

## A resource for all members

**Learning Objective:** Discuss the role of ethics and the APA Ethics Office in the American Psychological Association.

Last November, I was given the unique opportunity of directing the APA Office of Ethics. In this column, I would like to set forth my way of thinking about ethics and make clear my goal of developing the office into a resource for you, the membership.

The best definition I know of ethics is quite brief and straightforward--ethics means *thinking about reasons in terms of values*. This definition has three elements: a *choice* to be made, *reasons* for choosing a particular course of action and rejecting another, and *values* that explain why certain reasons are more compelling and should prevail. Thus, ethics enters a psychologist's professional life when the psychologist faces a dilemma and looks to values in deciding what to do.

This definition distinguishes ethics from technique. A question of technique involves a single value. A research psychologist may want to know how best to structure a questionnaire, or a clinical psychologist may want to know whether individual or family treatment would be most helpful. To answer these specific questions, the research psychologist may focus solely on promoting the value of advancing science, the clinician on the value of providing good treatment. Ethics becomes involved when a situation requires that the psychologists consider more than a single value.

### Psychology's ethics code

The [\*Ethical Principles of Psychologists and Code of Conduct\*](#) (APA, 1992)--our Ethics Code--"provides a common set of values upon which psychologists build their professional and scientific work." The Code "has as its primary goal the welfare and protection of the individuals and groups" whom psychologists serve (from the Preamble to the APA Ethics Code). The welfare and protection of those with whom psychologists work is thus the primary foundation from which the Code's ethical standards arise, as two examples show.

Ethical Standard 1.18, "Barter," states that psychologists ordinarily refrain from accepting non-monetary remuneration in exchange for services "because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship." Ethical Standard 1.18 is not an absolute prohibition against barter; rather, the standard cautions against barter. The reason for caution is that a barter arrangement, if not conducted in a thoughtful and clinically appropriate manner, may cause harm.

Ethical Standard 1.17, "Multiple Relationships," states that psychologists refrain from entering into multiple relationships with clients, students and research participants, when it appears likely that a multiple relationship might impair the psychologist's objectivity. When a psychologist's objectivity is impaired, that psychologist is less likely to provide competent services, and more likely to confuse his needs with those of his client, student or research subject. When a psychologist is not clear on whose

needs are appropriately met, the likelihood of exploitation and other harm significantly increases.

The APA Ethics Code can be read in this manner to help psychologists examine values in resolving ethical dilemmas. While our Ethics Code is sometimes understood as a set of obligations and prohibitions, another perhaps equally useful way of thinking about the Code is as a statement of, and guide to, the values of our profession.

One of the most exciting and challenging aspects of my involvement in ethics at APA is that values permeate our work. For this reason, I look forward to the pleasure and privilege of working with all of the directorates--Education, Public Interest, Practice and Science--to explore ways of promoting the very best values of psychology and of making the Ethics Office a useful resource for psychologists.

Helping you

In future columns I will address more specifically my vision for how the [Office of Ethics](#) may serve the membership. It will be important for the office to explore ways of ensuring that our Ethics Code is used appropriately to protect the public and promote best practices, and not used inappropriately to harm psychologists and inhibit good care and research. This issue is one of great concern to many APA members.

The office will also seek to expand and improve our consultative services. The vast majority of psychologists are hard-working, highly competent professionals, and helping members deal with challenging and complex ethical dilemmas should be a top priority. If the Ethics Office has any singular goal, that goal should be to help psychologists facing a broad range of ethical dilemmas do the right thing.

However distant from Washington you may be, and whether your professional life entails practice, research, teaching or administration, I hope you come to experience the APA Office of Ethics as a helpful and available resource.

## Ethics Rounds

# Release of test data and APA's new Ethics Code

*Print version: page 70*

**Learning Objective:** Describe how the APA Ethics Code addresses the issue of responding to requests for test data.

In August 2002, our Council of Representatives adopted a new Ethics Code, which became effective this past June 1. The Ethics Code Task Force, charged with revising the 1992 code, spent five years and reviewed over 1,300 comments before submitting its seventh draft to council for consideration. Council was unanimous in approving the new code.

Ethical Standard 9.04 "Release of Test Data" represents an important and far-reaching change in APA's new Ethics Code. The former standard regarding release of test data, Standard 2.02(b) in the 1992 code, stated that psychologists refrain "from releasing raw test results or raw data to persons, other than to patients or clients as appropriate, who are not qualified to use such information." In interpreting Standard 2.02(b), psychologists struggled with when it was "appropriate" to release test data to patients and what persons were "qualified" to receive the data. Standard 9.04 no longer uses the terms "appropriate" or "qualified." Perhaps most important, Standard 9.04 now emphasizes client consent as the touchstone for when, and to whom, test data are to be released.

