

March 11, 2016

Dear Fellow Council Members and Division Leaders and Officers:

Last October, we [issued a detailed rebuttal](#) of the Hoffman report. Shortly thereafter, in November, Division 19, the Society for Military Psychology, likewise [issued a rebuttal](#). We anticipated responses, and hoped they would state our position accurately, confront the facts we presented head-on, and provide any documentary evidence that might exist to counter our claims. In January (and again this past week), Dr. Stephen Soldz and Dr. Steven Reisner posted a response that does none of these things. In fact, it fails even to acknowledge the substantial number of documents and other [evidence we produced that Mr. Hoffman did not](#). As a result, we are replying only briefly, primarily to encourage those who have not seen the two rebuttals to read them. They demonstrate how deeply flawed the Hoffman report is, and how the process by which APA is addressing the report has prevented the flaws from being addressed in an open, transparent, and fair manner.

Before summarizing our specific points about Drs. Soldz and Reisner's response, we wish to step back from the welter of competing claims. At its core, the dispute about the Hoffman report's portrayal of our roles is a dispute between differing narratives about the role of military psychologists in interrogations, especially around the time that the Presidential Task Force on Psychological Ethics and National Security (PENS) issued its report in June 2005, and differing opinions about what that role should be. It is not, as our critics try to portray it, a dispute about whether abusive interrogations methods are permissible or about the applicability of the relevant international conventions. The scope and tone of Drs. Soldz and Reisner's attacks impel us to say again: we have always been unalterably opposed to interrogations that violate the United Nations Convention Against Torture and the Geneva Convention Relative to the Treatment of Prisoners of War and, more generally, to interrogations that are abusive or inhumane.

What actually happened:

When the military psychologists among us arrived at our posts in the years before the PENS Task Force met, intense disagreements about how to conduct interrogations were playing out at the most senior levels of government. We were not privy to those debates, nor were we in a position to influence them directly, but on our arrivals some of us found interrogation techniques with which we disagreed. Some of these techniques that have been publicly reported were abusive in common-sense terms, even if certain officials in the Bush Administration considered them at the time to be legal or to comport technically with the relevant international conventions.

We felt the need to act, and we did so. In many ways, we set out to help prevent abusive interrogations – by writing policies to prohibit them, by offering consultation, and by providing training in effective methods of interrogation. In every instance, we worked hard to help prevent abuse and to promote and advocate for humane treatment during interrogations. Perhaps most important, we helped develop some of the very strict guidelines that were put in place before the PENS Task Force convened.

Those local military policies, policies we provided in our rebuttal but the Hoffman report and the Soldz/Reisner response entirely ignore, make clear that the military psychologists among us worked to put in place policies to prohibit abusive interrogations. These policies directly contradict Mr. Hoffman's central conclusion: that our *intent* was to allow abusive interrogations to continue within the DoD or not to constrain abusive interrogations. In fact, within the Department of Defense (DoD), disagreements over which interrogation techniques were out-of-bounds had ended *by mid-2004, nearly a year before the PENS task force met in late June of 2005.*

Mr. Hoffman overlooks that critical fact. A discussion of the steps DoD had taken, and we had taken personally, to help prevent abusive interrogations before late June 2005 when the PENS Task Force met is completely absent from the Hoffman report, even though some of the relevant materials are contained in the report's reference binders and some of us actually tried to discuss these actions in our interviews.

We were able to draft and help to implement the stringent DoD local policies only because we remained involved in the interrogation process and had the support of our superiors in the chain of command. If we had withdrawn from the process, as the recent APA resolution wishes psychologists to do, we could have avoided the taint of any proximity to interrogation sites and their painful histories – but we could have done no good. Our ethical obligation is not to stay on the sidelines. The easiest, and personally and professionally safest path, would have been to for us wash our hands and walk away. But, in our opinion, that would not have been the most *ethical* path.

