

## **Response to the Hoffman Independent Review**

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Disclaimer: The views expressed here are solely those of the authors as representatives of the American Psychological Association (APA) Division 19 and do not in any way represent the views of any branch of the U.S. Armed Forces, the Department of Defense (DoD), or any other entity of the U.S. Government. The military rank for task force members with service in the Armed Forces at present or in the past has been removed to eliminate any misunderstanding or misperception regarding our roles in this response, which are solely as members of APA and Division 19.

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## Executive Summary

The president of the American Psychological Association (APA) Division 19, the Society for Military Psychology, with the approval of the division executive committee (EXCOM), created a task force (TF19) following the release of the Hoffman Independent Review (hereinafter referred to as the Hoffman Report) by APA in July 2015. As identified in the terms of reference (Appendix A), the charge given to TF19 by the division president was to examine the Hoffman Report from a perspective informed by the scientific method. The division president requested that TF19 make a number of determinations including whether the report brought forth evidence that the division or any division member acted in support of torture, whether the report's discussions and conclusions were based on a correct understanding of the relevant facts and an adequate understanding of military culture, and whether an apology from the division regarding any of the events recounted in the report is warranted. The division president also charged TF19 with providing specific recommendations to assist the division in moving forward.

Torture is antithetical to the core values of military members, military officers, and military psychologists. TF19 found that Division 19 has never wavered from this position. TF19 found no evidence in the Hoffman Report that Division 19 or any Division 19 member supported torture or engaged in unethical behaviors with respect to interrogation support.

With respect to the specific findings identified by the Hoffman Report, the review completed by TF19 included the following:

- The Hoffman Report's conclusions are based upon 1) an inaccurate understanding of DoD interrogation policies in place when the PENS Task Force met in June 2005, 2) an inadequate understanding of how military interrogations are conducted, 3) a misconception of military culture, and 4) a deep bias against military psychology and military psychologists. While acknowledging that U.S. personnel were involved in torture and abusive treatment of detainees following the events of 11 September 2001, TF19 did not find a basis for an apology by Division 19 for actions of the division or for the actions of division members with regard to interrogation support.
- There was no evidence of collusion, as defined by the Hoffman Report, to ensure that abusive interrogation techniques could continue under guidelines provided by the Presidential Task Force on Ethics and National Security (PENS) Report. By the time that

the PENS Report was adopted as APA policy in July 2005, the Department of Defense (DoD) had enacted strict policies, tight guidelines, and close oversight for military interrogation activities in response to abuses that had occurred in 2002-2004. DoD guidelines, as they existed at the time the PENS report became APA policy, directly contradict the factual foundation of the Hoffman Report's main conclusion. TF19 therefore found that the Hoffman Report's main conclusion is incorrect.

- TF19 found no evidence in the Hoffman Report of any *quid pro quo* between Division 19 and the APA or DoD with regard to any of the issues raised in this investigation, to include the PENS Report. TF19 found that the Hoffman Report itself acknowledged that there was no specific or concrete benefit provided by DoD to APA in exchange for any action or policy related to interrogations. TF19 could find no evidence in the Hoffman Report of an inference, a hint, or a promise of any benefit from DoD in exchange for any APA action or policy related to interrogations.
- Division 19 has been consistent in its insistence that regard for human welfare and human rights is a core component of the ethical practice of psychology, regardless of the setting or location of that practice. TF19 did not find any evidence in the Hoffman Report to indicate that any military psychologist engaged in unethical interrogation-related activity following APA's adoption of the PENS Report in July 2005, or any military psychologist lacked appropriate and sufficient interrogation-related guidance following adoption of the PENS report as APA policy.

TF19 views it as essential that APA establish a corrective process to ensure that the Hoffman Report is based solely upon accurate information regarding DoD policies related to interrogation, conveys an adequate understanding of how military interrogations are conducted, is informed regarding military culture, and is free from bias against military psychology and military psychologists. While TF19 acknowledges that the revised Hoffman Report, dated 4 September 2015, did correct some errors, much work remains to be done to reach the standard expected of a scientific organization.

