaffirmed by the Assembly, November 2014

"Policy documents are approved by the APA Assembly and Board of Trustees...These are...position statements that define APA official policy on specific subjects..." – *APA Operations Manual*.

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.
 - a) Every person in military or civilian detention, whether in the United States or elsewhere, is entitled to appropriate medical care under domestic and international humanitarian law.
 - b) Psychiatrists providing medical care to individual detainees owe their primary obligation to the well-being of their patients, including advocating for 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 or law enforcement authorities.
 - c) Psychiatrists should not disclose any part of the medical records of any patient, or information derived from the treatment relationship, to persons conducting interrogation of the detainee.

d) This paragraph is not meant to preclude treating psychiatrists who become aware that the detainee may pose a significant threat of harm to him/herself or to others from ascertaining the nature and the seriousness of the threat or from notifying appropriate authorities of that threat, consistent with the obligations applicable to other treatment relationships.

3. No psychiatrist should participate directly in the interrogation of persons held in custody by military or civilian investigative or law enforcement authorities, whether in the United States or elsewhere. Direct participation includes being present in the interrogation room, asking or suggesting questions, or advising authorities on the use of specific techniques of interrogation with particular detainees. However, psychiatrists may provide training to military or civilian investigative or law enforcement personnel on recognizing and responding to persons with mental illnesses, on the possible medical and psychological effects of particular techniques and conditions of interrogation, and on other areas within their professional expertise.

*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 interviews or other interactions with a detainee that have been appropriately authorized by a court or by counsel for the detainee or that are conducted by or on behalf of correctional authorities with a prisoner serving a criminal sentence.

EXHIBIT 2-0

Psychological Warfare? A Debate on the Role of Mental Health Professionals in Military Interrogations at Guantanamo, Abu Ghraib and Beyond

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TOPICS

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Psychology & Torture

As the American Psychological Association kicks off its national convention, a debate is raging in the mental health community over the role of psychologists in military interrogations. We host a debate with the director of ethics at the APA Stephen Behnke, British



26
Shares

medical ethicist Michael Wilks, and renowned

psychiatrist Robert Jay Lifton. [includes rush transcript]

Interrogation techniques used by U.S. military personnel on detainees at Guantanamo Bay may amount to torture, according to the International Committee of the Red Cross. Measures reportedly include sleep deprivation, prolonged isolation, painful body positions, feigned suffocation, and beatings.

The role of doctors as so-called behavioral consultants in interrogations is being increasingly scrutinized. Last month we spoke with journalist Jane Mayer about her article in the New Yorker magazine titled ["The Gitmo Experiment: How Methods Developed by the U.S. Military For Withstanding Torture are Being Used Against Detainees at Guantanamo Bay."](#) She told Democracy Now!, "it is becoming clearer that a number of psychologists and possibly, it seems, probably doctors, have been assisting in the interrogation process in Guantanamo and that it has been an abusive process."

Jane Mayer, journalist with the New Yorker magazine.

Today on the eve of the annual meeting of the American Psychological Association, or APA, we host a roundtable discussion on the position of the APA on the role of psychologists in military interrogations. The APA Presidential Task Force on Psychological Ethics and National Security issued [a report](#) last month finding that "It is consistent with the APA Code of Ethics for psychologists to serve in consultative roles to interrogation- or information-gathering processes for national security-related purposes." The report also affirms that "psychologists have an ethical obligation to be alert to and report any acts of torture or cruel or inhuman treatment to appropriate authorities."

A leading medical ethicist in Britain published [a critique of the APA position in the Lancet](#), the leading medical journal in England. Dr. Michael Wilks warned that the report is part of a trend of "governments and professional bodies rewriting existing ethical guidance in the service of abuse."

Stephen Behnke, director of ethics at the [American Psychological Association](#). **Michael Wilks**, chair of the Medical Ethics Committee at the [British Medical Association](#) and author of the article "A Stain on Medical Ethics" published in Lancet medical journal.

Robert Jay Lifton, leading American psychiatrist and an authority on the psychological causes of war and political violence. He is the author of "The Nazi Doctors: Medical Killing and the Psychology of Genocide."

Related Links:

Dr. Lifton's article "[Conditions of Atrocity](#)" in The Nation magazine

Dr. Lifton's articles "[American Apocolypse](#)" in The Nation magazine

TRANSCRIPT

This is a rush transcript. Copy may not be in its final form.