In a nutshell, Standard 9.04:

- \* Defines test data;
- \* Says that psychologists disclose test data pursuant to a client release (clause a) or, in the absence of a client release, do not disclose test data unless legally mandated to do so (clause b);
- \* Identifies exceptions that permit (although do not require) psychologists to withhold test data.

The following analysis of Standard 9.04 examines the definition of "test data" and describes the standard's obligations and exceptions. "Ethics Rounds" then offers further points for psychologists to consider as they review release of test data under the new Ethics Code.

## Definition of test data

Standard 9.04 defines test data as "raw and scaled scores, client/patient responses to test questions or stimuli, and psychologists' notes and recordings concerning client/patient statements and behavior during an examination." This definition includes any information the psychologist collects that is unique to a particular client. Put another way, what derives from a specific client and indicates or reveals something about *that particular client* falls under this definition. Standard 9.04

elaborates by stating that "Those portions of test materials that include client/patient responses are included in the definition of *test data*." By using the term "test materials," Standard 9.04 links itself to Standard 9.11, "Maintaining Test Security." The point of contact is the term "test materials," which Standard 9.11 defines as "manuals, instruments, protocols, and test questions or stimuli and does not include test data as defined in Standard 9.04."

The mutually referential definitions in Standards 9.04 and 9.11 thus define test data as what is unique to *this particular* client, while test materials do not include anything unique to *this particular* client. By virtue of these mutually exclusive definitions, what are test data cannot be test materials and what are test materials cannot be test data. When materials that would otherwise be test materials under Standard 9.11 contain information unique to a particular client, those materials become test data and thus fall under Standard 9.04. As an example, if a psychologist records client responses on WAIS-III scoring sheets that contain the test items, the scoring sheets are now under Standard 9.04's definition of test data. Because of this "conversion," many psychologists, and presumably psychological testing corporations, are exploring ways to keep client responses separate from test materials that reveal the nature or content of psychological tests.

### **Obligations pursuant to a client release and the exceptions to the obligation**

Following its definition of test data, Standard 9.04 states that, "Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release." Thus, both clause (a) and clause (b) of Standard 9.04 make client consent the touchstone upon which the standard turns. If, as this column has suggested, ethics can be defined as thinking about reasons in terms of values, then Standard 9.04 can be seen as reflecting a trend in law and ethics that began well over three decades ago, that of a greater emphasis on patient autonomy. This trend is seen in state laws that have expanded the rights of patients to be informed about and refuse treatment, and is seen in federal regulations (HIPAA's Privacy Rule is an excellent example), that afford patients greater control over their health information.

After stating that psychologists provide test data pursuant to a client release, Standard 9.04 states that psychologists have the discretion ("*may* refrain") to withhold test data "to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test." These exceptions allow a psychologist to withhold test data for the reasons stated, when otherwise Standard 9.04 would require the psychologist to release the data. Psychologists may thus think of the Ethics Code revision as a shift in figure-ground: In the 1992 Code, psychologists presumed that test data would be withheld, unless certain conditions were met. In the new Ethics Code, the presumption favors release unless the specified exceptions are present. Because the exceptions to the obligation to release are permissive rather than mandatory, psychologists will use their professional judgment and discretion in determining whether and when to apply the exceptions.

### **Further points for consideration**

Four additional points may be helpful as psychologists review Standard 9.04. First, clause (b) states that "In the absence of a client/patient release, psychologists provide test data only as required by law or court order." Thus, when a client has not

provided a release, psychologists will only release the data when there is a legal mandate--perhaps by virtue of a court order or a statute--to do so. If a client release (clause a) can be thought of as "triggering" a psychologist's ethical obligation to release test data, then, in the absence of that trigger, *only* a legal mandate (clause b) likewise serves this "triggering" function.

Second, in applying Standard 9.04's exceptions, it is important to consider how the standard interacts with the law. Certain state and federal laws give clients the right to direct psychologists to release test data. In the context of a legal obligation to release test data, psychologists will need to examine whether the legal basis for the obligation has exceptions similar to Standard 9.04's exceptions before a decision to withhold the data is made. HIPAA makes reference to physical safety as a reason to withhold protected health information and certain state laws allow a decision to withhold for reasons of safety as well. The law will less often, however, have an exception on the grounds that the data or the test will be misused or misrepresented. If a psychologist wishes to invoke her *ethical discretion* to withhold data in the context of a *legal obligation* to release the data, obtaining legal guidance will be essential, insofar as withholding data in these circumstances may result in adverse legal consequences.

