

BOARD OF DIRECTORS

June 7-9, 2013

APPROVED MINUTES

Present: Donald N. Bersoff, PhD, JD; Nadine J. Kaslow, PhD; Suzanne Bennett Johnson, PhD; Jennifer F. Kelly, PhD; Bonnie Markham, PhD, PsyD; Norman B. Anderson, PhD; Louise A. Douce, PhD; Elena J. Eisman, EdD; Matthew E. FitzGerald, MA, MS; Kurt F. Geisinger, PhD; Josephine D. Johnson, PhD; Susan H. McDaniel, PhD; William J. Strickland, PhD

Absent: None.

I. MINUTES OF MEETING

A.(1) The Board voted to approve the minutes of its February 20 & 21, 2013, meeting.

II. ELECTIONS, AWARDS, MEMBERSHIP and HUMAN RESOURCES

A. In executive session, the Board voted to appoint Zeeshan Butt, PhD, and Richard Klimoski, PhD, to serve on the Committee on Division/APA Relations for a three-year term (January 1, 2014-December 31, 2016).

III. ETHICS

A.(1A) I) The Board voted to recommend that Council:

1) Rescind the 2005 Report of the Presidential Task Force on Psychological Ethics and National Security, the 2007 APA policy, 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," and the 2008 APA policy, Amendment to 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."

2) Adopt as APA policy the following Policy Related to Psychologists' Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment:

Policy Related to Psychologists' Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishmentⁱ

Statement 1: According to the 2008 APA Petition Resolution Policy, Psychologists and Unlawful Detention Settings with a Focus on National Security, “psychologists may not work in settings where persons are held outside of, or in violation of, either International Law (e.g., 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.”ⁱⁱ

APA in recognizing that torture and other cruel, inhuman or degrading treatment or punishment can result not only from the behavior of individuals but also from the conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights, affirms the prerogative of psychologists to refuse to work in such settings, and will continue to explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture.

Statement 2: If the APA *Ethics Code* establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard. If psychologists' ethical responsibilities conflict with law, regulations or other governing legal authority or organizational demands, psychologists make known their commitment to this *Ethics Code*, and take reasonable steps to resolve the conflict in a responsible manner in keeping with basic principles of human rights.ⁱⁱⁱ

Ethical Standard 1.02, *Ethical Principles of Psychologists and Code of Conduct*, Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority: If psychologists' ethical responsibilities conflict with law, regulations or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the *Ethics Code* and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the *Ethics Code*. Under no circumstances may this standard be used to justify or defend violating human rights.

Ethical Standard 1.03, *Ethical Principles of Psychologists and Code of Conduct*, Conflicts Between Ethics and Organizational Demands: If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this *Ethics Code*, psychologists clarify the nature of the conflict, make known their commitment to the *Ethics Code* and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the *Ethics Code*. Under no circumstances may this standard be used to justify or defend violating human rights.

APA is an accredited non-governmental organization at the United Nations and so is committed to promote and protect human rights in accordance with the United Nations *Charter* and the *Universal Declaration of Human Rights*.

Statement 3: Psychologists shall not knowingly engage in, assist, tolerate, direct, support, advise, facilitate, plan, design, or offer training in torture or other cruel, inhuman, or degrading treatment or punishment under any and all conditions, nor shall they participate in any procedure where such treatment is threatened. Psychologists may not enlist others to employ these techniques in order to circumvent this policy's prohibition. Moreover, psychologists shall not provide knowingly any research, instruments, or knowledge that facilitates the practice of torture or other forms of cruel, inhuman, or degrading treatment or punishment.

APA unequivocally condemns torture and cruel, inhuman, or degrading treatment or punishment, under any and all conditions (applicable to all individuals, in all settings and in all contexts without exception), including detention and interrogations of any persons regardless of designation (e.g., lawful and unlawful enemy combatants as defined by the US *Military Commissions Act of 2006*^{iv} or privileged vs. unprivileged enemy belligerent as defined by the US *Military Commissions Act of 2009*^v).

APA defines torture in accordance with Article I of the UN *Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (hereafter referred to as UN *Convention Against Torture*):

The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him [sic] or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official [e.g., governmental, religious, political, organizational] capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions [in accordance with both domestic and international law].

APA defines the term "cruel, inhuman, or degrading treatment or punishment" to mean treatment or punishment of any person in accordance with the United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations *Convention Against Torture*, which defines this term as "the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the *Constitution of the United States*."^{vi}

APA further unequivocally condemns all techniques considered torture or cruel, inhuman or degrading treatment or punishment under the United Nations *Convention Against Torture*; the *Geneva Conventions*; the *Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; the *Basic Principles for the Treatment of Prisoners*; or the World Medical Association *Declaration of Tokyo*.

An absolute prohibition against the following techniques therefore arises from, is understood in the context of, and is interpreted according to these texts: Mock executions; water-boarding or any other form of simulated drowning or suffocation; sexual humiliation; rape; cultural or religious humiliation; exploitation of fears, phobias or psychopathology; induced hypothermia; the use of psychotropic drugs or mind-altering substances; hooding; forced nakedness; stress positions; the use of dogs to threaten or intimidate; physical assault including slapping or shaking; exposure to extreme heat or cold; threats of harm or death; isolation; sensory deprivation and over-stimulation; sleep deprivation; or the threatened use of any of the above techniques to an individual or to members of an individual's family.^{vii}

This policy statement/section conforms to the *Ethical Principles of Psychologists and Code of Conduct*: Principle A, Beneficence and Nonmaleficence ("Psychologists strive to benefit those with whom they work and take care to do no harm. In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons . . ."), and Ethical Standard 3.04, Avoiding Harm ("Psychologists take reasonable steps to avoid harming . . . others with whom they work, and to minimize harm where it is foreseeable and unavoidable").

Statement 4: Psychologists shall be alert to acts of torture or other cruel, inhuman, or degrading treatment or punishment. Should such acts evolve during a procedure where a psychologist is present, the psychologist shall attempt to intervene to stop such behavior, and failing that, the psychologist has an ethical responsibility to exit the procedure and report these acts to the appropriate authorities.

