

COALITION FOR AN ETHICAL PSYCHOLOGY

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Preserve Do-No-Harm for Military Psychologists: Coalition Responds to Department of Defense Letter to the APA

Last July, an [independent investigation](#) documented a years-long pattern of secret collusion between senior representatives of the American Psychological Association (APA) and the Department of Defense (DoD) to keep psychologists involved in the DoD's abusive interrogation and detention program. Following these revelations, in August the APA's Council of Representatives passed an historic [resolution](#) – by a nearly unanimous vote – to ban psychologists from involvement in national security interrogations. The Council further voted to remove psychologists from any involvement in detention operations at Guantánamo Bay and all other facilities operating in violation of international law. The APA assigned the responsibility for determining such violations to the UN Committee Against Torture, the United Nations Rapporteurs on Torture and Human Rights, and other authoritative international legal bodies.

According to a *New York Times* [report](#), as a direct result of this new policy, psychologists were removed from detention operations at Guantánamo at the end of December. In part the report stated:

Gen. John F. Kelly, the head of the United States Southern Command which oversees Guantánamo, has ordered that psychologists be withdrawn from a wide range of activities dealing with detainees at the prison because of the new rules of the association.

However, a subsequent [letter](#) to APA officials from Mr. Brad Carson, Acting Principal Deputy for the Under Secretary of the DoD, indicates that the DoD is now seeking to undo the changes required by the policy and undermine the APA's determination that the work of psychologists in national security settings must be consistent with international human rights law. In part, Mr. Carson's letter requests confirmation from the APA that restrictions on the role of psychologists at U.S. sites in violation of international law "are a matter of policy, not an ethical mandate." With this distinction, it appears that the DoD aims to continue the engagement of psychologists in national security interrogations and other functions without repercussions – including risk to their licensure – in contradiction to the intent of the APA's new policy.

The [Coalition for an Ethical Psychology](#) strongly encourages APA officials to reject the DoD's request and indeed to urge that the DoD change its policies and directives regarding the use of psychologists – as well as other health professionals – in interrogation and detention operations. As the APA stated in its recent [letter](#) to President Obama, those policies and directives are fundamentally inconsistent with the ethics of psychologists:

We are requesting that military and other psychologists be safeguarded from involvement in any national security interrogations or detention settings that would risk placing them in conflict with APA's Ethics Code and policies related to national security.

Below we identify several specific concerns with the assertions and interpretations offered in Mr. Carson's letter. We conclude that DoD directives and policies, not APA ethical standards, must adapt.

1. Psychologists' do-no-harm ethical standards are different from guidelines for other military personnel.

The [ethical imperative](#) for psychologists is "to benefit those with whom they work and take care to do no harm." In his letter, Mr. Carson argues that the DoD adheres to this same do-no-harm standard, but this claim is faulty because the DoD fails to adequately distinguish between the obligations of health professionals – regardless of their role or setting – and the obligations of other military personnel.¹

Citing Department of Defense Directive [2310.08E](#), Mr. Carson asserts that "Like the APA code, DoD policy on medical program support for detainee operations also takes care to ensure that psychologists employed by the Department 'do no harm.'" However, according to the Directive, this obligation to avoid harm is limited to those health professionals specifically engaged in a "provider-patient treatment relationship." For other health professionals, including psychologists involved in interrogation and detention operations, the DoD does away with the obligation to avoid harm and instead imposes substantially lower standards: to uphold humane treatment, to refrain from acts of torture or other forms of cruel, inhuman or degrading treatment or punishment, and to follow applicable law.

These lower standards fall well short of the ethical obligations unique to the health professions – obligations that always involve minimizing harm and are never limited solely to refraining from acts of abuse. In this context, it is instructive that the Defense Health Board has urged ethics reform at the DoD, grounded in affirming the duty of all its health professionals to do no harm. Rather than asking the APA to change its ethical standards and expectations for military psychologists, the DoD should instead adopt the Defense Health Board's [recommendations](#) and rescind the provisions of Directive 2310.08E and other policies that dispense with the "do no harm" requirement for psychologists not involved in clinical care.

It is also worrisome that Mr. Carson's letter fails to adequately distinguish between ethics and legality. There are fundamental differences between conduct that is deemed *lawful* for psychologists and conduct that meets the profession's higher *ethical* standards. Mr. Carson glosses over this key distinction when he aims to reassure by emphasizing that, according to DoD policy, "behavioral science consultants 'shall not support interrogations that are not in accordance with applicable law.'" Applicable law is not a satisfactory substitute for psychological ethics, and to suggest otherwise reflects a failure to grasp how the DoD's current policies are inconsistent with the APA's ethical requirements. Mr. Carson's letter appears to suggest that the APA should simply abandon its ethical commitments in the service of the

¹ We are aware that not all psychologists are health professionals. However, military psychologists serving as Behavioral Science Consultants for detention and interrogation operations are required to be "health care personnel" and to hold state licenses. Furthermore, the APA has affirmed that its ethics code, including the injunction to "do no harm," applies to *all* psychologists, not only those engaged in the provision of health services.

DoD's priorities.

2. Psychologists played a central role in detainee torture and ill-treatment; and abusive practices continue to the present day.

Mr. Carson's letter states that the DoD "understands the desire of the American psychology profession to make a strong statement regarding reports about the role of former military psychologists more than a dozen years ago." His labeling of the extensive evidence of detainee torture and abuse at the hands of psychologists as mere "reports" understates the fact that these abuses have been well-documented in the [2008 Senate Armed Services Committee Report](#), the [2005 Schmidt-Furlow Report](#), and reports from [Physicians for Human Rights](#), [The Constitution Project](#) and the [Institute on Medicine as a Profession](#), among other sources.

