

Editor:

I was disappointed to read yet another article on why psychiatrists should not participate in coercive interrogations.¹ It seems to me that the argument, as currently cast, is an empty one. I suspect that the great majority of psychiatrists and other mental health professionals already believe that torture and other gross mistreatments of people are wrong; personally, I am also opposed to animal cruelty, mass killing of innocents, and gang rape. This leads me to suspect that Dr. Janofsky's article is less motivated by a desire to flesh out an ethically dicey area than by a desire to chime in on a dying political debate.

Of course, most interrogations, be they by the police or the military, are not extended affairs involving stress positions, waterboarding, and confinement in a windowless room in a police station or CIA safe-house. It is a fairly straightforward matter to take a strong position on these extreme situations; but the middle ground is much less compelling and is invariably avoided in these debates. It is this vast middle ground where it becomes less clear that the participation of a psychiatrist is harmful. Is it possible that my presence at an interrogation might actually reduce the suffering of the person being interrogated? Or might my presence increase the chances of obtaining reliable data, which in turn might reduce the suffering of others?

Slippery-slope arguments, while highlighting the need to avoid sacrificing ethics ideals in the pursuit of solutions to real-world dilemmas, are often invoked as a way to avoid dealing with the existence of those very dilemmas. I think Janofsky's position is an example of just such a misuse of a slippery-slope argument. Janofsky seems to rue the judicial predilection for relying on the "totality of the circumstances" in assessing the voluntariness of custodial admissions, as if this were a smoke screen to hide some nefarious motive. Rather, addressing the totality of the circumstances reflects an understanding that there may be more than meets the eye, even in situations in which improprieties have taken place (the U.S. Supreme Court case of *Leyra v. Denno*,² which Dr. Janofsky mentions, demonstrates this point well). It is also interesting to note that the 1966 *Miranda* decision, which was notable for its avoidance of the facts of the case and for jumping directly into policy directives,

remains, perhaps not coincidentally, mired in controversy now 40 years later.

The reporter David Simon, whom Dr. Janofsky quotes on page 473, also wrote this:

The *Miranda* warning is a little like a referee introducing a barroom brawl: the stern warnings to hit above the waist and take no cheap shots have nothing to do with the mayhem that follows.

Yet, how could it be otherwise? It would be easy enough for our judiciary to ensure that no criminal suspect relinquished his rights inside a police station. The courts could simply require the presence of a lawyer at all times. But such a blanket guarantee of individual rights would effectively end the use of interrogation as an investigative weapon, leaving many more crimes unsolved and many more guilty men and women unpunished. Instead, the ideals have been carefully compromised at little cost other than to the integrity of the police investigator [Ref. 3, p 57].

To choose to stay out of this fray, as a matter of professional ethics, is one thing; but to condemn it is another. Keeping our hands clean is certainly easier, but I wonder to what extent this distancing "protect(s) . . . vulnerable social values."

It occurs to me that the professional integrity of the forensic psychiatrist is taken a bit too far at times, and that this is one of those times. Certainly, if my skills as a psychiatrist allowed the police or military to obtain information from a detainee that would prevent the deaths of others, I would not hesitate (I imagine) to help. My broader ethical/moral concerns would trump those of my profession (just as I would apply deadly force to prevent harm to my children). If that would mean the forfeiture of my profession, then so be it. I would rather live the rest of my life knowing I had done the right thing, than that I had smugly preserved my professional identity at the expense of the innocent and my personal honor.

John Meyers, MD
Forensic Services

The Capitol Region Mental Health Center
Hartford, CT

References

1. Janofsky JS: Lies and coercion: why psychiatrists should not participate in police and intelligence interrogations. *J Am Acad Psychiatry Law* 34:472-8, 2006
2. *Leyra v. Denno*, 347 U.S. 556 (1954)
3. Simon D: Homicide: a year on the killing streets, in *The Miranda Debate: Law, Justice, and Policing*. Edited by Leo RA, Thomas GC III. Boston, MA: Northeastern University Press, 1998, Chap. 4, pp 49-64