We also note that section 2.01 of the APA ethics code requires psychologists providing services to be competent in the relevant field. Advising about interrogations entails a competence. Promulgating guidelines and developing ethics rules for interrogations without the requisite competence would not only violate the ethics code, it is likely to have an effect precisely opposite to the effect the APA should desire: abiding by our legal and ethical responsibilities while still gaining accurate intelligence to prevent acts of violence.

As to the specifics of Drs. Soldz and Reisner's response, we make three points:

1. They ignore the key policy documents we presented and ignore the core of our rebuttal.
2. Instead of confronting the documents we produced, they return to their broad attack against national security interrogations, the policies governing them after PENS, and the overall conditions of confinement at Guantanamo. Nothing in that attack is relevant to our rebuttal of Mr. Hoffman's description of our role at the time of PENS.
3. The alleged conflict of interest arising from Dr. Newman's and Colonel Dunivin's marriage was disclosed many times, and a prior opinion obtained by the General Counsel of APA found that the marriage did not in itself constitute a conflict.

Point 1: Drs. Soldz and Reisner ignore the key policy documents we presented and misrepresent the core of our rebuttal.

- In our rebuttal, we presented documents – not opinions or inferences – that contradicted Mr. Hoffman’s key claim that we aimed to keep ethical guidelines “loose,” in order to conform to Department of Defense interrogation guidelines that “used high-level concepts and did not prohibit techniques such as stress positions and sleep deprivation....” We provided the then-current guidelines for Iraq, Afghanistan and Guantanamo that contained exactly such *specific* prohibitions, some of which we helped to draft.

These documents knock the foundation out from under Mr. Hoffman’s assertion that we colluded to keep the PENS guidelines loose because we did not want to constrain the conduct of interrogations. In fact, we had been helping put those very constraints in place within the military system. It is remarkable that the Hoffman report contains no section examining DoD guidelines as they existed in June 2005, when the PENS task force met.

Drs. Soldz and Reisner claim that we provide “a distorted reading of these documents” that are at the heart of our rebuttal – but they never describe, quote from, or cite to the documents, thus leaving their claim entirely unsupported.

- Drs. Soldz and Reisner also ignore other key documents that our rebuttal cites and that contradict Mr. Hoffman’s conclusions. Mr. Hoffman’s claim that we wanted to “create and maintain loose APA ethics policies that did not significantly constrain DoD” is rendered illogical by the fact that the DoD commands in Afghanistan, Iraq and Guantanamo already had in place strict local policies. It is further contradicted by Statement Four of the PENS Guidelines, which stated that military psychologists were bound by the military rules and regulations then in place and that those regulations incorporated and linked to the full texts of the United Nations Convention Against Torture and the Geneva Convention Relative to the Treatment of Prisoners of War. Mr. Hoffman and Drs. Soldz and Reisner ignore that part of the PENS report.
- Not only do Drs. Soldz and Reisner ignore the key documents on which we rely, they mischaracterize or omit critical portions of the more general policy documents on which they do rely, or draw unsupported inferences from them. For example, they cite the so-called 2005 “Bradbury memo” which allowed for “enhanced” techniques – a memo that applied only to the CIA. They evade that distinction by claiming that “nothing prevented the renewed legal justification for the techniques from being applied equally to the DoD” First, Drs. Soldz and Reisner ignore the fact that military lawyers had argued strenuously that the Uniform Code of Military Justice (UCMJ) prohibited the very techniques named in the “Bradbury memo.” Second, the local military policies in place, the UN Convention Against Torture and the Geneva Conventions, and the Detainee Treatment Act of 2005, which prohibit cruel, inhuman and degrading treatment, would have prevented that result. The Act was formally introduced in July of 2005, just after

PENS, and ultimately passed in December, with the strong support of APA as discussed on the PENS listserv.

Point 2: Instead of confronting the documents we produced, Drs. Soldz and Reisner return to their broad attack against national security interrogations, the policies governing them, and the overall conditions of confinement at Guantanamo.