APA asserts that any APA member with knowledge that a psychologist, whether an APA member or non-member, has engaged in torture or cruel, inhuman, or degrading treatment or punishment, including the specific behaviors listed in Statement 3 above, has an ethical responsibility to abide by Ethical Standard 1.05, Reporting Ethical Violations, in the *Ethical Principles of Psychologists and Code of Conduct* (2010) and directs the Ethics Committee to take appropriate action based upon such information, and encourages psychologists who are not APA members also to adhere to Ethical Standard 1.05.

APA further asserts that all psychologists with information relevant to the use of any method of interrogation constituting torture or cruel, inhuman, or degrading treatment or punishment have an ethical responsibility to inform their superiors of such knowledge, to inform the relevant office of inspector general when appropriate, and to cooperate fully with all oversight activities, including hearings by the United States Congress and all branches of the United States government, to examine the perpetration of torture or cruel, inhuman, or degrading treatment or punishment against individuals in United States custody, for the purpose of ensuring that no individual in the custody of the United States is subjected to such acts.

The ethical responsibility to report is rooted in the *Ethics Code Preamble*, "Psychologists respect and protect civil and human rights . . . the development of a dynamic set of ethical standards for psychologists' work-related conduct requires a personal commitment and lifelong effort to act ethically [and] to encourage ethical behavior by . .

. colleagues," and Principle B, Fidelity and Responsibility, which states that psychologists "are aware of their professional and scientific responsibilities to society and to the specific communities in which they work" and Ethical Standard 1.05, Reporting Ethical Violations, "If an apparent ethical violation has substantially harmed or is likely to substantially harm a person."

APA commends those psychologists who have taken clear and unequivocal stands against torture or cruel, inhuman or degrading treatment or punishment, especially in the line of duty, and including stands against the specific behaviors (detailed in Statement 3) or conditions listed above; and that the APA affirms the prerogative of psychologists under the *Ethics Code* (2010) to disobey law, regulations or orders when they conflict with ethics in keeping with Ethical Standard 1.02.

Statement 5: Psychologists in national security settings shall work in accordance with international human rights instruments relevant to their roles.^{viii}

Psychologists working in national security settings should review vital human rights documents relevant to their roles, such as: Common Article 3 of the Geneva Conventions; the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; the Geneva Conventions; the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; the Basic Principles for the Treatment of Prisoners; the United Nations Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; and the World Medical Association Declaration of Tokyo, Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment.

Statement 6: When psychologists serve in any position by virtue of their training, experience, and expertise as psychologists, including psychologists working in national security settings, they are bound by the APA *Ethical Principles of Psychologists and Code of Conduct*, in its entirety.^{ix}

Based on the Principles and Standards of the APA *Ethical Principles of Psychologists and Code of Conduct*, psychologists working in national security settings shall:

- Abide by the *Ethics Code* in any professional role, including roles outside traditional health-care provider relationships.
- Seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons.

This principle conforms to Ethics Code, Principle A: Beneficence and Nonmaleficence: "Psychologists strive to benefit those with whom they work and take care to do no harm."

- Seek to understand individuals' culture and ethnicity to avoid misunderstandings and potential harm.

Failure to understand aspects of individuals' culture and ethnicity may generate misunderstandings, compromise the efficacy of work in national security settings, and potentially result in significant mental and physical harm. (Principle E, Respect for People's Rights and Dignity, "Psychologists are aware of and respect cultural, individual, and role differences, including those based on . . . race, ethnicity, culture, national origin . . . and consider these factors when working with members of such groups"; Ethical Standard 2.01(b), Boundaries of Competence, "Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with . . . race, ethnicity, culture, national origin . . . is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals . . ."; and Ethical Standard 3.01, Unfair Discrimination, "In their work-related activities, psychologists do not engage in unfair discrimination based on . . . race, ethnicity, culture, national origin . . .").

- Be aware of the potential risks involved in multiple relationships, and follow the guidance contained in Standard 3.05 to minimize those risks.

(Ethical Standard 3.05, Multiple Relationships, "A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists").

- Be aware of and clarify their role in situations where the nature of their professional identity and professional function may be ambiguous.

Psychologists have a special responsibility to clarify their role in situations where individuals or other professionals may have an incorrect impression that psychologists are serving in a healthcare provider role. (Ethical Standards 3.07, Third-Party Requests for Services, "When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist . . . an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality"; and 3.11, Psychological Services Delivered to or Through Organizations, "(a) psychologists delivering services to or through organizations provide information beforehand to clients and when appropriate those directly affected by the services about (1) the nature and objectives of the services, (2) the intended recipients, (3) which of the individuals are clients, (4) the relationship the psychologist will have with each person and the organization, (5) the probable uses of services provided and information obtained, (6) who will have access to the information, and (7) limits of confidentiality"). Regardless of their role, psychologists who are aware of an individual in need of health or mental health treatment may seek consultation regarding

how to ensure that the individual receives needed care (Principle A, Beneficence and Nonmaleficence).

- Clarify for themselves the identity of their client.

This policy statement conforms to Ethical Standard 3.07, Third-Party Requests for Services, "When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist . . . an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality."

- Retain ethical obligations to individuals who are not their clients.

Regardless of whether an individual is considered a client, psychologists have an ethical obligation to "avoid harming their . . . organizational clients and others with whom they work, and to minimize harm where it is foreseeable and unavoidable" (Ethical Standard 3.04, Avoiding Harm). Psychologists' ethical obligations are especially important where, because of a setting's unique characteristics, an individual may not be fully able to assert relevant rights and interests (Principle A, Beneficence and Nonmaleficence, "In their professional actions, psychologists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons"; Principle D, Justice, "Psychologists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices"; Principle E, Respect for People's Rights and Dignity, "Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making"; and Ethical Standard 3.08, Exploitative Relationships, "Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority . . .").

- Make clear the limits of confidentiality.

Psychologists take care not to leave a misimpression that information is confidential when in fact it is not (Ethical Standards 3.10, Informed Consent, and 4.02, Discussing the Limits of Confidentiality, "(a) Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities").

- Be mindful that individuals held in national security settings may not have engaged in untoward behavior and may not have information of national security interest.

