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Thoughts on Psychologists, Ethics, and the Use of Torture in Interrogations: Don't Ignore Varying Roles and Complexities

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Editor Note: What follows is an edited version of an open letter Dr. Zimbardo wrote to the APA Task Force on Psychological Ethics and National Security (PENS). The letter was titled *Comments on the American Psychological Association's Presidential Task Force: On Psychological Ethics and National Security (PENS).* We jointly agreed on ways to edit the letter so its important points were kept while transforming it from a letter to a comment on a somewhat different paper, the one by Costanzo et al. In addition to Zimbardo's experience as president of APA, much of what makes his article so valuable is the breadth of experience he brings about issues of behavioral science ethics and interrogations, starting with his well-known Stanford Prison Experiment. He has spoken widely on the ethics issues, including a keynote address to a national conference on ethics. That experience includes:

- Dealing with the questionable ethics associated with the conduct of the Stanford Prison Experiment—writing professional articles and teaching about it, and now discussing at length the ethics of psychological intervention in a chapter of a forthcoming book relating that experiment to the abuses at Abu Ghraib prison ("The Lucifer Effect: Understanding How Good People Turn Evil," Random House, Spring, 2007);
- Conducting empirical research on Brazilian police interrogators operating during the era of Brazil's military junta, published as "Violence Workers:

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Police Torturers and Murderers Reconstruct Brazilian Atrocities," University of California Press, 2002);

- Conducting and publishing research on the psychological techniques used by American police detectives to obtain confessions from suspects;
- Serving as an expert witness for the defense in the trial of one of the MPs charged with abuse of Iraqi detainees at Abu Ghraib, in which capacity he had access to and read all available reports of the "Independent Investigations" into these and other military abuses.

In sum, his work captures the interplay between research and policy that is key for journals like *ASAP*. Yet, because of time constraints, he was not able to promise a new article within the time frame desired. Nevertheless, I decided that publishing even a modestly edited version of his letter would contribute to the collection of articles, even if it was not as directly focused on the Costanzo et al. article as some other articles were. I hope readers find the decision a worthwhile one.

My commentary will be divided into a number of separate sections.

1. Evaluating the contributions of the APA Presidential task force and the basic thrust of PENS, which was largely responsible for responses including that of SPSSI and the Costanzo et al. article.
2. Questioning the limitations of PENS, and raising issues regarding situational ethics, classified information, national security, and client privileges.
3. Recommending continued active engagement of APA Ethics Office and APA Council of Representatives in clarifying issues of ambiguity and dissention regarding PENS and its follow-ups.
4. Encouraging the development of an APA Ethics Casebook that provides teachable scenarios about a host of ethical dilemmas, with actual or probable cases, some of which are directly relevant to interrogations and national security issues.

Contributions of the PENS Report

The PENS report makes several important contributions to this complex ethical issue of psychologists serving in working arrangements within the national-security framework. First, it affirms the application of the APA Code of Ethics to *all* psychologists serving in any position where they are recruited by virtue of their training, experience, and expertise as psychologists. This blanket application of our ethics code extends to those serving as behavioral scientists as well as those in traditional health service provider relationships. This context-setting item is important in the current debate over the use of behavioral scientists as

consultants/advisors to the military's interrogation programs. As stated, it admits of no exceptions, and none should be allowed.

Second, PENS makes explicit a central ethical issue regarding the role of psychologists in torture and related interrogation activities. Its Overview states that, "the Task Force was unambiguous that psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment." It also followed up with the standard note of the ethical responsibility to be alert to such abuses, and further to report any such acts to "appropriate authorities." (I will raise an issue later of who such authorities are, the manner of reporting on classified programs, and the definition of terms, such as "torture.")

Third, the report notes that the medical record information must not be used by psychologists to the detriment of an individual's safety and well-being. This statement assumes (although it is not made clear) that such "medical" records include psychological assessments, on which psychologists could be expected to report evaluations to their supervising clients.

Fourth, the PENS report puts the burden on individual psychologists regarding a number of behaviors, attitudes, perspectives, and sensitivities. Among them are:

- Not engaging in behaviors that violate U.S. laws (although they may do so for ethical reasons if they perceive there is a violation of basic principles of human rights);
- Being aware of role and professional identity ambiguity;
- Being sensitive to combining inconsistent roles of provider of health care and interrogation consultant, and refraining from engaging in such mixed roles;
- Being mindful of the possible innocence of an individual being interrogated;
- Being alert to the limits of confidentiality of information about an individual being interrogated;
- Clarifying the identity of their "client";
- Consulting other professionals when facing difficult ethical dilemmas.
- Becoming informed about how culture and ethnicity interact with investigative or information-gathering techniques.

