

Physicians for Human Rights

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://phr.org/our-work/resources/psychologists-recognize-the-stain-that-is-guantnamo/>

Public Facing Advocacy Writing

By [Stephen Soldz, PhD](#).

The U.S. psychology profession and its largest organization, the American Psychological Association, have been roiled by controversy for more than a decade. What are the proper roles for military and intelligence psychologists in national security interrogations and at Guantanamo and other detention sites that violate international law? The APA membership answered this question in 2008, with a landslide vote to ban psychologists from involvement with detainees at illegal detention sites unless the psychologists work directly for detainees or for a human rights organization.

This APA policy which remains in effect is consistent with fundamental principles of international law that encourage detainee access to independent medical professionals who put their interests above those of the detaining country. In 2015, the Council of Representatives, the APAs governing body, clarified that the UN Committee on Torture and its Special Rapporteurs for Human Rights and Torture are the appropriate authorities in deciding which detention facilities violate international law. Consequently, in December of that year, psychologists were ordered to cease involvement with detainees at the Guantanamo Bay prison.

An astonishing reversal is now under consideration. Tomorrow, immediately prior to the annual convention of psychologists in San Francisco, the APA Council votes on a proposal to undo this policy, and allow military psychologists to return to Guantanamo to treat detainees. I am among the Council members who oppose this change, which would reverse more than a decade of efforts to keep psychologists from contributing to human rights violations in U.S. national security detention settings.

In the process of discussing these issues with those who would return military psychologists to Guantanamo, a key point seems to color our differing perspectives: Is it more appropriate to view the majority of detainees at Guantanamo as dangerous terrorist enemies, or as largely the innocent victims of the war on terror and the abuses that were such a prevalent part of it? What this question obscures is the fact that these men are held indefinitely and denied the human right to a fair trial. Many are torture victims and they are detained in conditions that cause mental distress with no hope of release. That is why the APAs policy requiring detainee access to psychologists independent of the detaining authority matters.

Of the 780 men who have been imprisoned at Guantanamo over the past 16 years, eight have so far been convicted by the Guantanamo Military Commissions. Three of these convictions have been overturned in full and one partially, making for a total of four convictions to date. Charges failed filed against another nine men and seven men are still awaiting trial after 16 years.

Of the 731 men who have been released, the vast majority have never been charged with any crime. Just 40 men remain, five of whom have been cleared for release for many years but are still imprisoned. Nine have died, most allegedly by suicide (though questions remain that several may, in fact, have been homicides).

More detainees have died in custody than have been convicted of a crime. And the number initially convicted (8) is equal to the number of Guantanamo prosecutors who have resigned in protest. Recently, a General in charge of Military Commissions defense was found guilty of contempt of court for acting in what he considered to be the only way he could, consistent with his legal ethics.

From the very beginning it was clear to many, including a senior CIA official who visited in 2002 and an early Guantanamo commander, that perhaps half, if not more, of detainees were completely innocent, while the majority of others were low-level Taliban or al Qaeda foot soldiers, far from the worst of the worst that our leaders claimed. Yet they languished in the prison for years, never accused of any crime, in violation of international law. It is now well documented that hundreds had been turned in for bounties paid by U.S. forces because they were in the wrong place at the wrong time. Those who did really bad things were a tiny number.

I experienced this quite personally as a consultant on several Guantanamo cases that still haunt me. Two of them were children when taken there. One was somewhere between age 12 and 16, and the other was around 16. The first was accused of a crime only to have a military court throw out the only evidence, a confession, as the result of torture. He was also subjected to sadistic sleep deprivation and isolation designed to break him (i.e., make him confess to a crime he didn't commit) on the recommendation of a psychologist. These abuses were exposed by his Air Force JAG defense attorney. The psychologist was subpoenaed to testify to the Military Commission, and I was scheduled to testify about the ethics of her actions. This testimony was cancelled on the morning it was to occur as the psychologist reported that she would exercise her right against self-incrimination.

The treatment of this youth was so disturbing that the military prosecutor in the case resigned in protest, then testified for the defense, and then joined an ACLU lawsuit against the government demanding this youth's release. He explained his motives in a Washington Post op ed: I Was Slow to Recognize the Stain of Guantanamo.

After six years, this detainee, now at the beginning of adulthood, was ordered released by another court after another Marine JAG did what the government would not. He investigated his supposed crime and found witnesses that the crime was committed by another. Even then, the U.S. government tried to have the released detainee imprisoned upon his return to Afghanistan; this was prevented only by additional courageous efforts by the Marine JAG.

The second youth was turned in with his father by bounty hunters and spent nearly six years in captivity. For several of these years, after he was separated from his father, he was distraught, frequently smearing feces on the wall. As revealed by my examination of this detainee's medical records, he received no comfort from mental health staff, only incessant suicide evaluations. When both he and his father were released, they were sent to separate countries and neither was allowed to travel. The last I heard, he still had not seen his father, except on Skype.

It is sad for me to say, that in both these cases psychologists were part of the problem and not part of the solution. I am sure that was not always so, but it certainly was in these cases. And I really do not understand how my colleagues who will vote this week expect that detainees, who know firsthand that psychologists sometimes contributed to torture, are likely to trust psychologists from the same setting and same government that tortured them. It flies in the face of what we psychologists know about the importance of trust and a therapeutic affiliation in psychological treatment, from what the released detainees say, and from common sense.

Guantanamo was created to be a prison outside of all laws, U.S. or international. The U.S. government claimed in court last month that it can keep detainees at Guantanamo for 100 years without ever trying them or accusing them of a crime. The facility is now under the control of a president who has endorsed torture and the expansion of the prison, and who appointed a CIA Director who oversaw a secret black site where the torture of captives by psychologists is well documented. Thus the errors are ongoing and could very well get worse. Many in our military and intelligence community tell us that Guantanamo was an enormous strategic failure for the United States, as its existence became a major terrorist recruiting tool.

Our psychology profession is based upon principles of doing good, avoiding harm, and respecting the autonomy of individuals. Returning to Guantanamo and other national security sites that fall under this APA policy clashes with those values. I hope that my APA colleagues will not undo a decade of progress by sending our military colleagues back to Guantanamo, a worldwide symbol of human rights violations.

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