

FEBRUARY 2013 LEGISLATIVE COUNCIL NEW BUSINESS ITEM

Date Submitted: February 22, 2013

Agenda Item # 25C

Subject: Reconciliation of Policies Related to Psychologists' Work in National Security Settings

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Representing: Divisions 19 (Society for Military Psychology) and 48 (Society for the Study of Peace, Conflict, and Violence: Peace Psychology Division)

Issue: Over the past 8 years, there have been ongoing discussions of American Psychological Association (APA) policies addressing psychologists' work in and related to national security detention settings. These discussions have highlighted the need for a careful examination of APA's large body of policies related to torture, professional ethics, detainee welfare, and interrogation in the national security context. These policies date back 27 years and include five Council resolutions (1985, 1986, 2006, 2007, and 2008), the PENS report policy of 2005, and the membership petition resolution of 2008. In this context, it is also essential to consider the APA Ethics Code change of 2010, which fundamentally altered Ethical Standards 1.02 (related to conflicts between ethics and law, regulations, or other governing legal authority) and 1.03 (related to conflicts between ethics and organizational demands). These policies state unequivocally that torture is a violation of both human rights and psychologists' professional ethics and is always prohibited. Yet, there is currently no integrative document outlining all of APA's policies related to torture, ethics, detainee welfare, and interrogation. Unfortunately, the large body of at times redundant, conflicting, obsolete, and invalid policies makes it difficult to discern and communicate coherent and meaningful ethical guidance. Moreover, the piecemeal nature of the policies lends itself to viewing individual policies in isolation, out of context of APA's position in its entirety, and thereby risks APA's position being misinterpreted.

Relation to APA Goals/Objectives: This item builds upon APA's vision to be "*The primary resource for all psychologists*" by directly supporting APA's core value, "*Ethical action in all that we do.*" In addition, consolidating these policies, eliminating duplication, and deleting policies that have been superseded directly support APA Goal 1 (**Maximize Organizational Effectiveness**), Objective 1a (*Enhance APA . . . communications to increase member engagement and value*).

Estimated Costs/Staff Resources: Publicizing the existence of the consolidated policy document (press release, *Monitor* article, etc.).

Main Motion #1:

- 1 That Council receives the Report of the APA Member-Initiated Task Force to Reconcile APA
- 2 Policies Related to Psychologists' Work in National Security Settings.

Main Motion #2:

1 That Council adopts the following resolution as APA policy:
2

3 **APA Reconciled Policy Related to Psychologists' Work in National Security Settings and**
4 **Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman,**
5 **or Degrading Treatment or Punishment**
6

7 **WHEREAS** the large body of (at times) redundant or conflicting policies in the area of
8 psychologists' involvement in national security interrogation or detention settings makes it
9 difficult to discern and communicate coherent and meaningful ethical guidance to inform the
10 work of psychologists in those settings;

11 **WHEREAS** some policies listed in the Council Policy Manual are no longer valid as a result of
12 subsequent policy statements (for example, a central aspect of the Psychological Ethics and
13 National Security—PENS—policy relating to Ethical Standards 1.02 and 1.03 is now out of
14 date following the 2010 change to the Ethics Code, and a core definitional provision of the
15 2007 Council resolution related to torture was rescinded and replaced the following year);

16 **WHEREAS** it is difficult to determine how individual policies relate to one another and to the
17 APA Ethics Code, and which policy takes precedence when policies conflict;

18 **WHEREAS** the piecemeal nature of the policies lends itself to viewing individual policies in
19 isolation, out of the context of APA's position in its entirety, and thereby risks APA's position
20 being misinterpreted (for example, the PENS report is still being identified at times as the sole
21 or primary APA policy in relation to psychologist involvement in national security settings);

22 **WHEREAS** the human rights principles at the heart of these documents can therefore
23 become obscured;

24 **BE IT RESOLVED:** That the 2007 Council Resolution, *Reaffirmation of the American*
25 *Psychological Association position against torture and other cruel, inhuman, or degrading*
26 *treatment or punishment and its application to individuals defined in the United States Code*
27 *as "enemy combatants,"* along with its 2008 amendment, shall be placed in the APA Policy
28 Archive.

29 **BE IT FURTHER RESOLVED:** That the 2005 “Report of the Presidential Task Force on
30 Psychological Ethics and National Security” shall be rescinded.

31 **BE IT RESOLVED: That Council adopts the following eight statements and respective**
32 **corollaries as APA policy:**

33 **Statement 1: Psychologists may not work in settings where persons are held outside of, or**
34 **in violation of, either International Law (e.g., the UN *Convention Against Torture* and the**
35 ***Geneva Conventions*) or the US *Constitution* (where appropriate), unless they are working**
36 **directly for the persons being detained or for an independent third party working to**
37 **protect human rights¹.**

38 APA in recognizing that torture and other cruel, inhuman or degrading treatment or
39 punishment can result not only from the behavior of individuals but also from the conditions
40 of confinement, expresses grave concern over settings in which detainees are deprived of
41 adequate protection of their human rights, affirms the prerogative of psychologists to refuse
42 to work in such settings, and will continue to explore ways to support psychologists who
43 refuse to work in such settings or who refuse to obey orders that constitute torture.

44 **Statement 2: If the APA *Ethics Code*, as amended in 2010, establishes a higher standard of**
45 **conduct than is required by law, psychologists must meet the higher ethical standard. If**
46 **psychologists' ethical responsibilities conflict with law, regulations or other governing legal**
47 **authority or organizational demands, psychologists make known their commitment to this**
48 ***Ethics Code*, and take reasonable steps to resolve the conflict in a responsible manner in**
49 **keeping with basic principles of human rights².**

50 Ethical Standard 1.02, *Ethical Principles of Psychologists and Code of Conduct*, Conflicts
51 Between Ethics and Law, Regulations, or Other Governing Legal Authority

52 If psychologists' ethical responsibilities conflict with law, regulations or other governing legal
53 authority, psychologists clarify the nature of the conflict, make known their commitment to
54 the *Ethics Code* and take reasonable steps to resolve the conflict consistent with the General
55 Principles and Ethical Standards of the *Ethics Code*. Under no circumstances may this
56 standard be used to justify or defend violating human rights.

57 Ethical Standard 1.03, *Ethical Principles of Psychologists and Code of Conduct*, Conflicts
58 Between Ethics and Organizational Demands

59 If the demands of an organization with which psychologists are affiliated or for whom they
60 are working are in conflict with this *Ethics Code*, psychologists clarify the nature of the
61 conflict, make known their commitment to the *Ethics Code* and take reasonable steps to
62 resolve the conflict consistent with the General Principles and Ethical Standards of the *Ethics*

¹It is clarified by a footnote in the *Member Petition Resolution* "that military clinical psychologists would still be available to provide treatment for military personnel."

²*Ethical Principles of Psychologists and Code of Conduct*, Retrieved from <http://www.apa.org/ethics/code/index.aspx>

63 Code. Under no circumstances may this standard be used to justify or defend violating
64 human rights.

65 APA is an accredited non-governmental organization at the United Nations and so is
66 committed to promote and protect human rights in accordance with the United Nations
67 Charter and the *Universal Declaration of Human Rights*.

68 **Statement 3: Psychologists do not knowingly engage in, assist, tolerate, direct, support,**
69 **advise, facilitate, plan, design, or offer training in torture or other cruel, inhuman, or**
70 **degrading treatment or punishment under any and all conditions.**

71 APA defines torture in accordance with Article I of the UN *Declaration and Convention*
72 *Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (hereafter
73 referred to as UN *Convention Against Torture*):

74 The term "torture" means any act by which severe pain or suffering, whether physical or
75 mental, is intentionally inflicted upon a person for such purposes as obtaining from him [sic]
76 or a third person information or a confession, punishing him for an act he or a third person
77 has committed or is suspected of having committed, or intimidating or coercing him or a
78 third person, or for any reason based on discrimination of any kind, when such pain or
79 suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public
80 official or other person acting in an official [e.g., governmental, religious, political,
81 organizational] capacity. It does not include pain or suffering arising only from, inherent in, or
82 incidental to lawful sanctions [in accordance with both domestic and international law]³.

83 The APA defines the term "cruel, inhuman, or degrading treatment or punishment" to mean
84 treatment or punishment of any person in accordance with the United States Reservation I.1
85 of the Reservations, Declarations and Understandings to the United Nations *Convention*
86 *Against Torture*, which defines this term as "the cruel, unusual and inhumane treatment or
87 punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the
88 *Constitution of the United States*"⁴.

³United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:
<http://www2.ohchr.org/english/law/cat.htm>

⁴Specifically, United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations *Convention Against Torture* stating, 'the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.'

Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself [sic], nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the

89 APA further unequivocally condemns all techniques considered torture or cruel, inhuman or
90 degrading treatment or punishment under the United Nations *Convention Against Torture*;
91 the *Geneva Conventions*; the *Principles of Medical Ethics Relevant to the Role of Health*
92 *Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against*
93 *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; the *Basic*
94 *Principles for the Treatment of Prisoners*; or the World Medical Association *Declaration of*
95 *Tokyo*. An absolute prohibition against the following techniques therefore arises from, is
96 understood in the context of, and is interpreted according to these texts:

97 Mock executions; water-boarding or any other form of simulated drowning or suffocation;
98 sexual humiliation; rape; cultural or religious humiliation; exploitation of fears, phobias or
99 psychopathology; induced hypothermia; the use of psychotropic drugs or mind-altering
100 substances; hooding; forced nakedness; stress positions; the use of dogs to threaten or
101 intimidate; physical assault including slapping or shaking; exposure to extreme heat or cold;
102 threats of harm or death; isolation; sensory deprivation and over-stimulation; sleep
103 deprivation; or the threatened use of any of the above techniques to an individual or to
104 members of an individual's family.

105 APA unequivocally condemns torture and cruel, inhuman, or degrading treatment or
106 punishment, under any and all conditions (applicable to all individuals, in all settings and in
107 all contexts without exception), including detention and interrogations of any persons
108 regardless of designation (e.g., lawful and unlawful enemy combatants as defined by the US
109 *Military Commissions Act of 2006*⁵ or privileged vs. unprivileged enemy belligerent as defined
110 by the US *Military Commissions Act of 2009*⁶).

United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

⁵Defined as both unlawful enemy combatants and lawful enemy combatants as set forth in the U.S. Military Commissions Act of 2006 (Chapter 47A; Subchapter I: Â§ 948a. Definitions)

(1) UNLAWFUL ENEMY COMBATANT. -

(A) The term 'unlawful enemy combatant' means-

(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

(B) CO-BELLIGERENT. - In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

(2) LAWFUL ENEMY COMBATANT - The term 'lawful enemy combatant' means a person who is-

(A) a member of the regular forces of a State party engaged in hostilities against the United States;

(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

⁶Defined as both privileged belligerent and unprivileged enemy belligerent as set forth in the U.S. Military Commissions Act of 2009 (Chapter 47A; Subchapter I: § 948a. Definitions)

(6) PRIVILEGED BELLIGERENT.-The term 'privileged belligerent' means an individual belonging to one of the eight categories enumerated in Article 4 of the *Geneva Convention* Relative to the Treatment of Prisoners of War.

(7) UNPRIVILEGED ENEMY BELLIGERENT.-The term 'unprivileged enemy belligerent' means an individual (other than a privileged belligerent) who- (A) has engaged in hostilities against the United States or its coalition partners; (B) has purposefully and materially supported hostilities against the United States or its coalition partners; or (C) was a part of al Qaeda at the time of the alleged offense under this chapter.

111 This unequivocal condemnation by APA includes an absolute prohibition against
112 psychologists knowingly planning, designing, participating in or assisting in the use of all
113 condemned techniques at any time and that psychologists may not enlist others to employ
114 these techniques in order to circumvent this policy's prohibition.

115 Moreover, psychologists shall not provide knowingly any research, instruments, or
116 knowledge that facilitates the practice of torture or other forms of cruel, inhuman, or
117 degrading treatment or punishment.

118 Psychologists shall not knowingly participate in any procedure in which torture or other
119 forms of cruel, inhuman, or degrading treatment or punishment is threatened.

120 This policy statement/section conforms to the *Ethical Principles of Psychologists and Code of*
121 *Conduct*: Principle A, Beneficence and Nonmaleficence ("Psychologists strive to benefit those
122 with whom they work and take care to do no harm. In their professional actions,
123 psychologists seek to safeguard the welfare and rights of those with whom they interact
124 professionally and other affected persons . . ."), and Ethical Standard 3.04, Avoiding Harm
125 ("Psychologists take reasonable steps to avoid harming . . . others with whom they work, and
126 to minimize harm where it is foreseeable and unavoidable.").

127 **Statement 4: APA affirms that there are no exceptional circumstances whatsoever,**
128 **whether induced by a state of war or threat of war, internal political instability or any**
129 **other public emergency, that may be invoked as a justification for torture or cruel,**
130 **inhuman, or degrading treatment or punishment, including the invocation of laws,**
131 **regulations, or orders.**

132 This policy statement is in keeping with Article 2.2. of the UN *Convention Against Torture*.

133 **Statement 5: Psychologists shall be alert to acts of torture or other cruel, inhuman, or**
134 **degrading treatment or punishment and should such acts evolve during a procedure where**
135 **a psychologist is present, the psychologist shall attempt to intervene to stop such behavior,**
136 **and failing that, the psychologist has an ethical responsibility to exit the procedure.**

137 **Statement 6: Psychologists shall be alert to acts of torture and other cruel, inhuman, or**
138 **degrading treatment or punishment and have an ethical responsibility to report these acts**
139 **to the appropriate authorities.**

140 APA asserts that any APA member with knowledge that a psychologist, whether an APA
141 member or non-member, has engaged in torture or cruel, inhuman, or degrading treatment
142 or punishment, including the specific behaviors listed in Statement 3 above, has an ethical
143 responsibility to abide by Ethical Standard 1.05, Reporting Ethical Violations, in the *Ethical*
144 *Principles of Psychologists and Code of Conduct* (2010) and directs the Ethics Committee to
145 take appropriate action based upon such information, and encourages psychologists who are
146 not APA members also to adhere to Ethical Standard 1.05.

147 APA commends those psychologists who have taken clear and unequivocal stands against
148 torture or cruel, inhuman or degrading treatment or punishment, especially in the line of
149 duty, and including stands against the specific behaviors (detailed in Statement 3) or
150 conditions listed above; and that the APA affirms the prerogative of psychologists under the

151 *Ethics Code* (2010) to disobey law, regulations or orders when they conflict with ethics in
152 keeping with Ethical Standard 1.02.

153 APA asserts that all psychologists with information relevant to the use of any method of
154 interrogation constituting torture or cruel, inhuman, or degrading treatment or punishment
155 have an ethical responsibility to inform their superiors of such knowledge, to inform the
156 relevant office of inspector general when appropriate, and to cooperate fully with all
157 oversight activities, including hearings by the United States Congress and all branches of the
158 United States government, to examine the perpetration of torture or cruel, inhuman, or
159 degrading treatment or punishment against individuals in United States custody, for the
160 purpose of ensuring that no individual in the custody of the United States is subjected to
161 such acts.

162 The ethical responsibility to report is rooted in the *Ethics Code* Preamble, "Psychologists
163 respect and protect civil and human rights . . . the development of a dynamic set of ethical
164 standards for psychologists' work-related conduct requires a personal commitment and
165 lifelong effort to act ethically [and] to encourage ethical behavior by . . . colleagues," and
166 Principle B, Fidelity and Responsibility, which states that psychologists "are aware of their
167 professional and scientific responsibilities to society and to the specific communities in which
168 they work" and Ethical Standard 1.05, Reporting Ethical Violations, "If an apparent ethical
169 violation has substantially harmed or is likely to substantially harm a person."

170 **Statement 7: Psychologists in national security settings shall work in accordance with**
171 **international human rights instruments relevant to their roles.**

172 Psychologists working in national security settings are obligated to review vital human rights
173 documents relevant to their roles, such as Common Article 3 of the *Geneva Conventions*; the
174 United Nations *Convention Against Torture and Other Cruel, Inhuman, or Degrading*
175 *Treatment or Punishment*; the *Geneva Conventions*; the *Principles of Medical Ethics Relevant*
176 *to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and*
177 *Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*;
178 the *Basic Principles for the Treatment of Prisoners*; the United Nations *Principles on the*
179 *Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or*
180 *Degrading Treatment or Punishment*; and the World Medical Association *Declaration of*
181 *Tokyo, Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading*
182 *Treatment or Punishment in Relation to Detention and Imprisonment.*

183 **Statement 8: When psychologists serve in any position by virtue of their training,**
184 **experience, and expertise as psychologists, including psychologists working in national**
185 **security settings, they are bound by the APA Ethical Principles of Psychologists and Code of**
186 **Conduct, in its entirety.**

187 Based on the Principles and Standards of the APA *Ethical Principles of Psychologists and Code*
188 *of Conduct*, psychologists working in national security settings shall:

- 189 • Abide by the *Ethics Code* in any professional role, including roles outside traditional health-
190 care provider relationships.