Ethical obligations are not diminished by the nature of an individual's acts prior to detainment or the likelihood of the individual having relevant information. At all times

psychologists remain mindful of and abide by the absolute prohibitions against engaging in or facilitating torture and other cruel, inhuman, or degrading treatment or punishment (Principle E, Respect for Peoples' Rights and Dignity, "Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making"; and 3.01, Unfair Discrimination, "In their work-related activities, psychologists do not engage in unfair discrimination based on . . . race, ethnicity, culture, national origin . . .").

- Be aware that certain settings may instill in individuals a profound sense of powerlessness and may place individuals in considerable positions of disadvantage in terms of asserting their interests and rights.

Psychologists are mindful that prisoners represent a vulnerable population. (Principle E: Respect for People's Rights and Dignity, "Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making." Also, Ethical Standards 1.01, Misuse of Psychologists' Work, "If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation," and 3.08, Exploitative Relationships, "Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority . . .").

- Consult with others when they are facing difficult ethical dilemmas. (Preamble to the *Ethics Code*, "The development of a dynamic set of ethical standards for psychologists' work-related conduct requires a personal commitment and lifelong effort to act ethically . . . and to consult with others concerning ethical problems;" and Ethical Standard 4.06, Consultations).
- Be willing to take ethical responsibility for their own behavior.
- Abide by the APA *Ethical Principles of Psychologists and Code of Conduct*, in its entirety.

Statement 7: APA 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.

This policy statement is in keeping with Article 2.2 of the UN *Convention Against Torture*.

Actions to be Undertaken by APA

As a means to advance human rights in the national security context, APA shall continue to carry out the following three broad activities:

1. APA shall call upon the US government, in instances where such action is indicated, including the President, Congress, Department of Defense, Department of Justice, and the Central Intelligence Agency, to prohibit the use of torture or cruel, inhuman, or degrading treatment or punishment in any interrogation and APA shall continue to inform relevant parties with the US government that psychologists are prohibited from participating in such methods. In order to protect against torture and cruel, inhuman, or degrading treatment or punishment, and in order to mitigate against the likelihood that unreliable and/or inaccurate information is entered into legal proceedings, APA shall continue to call upon the US legal system to reject testimony that results from torture or cruel, inhuman, or degrading treatment or punishment.

2. APA shall offer ethical guidance and support especially to psychologists working in national security settings at the beginning of their careers, who may experience pressures to engage in unethical or inappropriate behaviors that they are likely to find difficult to resist. The APA Ethics Committee shall develop and distribute a casebook and commentary, as well as additional guidance for psychologists, which is consistent with international human rights instruments, including those cited earlier, as well as guidelines developed for health professionals, as listed in the corollary to Statement 5. The Ethics Committee shall also develop a consultation process whereby psychologists whose work involves classified material may seek ethical guidance for assistance and support.

3. APA shall disseminate and publicize this reconciled APA policy against torture and other cruel, inhuman, or degrading treatment or punishment, both within the Association (to boards, committees, and the membership at large), to the United States government (including the President, Congress, Department of Defense, Department of Justice, and the Central Intelligence Agency) and to the wider public to safeguard individual welfare and to advance human rights.

II) The Board voted to recommend that Council receive the Report of the APA Member-Initiated Task Force to Reconcile APA Policies Related to Psychologists' Work in National Security Settings.

B. In executive session, the Board took action on one Ethics case and one Membership case.

IV. BOARD OF DIRECTORS

A.(2) The Board voted to recommend that Council approve transgender and gender non-conforming people as the topic for the 2014 diversity training for Council and boards and committees and request that President Bersoff appoint a working group to develop the training taking into account the 2013 sessions by Dr. Kumea Shorter-Gooden on "Diversity Training: What Works, What Doesn't" and the feedback received on previous trainings from Council and boards and committees.

B.(3) The Board voted to allocate \$1000 from President Don Bersoff's Presidential discretionary fund to support the Diversity Leadership Development Workshop sponsored by Division 31 (State, Provincial and Territorial Psychological Association Affairs) and the Office of Ethnic Minority Affairs.

C. In executive session, at its April 12-14 meeting, the Board voted to approve the following resolution:

“WHEREAS the APA Board has concluded, as a consequence of its evaluation of information produced in the litigation with APAIT and its consultation with insurance experts, trust and insurance legal counsel, and the Trust, that it would be beneficial for the prior structure defining the relationship between the parties to be modernized, for APA to remove itself from any fiduciary role with the Trust, for APA to use termination payments from the Trust to advance APA’s mission, and for APA to establish an arms-length relationship with the Trust that will establish a revenue stream going forward for both APA and APAPO through a sponsorship and licensing agreement;

The Board votes to approve the Trust Agreement amendments, and to authorize the staff negotiating team to finalize the Termination Agreement and Sponsorship and Licensing Agreement consistent with the terms discussed with the Board.”

In executive session at this meeting, the Board reviewed and provided comments on the Joint Statement and “Trust/APA/APAPO Frequently Asked Questions” to be used by APA, APAPO and The Trust as public statements about the new business relationship. The Board authorized the negotiating team to work with The Trust negotiating team to finalize the language to be used.

VI. ORGANIZATION OF THE APA

A.(4) The Board voted to recommend that Council 1) extend the deadline for *Guidelines on Multicultural Education, Training, Research, Practice and Organizational Change for Psychologists* to December 31, 2015 and 2) approve the recommendation to archive *General Guidelines for Providers of Psychological Services*.

B.(5) I. The Board voted to recommend that Council receive the Good Governance Project Report.

II. The Board voted to recommend that Council approve the following motions and requested that background information from the report be included with each of the motions in the Council agenda item:

1. In order to enhance governance effectiveness, efficiency and nimbleness in addressing the future of psychology and APA, Council supports the enhanced use of technology to engage members and provide increased opportunity to do the work of governance (as well as the advisory bodies) in addition to face-to-face meetings.

Council directs the President to instruct the Implementation Work Group (IWG) to design the specific steps, including a determination of the fiscal implications, and provide a report on progress made at Council’s February 2014 meeting. (See *Motion #8*) The plan will address what is needed to:

1. Expand opportunities for communication with and learning by members of governance;
2. Add general member’s viewpoints into deliberations;

3. Increase opportunity to do the work of governance between face to face meetings;
 4. Increase communication about the activities of governance.
2. Council supports developing a process for opening, and thus broadening opportunities for leadership participation and leadership development for governance service.

