

June 12, 2015

David,

I would like to follow-up on several things we discussed on Monday. Thank you for reviewing these materials. For ease of reading, I have listed my points.

1. You stated that when a moratorium resolution arose, APA found a “middle way” so as to avoid a moratorium on psychologists’ involvement in interrogations. You identified the petition that was circulating in 2006 and Neil Altman’s moratorium resolution as two examples. These middle ways fashioned by APA are positions now widely considered essential aspects of APA’s position on interrogations.
2. Regarding the event at the Wright Institute in Berkeley, CA, and its role leading up to the 2007 resolution prohibiting specific interrogation techniques, there is a tab in the notebook that gives a detailed history of this event in a correspondence between Neil Altman and me. (attachment 1) Gilbert Newman is the person who organized the event.

I note in this correspondence to Neil Altman and Brad Olson that Brad, a vocal critic of APA, has conveyed to me in conversation that he is “very ambivalent” about a list approach.

3. You identified correspondence with Morgan Banks as indicating my interest in knowing whether Banks saw problematic issues in APA texts. You indicated that, at the time, Banks was not an APA member. I also had extensive interactions with individuals from Physicians for Human Rights, and in preparation for the 2007 resolution prohibiting specific techniques of interrogation, took language directly from PHR correspondence. (attachment 2) In addition, APA supported PHR’s position on a number of initiatives. (attachment 3, in which APA President Gerry Koocher signs onto a 2006 call with PHR for a prohibition against specific abusive CIA tactics.) My email messages show me interacting with a wide range of individuals from various perspectives on this issue. In my correspondence, I continually emphasize that, despite differences among APA members on the issue of interrogations, our areas of agreement are greater than our areas of disagreement. (Attachments 2 and 4) Correspondence with Linda Woolf, Laurie Wagner, Corann Okorodudu, Judy Van Hoorn, and others consists of extensive discussions regarding specific language for resolutions (attachment 5), and I work with Laurie Wagner to draft a joint correspondence regarding the 2007 resolution (attachments 6 and 7) which gets shared with the media. (attachment 8) Correspondence with Morgan Banks must be placed in the context of my correspondence with many individuals, in particular during the resolution drafting processes.

4. Regarding my relationship with Banks, the Senate Armed Services Committee adopts language from Banks' email correspondence nearly verbatim in its conclusions. (attachment 9) Banks' position is consistent throughout the entire time I interact with him: Using reverse-SERE tactics in interrogations is ineffective, not safe, unethical, and likely illegal. The policy governing the role of behavioral science consultants that Banks drafts clearly precludes the use of reverse-SERE tactics in interrogations.
5. In our discussion on Monday, you mentioned the footnote in the memo written by the behavioral science consultants. The Senate Armed Services Committee explicitly identifies this footnote to refute the JAG's (Diane Beaver) analysis. The JAG's analysis was consistent with the Bybee memos. The BSC memo directly contradicted the Bybee analysis. The Senate Armed Services Committee stated:

The October 2, 2002 BSCT memo, however, had specifically cautioned that the techniques 'could affect the short term and/or long term physical and/or mental health of the detainee...[and that] physical and/or emotional harm from the...techniques may emerge months or even years after their use.' (Attachment 10)

The fact that the footnote was removed from the memo is an indication that those who supported abusive interrogations did not want the footnote in the memo.

6. Regarding use of the word "coercion," please see three attachments (attachments 11, 12 and 13) in which Len Rubenstein and Linda Woolf communicate to me their view that using "coercion" is problematic. Len Rubenstein writes in March of 2006 "our own thinking has evolved and I agree that coercion doesn't work as a standard." He writes in April of 2006, "the use of the term "coercion" has evolved: it is both undefined legally and vague behaviorally." Linda Woolf writes in July of 2006, "The Convention includes coercion which is a whole new can of worms" and suggests putting off a discussion of coercion, since that discussion "could potentially halt any progress on a resolution concerning torture and other cruel, inhuman, or degrading treatment or punishment."

Critics of APA were not entirely uniform in their positions on whether to use "coercion" and on whether to specify prohibited techniques.

From: [Behnke, Stephen](#)
To: [Donnelly, Paul](#)
Subject: FW: [SPSMM] Torture resolution
Date: Sunday, July 22, 2007 5:35:17 PM

Let us discuss in anticipation of a response. Thank you.

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

From: Behnke, Stephen
Sent: Sunday, July 22, 2007 6:35 PM
To: 'Neil Altman'
Subject: RE: FW: [SPSMM] Torture resolution

Hi Neil, sure. In terms of how the motions work, I'm really not the right person to ask. I'll check with Paul Donnelly, who knows parliamentary procedures much better than I, and ask him to get back to you tomorrow.

Steve

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

From: Neil Altman [<mailto:neilaltman@hotmail.com>]
Sent: Sunday, July 22, 2007 6:12 PM
To: Behnke, Stephen
Subject: RE: FW: [SPSMM] Torture resolution

Thanks, Steve.

By the way, how is it that this is being presented as a "substitute motion"?

Doesn't the maker of a resolution have to approve a motion being substituted for the one he introduced?

Neil

>From: "Behnke, Stephen" <sbehnke@apa.org>
>To: "Neil Altman" <neilaltman@hotmail.com>, <b-olson@northwestern.edu>
>Subject: RE: FW: [SPSMM] Torture resolution
>Date: Sun, 22 Jul 2007 17:56:27 -0400

>

>Neil,

>

>The SPSSI statement: http://www.spssi.org/SPSSI_Statement_on_torture.pdf

>

>The PHR letter is attached.

>

✓ >In terms of the program at the Wright Institute, the panel was video
>taped. Brad and I have discussed the notion of a "list," and I know
>Brad is very ambivalent about that approach. I myself was quite
>surprised by how strongly the group advocated for APA to prohibit
>specific techniques; at one point I said that forms of torture would be
>limited only by the human imagination, and the response came back very
>clearly that history indicates there are specific techniques that
>continue to appear across time and contexts. I asked several times if
>that is what the group believed APA should do--identify specific
>techniques that are prohibited--and the final time I asked the group
>broke into applause, so their recommendation to APA was very clear (and
>compelling). (The Board resolution identifies specific techniques, but
>prefaces the list by stating "including but not limited to...")

