

## Appendix

*This appendix supplements the articles given above regarding health professionals' participation in interrogations that violate national as well as international laws.*

### The appendix consists of

1. An introduction
2. A letter to the American Psychological Association (APA)
3. The answer from APA
4. A response to the APA from a member from APA

### 1. Introduction

Since the advent of the so-called “war on terrorism”, there has been ongoing scrutiny of the role that health professionals have played in coercive interrogations that, in some instances, have amounted to torture. In the past few years, many health professional associations have issued directives to their members stressing the illegality of torture and the responsibility of their members to document and report incidences of torture.

One group that has been weighing this issue is the American Psychological Association (APA), following evidence that psychologists actively participated in coercive interrogations at U.S. “war on terror” detention facilities. While the APA issued a referendum condemning torture, many members found caveats in the language and felt the association could do more to bar members from taking part in interrogations at such facilities. Earlier this year, APA members proposed a new resolution that would pro-

hibit their members from participating in interrogations that occur at sites which do not meet standards for detention under international law.

The IRCT sent a letter to the APA in August 2008, stressing the importance of closing any remaining loopholes in its anti-torture referendum and encouraging APA members to vote in favour of the proposed resolution. The APA responded to the IRCT by noting that amendments to its previous anti-torture resolution had addressed some of the IRCT’s concerns; the APA also stressed its commitment to pursue investigations against any member alleged to have violated its ethical standards. In September 2008, the proposed resolution passed. Despite this positive development, as member Stephen Soldz points out, concerns still remain – not only about when the resolution takes effect, but also about the APA’s willingness to open investigations against members alleged to have participated in interrogations that constituted torture. The following correspondence tracks this issue in more detail.

*Brandy Bauer*

## 2. A letter to the American Psychological Association (APA)

August 22, 2008

Dear President Kazdin and APA members,

The International Rehabilitation Council for Torture Victims (IRCT) would like take the opportunity to address APA members on the role of psychologists in preventing torture and share our ideas of how the APA can move forward to ensure that its members practice their profession under the highest ethical standards.

As an umbrella organisation representing 139 torture rehabilitation centres and programmes in 70 countries, the IRCT understands the devastating impact of torture on survivors. Its consequences include not only physical effects such as long-lasting pain, but psychological sequelae – e.g. PTSD, anxiety and depression. The work of the IRCT and its member centres is to alleviate that suffering and work for the prevention of torture worldwide.

The IRCT is acutely aware that health professionals have participated, and continue to participate, in interrogations that violate national and international laws. For example, IRCT physicians played a key role in investigating and documenting the torture of 11 ex-detainees held in U.S. custody abroad, the findings of which were published in the Physicians for Human Rights report *Broken Laws, Broken Lives*. During their clinical interviews with the 11 men, these physicians learned that not only were health professionals present during torture and ill-treatment and failed to report the abuse, they also gave confidential information to interrogators and

in some instances even denied medical care for the detainees. And just one week ago, lawyers for Guantanamo detainee Mohamed Jawad charged that a psychologist's report filed at the detention facility led to the then-teenager being placed in isolation, resulting in a deterioration of his mental health.<sup>1</sup> Such actions flagrantly violate the fundamental ethical precept of the health professions to "do no harm".

Last year, the APA passed a resolution condemning and prohibiting psychologists' participation in interrogation that involves torture and other cruel, inhuman or degrading treatment. While the resolution represented a step forward in preventing torture and ill-treatment, on 4 September 2007 the IRCT issued a statement<sup>2</sup> expressing concern about the qualifiers in the resolution in respect to the scope of definition of the techniques it mentions.

These concerns still stand. The IRCT thus reiterates that all of the listed techniques are illegal and unethical in all circumstances and not 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" as stated in the resolution. Moreover, we repeat our concern that the resolution adopts the United States' reservations to the United Nations Convention Against Torture, which weakens the Convention by narrowing its definition of torture with regard to mental pain or suffering.