Council directs the President to instruct the IWG to develop a transition and implementation plan for the development of a leadership program focused on training for governance leadership as well as leadership in the general APA community, including fiscal implications, and provide a report on progress made at Council's February 2014 meeting.

3. Council supports the creation of an APA governance-wide triage system to ensure that the appropriate level of governance authority addresses new items and emergent situations in a timely and comprehensive fashion, without duplicative efforts.

Council directs the President to instruct the IWG to bring back a triage implementation plan including fiscal implications, and provide a report on progress made at Council's February 2014 meeting. The work group should examine ways to incorporate technology into this process and a method for tracking items as they move the system.

4. Council approves re-constituting itself as the APA Assembly whose purpose is to direct and inform APA policy and ensure APA policies are aligned with APA's mission and strategic plan. The Assembly will identify and prioritize the major issues facing psychology and APA's efforts to fulfill its mission.

To meet its purpose, the APA Assembly will need to:

1. Develop a mechanism to select an Assembly Leadership Team to help manage the Assembly's workflow;
2. Develop a process to identify and prioritize and move to address the major issues facing psychology;
3. Develop a mechanism to articulate and prioritize APA's efforts to advance its mission;
4. Develop a plan to use technology to advance the work of the Assembly;
5. Participate in an APA wide triage system to enhance the work of the Association;
6. Develop a strategy to employ APA boards and committees as Assembly resources of expertise and action.

5A. Council supports taking the steps necessary to transfer fiduciary duty to the Board of Directors for the following areas designated areas:

- financial/budget matters
- hiring , evaluation and support for the Chief Executive Officer
- Oversight with input from Assembly of the APA strategic plan
- internally focused policy development

Council directs the President to instruct the IWG to develop an implementation plan and provide a report on progress made at Council's February 2014 meeting.

5B. In order to evaluate the desirability of transferring fiduciary duty for designated areas to the Board of Directors, Council supports delegating the responsibility for the following areas to the Board of Directors on a trial basis for the period January 1, 2014 – December 31, 2016:

- financial/budget matters
- hiring, evaluation and support for the Chief Executive Officer
- Oversight with input from Assembly of the APA strategic plan
- internally focused policy development

Council directs the President to instruct the IWG to develop an implementation plan that includes an evaluation process for the end of the three-year trial period and provide a report on progress made at Council's February 2014 meeting.

6. Council approves the following composition for the Board of Directors:

- 6 members-at-large elected directly by membership, drawn from general membership
- 4 elected by the Assembly, including Secretary & Treasurer and two from Assembly leadership team
- 1 elected directly by APAGS membership, drawn from APAGS members (APAGS Past Chair)
- 3 in the Presidential cycle
- 1 appointed by Board from the public (Public Member with needed expertise- non-voting. If made voting, would increase range to 16-19.)
- CEO in *ex officio* role

Council approves utilizing the Assessment of Needs and Slate Development (ANSND) process for those members-at-large elected by the APA membership.

7. No motion recommended by the Board. *[Based on data and feedback received from Council, the Good Governance Project Team has brought forward three options for Council if it chooses to consider restructuring itself. The Board believes that the third option, aka the Pillar Model, is the one that would best accomplish the goals of the strategic plan of maximizing organizational effectiveness in a rapidly changing and increasingly complex environment. However, the Board acknowledges that it is up to the Council to determine its own future and therefore has decided to bring forward all three options outlined in the GGP report for Council's consideration. The Board notes that all three models will require further detailing in order to be implemented.]*

If Council votes to approve changing its structure to one of the proposed models, the Board recommends that a subcommittee of Council be established to complete those details.]

8. Council directs the President to appoint an Implementation Work Group (IWG) made up of 15-20 individuals who are a broadly representative group of leaders from diverse backgrounds and organizational perspectives and who shall include members of Council, the Board of Directors and other members who have relevant expertise. The IWG is tasked with developing the implementation and transition plans of the governance changes that Council adopts.

Council approves the addition of \$24,000 in the 2013 Budget for one meeting in 2013 of the IWG and the inclusion of \$48,000 in the 2014 Budget for two meetings in 2014 of the IWG.

IX. EDUCATIONAL AFFAIRS

A.(6) The Board voted to recommend that Council approve the recognition of Sleep Psychology as a specialty in professional psychology for a period of seven years.

B.(7) The Board voted to recommend that Council approve the recognition of Police & Public Safety Psychology as a specialty in professional psychology for a period of seven years.

The Board voted to recommend that Council approve discontinuing the recognition of Police & Public Safety Psychology as proficiency in professional psychology.

C.(8) The Board voted to recommend that Council approve the continued recognition of Counseling Psychology as a specialty in professional psychology for a period of seven years.

D.(9) The Board voted to recommend that Council approve the continued recognition of School Psychology as a specialty in professional psychology for a period of seven years.

E.(10) The Board voted to recommend that Council approve an extension of recognition of Biofeedback: Applied Psychophysiology as a proficiency in professional psychology for an additional period of one year to expire in August 2014.

F.(11) The Board voted to recommend that Council approve Clinical Psychology as a specialty in professional psychology for an additional period of one year to expire in August 2014.

G.(12) The Board voted to recommend that Council adopt as APA policy the *APA Guidelines for the Undergraduate Psychology Major* (2013) and approve August 2023 as the expiration date for the *Guidelines*.