## Division 19 Presidential Task Force Report

### Introduction

The infliction of torture evokes a strong, visceral response for us all, as it must. To engage in; direct; support; facilitate; offer training; or fail to prevent torture or other cruel, inhuman, or degrading treatment is deeply inconsistent with the ethics and values inherent to military service and the entire profession of psychology. Senator John McCain, himself a victim of torture as a prisoner of war in Vietnam, stated:

I have often said, and will always maintain, that this question isn't about our enemies; it's about us. It's about who we were, who we are and who we aspire to be. It's about how we represent ourselves to the world. When we fight to defend our security we fight also for an idea . . . that all men are endowed by the Creator with inalienable rights. Our enemies act without conscience. We must not.<sup>1</sup>

The debate about the role of psychologists in national security interrogations has been highly charged, bringing to the fore deeply held beliefs about the practice of psychology, human rights, and ethical responsibilities. In addition, the events leading to, and the responses stemming from, the Hoffman Report have highlighted the tension that has always existed regarding the very identity of psychology as a profession – whether it is a field based solely in research, education, and provision of services related to clinical care, or a field that also allows for consultation in which the “client” is an agency or organization.

On 12 November 2014, the Board passed a resolution calling for “a definitive, independent and objective review” of allegations that APA had colluded with the U.S. Government to support torture during the war on terror.<sup>2</sup> While this action was triggered by the release of James Risen’s book,<sup>3</sup> “critics”<sup>4</sup> within APA have long argued against the role of psychologists in support of interrogations. The law firm Sidley Austin was selected to conduct this review, a process which resulted in “The Report to

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<sup>1</sup>Statement given to the U.S. Senate in support of the public release of the Senate Intelligence Committee Report on Torture, 10 December 2014, Retrieved from <http://www.cnn.com/2014/12/09/politics/mccain-lauds-release-terror-report/index.html>. APA supported anti-torture legislation authored or co-authored by Senator McCain, twice, first in 2005 and subsequently in 2015.

<sup>2</sup> Retrieved from <http://www.apa.org/about/governance/board/independent-review.aspx>

<sup>3</sup> Risen, J., *Pay Any Price: Greed Power and Endless War*, Houghton Mifflin Harcourt, NY, 2014.

<sup>4</sup> A term used in the Hoffman Report to describe the group who has long opposed the role of psychologists in support of interrogations.

the Special Committee of the Board of Directors of the American Psychological Association: Independent Review Relating to APA Ethics Guidelines, National Security Investigations and Torture.”<sup>5</sup>

The allegations of the Hoffman Report are deeply troubling and must be subjected to a fair, neutral analysis informed by the scientific method. The core values that anchor APA include the pursuit of excellence, knowledge “based upon methods of science” (emphasis added), service, social justice and ethical action.” In defining itself, APA identifies a strategic plan “to excel as a valuable, effective and influential organization advancing psychology as a science” (emphasis added).<sup>6</sup> As such a profession, psychologists are compelled to look into the mirror and critically examine their own ethical behavior. Certainly, the Hoffman Report has set the stage for such an examination. As scientists, psychologists are also obligated to maintain an awareness of the powerful forces of subjectivity and bias and to strive, to the best of their ability, to provide factual evaluations and objective recommendations. To paraphrase Alexander Solzhenitsyn, it is not that the truth is too difficult to see that we make mistakes. We make mistakes because the easiest and most comfortable course is to seek insight where it accords with our emotions.<sup>7</sup>

The questions provided to the Hoffman team set the stage for psychology’s treacherous trio: confirmation bias, cognitive dissonance, and motivated reasoning.<sup>8</sup> The Hoffman team acknowledges that they “are not psychologists” nor did they have any previous familiarity with the “people, processes, organization or history of APA.”<sup>9</sup> This acknowledgement raises the question of whether a judge, trained to weigh and balance the facts on both sides of an argument, rather than a prosecutor, would have been a more appropriate choice for an independent, neutral review.

The original questions, as identified in the Board’s 14 November 2014 resolution, were as follows:

- whether APA colluded with government officials to support torture, as evidenced by
  - whether APA supported the development or implementation of enhanced interrogation techniques that constituted torture;

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<sup>5</sup> Retrieved from <http://www.apa.org/independent-review/APA-FINAL-Report-7.2.15.pdf>

<sup>6</sup> Retrieved from <http://www.apa.org/about/apa/strategic-plan/default.aspx>

<sup>7</sup> Peace and Violence, sct. 2, in Index No. 4, London, 1973.

