APAWatch: Alliance for an Ethical APA
A Response to Drs. Harvey's and Kennedy's Fact Sheet for 35B

1. The authors write:

The practical impact of the August 2015 Resolution has been to deny detainees access to care from psychologists. Prior to the August 2015 Resolution, detainees were receiving treatment from military psychologists at the detainees' own request.

In our many years of reading detainees' accounts of their Guantanamo imprisonment, talking with detainees' lawyers, hearing from independent medical and psychological personnel who have been to Guantanamo, and those who have evaluated released detainees, we have learned of many complaints about the quality of care they received. We never heard of wishes to be treated by military psychologists.

Here are several testimonials describing the prisoners' distrust of the system, their reluctance to be treated by military psychologists, and their despair over the inadequacy of the treatment they were receiving:

This man expresses his deep distrust of the doctors who work at Guantanamo:
http://witnesstoguantanamo.com/videos/all-part-of-the-system/

Another describes being violently extracted from his cell and taken to camp Delta, the psych ward:
http://witnesstoguantanamo.com/videos/spoon/

In his suicide note, Mohamed Salih al Hanashi describes the lack of "humanitarian" response from his assigned psychologist:
https://www.documentcloud.org/documents/2165376-ncis-hanashi-investigation-pt-2a.html

These are not isolated cases. This testimony is from a lawyer speaking on behalf of many clients in Guantanamo:
http://witnesstoguantanamo.com/videos/guantanamo-doctors/

The complaints do not only come from the detainees and their civilian lawyers. In 2008, an Air Force JAG attorney learned of abusive actions by a military psychologist at Guantanamo. He

filed a complaint as required by military regulations. He never heard another word about his complaint and no action was forthcoming. [1]

The authors tell us that the Department of Defense can never be persuaded to allow independent psychologists into Guantanamo. Yet, in addition to military lawyers, the authorities at Guantanamo allow civilian lawyers representing individual detainees to come into the camp. Some of these attorneys come from groups that have published blistering critiques of the conditions at the camp. [2] Furthermore, the civilian lawyers bring psychologists and psychiatrists to evaluate their clients over the course of several visits. Why then is it deemed impossible to find ways to get civilian psychologists to serve the prisoners?

APAWatch believes detainees should be treated by psychologists who see the prisoners as victims of torture and who are experienced in working with survivors of massive psychic trauma, including torture not by therapists who say they are "conducting therapy with an enemy."[3]

2. The authors write:

   Preventing the detainees from treatment provided by one specific group of providers, military psychologists, is not consistent with the Geneva Conventions.

This claim is ironic. In 2002, President Bush argued that Geneva protections do not apply to the people held at Guantanamo, but now the military psychologists are opting to recognize ***one*** article of the conventions in order to make the case that detainees are being prevented from receiving treatment. In fact, it is the military authorities that are preventing independent psychologists from offering therapy at Guantanamo. The American Psychological Association (APA) must make ***a concerted effort*** to get ***independent psychologists*** into Guantanamo, as existing APA policy requires.

Indeed, Geneva strongly prefers that prisoners of war be treated by ***independent*** medical personnel. We note, with some confusion, that the proponents of 35B repeatedly cite a portion of Geneva that makes it clear that treatment is best provided by doctors from the prisoner's home nation. This is especially relevant in the context of this debate because experts in torture rehabilitation have noted that prisoners are not receiving culturally appropriate therapy. [4] The authors of 35B are grievously misreading Geneva.

3. The authors write:

   This standard [3.04(b)], *in conjuncture with the guidance provided under other sections of the Ethics Code, provides clear and unambiguous guidance for psychologists in treating detainees.*

Let us be clear: the APA ethics code did not prevent the use of "enhanced interrogation techniques" that amounted to torture at Guantanamo, nor did it prevent Guantanamo's psychologists from making diagnoses that served the interests of the prison and not the prisoner. [5] As the Hoffman Report made clear, the ethics code is not a magical amulet that enables people to operate ethically in any environment.

4. The authors write:

   NBI 35B addresses the ability of military psychologists to provide <u>treatment</u> to detainees who wish to speak with a psychologist. The item has nothing to do with interrogations.

However, APA Watch is not alone in viewing this resolution as the thin edge of a wedge that could open the doors of the interrogation room. Prominent supporters of 35B also believe that the bill could open the flood gates and wash away the 2015 reforms. The president of APA's military psychology division (Divsion 19) rejects the restrictions on national security interrogations for the same reason he supports 35B, because even a restriction on working for those who operate outside the law is a restriction on trade. [6] If this bill were to pass, the APA would be greeted with yet another bill that would further roll back the 2015 reforms. Division 19 leaders have informed us of their intentions, we should take them at their word.

Furthermore, Division 19 is not alone in linking 35B to interrogations. APA's Committee on Legal Issues has written that 35Bs authors should go further than they have and openly express their support for psychologist participation in interrogations inside illegal settings (see Council Agenda book, p. 63-64). While the words "remove the restrictions on interrogation" are not in the text of the document, they are on the lips of the bill's supporters. It would be naive to believe 35B supporters will not try achieve their clearly stated goals.