H.(13) The Board voted to recommend that Council adopt as APA policy the following Quality Professional Development and Continuing Education Resolution:

Quality Professional Development and Continuing Education Resolution

WHEREAS it is an ethical obligation for psychologists to undertake ongoing efforts to develop and maintain their competence (American Psychological Association Ethics Code Standard 2.03, APA, 2010);

WHEREAS the American Psychological Association defines continuing education as “an ongoing process consisting of formal learning activities that 1) are relevant to psychological practice, education, and science; 2) enable psychologists to keep pace with emerging issues and technologies; and 3) allow psychologists to maintain, develop, and increase competencies in order to improve services to the public and enhance contributions to the profession” (APA, 2000);

WHEREAS continuing professional development represents a variety of professional interactions, activities, roles, and responsibilities that allow for opportunities for psychologists

to engage in learning, to become aware of changes in the field of psychological science, and enhance interdisciplinary understanding; formal continuing education is an integral part of continuing professional development (Institute of Medicine, 2010; Neimeyer, Taylor, Wear, & Linder-Crow, 2012);

WHEREAS the goals of both continuing professional development and continuing education programming share a focus on enhanced learning and consumer protection (APA, 2000);

WHEREAS data from the 2012 Education Leadership Conference indicated that psychologists in attendance were overwhelmingly in favor of the development of an American Psychological Association statement regarding Principles of Quality Professional Development (APA, 2012);

WHEREAS the American Psychological Association has endorsed the Guidelines for Assessment and Accountability in Higher Education of the New Leadership Alliance for Student Learning and Accountability that describe practices for the gathering, reporting on and using evidence to improve student learning (APA, 2011a; New Leadership Alliance for Student Learning and Accountability, 2012);

WHEREAS competency-based education and training, as well as the assessment and documentation of maintenance of competence, are expected across interdisciplinary, educational, and healthcare contexts (Belar, 2012; Institute of Medicine, 2010; New Leadership Alliance for Student Learning and Accountability, 2012);

WHEREAS the American Psychological Association has adopted a resolution to advocate for psychology as a STEM discipline (APA, 2010, 2011b), continuing professional development and continuing education need to be consistent with a scientific, evidenced-based approach to facilitating continued learning and integration of new learning into psychologists' performance in their professional workplace;

WHEREAS the American Psychological Association has defined evidence-based practice in psychology (EBPP) as the "integration of the best available research with clinical expertise in the context of patient characteristics, culture, and preferences" (APA, 2005);

WHEREAS commitments to accountability and to improvement are cornerstones of an evidence-based approach (Institutes of Medicine, 2010; New Leadership Alliance for Student Learning and Accountability, 2012; Wise et al., 2010);

WHEREAS independent evaluation and verification of continuing professional development and continuing education are vital to enhancing consumer confidence and to demonstrating the link between ongoing professional development and professional competence (Langendyk, 2006; Neimeyer et al., 2012; Roediger & Karpicke, 2006; Wise et al., 2010);

WHEREAS there exists a well-developed literature in psychological science and education that can inform programs of professional learning and the design of learning environments (Bransford, Brown, & Cocking, 2000);

THEREFORE BE IT RESOLVED that the Council of Representatives adopts as American Psychological Association policy the following principles of quality professional development and continuing education, and instructs the Board of Educational Affairs to integrate these principles into all policy regarding the continued professional development and continuing education of psychologists:

- Quality continuing professional development activities and continuing education programs should be dedicated to an evidence-based approach with content substantiated by the empirical literature. Quality continuing professional development and continuing education activities should be founded on evidenced-based education methods (Institute of Medicine, 2010; Neimeyer, Taylor, & Cox, 2012; Stuart, Tondora, & Hoge, 2004; Wise et al., 2010).
- Quality continuing professional development and continuing education should serve the purpose of enhancing and improving psychologists' skills especially in term of service to the public, contributions to the profession, and the development of interdisciplinary and interprofessional collaboration and practice (APA, 2000; Wise et al., 2010; Institute of Medicine, 2010).
- Quality continuing professional development and continuing education should reflect current research on diversity related topics and be committed to a multiculturally competent approach, respecting issues of diversity and addressing the needs of underrepresented populations (APA, 2003; APA, 2004; APA, 2011c; APA 2011d).
- Quality continuing professional development and continuing education includes evaluation of a learning experience in relation to the learner and the instructor, and the assessment of its outcomes, including verification of the completion of the activity (Langendyk, 2006; Neimeyer et al., 2012; Roediger & Karpicke, 2006; Wise et al., 2010).
- Quality formal continuing education is a central component of continuing professional development for psychologists, and is an important mechanism for documenting the continued professional development expected in the evolving health care system (Belar, 2012; Neimeyer, Taylor, & Wear, 2009, 2010; Wise et al., 2010).
- Quality continuing education programming should build upon a completed doctoral program in psychology, and include introductory to advanced course sequencing to meet the needs of psychologists across the lifespan of their careers (Metcalf & Kornell, 2005; Van Merriënboer, Jeroen, Pass & Kester, 2006; Wise et al., 2010).
- Quality continuing education programming incorporates presenters with expertise in the program content (Ainsworth & Loizou, 2003; Stuart et al., 2004), and should include the direct input of psychologists into all phases of the decision making and program planning process.
- Quality continuing education programming includes multiple teaching methods to enhance retention and the translation of new learning into practice or other professional activities (Bransford, et al., 2000; Graesser, Olde, & Klettke, 2002).
- Quality continuing professional development and continuing education should be accessible to all psychologists, including those with disabilities.
- Quality continuing education includes a focus on the active engagement of the learner (Ainsworth & Loizou, 2003; Bransford et al. 2000; Graesser et al., 2002; Knapp & Sturm, 2002).

- Quality continuing education makes a clear connection between program content and the application of this content within the learner's professional environment (Craig, Sullins, Witherspoon, & Gholson, 2006; Hakel & Halpern, 2005; Institute of Medicine, 2010).

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X. PROFESSIONAL AFFAIRS

A.(14) The Board voted to approve the following motion related to the Proposed Guidelines for the Practice of Telepsychology:

The Board commends the dedication and hard work of the members of the APA/ASPPB/APAIT Joint Task Force on Developing Guidelines for the Practice of Telepsychology, along with the collaborative efforts of the joint organizations in the development of these proposed guidelines. The work represents a remarkable partnership, one we believe bodes very well for the future. Further, the Board of Directors expects to recommend that the Council of Representatives adopt as APA policy the proposed Guidelines for the Practice of Telepsychology and approve August 2023 as the expiration date for the Guidelines – pending the incorporation of the following changes prior to the item being forwarded to Council (bracketed material to be deleted; underlined material to be added):

- 1) Lines 12-13 (Introduction) – Insert the following into this sentence: “With the advancement of technology and in the increased number of psychologists using technology in their practices, these guidelines have been prepared to educate and guide those psychologists who provide health services and engage in the practice of telepsychology. In some cases these guidelines may apply to practices in fields such as Industrial/Organizational and Educational psychology.”
- 2) Line 379 – delete the word “may”
- 3) Guideline #7: Testing & Assessment – Include a reference to the most recent/current edition of the *Standards for educational and psychological testing* within this guideline.
- 4) Lines 616-620 – delete and insert the following” [Similarly, p]Psychologists [who conduct other non-psychometric assessments (e.g., assessment for personnel selection and for Industrial/Organizational consultation)]are encouraged to recognize the potential limitations of [the] all assessment processes conducted via telepsychology, and be ready to address the limitations and potential impact of those procedures.