Limitations of the PENS Report

Despite the value of this initial attempt by PENS to clarify and codify the ethical responsibilities and obligations of psychologists involved in national security-related activities, many issues merit fuller consideration by APA Ethics and the Council of Representatives in the next round of improving upon this first effort in PENS-2.

I have long been on record as endorsing the wider application of psychological knowledge to improving the human condition, and the involvement of psychologists in a range of activities and professions where their training and expertise can offer considerable value to the functioning of various agencies, businesses, and our government. As a profession, we have much to offer our nation, and as individual professionals we can contribute to many important domains and find meaningful occupations beyond academia and clinical practice. I am aware of a number of prominent senior psychologists who have been serving their country in such capacities.

Nevertheless, we must not be naive about the nature of some of the jobs in which psychologists are asked to participate, the situational pressures exerted on them, the changing missions over time, evolving demands of their jobs, the secrecy and classified nature of some of their jobs, and the conflicting definitions of basic terms that add confusion to ethical dilemmas.

When hired by an agency of government as consultant, part-time or full-time employee, the "client" is one's boss, the organization that pays the psychologist's fee or salary. The "client" is no longer the individual being interrogated, investigated, evaluated, or treated—unless a psychologist health-care provider is asked to provide clinical services to such individuals by those individuals in need, and that will be rare.

In most cases involving issues of national security, the work of the psychologist is classified and cannot be discussed with anyone not so classified, including not being able to discuss openly ethical dilemmas created by the functions the psychologist is asked to perform. Moreover, in some cases, the psychologist will not know fully the context to which his or her expert advice, recommendations, or evaluations will be used. In the special case of interrogations of terror suspects, or prisoner detainees, the available information is typically opaque or compartmentalized within various military and other governmental agency information zones, with limits on psychologists' "need to know." How then is it possible for any individual psychologist to assess fully the morality and ethicality of such situations, in order to decide to discontinue contributing to them, or to challenge them?

For psychologists working in career jobs with DoD, CIA, or other government agencies, there are a host of pressures exerted on them to be good "team players," and not to blow the whistle on ethically questionable activities. In a complex organizational structure it is not clear who are the "appropriate authorities" to whom psychologists should report violations of prohibitions against torture or abusive treatment of those being interrogated. They can lose their security clearance or have it downgraded, their annual fitness report can be negative, they could be forced to pay back any military loans, and more adverse career consequences are always possible through threats against failures to follow the agency or team norms. Furthermore, when one signs on to such jobs, there may not be any clear vision initially of what is expected of psychological consultants, and how far they might be asked to go in providing the services required by their clients. We are all

aware of the "foot-in-the-door" research and the phenomenon of the slippery slope of initial commitments that can be gradually escalated until someone is behaving in ways contrary to their basic attitudes and values. There are also other social pressures acting on individual psychologists in such settings, among them group camaraderie, "group think," diffusion of responsibility, and the use of euphemistic terms to conceal the reality of the work being done. Even intelligent, well-meaning, and moral psychologists can be seduced into engaging in behaviors that they would ordinarily deem unacceptable once they get enmeshed in situationally defined roles and adopt new situated identities.

In another era, from the 1950s to the 1970s, psychologists (as well as psychiatrists, biologists, chemists, and other professionals) were recruited by the CIA for its program to counteract alleged Communist mind control strategies, known as MKULTRA. Over many years, these professionals failed in their concerted attempt to discover the secrets of "mind control" to be used against potential enemies, but during that time they themselves engaged in many illegal and certainly immoral activities as part of this secret enterprise. The mind control tactics used to get their own commitment to such unethical behaviors were not of the exotic type that they were searching for to control others. Rather, they yielded to the run-of-the-mill social pressures that are the stuff of basic social psychology. Those same pressures operate today on psychologists-for-hire and are intensified in a stress-filled atmosphere of fear of terrorism and alleged continual threats to national security.

Such considerations led me to conclude that PENS has utilized the wrong model for its ethical deliberations about psychologists as consultants to military interrogations. The model featured in this task force report is that of a psychologist working for the military as an independent contractor, making rational moral decisions within a transparent setting, with full power to confront, challenge, and expose unethical practices. It is left up to that individual to be alert, informed, perceptive, wise, and ready to act on principle when ethical dilemmas arise.