<sup>8</sup> Phrase coined by Sam McNerney, 7 September 2011, Internet post. Retrieved from <http://whywereason.com/2011/09/07/psychologys-treacherous-trio-confirmation-bias-cognitive-dissonance-and-motivated-reasoning/>

<sup>9</sup> Hoffman Report, 2 July 2015, p. 5 (Text page numbers rather than pdf page numbers are cited here and throughout this report.)

- whether changes to Ethics Code Standard 1.02 or the formation and/or report of the PENS Task Force were the product of collusion with the government to support torture or intended to support torture; and
- whether any APA action related to torture was improperly influenced by government-related financial considerations.<sup>10</sup>

The Hoffman Report appears to conclude that the answer to each of the three Board questions is “no.”

To reach a positive conclusion, the Hoffman team reinterpreted the Board’s questions at the encouragement of the Special Committee.<sup>11</sup> At some point, the Special Committee expanded the scope of the investigation to include “the relevant issues in Risen’s book and the critics’ allegations regarding the changes to APA policies and the driving forces behind those changes.”<sup>12</sup> The Special Committee requested that the Hoffman team spend time with the critics as a prelude to the “independent” investigation. In his meeting with the Council of Representatives during the APA annual convention in August 2015, Mr. Hoffman emphatically confirmed that he had, indeed, spent considerable time doing just that. While even the initial approach to the problem at hand forms a potential for confirmation bias, this relationship apparently continued over the entire course of the investigation.<sup>13,14</sup>

In an effort to identify the science, practice, and membership implications arising from the Hoffman Report as well as potential policy and process improvements for Division 19, Tom Williams, PhD, Division 19 president, established Presidential Task Force Division 19 (TF19) shortly after the Hoffman Report was leaked to the press. This effort was unanimously supported and approved by Division 19’s EXCOM. His charge to TF19 was to maintain the highest degree of integrity and objectivity in reviewing the Hoffman Report and the supplemental materials. TF19 relied upon our expertise as scientific

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<sup>10</sup> Hoffman Report, 2 July 2015, p. 64.

<sup>11</sup> Ibid., p. 1.

<sup>12</sup> Ibid., p. 64.

<sup>13</sup> “So, Hoffman and his team of six have been active for the last seven months. I know I and my colleagues decided to help him. We had a number of phone meetings and gave him all the documents we had, and encouraged others to do so. We were hopeful that he was the real deal, and it turns out that he was.” Interview with Dr. Stephen Soldz by Amy Goodman, Democracy Now!, 13 July 2015.

<sup>14</sup> TF19 notes that in their “Comments by Drs. Stephen Soldz and Steven Reiser to the Board of APA that were suppressed until the official release of the report,” Drs. Soldz and Reiser state that “In late June, 2015, as they prepared to receive the Hoffman Report, the APA Board asked to meet with us. . . . The Board requested and we agreed to keep the substance of our discussions confidential until the report became public.” Retrieved from [https://www.reddit.com/r/AcademicPsychology/comments/3cwswf/hoffman\\_torture\\_report\\_was\\_released\\_apa/](https://www.reddit.com/r/AcademicPsychology/comments/3cwswf/hoffman_torture_report_was_released_apa/) This arrangement sounds similar to certain relationships described in the Hoffman Report as constituting “collusion” between APA and DoD.



practitioners and our experience as psychologists working with complex organizations in parsing the facts, the fallacies, and the inconsistencies contained within that document. While acutely aware that there will be some who will immediately discount our efforts, precisely due to our membership in Division 19, TF19 remains optimistic that the foundations of methodology, logic, and rationality that underscore our profession remain dear to others. The specific terms of reference are provided in Appendix A.