The IRCT is aware that APA members are currently voting on another resolution that would put a moratorium on members'

1) The psychologist in question has invoked Article 31 of the Uniform Code of Military Justice so as not to be self-incriminated. For more information see: [www.nytimes.com/2008/08/16/washington/16psych.html?ref=health](http://www.nytimes.com/2008/08/16/washington/16psych.html?ref=health)

2) See [www.irct.org/Default.aspx?ID=159&M=News&PID=5&NewsID=954](http://www.irct.org/Default.aspx?ID=159&M=News&PID=5&NewsID=954)

participation in military and CIA interrogations altogether. Given the abuses that have taken place in US-run detention centres around the world in later years and the ambiguities that the present US administration has sown with regard to the absolute prohibition against torture and ill-treatment, the IRCT finds such a moratorium appropriate. Therefore we strongly urge APA members to vote “yes” on the proposed resolution.

As several APA members have noted, this resolution is intended to put an end to psychologists’ participation in interrogations that occur in settings that violate international justice and humanitarian standards; it would not prohibit psychologists from working in settings that uphold international and human rights law. The IRCT believes that the APA has the ability to set a precedent for mental health professionals worldwide. The profession of psychology already has suffered ethical damage through its association with the “war on terror” – it will take much time and effort to recover, but the passage of this resolution would be an important step toward healing.

Sincerely,  
Brita Sydhoff  
IRCT Secretary-General

Jose Quiroga  
IRCT Vice President and Representative of  
North America Region

### 3. The answer from APA

Dear Ms. Sydhoff:

I am writing in response to your Aug. 22 letter to our president, Alan Kazdin, and members.

I believe that the American Psychological Association’s Council of Representatives addressed some of the concerns you expressed. You appear to be unaware that the Council passed an amendment to its August 2007 anti-torture resolution eliminating the phrase 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.” The new paragraph reads:

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 American Psychological Association is deeply concerned about the recently alleged involvement of a psychologist in an abusive interrogation of a Guantanamo detainee. While the psychologist who has been named is not an APA member, the Association's position is steadfast. No psychologist – APA member or not – should be directly or indirectly involved in any form of detention or interrogation that could lead to psychological or physical harm to a detainee. Doing so would be a clear violation of the profession's ethical standards.

APA strongly supports the full implementation of the U.S. Supreme Court decision holding that Guantanamo detainees have a constitutional right to judicial review of their detentions. We are closely monitoring all available information relevant to the role of psychologists in detainee treatment. APA will pursue ethics investigations where evidence indicates that an APA member has violated our ethical standards.

Finally, with regard to the referendum before our membership, the balloting period closes on Sept. 15, after which an independent firm will tally the votes. We will make the results public as promptly as possible.

Thank you for your letter, and for your

efforts to work for the prevention of torture worldwide. Please do not hesitate to contact us if you would like more information.

Sincerely,  
Kim I. Mills  
Associate Executive Director  
Public & Member Communications

#### 4. A response to the APA from a member from APA

The American Psychological Association and Abusive Detention Center Policy: Progress Despite Stiff Opposition

Stephen Soldz, Director\*

The American Psychological Association's (APA) letter responding to the IRCT suggests that APA has consistently been concerned about U.S. psychologists' contributions to the U.S. governments' systematic program of torture and detainee abuse.<sup>1-5</sup> Unfortunately, the historical record reveals that, contrary to this picture, the APA has consistently downplayed psychologists' contributions to detainee abuse and exerted great efforts to keep psychologists in the abusive U.S. detention facilities, such as Guantanamo and the CIA's "black sites". Over the many years of the Bush administration program of abuse the APA has passed several anti-torture resolutions<sup>6-8</sup> while never questioning their "policy of engagement" that insisted that psychologists, rather than aiding abuse, were instead helping to keep interrogations "safe and ethical".<sup>9-16</sup> Critics among the association's membership have dissented from<sup>17-25</sup> and fought for years to change these policies.<sup>26-28</sup>

This fall, the movement against psychologist participation in U.S. torture and detainee abuse experienced a significant victory. The members of the APA rejected the policies of the association's leadership. By a vote of 59%, the members passed a referendum stating that APA members may not work in U.S. detention centers – such

as Guantanamo or the CIA's secret "black sites" – that are outside of or in violation of international law or the U.S. Constitution "unless they are working directly for the persons being detained or for an independent third party working to protect human rights".<sup>29</sup> Passage of this referendum is a significant milestone in a years-long effort by activist psychologists to change policies that encouraged participation in detainee interrogations.