191 • Seek to safeguard the welfare and rights of those with whom they interact professionally and
192 other affected persons.

193 This principle conforms to Ethics Code, Principle A: Beneficence and Nonmaleficence.
194 "Psychologists strive to benefit those with whom they work and take care to do no harm."

195 • Seek to understand individuals' culture and ethnicity to avoid misunderstandings and
196 potential harm.

197 Failure to understand aspects of individuals' culture and ethnicity may generate
198 misunderstandings, compromise the efficacy of work in national security settings, and
199 potentially result in significant mental and physical harm. (Principle E, "Psychologists are
200 aware of and respect cultural, individual, and role differences, including those based on . . .
201 race, ethnicity, culture, national origin . . . and consider these factors when working with
202 members of such groups"; Ethical Standard 2.01(b), Boundaries of Competence, "Where
203 scientific or professional knowledge in the discipline of psychology establishes that an
204 understanding of factors associated with . . . race, ethnicity, culture, national origin . . . is
205 essential for effective implementation of their services or research, psychologists have or
206 obtain the training, experience, consultation, or supervision necessary to ensure the
207 competence of their services, or they make appropriate referrals . . ."; and Ethical Standard
208 3.01, Unfair Discrimination, "In their work-related activities, psychologists do not engage in
209 unfair discrimination based on . . . race, ethnicity, culture, national origin . . .")

210 • Be aware of the potential risks involved in multiple relationships, and follow the guidance
211 contained in Standard 3.05 to minimize those risks.

212 Ethics Code Standard 3.05, Multiple Relationships, "A psychologist refrains from entering into
213 a multiple relationship if the multiple relationship could reasonably be expected to impair
214 the psychologist's objectivity, competence or effectiveness in performing his or her functions
215 as a psychologist, or otherwise risks exploitation or harm to the person with whom the
216 professional relationship exists."

217 • Be aware of and clarify their role in situations where the nature of their professional identity
218 and professional function may be ambiguous.

219 Psychologists have a special responsibility to clarify their role in situations where individuals
220 or other professionals may have an incorrect impression that psychologists are serving in a
221 healthcare provider role. (Ethical Standards 3.07, Third-Party Requests for Services, "When
222 psychologists agree to provide services to a person or entity at the request of a third party,
223 psychologists attempt to clarify at the outset of the service the nature of the relationship
224 with all individuals or organizations involved. This clarification includes the role of the
225 psychologist . . . an identification of who is the client, the probable uses of the services
226 provided or the information obtained, and the fact that there may be limits to
227 confidentiality"; and 3.11, Psychological Services Delivered to or Through Organizations, "(a)
228 Psychologists delivering services to or through organizations provide information beforehand
229 to clients and when appropriate those directly affected by the services about (1) the nature
230 and objectives of the services, (2) the intended recipients, (3) which of the individuals are

231 clients, (4) the relationship the psychologist will have with each person and the organization,
232 (5) the probable uses of services provided and information obtained, (6) who will have access
233 to the information, and (7) limits of confidentiality.")

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

- 237 • Clarify for themselves the identity of their client.

238 This policy statement conforms to *Ethics Code* Standard 3.07 Third-Party Requests for
239 Services, "When psychologists agree to provide services to a person or entity at the request
240 of a third party, psychologists attempt to clarify at the outset of the service the nature of the
241 relationship with all individuals or organizations involved. This clarification includes the role
242 of the psychologist . . . an identification of who is the client, the probable uses of the services
243 provided or the information obtained, and the fact that there may be limits to
244 confidentiality."

- 245 • Retain ethical obligations to individuals who are not their clients.

246 Regardless of whether an individual is considered a client, psychologists have an ethical
247 obligation to "avoid harming their . . . organizational clients and others with whom they
248 work, and to minimize harm where it is foreseeable and unavoidable" (Ethical Standard 3.04,
249 Avoiding Harm). Psychologists' ethical obligations are especially important where, because of
250 a setting's unique characteristics, an individual may not be fully able to assert relevant rights
251 and interests. (Principle A, Beneficence and Nonmaleficence, "In their professional actions,
252 psychologists seek to safeguard the welfare and rights of those with whom they interact
253 professionally and other affected persons"; Principle D, Justice, "Psychologists exercise
254 reasonable judgment and take precautions to ensure that their potential biases, the
255 boundaries of their competence, and the limitations of their expertise do not lead to or
256 condone unjust practices"; Principle E, Respect for People's Rights and Dignity, "Psychologists
257 are aware that special safeguards may be necessary to protect the rights and welfare of
258 persons or communities whose vulnerabilities impair autonomous decision making"; Ethical
259 Standard 3.08, Exploitative Relationships, "Psychologists do not exploit persons over whom
260 they have supervisory, evaluative or other authority . . .")

- 261 • Make clear the limits of confidentiality.

262 Psychologists take care not to leave a misimpression that information is confidential when in
263 fact it is not. (Ethical Standards 3.10, Informed Consent, and 4.02, Discussing the Limits of
264 Confidentiality, "(a) Psychologists discuss with persons (including, to the extent feasible,
265 persons who are legally incapable of giving informed consent and their legal representatives)
266 and organizations with whom they establish a scientific or professional relationship (1) the
267 relevant limits of confidentiality and (2) the foreseeable uses of the information generated
268 through their psychological activities.")

269 • Be mindful that individuals held in national security settings may not have engaged in
270 untoward behavior and may not have information of national security interest.

271 Ethical obligations are not diminished by the nature of an individual's acts prior to
272 detainment or the likelihood of the individual having relevant information. At all times
273 psychologists remain mindful of and abide by the absolute prohibitions against engaging in
274 or facilitating torture and other cruel, inhuman, or degrading treatment or punishment.
275 (Principle E, Respect for Peoples' Rights and Dignity, "Psychologists are aware that special
276 safeguards may be necessary to protect the rights and welfare of persons or communities
277 whose vulnerabilities impair autonomous decision making"; and 3.01, Unfair Discrimination,
278 "In their work-related activities, psychologists do not engage in unfair discrimination based
279 on . . . race, ethnicity, culture, national origin . . .")

280 • Be aware that certain settings may instill in individuals a profound sense of powerlessness
281 and may place individuals in considerable positions of disadvantage in terms of asserting
282 their interests and rights.

283 Psychologists are mindful that prisoners represent a vulnerable population. (Principle E:
284 Respect for People's Rights and Dignity, "Psychologists respect the dignity and worth of all
285 people, and the rights of individuals to privacy, confidentiality, and self-determination.
286 Psychologists are aware that special safeguards may be necessary to protect the rights and
287 welfare of persons or communities whose vulnerabilities impair autonomous decision
288 making." Also, Ethical Standards 1.01, Misuse of Psychologists' Work, "If psychologists learn
289 of misuse or misrepresentation of their work, they take reasonable steps to correct or
290 minimize the misuse or misrepresentation," and 3.08, Exploitative Relationships,
291 "Psychologists do not exploit persons over whom they have supervisory, evaluative or other
292 authority . . .")

293 • Consult with others when they are facing difficult ethical dilemmas.

294 Preamble to the *Ethics Code*, "The development of a dynamic set of ethical standards for
295 psychologists' work-related conduct requires a personal commitment and lifelong effort to
296 act ethically . . . and to consult with others concerning ethical problems"; and Ethical
297 Standard 4.06, Consultations.

- 298 • Be willing to take ethical responsibility for their own behavior.
- 299 • Abide by the APA Ethical Principles of Psychologists and Code of Conduct, in its entirety.

300 As a means to advance human rights in the national security context, APA shall carry out the
301 following three broad activities:

- 302 1. APA shall continue to call upon the US government-including the President, Congress, the
303 Department of Defense, and the Central Intelligence Agency-to prohibit the use of torture or
304 cruel, inhuman, or degrading treatment or punishment in any interrogation and APA shall
305 continue to inform relevant parties with the US government that psychologists are
306 prohibited from participating in such methods. In order to protect against torture and cruel,
307 inhuman, or degrading treatment or punishment, and in order to mitigate against the

308 likelihood that unreliable and/or inaccurate information is entered into legal proceedings,
309 APA shall continue to call upon the US legal system to reject testimony that results from
310 torture or cruel, inhuman, or degrading treatment or punishment.

