

## **2013 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**

*This policy was originally adopted by APA Council of Representatives, August 2013 and later amended by APA Council of Representatives, August 2015*

### **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.”<sup>ii</sup>

APA recognizes that torture and other cruel, inhuman or degrading treatment or punishment can result from conditions of confinement and the behavior of individuals. Psychologists are prohibited from working in unlawful detention settings as defined in Statement 1 (see Footnote ii), except when working directly for the persons being detained, for an independent third party working to protect human rights or when providing psychological services to military personnel working at the site(s).

APA further recognizes that some settings, which do not constitute unlawful detention settings as defined in Statement 1, nonetheless have conditions of confinement that constitute torture and other cruel, inhuman or degrading treatment or punishment. APA expresses grave concern over such 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.<sup>iii</sup>

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<sup>iv</sup> or privileged vs. unprivileged enemy belligerent as defined by the US Military Commissions Act of 2009<sup>v</sup> ).

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."<sup>vi</sup>

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.<sup>vii</sup>

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](#).<sup>viii</sup>

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.<sup>ix</sup>

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 by individuals in interrogations and any other detainee-related operations. APA shall continue to inform relevant parties with the US government that psychologists are prohibited from participating in such methods and working in such settings (see Statement 1). 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 and/or work in unlawful detention settings, while making clear such behavior in any setting is prohibited, as well as working in any unlawful detention setting (with exceptions cited in Statement 1). APA shall make information available on its website from the UN and its committees and other recognized authorities relevant to the identification of unlawful detention settings to the APA membership at large and other relevant parties. The [APA Ethics Committee](#) shall finalize 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 and the policy prohibiting psychologists from working in unlawful detention settings (with exceptions cited in Statement 1), 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.

Council also voted to receive the Report of the APA Member-Initiated Task Force to Reconcile APA Policies Related to Psychologists' Work in National Security Settings.

### Footnotes

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.

ii. 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](#) (PDF, 74KB): 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.

<sup>v</sup>. Defined 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.

<sup>vi.</sup> Specifically, 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.

<sup>vii.</sup> 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.

<sup>viii.</sup> Although psychologists to which this reconciled policy applies are expected to have general knowledge of 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.

<sup>ix.</sup> 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.