TF19 consisted of seven individuals. Sally Harvey, PhD, served as the chair, with Janice Laurence, PhD; Larry Lewis, PhD; Deb Engerran, PsyD; Joseph Bonvie, PsyD; Michael Oganovich, PsyD; and Jennifer Barry, MA, as members. The team was assisted by Angela Legner, MA. Members of TF19 were chosen to achieve a balance between those with operational, clinical, and research expertise. The members are serving or have served with each of the military services and/or as civilians within the DoD and academia. One member is a doctoral student, another an early career psychologist. Several, but not all, have held officer positions within APA. In the interest of transparency, while none of TF19 members were interviewed by the Hoffman team, Dr. Laurence was mentioned in the report within the context of her position as president, Division 19, in 2001. In addition, several members of TF19 are colleagues of psychologists who were named in the Hoffman Report; military psychology is, after all, a small community.

It was beyond the charge given to TF19 to critically examine the entirety of the 542 pages of the Hoffman Report - a document that included thousands of pages of supporting documents compiled over the course of a nearly eight-month long investigation - for factual errors and/or erroneous assumptions. As such, this analysis was limited to a review of the material as it applied to the division or any Division 19 member. Of the 167 individuals named in or interviewed for the Hoffman Report, 15 were or are members of Division 19. Two of these, Norman Anderson, PhD, and Barry Anton, PhD, were excluded from our analysis as they are currently members of every APA division, indicative of their overall allegiance to the larger organization. The list of 13 psychologists who were, or are, members of Division 19 during the period examined by the Hoffman Report is included in this report's Appendix B.

The report consists of five sections - Introduction, Findings and Recommendations, Historical Context, Responses to the Terms of Reference, Summary Observations, and Appendices A - C. TF19 recognizes that the placement of the Findings and Recommendations near the beginning of this report is a departure from the usual format; however, the cumulative weight of these items, amid the significant challenges facing both Division 19 and APA, warranted this editorial decision.

## TF19 Summary of Findings

TF19's investigation into the Hoffman Report was limited to Division 19 as an institution and to its membership; however, TF19 recognizes that many of the recommendations carry implications for the greater APA. After reviewing the Hoffman Report and its supporting documents, TF19 concluded there is no evidence that Division 19 has functioned in the past or functions at present under unethical policies or procedures or that any individual member of the division engaged in unethical behavior concerning interrogation support.

### Findings

- There was no evidence of “collusion” as defined by the Hoffman team. The conclusions in the Hoffman Report are based on 1) an inaccurate understanding of DoD interrogation policies in place when the Presidential Task Force on Ethics and National Security (PENS Task Force) met in June 2005, 2) an inadequate understanding of how military interrogations are conducted, 3) a misconception of military culture, and 4) a deep bias against military psychology and military psychologists. There was, however, substantial evidence to indicate that a significant degree of cooperation did occur, specifically during the events surrounding the PENS Report and within the relationships that existed between DoD and APA. The Hoffman Report did not produce evidence that this degree of cooperation was greater than what ordinarily occurs when APA writes specialty guidelines for other specific areas of psychological practice. Specific elements central to the scientific method – consideration of other explanations, peer review, and data sharing – were absent from the process utilized by the Hoffman team.
- There was no evidence in the Hoffman Report to support the conclusion that the marital relationship between COL(R) Debra Dunivin, PhD, and former APA Director for Professional Practice Russ Newman, PhD, resulted in 1) any loosening of the ethics guidelines governing military interrogations, allowing for abusive actions; 2) any support for abusive interrogation techniques or violations of human rights; or 3) any difference in how the PENS Report, which placed an absolute prohibition against torture, would have been written had Dr. Newman not attended as an observer.
- TF19 found that meaningful, ethical, and supportive field guidance was provided by members of Division 19, and substantial efforts were made to standardize policies governing the role of psychologists consulting to interrogations through both training and ongoing consultation.

While this support was provided by Division 19 members, it was not offered under the umbrella of Division 19 but rather as a component of employment with DoD.

- TF19 found no evidence that any Division 19 practice, process, or policy unduly contributed to or inappropriately influenced APA's decision making regarding 1) the selection of PENS Task Force members or 2) APA's usual manner of exercising internal checks and balances within its ethics policies.
- Division 19 has been consistent in its insistence that regard for human welfare and human rights is a core component of the ethical practice of psychology, regardless of the setting or location of that practice. TF19 did not find any evidence to indicate that any military psychologist engaged in unethical interrogation-related activity following APA's adoption of the PENS Report in July 2005, or any military psychologist lacked appropriate and sufficient interrogation-related guidance following adoption of the PENS report as APA policy.
- There was no evidence to indicate that any member of Division 19 failed to live up to APA's core values with respect to interrogation support.
- There was no evidence of any *quid pro quo* between Division 19 and the APA or DoD with regard to any of the issues raised in the Hoffman Report, to include the PENS Report.
- In light of these findings, TF19 found no basis for an apology from Division 19 leadership for any actions of the division or its members.