311 2. APA shall offer ethical guidance and support especially to psychologists working in national
312 security settings at the beginning of their careers, who may experience pressures to engage
313 in unethical or inappropriate behaviors that they are likely to find difficult to resist. The APA
314 Ethics Committee shall develop and distribute a casebook and commentary that shall set
315 forth guidelines for psychologists that are consistent with international human rights
316 instruments, including those cited earlier, as well as guidelines developed for health
317 professionals, such as: Common Article 3 of the *Geneva Conventions*; The UN *Convention*
318 *Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; The UN
319 *Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians,*
320 *in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or*
321 *Degrading Treatment or Punishment*; and The World Medical Association *Declaration of*
322 *Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading*
323 *Treatment or Punishment in Relation to Detention and Imprisonment*. The Ethics Committee
324 shall also develop a consultation process whereby psychologists whose work involves
325 classified material may seek ethical guidance for assistance and support.

326 3. APA shall disseminate and publicize this new reconciled APA policy against torture and other
327 cruel, inhuman, or degrading treatment or punishment, both within the Association (to
328 boards, committees, and the membership at large) and to the wider public to safeguard
329 individual welfare and to advance human rights.

Expected Outcomes/Products: This unified policy will result in the replacement of existing APA policies that are outdated, redundant, or confusing; it will result in a clear and accurate statement of APA policy as related to the work of psychologists in national security settings.

APA'S GOALS AND OBJECTIVES (APPROVED BY COUNCIL – AUGUST 2009)

➤ **Goal 1: Maximize Organizational Effectiveness**

Objectives

The APA's structures and systems support the organization's strategic direction, growth and success.

- a. Enhance APA programs, services and communications to increase memberengagement and value;
- b. Ensure the ongoing financial health of the organization;
- c. Optimize APA's governance structures and function.

Goal 2: Expand Psychology's Role in Advancing Health

Objectives

Key stakeholders realize the unique benefits psychology provides to health and wellness and the discipline becomes more fully incorporated into health research and delivery systems.

- a. Advocate for the inclusion of access to psychological services in health care reform policies
- b. Create innovative tools to allow psychologists to enhance their knowledge of health promotion, disease prevention, and management of chronic disease;
- c. Educate other health professionals and the public about psychology's role in health;
- d. Advocate for funding and policies that support psychology's role in health;
- e. Promote psychology's role in decreasing health disparities;
- f. Promote the application of psychological knowledge for improving overall health and wellness at the individual, organizational, and community levels.

Goal 3: Increase recognition of psychology as a science

Objectives

The APA's central role in positioning psychology as the science of behavior leads to increased public awareness of the benefits psychology brings to daily living.

- a. Enhance psychology's prominence as a core STEM (Science, Technology, Engineering, and Mathematics) discipline;
 - b. Improve public understanding of the scientific basis for psychology;
 - c. Expand the translation of psychological science to evidence-based practice;
 - d. Promote the applications of psychological science to daily living;
 - e. Expand educational resources and opportunities in psychological science.
-

APA CORE VALUES (APPROVED BY COUNCIL - FEBRUARY 2010)

The American Psychological Association commits to its vision through a mission based upon the following values:

- Continual Pursuit of Excellence
- Knowledge and Its Application Based Upon Methods of Science
- Outstanding Service to Its Members and to Society
- Social Justice, Diversity, and Inclusion

➤ Ethical Action in All that We Do

**Report of the
APA Member-Initiated Task Force
to Reconcile APA Policies Related to
Psychologists' Work in National Security Settings ***

Members:

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The Task Force is comprised of members of the American Psychological Association (APA) but is not an APA sponsored task force and is not under the purview of any APA board, committee, task force, or directorate.

Introduction

Over the past 8 years, there have been ongoing discussions of American Psychological Association (APA) policies addressing psychologists' work in and related to national security detention settings. Recent discussions highlight the need for a reconciliation of APA's large body of policies related to torture, professional ethics, detainee welfare, and interrogation in the national security context. These policies date back 27 years and include five Council resolutions (1986, 1987, 2006, 2007, and 2008), the PENS report policy of 2005, and the membership petition resolution of 2008. In this context, it is also essential to consider the APA Ethics Code change of 2010, which fundamentally altered Ethical Standards 1.02 (related to conflicts between ethics and law, regulations, or other governing legal authority) and 1.03 (related to conflicts between ethics and organizational demands). These policies emphasize the inviolate nature of human rights and state unequivocally that torture is a violation of both human rights and psychologists' professional ethics and as such are always prohibited.

Currently, there is no integrative document outlining all of APA's policies related to torture, ethics, detainee welfare, and interrogation. There has been significant work on policy related to the role of psychologists in national security, particularly since the drafting of the 1986 Oppositions to Torture Resolution, the 1987 Human Rights Resolution, and the 2005 APA Presidential Task Force on Psychological Ethics and National Security (PENS) report. These newer policies are more extensive in their clear prohibition against psychologist involvement in any form of torture or cruel, inhuman, or degrading treatment or punishment as defined under international law and hence, these policies must be moved into the forefront of all general policy concerning the role of psychologists in interrogation settings.

Challenges Associated with Multiple Policy Statements

The evolving but seemingly disconnected nature of APA policy addressing psychologists' work in and related to national security detention settings has created several challenges. First, the large body of at times redundant or conflicting policies in this area makes it difficult to discern and communicate coherent and meaningful ethical guidance to inform the work of psychologists in national security settings. Indeed, it is difficult to determine how individual policies relate to one another and to the APA Ethics Code, and which policy takes precedence when policies conflict. Unfortunately, the human rights principles at the heart of these documents can also become obscured.

Second, due to the evolving nature of APA policy since 2005 and with the passage of the Member Petition Resolution and changes to the APA Ethics Code in 2010, there now exist contradictions within APA policy. As such, some earlier policies are no longer valid as a result of subsequent policy statements. For example, a central aspect of the PENS policy (relating to Ethical Standards 1.02 and 1.03) is now out of date following the 2010 change to the Ethics Code. Also, a core definitional provision of the 2007 Council resolution related to torture was rescinded and replaced the following year.

Finally, the piecemeal nature of the policies lends itself to viewing individual policies in isolation, out of the context of APA's position in its entirety, and thereby risks APA's position being misinterpreted.

Goal

Based on the above, the Member-Initiated Task Force to Reconcile Policies Related to Psychologists' Involvement in National Security Settings was formed in January 2012, comprised of APA members, with the following goal:

To replace the PENS report and related Council resolutions focused on torture, ethics, detainee welfare, and interrogation with a unified, comprehensive APA policy document to offer clear guidance for psychologists in national security settings. This document would also incorporate, but not replace, the 2006 Council resolution against torture, the membership petition resolution, and the amendments to the APA Ethics Code, which would all remain in effect as APA policy.

The following principles are underscored in the proposed reconciled policy and are drawn from existing APA policies:

- Torture is always a violation of human rights and psychologists' professional ethics;
- Psychologists are always prohibited from engaging in torture or other cruel, inhuman, or degrading treatment or punishment;
- Abusive interrogation techniques, such as waterboarding and sensory deprivation, constitute torture or cruel, inhuman, or degrading treatment or punishment and are always prohibited;
- The role of psychologists in unlawful detention settings is limited to working on behalf of detainees or providing treatment for military personnel;
- There is absolutely no defense to a violation of human rights under the APA Ethics Code.

Policies included in the Proposed Policy Reconciliation

- 2010 Amendments to the Ethics Code: 1.02 and 1.03
 - 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.
 - 1.03 Conflicts Between Ethics and Organizational Demands. If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Ethics Code, 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.
- 2008 APA Petition Resolution Ballot and the related Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution

- 2008 APA Amendment to 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"
- 2007 APA 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"
- 2006 APA Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment
- 2005 APA Presidential Task Force on Psychological Ethics and National Security (PENS)
- 1987 Human Rights Resolution
- 1986 Opposition to Torture Resolution

This consolidated policy will replace the PENS report, along with other Council resolutions focused on national security settings, but will not replace the broader 2006 Council Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, the membership petition resolution, or the amendments to the Ethics Code, all of which will remain intact as APA policy.

Brief History of the Member-Initiated Task Force and Process

APA members approached the APA Board of Directors with concerns about how APA policies related to torture, ethics, detainee welfare, and interrogation were being presented in different contexts. The Board of Directors encouraged these individuals to combine efforts and develop a joint, grassroots task force to pursue their shared vision of a unified, comprehensive, and consistent APA policy related to torture, ethics, detainee welfare, and interrogation.

Since, January 2012, the Member-Initiated Task Force has met regularly via conference calls and online discussion with a dedicated listserv. The Task Force announced the creation of the group and developed a website for dissemination of materials and transparency of the process – <http://www.unifiedpolicytaskforce.org>. Our goal was to create a draft reconciled policy that would undergo two stages of review prior to submission to the APA Council of Representatives. The first stage of the review would be a select consultant review and the second stage would be an open, public call for comments.