5. The authors write:

   Psychologists in military facilities actually have more institutional oversight than is typical of psychologists in the civilian sector.

Military psychologists at secret sites like Guantanamo have much ***less*** oversight than anyone in the civilian sector. While there have been multiple detainee reports of abuse by psychologists or other healthcare personnel at Guantanamo [7], there is no public record of any discipline, punishment, or other statutory process of investigation regarding psychologists or other medical personnel.

When outside investigators obtained documents relating to the suicides of prisoners at Guantanamo, the records were replete with examples of violations of standard operating procedures, interference with record-keeping systems, and questionable actions by clinicians. This was particularly the case when it came to documentation of torture claims by prisoners.

In one especially egregious example of failed oversight, the Army's 2012 investigatory report into the death of detainee Adnan Latif cited the failure by Guantanamo authorities to respond to previous criticisms of problems at the facility going back years. According to Southern Command investigators, Guantanamo (JTF-GTMO) command failed to implement "many of the required changes identified in previous detainee death investigations. Oversight of operations at Guantanamo has certainly not led to accountability or correction in this regard. [8]

It is also highly problematic that current military guidelines do not allow for the confidentiality of detainee medical records. In 2005, the Surgeon General of the Army assured the public that there was a "firewall" between clinicians and interrogators (including their behavioral consultants). But a 2010 DoD Inspector General report on inclusion of medical information in detainee intelligence reports found that clinical workers were bound to share medical records with interrogators (see also Instruction on Department of Defense Medical Program Support for Detainee Operations No. 2310.08E). Moreover, years after controversy over these issues had surfaced, the IG found execution of these policies at Guantanamo has been inconsistent, resulting in confusion for both health-care providers and interrogation elements. Just last week, the IG reported that DoD has now failed for over seven years to act on its recommendations to clarify policies regarding inclusion of detainee medical information in intelligence records.

Oversight within the military system has been found wanting repeatedly. According to the 2005 Church Report on abuse of detainees, the use of torture techniques at various DoD sites continued for over a year after they were formally withdrawn, noting that "policy documents were not always received or thoroughly understood." Subsequent work by human rights and legal

groups documents that this has remained true for years afterward. As recently as December 2017, Nils Melzer, the U.N. Special Rapporteur on Torture, stated that "torture and ill-treatment are reported to continue at Guantanamo." [9]

In sum: APA Watch advocates the presence of independent psychologists in Guantanamo as current APA policy dictates. Effective psychological treatment for the detainees depends on two factors: the detainees must feel that they can trust the therapist they are working with and that the therapist is able to understand their deepest concerns. Independent psychologists would not have a primary loyalty to the DoD as military psychologists inevitably have, leading detainees to feel distrust. Further, independent psychologists should be experts in working with massive psychic trauma including torture that military psychologists have proved reluctant to treat.

[1] Soldz, S., Arrigo, J. M., Frakt, D. J. R., & Olson, B. (in press). Response to Staal: "Psychological ethics and operational psychology" ─ fundamental issues and methods. *Peace and Conflict*.

[2] see https://ccrjustice.org/home/what-we-do/issues/guantanamo

[3] Carrie Kennedy: Presentation entitled What challenges and complexities does providing treatment to detainees entail? August 2007, APA Convention

[4] James Connell, Alka Pradhan, Margaux Lander. (2017). Obstacles to torture rehabilitation at Guantánamo Bay. *Torture*, 27, 2. https://irct.org/assets/uploads/1018_8185_2017-2_62-78.pdf

[5] Vincent Iacopino and Stephen N. Xenakis (2011). Neglect of Medical Evidence of Torture in Guantánamo Bay: A Case Series. *Plos: Medicine*. https://doi.org/10.1371/journal.pmed.1001027

[6] http://www.sciencemag.org/news/2018/07/us-psychology-group-set-modify-rules-interactions-military-detainees

See also:

http://www.apadivisions.org/division-19/publications/newsletters/military/2017/12/future.aspx

[7] We recommend that readers search and review:

http://witnesstoguantanamo.com/

http://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies

SASC Detainee Abuse Report https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf

Senate Intelligence Committee report on CIA torture.
https://www.amnestyusa.org/pdfs/sscistudy1.pdf

While some would say we are confusing the DoD and CIA please note that prisoners in Camp 7 have been interrogated by the CIA before arriving at Guantanamo, that the CIA operated out of Camp 7 and that Bruce Jessen trained Guantanamo Interrogators. See:

https://www.thetorturedatabase.org/document/dod-presentation-al-qaida-resistance-part-1

https://www.thetorturedatabase.org/document/dod-presentation-exploitation-part-2

[8] https://www.documentcloud.org/documents/3032108-Latif-AR-15-6-Report.html

[9] “US must stop policy of impunity for the crime of torture"

https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22532&LangID=E

See also Jeffrey S. Kaye, Cover-up at Guantanamo, Amazon Books, 2017.