

PHR

**Physicians for
Human Rights**

Restoring the Integrity of Military Medical Ethics: A Human Rights Imperative

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December 5, 2008

Dear President-elect Obama:

As you begin your new administration, we encourage you to embrace a human rights agenda that incorporates the highest standards of medical and psychological ethics, including the centuries-old mandate to "do no harm," by removing medical and psychological personnel from roles in interrogation, breaking hunger strikes and forced drugging. The medical profession and human rights are both rooted in respect for the value of human dignity. At this critical time of change, a pivotal opportunity exists to end conflicts created by national security policies that violate medical ethics, infringe upon the clinical autonomy of medical and psychological professionals working for the government in national security settings, and abandon the United States' historic commitment to human rights.

Physicians for Human Rights (PHR), a health professional organization that has served as a leading voice against the torture and abuse of detainees in U.S. custody, calls on your administration to restore the rule of law and core principles of medical and psychological ethics, a mutually reinforcing way forward. In addition, we urge you to conduct a full investigation of the abuses of the past by medical and psychological personnel. The regime of torture and abuse at detention facilities in Afghanistan, Iraq and Guantanamo Bay, Cuba, including prolonged isolation, stress positions and sexual humiliation, could not have happened without the complicity of medical and psychological professionals; their expertise helped develop the methods of psychological torture that violated this country's historic prohibition against torture. Medical and psychological professionals were called upon to evaluate detainees for use of these methods as well as physical methods, and to monitor their use and intervene to provide medical or psychological care when detainees were harmed by them. This tragic chapter has demonstrated why medical and psychological professionals should never be put in the position of violating their ethical duties in order to aid the national security apparatus.

We know that you are committed to end the use of torture and cruel, inhuman and degrading treatment by the United States, and we applaud these commitments. Ending the use of torture and ill-treatment, however, will not, of itself, restore the integrity of military medicine and psychology, unless other key steps are taken as well. We outline those six steps here:

1. End the participation of health professionals in interrogation.

PHR calls upon your administration to ensure that medical and psychological professionals will never again be harnessed to use their skills to aid in the interrogation of individual detainees. This includes, of course, prohibiting them from developing programs of exploitation, coercion or torture. The use of “enhanced interrogation techniques” by U.S. personnel fundamentally stems from a perversion of the medical and psychological professions. The abusive techniques employed by U.S. interrogators were based on misuse of the knowledge and skills of medical and psychological professionals, who determined the vulnerabilities of detainees and advised interrogators on exploiting those vulnerabilities to maximize physical and psychological stress. In addition, medical and psychological professionals neglected their duty to report or stop torture, essentially patching up detainees to endure more abuse. But as major medical organizations including the American Medical Association and American Psychiatric Association have made clear, the obligation of doing no harm goes much further than non-participation in torture. Under your administration, all agencies should follow these medical organizations’ interpretation of ethical standards and clearly prohibit the participation of health professionals in individual interrogations.

Even after the Department of Defense adopted its revised Army Field Manual in 2006, which marked a step in eliminating torture in national security interrogations, it has continued integration of health professionals in security and interrogation functions in violation of medical ethics. For example, Department of Defense policy continues to provide health professionals with a role in exploiting detainees, enabling them to advise on conditions of confinement that most effectively aid interrogation.¹ This role should end and the Department should return to the tradition that military and civilian medical ethics are the same.

The Department of Defense, through the use of Behavioral Science Consultants, mandates that health professionals play a major role in interrogation, which is ethically inappropriate. Current policy authorizes using them to advise interrogators about methods and conditions of confinement designed to enhance the interrogation process. By helping interrogators determine when to push harder to gather intelligence, health professionals became calibrators of harm, abandoning their role as healers. While there is an appropriate role for Behavioral Science Consultants, that role should be restricted to training personnel in non-coercive rapport building. There can never be a role for psychologists or psychiatrists in interrogation; such participation is in conflict with their core duties of beneficence and non-maleficence no matter whether they provide clinical care or not. The ethical standard applicable throughout the U.S. and world is that there is no distinction in ethical responsibilities based on the role the individual plays. The Department of Defense adopted guidance that violated this standard.² This guidance should be repealed.

¹ Memorandum from United States Army Medical Command on Behavioral Science Consultation Policy, OTSG/MEDCOM Policy Memo 06-029 (Oct. 20, 2006).