>

>Steve

>
>-----Original Message-----
>From: Neil Altman [mailto:neilaltman@hotmail.com]
>Sent: Sunday, July 22, 2007 5:28 PM
>To: Behnke, Stephen; b-olson@northwestern.edu
>Subject: RE: FW: [SPSMM] Torture resolution
>
>Steve,
>Can you please get me the documents you mention ASAP?
>Thanks,
>Neil
>
>
>>From: "Behnke, Stephen" <sbehnke@apa.org>
>>To: <b-olson@northwestern.edu>,"Neil Altman" <neilaltman@hotmail.com>
>>Subject: FW: [SPSMM] Torture resolution
>>Date: Sun, 22 Jul 2007 12:55:19 -0400
>>
>>Hi Brad and Neil,
>>
>>Just a quick note to call attention to an oversight of mine; when I
>>spoke with Brad and left a message for Neil, I mentioned two sources
>for
>>the Board's resolution--a letter from Physicians for Human Rights and
>>the SPSSI statement. I neglected to mention a third, a meeting at the
>>Wright Institute in Berkeley this past March, which is discussed in a
>>posting to Division 51 below.
>>
>>As I mentioned to Brad when we spoke, depending upon how you think best
>>to move forward (Brad outlined three general possibilities), if you do
>>want to recommend changes in language to the Board's proposal, the
>>earlier you can get specific wording out for Council to consider the
>>better.
>>
>>Thanks,
>>
>>Steve
>>
>-----Original Message-----
>>From: Facilitate discussion of topics related to the psychology of men
>>&
>>masculinity. [mailto:SPSMM@LISTS.APA.ORG] On Behalf Of Dan Quinn
>>Sent: Saturday, July 21, 2007 10:41 AM
>>To: SPSMM@LISTS.APA.ORG
>>Subject: [SPSMM] Torture resolution
>>
>>This forwarded from Gilbert Newman of the Wright Institute.
>>
>>Dan
>>
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>>-----
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>>
>>-----
>>
>>From: Gilbert Newman [mailto:gnewman@wrightinst.edu]
>>Sent: Saturday, July 21, 2007 1:55 AM

> >Subject: Support APA Resolution against Interrogation and Torture
> >
> >
> >Many psychologists throughout California, and particularly in the Bay
> >Area, have led efforts drawing attention to the issue of psychologists
> >participating in torture at various military detention centers. These
> >advocates have continually put a spotlight on organized psychology and
> >APA to urge the adoption of a clearer and more definitive statement
> >banning psychologist participation in torture or inhumane interrogation
> >techniques. Last March, Dr. Uwe Jacobs, the Director of Survivors
> >International in San Francisco, held a forum at the Wright Institute in
> >Berkeley for Alfred McCoy, the author of A Question of Torture: CIA
> >Interrogation, From the Cold War to the War on Terror. The event,
> >billed as a fundraiser for Survivors, drew a packed audience of
> >concerned psychologists and citizens. Wisely, Dr. Jacobs also invited
> >Dr. Stephen Behnke, the Director of Ethics at APA who attended the
> >event
> >and took extensive notes regarding specific language Professor McCoy
> >recommended for APA. I am pleased to say that the APA Board of
> >Directors
> >will soon release a proposal for APA Council to consider adopting a
> >stronger resolution specifically banning the activities Professor McCoy
> >had identified, and going well beyond that by additionally calling upon
> >the US government to prohibit the use of torturous and inhumane
> >methods,
> >and directing the Ethics Committee to establish guidelines reflecting
> >Common Article 3 of the Geneva Conventions and other international
> >instruments. This resolution will call upon US legal systems to reject
> >testimony resulting from torture or cruel, inhuman and degrading
> >treatment or punishment.
> >
> >Articles appearing recently in a Spokane, WA newspaper and in Vanity
> >Fair magazine discuss two psychologists, neither of whom are members of
> >APA, who allegedly promoted the use of reverse SERE techniques in
> >interrogations. Abuse of any individual is heinous behavior, and of
> >course, far outside our professional ethics. I want to commend Dr.
> >Jacobs, and others like him who through a nearly two-year process
> >pressed for an unequivocal statement from APA. I also want to commend
> >Dr. Behnke. In addition to having assisted in the planning of 18 hours
> >of programming related to this issue at the upcoming Convention in San
> >Francisco, he has consistently delivered your message to APA and he
> >came
> >to California repeatedly to dialogue with psychologists here about this
> >matter. I view the Board's resolution as a clear signal that APA has
> >been listening carefully and wants to be responsive to the concerns of
> >our members.
> >
> >I expect that Council will approve this proposal, which I believe will
> >be available soon for review, and encourage you to contact Council
> >members you know to advocate for this proposal.
> >
> >
> >Gilbert H. Newman, Ph.D.
> >Immediate Past-president, California Psychological Association
> >Director of Clinical Training, The Wright Institute
> >2728 Durant Ave.
> >Berkeley, CA 94704
> >510-841-9230 x110
> >Fax: 510-841-0167
> >gnewman@wrightinst.edu

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>Local listings, incredible imagery, and driving directions - all in one
>place! <http://maps.live.com/?wip=69&FORM=MGAC01>
>

><< PHRletter.pdf >>

http://imagine-windowslive.com/hotmail/?locale=en-us&ocid=TXT_TAGHM_migration_HM_mini_2G_050Z

Behnke, Stephen

From: SSB <ssb@indiana.edu> on behalf of Brehm, Sharon Stephens <sbrehm@indiana.edu>
Sent: Thursday, June 14, 2007 5:28 PM
To: Behnke, Stephen; Strassburger, Judy; Farberman, Rhea
Cc: Anderson, Norman
Subject: Rubenstein

OK --I'd like to talk briefly with you tomorrow or next week before I send a response. What day is best for you? Sharon

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

From: Behnke, Stephen [mailto:sbehnke@apa.org]
Sent: Thursday, June 14, 2007 4:19 PM
To: Brehm, Sharon Stephens; Strassburger, Judy; Farberman, Rhea
Cc: Anderson, Norman
Subject: RE:

✓ Sharon, I believe this letter can be very helpful to us in formulating the Board's resolution. I have been working on a draft, but we can use aspects of this letter in quite substantive ways, and the Board can frame its resolution as having drawn heavily from this material.

I would recommend a response that acknowledges the letter, thanks PHR for its contributions to APA's thinking, indicates that you are aware that Len Rubenstein is on the program this summer, and indicating that the letter will receive very careful consideration as APA continues its work on this important issue.

✓ For me, the letter serves to emphasize that our areas of agreement are far greater than where we disagree.

Steve

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

From: SSB [mailto:ssb@indiana.edu] On Behalf Of Brehm, Sharon Stephens
Sent: Thursday, June 14, 2007 5:02 PM
To: Strassburger, Judy; Farberman, Rhea
Cc: Behnke, Stephen; Anderson, Norman
Subject: FW:

Steve and Rhea, Let's talk about this letter -- by phone or email.
Sharon

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

From: Leonard Rubenstein [mailto:LRubenstein@phrusa.org]
Sent: Thursday, June 14, 2007 3:45 PM
To: Brehm, Sharon Stephens; president@apa.org
Subject:

PHR and Seven Leading Health Professionals Call for Prohibition of Abusive CIA Interrogation Tactics in Detainee Treatment and Trial Bill; Congress Must Not Cede Interpretation of Geneva Conventions to President

Physicians for Human Rights (PHR) is gravely concerned that the agreement reached yesterday, unless further clarified by Congress, would give the Bush Administration the discretion and immunity from prosecution to freely use a whole host of tactics that are clearly torture and cruel, inhuman and degrading treatment. PHR and seven leading health professionals (see letter below), including Dr. Philip G. Zimbardo, called on both Houses of Congress to explicitly prohibit, as part of the pending detainee treatment and trial bill, specific abusive interrogation techniques that have been repeatedly used during CIA interrogations of terror suspects, according to news reports. PHR, however, applauded the classification of certain acts as war crimes as part of the compromise reached yesterday and welcomed the refusal of Senators McCain, Warner, and Graham to redefine Common Article 3 of the Geneva Convention.