Drs. Soldz and Reisner launch a reply that, rather than addressing the specific points in our rebuttal—as the APA has likewise refused to do—becomes a broad policy attack against psychologists’ involvement in the interrogation process, against interrogations in general, and against the existence of the Guantanamo, Iraq, and Afghanistan facilities. Not only are parts of their review wrong, but their response continues the pattern of evading the core of our rebuttal.

We will cite two examples:

1. They recite a broad array of press reports about abusive detention and interrogation methods before and after PENS. Most of these reports have been investigated, some in the series of 13 governmental investigations that we cited in our first rebuttal. On his second day in office, [President Obama directed a review](#) that is an excellent starting place for readers wishing to investigate further.

Drs. Soldz and Reisner appear to assume that any governmental or military report is by definition untrustworthy—unless the conclusion is to their liking. To sift through the voluminous evidence presented on all sides is not our task; we can speak only to events of which we have first-hand knowledge. We therefore make only two points:

- At the time of PENS, in June 2005 (the relevant time period), clear military policies prohibiting abusive interrogations were in place. Drs. Soldz and Reisner’s broad attack against interrogations post-PENS evades the key point: No written rules will fully constrain all individual behavior. The purpose of a rule is to minimize the likelihood of inappropriate behavior occurring. Our rebuttal does not rest—nor could it—on the claim that abusive interrogations had ended by the time of PENS. The rules that are closest to the ground where the action is taking place, and which are reinforced by strong sanctions, are most likely to be effective. Those are the kind of rules we helped put in place and which were in place in June 2005 by the time of the PENS Task Force. They defined abuse with precisely the kind of specificity Mr. Hoffman says was absent. Mr. Hoffman never examined these policies in his 542-page report, which is unconscionable.
- Drs. Soldz and Reisner provide no evidence that we participated in, sanctioned, or authorized those under our authority to conduct abusive interrogations – because there is no such evidence. Instead, they rely on

inferences of the “they must have known” or “chains of command” variety and, more generally, on rhetoric that assumes our motives are necessarily selfish, if not malign, and that the motives of our critics are beyond reproach. They either do not comprehend or prefer to ignore the conditions we faced during those difficult years following 9/11, working in complex and often hostile and dangerous environments and pursuing goals that were sometimes in conflict with highly placed and powerful individuals in the U.S. government.

2. Ranging far beyond the Hoffman report, Drs. Soldz and Reisner make much of the fact that, when Appendix M of the 2006 Army Field Manual was issued (long after the relevant time period of the PENS Task Force in June 2005), human rights organizations and others argued that it did not do enough to prohibit abusive interrogations. Here is what Drs. Soldz and Reisner fail to say: When the McCain-Feinstein amendment was passed in June of 2015, it made it clear that torture and abusive interrogations were prohibited, and that Appendix M could not be interpreted otherwise. After the amendment’s passage, which was widely supported by human-rights groups, **the APA and those groups came out in strong and unanimous support of the amendment and, notably, of its reliance on the Army Field Manual as the bulwark against cruel treatment or torture.**

In a [November 27, 2015, release](#), the APA said:

The American Psychological Association applauded President Obama’s signing of the FY 2016 defense authorization bill, which includes an amendment reaffirming the statutory prohibition on the torture of detainees in U.S. custody and *limits interrogation techniques to those included in the Army Field Manual*. (Emphasis added)

In June of 2015, while the McCain-Feinstein amendment was being considered, Human Rights First [issued talking points in support](#). That document said that the amendment “takes torture and detainee abuse off the table,” and establishes the Army Field Manual as the single, government-wide standard for national security interrogations so that interrogators won’t ever again be asked to engage in torture or cruel treatment.

Similarly, in [a statement issued on June 9, 2015](#), a coalition of human-rights groups (including the ACLU and the Center for Victims of Torture) said the amendment was:

A positive game-changer by mandating among other things that interrogations conducted by all Department of Defense personnel had to follow the U.S. Army Field Manual on Interrogation (the Interrogation Manual). The McCain-Feinstein amendment extends and improves the Detainee Treatment Act by making the Interrogation Manual the standard for all U.S. government interrogations, and by mandating that the Manual be reviewed and updated regularly to insure that it

reflects the very best evidence-based interrogation practices and complies with all U.S. legal obligations.