² Medical Program Support for Detainee Operations, Department of Defense Instruction 2310.08E (June 6, 2006).

2. Reform the protocols for hunger strikes to respect patient autonomy.

PHR calls upon the new administration to cease using brutal and inhumane force-feeding tactics against hunger striking detainees, as authorized by Department of Defense guidelines. The most widely accepted medical ethical guidelines on hunger strikes are the World Medical Association's Declaration of Malta, adopted by the American Medical Association. According to that guideline, force feeding a competent and informed patient is never justifiable; protecting the patient's autonomy to consent to or refuse an invasive medical procedure is of paramount importance. Physicians are currently faced with the conflict of "dual loyalty;" in being required to use their skills to break hunger strikes at the behest of command. They are put in an untenable position of abandoning loyalty to patients because of an intervening chain of command. The Department of Defense should fully disclose its protocols related to hunger strikes and issue new guidelines which are in accord with the WMA Declaration and AMA guidelines, and value the clinical autonomy of the physician and the autonomy of the patient.

3. Prohibit involuntary drugging.

PHR calls upon the new administration, the Department of Defense and the Central Intelligence Agency to disclose the current protocols governing forcible medication of detainees in U.S. custody and urges the administration to issue guidelines limiting the use of forced medication to therapeutic purposes where there are adequate safeguards for the patient. There is evidence that detainees in national security settings have been forcibly medicated for the purposes of sedation for transportation and social control. In addition, results of ongoing investigations by the Office of Inspector General of the Central Intelligence Agency and Department of Defense of forced drugging of detainees, including for interrogation purposes, should be made public. Any criminal wrongdoing should be prosecuted. The forced medication of detainees without their consent as a chemical restraint, is an affront to the very foundations of medical ethics. Furthermore, reports of forced drugging in interrogation settings, if true, would constitute human experimentation prohibited by international law under the Helsinki Declaration and Nuremberg Code. Forced drugging for interrogation is also a clear violation of domestic law under the War Crimes Act and the Anti-Torture Statute.

4. Restore clinical autonomy.

Clinicians working in national security settings have been unable to exercise independent judgment in the best interest of their patients. For example, the absence of clinical autonomy has led medical professionals to fail to report medical evidence of abuse or to provide medical care to detainees solely for the purpose of enabling them to endure further abuse. PHR calls upon the new administration to implement safeguards for health professionals in detention settings, protecting their clinical autonomy. Health professionals must remain absolutely separate from the intelligence chain of command, and safeguards must be implemented to prevent information gathered in the course of the doctor-patient relationship from being used in intelligence collection. The autonomy of health professionals in the military chain of command must be respected on all clinical matters.

5. *Establish an advisory body on military medical ethics.*

Many of the medical ethical violations that have arisen stem from the absence of any opportunity for the military to engage with the medical community to ensure that military medical ethics are equivalent to civilian ethics. PHR recommends establishing a mechanism for dialogue on a regular basis among the Department of Defense, medical professional organizations and medically-oriented human rights organizations relating to military medical ethics. Institutionalizing a process for such an exchange will foster transparency and help prevent ethical conflicts and ensure that health professionals in the military are held to the same standards as their civilian counterparts.

6. *Conduct an independent investigation of medical misconduct.*

PHR supports the creation of an independent, non-partisan commission to investigate all aspects of interrogation and detention policy. In addition, the Department of Defense must undertake an internal investigation of the role of medical and psychological personnel in abuse of detainees. To date, the Department of Defense has refused to undertake a comprehensive investigation of the role medical and psychological professionals in abuse in the face of documented evidence of torture and ill-treatment by medical professionals. Beyond the internal investigation, an independent investigation is critical to determine the role health professionals played in the design of abusive interrogation techniques, their failure to document evidence of harm perpetrated against detainees and violations of doctor-patient confidentiality that enabled the use of information gathered in the course of treatment in intelligence collection. By officially investigating the behavior of medical and psychological personnel, the wrongs of the past can be uncovered, addressed and prevented from reoccurring.

Conclusion

In order for medical and psychological professionals to honor their obligation and oath to first do no harm, it is imperative that medicine must never be deployed as a weapon. By returning to traditional paradigms of medical professional autonomy, we can reaffirm the integrity of health professionals, uphold the principles of medical ethics and renew our commitment to the most basic human rights.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Bradshaw". The signature is fluid and cursive, with a large initial "J" and "B".

John C. Bradshaw
Washington Director