The suggestion that detainee mistreatment only occurred "more than a dozen years ago" by "former military psychologists" is also inaccurate. The abuse of detainees continues *today*, which is why the APA's new policy addresses the deployment of current military psychologists. The United Nations [Committee Against Torture](#) has determined that the current treatment of detainees at Guantánamo, including force-feeding and indefinite detention without trial, violates the UN Convention Against Torture. Furthermore, Appendix M of the [Army Field Manual \(FM 2-22.3\)](#) allows the ongoing use of abusive techniques and conditions of confinement that include isolation, sleep deprivation, and sensory deprivation – all violations of psychological ethics and APA policy.

3. The U.S. Government's duty of care for detainees does not justify psychologists' participation in human rights violations.

Mr. Carson's letter argues that "withdrawing all government psychologists from patient care at Guantanamo would represent an abandonment by the psychology profession of the obligations of the U.S. Government under international and U.S. law." This fundamentally misinterprets the professional duty of psychologists when confronted with torture, ill-treatment, and other human rights violations. The ethical obligation to avoid harm precludes being part of a detention apparatus, such as is present at Guantanamo, that the United Nations has determined to be in violation of international law. Harms currently authorized or practiced by the military include indefinite detention, force-feeding, and the use of interrogation methods such as sleep deprivation and sensory deprivation (allowed by Appendix M of Army Field Manual FM 2-22.3). In settings characterized by a lack of transparency and independent oversight, psychologists are particularly constrained from exercising independent professional judgment, avoiding conflicts of interest, and avoiding harm.

The APA and other health professional organizations have a duty to support the ethical practice of the profession, which includes protecting their members from complicity in human rights abuses and other violations of international law. The APA's determinations of what practices cause harm or violate international law are based on the factual record and appropriate authorities on international human rights and humanitarian law, *not* on the opinions of U.S. government entities. This position is consistent with the responsibilities of professional associations to uphold health professionals' [undivided loyalty](#) to prisoners, especially when their members practice in situations where such violations may exist.

Thus, according to the APA's ethical guidelines and policy, psychologists employed by the DoD may provide care to detainees *only if* their treatment and confinement are consistent with international human rights standards. When these conditions are not met, psychologists may still provide care, but only if they are working directly for the persons being detained or for an independent third party working to protect human rights. In this way, APA's policy provides a mechanism whereby psychologists may fulfill their duty of care without violating their duty to avoid harm.

4. The DoD's concerns about the effect of the new APA policy on military recruitment are unwarranted.

Mr. Carson's letter promotes the view that "Licensing uncertainty as a result of the policy adopted by the APA...could adversely affect the recruitment and retention of highly qualified psychologists needed by the MHS and United States Armed Forces." It also suggests that the new APA policy will cause "anxiety" over possible professional censure among military psychologists *en masse*, and that the welfare of our soldiers, veterans, and their families will suffer as psychologists become uncomfortable pursuing mental health careers within the armed forces.

This purported concern lacks substance. Only a minute percentage of military psychologists work at Guantanamo and other detention centers. According to one [spokesperson](#) for the DoD's Southern Command, no more than a dozen psychologists served at Guantanamo in 2015, and a second Command [spokesperson](#) has identified these psychologists as "volunteers." There is no valid reason to take seriously the DoD's "sky is falling" admonition. Indeed, it is reasonable to assume that psychologists concerned about Guantanamo's ugly history and stigma may actually be *more* interested in healthcare positions that support the military now that this new APA policy is in place.

5. UN Security Council rulings are an inappropriate benchmark for evaluating the human rights status of the Guantanamo detention facility.

The [UN Committee Against Torture](#) and the [UN Special Rapporteur Juan Mendez](#) have stated clearly that the Guantanamo detention facility stands in violation of relevant international law regarding the treatment of detainees. These determinations meet the notification requirements specified in the new APA policy for the removal of psychologists from detention operations there. In response, Mr. Carson's letter asserts that "Under the United Nations Charter, binding U.N. obligations are established by the U.N. Security Council, and not by a special rapporteur." However, the APA chose the UN Committee Against Torture and the Rapporteurs in part because other standards, such as the one suggested by Mr. Carson, would be entirely impractical as a guide for the APA's ethics policy. To obtain a Security Council ruling of the sort the DoD argues should be necessary, official U.S. support would be required. But it should be apparent that the U.S. government would not vote in favor of a UN resolution that declares its own detention facility to be in violation of international law.

Conclusion

In sum, Mr. Carson's letter fails to adequately recognize that the foundation for the APA's stance against psychologists' participation in interrogations and other related security

functions are the twin professional obligations of beneficence and non-maleficence: to do good and to minimize harm to individuals. As other organizations of health professionals have also emphasized, for the APA these obligations do not depend on the specific role that psychologists play when using their professional skills. The APA [Code of Ethics](#) provides that “Psychologists must take reasonable steps to avoid harming their patients or clients, research participants, students, *and others with whom they work*, and to minimize harm where it is foreseeable and unavoidable” (emphasis added).

In his letter Mr. Carson states, “We value the historical relationship between the Armed Forces and the American psychology community. We see the timeless ethical values of the psychology profession to ‘do no harm’ and to do public service as mutually reinforcing.” To a significant degree, we share this stance. For the relationship to be truly constructive and productive, however, in its employment of psychologists the DoD must fully respect and abide by our profession’s ethical principles and standards. For psychologists, these guideposts are indispensable in framing, supporting, and constraining the avenues through which we can effectively contribute our skills and expertise to public service.

Roy Eidelson
Trudy Bond
Stephen Soldz
Steven Reisner
Jean Maria Arrigo
Brad Olson
Bryant Welch

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