In mid-June, the Task Force sent out a Call for Consultants (see Appendix A) to a broad range of constituencies for individuals to review the draft consolidated policy. Our call went to APA Divisions; State, Provincial, and Territorial Psychological Associations (SPTAs); four Ethnic Minority Psychological Associations (EMPAs); Psychologists for Social Responsibility (PsySR); the Coalition for an Ethical Psychology; Psychologists for an Ethical APA; some international psychological organizations; and to psychologists involved in the national security sector. Our goal was to draw on the expertise of a broad range of constituencies and perspectives to develop a coherent and useful reconciled APA policy going forward. Below are the individuals who have volunteered or were appointed by their associations to serve as consultants and provided commentary. Note that organizational identification does not signify organizational endorsement of the policy.

Allan Omoto, PhD (Division 9)
Wendy Williams, PhD (Division 9)
Melvin A. Gravitz, PhD (Division 13)
Cathleen Caviello, PhD (Division 13)
Walter Penk, PhD (Division 18)
L. Morgan Banks, PhD (Division 19)
Larry James, PhD (Division 19)
David N. Elkins, PhD (Division 32)
Joseph B. Juhasz, PhD (Division 34)
Chris Meissner, PhD (Division 41)
George Hough, PhD (Division 48)
Arthur Kendall, PhD (Division 48)
Robert Younger, PhD (Division 55)
Holly Sanger, PhD (Iowa Psychological Association)
Wendy Peters, PhD (Indian American Psychological Association)
Jesse Aros, PhD. (National Latina/o Psychological Association)
Robert Roland, PhD (National Security Sector)
Thomas Williams, PhD (National Security Sector)
Brad Johnson, PhD (No organizational affiliation)
Corann Okorodudu, EdD (No organizational affiliation)
Judith Van Hoorn, PhD (No organizational affiliation)

An announcement disseminated via APA listservs regarding the selection of consultants and the consultant names and draft policy were posted on the Task Force webpage.

The Member-Initiated Task Force thanks the work of the above named consultants who reviewed and commented on the first reconciled policy draft. Based on their comments and suggestions, the first draft policy underwent significant revisions. It should be noted that not all suggested revisions were possible as the goal of the Task Force was not to draft new policy or revise policy but rather to reconcile existing policy. All consultant comments were placed for public review on the Task Force webpage.

In early January 2013, a second draft policy was announced for public review (see Appendix B). The second draft was also placed on the Task Force website. Feedback was encouraged and a final call was posted via listservs in February. Based on the feedback received, minor revisions were made resulting in the final proposed reconciled policy below. We thank all who sent comments to the Task Force about the proposed reconciled policy.

Organization of the Proposed Policy

The document is divided into two sections

Section One contains the Reconciled 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. The Reconciled Policy is comprised of Eight statements and respective

corollaries grounded in existing APA policy. When possible, the original wording of all policies statements was retained. In cases of contradictory wording, the most recent policy wording was selected for use in the Reconciled Policy. The policy statements are organized as follows:

Statement One: Member Petition Referendum

Statement Two: Ethics Code 1.02 and 1.03

Statements Three – Six: Policies against torture and cruel, inhuman, or degrading treatment or punishment

Statement Seven: International Human Rights Instruments

Statement Eight: Ethics Code in its entirety

Section Two contains Additional Resource Material related to specific Statements in Section One. Although this section could be quite extensive, we elected to only include material directly related to the Statements included in Section One or referenced in previous APA policy documents. As such, other groups may elect to independently or within APA expand this additional resource material with the caveat that it does not contradict or circumvent the Policy Statements contained in Section One.

Additional Feedback from Reviewers

Throughout the Task Force process and review, we received suggestions for future actions as well as noted concerns. Due to the limited nature of our goal, we could not address every concern or suggestion. We could not inject new policy into the process as we were working solely to reconcile existing policy.

Nonetheless, we agreed to include comments/suggestions with our report. Below are some of the comments/suggestions raised by consultants and other individuals who participated in the review process. Other groups within APA or Council may elect to address these issues in the future. Please be aware that these issues are not presented in any order of preference. Moreover, the inclusion does not represent an endorsement for action but rather is based simply on having been mentioned by more than one reviewer/commenter.

- Several individuals argued for the need for an absolute prohibition against psychologist involvement in any form of interrogation or consultation with any interrogation process.
- Concerns were raised that the term “national security settings,” in the title and document, is too broad.
- Concerns were expressed about the role of international laws for which the United States is not a signatory. As stated by one reviewer, “All federal employees are required to follow the US Constitution. This includes any international instruments to which the US is a signatory. If the US is not a signatory to a particular instrument, then it may not be legal for a federal employee to follow that international instrument.”

It should be noted that according to the Legal Information Institute, Cornell University Law School, “Documents such as the Universal Declaration of Human Rights proclaim the ideals of nations aspiring to respect the human rights of people of all nations. Legally, however, these documents do not bind countries. Rather, treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights provide the international legal framework to protect human rights” (http://www.law.cornell.edu/wex/human_rights). The United States is a signatory to these three major human rights documents. The United States is also a signatory to the Convention Against Torture and the Geneva Conventions. Nonetheless, APA may want to explore this issue further, not just in relation to this document but also the APA Ethics Code.

- Some reviewers suggested that APA conduct a review of the PENS process, highlighting the alleged problems associated with that process.
- Some reviewers suggested that APA should have an independent review to examine any “cover up” of past mistakes in relation to the issue of torture and interrogations.
- It was suggested that the policy be expanded beyond just U.S. policy but to include other national Codes of Conduct.
- Concerns were expressed about the inclusion of “sensory deprivation” as a form of torture or cruel, inhuman, or degrading treatment or punishment. As noted by a reviewer, “a reference to sensory deprivation in the context of torture must distinguish between reduced stimulus input as a research, therapeutic, stress-management, and performance-enhancing technique that follows all of the rules of ethical research and treatment with human beings, with an extensive empirical literature, and stimulus reduction used to enhance to impact of actual torture techniques. This distinction led to the abandonment of the term ‘sensory deprivation’ by the relevant research and practice community in the 1980's and thereafter, in favour of the term “Restricted Environmental Stimulation Technique,” or ‘REST.’”

Again, we provide the above list based on feedback received during reviews of the reconciled policy drafts. We do not endorse or not endorse such future action. Regardless, all of the above suggestions would have involved expanding the scope of our work and/or involved the drafting of new policy.

APA Reconciled 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

Be It Resolved that Council adopts the following eight statements and respective corollaries as APA policy:

Statement 1: 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 US Constitution (where appropriate), unless they are working directly for the persons being detained or for an independent third party working to protect human rights [1].

APA in recognizing that torture and other cruel, inhuman or degrading treatment or 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 continue to explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture.

Statement 2: If the APA *Ethics Code*, as amended in 2010, establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard. If psychologists' ethical responsibilities conflict with law, regulations or other governing legal authority or organizational demands, psychologists make known their commitment to this *Ethics Code*, and take reasonable steps to resolve the conflict in a responsible manner in keeping with basic principles of human rights [2].

Ethical Standard 1.02, *Ethical Principles of Psychologists and Code of Conduct*, 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.

Ethical Standard 1.03, *Ethical Principles of Psychologists and Code of Conduct*, Conflicts Between Ethics and Organizational Demands

If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Ethics Code, 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.

APA is an accredited non-governmental organization at the United Nations and so is committed to promote and protect human rights in accordance with the United Nations Charter and the *Universal Declaration of Human Rights*.

Statement 3: Psychologists do not knowingly engage in, assist, tolerate, direct, support, advise, facilitate, plan, design, or offer training in torture or other cruel, inhuman, or degrading treatment or punishment under any and all conditions.

APA defines torture in accordance with Article I of the UN *Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (hereafter referred to as *UN Convention Against Torture*):

The 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 [sic] 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] [3].

The APA defines the term "cruel, inhuman, or degrading treatment or punishment" to mean treatment or punishment of any person in accordance with the United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations Convention Against Torture, which defines this term as "the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States" [4].

APA further unequivocally condemns all techniques considered torture or cruel, inhuman or degrading treatment or punishment under the United Nations *Convention Against Torture*; 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.

APA unequivocally condemns torture and cruel, inhuman, or degrading treatment or punishment, under any and all conditions (applicable to all individuals, in all settings and in all contexts without exception), including detention and interrogations of any persons regardless of designation (e.g., lawful and unlawful enemy combatants as defined by the *US Military Commissions Act of 2006* [5] or privileged vs. unprivileged enemy belligerent as defined by the *US Military Commissions Act of 2009* [6]).

This unequivocal condemnation by APA includes an absolute prohibition against psychologists' knowingly planning, designing, participating in or assisting in the use of all condemned techniques at any time and that psychologists may not enlist others to employ these techniques in order to circumvent this policy's prohibition.