XI. SCIENTIFIC AFFAIRS

A.(15) The Board postponed the item “Recruitment and Retention of Scientist Members” to a future conference call or meeting.

B. On its May 21 conference call, the Board voted to recommend that Council adopt as APA policy the revised *Standards for Educational and Psychological Testing* and approve August 2023 as the expiration date for the revised *Standards*.

XII. PUBLIC INTEREST

A.(16) The Board voted to recommend that Council 1) adopt as APA policy the updated *Guidelines for Psychological Practice with Older Adults*; 2) approve August 2023 as the expiration date for the Guidelines; and 3) archive the 2003 *Guidelines for Psychological Practice with Older Adults*.

B.(17) The Board voted to recommend that Council adopt as APA policy the following Resolution on Counseling in HIV Testing Programs:

Resolution on Counseling in HIV Testing Programs

WHEREAS HIV test counseling refers to a set of HIV-specific procedures conducted in the context of HIV testing that focus on providing education to promote accurate understanding of a positive or negative HIV test result; assistance with information on available HIV treatment resources; emotional support and referral for psychological intervention as needed; and direction on making linkages to HIV care;

WHEREAS the prevention focus of the National HIV/AIDS Strategy (NHAS) specifies an emphasis on a test-and-treat strategy aimed at identifying individuals who are unaware of their HIV seropositive status via expanded HIV testing efforts and facilitating early engagement in care (Millett et al., 2010; Dieffenbach & Fauci, 2009);

WHEREAS recent findings demonstrating the role of HIV viral suppression in reducing HIV transmission (e.g., Cohen et al., 2011) have highlighted the potential for HIV treatment to reduce HIV incidence by ensuring that individuals living with HIV are receiving antiretroviral therapy, a strategy referred to broadly as HIV treatment as prevention (Garnett, Becker, & Bertozzi, 2012; Wood, Milloy, & Montaner, 2012);

WHEREAS treatment as prevention strategies are being ramped up in light of estimates suggesting that, among individuals living with HIV in the United States, only approximately 24% are receiving antiretroviral therapy and only approximately 19% are achieving viral suppression as reflected by an undetectable serum viral load (Gardner, McLees, Steiner, del Rio, & Burman, 2011);

WHEREAS treatment as prevention requires an increased focus on HIV testing, as an estimated 1 in 5 individuals in the United States living with HIV infection are unaware of their HIV seropositive status (Campsmith, Rhodes, Hall, & Green, 2010) and these individuals pose a greater risk for transmitting the virus than those who are aware of their HIV serostatus (Gardner et al., 2011; Pinkerton, Holtgrave, & Galletly, 2008);

WHEREAS in line with the focus on HIV treatment as prevention, a “test-and-treat strategy” has emerged with a focus on early diagnosis and treatment of HIV that incorporates public health strategies aiming to ensure the easy accessibility of HIV testing, such as offering HIV testing as part of routine visits in health clinics and hospitals, providing HIV testing in non-medical community settings, and self-administered home HIV testing;

WHEREAS HIV test counseling has historically been a key element of HIV testing programs, providing important information and prevention messages for individuals who receive a

negative test result and serving a vital educative and emotional support function for individuals who test positive as well as guidance for linking these individuals to medical care;

WHEREAS Centers for Disease Control and Prevention (CDC) recommendations for HIV testing in health care settings underscore the importance of efforts to link those receiving a positive HIV test result to care (CDC, 2006);

WHEREAS efforts to make HIV testing accessible in order to promote early HIV diagnosis and linkage to care may inadvertently result in a reduced role for HIV test counseling in the context of the HIV testing process, particularly since clear guidelines and policies relative to the availability and role of HIV test counseling in the era of expanded HIV testing, including in-home testing, have yet to be elaborated;

WHEREAS complications relative to linkage to care following HIV testing, including individuals who become lost to follow-up after HIV testing, may attenuate the prevention benefits believed to be conferred by the test-and-treat model (Andrews, Wood, Bekker, Middlekoop, & Walensky, 2012);

WHEREAS HIV test counseling is a key part of ensuring the success of expanded HIV testing programs in the context of the test-and-treat model, including successful linkage to care, particularly given empirical evidence that HIV test counseling is effective in encouraging individuals who test positive for HIV disease to access medical care (Eichler, Ray, & del Rio, 2002),

WHEREAS given that barriers to HIV testing may be posed by such factors as institutional mistrust of medical systems, concerns about discrimination, stigma worries, lack of knowledge about HIV and its treatment, and fear of a positive test result (Hoyt et al., 2012; Schwarcz et al., 2011; Wallace, McLellan-Lemal, Harris, Townsend, & Miller, 2011), HIV test counseling provides an opportunity to assess and explore these concerns when present among those who decide to participate in HIV testing;

WHEREAS HIV test counseling provides essential information on how HIV testing works and how to interpret accurately the meaning and implications of a negative or positive HIV test result (Halkitis, Barton, and Blachman-Forshay, 2012; Siconolfi, Halkitis, Moeller, Barton, & Rodriguez, 2011);

WHEREAS HIV test counseling is a key educative tool for ensuring proper interpretation of a negative HIV test result, including the provision of information regarding the critical importance of continuing safer sex practices and the possible need for repeat HIV testing given that there is a several month window of time before a new infection can be detected by testing;