Third, while a client's release creates an ethical obligation to release test data under Standard 9.04, a psychologist may, at the same time, have a legal reason that speaks *against* disclosure, perhaps, for example, copyright law. In this instance, the psychologist may refer to Standard 1.02, "Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority." Obtaining direction or a protective order from a court, or discussing the conflict with the test publisher, may be helpful steps in resolving the conflict under Standard 1.02.

Fourth, release of test data pursuant to a subpoena requires special attention. When the subpoena is not accompanied by a client's release, or a court has not issued an order to release the test data (note that a subpoena is not the same as a court order), obtaining legal and ethical consultation in deciding how to respond to the subpoena can be especially important, for several reasons. Under certain well-defined conditions, HIPAA allows for the release of records in response to a subpoena without the client's consent or even knowledge. HIPAA's preemption clause, however, provides that when HIPAA conflicts with state law, the law (HIPAA or state) more protective of privacy governs. Because many, perhaps all, state laws are more protective of privacy than HIPAA regarding release pursuant to a subpoena, a preemption analysis will likely indicate that test data cannot be released on the basis of a subpoena alone. In addition, clause (b) of Standard 9.04 permits a psychologist to disclose test data in the absence of client release only when there is a legal mandate to do so. It is very unusual that a subpoena by itself will create a legal mandate to release confidential material. Psychologists therefore risk running afoul of Standard 9.04 should they release test data in response to the subpoena when the subpoena is neither accompanied by a client release nor enforced by a court order. Finally, because a subpoena is a legal document, psychologists cannot simply ignore a subpoena. Some response is required, and the response must be made in a thoughtful and informed manner. Before responding to a subpoena, especially a subpoena that is not accompanied by a client release and when a court has not issued an order to release, psychologists should obtain ethical and legal consultation. The better part of valor before releasing the data will almost certainly be to obtain

permission from your client (or an appropriate representative) or an order from a court.

Standard 9.04 states that the psychologists apply its exceptions, "recognizing that in many instances release of confidential information under these circumstances is regulated by law." Standard 9.04 amply demonstrates that psychologists always do well to consider how APA's Ethics Code and the law interact when the release of confidential information is at issue.

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*To access APA's complete new Ethics Code online, go to [www.apa.org/ethics](http://www.apa.org/ethics). Please send questions or comments about this column or suggestions for future "Ethics Rounds" columns to [ethicsrounds@apa.org](mailto:ethicsrounds@apa.org).*

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#### **STANDARD 9.04 RELEASE OF TEST DATA**

(a) The term *test data* refers to raw and scaled scores, client/patient responses to test questions or stimuli, and psychologists' notes and recordings concerning client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of *test data*. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law. (See also Standard 9.11, "Maintaining Test Security.")

(b) In the absence of a client/patient release, psychologists provide test data only as required by law or court order.

#### **9.11 MAINTAINING TEST SECURITY**

The term *test materials* refers to manuals, instruments, protocols, and test questions or stimuli and does not include *test data* as defined in Standard 9.04, Release of Test Data. Psychologists make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations, and in a manner that permits adherence to this Ethics Code.

Ethics rounds

## Test-scoring and interpretation services

**Ethical Standard 9.09 of APA's Ethics Code focuses on the core values of test-scoring and interpretation services as well as on their practical application.**

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**Learning Objective:** Identify the ethical aspects of using test-scoring and test interpretation services.

Writing an ethics code for a profession is an enormously challenging endeavor. The code must both set forth the profession's core values and demonstrate how the values apply in the practice of the profession.

If the code focuses solely on values, individuals engaged in the profession may have too little guidance on how the values are expressed in their day-to-day work. If the code focuses solely on practical application, it will fail to place the professional's work in a larger context and inevitably fall short of addressing the myriad of complicated situations that arise in a professional's life. Thus, the drafters of an ethics code must achieve a balance between the general and the specific. Ethical Standard 9.09, Test Scoring and Interpretation Services, shows the drafters of APA's Ethics Code working creatively with this tension.

### Standards and principles guiding testing services

Standard 9.09 addresses the use of test-scoring and interpretation services from two perspectives: that of psychologists who offer such services and that of psychologists who select such services for use. The standard begins by setting forth the obligations of psychologists who offer assessment or scoring services:

#### **9.09 TEST SCORING AND INTERPRETATION SERVICES**

(a) Psychologists who offer assessment or scoring services to other professionals accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use.

In its next two paragraphs, (b) and (c), Standard 9.09 addresses the responsibilities of psychologists who use scoring and interpretation services. In these paragraphs, the Ethics Code's tension between the general and the specific--between a focus on values and a focus on application--makes itself felt:

(b) Psychologists select scoring and interpretation services (including automated services) on the basis of evidence of the validity of the program and procedures as well as on other appropriate considerations. (See also Standard 2.01(b) and (c), Boundaries of Competence.)