Moreover, 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 punishment.

Psychologists shall not knowingly participate in any procedure in which torture or other forms of cruel, inhuman, or degrading treatment or punishment is threatened.

This policy statement/section conforms to the *Ethical Principles of Psychologists and Code of Conduct*: Principle A, Beneficence and Nonmaleficence ("Psychologists strive to benefit those with whom they work and take care to do no harm. In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons . . ."), and Ethical Standard 3.04, Avoiding Harm ("Psychologists take reasonable steps to avoid harming . . . others with whom they work, and to minimize harm where it is foreseeable and unavoidable.").

Statement 4: APA 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.

This policy statement is in keeping with Article 2.2. of the UN *Convention Against Torture*.

Statement 5: Psychologists shall be alert to acts of torture and other cruel, inhuman, or degrading treatment or punishment and should such acts evolve during a procedure where a psychologist is present, the psychologist shall attempt to intervene to stop such behavior, and failing that, the psychologist has an ethical responsibility to exit the procedure.

Statement 6: Psychologists shall be alert to acts of torture and other cruel, inhuman, or degrading treatment or punishment and have an ethical responsibility to report these acts to the appropriate authorities.

APA asserts that any APA member with knowledge that a psychologist, whether an APA member or non-member, has engaged in torture or cruel, inhuman, or degrading treatment or punishment, including the specific behaviors listed in Statement 3 above, has an ethical responsibility to abide by Ethical

Standard 1.05, Reporting Ethical Violations, in the *Ethical Principles of Psychologists and Code of Conduct* (2010) and directs the Ethics Committee to take appropriate action based upon such information, and encourages psychologists who are not APA members also to adhere to Ethical Standard 1.05.

APA 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 (detailed in Statement 3) or conditions listed above; and that the APA affirms the prerogative of psychologists under the *Ethics Code* (2010) to disobey law, regulations or orders when they conflict with ethics in keeping with Ethical Standard 1.02.

APA 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 such acts.

The ethical responsibility to report is rooted in the Ethics Code 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 aware of their professional and scientific responsibilities to society and to the specific communities in which they work” and Ethical Standard 1.05, Reporting Ethical Violations, “If an apparent ethical violation has substantially harmed or is likely to substantially harm a person.”

Statement 7: Psychologists in national security settings shall work in accordance with international human rights instruments as relevant to their roles.

Psychologists working in national security settings are obligated to review vital human rights documents as relevant to their roles, such as Common Article 3 of the *Geneva Conventions*; 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*; the *United Nations Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; and the *World Medical Association Declaration of Tokyo, Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*.

Statement 8: When psychologists serve in any position by virtue of their training, experience, and expertise as psychologists, including psychologists working in national security settings, they are bound by the APA *Ethical Principles of Psychologists and Code of Conduct*, in its entirety.

Based on the Principles and Standards of the APA *Ethical Principles of Psychologists and Code of Conduct*, psychologists working in national security settings shall:

- Abide by the *Ethics Code* in any professional role, including roles outside traditional health-care provider relationships.
- Seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons.

This principle conforms to *Ethics Code*, Principle A: Beneficence and Nonmaleficence. “Psychologists strive to benefit those with whom they work and take care to do no harm.”

- Seek to understand individuals’ culture and ethnicity to avoid misunderstandings and potential harm.

Failure to understand aspects of individuals’ culture and ethnicity may generate misunderstandings, compromise the efficacy of work in national security settings, and potentially 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...”)

- Be aware of the potential risks involved in multiple relationships, and follow the guidance contained in Standard 3.05 to minimize those risks.

Ethics Code 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.”

- Be 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 or other professionals may have an incorrect impression that psychologists are serving in a healthcare provider role. (Ethical Standards 3.07, Third-Party Requests for Services, “When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist . . . an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits

to confidentiality”; and 3.11, Psychological Services Delivered to or Through Organizations, “(a) Psychologists delivering services to or through organizations provide information beforehand to clients and when appropriate those directly affected by the services about (1) the nature and objectives of the services, (2) the intended recipients, (3) which of the individuals are clients, (4) the relationship the psychologist will have with each person and the organization, (5) the probable uses of services provided and information obtained, (6) who will have access to the information, and (7) limits of confidentiality.”)

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)

- Clarify for themselves the identity of their client.

This policy statement conforms to *Ethics Code* Standard 3.07 Third-Party Requests for Services, “When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist . . . an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.”

- Retain ethical obligations to individuals who are not their clients.

Regardless of whether an individual is considered a client, psychologists have an ethical obligation to “avoid harming their ... organizational clients and others with whom they work, and to minimize harm where it is foreseeable and unavoidable” (Ethical Standard 3.04, Avoiding Harm). Psychologists’ ethical obligations are 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, “Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority . . .”)

- Make clear the limits of confidentiality.

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, “(a) Psychologists discuss with persons (including, to the extent feasible,

persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities.”)

- Be mindful that individuals held in national security settings may not have engaged in untoward behavior and may not have information of national security interest.

Ethical obligations are 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 absolute prohibitions against engaging in or facilitating torture and other cruel, inhuman, or degrading treatment or punishment. (Principle E, Respect for Peoples’ 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”; and 3.01, Unfair Discrimination, “In their work-related activities, psychologists do not engage in unfair discrimination based on...race, ethnicity, culture, national origin...”)

- Be aware that 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.

Psychologists are mindful that prisoners represent a vulnerable population. (Principle E: Respect for People's Rights and Dignity, “Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. 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.” Also, Ethical Standards 1.01, Misuse of Psychologists’ Work, “If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation,” and 3.08, Exploitative Relationships, “Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority . . .”)

- Consult with others when they are facing difficult ethical dilemmas.

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.

- Be willing to take ethical responsibility for their own behavior.
- Abide by the *APA Ethical Principles of Psychologists and Code of Conduct*, in its entirety.

As a means to advance human rights in the national security context, APA shall carry out the following three broad activities:

1. APA shall continue to call upon the US government—including the President, Congress, the Department of Defense, and the Central Intelligence Agency—to prohibit the use of torture or cruel, inhuman, or degrading treatment or punishment in any interrogation and APA shall

continue to inform relevant parties with the US government that psychologists are prohibited from participating in such methods. 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, APA shall continue to call upon US legal system to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment.

2. APA shall offer ethical guidance and support especially to psychologists working in national security settings 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. The APA Ethics Committee shall develop and distribute a casebook and commentary that shall set forth guidelines for psychologists that are consistent with international human rights instruments, including those cited earlier, as well as guidelines developed for health professionals, such as: Common Article 3 of the *Geneva Conventions*; The UN *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; The UN *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*; and The World Medical Association *Declaration of Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*. The Ethics Committee shall also develop a consultation process whereby psychologists whose work involves classified material may seek ethical guidance for assistance and support.
3. APA shall disseminate and publicize this new reconciled APA policy against torture and other cruel, inhuman, or degrading treatment or punishment, both within the Association (to boards, committees, and the membership at large) and to the wider public to safeguard individual welfare and to advance human rights.

[1] It is clarified by a footnote in the Member Petition Resolution “that military clinical psychologists would still be available to provide treatment for military personnel.”

[2] *Ethical Principles of Psychologists and Code of Conduct*, Retrieved from <http://www.apa.org/ethics/code/index.aspx>

[3] United Nations *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* – <http://www2.ohchr.org/english/law/cat.htm>

[4] Specifically, United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations Convention Against Torture stating, "the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States."

Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself [sic], nor be deprived of life, liberty, or

property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

[5] Defined as both unlawful enemy combatants and lawful enemy combatants as set forth in the U.S. Military Commissions Act of 2006 (Chapter 47A; Subchapter I: § 948a. Definitions)

“(1) UNLAWFUL ENEMY COMBATANT.—

(A) The term ‘unlawful enemy combatant’ means—

“(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

“(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

“(B) CO-BELLIGERENT.—In this paragraph, the term ‘cobelligerent’, with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

“(2) LAWFUL ENEMY COMBATANT.—The term ‘lawful enemy combatant’ means a person who is— ‘

‘(A) a member of the regular forces of a State party engaged in hostilities against the United States; ‘

‘(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

“(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

[6] Defined as both privileged belligerent and unprivileged enemy belligerent as set forth in the U.S. Military Commissions Act of 2009 (Chapter 47A; Subchapter I: § 948a. Definitions)

“(6) PRIVILEGED BELLIGERENT.—The term ‘privileged belligerent’ means an individual belonging to one of the eight categories enumerated in Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War.

