The interrogation of detainees: how doctors’ and psychologists’ ethical policies differ

The treatment of detainees in prisons such as Guantanamo Bay is controversial. Kenneth Pope and Thomas Gutheil ask whether the different stances of doctors and psychologists are justified.

The professions of medicine and psychology share many ethical values, but their ethical policies differ sharply. The contrasting responses of physicians and psychologists in the United States to the interrogation of detainees provide a striking example and show the ethical challenges that confront all healthcare professions. The results of such decisions can affect the public interest, how a profession understands itself, and countless individual lives.

In the years since the 11 September terrorist attacks in the US, numerous articles have considered what forms of involvement, if any, are appropriate for physicians and psychologists in detainee interrogations in settings like Abu Ghraib prison and Guantanamo Bay detention camp. In this article we take a brief look at the contrasting ethical policies adopted by physicians and psychologists in the United States regarding this controversy and consider some of the reasons for the differences.

Contrasting ethics policies
Physicians limited their involvement in detainee interrogations to such a degree that they prohibited even monitoring an interrogation with intent to intervene. Priscilla Ray, chair of the American Medical Association (AMA) council on ethical and judicial affairs, stated: “Physicians must not conduct, directly participate in, or monitor an interrogation with an intent to intervene, because this undermines the physician’s role as healer. Because it is justifiable for physicians to serve in roles that serve the public interest, AMA policy permits physicians to develop general interrogation strategies that are not coercive, but are humane and respect the rights of individuals.” At a press conference she elaborated that the statement should not be interpreted to mean that physicians could participate in developing rapport building or other strategies for individual detainees.

In contrast, the American Psychological Association (APA) in 2005 adopted a policy that allowed consultation and monitoring of individual interrogations with the intent of intervening. The APA decided not to add detainees to the enforceable standards section of its code, which protects groups that are vulnerable or at risk and allows complaints to be made to the ethics committee. Groups designated in the code include persons “for whom testing is mandated by law or governmental regulations,” “persons with a questionable capacity to consent,” research participants, “subordinates,” clients, students, supervisors, and employees. There is even an enforceable standard on the humane treatment of laboratory animals.

Reasons for difference
Why did the APA take such a different approach from the AMA? Below we discuss some of the factors that may explain the decision.

Age of the profession
Psychology is a younger profession than medicine. Without the centuries of teachings, traditions, and shared identity as an independent profession, a newer profession might more easily comply with the demands of government.

View of ethics code
Founded in 1892, the APA functioned for 60 of its 117 years without an ethics code. Its decision to adopt a code was controversial.

Attitude to prevailing medical and scientific consensus
Historically the APA has been willing to adopt a stance at odds with the medical and scientific consensus about issues affecting the public interest. For example, in the 1980s the APA bought Psychology Today to bring psychological science to the public. Although journals belonging to medical associations refused to carry tobacco advertisements because of the health effects of smoking, the APA board of directors unanimously decided that Psychology Today would accept advertisements for cigarettes (and alcohol). Its statement reflected the tobacco industry’s position that cigarettes are but one of a number of “products considered by some to be hazardous.”

Protecting non-US citizens at risk during conflict
Despite many admirable humanitarian stances, the APA has sometimes been reluctant to take formal steps to protect non-US citizens who are at risk during conflicts. For example, when Jewish psychologists and their families were fleeing to safety from Nazi Germany in the 1930s, an APA “Council proposal in 1933 to inquie into racial discrimination against psychologists in Nazi Germany was tabled permanently [rejected] . . . When some of the victims of this discrimination sought refuge in the U.S., the APA waited until 1938 to acknowledge the problem of displaced foreign psychologists by the appointment of a committee to ‘survey’ it.”

Response to conflicts between ethics and governmental authority
US psychologists’ views about the relation between ethics and the government’s authority seem to differ sharply from the views of their medical colleagues. After the 11 September attacks, the APA changed its ethics code’s enforceable standard about responsibilities that conflict with governmental authority. Before 11 September 2001, the code acknowledged that ethics and the authority of the state might conflict: “If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict.” In 2002, however, the APA adopted a new enforceable standard allowing members to set aside any ethical responsibilities that were in irreconcilable conflict with governmental authority: “If the conflict is unsolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority.”

An attempt to limit the scope of this permission to apply only to ethical responsibilities not
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involving human rights was relegated to the non-enforceable section of the code.

The AMA and other physician organisations have not allowed state authority to serve as a rationale for evading fundamental ethical responsibilities. In 2003 the World Medical Association’s president stated: “At Nuremberg in 1947, accused physicians tried to defend themselves with the excuse that they were only following the law and commands from their superiors . . . the court announced that a physician could not deviate from his ethical obligations even if legislation demands otherwise.”11

Perceptions of professional competence and roles

Not surprisingly, different professions hold different perceptions of their (and others’) competence, training, and roles. Physicians do not design interrogation plans for specific detainees or observe interrogations with the intent to intervene because “this undermines the physician’s role as healer.”