"The White House has consistently responded to every attempt to restrict its use of harsh interrogation tactics with its own reinterpretations of US and international law to justify these abuses. Because of this track record, Congress must explicitly prohibit CIA techniques that violate the Uniform Code of Military Justice, our treaty obligations, and America's values," stated Leonard Rubenstein, Executive Director of PHR. "Congress must not allow these clearly brutal and abusive tactics to officially become standard operating procedure in the CIA interrogation system."

✓ Abusive interrogation tactics used by the CIA that must be explicitly prohibited by Congress include prolonged sleep deprivation, induced hypothermia, stress positions, shaking, sensory deprivation and overload, and possibly water-boarding, among other reported techniques. PHR and other organizations working with torture survivors have clinically documented the devastating impact techniques can have on a person's physical and mental health.

"The Armed Forces have explicitly proscribed many of the very tactics that the President has been seeking Congressional authorization for the CIA to continue to use," said Brigadier General Stephen N. Xenakis, MD (USA-Ret.), an advisor to PHR and one of the signatories of the letter to Senator McCain. "The detainee treatment and trial bill must not be used to allow two conflicting standards of detainee treatment to simultaneously exist within the US Government--a high standard for the military and a lower standard for the CIA. Common Article 3 should not be allowed to become a limbo stick that can be raised or lowered as the White House sees fit."

PHR also called on Congress to restore the right of Habeas Corpus to detainees challenging their detention by the United States at Guantanamo Bay and elsewhere.

✓ The following leading health professionals called yesterday on Senator McCain to ensure that these tactics, commonly used in CIA interrogations, are prohibited under the detainee treatment and trial bill: Allen S. Keller, MD, Program Director, Bellevue/NYU Program for Survivors of Torture; Gerald Koocher, PhD, President of the American Psychological Association; Burton J. Lee, MD, former Physician to the President for George Herbert Walker Bush; Brady J. Olson, PhD, Chair of the Divisions of Social Justice of the American Psychological Association; Steven S. Sharfstein, MD, Immediate Past President, American Psychiatric Association; Brigadier General Stephen N. Xenakis, MD (USA-Ret.); and Philip G. Zimbardo, Ph.D., Professor Emeritus, Stanford and Past President of the American Psychological Association.

The full text of the letter to Senator McCain from the seven leading health professionals is below:

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

From: Corann Okorodudu [mailto:okorodudu@rowan.edu]
Sent: Tuesday, July 11, 2006 10:00 AM
To: Behnke, Stephen; Judith Van Hoorn
Cc: Linda Woolf, Ph.D.; oms@parkschool.org; G. Andrew H. Benjamin, J.D., Ph.D.; Doughaldeman@aol.com; Farberman, Rhea
Subject: Re: Revised Resolution on Torture and Other CIDT

Steve, Olivia and All,
I am sorry that I was off email yesterday but could be available for a conference call between 9 and 10 pm EST tonight. If this is convenient, please reach me at my home number: 856/848-4961.
All the best,
Corann

On 7/10/06 12:33 PM, "Behnke, Stephen" <sbehnke@apa.org> wrote:

> Hi Judy,
>
> My guess is that gathering all of us for a call will be a bit tricky,
> but let's do it.
>
> In the meanwhile, let's you, Linda, Corann and I go ahead and have our
> call, to identify the documents we want posted.
>
> Linda and Corann, would 9 pm East Coast time this evening be possible?
> Please send me numbers,
>
> Steve
>
> -----Original Message-----
> From: Judith Van Hoorn [mailto:vanhoorn@mills.edu]
> Sent: Monday, July 10, 2006 12:31 PM
> To: Behnke, Stephen
> Cc: Linda Woolf, Ph.D.; Corann Okorodudu; oms@parkschool.org; G. Andrew
> H. Benjamin, J.D., Ph.D.; Doughaldeman@aol.com; Farberman, Rhea
> Subject: RE: Revised Resolution on Torture and Other CIDT
>
>
> Hi all,
>
> I can be available for a call tonight or tomorrow anytime.
>
> Re. contacting others - I called Jeff this morning and left a message.
> I've also told Steve Sellman, Beth Wiggins (Law) and the DSJ folks that
> we would be sending the proposed resolution soon.
>
> Let's discuss this by phone (or if that's not possible, by email). Is it
> all right to circulate our draft and ask for feedback at the same time
> that the Ethics Committee is reviewing this?
> I hope that Andy and Doug can be on the call so we can address Doug's
> concerns/proposal as well.
>
> Quoting "Behnke, Stephen" <sbehnke@apa.org>:
>
>> Hi Judy and Everyone,
>>
>> Judy, I would not wait to begin contacting others, such as Jeff
>> Barnett,
>> who will be helpful. I know Olivia is committed to moving forward
>> with

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>> Ethics Committee review asap.
>>
>> I've spoken with Rhea about posting our materials on the APA web.
>> Rhea
>> talked about having a separate "landing page" specifically for this
>> material. (I sortof know what that is, but I'm not a web maven.)
>> I'm
>> wondering whether you, Corann, Linda, and I can get on the phone, so
>> we
>> can identify precisely what materials we want posted.
>>
>> Would a call tonight or tomorrow night be a possibility? If so,
>> please
>> just give me a time and numbers,
>>
>> Steve
>>
>> -----Original Message-----
>> From: Judith Van Hoorn [mailto:vanhoorn@mills.edu]
>> Sent: Sunday, July 09, 2006 3:17 PM
>> To: Behnke, Stephen
>> Cc: Linda Woolf, Ph.D.; Corann Okorodudu; oms@parkschool.org; G.
>> Andrew
>> H. Benjamin, J.D., Ph.D.; Doughaldeman@aol.com
>> Subject: RE: Revised Resolution on Torture and Other CIDT
>>
>> Steve,
>>
>> We appreciate you're 24/7 email responses.
>>
>> We're ready to contact everyone you've mentioned as soon as we get
>> the
>> go-ahead.
>>
>> Judy
>>
>> Quoting "Behnke, Stephen" <sbehnke@apa.org>:
>>
>>> Linda, Judy, and Corann, wow, have you all been working hard!
>>>
>>>
>>> I will speak with Olivia tomorrow to determine how we can best
>>> ensure
>>> that everything moves forward in an expeditious manner.
>>>
>>>
>>> Steve
>>>
>>>
>>>
>>>
>>> From: Linda Woolf, Ph.D. [mailto:woolfilm@webster.edu]
>>> Sent: Sunday, July 09, 2006 3:04 PM
>>> To: Behnke, Stephen
>>> Cc: Corann Okorodudu; Judith Van Hoorn; oms@parkschool.org; G.
>>> Andrew
>>> H.
>>> Benjamin, J.D., Ph.D.; Doughaldeman@aol.com
>>> Subject: Revised Resolution on Torture and Other CIDT