(c) Psychologists retain responsibility for the appropriate application, interpretation, and use of assessment instruments, whether they score and interpret such tests themselves or use automated or other services.

General Principle A in the Ethics Code, Beneficence and Nonmaleficence, states "Psychologists strive to benefit those with whom they work and take care to do no harm." Principle A goes on to state that "Psychologists' scientific and professional judgments and actions may affect the lives of others." Principle A recognizes the influence that psychologists have over others and exhorts psychologists to use that influence responsibly and with care. In few places of our profession is this influence felt more than in psychological assessments, where the consequences of a good--or bad--intervention can have an enormous impact on an individual's life. Principle A thus has direct relevance to Ethical Standard 9.09.

### **Professional judgment**

Ethical Standard 9.09(b) moves the concepts of beneficence and nonmaleficence into the particular context of scoring and interpretation services. Note how, in doing so, Standard 9.09(b) leaves ample room for psychologists to exercise their professional judgment and discretion. The standard states that psychologists select services "on the basis of evidence of the validity of the program and procedures as well as on other appropriate considerations." By using the word "evidence," and the phrase "other appropriate considerations," the code gives psychologists latitude in choosing what sort of evidence of the program's validity is necessary or appropriate, given the purpose ("other appropriate considerations") for which the service is used.

The sort of evidence required by a psychologist who simply wants to generate and test hypotheses, for example, may be very different than the sort of evidence required by a psychologist who is completing an evaluation of a child seeking special education services or of an adult in a criminal proceeding. In the former instance, generating hypotheses might help the psychologist see a clinical situation in a new and helpful light, and there is little downside to having additional hypotheses that the psychologist can disregard if they do not fit with other data. The stakes in the criminal and special education contexts are considerable, and if a psychologist intends to rely on an interpretation service for such purposes, the nature of the evidence required about a program's validity may well be enhanced. The combination of the general principles and the ethical standard is thus central to the psychologist's decision-making: Given the purpose for which the service is utilized, what evidence of the program's validity do I require so that I may benefit, and not harm, my client?

The final clause of 9.09(b), referring to ethical standards on competence, is an excellent introduction to 9.09(c). Standard 9.09(c) places responsibility for the "application, interpretation and use" of assessment instruments on the psychologist. The psychologist conducting the assessment retains ultimate responsibility for what the report or evaluation contains. This point has particular relevance when psychologists use automated interpretation services.

The use of an automated service does not in any manner attenuate a psychologist's responsibility for the assessment. For this reason, psychologists who use automated services do well to ensure that they are competent to use the assessment instrument and that they are competent to render whatever interpretation the service has

generated, to the extent that they intend to use the interpretation in an evaluation or a report, or otherwise put forth the interpretation as part of an assessment.

Knowledge of the relevant research, norms, validity, reliability and test procedures may all be essential in the process of explaining or defending an interpretation, should the psychologist be called upon to do so. It is therefore wise for the psychologist using an automated service to pose the question: What information about a program need I have in order to take responsibility for what my assessment contains?

Standard 9.09's reference to ethical standards on competence underscores that the psychologist retains ultimate responsibility for the assessment. Standard 2.01, Boundaries of Competence, identifies individual characteristics that may be relevant to an assessment ("age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language or socioeconomic status") and states that psychologists working in new areas "undertake relevant education, training, supervised experience, consultation or study."

The standard's emphasis on competence is respectful of the psychologist's professional judgment by recognizing that a psychologist competently performing a professional assessment has the capacity to do significant good. Conversely, achieving and maintaining competence is a way of avoiding the harm that can come from a poorly performed assessment. Avoiding harm is central to the Ethics Code, and is found in both the General Principles (Principle A, "nonmaleficence") and ethical standards (Standard 3.04, Avoiding Harm).

Ethical Standard 9.09 provides an excellent example of the Ethics Code incorporating both values and practical application in a particular context, that of psychological assessment. The code recognizes the profound impact of psychologists who conduct assessments and locates that impact among a set of values, primary among which are doing good and not doing harm. These values are expressed by having psychologists retain ultimate responsibility for the results of their assessments and by ensuring that psychologists are competent to assume this responsibility.

The code is respectful of psychologists' competence and responsibility by providing ample room for the exercise of professional judgment. The notions of values (ethical principles), practical application (code of conduct) and respect for the profession of psychology, illustrated in Standard 9.09, are all contained in the formal title of our Ethics Code: "Ethical Principles of Psychologists and Code of Conduct."

