Experts Call for Detainee Interrogation Guidelines

BY JEFF EVANS
Senior Writer

WASHINGTON — Detailed ethical codes from professional organizations would help set a clearer path for health professionals to follow on national security–related issues.

That sentiment was expressed by several experts at a recent panel discussion on the medical ethics of military medical professionals' interrogations sponsored by the Center for American Progress.

Active and retired medical officers also think the policy that guides medical personnel in these matters needs to be clarified, Stephen Xenakis, M.D., said at the meeting. Dr. Xenakis, formerly the commanding general of the Southeast Regional Army Medical Command, is now the director of child and adolescent psychiatry at the Psychiatric Institute of Washington.

At Guantanamo Bay and Abu Ghraib prison, mental health professionals, such as psychiatrists and psychologists, are known to have observed interrogations, provided interrogators with the medical records of detainees, and in some cases, developed individualized interrogation plans or provided advice on how best to conduct an interrogation.

These acts have been made public by various documents obtained through military sources, Freedom of Information Act requests, declassification, interviews with witnesses, or testimony (N. Engl. J. Med. 2005;352:3-6; N. Engl. J. Med. 2005;353:6-8).

"The legal barriers are likely to be crossed long before detainees' mental or physical health is implicated, particularly when those detainees are protected by the Geneva Conventions," Jonathan H. Marks, said at the panel discussion.

"Medical personnel, if they stand by, will be complicit in violations of the Geneva Conventions if they approve of these techniques or fail to intervene," said Mr. Marks, a barrister who is currently a fellow at Georgetown University Law Center, Washington.

The civilian leadership at the Pentagon has argued that when physicians and other health professionals serve in the interrogation process and other nontherapeutic roles, they are not acting as physicians or health professionals, and medical ethics do not apply, noted M. Gregg Bloche, M.D., a member of the panel. "This is a deeply disturbing argument with little or no precedent elsewhere," said Dr. Bloche, a law professor at Georgetown.

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Mental health professionals reportedly have been involved in developing individualized interrogation plans for detainees.

In previous operations, the Army has worked on the principle of very detailed, exhaustive training for its medical personnel, Dr. Xenakis noted. The current operations lack "clear guidance for what one does when one confronts scenarios of large volumes of detainees who have recently been apprehended, how they will be triaged, how they will be held, how they will be interrogated."

Dr. Xenakis said he would like to see the American Medical Association and the American Psychiatric Association define the guidance policy on what military medical personnel should and should not be expected to do. Such statements would be affirming to the internal principles and ethics of physicians and other health professionals, he added.

New absolute standards must limit the physician's role in the military to the doctor-patient relationship in which a physician cannot participate in interrogations, he suggested.

Indeed, the APA is in the process of hammering out a position on the role that mental health professionals should play in the interrogation of detainees at

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Guantanamo Bay and other prison sites around the world, Paul S. Appelbaum, M.D., told this newspaper.

Representatives from several key APA committees met this fall to develop a proposed position. That proposal will then go through a formal chain of approvals, including the APA assembly and the board of trustees, said Dr. Appelbaum, chairman of the APA's Council on Psychiatry and the Law and a former president of the organization.

However, the debate about this issue also needs to take place in the public domain, Edmund G. Howe, M.D., said in an interview.

Dr. Howe, professor of psychiatry and director of the program in ethics at the Uniformed Services University of the Health Sciences, Bethesda, Md., said he would like to see a code in print representing as many military and civilian views as possible.

Medical personnel will be complicit in violations of the Geneva Conventions if they approve of techniques that cross legal barriers or fail to intervene.

Codes of ethics "can accomplish all sorts of things by giving general guidelines that most persons find useful and maybe [help them] do better than they would without those guidelines.

The question here is, what are the pluses and minuses of any group's spelling out its particular moral priorities?" Dr. Howe said.

It would be problematic for the military to articulate its moral biases and perspectives and then impose them without outside input, Dr. Howe said. He added that while that might be obvious, it's less obvious that any organization—whether it be the AMA or the APA—also has its own biases and perspectives.

For example, why shouldn't the American Bar Association or a patients' association, for that matter, have its own code? "Is medical expertise tantamount to ethical expertise? No," Dr. Howe said.

When patients sacrifice their money and personal privacy so that medical students can perform physical exams and develop their skills, society has implicit expectations about what the students will do with the knowledge they gain from encounters with patients. Some would say that there's an implicit promise from the doctor—like the Hippocratic Oath—when the patient is making those sacrifices in order for the doctor to do good. Then the question is, "Does doing good include getting involved in interrogations?" Dr. Howe asked.

Even if society is willing, in theory, to say that it will make these sacrifices so that students can be trained to become doctors to heal medical and psychiatric problems and also to save lives by participating in some way in interrogations, "it does not necessarily mean that it should fly, even if most psychiatrists would go along with it. Additional ethical assessment is necessary," he said.

Contrary to the position taken by key experts, the American Psychological Association's approach to this issue appears to be different. That organization's Presidential Task Force states that psychologists can "serve in the role of supporting an interrogation" and make use of confidential information in medical records of detainees or prisoners to advise interrogators, as long as it is not used to the detriment of the individual's safety and well-being.

The task force's report does warn psychologists working in a national security–related setting that they should "clarify their role in situations where individuals may have an incorrect impression that psychologists are serving in a health care provider role."

In addition, psychologists should refrain from mixing potentially inconsistent roles with the same individual, in those cases when the roles "could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness. … or otherwise risk exploitation or harm to the person with whom the professional relationship exists."

In the panel discussion, Dr. Bloche argued that the American Psychological Association's statement "allows for a wholesale breach of confidentiality."

However, Stephen Behnke, director of ethics for the American Psychological Association, said in an interview that there should be an absolute barrier between work that is treatment related and work related to interrogations.

"Under no circumstances should the two be mixed," Mr. Behnke said.

He pointed out that his association had provided its task force report to the U.S. government and that training is needed.

But overcoming the obstacle of health care providers serving as consultants to interrogators by creating separate schools or training for each type, "doesn't really address what the real problems are," Dr. Howe said.

The real problems are determining how humans should treat other humans—and who should decide, he asserted. ■

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