#### **Recommendations for Action: Division 19 Executive Committee**

TF19 provides the following recommendations for consideration by the Division 19 EXCOM:

- That Division 19 leadership continue to insist that the APA Ethics Code be based upon behavior as opposed to setting, location, or employer.
- That a neutral party with the requisite competence and experience conduct a thorough, neutral review of the Hoffman Report in its entirety to include its methodology, given the report's demonstrated bias and known inaccuracies, with a response to this request for action received prior to 15 December 2015.
- That Division 19 leadership requests an explanation from the APA Board of Directors regarding the following events, each of which has had a deleterious impact upon either Division 19 or a Division 19 member, with a response to these issues be received prior to 15 December 2015:
  - why, as evidenced by the Board's proposed timeline of events related to the release of the Hoffman Report, the Board did not make part of this process an opportunity for

those named in the report, including Division 19 members, to correct inaccuracies prior to the report's public release, originally scheduled on/or about 15 July 2015;

- what steps the Board took to obtain a legal analysis to determine the impact that the Board's proposed resolution would have on military psychologists, specifically the resolution's "BE IT RESOLVED" clause that states that the United Nations rather than the U.S. Government will now determine compliance with international law, including the U.N. Convention Against Torture and the Geneva Conventions to which the United States is a signatory;
- the decision and process by which the Board recommended that Council adopt the August 2015 Resolution prohibiting psychologists' involvement in military interrogations, despite the absence of any credible claim that any DoD psychologist has engaged in unethical interrogation-related activity in the decade following APA's adoption of the PENS Report in July 2005;
- the decision and process by which the Board recommended that Council adopt the August 2015 Resolution, specifically the resolution's "BE IT FURTHER RESOLVED" clause that states military psychologists working in certain detention settings may only work directly for the detainee or "for an independent third party working to protect human rights," conditions that would preclude a military psychologist working for the DoD from providing mental health care to detainees, in apparent contradiction to the Geneva Conventions, which require that detainees receive adequate medical care;
- the decision and process by which Steven Reisner, PhD, and Stephen Soldz, PhD, were provided access to the Hoffman Report and allowed to meet with the Board with their recommendations at the Board's meeting on 2-3 July 2015, while military psychologists named in the report, to include the Division 19 Council Representative, did not gain access to the Hoffman Report until the following week. This decision is especially puzzling given that Drs. Reisner and Soldz were coauthors of "All the President's Psychologists,"<sup>15</sup> which made numerous assertions that the Hoffman Report found to be without merit;
- the decision to insist that William Strickland, PhD, a past-president of Division 19, be recused from any dealings related to the Hoffman Report in light of the fact that other

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<sup>15</sup> Retrieved from <http://www.nytimes.com/interactive/2015/05/01/us/document-report.html>

members of the Board, who were not recused, appeared to have had as least as much involvement in the relevant events;

- the justification and process by which the ethics complaint against COL(R) Larry James, PhD, was disclosed to the public, in apparent violation of APA bylaws and the Ethics Committee's 2002 "Rules and Procedures" governing the disclosure of confidential information regarding ethics matters;
  - the decision made by the Special Committee to apologize to detainees and their families, issued at a town hall meeting during the 2015 annual convention, specifically, on behalf of whom the apology was issued and what actions warranted that apology;
  - what steps the Board took, consistent with its fiduciary duty to APA membership, including Division 19 members, to monitor the cost associated with the Hoffman Report as it began to exceed, many times over, the original estimated budget of \$400,000 to \$800,000, and is now approximately \$5,000,000;
  - given that military psychologists named in the report were not informed that the Hoffman Report was under revision and that changes would be made to the report, the decision and process by which it was determined that the Hoffman Report would be revised, who was informed of this decision when the decision was made, and why Division 19 members named in the report were not informed that they should contact Mr. Hoffman directly because he was producing an errata sheet and a revised report;
  - what steps the Board will take to correct the Hoffman Report to ensure that the report 1) is based solely upon accurate information regarding DoD policies related to interrogation, 2) conveys an adequate understanding of how military interrogations are conducted, 3) is informed regarding military culture, and 4) is free from bias against military psychology and military psychologists; and
  - how APA intends to repair the damage that has been done to Division 19 members who did not have an opportunity to respond prior the report being made public.
- In the interest of accountability and transparency,<sup>16</sup> that the Board release all material referenced or used in the Hoffman Report, with a response to this request received prior to 15 December 2015. TF19 notes that this request is consistent with APA Ethical Standard 8.14