WHEREAS HIV test counseling offers a context for addressing psychological distress that may result from receiving a positive HIV test result, including providing information that may ameliorate distress and/or referral to emotional support resources and mental health services (Joseph et al., 2011);

WHEREAS in order to confer maximum benefit, HIV test counseling strategies must take into account the specific needs, concerns, and cultural values of diverse groups, including women

(e.g., HIV testing in pregnancy; HIV disclosure and intimate partner violence), sexual minority individuals, youth, older adults, people from rural communities, immigrant populations, people with disabilities (e.g., hearing disabilities), incarcerated/previously incarcerated individuals, and individuals from diverse socioeconomic backgrounds (Groce et al., 2103; Hoyt et al., 2012; Siconolfi et al., 2011; Spielberg, Kurth, Gorbach, & Goldbaum, 2001; Winningham et al. 2008);

WHEREAS HIV test counseling as part of the HIV testing process is especially critical for persons who are living with a severe mental illness, with the expectation that a substantive proportion of individuals who receive a positive HIV test result under expanded testing programs also will evidence a premorbid severe mental illness in light of epidemiological findings showing a disproportionate HIV seroprevalence among these individuals (Meade & Sikkema, 2005);

WHEREAS there is evidence suggesting that individuals who receive a positive HIV test result often perceive that there is an insufficient focus on HIV test counseling, the provision of needed information in the testing process, and active linkage to care (Garland et al., 2011);

WHEREAS there is a need for specific training for current and prospective service providers that includes content knowledge on HIV, information on the historical and contemporary social and environmental context of HIV, and guidance for how to assess and address provider self-care needs;

WHEREAS there is a need for research to assess the role of HIV test counseling for optimizing the effectiveness of expanded HIV testing models, particularly as this relates to linkage to care in the context of the test-and-treat model;

WHEREAS psychology and psychological science are well positioned to contribute to the development, implementation, and evaluation of HIV test counseling strategies in the context of the evolving parameters of HIV testing through applications of theory, intervention, and research methods (Apanovich, McCarthy, & Salovey, 2003; Earl & Albarracín, 2007; Huebner et al., 2010);

THEREFORE anyone tested for HIV should have access to quality HIV counseling;

THEREFORE there is a need to examine carefully the HIV test counseling issues associated with the emergence of in-home HIV testing, and to develop guidelines and strategies for ensuring that HIV test counseling is accessible to users of in-home HIV testing;

THEREFORE deliberate attention should be paid to obtaining better understanding of the needs of service recipients and service providers, and the dissemination of information and interventions to assist service providers who provide HIV testing and counseling to effectively care for themselves as well as their clients;

THEREFORE both governmental (federal, state, and local) and nongovernmental agencies and stakeholders should promote public policies that educate the public about the need for and availability of HIV test counseling for all individuals receiving HIV test counseling regardless of whether the tests are administered in clinical or non-clinical settings or at home;

THEREFORE additional research is needed that focuses on how HIV test counseling contributes to positive health outcomes for those receiving HIV testing and on counseling resources and strategies to address the unique circumstances of in-home HIV testing;

THEREFORE increased funding is needed to: i) ensure access to quality HIV test counseling services for all individuals tested for HIV; ii) provide adequate training programs that draw from psychology to deliver these services; and iii) support research that expands the current evidence base relative to HIV test counseling, including research that addresses the unique challenges associated with ensuring the availability of high quality counseling in the context of in-home HIV testing;

THEREFORE psychology as a discipline will increase its efforts to advocate actively for accessible and quality HIV test counseling for all persons being tested for HIV and will encourage the conduct and publication of research into the health impact and outcomes of HIV testing where test counseling is and is not available.

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XIII. ETHNIC MINORITY AFFAIRS

A.(18) The Board voted to recommend that Council approve the following motion:

Council finds that the program of fully reimbursing ethnic minority members of Council for their attendance at the February and August Council meetings (first approved by Council in August 2001) has been helpful in increasing ethnic minority representation on Council and should be continued.

Since the inception of the reimbursement program for ethnic minority members, Council approved a policy that became effective in January 2006 to provide that all Council members be fully reimbursed for their attendance at the February meeting of Council and for the cost of two night's stay at the headquarters hotel where Council is housed for the convention meeting of Council.

APA strongly encourages Divisions and State, Provincial and Territorial Associations to submit one or more slates of nominees comprised solely of ethnic minorities. In order to continue to provide incentives for Divisions and State, Provincial and Territorial Associations to elect ethnic minorities to Council, APA shall provide full reimbursement (transportation, hotel and meal charges) for ethnic minority members of Council who are elected during the years 2014-2016 for their attendance at the convention meeting of Council.

For purposes of this program, ethnic minority identity is determined by self-identification as a member of one of the following four U.S. ethnic minority groups: African American/Black, American Indian/Alaska Native, Asian American/Pacific Islander, and Hispanic / Latino.

XVI. FINANCIAL AFFAIRS

A.(19) By unanimous vote on email, the Board voted to 1) accept the audited Consolidated Financial Statements, the Supplemental Financial Report (A-133), the APA 750 LLC, and the APA Ten G LLC financial statements for the year ended December 31, 2012 and 2) appoint BDO USA, LLP to perform the 2013 APA audit and tax work (to be conducted in 2014) contingent upon negotiation of acceptable engagement terms.

B. In executive session, the Board received an overview from the Chief Financial Officer of the 2012 year-end actual and the resulting \$3.2 million operating deficit. A reforecast of the 2013 budget was completed in April 2013 and the projection shows lower than expected revenue for 2013. The Board was informed of the plan to adjust expenses to ensure a positive operating result for 2013 and that the three-year rolling average for the years 2012-2014 remains positive. This includes the following planning guidelines:

- 90 day vacancy hold from May 2013-December 2013
- 1% expense cut in all non-salary expense line items
- Office of Publications and Databases (OPD) to further reduce an additional \$250,000 in costs across the Directorate for expenses which will not need to be incurred as the result in the loss of revenue

- Retain the Licensing revenue related to Journals in the operating budget which would normally have been transferred into the OPD Journal Incubation Fund

The plan results in a projected \$1.6 million positive operation margin for 2013.

The planning guidelines may be modified as the year progresses based on the developing picture of actual revenues and expenses.