Ethics rounds

## Forensic matters and the new APA Ethics Code

**Great care went into crafting how the new code addresses forensic matters.**

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**Learning Objective:** Identify how the APA Ethics Code addresses the ethical aspects of forensic practice.

The Ethics Code Task Force and its chair, Celia Fisher, PhD, committed themselves to engaging APA members and groups fully throughout the process of revising the APA Ethics Code. The inclusive approach that the task force adopted was recognized when APA's Council of Representatives unanimously adopted the new code in August of 2002.

Whether by providing multiple comments on various drafts, as did the Committee on Legal Issues (COLI), making division officers available for direct and extensive feedback to the task force chair, as did APA's Div. 41 (American Psychology-Law Society) or having Div. 41 members serve on the task force and the Ethics Committee (the task force's parent committee), during the revision process, APA groups and individuals with expertise in forensic matters provided important and substantial help as the task force developed a new code of ethics that would speak to our entire profession.

The task force determined that it would write ethical standards "broadly, in order to apply to psychologists in varied roles" (from the Introduction and Applicability section). Such breadth in writing standards means that "the application of an Ethical Standard may vary according to the context" (ibid). In keeping with this principle, the task force did not include a separate section on Forensic Activities in the revised code. Rather, the task force carefully determined where aspects of the Forensic Activities section of the 1992 code properly belonged in a new code that would speak to all psychologists, rather than to a specific subgroup.

Three examples illustrate how the task force retained important concepts from the Forensic Activities section of the 1992 Ethics Code and incorporated those concepts into the new code. In the 1992 code, Forensic Standard 7.06, Compliance with Law and Rules, required that psychologists, when performing forensic roles, be reasonably familiar with relevant judicial or administrative rules. The new code retains virtually the same language, but places this concept in the section on competence. Paragraph (f) of Standard 2.01, Boundaries of Competence, in the new code reads: "When assuming forensic roles, psychologists are or become reasonably familiar with the judicial or administrative rules governing their roles." Thus, the wording of the 1992 code is retained, having been placed in the revised code's broader language and given an intellectually sound context.

A second example arises in the new standard on multiple relationships. The former forensic Standard 7.03, Clarification of Role, began "In most circumstances, psychologists avoid performing multiple and potentially conflicting roles in forensic

matters." Standard 7.03 then stated that when circumstances did force a psychologist into conflicting roles in a legal setting, psychologists clarified role and confidentiality expectations. By removing the first sentence of Standard 7.03, which began, "In most circumstances...", the task force made the standard more absolute and clear.

The task force then took the central concept of Standard 7.03 and placed it in the new code's section on multiple relationships, Standard 3.05, the final paragraph of which reads, "When psychologists are required by law, institutional policy or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur." As in the example above regarding knowledge of rules, the task force in this instance took language from the forensic section of the former code and used that language, with its central concept intact, in a new standard that would speak to all psychologists, not solely--but including--those engaged in forensic activities.

A third example is found in the new code's assessment section, Section 9. Standard 9.01, Bases for Assessments, is an amalgam of new material and material derived from standards in the 1992 code's section titled Evaluation, Assessment or Intervention, and most especially from the former code's forensic section.

### **9.01 BASES FOR ASSESSMENTS**

(a) Psychologists base the opinions contained in their recommendations, reports, and diagnostic or evaluative statements, including forensic testimony, on information and techniques sufficient to substantiate their findings. (See also Standard 2.04, "Bases for Scientific and Professional Judgments.")

(b) Except as noted in 9.01c, psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When, despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions, and appropriately limit the nature and extent of their conclusions or recommendations. (See also Standards 2.01, "Boundaries of Competence," and 9.06, "Interpreting Assessment Results.")

(c) When psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

Note three things about Standard 9.01. First, the material that forms this new standard centers upon a core idea--that psychologists make the bases for their assessments, including forensic assessments, adequate and clear. This clarity and adequacy assume different versions, depending upon the psychologist's particular purpose and circumstances. Regarding adequacy, paragraph (a) states that "information and techniques" that form the bases for psychologists' opinions must be "adequate to substantiate" the findings, while paragraph (b) states that opinions of

an individual's psychological characteristics must be based upon an examination "adequate to support" the findings. Regarding clarity, paragraph (b) states that when an adequate examination is not practical despite reasonable efforts, psychologists document their efforts to obtain the examination, clarify the impact of their limited information and limit their conclusions or recommendations accordingly. Paragraph (c) emphasizes and elaborates the importance of clarity by stating that when conducting a record review, consultation or supervision--and an individual examination is not warranted or necessary--psychologists explain both that such an examination is neither warranted nor necessary and their sources of information. Thus, the standard as a whole offers variations on the central themes of adequacy and clarity.