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>>>
>>>
>>> Dear Steve, Olivia, and Doug,
>>>
>>> I've attached the revised versions of the Draft Resolution Against
>>> Torture and Other Cruel, Inhuman, and Degrading Treatment or
>>> Punishment.
>>>
>>> Just to highlight a few changes that we have made:
>>>
>>> 1. We used Steve's wording related to the 5th Be It Resolved
>>> statement
>>> but divided into two points. We were concerned that combined, the
>>> prohibition against torture, might appear underemphasized in
>>> relation
>>> to
>>> working in accordance with international human rights instruments.
>>> We
>>> felt that by separating into two points, both are emphasized.
>>>
>>> 2. We added some clarifications to the definition of torture placed
>>> in
>>> brackets. One concern with the Convention Against Torture is that
>>> it
>>> can
>>> be read to apply only to state-sponsored torture. We placed the
>>> first
>>> bracketed comment to highlight the alternate reading of this
>>> Convention
>>> to include a broader range of groups. I would note that this
>>> definition
>>> does not address individuals acting solely as individuals who
>>> torture
>>> others (e.g., individuals who engage in spousal abuse). While the
>>> latter is important, there are several arguments that can be made
>>> to
>>> focus on torture that occurs within various systems. I think I've
>>> share
>>> my thoughts on this with most of you but let me know if you would
>>> like
>>> me to further outline my thoughts.
>>>
>>> The second change was in relation to the last point concerning
>>> "lawful
>>> sanctions." We added the caveat from the Special Rapporteur that
>>> the
>>> sanctions must be in accordance with both domestic and
>>> international
>>> law. This caveat is added as some nation-states have "lawful
>>> sanctions"
>>> which are clearly in violation of international law (e.g., caning
>>> or
>>> stoning) and constitute cruel and inhuman treatment/punishment.
>>> This
>>> loophole is addressed by Special Rapporteur comments in most
>>> documents
>>> and thus, we felt we should add it to our document as well.
>>>
>>> 3. We also added a new Be It Resolved (second to last) to make our
>>> resolution more complimentary to the British Psychological Society
>>> and

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Center for the Study of the Holocaust, Genocide, and Human Rights
Webster University
470 East Lockwood
St. Louis, MO 63119

Main Webpage: <http://www.webster.edu/~woolfm/woolfm@webster.edu>

"Outside of a dog, a book is a man's (and woman's) best friend. . .
Inside a dog, it's too dark to read."
- Groucho Marx

October 22, 2007

Laurel Bass Wagner, Ph.D.
6060 N. Central Expressway
Suite 332
Dallas TX 75206

Dear Laurie,

Thank you for providing me the opportunity to address your questions. As you well know, this issue has challenged our Association and its members on many levels. The enormous effort and respectful attitude you have brought to our discussions have contributed to productive dialogues that I hope will lead to a deeper understanding of APA's position on these critical questions.

Let me begin by saying that in a very few days the Ethics Committee will send out a call for questions and comments regarding the casebook/commentary it will be writing. I will forward your letter to the Committee for its review and I strongly encourage any of your colleagues who would like clarification of APA's position to write to the Committee directly. The Committee is eager to receive questions, comments and concerns from our members regarding APA's position on ethics and interrogations. Information about the process of submitting comments to the Committee (a link will be provided on the ethics portion of the APA website so that comments may be submitted to the Committee electronically) will be available shortly. I will alert Division 39 as soon as this information becomes available.

I think it is very important to begin a response by making clear APA's objective in setting forth rules regarding psychologists' participation in interrogations: To prohibit torture and abuse. Torture and abuse are immoral, unethical and ineffective. APA has emphasized this point repeatedly. Immediately following Council's action in San Francisco, The Washington Post called APA's 2007 resolution "a rebuke of the Bush administration's anti-terrorism policies." In his September 25, 2007 statement to the Senate Select Committee on Intelligence, Dr. Allen Keller, Director of the Bellevue/NYU Program for Survivors of Torture and a member of the Physicians for Human Rights' Advisory Council, wrote, "The American Psychological Association has specifically banned its members from participation in the tactics that allegedly make up the CIA's 'enhanced' interrogation program." APA's position is that the "enhanced" interrogation techniques, sometimes referred to as "torture light" or "no-touch torture," are tantamount to torture and are unethical.

You ask about the three separate categories of techniques identified in the *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 "2007 Resolution") As you well know, the 2007 Resolution was the product of an intense effort at revising the Board of Directors' substitute motion. Over a period of four days in San Francisco,

extensive revising and editing took place with the involvement of a significant number of Council of Representative members; meetings were called to begin at 6:30am and evening meetings lasted late into the night. As the work proceeded, the intent of everyone involved remained absolutely clear: To prohibit psychologist involvement in torture and abusive interrogation techniques, and to bring greater specificity to APA's position.

The 19 techniques identified in the 2007 Resolution have been associated with "enhanced" interrogations. (Note that the 2007 Resolution makes clear this list is not exhaustive.) The first category is composed of techniques that APA deems never permissible in any circumstance, such as mock executions, water-boarding, and sexual humiliation. There can never be any association, direct or indirect, in detainee-related operations where such techniques are employed. Such techniques are *per se* unethical in every instance and psychologists may never be associated with them.

The second category is composed of techniques that cannot be used in an interrogation process for the purpose of eliciting information. There may be times, however, when these techniques are used for administrative or security purposes in a detention facility. As an example, "hooding" has been used to prevent detainees from gathering and providing information to individuals outside of a facility information about that facility's physical layout, which could then be (and has been) used to plan an assault. As another example, there may be times in detention or correctional facilities when inmates are required to remove their clothing. Two points are important to emphasize about the language of the 2007 Resolution as it applies to this category of techniques. First, these techniques are not available to psychologists as means of eliciting information. While the techniques may have a role in maintaining order and security in a detention or correctional facility, psychologists may neither incorporate these techniques as part of an interrogation nor consult to interrogation teams that use these techniques to elicit information since doing so would constitute, at the very least, indirect participation. Second, the 2007 Resolution is to be interpreted broadly, so that the psychologist may *not* enlist others to employ these techniques in order to circumvent the prohibition on the psychologist. As an example, a psychologist could not employ a guard to place a hood on a detainee or strip a detainee for the purpose of breaking the detainee down, following which the interrogation will proceed. The second category of techniques in the 2007 Resolution recognizes that interrogations take place in settings where security must be maintained, but does not permit psychologists to incorporate security-related measures into interrogations for the purpose of eluding the Resolution's prohibition.