“(7) UNPRIVILEGED ENEMY BELLIGERENT.—The term ‘unprivileged enemy belligerent’ means an individual (other than a privileged belligerent) who—

“(A) has engaged in hostilities against the United States or its coalition partners;

“(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

“(C) was a part of al Qaeda at the time of the alleged offense under this chapter.

Additional Resource Material

This section provides additional information and reference materials for several of the statements included in the consolidated policy. The material referenced in this section does not represent APA policy unless specifically included in the policy section of this document.

Additional Information concerning the Statement 1: “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 US Constitution (where appropriate), unless they are working directly for the persons being detained or for an independent third party working to protect human rights [1].”

Guidance information from the *Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution* [2]:

How is it to be determined whether the policy applies to a particular detention setting and what is meant by the term “outside of, or in violation of, international law?”

A determination of whether a particular detention setting is “in violation of international law” is to be derived from multiple sources. The U.N. and its committees can declare a site to be in violation of international law, as can any international body that the U.N. takes to be authoritative. A setting that has been censured due to reasons reflected by this policy by the Council of Europe, the International Committee of the Red Cross (ICRC), or other internationally accepted body as “outside of, or in violation of, international law” would also be considered a proscribed or prohibited setting. The factors taken into consideration by the U.N. and other internationally accepted bodies in making such a determination may include a lack of habeas corpus rights or other forms of judicial review for detainees, denial of access to the site and to detainees by U.N. monitors, and the use of torture or other forms of cruel, inhuman, or degrading treatment or punishment. The determination of whether a particular detention setting is operating “outside of international law” rests on whether the authority governing the site declares itself to be unbound by the relevant international or constitutional law, thereby indicating its unwillingness to abide by such laws. Relevant examples include a nation stating it will treat detainees in a manner “consistent” with the law rather than in compliance with the law; a state that accepts the law in part or with reservations; and a governing authority that avoids the use of internationally accepted categories, e.g., by naming its detainees “enemy combatants,” a term that does not exist in international law. The presence of any one of these conditions does not automatically mean that a site is unlawful in terms of this policy. But alone, or in combination, they do suggest the possibility that a setting fails to comply with the standards of this policy; their existence provides sufficient basis for concern and further inquiry.

To what authority can psychologists turn for guidance?

Relevant information about whether a specific site operates outside of, or in violation of, international law can be accessed by contacting the APA Office of International Affairs to obtain assistance in reaching the U.N. Office of the High Commissioner for Human Rights or through that office, the Special Rapporteur Against Torture. Information can also be obtained by contacting non-governmental organizations, such as the International Committee of the Red Cross (ICRC), the American Civil Liberties Union, Amnesty International, the Center for Constitutional Rights, or Physicians for Human Rights for information.

How is international law defined?

As a non-governmental organization accredited by the United Nations, the APA acknowledges the U.N. as an international legal entity through which member States are able to define international law as related to principles of human rights and justice. Through a process of lengthy negotiation and consensus building, the U.N. has developed international law in the form of conventions on various areas of human rights and humanitarian law to cover situations of armed conflict or war.

What is meant by the use of the term ‘where appropriate’ with respect to the U.S. Constitution?

“Where appropriate” refers to settings where the U.S. Constitution is the law of the land and settings to which the U.S. Supreme Court has decided that it applies, including the 50 states, U.S. embassies, and areas within the U.S. maritime and territorial jurisdiction. It also applies to U.S. citizens everywhere.

What does “working directly for the detainee” mean, and what is its significance?

A direct relationship is one in which the psychologist is acting independently and working at all times for the sole benefit and in the interests of the person being detained. This would include a psychologist being hired by and for detainees (e.g., by a detainee’s attorney to evaluate the mental health status of the detainee), in much the same way independent attorneys have worked to represent detainees at sites like Guantánamo. An independent psychologist is one without conflicts of interests or dual loyalties as related to this policy.

What is meant by the reference to a psychologist working for “an independent third party working to protect human rights?”

The new [petition resolution] policy envisions two possibilities in the case of an independent internationally recognized and authorized third party: (1) that an organization such as the International Committee for the Red Cross (ICRC) might gain access to a site covered by the policy and that psychologists working within that

independent organization would be allowed to evaluate the mental health of detainees; or (2) that such an independent organization would bring psychologists into such a site as human rights monitors or to provide treatment for, or engage in the assessment of, a detainee. In either case, the psychologists are not working “directly for the detainee.”

The full Report can be accessed at <http://www.apa.org/ethics/advisory-group-final.pdf>.

Questions have been raised about the applicability of Statement 1 to psychologists work in U. domestic jails and prisons. The drafters of the Member Petition responded to this question in the 2008 APA Petition Resolution Ballot - Rebuttal to the Con Statement [3], which stated:

The referendum is specific, provides clear context, and sets a high bar: in settings where people are detained outside of the law – places where treaties such as the Geneva Conventions and Convention Against Torture are ignored or declared not to apply – psychologists can work only for those detained. U.S. “jails, prisons, psychiatric hospitals...” all function within the legal system. Even if they are found to be in violation of the constitution, the finding itself demonstrates that they function within a legal framework, and thus do not meet that bar. No matter how bad conditions might be at these domestic institutions, they can be challenged openly in U.S. courts, and everyone held there holds the rights of habeas corpus; thus they differ significantly from the secret, extra-legal settings that are the subject of this referendum.

Additional Information concerning the Statement 2: If the APA *Ethics Code*, as amended in 2010, establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard. If psychologists' ethical responsibilities conflict with law, regulations or other governing legal authority or organizational demands, psychologists make known their commitment to this *Ethics Code* and take steps to resolve the conflict in a responsible manner in keeping with basic principles of human rights [4].

In 2000 APA received consultative status as a non-governmental organization (NGO) at the United Nations (UN) in recognition of evidence provided by APA of its efforts to promote human rights. As an accredited NGO at the UN, the APA is committed to the spirit, purposes, and principles of the Charter of the UN and other relevant international instruments, such as the *Universal Declaration of Human Rights*.

APA's status as an accredited NGO at the UN carries the commitment to promote and protect human rights in accordance with the Charter of the UN and the Universal Declaration of Human Rights and to contribute its expertise and resources to the implementation of the various human rights declarations, conventions and other standards of the UN. Consistent with its history in supporting human rights, APA issued a strong statement in its 1987 Human Rights Resolution that “the discipline of psychology, and the academic and professional activities of psychologists, are relevant for securing and maintaining human rights”; and undertook to promote knowledge

of and compliance with UN instruments by resolving to commend the main UN human rights instruments and documents to the attention of its boards, committees and membership at large.

The APA Human Rights Advocacy webpage provides information about human rights. The website states:

APA's vision statement includes serving as an effective champion of the application of psychology to promote human rights. In order to support that vision, APA seeks to promote attention to the critical role of human rights in the work of psychologists across the broad range of the field and identify resources for educating psychologists about human rights at all levels of professional development, with particular attention to the identification of materials appropriate for psychology graduate training programs. APA aims to ensure that the next generation of psychologists has resources that will help inform them about the role of human rights in their careers.

This site provides access to APA human rights policies as well as activities, resources, and links.

<http://www.apa.org/about/gr/issues/human-rights/index.aspx>

Additional information also can be found on the United Nations Human Rights webpage.

<http://www.un.org/en/rights/>

Additional Information concerning the Statement 7: Psychologists in national security settings shall work in accordance with international human rights instruments as relevant to their roles.

Psychologists working in national security settings are obligated to review vital human rights documents as relevant to their roles, such as Common Article 3 of the *Geneva Conventions*; 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*; the *United Nations Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; and the *World Medical Association Declaration of Tokyo, Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*.

- *United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*

<http://www2.ohchr.org/english/law/cat.htm>

- *Geneva Conventions*

<http://www.icrc.org/ihl.nsf/full/305?opendocument>

Article 3 is the most commonly cited Article in relation to treatment of prisoners. It states:

Art. 3. Prisoners of war are entitled to respect for their persons and honour. Women shall be treated with all consideration due to their sex. Prisoners retain their full civil capacity.

- *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*

<http://www2.ohchr.org/english/law/medicalethics.htm>

APA policy conforms to and upholds the provisions outlined in the *United Nations Principles of Medical Ethics* for psychologists working in a health care capacity. The APA 1986 Human Rights Resolution is specific in its support for the United Nations *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 includes Principle 4a:

It is a contravention of medical ethics for health personnel . . . to apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments.

The *Principles of Medical Ethics* include:

Principle 1: Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

Principle 2: It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment. (a)

Principle 3: It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

Principle 4: It is a contravention of medical ethics for health personnel, particularly physicians:

- (a) To apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments;

- (b) To certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments.