Second, psychologists will exercise discretion and judgment in determining what constitutes an adequate basis for their opinions and appropriate clarity about the nature and limits of their data. For example, while psychologists do not provide a diagnosis solely on the basis of a record review without the benefit of a face-to-face interview, under certain circumstances a supervisor may, without having personally examined an individual, sign a report that provides a diagnosis. As another example, psychologists will determine what techniques and information are necessary to support a conclusion; a Rorschach and MMPI could not form the sole bases for a custody recommendation but could be used clinically to assess the presence of psychotic thought processes or certain types of psychopathology. Psychologists rely on their background, training, experience and knowledge of the research and literature to apply Standard 9.01 in their specific circumstances.

The third and final point about Standard 9.01 is that the task force takes concepts from the former code, most especially the forensic section of the 1992 code, and groups these concepts together to create an intellectual home with like-minded material in the new code. The former forensic section, 1992 Standard 7.02, Forensic Assessments, forms the heart of new Standard 9.01, Bases for Assessments. Added to the former Standard 7.02 is material from the former assessment section as well as new material. The result is a standard that retains central concepts from the 1992 forensic section and elaborates upon those concepts to offer a new standard that applies to assessment activities--including but not limited to forensic assessment activities--across the profession as a whole.

Through the five-year process that produced seven revision drafts, the task force received over 1,400 comments. The task force ensured essential concepts from the former code's forensic section were retained, while at the same time offering to APA's council a code that would be "written broadly, in order to apply to psychologists in varied roles," across the entire range of what we psychologists do.

**ETHICS ROUNDS**

## **Traveling to Utah and discovering (once again) the value of an ethics consultation**

**Learning Objective:** Discuss how the challenges of a state psychological association can inform the profession about the ethical aspects of diversity and the value of ethics consultation.

**A recent trip to Utah illustrated the value of psychology in addressing wounds within our own psychological communities and conveyed the centrality of ethics consultation in promoting good practice that minimizes our exposure to liability.**

*Print version: page 88*

Landing in St. George, Utah, takes one around a mountain and then onto the top of a several thousand-foot high mesa where the airport sits. While the ride through the air currents is bumpy, the landscape below is stunningly beautiful in its drama. I arrived to see a Saturday night full moon casting shadows across bluffs that shoot seemingly straight from the ground into the desert sky. Against this backdrop, as a guest of the Utah Psychological Association, I had the opportunity to spend several days talking about ethics and learning about the great efforts our colleagues in Utah have made in their fight against discrimination and on behalf of improving relations in their community.

### **'Healing the Great Divide'**

On the evening I arrived, I attended a program inspired, developed and sponsored by the Utah Psychological Association in collaboration with other community groups as part of the association's "Healing the Great Divide" initiative. The Healing the Great Divide initiative is a vehicle through which the Utah Psychological Association has addressed divides in the Utah community that have been very painful for members of the association, yet which the association has chosen to address as challenges to be talked about, understood and worked through, rather than as insurmountable obstacles and irreconcilable differences. While the original impetus for the initiative arose from a particular constellation of incidents involving the formation of a club for lesbian, gay and bisexual high school students, the initiative has grown to address issues of diversity and discrimination of all kinds.

The evening's program, titled "Perspectives on Prejudice," featured four Native American speakers discussing their experiences as Native Americans. I was especially taken by the ceremony before the program, which my host and I happened upon by virtue of our early arrival, when one of the speakers blessed the auditorium in preparation for what would follow (an occurrence not often seen in advance of panel discussions here in Washington, D.C.). This theme, of attending to the relationship between us and the space we inhabit, continued through the evening as the main speaker, Arvol Looking Horse, related Native American spirituality to our treatment of the environment. In interesting and compelling ways, each of the evening's four speakers explored a variety of dimensions along which we become

divided from our colleagues and neighbors, from our physical surrounds and even from ourselves.

My first evening in Utah set the tone for the rest of the trip, which, following ethics workshops in Salt Lake City and St. George, culminated in a day with clinical and counseling faculty and students at Brigham Young University. I was impressed by the quality and extent of the clinical training and wondered how many students applying for internships and postdocs around the country realize what opportunities Brigham Young University has to offer. As I expressed surprise, that the program was not inundated with clinical applicants, a discussion began in which members of the faculty related hearing of students actively discouraged from pursuing training there. As I pressed them to speak more fully about their experiences, a number of anecdotes emerged in which the Mormon faith had been part of a discouraging message conveyed to potential applicants. This message, which has been felt acutely by the community of psychologists in Utah belonging to the Mormon faith, can be seen as inconsistent with antidiscrimination aspects of the Ethics Code.

