
[Archive](#) > [2009](#) > [Jan](#) · [Feb](#) · [Mar](#) · [Apr](#) · [May](#) · [Jun](#) · [Jul](#) · [Aug](#)

[July 20, 4:07 PM, 2009](#) · [No Comment](#) · [Previous](#) · [Next](#)

The APA's Nuremberg Defense

By [Scott Horton](#)

As I noted in a recent post, the disclosures surrounding the waterboarding of Abu Zubaida give further proof that beginning in 2002, healthcare professionals, specifically psychologists, played an essential role at every stage in the development and application of torture techniques. The failure of professional organizations, and specifically the American Psychological Association, to acknowledge this and take appropriate countermeasures is disturbing. The mounting evidence of involvement of psychologists in the torture program should lead both to ethics enforcement measures and a review of existing ethical standards. But just the opposite has happened. Professional oversight bodies have engaged in consistent evasion, and now the APA is focused on the relaxation of its ethics standards to provide defenses for psychologists who joined in the Bush Administration's torture program.

As the Bush Administration introduced its torture program in 2002, the APA modified Section 1.02 of its ethics rules, to state that in the event of conflict between ethics standards and law as interpreted by government organs like the Department of Defense or CIA, psychologists are free to disregard the requirements of applicable ethics guidelines and “may adhere to the requirements of the law, regulations, or other governing legal authority.” This provision was curiously passed just as psychologists undertook their key role in the torture program. And it dovetails perfectly with a scheme introduced by Defense Secretary Rumsfeld to undercut the ethics standards of lawyers, doctors, and other healthcare professionals by binding them strictly to the laws and regulations as definitively interpreted by him as Secretary of Defense ([DOD Policy Directive 3115.09](#)). It is a full-throated repudiation of the rule fashioned at Nuremberg under which individuals involved in the torture or abuse of prisoners are not entitled to rely on a defense of superior orders. The APA was saying that Donald Rumsfeld and Dick Cheney were free to suspend the organization's ethics rules whenever they chose to do so.

Stephen Behnke, the APA's Director of Ethics, claims that this provision is “written largely in response to conflicts regarding confidentiality, arising most often when courts issue subpoenas for psychologists' records.” In fact, the provision's direct

relationship to the Defense Department's efforts to vitiate professional ethics rules, shown in Directive 3115.09, could not be clearer. The modification reflected an effort by APA leaders to give psychologists who were preparing to participate in the torture program an ethical "out." Since the Bush Administration held "legal opinions" issued by the likes of John Yoo, Jay Bybee, and Stephen G. Bradbury, under the reasoning of this amended ethics provision psychologists were entitled to rely upon those opinions—notwithstanding any restrictions contained in their professional ethics code. The rationale that Behnke claims as cover could easily be handled in a provision authorizing psychologists to comply with legal process concerning the turnover of records—a garden-variety provision already found in commercial agreements.

Kenneth S. Pope and Thomas G. Gutheil expose the APA leadership's latest torture scam in an [article in the current issue of the *International Journal of Law and Psychiatry*](#).

[Previous](#) · [Next](#) · More [No Comment](#) · [Respond via email](#)