Principle 5: It is a contravention of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a prisoner or detainee unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee himself, of his fellow prisoners or detainees, or of his guardians, and presents no hazard to his physical or mental health.

Principle 6: There may be no derogation from the foregoing principles on any ground whatsoever, including public emergency.

- (a) See the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 3452 (XXX), annex).

- (b) Particularly the Universal Declaration of Human Rights (resolution 217 A (III)), the International Covenants on Human Rights (resolution 2200 A (XXI). annex), the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 3452 (XXX), annex) and the Standard Minimum Rules for the Treatment of Prisoners (First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat (United Nations publication, Sales No. E.1956.IV.4, annex I.A)).

- *United Nations Basic Principles for the Treatment of Prisoners*
<http://www2.ohchr.org/english/law/basicprinciples.htm>
- *United Nations Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*
<http://www2.ohchr.org/english/law/investigation.htm>
- *The World Medical Association Declaration of Tokyo. Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*
<http://www.wma.net/en/30publications/10policies/c18/>

Commentary: APA policy conforms to the provisions outlined in *The World Medical Association Declaration of Tokyo. Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment* for psychologists working in a health care capacity. The Principles include:

1. The physician shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offense of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife.
2. The physician shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
3. When providing medical assistance to detainees or prisoners who are, or who could later be, under interrogation, physicians should be particularly careful to ensure the confidentiality of all personal medical information. A breach of the Geneva Conventions shall in any case be reported by the physician to relevant authorities. The physician shall not use nor allow to be used, as far as he or she can, medical knowledge or skills, or health information specific to individuals, to facilitate or otherwise aid any interrogation, legal or illegal, of those individuals.
4. The physician shall not be present during any procedure during which torture or any other forms of cruel, inhuman or degrading treatment is used or threatened.
5. A physician must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The physician's fundamental role is to alleviate the distress of his or her fellow human beings, and no motive, whether personal, collective or political, shall prevail against this higher purpose.
6. Where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent physician. The consequences of the refusal of nourishment shall be explained by the physician to the prisoner.
7. The World Medical Association will support, and should encourage the international community, the National Medical Associations and fellow physicians to support, the physician and his or her family in the face of threats or reprisals resulting from a refusal to condone the use of torture or other forms of cruel, inhuman or degrading treatment.

[1] It is clarified by a footnote in the Member Petition Resolution “that military clinical psychologists would still be available to provide treatment for military personnel.”

[2] *Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution*. Retrieved from www.apa.org/ethics/advisory-group-final.pdf

[3] 2008 APA Petition Resolution Ballot - Rebuttal to the Con Statement, Retrieved from <http://www.apa.org/news/press/statements/work-settings-con-rebuttal.aspx>

[4] *Ethical Principles of Psychologists and Code of Conduct*, Retrieved from <http://www.apa.org/ethics/code/index.aspx>

Appendix A

Call for Consultants – July 2012 (Sent to all Divisions, SPTAs, EMPAs, and other psychology-related organizations (e.g., PsySR, Coalition for an Ethical Psychology))

Dear Colleagues,

In February, we announced the formation of an APA member-initiated Task Force to Reconcile Policies Related to Psychologists' Involvement in National Security Settings. The goal of this grassroots task force is to develop a clear, comprehensive policy statement that consolidates existing APA policies into a unified, consistent document. The consolidated policy document will highlight the following principles drawn from existing APA policies:

- Torture is always a violation of human rights and psychologists' professional ethics;
- Psychologists are always prohibited from engaging in torture or other cruel, inhuman, or degrading treatment or punishment;
- Abusive interrogation techniques, such as waterboarding and sensory deprivation, constitute torture or cruel, inhuman, or degrading treatment or punishment and are always prohibited;
- The role of psychologists in unlawful detention settings is limited to working on behalf of detainees or providing treatment for military personnel;
- There is absolutely no defense to a violation of human rights under the APA Ethics Code.

Since the 2005 Report of the APA Presidential Task Force on Psychological Ethics and National Security (PENS Report), there have been significant changes to APA policy, including the 2010 revisions to the Ethics Code, the 2008 Petition Referendum (i.e., Member Petition), and the 2006, 2007, and 2008 Council resolutions. Moreover, some existing policy no longer is in compliance with the Ethics Code. As such, it is imperative that APA policy be updated and divergent policies reconciled. In addition, we hope that the reconciliation process will help identify issues still in need of clarification and/or further development at a later time.

We recognize the importance of transparency and feedback as we work through this process. As such, we are writing today to invite APA Divisions, State, Provincial and Territorial Psychological Associations (SPTAs), and other psychological organizations to select individuals to provide feedback on early drafts of the consolidated policy. We hope that those groups who are interested will appoint one or possibly two individuals to serve as consultants to our Task Force. As the task involves APA policy, it is preferred, but not required, that individuals be APA members.

As we are not drafting new APA policy, the responsibilities of consultants will be relatively limited but absolutely essential. We are looking for individuals who are knowledgeable about relevant APA policies to review initial drafts of the consolidated policy and provide substantive feedback shortly after receiving the document. The goal is to complete these initial reviews by mid to late July and then post the revised document for secondary as well as broader review on our website at <http://www.unifiedpolicytaskforce.org>. Consultants' names will be listed on the website. Our goal is to submit the document as a new business item at the APA Council of Representatives meeting in August,

with consideration of its contents at the Council meeting in February, 2013. This process will provide the opportunity for review of the consolidated policy document by APA Boards and Committees, as well as more general discussion prior to a February vote.

We hope that Divisions, SPTAs, and other psychological organizations will submit names by July 2, 2012. Consultant names or questions can be sent to me at julie.levitt@verizon.net. Thank you in advance for consideration of your participation in this process as we work to clarify APA policy related to the involvement of psychologists in national security settings.

Appendix B

Call for Feedback, sent to Division and SPTAs listservs - January and February 2013

Presidents and Officers: Please forward the following notice again to your lists. Thanks!

Dear Colleagues,

We are writing you today to provide an update concerning the work of the Member-Initiated Task Force to Reconcile Policies Related to Psychologists' Involvement in National Security Settings. In particular, we want to issue a final invitation to individuals to become involved in the last phase of our Task Force POLICY DOCUMENT review process. We will be submitting our final draft of our report and the reconciled policy in February to APA Council (CoR) where it will undergo an additional approximately six-month review and individuals can provide further feedback through APA at that time.

As we announced earlier last year, we are working to reconcile APA policies concerning psychologist consultations in national security settings for the purpose of bringing the Member Petition Resolution/Referendum, the changes to the Ethics Code highlighting the inviolate nature of human rights, and the anti-torture Council resolutions to the forefront of APA policy.

To date, the Reconciled Policy has undergone several revisions. A broad range of consultants representing various APA Divisions; State, Provincial, and Territorial Psychological Associations (SPTAs); Ethnic Minority Psychological Associations (EMPAs); and other APA members with experience drafting previous policy volunteered or were nominated by their organizations to participate in the process. The consultant feedback is available on the www.unifiedpolicytaskforce.org website, as is the previous draft of the Reconciled Policy. We thank all who were involved in the consultant phase of the POLICY review. The feedback was invaluable.

The current revised draft of the policy is available at <http://www.unifiedpolicytaskforce.org>. Please look at the policy and send feedback to unifiedpolicytaskforce@yahoo.com.

Please send feedback by February 10, 2013. After that date, please contact your Division or SPTA Council Representative or APA to provide additional feedback. After Feb. 10, you may also submit additional

feedback to the our email address (unifiedpolicytaskforce@yahoo.com) and we will forward your comments to APA. The COR meetings are February 22-24, 2013 and during the Convention in August.

Please be aware that we are only reconciling policy and not drafting new policy. As such, we cannot add new elements to the policy draft. However, we plan to include in our final report, a section that highlights additional recommendations and concerns submitted during the feedback process.

Again, thanks to all who have been or will be involved in this process. We believe it is important not only for individual members to be able to weigh in on the policy but also that the policy undergo review by relevant APA Boards and Committees, as well as Council. We will be finishing up the final stage of our work in terms of outside review/feedback in February and the Council/APA review period will begin at that time.

Note that we are not an APA Task Force and we are not backed by any group within the APA, including the Board of Directors. Rather we are APA members who have come together to work on this project because of our abiding belief in the importance of human rights and social justice.

Feel free to visit -- <http://www.unifiedpolicytaskforce.org> -- and review our materials, see who we are, and read our "Frequently Asked Questions." We have links to a range of APA policies, United Nations and other Human Rights documents that we reference in the policy, as well as a link to the Coalition for an Ethical Psychology (for those wanting more information about the Annul PEN movement).