Psychologists’ ethical policies, on the other hand, reflect a view that interrogation is a psychological endeavour and that psychologists’ competencies allow them to take a special role in detainee interrogations.22 The APA statement on psychology and interrogations submitted to the US Senate Select Committee on Intelligence maintained: “Conducting an interrogation is inherently a psychological endeavour. . . . Psychology is central to this process because an understanding of an individual’s belief systems, desires, motivations, culture and religion likely will be essential in assessing how best to form a connection and facilitate educing accurate, reliable and actionable intelligence . . . Psychologists have valuable contributions to make toward . . . protecting our nation’s security through interrogation processes.”13

Perceived difficulties of doing no harm

Differences in beliefs may also exist about the challenges of doing no harm. “First, do no harm” is a constant reminder to physicians. In 2006 the American Psychiatric Association voted overwhelmingly to discourage its members from participating in devising strategies to get information from detainees. When the Pentagon announced it would try to use only psychologists in this role, Stephen Behnke, director of ethics for the American Psychological Association, said “psychologists knew not to participate in activities that harmed detainees.”14 In 2007, the president wrote: “The association’s position is rooted in our belief that having psychologists consult with interrogation teams makes an important contribution toward keeping interrogations safe and ethical.”15

It seems worth examining these assurances in light of increasingly detailed reports about detainee interrogations. Writing in Vanity Fair, Eban reported, “Psychologists weren’t merely complicit in America’s aggressive new interrogation regime. Psychologists, working in secrecy, had actually designed the tactics and trained interrogators in them.”16 A Senate investigation found that “Military psychologists were enlisted to help develop more aggressive interrogation methods, including snarling dogs, forced nudity and long periods of standing, against terrorism suspects.”17 Mayer noted that a general “drafted military psychologists to play direct roles in breaking detainees down. The psychologists were both treating the detainees clinically and advising interrogators on how to manipulate them and exploit their phobias.”18

The Boston Globe summarised a major theme of a series of news articles: “From the moment US military and civilian officials began detaining and interrogating Guantanamo Bay prisoners with methods that the Red Cross has called tantamount to torture, they have had the assistance of psychologists.”19 Previously classified US Justice Department documents released in April 2009 in response to freedom of information requests described the roles played by both “on-site psychologists” and “outside psychologists” in justifying the use of waterboarding and other techniques.20

A detainee from Afghanistan en route to interrogation at Camp X-Ray, Guantanamo Bay, Cuba
In April 2008 American Civil Liberties Union released government documents that it said confirmed “psychologists supported illegal interrogations in Iraq and Afghanistan.”20 The APA ethics director responded that the documents actually showed how psychologists were fighting abuse and thus validated APA’s ethical policy. The union disagreed with the APA’s conclusion and added, “We are deeply concerned by the fact that, viewed in context, these documents warrant the opposite conclusion.”21

Many psychologists are reported to be unhappy about their colleagues’ role in interrogating detainees.22 In 2008, the APA took a vote of its membership on a resolution stating that psychologists may not work in settings where “persons are held outside of, or in violation of, either International Law (eg, 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.” It was approved by 8792 members, with 6157 voting against (from a membership of over 148,000).23 However, this new policy is not enforceable or part of the ethics code. Responses to a series of questions about the resolution posted on the APA’s website state: “The petition would not become part of the APA Ethics Code nor be enforceable as are prohibitions set forth in the Ethics Code.”24 The APA has released several admirable public statements against torture over the years, but has included none in the enforceable section of its ethics code.

Policy considerations

The interrogation of prisoners at places like Abu Ghraib and Guantanamo Bay poses complex ethical questions lacking easy answers. Similar questions arise in custody situations and in any setting in which governmental authority may stand in sharp contrast to a professional’s basic ethical responsibilities. The controversy around physicians’ participation in capital punishment exemplifies the difficulties that can occur in adopting and enforcing a clear ethical standard. The continuing misunderstandings and disagreements among AMA members despite a clear prohibition for over three decades led Abraham Halpern, professor emeritus of psychiatry at New York Medical College, to comment: “The vast majority of physicians do not know what the AMA policy is on this, and they think they are helping the authorities and making the death of these prisoners more comfortable or peaceful, [a goal that] supports the code of medical ethics. All the while they are in violation of the code of ethics.”25

We submit the following recommendations for consideration. Firstly, the Nuremberg ethic—that individuals cannot avoid personal accountability by just following orders, laws, or other forms of state authority—should be central to all professions despite their differences. There is great diversity of professional roles, values, and activities not only between professional organisations but also within them. The 54 divisions of the APA, for example, represent such divergent fields as consumer psychology, population and environmental psychology, industrial and organisational psychology, experimental psychology, the psychology of aesthetics, creativity, and the arts, and military psychology. Ethics codes may differ to reflect major differences of roles, but no one should be able to escape personal ethical accountability merely through following orders, laws, and other forms of state authority. History has shown what can result when professionals follow this kind of fallacious ethical reasoning.

Secondly, when special ethical considerations are relevant to professionals’ work with a particular at risk group, those considerations should be explicitly included in an enforceable ethics code. We can see no reason why the APA offers protection to many vulnerable groups but refuses detainees even the “humane treatment” accorded experimental laboratory animals.

Thirdly, professional organisations should make greater efforts to ensure that all members know the nature of their ethical responsibilities. Ideally, all AMA members would understand its policy on participation in executing prisoners and all APA members—rather than the relatively small percentage of the membership that voted on the 2008 initiative—would believe that the ethics of participation in the government’s detainee interrogation programme was an issue of sufficient importance to take part in a ballot to determine that policy.

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