AMY GOODMAN: Today, we'll host a debate on the position of the American Psychological Association. It's a debate that's raging among psychologists around the country. But first, we turn to a conversation on Democracy Now! that we had last month with journalist, Jane Mayer, about her article in *The New Yorker* magazine. It was called "The Gitmo Experiment: How Methods Developed by the U.S. Military for Withstanding Torture are Being Used Against Detainees at Guantanamo Bay. In this excerpt, she begins by talking about what the Pentagon expects from medical doctors and psychologists at Guantanamo Bay.

JANE MAYER: Well, it's an area that is very fraught. I think we really don't know all of the details yet, either, but basically, there are allegations that medical personnel have been assisting in interrogations that are abusive. Ethically, I think pretty much every code of ethics for doctors suggests that they should not be in an interrogation room, particularly if there's anything coercive or abusive going on. And the same holds, at least according to many people, for psychologists, and so this area is very fraught, very much discussed within the medical community right now, because it is becoming clearer that a number of psychologists and possibly, it seems, probably doctors, have been assisting in the interrogation process in Guantanamo and that it has been an abusive process.

AMY GOODMAN: Can you talk about the loophole that involves whether or not they are caregivers?

JANE MAYER: Well, what the Pentagon has done is put out a policy statement that says that no medical personnel will be involved in handing over medical records to interrogators or will be involved in interrogations, so long as they are doctors who are treating the detainees. But that's the loophole. They have a whole separate category of doctors and psychologists that we're learning about, which are non-treating medical personnel. And those are very explicitly involved in the interrogation process. And I think that what is of concern is that they seem to be bringing skills from the scientific world into the interrogation room in a way that begs a lot of questions about whether it's ethical.

AMY GOODMAN: *New Yorker* magazine reporter, Jane Mayer, went on to talk about the SERE program, which stands for Survival, Evasion, Resistance and Escape. Military psychologists originally designed SERE to inoculate soldiers against the psychological coercion, abuse and torture that they might be subjected to if they were captured. Again, Jane Mayer.

JANE MAYER: What I found in my reporting was there was indeed a connection, which is that a number of the psychologists who are the people who are major figures in the SERE program and have worked in it for a number of years are actually working and have been working for some time with the behavioral science consultation teams that helped the interrogators that the U.S. has both in the Department of Defense and in the C.I.A.

AMY GOODMAN: Again, we're talking to Jane Mayer of *The New Yorker* magazine. Her piece is called "The Gitmo Experiment." And the level of monitoring, how close it is, how every move, down to the use of toilet paper?

JANE MAYER: Well, that — an interrogator, whose opinions and basically his recollections I was able to go over with very carefully, said that all of the interrogations there are bureaucratized, very, very carefully monitored. There are voluminous notes taken on every detainee. And each interrogation plan is kind of individually devised by the behavioral scientists who are working on it in order to kind of create something that would get at the detainee, particularly the resistant ones, break down their resistance in a very individualized way. So, yes, there was one plan, in particular, that a detainee's lawyer described to me in which the detainee was told that a psychiatrist had monitored the amount of toilet paper he was allowed. He was only allowed seven squares a day. And that was actually an improvement over earlier when the psychiatrist, according to these sources, had taken away all of his toilet paper.

I mean, *The New York Times* actually had an interesting case recently where they described a detainee who was afraid of the dark, and so he was purposely kept very much in the dark. There's another detainee there, I know, who has not been able to see sunlight for a number of years, they only take him out at nighttime. And I don't know what the situation — what the reason is for that. That is David Hicks. But his lawyer has described that. So each person, each detainee has had kind of a psychological assessment and a plan kind of created for interrogating him, depending on his weaknesses and vulnerabilities.

AMY GOODMAN: You also interview a spokesperson for Physicians for Human Rights. I mean, this is an organization that has been involved in looking at the use in this country of doctors in the death penalty, in being involved in putting people to death. What about how they're dealing with the use of medical personnel at Guantanamo?

JANE MAYER: Well, they are critics of the Bush administration generally on the human rights record of the administration, and in particular, they are very, very critical of this use of science. They think that doctors and psychologists should not cross this line and be involved in any kind of coercion or abuse. I mean, basically, the ancient code for the medical profession is the Hippocratic Oath and it begins with, first, do no harm, and that the society's basic feeling about what doctors are supposed to do is for every patient put their welfare first. And I think there have been a number of codes of ethics and legal codes that have developed since the awful experience with the Nazi doctors in World War II since then that have codified the notion that doctors should not do anything to a patient that harms them, should not turn them into experimental subjects without their informed consent and, even if national security is an issue, that the patient's needs are supposed to come first.