The third and final category of techniques consists of techniques that may not be "used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm." In my opinion, the description of these behaviors— isolation, sensory deprivation and over-stimulation, and sleep deprivation— suffered from not having adequate time to find wording that conveyed the authors' intention. As I'm sure you recall, the discussions focused on the definition of these words and precisely what the implications of an absolute prohibition would be. As an example, an individual in detention may be separated and placed in a cell in isolation, in

order to prevent that individual from colluding with another detainee in formulating a story that is consistent between them. Likewise, the regimen of a camp may require that detainees begin their daily routines at an early hour. I believe that everyone will agree neither example would constitute impermissible isolation or sleep deprivation, but it will be important to find language that clearly separates what is permissible from what is impermissible.

One possible model for clarifying language comes from *Leave No Marks*, an August 2007 publication of Physicians for Human Rights and Human Rights First. In *Leave No Marks*, sleep deprivation, sensory deprivation and over-stimulation, and isolation are described in their application as follows:

- “Sleep Deprivation: The prisoner is deprived of normal sleep for *extended* periods through the use of stress positions, sensory overload, or other techniques of interrupting normal sleep.” (page 22)
- “Sensory Bombardment: Noise and Light: The prisoner is exposed to bright lights, flashing strobe lights and/or loud music for *extended* periods of time.” (page 24)
- “*Prolonged* Isolation: The prisoner is denied contact with other human beings, including through segregation from other prisoners, for *prolonged* periods of time.” (page 30)
- “Sensory Deprivation: The prisoner is subjected to reduction or removal of stimuli from one or more of the senses for *prolonged* periods.” (page 30) (emphases added)

While the 2007 Resolution did not use words such as “prolonged” and “extended” in reference to isolation, sleep deprivation, and sensory deprivation and over-stimulation, certainly the Ethics Committee may decide to use the above language of Human Rights First and Physicians for Human Rights in commenting on the Resolution, if the Committee finds the qualifiers in *Leave No Marks* helpful in clarifying the 2007 Resolution. There is also extensive discussion in *Leave No Marks* regarding the harm that “enhanced” interrogation techniques can cause. *Leave No Marks* thus provides empirical data to support the conclusion that such techniques are prohibited by the 2007 Resolution, which would be consistent with both Dr. Allen Keller’s and The Washington Post’s statements regarding the effect of the Resolution.

The 2007 Resolution itself gives two conditions that prohibit isolation, sensory deprivation and over-stimulation, and sleep deprivation. The first is that the use causes “significant pain or suffering.” This language of the Resolution is modified from the UN Convention Against Torture, which uses the word “severe.” The drafters of APA’s Resolution changed “severe” to “significant.” A second clause was then added for a further restriction, “or in a manner that a reasonable person would judge to cause lasting harm.” The “or” indicates that *either* of these two clauses is a rule-out. Please carefully note the wording of the latter restrictive clause. The second prohibitive criterion in the Resolution is *not* intended to create a presumption in favor of the technique. In fact, the presumption created by the language of the 2007 Resolution is *precisely the opposite*.

According to the 2007 Resolution, if a reasonable person believes its use would result in lasting harm, the technique is prohibited. (This phrasing reverses the figure-ground from what I understand to be the Administration's position, namely, that if a reasonable person could conclude the use would not result in significant harm, the technique is permitted.) My strong sense is that the Ethics Committee, with input from our members, will be able to find language that makes clear the intent of this language in the 2007 Resolution, that abusive techniques are prohibited. Again, the Committee may well decide to adopt the language from *Leave No Marks* in relation to these terms.

In terms of your question regarding the Army Field Manual allowing that a detainee be permitted only four hours of continuous sleep per 24-hour period for 30 consecutive days, I do not have the authority to provide a definitive response, since that is the purview of the Ethics Committee. Nonetheless, it is extremely difficult to imagine how such sleep deprivation would not constitute "significant suffering" and thus be prohibited by the 2007 Resolution. It is my understanding that facilities have policies that would not permit sleep deprivation to this extent and I will try to obtain an example. I would respond likewise to the example of keeping an individual away from human contact for 30 days and using sensory deprivation tools to enhance the perception of isolation. It seems unimaginable to me that depriving an individual from all human contact for 30 consecutive days, combined with sensory deprivation tools, would not constitute "significant suffering" and thus be prohibited by the 2007 Resolution.

In your final paragraph you ask what APA is doing to clarify the meaning of the Resolution. Our public affairs and policy offices are communicating APA's position to members, relevant public officials, the media and others, and will make clear APA's position on "enhanced" interrogation techniques. I would also note the continuing work of Dr. Robert Fein, who served as a PENS Task Force member and who is the chair of the Intelligence Science Board study on educating information. This study is being cited widely for the proposition that data do *not* support the effectiveness of "enhanced" techniques.

I would again encourage your colleagues to submit their questions and comments about APA's position on interrogations to the Ethics Committee, which is eager to address points of ambiguity in the casebook and commentary. I hope that I have been responsive to your questions and look forward to our ongoing collaboration.

Sincerely,

Stephen Behnke
Director, Ethics Office
American Psychological Association

October 26, 2007

Laurel Bass Wagner, Ph.D.
Council Representative
Division of Psychoanalysis (39)
Chair-Elect, Divisions of Social Justice
American Psychological Association

Dear Laurie,

Thank you for providing me the opportunity to address your questions. I think it is very important to begin a response by making clear APA's objective in setting forth rules regarding psychologists' participation in interrogations: To prohibit torture and abuse. Torture and abuse are immoral, unethical and ineffective. This prohibition includes the "enhanced" interrogation techniques, also known as "torture light" or "no-touch torture."

APA's position is that the "enhanced" interrogation techniques, including but not limited to the 19 listed in the 2007 Resolution, constitute torture and cruel, inhuman, degrading treatment or punishment, and are unethical and prohibited. Immediately following Council's action in San Francisco, The Washington Post called APA's 2007 resolution "a rebuke of the Bush administration's anti-terrorism policies." In his September 25, 2007, statement to the Senate Select Committee on Intelligence, Dr. Allen Keller, Director of the Bellevue/NYU Program for Survivors of Torture and a member of the Physicians for Human Rights' Advisory Council, wrote, "The American Psychological Association has specifically banned its members from participation in the tactics that allegedly make up the CIA's 'enhanced' interrogation program." The Washington Post and Dr. Keller are exactly correct regarding APA's position.

