Definitions

- Tortura: a twisting

UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

WMA: Guidelines for Medical Doctors Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment
Reasons to Torture
Reasons (Because) to Torture

1. Suppress dissent, maintain control
2. To advance a political or social agenda
3. To punish
4. To get information
“Not every being with a human face is human”

Carl Schmitt, 1933
Reasons not to Torture
Reasons (Because) Not to Torture

1. Unreliable information/results
2. Evidence often not admissible in court
3. May backfire
4. Torture hurts the torturer and society
5. Torture violates professional ethics and religions traditions
History of “Healers & Torturers”

- Medieval church
- Renaissance
- Enlightenment
3rd Degree
Strappado – Reverse Hanging
Inquisition
Physicians had legal roles in “interrogational torture”
Changing status of torture to illegal and immoral

- 1764 *Of Crimes and Punishment* – Cesare Beccaria

- Widespread moral revulsion
Humane Execution

- 1789 – Dr. Joseph Guillotine
- Dr. Antoine Louis
What non-therapeutic uses of medical knowledge are known?
Recent

- Participation in capital punishment – U.S.
- Nazi physicians
  - Research
  - Torture
International Responses to Torture

- 18th Century, enlightenment – “barbaric” – illegal – illicit

- 20th Century
  - 1948 UN Universal Declaration of Human Rights Acts
  - 1947 Doctors Trial at Nuremberg
  - 1949 Geneva Convention, Art. 3
  - 1966 International Covenant on Civil and Political Rights
  - 1975 Helsinki Accords
**Professional Bodies Respond**

- **1948 & 1956** WMA
- **1975** WMA Declaration of Tokyo – most forceful
- Soon statements by UN, Nursing, Psychiatry, Psychology, ACP, AMA and others
Current Issues in Iraq, Afghanistan and Cuba. Medical Personnel:

a) Aided harsh interrogations directly & indirectly

b) Failed to intervene when witnessing abusive interrogations

c) Failed to do physical exams on victims and/or failed to record findings

d) Prepared incomplete or falsified death certificates

e) Tolerated systemic neglect of prisoners’ living situations
Interrogations

- Abuses
- BSCT (Behavioral Science Consultation Teams)
- Other medical personnel involvement
Deaths

- Beatings
- Asphyxiations
- Suspensions
Neglect of Standards for Prisoners

- Health:
  - insufficient doctors, equipment, meds
  - few preventive measures (Tb)
  - mental illness – essentially no tx
  - 2003 350 “self-harms” – Guantanamo
  - 2008 Our veterans
Neglect

Food

- insufficient quantities
- bugs, dirt, foreign bodies
- hunger strikes – ethical conflict for physicians
  - Tokyo declarations
  - Forced feedings in “padded cell on wheels”
Neglect

- Sanitation, water

- Abu Ghraib – special problems
  - Transferred back to Iraqi government 9/2/06
Did Military Medical Personnel Fail Their Prisoner Patients?

Or was it primarily a case of dual loyalties? (Not an unusual case for military medical personnel)
Section 892 Art. 92. “Any person who violates or fails to obey any **lawful** general order or regulation shall be punished as a court martial may direct.”

- The UCMJ explicitly outlaws torture or neglect.
- Is there a duty to disobey an un-lawful order?
How did we arrive at this place?

Follow the laws and What’s in a name?

- 1996 War crimes Act 1996
- 2002 Executive Order, President Bush
- 2006 Military Commissions Act
1. No punishment for carrying out medical activities compatible with medical ethics.

2. “Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.”
Water boarding – Special Case

- History
- Senator McCain
- Attorney General Mukasey
Reflections

- What is the ethical dilemma?
- Whose problem is it?
- What ethical responses are possible?
- Or obligatory?: (the may and the must)
Special thanks to:

- Robin Bandy, Doctorate of Jurisprudence and Master of Arts in Philosophy/Ethics, candidate
- Wanda Teays, Ph.D.
- Steven Miles, M.D. – *Oath Betrayed*
- Beulah Galvin, Capt. USN, (ret.)
- Matthew Galvin, M.D.
- Patricia McClinton