AMY GOODMAN: *New Yorker* magazine journalist, Jane Mayer, talking about the participation of psychologists in developing interrogation techniques after September 11. Today, on the eve of the annual meeting of the American Psychological Association, which is known as the A.P.A., we host a roundtable discussion on the position of the A.P.A. on the role of psychologists in military interrogations. The A.P.A. Presidential Task Force on Psychological Ethics and National Security issued a report last month finding, quote, "It's consistent with the A.P.A. Code of Ethics for psychologists to serve in consultative roles to interrogation or information gathering processes for national security-related purposes." The report also affirms that, quote, "Psychologists have an ethical obligation to be alert to and report any acts of torture or cruel or inhuman treatment to appropriate authorities."

A leading medical ethicist in Britain, who will join us today, published a critique of the A.P.A. position in the *Lancet*, the leading medical journal in England. Dr. Michael Wilks warned the report is part of a trend of, quote, "governments and professional bodies rewriting existing ethical guidance in the service of abuse." Today, we're joined by three people. In our Washington studio, Dr. Stephen Behnke is director of ethics at the American Psychological Association. On the line with us from London is Michael Wilks, Chair of the Medical Ethics Committee of the British Medical Association and author of the piece, "A Stain on Medical Ethics," published in the *Lancet*. Also with us on the line from Massachusetts, Dr. Robert Jay Lifton,

leading American psychiatrist and authority on the psychological causes of war and political violence. He has written many books, among them, *The Nazi Doctors: Medical Killing and the Psychology of Genocide*. But we're going to begin today in Washington with Dr. Stephen Behnke, director of ethics at the American Psychological Association. Can you talk about the report that was released by the A.P.A., what the stand of the A.P.A. currently is on the role of psychologists in military interrogations? And welcome.

DR. STEPHEN BEHNKE: Thank you very much. The Task Force on Psychological Ethics and National Security said that the psychology code of ethics applies to all of a psychologist's activities. So whenever a psychologist is acting, the ethics code applies. Now, what that means in this particular instance is that a psychologist cannot exempt him or herself from the code of ethics by saying, well, I am a behavioral consultant or I am a behavioral specialist. The task force rejected that position and said that whenever a psychologist is acting, the ethics code applies. The task force also said that psychologists, when acting within strict ethical guidelines, may support and assist information gathering and interrogation processes.

AMY GOODMAN: Dr. Stephen Behnke of the American Psychological Association. There is a large debate within the organization right now about the position of the A.P.A. We're going to go to break, and when we come back, we'll get response from Dr. Michael Wilks, who is speaking to us from the British Medical Society in Britain and wrote the piece, "A Stain on Medical Ethics." We'll also be joined by Robert Jay Lifton.

[break]

AMY GOODMAN: We continue the discussion about the role of psychologists and psychiatrists in military interrogations. Our guests are Dr. Michael Wilks, Chair of the Medical Ethics Committee of the British Medical Association. He is speaking to us from Britain from the British Medical Society; Dr. Stephen Behnke, director of ethics at the American Psychological Association; and Dr. Robert Jay Lifton, lecturer in psychiatry at Harvard Medical School. Let us go to Dr. Wilks from the British Medical Society, Chair of Medical Ethics at the Committee of the B.M.A. Can you respond to Dr. Behnke?

DR. MICHAEL WILKS: Yes. Thank you for inviting me. The reason I wrote the *Lancet* piece was that the background that we're very concerned about here in the B.M.A., and I think many medical associations are, is the way in which doctors, psychiatrists, psychologists can buy into a sort of culture that it's okay, it's acceptable to use one's professional skills in the interest of some other higher imperative, in this case national security. And I think it's very difficult to see how a psychologist who has training in psychological techniques designed to help people with psychological problems, in other words, to put it bluntly, to help heal minds, can in any way regard it as ethically acceptable to be engaged, even at a distance, in training people in techniques that damage minds. And so, when Dr. Behnke talks about working within good ethical practice, my point is it can never be ethical to in any way help advise the military how to damage people's minds.

And you referred to the Physicians for Human Rights organization; they wrote an extremely long and detailed report very recently about the uses of psychological techniques in interrogation, which quite frankly amount to torture, because they're designed to destabilize people — so they're designed to destabilize people so that you will get information out of them, and Jane Mayer, in your piece earlier, described some of those techniques. And my point, bluntly, is it cannot be ethical to engage in techniques, even at a distance, that are designed to damage people's mentality, when presumably the main purpose of being a psychologist is to heal their wounds.

AMY GOODMAN: Dr. Stephen Behnke?