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<sup>16</sup> TF19 concurs with Susan McDaniel, PhD, that "we have much work ahead as we work to make APA more transparent." Thomas, J., *The National Psychologist*, (2015, 13 October). Retrieved from <http://nationalpsychologist.com/2015/10/apa-resets-moral-compass-at-toronto-meeting/102996.html>

(Sharing Research Data for Verification). TF19 recommends that Division 19 members, past and present, who are requesting this information to clear their names, receive the same cooperative and accommodating effort from the Board as the APA was with the Hoffman team who stated “we received complete cooperation from APA which opened up all its electronic and hard-copy files to us.”<sup>17</sup>

- That Division 19 leadership request that the APA Board explain whether, in its response to Brian Baird’s<sup>18</sup> 17 September 2015 letter, in which Dr. Baird criticized APA 2015 Resolution which prohibited psychologists’ support to interrogations, the Board intended to state that military psychologists have been given insufficient guidance regarding the appropriate conduct of interrogations and, if the Board did so intend, what example the Board has of any military psychologist lacking appropriate guidance regarding the conduct of interrogations after the PENS Report became APA policy in July 2005.
- That Division 19 leadership continue to seek multiple avenues for continuing education and mentorship opportunities for all APA members and the profession of psychology illustrative of the challenges within military psychology, to include national security.
- That the EXCOM of Division 19 establish a special committee to identify and support nominee to APA committees, task forces, and working groups.

### **Historical Context for TF19 Analysis of the Hoffman Report**

The very history of APA includes a rich interconnection with the military and military psychologists. TF19 recognized that alongside an appreciation of this history, it is also important to recognize that DoD is an organization with a unique culture, one whose structure and processes may be unfamiliar to many readers. TF19 felt it imperative, therefore, to provide historical context, perspective, and a foundation of these connections to assist the reader with an understanding of the nature of the Hoffman Report.

This section is divided into four subsections: Psychology and the Military, The Department of Defense and Psychologists, Detainee Interrogations and Behavioral Science Consultation Teams, and The Evolving Role of Behavioral Science Consultation Teams.

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<sup>17</sup> Hoffman Report, 2 July 2015, p. 8.

<sup>18</sup> Brian Baird, PhD, is a clinical psychologist and former member of Congress who has been the recipient of numerous APA political action committee donations and has been a strong supporter of issues of importance to the profession of psychology.

## **Psychology and the Military**

TF19 felt it imperative, in developing an understanding of the nature of the Hoffman Report, to provide context and perspective as well as a foundational base for military psychology in psychology's history. In 1917, then-APA President Robert Yerkes observed the actions of other sciences in assisting the military as the United States was preparing to enter World War I. He established 12 committees within APA to gather information on potential applications of psychology to the national defense effort. These committees included the Committee on Psychological Problems of Aviation, including Examination of Aviation Recruits; the Committee on Propaganda Behind the German Lines; and the Committee on Tests for Deception, which investigated the use of physiological measures to determine truthfulness, a precursor of the polygraph. The subsequent use of psychometrics in assessment and selection of recruits firmly established the credibility of psychology. The applications of psychology grew exponentially during World War II, with expansion of testing for individual abilities; research in the areas of ergonomics, productivity, motivation, and morale; as well as applications to instruction, training, and leadership. During the Cold War, psychologists applied their science to research, evaluation, training, and education for issues raised by the specter of nuclear war. Military psychologists served as clinicians during the Korean and Vietnam Wars, in hospitals as well as on the battlefield. In sum, most psychologists today can trace their professional foundation and legacy, at least in part, to collaboration with the U.S. military. TF19 characterizes this close working relationship as collaboration, not "collusion."