You ask about the three categories of techniques identified in the *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 "2007 Resolution") The 2007 Resolution, as you well know, was the product of an intense effort at revising the Board of Directors' substitute motion. Over a period of four days in San Francisco, extensive revising and editing took place with the involvement of a significant number of Council of Representative members; meetings were called to begin at 6:30a.m. and evening meetings lasted late into the night. As the work proceeded, the intent of everyone involved remained absolutely clear: To prohibit psychologist involvement in torture and abusive interrogation techniques, and to bring greater specificity to APA's position.

The first category of techniques identified in the 2007 Resolution is composed of those techniques that APA deems never permissible in any circumstance, such as mock executions, water-boarding, and sexual humiliation. There can never be any association, direct or indirect, in detainee-related operations where such techniques are employed.

Such techniques are *per se* unethical in every instance and psychologists may never be associated with them.

The second category is composed of techniques that cannot be “used in an interrogation process for the purpose of eliciting information.” This phrase means that these techniques may never be used (either during an interrogation session or outside of an interrogation session) if the purpose is to elicit information. There may be times, however, when these techniques are used for administrative or security purposes in a detention facility. As an example, “hooding” has been used to prevent detainees from gathering information regarding a facility’s physical layout, which could then be (and has been) conveyed to those on the outside to plan an assault. As another example, there may be times in detention or correctional facilities when inmates are required to remove their clothing.

Two points are important to emphasize about the language of the 2007 Resolution as it applies to this category of techniques. First, these techniques are *not* available to psychologists as means of eliciting information. While the techniques may have a role in maintaining order and security in a detention or correctional facility, psychologists may neither incorporate these techniques as part of an interrogation nor consult to interrogation teams that use these techniques as means to elicit information, since doing so would constitute, at the very least, indirect participation. Second, the 2007 Resolution is to be interpreted broadly, so that the psychologist may *not* enlist others to employ these techniques in order to circumvent the prohibition on the psychologist. As an example, a psychologist could not employ a guard to place a hood on a detainee or strip a detainee for the purpose of breaking the detainee down, following which the interrogation would proceed. The second category of techniques in the 2007 Resolution recognizes that interrogations take place in settings where security must be maintained, but does not permit psychologists to incorporate security-related measures into interrogations for the purpose of eluding the Resolution’s prohibition.

The third and final category of techniques consists of techniques that may not be “used in a manner that represents significant pain or suffering or in a manner that a reasonable person would judge to cause lasting harm.” In my opinion, the description of these behaviors— isolation, sensory deprivation and over-stimulation, and sleep deprivation— suffered from not having adequate time to find wording that conveyed the authors’ intention. As I’m sure you recall, the discussions focused on the definition of these words and precisely what the implications of an absolute prohibition would be. As an example, an individual in detention may be separated and placed in a cell in isolation, in order to prevent that individual from colluding with another detainee in formulating a story that is consistent between them. Likewise, the regimen of a camp may require that detainees begin their daily routines at a very early hour. I believe that everyone will agree neither example would constitute impermissible isolation or sleep deprivation, but it is important to find language that clearly separates what is permissible from what is impermissible.

One possible model for clarifying language comes from *Leave No Marks*, an August 2007 publication of Physicians for Human Rights and Human Rights First. In *Leave No Marks*, sleep deprivation, sensory deprivation and over-stimulation, and isolation are described in their application as follows:

- “Sleep Deprivation: The prisoner is deprived of normal sleep for *extended* periods through the use of stress positions, sensory overload, or other techniques of interrupting normal sleep.” (page 22)
- “Sensory Bombardment: Noise and Light: The prisoner is exposed to bright lights, flashing strobe lights and/or loud music for *extended* periods of time.” (page 24)
- “*Prolonged* Isolation: The prisoner is denied contact with other human beings, including through segregation from other prisoners, for *prolonged* periods of time.” (page 30)
- “Sensory Deprivation: The prisoner is subjected to reduction or removal of stimuli from one or more of the senses for *prolonged* periods.” (page 30) (emphases added)

Leave No Marks’ descriptions of these interrogation techniques, with the adjectives “prolonged” and “extended,” accomplishes what I believe the Resolution was trying to accomplish with the phrase “used in a manner which represents significant pain and suffering.” There was never any intention to allow isolation, sensory deprivation and over-stimulation, and sleep deprivation up until a point of significant pain and suffering is reached (that is, the intent of the Resolution was *not* to have psychologists “calibrate” the extent of the suffering or pain). Rather, the intent of the Resolution regarding these techniques was to delineate prohibited interrogation techniques, which by their very nature cause significant pain or suffering when used specifically to break a prisoner down as described in *Leave No Marks*, from permissible security techniques or certain conditions of prison life. As *Leave No Marks* concludes,

This report demonstrates that “enhanced” techniques of interrogation, whether practiced alone or in combination may cause severe physical and mental pain. In fact, the use of multiple techniques of “enhanced” interrogation virtually assures the infliction of severe physical and mental pain upon detainees. (page 4)

The Ethics Committee may decide to use the above language of Human Rights First and Physicians for Human Rights in commenting on the Resolution, if the Committee finds the descriptions in *Leave No Marks* helpful in clarifying the 2007 Resolution. There is also extensive discussion in *Leave No Marks* regarding the harm that “enhanced” interrogation techniques can cause. *Leave No Marks* thus provides empirical data to support the conclusion that such interrogation techniques are prohibited by the 2007 Resolution.

I want to identify and highlight an issue that I realize is of great concern to many members, that the 2007 Resolution creates a “loophole” that allows psychologists to participate in some “enhanced” interrogation techniques. As I mentioned earlier, I fully

recognize that the language of the Resolution regarding these behaviors was not as clear as the authors hoped it would be and as many of our members closely following this issue believe is necessary. I want to say emphatically, however, that the intention of the Resolution is to *prohibit* participation in interrogations that involve abuse, torture, or cruel, inhuman or degrading treatment or punishment through the use of isolation, sensory deprivation and over-stimulation and sleep deprivation. At no point was there any discussion of, or intention to create, a “loophole” that would allow psychologists to participate in abusive interrogations.

Given the concerns that have been expressed let me state clearly and unequivocally the 2007 Resolution should never be interpreted as allowing isolation, sensory deprivation and over-stimulation, or sleep deprivation either alone or in combination to be used as interrogation techniques to break down a detainee in order to elicit information. My strong sense is that the Ethics Committee, with input from our members, will be able to find language that makes clear the intent of this language in the 2007 Resolution, that these “enhanced” interrogation techniques, all other abusive techniques and techniques of torture and cruel, inhuman and degrading treatment or punishment are prohibited. Again, the Committee may well decide to adopt the language from *Leave No Marks* in relation to these terms. If members believe this or any other language in the Resolution is unclear or insufficient, I encourage them to communicate their concerns to the Ethics Committee as the Committee works on the casebook and commentary.