Finally, on February 8, 2016, *Dr. Reisner himself posted* publicly his support¹ for Senator McCain and a link [to a recent statement Senator McCain](#) made with respect to the Army Field Manual:

Last year, the United States Senate passed in an overwhelming vote of 91-3 the National Defense Authorization Act for Fiscal Year 2016, legislation that took a historic step forward to ban torture once and for all by limiting U.S. Government interrogation techniques to those in the Army Field Manual. The Manual embodies the values Americans have embraced for generations – preserving the ability of our interrogators to extract critical intelligence from our adversaries while recognizing that torture and cruel treatment are ineffective interrogation methods. Some of the nation’s most respected leaders from the U.S. military, CIA, FBI, as well as faith communities and human rights organizations, have expressed their support for this legislation.

Senator McCain’s position has been *precisely* our position for many years. We are left wondering exactly what Drs. Soldz and Reisner are disagreeing with about that position.



← Q Steven Reisner

 **Steven Reisner** Feb 8 at 5:44pm • 

John McCain, the only Republican adult willing to reign in the boys with toys.

STATEMENT BY SENATOR JOHN McCAIN ON INHUMANE INTERROGATION METHODS - Press...
mccain.senate.gov

5 likes 1 comment

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1

Point 3: The alleged conflict of interest arising from Dr. Newman's and Colonel Dunivin's marriage was disclosed many times, and a prior opinion obtained by the General Counsel of APA found that the marriage did not in itself constitute a conflict.

The marriage was fully disclosed to the APA and was made public to members in *The Monitor*. Dr. Newman never attempted to keep any aspect of the relationship secret from anyone. Moreover, when he was approved as an observer of the PENS Task Force, the General Counsel of APA, Nathalie Gilfoyle, was a member of the PENS listserv and participated in email communications that made his role as an observer clear. At a previous time when Colonel Dunivin was a candidate for an APA committee, Ms. Gilfoyle had sought advice from PriceWaterhouseCoopers about whether the marriage in and of itself presented a conflict. She received advice that it did not, and that the existence of an actual conflict would have to be evaluated on a case-by-case basis.

In the PENS process there was no conflict. First, the purpose of the PENS Task Force was *not* to usurp the Ethics Committee's function to determine whether any psychologists had violated the ethics code, as Drs. Soldz and Reisner contend; rather, it was to determine whether the existing ethics code could be adequately applied to psychologists serving in an interrogation support role. Second, Dr. Newman was a non-voting observer who spoke less than others present at the meeting (as confirmed by three sets of contemporaneous notes), was not a member of the PENS listserv, and, other than his limited participation as an observer during the meeting itself, did not otherwise participate in the debate about, or the drafting of, the guidelines. Any suggestion that Dr. Newman had a leadership role at the meeting is directly contradicted by multiple sets of contemporaneous notes. Finally, although Colonel Dunivin suggested members for the task force (as any APA member was absolutely free to do), she had no ability to select members, she was not herself a member of the task force, and she was not present during any portion of the task force meetings or deliberations.

Our next full reply to Hoffman report will deal with its assertion that we and others "colluded" to affect the PENS process and the 2006 APA Council debate to ban psychologists from participating in interrogations. The documents will show that there was no collusion or secret collaboration and that the proposed ban was openly and fairly defeated on the Council floor in 2007. We will also demonstrate further that, as we have shown in our previous replies, although Mr. Hoffman claimed to be conducting an independent review, he produced a one-sided, prosecutorial brief that ignores or distorts facts and relies heavily on false statements, inferences and *ad hominem* rhetoric to sustain its narrative.

Colonel (Ret.) L. Morgan Banks
Colonel (Ret.) Debra L. Dunivin
Colonel (Ret.) Larry C. James
Dr. Russ Newman