DR. STEPHEN BEHNKE: Well, I have a letter from Physicians for Human Rights that was sent to the American Psychological Association, and in that letter that was written by the Executive Director of Physicians for Human Rights, he allows for the possibilities that, in fact, there may be a role for psychologists in interrogation processes that is, and this is his phrase, "quite benign." So, for us, the question is not whether psychologists may be involved in these processes, it's how psychologists may be involved in these activities in an ethical manner.

I would also dispute Dr. Wilks' characterization that the activities are intended to harm. Psychologists have been supporting questioning and interrogation processes for law enforcement domestically for many years, and the purpose of those activities is to gather information, not to harm the subjects of the interrogations.

Finally, I would say in response to Dr. Wilks' statement about how psychologists should never serve a higher good, I would suggest that, in fact, at times, looking at what a higher good is part and parcel of what psychologists do. In this country, we have what we call mandated reporting statutes for child abuse. At times, when a psychologist has reasonable cause to suspect that a child is being abused, that psychologist has both a legal and an ethical obligation to break confidentiality in the service of a higher good, and that higher good is to protect an innocent child from being harmed. So, it is the case that in their work, in a therapeutic context, psychologists will sometimes serve a higher good.

AMY GOODMAN: Dr. Michael Wilks?

DR. MICHAEL WILKS: Well, yes. And there, Dr. Behnke is talking entirely, as he just said, about the individual doctor-patient or psychologist-client relationship. Of course, I agree with him. If I know one of my patients is abusing a child and there's a serious risk to that child, I have no obligation to keep confidentiality. But I think we have to see this in the context of what we know is going on. We have had the Schlesinger report, the Fay report, PHR's own report, a number of other reports, including the Red Cross report, which has only been partially leaked, in which we know that health professionals have been engaged, probably not systematically, but certainly engaged in abuse and probably, if not in torture, at least ignoring torture and in handing over medical records to engage with interrogators. So, for the A.P.A. to talk about benign techniques is, to me, something of a fantasy. We have to deal with what we're experiencing now.

And people who are detained at Guantanamo and Abu Ghraib, many of these people, we have to remind ourselves, are not actually being charged with anything. They're being held well outside the Geneva Conventions, according to your president's dictum. Then they have limited access to lawyers. In fact, we know that when four of them returned to the U.K., they were immediately released without any charge. So they are suspects. Now, to treat suspects in this way is grossly unethical. But for organizations to claim that they can only be engaged in research, as the A.P.A. Presidential Code specifically says — it encourages research into the involvement of psychologists in interrogation techniques — those interrogation techniques, in my view, cannot be benign because they're designed to inflict suffering on people, to destabilize them and to get information out of them. And I

think it's a very, very dangerous game for the A.P.A. to get into some idea that it can always dictate whether its members are engaged in benign psychological techniques when the whole imperative behind the Pentagon involvement in Guantanamo and Abu Ghraib is actually to break people down. So I think that associating oneself with that kind of activity, even at a distance, is very, very hard to justify.

AMY GOODMAN: I wanted to bring Dr. Robert Jay Lifton into this conversation. He's been looking at issues like these for more than half a century. If you could weigh in, as you have, on this debate.

DR. ROBERT JAY LIFTON: Well, I completely agree with Dr. Wilks. It's very dangerous to allow yourself as a physician or psychologist to engage in destructive behavior in the name of a, quote, "higher cause." Of course, I studied Nazi doctors, and when I invoke them now, it's in no way to equate American doctors with Nazi doctors — that would be wrong — but rather to look at an extreme violation of all views of medical ethics and human behavior, in general, which the Nazis manifested, and to see what we can learn about that extreme violation in connection with relatively lesser violations, but still very disturbing ones.

And central to Nazi doctors' behavior was what I called socialization to atrocity. It's the state policy. You embrace the state policy, in general terms, as a Nazi doctor, even if you don't believe in all the details, and you then give your medical knowledge to the service of the state policy, which in the Nazi case included doctors' leading role in the killing process, not just experiments. Here, it's a parallel atrocity-producing situation, as I call it, and that really means that it's a situation that is so constructed militarily and psychologically that an ordinary person, no better or worse than you or me, can enter into that environment and participate in atrocities. Doctors are particularly vulnerable and psychologists, too, because we are part of what I call the shamanistic legacy. We are the descendants of witch doctors and shamans and are perceived as having some magical influence over life and death that's very tempting for despotic regimes to embrace and make use of in order to harm people, carry through its purposes and control reality.

So, it then behooves our professional organizations to be very specific and very careful in delineating things that are unethical and that we should not do. To some

extent, that exists in various protocols which prohibit doctors from participating in torture, but these protocols have to be brought up to date in relation to the specific context of the current atrocity-producing situation for Americans in Iraq.