After years of failing to effect real change through the associations' Council of Representatives – which infrequently challenges the APA leadership on issues of vital importance to those leaders<sup>30</sup> – dissident members and allies turned in 2008 to new strategies designed simultaneously to take advantage of, and to bypass, the official structures. Members of the WithholdAPAdues<sup>31</sup> group found a never before used provision in the association by-laws allowing for a member-initiated policy referendum. Three psychologists – Dan Aalbers, Brad Olson, and Ruth Fallbaum – wrote a referendum statement rejecting the participation of psychologists at detention centers operating outside of (as in the Geneva Conventions don't apply) or in violation of (as in enhanced interrogations are approved) international law or the Constitution.

The campaign generated amazing grassroots activism. People never before heard from were emailing their successes in convincing other colleagues to vote. Psychologists for Social Responsibility and others made brief videos distributed on YouTube and Google Video. Two APA divisions lined up in support. Conversation about the referendum on psychologist-run listservs was greater than that on any other topic in memory.

Referendum passage constitutes a giant step forward for those psychologists

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who have been fighting to change the APA's policies on involvement in the detention centers. But the struggle of these activist psychologists is far from over. First, there is a disagreement with APA leadership as to when the policy change goes into effect; the leadership claimed initially that the bylaws state that the change doesn't go into effect till next August, while referendum supporters believe this claim is an egregious misreading of the bylaws. Discussions continue regarding the details of referendum implementation. To his great credit, APA President Alan Kazdin skirted the areas of disagreement, allowing him to promptly write President Bush and U.S. Defense Secretary Robert Gates, informing them of the new association policy.<sup>32</sup>

Moreover, while the APA's policy is in the process of changing, the organizational and policy conditions – the culture that allowed the APA to advocate for years in support of psychologist participation in detainee interrogations – have not changed. Activists are focused upon several additional steps to bring about a rejuvenation of their association and their profession.

There is a strong campaign afoot to elect one of the activists as APA President to make sure the new policy is firmly implemented and backed by the organization, as well as to push other efforts making human rights and social justice more central within the profession of psychology. Steven Reiser, a New York psychologist is running an active campaign.<sup>27</sup> In the first nomination phase of the campaign, he received the highest number of votes among the five winning candidates. Passage of the referendum should provide an even stronger boost to his campaign. Ballots went out to the APA membership this October and are due back December 1.

APA members have been deeply dis-

turbed by another prior action of the Association. In 2002, its ethics committee placed a clause (1.02) in the ethics code allowing laws, regulations, and government orders to override professional ethics.<sup>33</sup> These members are concerned that the clause provides an offensive loophole that is a variation on the Nuremberg defense – “I was just following orders” – into the ethics code.<sup>34</sup>

As far back as 2005, the APA Council of Representatives called on the ethics committee to develop a plan to revise this clause. Despite these instructions, the association has resisted clarifying this clause by adding a phrase as simple as “except when violating fundamental human rights”. Other disturbing 2002 modifications to the APA ethics code weakened protections for research participants, such as removing a requirement for informed consent from participants “where otherwise permitted by law or federal or institutional regulations.” Such a clause could, for example, allow experimentation on detainees without their permission, a disturbing violation of professional guidelines and international agreements.