In your final paragraph you ask what APA is doing to clarify the meaning of the Resolution. The Ethics Committee is charged by the 2007 Resolution to produce a casebook and commentary that will provide guidelines to psychologists consistent with international human rights laws. The casebook and commentary will address questions raised in response to the Resolution. Currently our public affairs and policy offices are communicating APA’s position to members, relevant public officials, the media and others, and will make clear APA’s position:

- “Enhanced” interrogation techniques are unethical and prohibited.
 - Psychologists may not plan, design, assist, or participate, directly or indirectly, in “enhanced” interrogation techniques, including but not limited to the 19 delineated in the 2007 Resolution and any other techniques that constitute torture and cruel, inhuman or degrading treatment and punishment as defined by the UN Convention Against Torture, the Geneva Convention and APA’s 2006 Resolution Against Torture.
 - The prohibitions against psychologist participating in interrogation techniques that constitute torture and cruel, inhuman and degrading treatment or punishment are absolute, even in the face of orders, laws and regulations.
 - APA calls upon the US government to ban these techniques and upon the legal system to reject testimony that results from torture and cruel, inhuman or degrading treatment or punishment.
-

- Psychologists must be alert to torture and cruel, inhuman or degrading treatment or punishment and shall inform their superiors, the relevant office of inspector general when appropriate, and cooperate fully with all oversight activities, including hearings by the US Congress and all branches of the US government.
- APA, recognizing that torture and cruel, inhuman or degrading treatment or punishment can result from conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights and affirms the prerogative of psychologists to refuse to work in such settings.

I encourage your colleagues and all members to submit their questions and comments about APA's position on interrogations to the Ethics Committee, which is eager to clarify in the casebook and commentary any points of ambiguity. An official call for comments will be issued this fall and comments may be submitted electronically through a link on the ethics portion of the APA website. I will let Division 39 and the Divisions of Social Justice know as soon as this link is active.

Again, thank you for providing me the opportunity to address your questions. As you well know, this issue has challenged our Association and its members on many levels. The enormous effort and respectful attitude you have brought to our discussions have contributed to productive dialogues that I hope will lead to a deeper understanding of APA's position on these critical questions. I look forward to our ongoing collaboration.

Sincerely,

Stephen Behnke
Director, Ethics Office
American Psychological Association

Behnke, Stephen

From: Behnke, Stephen
Sent: Tuesday, October 30, 2007 10:25 AM
To: Laurel B Wagner
Subject: FW: Hello from Mark Benjamin at Salon

Hi Laurie, I spoke with Rhea--she thinks this is definitely a good way to go...I have a pretty light day schedule today (meetings 11-2), and so will be free for you and me to speak.

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

From: Laurel B Wagner [mailto:lbwagner@tx.rr.com]
Sent: Tuesday, October 30, 2007 12:30 AM
To: mbenjamin@salon.com
Cc: Behnke, Stephen
Subject: Re: Hello from Mark Benjamin at Salon

Hi Mark,
I was thinking since this correspondence is between Steve Behnke and me that it might be interesting for both Steve and I to respond to you. Finding a time to talk is difficult. Obviously tonight is out. I was thinking it would be most helpful to me if you were to send Steve and I questions via email that then we could both answer. The correspondence is interesting and I, and I believe Steve as well, would be happy to answer your questions. I am copying Steve on this email.
Laurie Wagner

At 05:05 PM 10/29/2007, you wrote:

>Hi Laurel. I saw a copy of your letter to the APA on interrogations and
>the response from Steve. Looks interesting. Can we arrange some time to
>talk tonight or Tuesday relatively early to discuss? I thought it might
>be worth writing about. Please let me know how to contact you.
>
>Mark Benjamin
>Salon National Correspondent
>Desk: 202 333-5696
>Cell: 202 302-3769

Behnke, Stephen

From: Linda Woolf, Ph.D. <woolfm@webster.edu>
Sent: Tuesday, July 11, 2006 1:42 PM
To: Behnke, Stephen
Cc: Corann Okorodudu; Judith Van Hoorn; oms@parkschool.org; G. Andrew H. Benjamin, J.D., Ph.D.; Doughaldeman@aol.com; Farberman, Rhea
Subject: Re: Revised Resolution on Torture and Other CIDT

Hi All,

Behnke, Stephen wrote:

Also, please note the WONDERFUL WASHINGTON POST HEADLINE THAT CAME OUT AT
10:21 AM:
U.S. Will Give Detainees Geneva Rights

I saw that last night. Of course, as noted in the one of the articles I read, this is not (place tongue in cheek here) a change in the President's policies in relation to Guantanamo Bay.

Linda has done a FABULOUS job of putting together all the UN/Human rights materials.

Thanks. I went ahead and added the Geneva Convention related to treatment of prisoners to the web page. We don't reference it, but if folks are interested, it is there.

The Geneva Convention is far more restrictive than anything we have written. It states:

◁No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

✓ The Convention includes coercion which is a whole new can of worms. For example, "we will give you better food if you provide information." Is this coercion? Can any form of lying or deception be used or is this a form of coercion? One of the reasons I argued against the inclusion of the Geneva Convention in the resolution is that coercion is part of most interrogations throughout the States and quite legal. Individuals may be quite correct that psychologists should not be involved in any form of coercive interrogation. Nonetheless, I think that is a discussion for another day and could potentially halt any progress on a resolution concerning torture and other cruel, inhuman, or degrading treatment or punishment.

Best wishes,

Linda

Behnke, Stephen

From: Leonard Rubenstein <LRubenstein@phrusa.org>
Sent: Friday, March 10, 2006 5:54 PM
To: Behnke, Stephen
Subject: RE: PHR comments

✓ Steve,

Happy to talk some more -- just quickly to let you know that our own thinking has evolved and I agree that coercion doesn't work as a standard. In comments we recently submitted to AMA, we agreed with you that coercion was not a proper standard, since all interrogations are designed to cause some physical or mental harm to people -- anxiety, fear, depression -- and given the strong ethical tradition, in medicine anyway, of doing no harm, there should be no role whatsoever for physicians in interrogation. In reviewing the dual loyalty analysis, moreover, we found that socially permissible breaches of loyalty to patients never involved direct infliction of physical or mental harm on them to serve a social purpose. Prohibition on participation in executions is a good example -- after all, it's both legal and considered moral by the society -- but doctors still can't participate.

Putting people in legal jeopardy is a different matter entirely.

The tradition of doing no harm may not be as strong in psychology, but the spirit of the ethical standards seems to be the same, and wrinkle about the extensive role of psychologists in evaluations for child custody etc is not germane -- and once again, there is a huge difference between pain inflicted for therapeutic purposes and for other purposes.

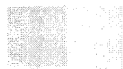
That's my view at this point -- it seems to get at the heart of the role and values of the profession.

Re getting together, next Thursday is best, though lunch probably won't work. Late pm is best -- Cosi again?

Take care.