AMY GOODMAN: Dr. Stephen Behnke of the American Psychological Association, your response to Dr. Robert Jay Lifton.

DR. STEPHEN BEHNKE: Well, I absolutely agree with Dr. Lifton, when he says that there need to be strict ethical guidelines about what is permissible and what is not permissible. And that is what the American Psychological task force has begun to do in its task force report, to delineate what are the conditions in which a psychologist may engage in these activities in an ethical manner. Also, in responding to Dr. Wilks' statement, if psychologists have engaged in any activity, and at this point the media reports are long on hearsay and innuendo, short on facts, the American Psychological Association wants the facts. And when we have the facts, we will act on them. And if individuals who are members of our association have acted inappropriately, the A.P.A. will address those very directly and very clearly.

DR. ROBERT JAY LIFTON: May I respond to that?

AMY GOODMAN: Yes. Dr. Robert Jay Lifton.

DR. ROBERT JAY LIFTON: I have to say that many of the facts are already in. Unfortunately, American physicians and psychologists have been active in interrogation processes at the edge of torture, and I think we have these facts from very reputable international human rights organizations, including the Red Cross. So, I don't think we have to wait any longer for those facts. The difficulty in the position that Dr. Behnke is putting forward — I mean, I respect his search for an ethical position, but the difficulty in what he is saying is that it encourages what I call a kind of doubling in psychologists. In Nazi doctors, I observed a process I came to call doubling which meant the formation of what is functionally a second self so that the same person could engage in killing in Auschwitz six days a week and then go home to Germany and be an ordinary father or husband.

This is a different kind of doubling we're talking about here, where the same psychologists can be either a non-healing person, somebody who is consulting in breaking down people through interrogation and torture situations on the one hand, or is also a healer on the other. Sometimes they're divided into two people, or it may be the same person. But this is sophistry. Intellectually and ethically and psychologically, it's harmful, not only to the victims, but to the participating psychologists in encouraging an unethical side as being acceptable because it's in keeping with the particular larger political project of the organization he is serving.

AMY GOODMAN: I wanted to do a comparison of the positions of the American Psychiatric Association, the American Psychological Association, the British Medical Association, and the World Medical Association. Dr. Michael Wilks of the British Medical Association, can you compare them?

DR. MICHAEL WILKS: Well, I think that there isn't any great difference in what we all say about the need for good ethical practice. But I think the problem is that we're actually looking at something new, because what we have tended to assume, perhaps naively, is that good ethical practice in relation to your individual care of patients is the same — has the same principles attached to it as good ethical practice that you operate as a professional. In other words, as a psychologist or as a psychiatrist or as a medical practitioner. In other words, you know, a doctor is a doctor is a doctor.

And I think what we have been called out by is a recurrence, and it happens to be in the U.S.A. now, but I really don't want this to be thought of as to be an anti-American comment, because we have seen it in Nazi Germany, we've seen it in Chile and South Africa, and I would say also probably in Northern Ireland, the way in which Dr. Lifton, and I have to say Dr. Lifton's work has been pivotal in our thinking about this, and it's a privilege to be able to debate with him, but I think that what we have failed to recognize is that administrations will circumvent ethical guidance around individual care and, if you like, pervert it when it comes to the care of populations.

And we have seen that the United Nations codes, the W.M.A. codes and probably our own codes, as well, are inadequate when it comes to saying, you don't do this. You simply do not do this. You are a psychologist. Because you have signed up to

ethical standards to look after people's minds, you do not get engaged in damaging them, either directly or indirectly.

So, what we're doing here at the B.M.A. is encouraging the next W.M.A. meeting later this year rewriting of various ethical codes, particularly the declarations of Tokyo and Geneva, to tidy up what we see as a loophole. I think we really thought that this kind of debate was now dead after its recurrence in Germany and Chile and South Africa. And I think one of the most depressing things about this is that we're now facing exactly the same problem of institutional collusion in unethical behavior, because our own codes don't actually cover it.

AMY GOODMAN: Dr. Stephen Behnke.

DR. STEPHEN BEHNKE: Well, I would like to make a point very clearly, and that is the task force report makes very clear that a psychologist would never, under any circumstances, and it would be unethical for a psychologist to have both a treatment relationship with an individual and then to in any manner participate in any type of information gathering or interrogation process in regard to that same individual. So, there is an absolute separation of roles in that regard.