Instead, I will argue that those psychologists are "hired hands" working at the discretion of their military or government agency clients for as long as they provide valued service, which in the current war on terrorism is to assist by providing whatever information and advice is requested to gain "actionable intelligence" from those being interrogated. PENS notes that psychologists often are part of a group of professionals, rarely acting alone. They can become part of an operational team, experiencing normative pressures to conform to the emerging standards of that group. They cannot make readily informed ethical decisions because they do not have full knowledge of how their personal contributions are being used in secret or classified missions. Their judgments and decisions may be made under conditions of uncertainty, and may include high stress. Moreover, definitions of basic terms are not constant, but shifting, so it becomes difficult or impossible to make a fully informed ethical judgment about any specific aspect of one's functions.

In addition, PENS does not recognize the reality that in field settings, the work of PhD/PsyD psychologists is often substituted by, or made operational by, numerous paraprofessionals, such as mental health counselors, personnel officers, psychological assistants and interns, and others trained in psychology. If they do not belong to professional associations, such as APA, they are relieved of the professional consequences of engaging in unethical actions. Thus, our concerns must extend to these psychologist paraprofessionals as well as those professionals within APA.

PENS admonishes psychologists not to be involved in "torture" of any kind or other treatment that is cruel, inhuman, or degrading. However, the legal memos by President Bush and his advisors have changed the definition of torture, the definition of detained prisoners, and the nature of their prolonged confinement without due process. They are not accorded the safeguards of the Geneva Convention, or those of the United Nations, or even those supported by the U.S. Military Code of Justice. That Orwellian shift has come to support the view that nothing done to such prisoner-detainees qualifies as "torture." How then can a psychologist oppose the misuse of his or her advice that might otherwise be considered as contributing to the psychological, or "soft torture" of such individuals being interrogated? In the same vein, PENS proposes that psychologists not "violate basic principles of human rights," but then makes evident in its consensus that the definition of human rights is determined by the laws of the United States and not by international standards of human rights, such as the Geneva Convention. That narrow conception of "human rights" serves to isolate U.S. psychologists from their colleagues in other nations, who operate under a fuller conception of the dignity of the individual and the rights that any human being can expect to be honored in peace and in war, even in a war on terror.

I cannot but help imagine that this unnecessary restriction on the breadth of the meaning of human rights was a consequence of many members of the task force not wanting to advance a public position that was contrary to that of their President. Given that six of ten task force members had Department of Defense connections, there likely would be implicit pressures on them to keep the scope of their recommendations restricted rather than to embrace an international standard. I personally believe this is the most critical aspect of the PENS report that needs fullest discussion by APA Ethics and the Council of Representatives.

My reasoning behind such a recommendation is that while interrogations being conducted at U.S. prisons in Guantanamo Bay, Abu Ghraib, and other facilities, are currently legally supported by U.S. law, they violate the *spirit* of American law and international laws on the ethical and humane treatment of all prisoners. This presents a difficult dilemma for psychologists advising on such interrogations, because officially no matter how abusive an interrogation becomes, it does not qualify as "torture." To me, that means the "situation itself is unethical." Then, the psychologist must rely on a higher standard than that currently operating under national laws, just as psychologists were obligated to do in other nations using

threats to "national security" as the ideological justification for torture of civilians by the military junta in Greece, Brazil, and other fascist nations.

APA should not allow a standard of ethics that is less strict than that advocated by the American Psychiatric Association or the American Medical Association. A more lenient standard puts individual psychologists engaged in capacities related to military investigations at risk for "doing harm" despite not violating their association's code of professional ethics.

Other issues to be considered more fully by APA Ethics are:

- The definitions of "torture," "coercive interrogation," and what constitutes "cruel, inhuman, and degrading" interrogation processes.
- Evidence of the effectiveness of any such tactics in eliciting useful actionable intelligence.
- The role of psychologists in the military's SERE program, which was designed to train soldiers in best practices for resisting interrogation pressures against them, but has now been alleged to use that information to break the resistance of foreign national detainees in interrogations by U.S. military and civilian personnel.
- The challenge for psychologists is to remain mindful of the possible innocence of a person being interrogated, when that person has not been charged with any crime, but is assumed to possess information vital to national security, which needs to be extracted through "forceful" interrogation?

Recommendations for Continued Development and Extension of PENS

I strongly urge that the PENS report be construed as a starting point in an open discussion and elaboration of the many complex and subtle issues involved when psychologists are asked to perform various services for their government as part of national security. I have outlined here only some of my concerns, but a close reading of the text of PENS raises other issues. For example, PENS advocates psychologists becoming aware of research on the most effective and humane methods of obtaining information and the interaction of culture and ethnicity in that process. I am unaware of such research, and if it exists, I assume it is classified. But if it is available, then it is incumbent on APA Ethics to provide it to relevant members, rather than leaving it up to each psychologist to discover it.