Leonard S. Rubenstein
Executive Director
Physicians for Human Rights
(202) 728-5335
www.phrusa.org

PHR



**Physicians for
Human Rights**

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Mary H. White, MD

1156 15th Street, NW
Suite 1001
Washington, DC 20005
T: 202.728.5335
F: 202.728.3053
www.phrusa.org

April 6, 2006

Stephen Behnke, J.D., Ph.D., Director of Ethics
American Psychological Association
750 First Street, NE
Washington, DC 20002

Dear Dr. Behnke,

Thank you for giving PHR the opportunity to respond to the questions you raise in your letter of March 29, 2006. You raise some important issues and we will try to shed some light on our thinking on these questions.

Question 1: British Psychological Definition of Torture vs. UN Convention Against Torture

Your first query concerned the reference in our commentary to the PENS report to the definition of torture in The Declaration by the British Psychological Society Concerning Torture and Other Cruel, Inhuman, or Degrading Treatment. You asked why we recommended this definition rather than the one in the UN Convention Against Torture.

I should say at the outset that we are very pleased that the committee is looking at internationally accepted definitions of torture, since, as you know, the PENS Task Force could not reach agreement that international human rights standards should govern at all. The Council addressed this concern to a degree last August when it suggested amending Ethical Standard 1.02 to include "basic principles of human rights" among the standards to be used for resolving conflicts between ethics and law. I also wish to reiterate our view, elaborated in our prior correspondence, that psychologists' ethical obligations go beyond the avoidance of torture or cruel, inhuman or degrading treatment.

Like the APA, the British Psychological Society explicitly endorses the international Convention Against Torture in its Declaration Concerning Torture and Other Cruel, Inhuman and Degrading Treatment.¹ We read the BPS Declaration's definition of torture as derived from the one provided in the Convention against Torture. The key definitional words are identical – the deliberate infliction of physical or mental suffering (the Torture Convention reads "pain and suffering" rather than "suffering," and the APA may wish to reiterate the word "pain" when referring to the Convention definition; we do not, in any event, read the omission of the word "pain" from the BPS definition to be significant). At the same time,

¹ The APA's 1986 Resolution Against Torture and Other Cruel, Inhuman or Degrading Treatment endorses the Convention.

the particular strength of the British Psychological Society definition is that, in addition to the general statement, it provides illustrative examples of the kind of practices that amount to torture: "threats, insults, sexual, religious or cultural degradation or degrading treatment of any kind."

Thus, we see no tension between the two definitions; the BPS version simply supplies illustrations that can provide useful guidance to psychologists. In this connection, the committee may also wish to refer to the definition of mental torture in U.S. law enacted to implement the provisions of the Convention relating to the criminalization of torture since that phrase that is not specifically defined in the Torture Convention. The definition of mental torture in U.S. criminal law is as follows:

As used in this chapter—

(1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.²

We think section 2(B) is especially significant in its reference to procedures calculated to disrupt profoundly the senses or the personality. The techniques listed in our commentary under Statement 1 were intended to help identify interrogation methods that meet this standard as well as the prohibition on cruel, inhuman and degrading treatment. Because the list is illustrative and not exclusive, and guidance to psychologists is so important, we sought to characterize them in operational terms, and have suggested that psychologists should not in any way assist or support the use of techniques that "1) the psychologist has reason to believe will cause prolonged negative health or mental health consequences; or 2) is intended to or does result in increased levels of distress." This provides psychologists with concrete guidance based on their knowledge rather than having to make decisions about what the law requires.

Question 2: Definitions of the Phrase, "Cruel, Inhuman and Degrading"

The meaning of "cruel, inhuman or degrading treatment or punishment" is well established. The term is used frequently in international treaties, US military guidance, and elsewhere and has been extensively interpreted in specific cases by reviewing bodies including the UN's

² 18 U.S. Code § 2340.

Committee Against Torture, the UN Special Rapporteur on Torture, the US State Department annual Country Reports, and decisions by judicial bodies such as the European Court of Human Rights. In the United States, where Congress has interpreted "cruel, inhuman and degrading treatment" to have the same meaning as "cruel and unusual punishment" under the 8th Amendment, many judicial decisions have interpreted the phrase. We review these interpretations as applied to certain practices in Chapter VI of PHR's report, *Break Them Down*, which may serve as a useful reference guide for the Committee's discussions.

Thus, this term, like psychological torture, provides solid guidance for identifying prohibited interrogation practices. Having said that, we agree, as we explain in the preceding section, that psychologists need still more exacting and operational guidance in order to protect them from violating their ethical duties – and behaviorally-based rules and examples are helpful in this regard. It is for this reason that our thinking on the use of the term "coercion" has evolved: it is both undefined legally and vague behaviorally.

In our March 15 letter, therefore, we propose a straight-forward standard derived from the fundamental ethical duty to avoid causing harm: we urge that, however torture and cruel, inhuman and degrading treatment may be defined as a matter of law, psychologists may not ethically participate in national security-related interrogations of individuals because of the inherently stress-inducing nature of the interrogation process; nor, of course, may psychologists ethically offer general advice that may be used to increase levels of distress.

Question 3: Participation of Psychologists in Training Interrogators in Building Rapport

We have emphasized our belief that ethical concerns regarding interrogation should be based fundamentally on whether a psychologist's conduct contributes to increased levels of distress or harm. Providing interrogators particularized information or advice regarding an individual detainee violates that ethical standard, we believe, because it contributes directly to – and exacerbates – an inherently stressful and harmful process. Providing general advice about ways to increase levels of distress and harm, of course, violates that standard, as well.

Providing general training and advice regarding rapport-building strategies, however, is qualitatively different. The general nature of the guidance distances and insulates it from individual interrogations, helps assure that they will be lawful, and precludes the disclosure of any particularized knowledge of a subject's psychological health or condition or individualized advice about interrogation techniques in the moment. Moreover, given its very nature, rapport-building advice, when fire-walled from individual interrogations, will not itself contribute to harm. In contrast, a psychologist's participation in an individual interrogation, even if intended to promote rapport, always raises the possibility – sometimes in ways beyond the psychologist's control – that his or her particularized knowledge and advice will be used to increase distress or harm to a subject. This concern is described in more detail in the March 15 letter, along with the related problem that a psychologist's mere presence in, or observation of, an individual interrogation can lead to the unintended sanctioning of torture or cruel, inhuman or degrading treatment, regardless of the psychologist's stated purpose for participating. For these reasons, we believe that general advice and training on rapport building should set the outer limit of the psychologist's ethical role in interrogation in the national security setting.

Stephen Behnke, J.D., Ph.D.
Page 4 of 4

Thank you once again for the opportunity to share our views with the Committee. If you or the Committee have additional questions, please do not hesitate to contact me. It would be a pleasure to continue this dialogue, either in writing or in person, as long as it is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Leon S. Rubenstein". The signature is fluid and cursive, with the first name "Leon" and last name "Rubenstein" clearly distinguishable.

Leonard S. Rubenstein