DR. ROBERT JAY LIFTON: But what if he —

DR. STEPHEN BEHNKE: Second point — the second point I would like to —

DR. MICHAEL WILKS: Yeah.

AMY GOODMAN: Let's get a response for a minute from Dr. Robert Jay Lifton on that point.

DR. ROBERT JAY LIFTON: Well, yes, I understand that, but it's the doubling within the particular psychologist. He doesn't have to be treating a person or seeking to break him down through interrogation. He might be treating other people, or it might be a different psychologist that's treating other people. It's that division between the healing commitment and a kind of willingness or encouragement to take part in the breaking down of people that lies in — that really creates what is I call the doubling

in the particular psychologist. It doesn't require that he be treating and breaking down the same person.

DR. MICHAEL WILKS: Yes. Dr. Behnke is raising a question that nobody would find acceptable.

AMY GOODMAN: Dr. Wilks.

DR. MICHAEL WILKS: That nobody would find acceptable, the idea that you could treat somebody and torture them at the same time. That isn't the discussion. The discussion is around whether there is a basic ethical imperative as a psychologist to only act on behalf of people in the interests of their benefit, in other words, first do no harm.

DR. STEPHEN BEHNKE: Let me — if I may — if I may respond to that.

AMY GOODMAN: Dr. Behnke.

DR. STEPHEN BEHNKE: In all fairness, the American Psychological Association is very clear that under no circumstances is it in any manner permissible for a psychologist to engage in, to support, to facilitate, to direct or to advise torture or other cruel, inhuman or degrading treatment. The American Psychological Association and the American Psychiatric Association issued a joint statement against torture and cruel, inhuman or degrading treatment in 1985. In 1986, the American Psychological Association issued another resolution against torture. So, to even suggest that that would in any manner be permissible is completely out of bounds.

DR. MICHAEL WILKS: Might I ask a direct question, because I'm really interested to know, could I ask why the A.P.A.'s presidential report then specifically recommends that psychologists should be involved in research into interrogation techniques?

DR. STEPHEN BEHNKE: Well, as I have — as I have said, psychologists have been working together with law enforcement for many years domestically in information gathering and interrogation processes. We believe that as experts in

human behavior, psychologists have valuable contributions to make to those activities. So —

DR. ROBERT JAY LIFTON: You know, if I may say something here — it's one thing to have fine —

AMY GOODMAN: Dr. Robert Jay Lifton.

DR. ROBERT JAY LIFTON: Fine ethical statements about what doctors or psychologists should not do. When I wrote my piece over a year ago in the *New England Journal of Medicine* about doctors' complicity in torture, there were a couple of angry responses from military physicians, saying, 'Look, we have these clear military rules and requirements. These things are prohibited. How you can say this?' Well, the difficulty is that you can have those nice rules, but you don't have a protocol that speaks to the particular social situation that doctors and psychologists enter, what I called an atrocity producing situation. You don't speak to a rule that doctors cannot take part in interrogation, and in that way, all of these fine principles exist in the books, but have no immediate power to restrain doctors from that intense psychological situation of adaptation to military policy in which they find themselves. That has to be spoken to in protocols, the socialization to atrocity, which doctors and psychologists are prone to, rather than just these fine principles of not engaging in torture.

DR. MICHAEL WILKS: I wonder if I —

DR. STEPHEN BEHNKE: Well, in fact, if I may —

AMY GOODMAN: Dr. Behnke.

DR. STEPHEN BEHNKE: The task force report does speak to the social situation and to the pressures that psychologists are likely to feel in these situations. So, it does directly address Dr. Lifton's point.

AMY GOODMAN: We're going to break and then we'll come back to this discussion about the role of psychiatrists and psychologists in military interrogations. Our guests, Dr. Stephen Behnke, director of ethics at the A.P.A, the American

Psychological Association; Dr. Robert Jay Lifton, renowned psychiatrist here in this country; and Dr. Michael Wilks, Chair of Medical Ethics at British Medical Association.

[break]

AMY GOODMAN: As we discuss the role of psychologists, psychiatrists in military interrogations, we're joined by the head of ethics at the American Psychological Association, which is about to have its annual meeting. This is a raging debate within the A.P.A. They have just put out a report on the role of psychologists on psychological ethics and national security. We are joined by Dr. Michael Wilks, Chair of Medical Ethics at the British Medical Association. As well, we are joined by Dr. Robert Jay Lifton, who's a lecturer in psychiatry at Harvard Medical School, among his books, *The Nazi Doctors*. As we talk about psychologists' role, I wanted to ask, Dr. Stephen Behnke, with the reports out of Bagram, out of Abu Ghraib, out of Guantanamo, about what has happened to detainees, about information that is gathered by psychologists, perhaps about a prisoner's fear of the dark or other concerns, sharing that with an interrogator, whether or not the psychologist is then in the room at the time of the interrogation. Has this led you to raise more questions and deal with this issue of whether psychologists should be involved at all with these interrogations?