### **3.01 unfair discrimination**

In their work-related activities, psychologists do not engage in unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.

Psychologists from other APA communities will point out, in turn, that tenets of the Mormon faith risk discrimination against them based on factors identified in Standard 3.01—for example sexual orientation. The tension between factors identified in Standard 3.01 has provided the impetus and energy for the Healing the Great Divide initiative. Through this initiative, the Utah Psychological Association offers a way for the community of psychologists to think about the deeply felt and painful divides that can separate and keep communities apart.

It is impressive that while the Utah Psychological Association has brought in people from outside to speak about many facets of diversity and discrimination—this past December the International Journal and Association for Applied Psychoanalytic Studies and the International Psychotherapy Institute organized a conference as part of the Healing the Great Divide initiative—the association has approached this problem as its own to solve and consequently looked first to internal resources. Attempting to resolve divides within the community by looking first to collegial and collaborative resolutions is entirely consistent with the APA Ethics Code. Collegial and collaborative resolutions, while often the most challenging to bring about, may ultimately prove to be the most productive and rewarding. But of course, this point would be obvious to any clinical or counseling psychologist.

### **Boards, associations and ethics consultations**

As our discussion at Brigham Young University unfolded, I discovered another divide that had been bridged by psychologists in Utah. In our group was a member of the Utah psychology licensing board, as well as the chair of the Utah Psychological Association Ethics Committee. I asked these two psychologists about the relationship between the board and the ethics committee and who was available to provide ethics

consultations. The member of the licensing board explained that although the board did not offer ethics consultations, it felt very comfortable referring psychologists to the association ethics committee for this purpose. He then remarked that no psychologist who had received an ethics consultation from the association's ethics committee *had ever subsequently been the subject of a board complaint*. Now, dear reader, variety is the spice of life and people find excitement in very different places and ways, but I must tell you that for an ethics director, it really doesn't get any better than that.

This exchange between a member of the licensing board and chair of the association ethics committee eloquently underscores the centrality of consultation in the ethical practice of psychology. The Preamble to our Ethics Code ends by stating:

The development of a dynamic set of ethical standards for psychologists' work-related conduct requires a personal commitment and lifelong effort to act ethically; to encourage ethical behavior by students, supervisees, employees, and colleagues; and to consult with others concerning ethical problems.

Consultation can serve to promote the ethical practice of psychology, enhance clinical care and minimize exposure to legal liability. That a licensing board and association ethics committee collaborate around the process of obtaining ethics consultations bodes well for the ethical practice of psychology in that state.

As with all my trips to state associations, I felt that I took away more than I had brought with me. My visit to Utah renewed my confidence in psychologists' ability to use our own resources to heal our wounds and impressed upon me once again the value of ethics consultation. I make some attempt to thank my hosts at the Utah Psychological Association for their hospitality by sharing the lessons I learned in Utah with you.

## ETHICS ROUNDS

### Exploring ethical aspects of our work

**APA members seized the opportunity at APA's Annual Convention to examine ethics in all facets of our profession.**

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**Learning Objective:** Identify two or more ways that ethics is presented at an annual APA convention.

APA's Annual Convention presents a wonderful opportunity to see the wide range of activities in which psychologists engage. The breadth of our profession—which spans all aspects of human and nonhuman animal experience—is staggering. Nowhere is this feature of psychology more evident than at convention, where 15,000 psychologists gathered this past August in San Francisco.

As Ethics Office director, I was impressed and delighted to see the vibrant interest in ethics at convention. Nearly 40 sessions listed "ethics" as a topic area. Programs put on by APA's Ethics Committee were attended by hundreds of members. A frequent topic of discussion during ethics presentations was next year's convention, in Boston; the planning had already begun for future ethics programs.

"Ethics and Interrogations, Confronting the Challenge" offered a set of programs addressing an issue that has challenged APA as an association, that of psychologists' involvement in military interrogations. "Ethics and Interrogations" was the culmination of a yearlong planning effort that started with an informal dinner conversation at the fall 2006 consolidated meetings. As a result of this discussion, the Board of Directors funded a planning group to meet in Washington and organize a convention program that would bring together experts from within and outside APA to explore the role of psychologists in interrogations from clinical, legal, ethical and human rights perspectives.

The board emphasized the importance of having all points of view well represented on the program. From the board's point of view, the program offered a unique opportunity to provide the membership with experts who could present and debate differing perspectives. The planning group responded by organizing nine, two-hour sessions with 44 participants. The success of "Ethics and Interrogations" was apparent at the very first session, when several hundred psychologists heard an informed and vigorous discussion on the question "What are psychologists doing at U.S. military detention centers?" Other session topics included "What does the research on interrogations tell us?," "What is the evolution of APA policy on ethics and interrogation?," "How do human rights and laws apply to detention centers?," "What are the impacts of ethnicity, language, and identity on interrogations?," "What are the effects of psychological torture and abuse?," "What ethical dilemmas do psychologists working in detention centers face?," and "What challenges and complexities does providing treatment to detainees entail?"

