

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

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Reports of the American Psychological Association (APA) synthesize current psychological knowledge in a given area and may offer recommendations for future action. They do not constitute APA policy nor commit APA to the activities described therein. This particular report originated with the APA Member-Initiated Task Force to Reconcile APA Policies Related to Psychologists' Work in National Security Settings. The Task Force is comprised of APA members 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 eight 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 is 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 Opposition 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 2008 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.

APA Policies included in the Proposed Reconciled Policy

- 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 Petition Resolution Ballot and the related Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution
- 2008 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 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 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 three stages of review: Two stages of review prior to initial submission to the APA Council of Representatives (CoR) and an APA Board/Committee review prior to submission for a vote by CoR. Routine CoR process requires initial submission of a new business item at one meeting, a governance review, and then a vote by CoR at a subsequent meeting. Prior to submission to CoR, 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.

In late February 2013, following submission of a new business item to CoR, the draft policy went through an additional stage of review and minor revision. We thank the three governance groups within APA responsible for reviewing this reconciled policy draft (Committee on Legal Issues; Ethics Committee; Policy and Planning Board) for their time, careful analysis, and valuable feedback.

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 seven statements and respective corollaries grounded in existing APA policy. When possible, the original wording of all policy 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 – Four: Policies against torture and cruel, inhuman, or degrading treatment or punishment

Statement Five: International Human Rights Instruments

Statement Six: Ethics Code in its entirety

Statement Seven: No exceptional circumstances can be used to justify torture and cruel, inhuman, or degrading treatment or punishment

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 neither endorse nor 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 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

Additional Resource Material

This section provides additional information and reference materials for several of the statements included in the reconciled 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 Statement 1: According to the 2008 APA Petition Resolution Policy, Psychologists and Unlawful Detention Settings with a Focus on National Security, "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." [1,2]

Statement 1: A primary text for determining the intended scope of the *Member Petition Resolution*, given the title "Psychologists and Unlawful Detention Settings with a Focus on National Security," is found in the ballot materials distributed to the membership during the voting process. This text addressed questions raised about the applicability of Statement 1 to psychologists work in U.S. domestic jails and prisons. It states:

The referendum is specific, provides clear context, and sets a high bar: in setting 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 those 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.

For more information about the intended scope of the Petition Resolution, please see the Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution:

Guidance information from the *Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution* [3]:

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>.

Additional Information concerning Statement 2: If the APA *Ethics Code* 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 Statement 5: 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 should 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.

Although psychologists to which this reconciled policy applies are expected to have general knowledge of relevant legal and human rights concepts (e.g., the absolute prohibition against torture and cruel, inhuman, and degrading treatment or punishment), psychologists are not expected to have expertise in international law and human rights requirements and are thus encouraged to seek guidance from individuals with such knowledge.

- *United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>
- *Geneva Conventions*
<http://www.icrc.org/applic/ihl/ihl.nsf/INTRO/305?OpenDocument&redirect=0>

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://www.ohchr.org/EN/ProfessionalInterest/Pages/MedicalEthics.aspx>

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://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx>
- *United Nations Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/EffectiveInvestigationAndDocumentationOfTorture.aspx>

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 persons.

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

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

[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 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).