DR. STEPHEN BEHNKE: Well, again, I would say that for us, the question is not whether psychologists may be involved. We believe that there is an ethical role for psychologists to play. The question is "What are the ethical boundaries within which psychologists must remain when they are engaged in these activities?" Certainly, if it is the case that individuals have behaved unethically, the American Psychological Association has an ethics committee that will respond to that situation through our process of adjudication.

AMY GOODMAN: Dr. Michael Wilks.

DR. MICHAEL WILKS: Well, yes. I think that's the core of it, as Dr. Behnke says. It's not a question of, as he says, whether psychologists should be involved, but it is *how*. And I suppose my argument is, well, the *how* is impossible to answer, because they shouldn't be involved. And if they are involved, the perfectly legitimate

desire to find ethical boundaries is actually a futile search, because those boundaries will not be identifiable, and if they are, even if they are identified, they'll be crossed by individual psychologists working outside good ethical principles.

I just — if I may, just to widen this a little bit, and if you don't want me to do this, just stop me, but I'm calling from the British Medical Association building in the middle of London. And five weeks ago, a large bus with a suicide bomber in it exploded directly outside our building, covered the whole of the side of our building with human remains. People died in our building from their injuries. And the people who did that, including the other three bombs that went off on the 7th of July in London, were British. They were British Muslims — Islamic believers. They were not from Afghanistan or from Pakistan or from Iraq or Iran. They were people who had lived here for a long time and grown up here. And they were, as we understand it, from the people who were arrested who failed to set off bombs two weeks later, profoundly opposed to the war in Iraq.

Now, I don't blame any particular individual or institution for the war in Iraq, but I do think that we have a responsibility to think how if we contribute to a climate of abuse, even very indirectly, even perhaps even with the best of motives, which is the higher authority, we will continue the hatred that some people feel for institutions like ours, the institution of democracy in this country, the way in which we have been implicated in the war in Iraq. So I think it's terribly important to take a big global perspective on this and ask ourselves whether our own difficulties with our ethical position can contribute to a climate of resentment. And I think that, you know, from the very, very U.K. perspective, and I hope a reasonably compassionate one, for a country to occupy another country and then mistreat its citizens on a suspicion of being terrorists, even not a proof, outside the law, outside the Geneva Conventions, is a very, very provocative thing to do and will produce the sort of result we saw here in London just a few weeks ago.

DR. ROBERT JAY LIFTON: And if I may add to that —

AMY GOODMAN: Dr. Robert Jay Lifton —

DR. ROBERT JAY LIFTON: If I may add to that, the kind of war being fought affects psychologists and psychiatrists and affects very much the sort of discussion we're

having. The war in Iraq is a counter-insurgency war, with great confusion about who the enemy is. There is an undue stress put upon interrogation. It takes on an almost magical quality, as though we can solve what is really an un-winnable war through enough interrogation by finding out who the, quote, "bad guys" are, and that creates the atrocity-producing situation I described. So it's a particular kind of war that renders psychologists and psychiatrists particularly vulnerable to this sort of misbehavior, and that has to be very much part of our equation.

AMY GOODMAN: Dr. Stephen Behnke, the task force —

DR. STEPHEN BEHNKE: If I could — could I respond just for a second? I would just like to extend our sympathy to Dr. Wilks, and you know, to his colleagues. It's a terrible tragedy what happened in London, and certainly, the, you know, British people were very sympathetic in support of after the terrible events here on September 11 of 2001. So, I just wanted to make that statement.

DR. MICHAEL WILKS: Thank you.

DR. ROBERT JAY LIFTON: I think that Dr. Wilks is referring to a kind of social and historical dynamic in which the aggressive political and military behavior over which doctors and psychologists have little control interacts with extreme behavior on the part of those who would attack us in this continuing dynamic, and the issue of doctors and psychologists and what they do is very much in the context of this ongoing dynamic. And we should see that the aggressive measures that we may take militarily, such as the Iraq war, affects the situation on the ground, as it's said, and the pressures that are put on doctors and psychologists. If we don't look at this larger dynamic, we're really blinding ourselves to the kind of pressures that are put on doctors and psychologists.