A town hall meeting provided a forum for members to voice their deeply held views on the appropriate position for APA to adopt. A fair characterization of the town hall

meeting was that APA received stinging criticism from those who spoke, which APA's president, president-elect and one other member of the Board of Directors were present to hear. The town hall meeting was in keeping with the board's focus on ensuring that all perspectives were welcomed and clearly heard by APA's leadership.

"Ethics and Interrogations" provided a context for the Council of Representatives to elaborate on the appropriate role of psychologists in military interrogations through adoption of a resolution. The program was thus another step in APA's continuing examination of this issue. The initial step in this process was the 2005 Report of the Task Force on Psychological Ethics and National Security (PENS), which stated, "Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment." The following year, the council adopted the "2006 Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment," which stated, among many other things:

**BE IT RESOLVED that based upon the APA's longstanding commitment to basic human rights including its position against torture, psychologists shall work in accordance with international human rights instruments relevant to their roles.**

In San Francisco, the council adopted the "Reaffirmation of the American Psychological Association; Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Its Application to Individuals Defined in the United States Code as 'Enemy Combatants,'" which elaborated upon previous APA work on this issue by providing an extensive list of specific techniques, such as "waterboarding," that constitute torture, and by stating:

**BE IT RESOLVED that the American Psychological Association affirms that there are no exceptional circumstances whatsoever, whether induced by a state of war or threat of war, internal political instability or any other public emergency, that may be invoked as a justification for torture or cruel, inhuman, or degrading treatment or punishment, including the invocation of laws, regulations, or orders.**

In an article that appeared the Monday of convention, the *Washington Post* described the San Francisco resolution as "a rebuke of the Bush administration's antiterrorism policies." The PENS report, the 2006 and 2007 resolutions, and "Ethics and Interrogations, Confronting the Challenge" are all central to the evolution of APA's position.

In addition to convention programming on interrogations, the Ethics Committee was involved in several other programs. A recent focus of Ethics Committee work is how emergencies and disasters affect psychologists, who are expected to meet the needs of others in such times of crisis. The committee has been developing a relationship with the Advisory Committee on Colleague Assistance (ACCA), and each committee offered a convention program on this issue. The Ethics Committee's program was titled "Katrina's aftermath—Mississippi and Louisiana psychologists share personal and professional experiences"; ACCA's program was "Help for the helper—meeting the needs of psychologists impacted by disasters." A focus of these programs, as well as of the yearly Ethics Office invitational meeting, was identifying resources available to psychologists when disasters strike.

Each year the Ethics Committee collaborates with the Committee on Legal Issues to explore the legal and ethical aspects of some area of psychologists' work. This year the joint program was titled "Ethical and legal considerations when responding to suicidal college students." The format called for members of each committee to comment on three vignettes from a college setting that involved a faculty member, a psychologist or an administrator dealing with concerns over a potentially suicidal student.

The final Ethics Committee yearly program involves committee commentary on a series of ethical vignettes. This year the committee addressed six issues, one of which involved a challenging marital treatment:

*Approximately one year ago I began to see a woman in an individual psychotherapy who describes her marriage as very difficult. She and her husband have two latency-age children. While she denies any physical abuse, she does report a husband who is extremely narcissistic and who can be emotionally abusive. After having given the matter a good deal of thought, I decided that it would be helpful to have the husband in for a limited number of sessions, perhaps two or three, as an adjunct to our work. I also found myself curious as to how consistent my impression of him would be with my client's description. My client agreed, and I had the husband in for three sessions; two joint sessions with his wife and one individual session. Three weeks after these sessions the husband contacted me and wanted to see me for additional sessions and possibly a treatment of his own. I explained that I did not believe that additional sessions would be helpful, or that I was the best person for him to see on an individual basis. He now claims that he is my client and insists on seeing me. He says that for me not to see him would be abandonment. He is demanding to see my treatment records.*

Other vignettes involved a colleague with a substance abuse problem, identifying information placed on a listserv request for consultation, an issue of authorship, confidentiality in the treatment of an adolescent and a supervisee with religious beliefs that were potentially interfering with her work.

Ethics took center stage at the convention. The program on interrogations underscored how ethics is a developmental process; our ethics grow and evolve. Convention is an excellent opportunity to explore where our ethics are and whence we've come, and to get a hint of where we are going.