The extension of PENS should not burden further the original task force members who worked long and hard on this draft, but it might benefit first from collecting a full set of commentaries, organizing them around common themes, arranging for an extended discussion of them by the Council of Representatives or a subgroup committee of the whole, and then reformulated by APA Ethics as PENS-2.

What I believe is vital for APA Ethics is to question the assumption that individual psychologists working in military or classified settings are as fully in control of the consequences of their job functions as they would be in academic or clinical practice jobs. We must recognize more clearly than PENS does that there are powerful situational forces acting on these professional psychologists, especially in times of war or under administrative or systemic pressures. Those forces and pressures cloud normal ethical judgments and must be recognized and identified, perhaps best in Casebook scenarios.



Encouraging the Development of an APA Ethics Casebook Related to PENS

> "There is no single definitive way of thinking about what it means to be an ethical psychologist. To say that an ethical psychologist does more than abide by our rules and standards by no means diminishes the importance of rules and standards, which are the bedrock that protects those with whom we work, and us, from harm. Thinking through what "more" characterizes an ethical psychologist over and above following rules of conduct, is a fruitful exercise for all who are part of a profession that touches so many lives in such a profound manner."
>
> Stephen Behnke, *APA Monitor*, July/August 2005

It becomes difficult to be an ethical psychologist when put in unusual work settings that impose extreme demands for which we have no training or prior experience, and when the secrecy of the job negates open discussion of dilemmas with colleagues. It is also true that not all work-related decisions with ethical components are transparent and easy to evaluate regarding ethics violations.

We need to develop a comprehensive Casebook with detailed actual or imagined scenarios, with various outcomes, and alternative actions by psychologists involved. To be effective, this work must go beyond the limited expertise of the APA Ethics Office, to include input from a variety of practitioners in the field. Among them should be people who are retired from active service in the following professions, so that there is no fear of job loss or career risks: police detectives who have engaged in or supervised suspect interrogations, CIA interrogators, civilian contract interrogators, FBI investigators, and Army Military Intelligence interrogators. We might also include those who have served as translators and analysts of interrogations. It would be helpful to also include casebook scenarios from practitioners in other countries, such as those from Israel or Egypt.

APA Ethics Office should also collect similar Casebooks used in other fields, such as law and business, and discuss with teachers in those areas what makes particular case presentations most effective, in order to create the most effective style of presenting our cases. A recent casebook of 22 imagined cases of ethical issues associated with the profession of spying has been edited by Jan Goldman (25-year intelligence veteran, and teacher at the Joint Military Intelligence College) called, "The Ethics of Spying" (Scarecrow Press).

I would go further and strongly recommend that APA develop a set of *video-based* ethics scenarios focused around the issues that stimulated PENS into action. Such vivid, dynamic encounters would be engaging to view and would serve to promote reflection and discussion more than a static casebook alone does. These video scenarios can be developed with the participation of (retired) detectives, military interrogators, SERE program officers, and others most knowledgeable about the subtle terrain where operational effectiveness butts against ethics constraints. Such ethics video casebooks could be developed with the coordinated assistance of many APA Directorates and divisions, and be made available as part of Continuing Education courses and even available in online formats. The costs of their development could be recouped by sales of this material not only to psychologists but to other professionals as well as to military intelligence personnel.

Conclusion

In conclusion, the issues dealt with and those raised by the PENS report are of vital importance to the science and practice of psychology as a fundamental contributor to the betterment of the human condition. The issues involved require more than simply applying some ethical decisions to particular cases of wrongdoing. The focus here is on the potential for misusing and exploiting psychological knowledge in ways that can damage the dignity of innocent people in interrogation settings. Those who offer training to military and civilian personnel engaged in such work need more specific ethical guidelines to inform their practice. Further, our entire profession is challenged to uphold the highest ethical standards for all of our members—health care providers, behavioral scientists, and educators alike in whatever domains they provide services to clients. APA should be the ethical standard bearer for all of its members, and for psychologists around the world. It should not abandon the high moral ground on which American psychology has stood for so long—in unquestioned support for ideological banners of "national security," or other high-sounding phrases. In other nations, at other times, that same ideology was used to justify torture and suppression of human rights. Psychologists seek objective truth behind slogans and euphemisms, and live by empirical evidence to guide their professional functions.

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