DR. STEPHEN BEHNKE: Well, I would agree with Dr. Lifton's statement. And again, I would note that the task force report is very sensitive to the social situation. It does call for research, and one of the calls for research is on the effects of involvement in interrogation activities on the interrogators themselves. And the task force felt that that research was particularly important to explore ways that we could ensure that interrogation processes remain within ethical guidelines.

AMY GOODMAN: Dr. Stephen Behnke, when it comes to the Geneva Conventions, A.P.A. ethics standards, as well as law, where does the A.P.A. stand on international law, when it is in conflict with U.S. law? And what about the ethics of the A.P.A., the ethics standards?

DR. STEPHEN BEHNKE: Well, the ethical standards are that psychologists obey the law. Psychologists do not violate the law. Now, the task force report discussed both U.S. law and international law, and the task force makes a very clear statement that international law, international standards are critical. The task force states that psychologists have an absolute ethical obligation never to violate any United States law. And then, in addition, the task force said that psychologists must adhere — and they used four words to describe psychologist involvement: safe, legal, ethical and effective.

AMY GOODMAN: And if U.S. law conflicts with international law, where you have, for example, Alberto Gonzales, at the time the White House Chief Counsel, saying that the prisoners — that the Geneva Conventions do not apply to those being held at Guantanamo. What does a psychologist do then, involved in the interrogation, saying they're not protected by the Geneva Conventions?

DR. STEPHEN BEHNKE: A psychologist's involvement may never, according to the task force report, engage, facilitate, support any activity that constitutes torture or cruel, inhuman or degrading treatment, and it must be safe.

AMY GOODMAN: Robert Jay Lifton.

DR. ROBERT JAY LIFTON: Well, I think that's still risky ground for the psychologist to be in, because, as you say, you may ask him or her to study interrogations and the effect of interrogations on the interrogator, but the psychologist is not in a position to control military policy, and where national and military policy steps over into the realm of torture, even by legal fiat, as you have been saying, then the psychologist is in a situation of contributing to that process in the name of trying to keep it humane.

There's something else I wanted to say, just it seems appropriate here, perhaps in an indirect way. When I went to study Nazi doctors, I had to clear my research with

the Yale Committee on Research with Human Subjects. I was then at Yale, and this was a post-Nuremburg principle that anybody doing research with human subjects had to be sure to do no harm, not to harm them in any way, and also to maintain their confidentiality. I thought this was very ironic, because the principle derived from what these people whom I was studying had actually done, the Nazi doctors. And yet, as I thought about it, it seemed just right. I was being asked to maintain humane standards, while looking to study people who had done the opposite.

AMY GOODMAN: We're going to be wrapping up this discussion, so I do want to get to the nut of it. Since the American Psychological Association is having their annual meeting, I know this is going to be a main source of discussion and debate. The American Psychiatric Association says that mental health professionals should not engage in interrogation, should not be involved in any way. The American Psychological Association does not agree with this. While you recognize, Dr. Stephen Behnke, that there have been problems, for example, at Guantanamo, the A.P.A. hasn't taken the position that psychologists should stay out of this. Of course, a number of people on the American Psychological Association Presidential Task Force are military psychologists, and one of the leading people is one of those very involved with Guantanamo. Why not just say stay out entirely? What's the benefit of being a part of this?

DR. STEPHEN BEHNKE: We believe that psychologists are experts in human behavior, and that as experts in human behavior, psychologists have important contributions to make to information gathering and interrogation processes when they do so within strict ethical guidelines.

AMY GOODMAN: Do you think the military psychologists have succeeded in doing this at Guantanamo?

DR. STEPHEN BEHNKE: I don't know. I don't have firsthand knowledge of what went on at Guantanamo. I know that the A.P.A. very much wants the facts, and that when A.P.A. has the facts, we will act on those facts.

DR. ROBERT JAY LIFTON: You know, we have left one thing out of this conversation —

AMY GOODMAN: We have 30 seconds.

DR. MICHAEL WILKS: Okay.

DR. ROBERT JAY LIFTON: I want to say very briefly, the psychologist and the doctor are caught between their healing function and their responsibility to military policy, when you are in the military. I remember this when I — from the time I was in the military. And where military policy oversteps the bounds into torture, the psychologist is under enormous pressure to do that, and all of that has to be taken into account when we talk about the facts. I have to say the facts are in, and we have to act on them.

AMY GOODMAN: On that note, we have to wrap up. I want to thank you all for being there. We'll get input from people at our website, DemocracyNow.org. Dr. Stephen Behnke of the A.P.A., Dr. Robert Jay Lifton, and Dr. Michael Wilks of the British Medical Association, thanks for joining us.

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