C. In executive session, the Board voted to recommend that Council approve the 2014 spring revenue estimate of \$111 million as outlined to serve as the revenue framework for the development of the 2014 Budget.

The Board also voted to recommend that Council approves the following planning guidelines to be used for developing the 2014 Budget:

- 2% Merit Pool
- 0% Equity/Promotion Pool
- 90 day vacancy hold for January 2014 – December 2014
- A 1% expense cut in all non-salary expense line items
- Retain the Licensing revenue related to Journals in the operating budget which would normally have been transferred into the OPD Journal Incubation fund

The planning guidelines may be modified as the year progresses based on the developing picture of actual revenues and expenses.

ⁱ The American Psychological Association reaffirms unequivocally the [2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment](#) in its entirety in both substance and content, which applies to the work of psychologists in all contexts.

"It is clarified by a footnote in the *Member Petition Resolution* "that military clinical psychologists would still be available to provide treatment for military personnel.

A primary text for determining the intended scope of the *Member Petition Resolution*, given the title "Psychologists and Unlawful Detention Settings with a Focus on National Security," is found in the ballot materials distributed to the APA membership during the voting process. This text states:

The referendum is specific, provides clear context, and sets a high bar: in setting where people are detained outside of the law – places where treaties such as the Geneva Conventions and Convention Against Torture are ignored or declared not to apply – psychologists can work only for those detained. U.S. "jails, prisons, psychiatric hospitals . . ." all function within the legal system. Even if they are found to be in violation of the constitution, the finding itself demonstrates that they function within a legal framework, and thus do not meet that bar. No matter how bad conditions might be at those domestic institutions, they can be challenged openly in U.S. courts, and everyone held there holds the rights of habeas corpus; thus they differ significantly from the secret, extra-legal settings that are the subject of this referendum.

For additional information about the intended scope of the *Petition Resolution*, please see the [Report of the APA Presidential Advisory Group on the Implementation of the Petition Resolution](#):

How is it to be determined whether the policy applies to a particular detention setting and what is meant by the term "outside of, or in violation of, international law?"

A determination of whether a particular detention setting is "in violation of international law" is to be derived from multiple sources. The U.N. and its committees can declare a site to be in violation of international law, as can any international body that the U.N. takes to be authoritative. A setting that has been censured due to reasons reflected by this policy by the Council of Europe, the International Committee of the Red Cross (ICRC), or other internationally accepted body as "outside of, or in violation of,

international law” would also be considered a proscribed or prohibited setting. The factors taken into consideration by the U.N. and other internationally accepted bodies in making such a determination may include a lack of habeas corpus rights or other forms of judicial review for detainees, denial of access to the site and to detainees by U.N. monitors, and the use of torture or other forms of cruel, inhuman, or degrading treatment or punishment. The determination of whether a particular detention setting is operating “outside of international law” rests on whether the authority governing the site declares itself to be unbound by the relevant international or constitutional law, thereby indicating its unwillingness to abide by such laws. Relevant examples include a nation stating it will treat detainees in a manner “consistent” with the law rather than in compliance with the law; a state that accepts the law in part or with reservations; and a governing authority that avoids the use of internationally accepted categories, e.g., by naming its detainees “enemy combatants,” a term that does not exist in international law. The presence of any one of these conditions does not automatically mean that a site is unlawful in terms of this policy. But alone, or in combination, they do suggest the possibility that a setting fails to comply with the standards of this policy; their existence provides sufficient basis for concern and further inquiry.

ⁱⁱⁱ*Ethical Principles of Psychologists and Code of Conduct*, Retrieved from <http://www.apa.org/ethics/code/index.aspx>

^{iv}Defined as both unlawful enemy combatants and lawful enemy combatants as set forth in the U.S. Military Commissions Act of 2006 (Chapter 47A; Subchapter I: Â§ 948a. Definitions):

(1) UNLAWFUL ENEMY COMBATANT. -

(A) The term 'unlawful enemy combatant' means-

(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

(B) CO-BELLIGERENT. - In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

(2) LAWFUL ENEMY COMBATANT - The term 'lawful enemy combatant' means a person who is-

(A) a member of the regular forces of a State party engaged in hostilities against the United States;

(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

^vDefined as both privileged belligerent and unprivileged enemy belligerent as set forth in the U.S. Military Commissions Act of 2009 (Chapter 47A; Subchapter I: § 948a. Definitions):

(6) PRIVILEGED BELLIGERENT.-The term 'privileged belligerent' means an individual belonging to one of the eight categories enumerated in Article 4 of the *Geneva Convention* Relative to the Treatment of Prisoners of War.

(7) UNPRIVILEGED ENEMY BELLIGERENT.-The term 'unprivileged enemy belligerent' means an individual (other than a privileged belligerent) who- (A) has engaged in hostilities against the United States or its coalition partners; (B) has purposefully and materially supported hostilities against the United States or its coalition partners; or (C) was a part of al Qaeda at the time of the alleged offense under this chapter.

^vSpecifically, United States Reservation I.1 of the Reservations, Declarations and Understandings to the United Nations *Convention Against Torture* stating, 'the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.'

Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself [sic], nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

^{vii}It should be noted that voluntary exposure to many of these techniques as part of military training (e.g., SERE) is not defined as torture or cruel, inhuman, or degrading treatment or punishment under international law and does not constitute torture or cruel, inhuman, or degrading treatment or punishment under this reconciled policy. SERE (Survival, Evasion, Resistance, and Escape) is a program, best known by its military acronym, that provides U.S. military personnel, U.S. Department of Defense civilians, and private military contractors with training in evading capture, survival skills, and the military code of conduct.

^{viii}Although psychologists to which this reconciled policy applies are expected to have general knowledge or relevant legal and human rights concepts (e.g., the absolute prohibition against torture and cruel, inhuman, and degrading treatment or punishment), psychologists are not expected to have expertise in international law and human rights requirements and are thus encouraged to seek guidance from individuals with such knowledge.

^{ix}The reconciled policy does not amend the Ethics Code and does not constitute Ethics Committee interpretations of the Ethics Code. The APA Ethics Committee and the Ethics Office are available to members and the public for consultation.