Also added in 2002, section 8.07 on deception in research permits too high a threshold for allowable deception research: “Psychologists do not deceive prospective participants about research that is reasonably expected to cause physical pain or severe emotional distress.” The phrase “severe emotional pain” – changed from “unpleasant emotional experiences” – was added in 2002. It eerily echoes the definition of psychological torture in the UN Convention against Torture:<sup>35</sup> “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ...” Surely a research procedure should not need to meet the legal definition of “torture” for disqualification as an ethics violation.

In its response to the IRCT, the APA states that “[w]e are closely monitoring all available information relevant to the role of psychologists in detainee treatment. APA will pursue ethics investigations where evidence indicates that an APA member has violated our ethical standards”.<sup>36</sup> While some psychologists, including APA members, have been documented to have participated in abuses likely constituting torture, the APA ethics committee has consistently stalled action against<sup>37</sup> or refused to open cases against these psychologists. The ethics committee has even engaged in such petty actions as refusing to accept a web address (URL) for documents from the Senate Armed Services Committee, insisting that the complainant print out and submit them in hard copy.

In the case of Col. Larry James, head of the Behavioral Science Consultation team at Guantanamo from January till May 2003,<sup>38</sup> the association has not only refused to open a case in response to an ethics complaint, but Col. James has since been elected president of one APA division (military psychology) and awarded a prestigious award by another.<sup>39</sup> There is no evidence of the APA initiating any investigation without prompting from members. Rather, APA leadership has consistently denied or minimized psychologists’ potential contributions to detainee abuse.<sup>40,41,30</sup> The APA is far from demonstrating its seriousness in pursuing ethics investigations.

Another form of accountability is a “setting right” of the historical record. Given the known facts regarding psychologists and their roles in detainee abuse, and given the extensive downplaying and denial of these facts and their significance by APA leadership, it is critical to create a detailed public record of the contributions of psychologists to the dark side over the last seven years. It

is imperative that a truth process be created that will examine all materials, existing in the public record or available through investigation, and construct such a permanent record. Also necessary is a careful examination of the many other organizational, ethical, and policy issues that allowed the psychological profession and its major professional organization to become complicit in detainee abuse over the last seven years. Preferably, this process would be part of a Health Professionals Truth Commission examining the roles of members of all health professionals in U.S. detainee abuse, as members of all these professions abetted this abuse.<sup>42-45</sup>

One possibility is that such a Commission could be a subcommittee of a Congressionally-chartered Truth Commission on detainee abuse under a new U.S. administration. Another possibility is that prominent psychologists along with such organizations as Psychologists for Social Responsibility, Physicians for Human Rights, Physicians for Social Responsibility, and the IRCT could create such a Commission. Clinical psychologists often encourage their clients to face harsh truths. It is similarly necessary for our profession to face these somewhat cold and difficult realities. Only this will prevent us from recreating this sad episode in our profession’s history when the next national or international crisis hits.

The implications of passage of the referendum extend beyond the APA and psychology. The referendum will put additional pressure on the Defense Department to remove psychologists from their roles aiding interrogations and detainee behavior management. It will also create additional pressure for the development of a mental health system for detainees that is completely isolated from chain of command pressures. While the U.S. Department of

Defence is not necessarily bound by APA policy, it generally follows professional ethics policies; to do otherwise could make its efforts to recruit and retain psychologists and other professionals substantially more difficult. The implications for the CIA's "enhanced interrogation" program are less certain, given the secrecy under which that program is conducted. Yet, even there, the APA referendum will increase pressure for a new administration and Congress to shut down the program.

Finally, passage of the referendum is being heralded by the wider public as a sign of an impending rejection by U.S. citizens of the "dark side" which has taken over so much of our government and country in recent years. This feeling was expressed by the conservative commentator, anti-torture activist, and blogger Andrew Sullivan who headlined his posting on the referendum's passage with "Know Hope." Congratulatory emails from around the world have indicated that many find hope in our psychologist colleagues' rejection of the dark side. "Finally, good news from the U.S." one email said. These correspondents join us in hoping that this rejection of official torture and abuse will be followed by a wholesale rejection from the American public and government.

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