Over the past 75 years, the U.S. military has been a significant change agent in American culture in areas that the general population had difficulty accepting, such as integration of people of color; women; and most recently, the lesbian, gay, bisexual, and transgender community. In addition, psychologists within the military continue to be in the forefront with research and clinical approaches to posttraumatic stress disorder, substance abuse, and traumatic brain injury as well as to the social, educational, and treatment needs of military families and veterans. There are psychologists who lead health clinics, chair departments, and advise senior leaders within DoD regarding behavioral health and policy actions. Today, psychologists are addressing a multitude of additional challenges – resiliency and well-being; the "performance triad" of sleep, nutrition, and activity; suicide; risk management; and issues related to national security. These topical areas carry significant potential for improvements in treatment, interventions, and policies that extend far beyond the boundaries of military psychology. By putting their skills to work in such areas as clinical care, assessment and selection, training and instruction,

program development, broad-based research, and other important applications, such as operational psychology, psychologists working within DoD have transformed psychology into an integrative discipline that spans a diversity of fields.

The vast majority of military psychologists complete a clinical internship within their respective service as a component of their graduate education. Today, there are 11 internship sites through the Army, Air Force, and Navy, training 68 students annually. These internships are all APA accredited. In 1958, the Army program conducted through Walter Reed National Military Medical Center became one of the earliest programs accredited by APA. Upon completion of the internship, dissertation, and licensure requirements, a military psychologist can be assigned to any number of positions, depending upon the needs of the service and, to a degree, individual interests. Specialized fellowship training is also available to uniformed military psychologists in a number of areas, including aeromedical psychology, pediatric psychology, forensic psychology, health psychology, and neuropsychology. While not all who start their careers as uniformed psychologists complete a military career, those who remain experience a multitude of opportunities to expand their skills through positions of increasing responsibility and scope.

Division 19 is one of the charter divisions that emerged from the 1945-1946 reorganization of APA with the American Association of Applied Psychology. Its membership of over 1,200 represents one of the most diverse divisions within APA, composed of clinicians, consultants, researchers, educators, and students. Most members of Division 19 are civilians; some have military experience; and a few are serving on active military duty. Its members work in various roles across settings in academia, private practice, research labs, private companies, not-for-profit organizations, and the Veterans Administration. The division's many international members also work in a variety of the aforementioned capacities, including for foreign governments and agencies. While small in numbers, it is one of the few divisions within APA that has demonstrated growth over the past several years.

It must also be noted that Division 19 has dealt with controversy throughout much of its history, a legacy that continues to this day. Perhaps the most serious conflict occurred during the Vietnam War, when Division 8, the Society for Personality and Social Psychology, introduced a resolution for the abolition of Division 19 based solely upon opposition to the war. Never formally considered by Council, this resolution represented a significant break within APA in its long tradition of supporting psychology within the U.S. military services. Similar issues were raised during the Gulf War, as objections arose



regarding the roles of psychologists within the military. This dissension was stalled when APA honored several uniformed military psychologists for their service during the war at the 1991 annual convention.

Another product of the cooperation that also involved a measure of controversy involved the DoD Psychopharmacology Demonstration Project, an effort that produced 10 uniformed psychologists credentialed to prescribe medications. While the debate surrounding this effort arose primarily outside of APA, the question of psychology's "identity" was central to the discussion. Although the project ended in 1997, its influence continues to reverberate today in jurisdictions that have approved psychologists' prescription privileges.

Another controversy involved the conflict over DoD's ban of gays and lesbians serving in the military. In 1992, Council overwhelmingly supported a resolution that banned advertising by the military services for job openings and internships at APA conventions and within APA publications. In 2001, the issue resurfaced following a letter from Janice Laurence, PhD, then president of Division 19, to the president of APA, Norine Johnson, PhD, pointing out that the ban was not DoD policy but rather U.S. law that only Congress and the President could change. Pressuring the military services was and would continue to be ineffective. In 2003, the APA Task Force on Sexual Orientation and Military Service was established, composed of members of Divisions 19 and 44, the Society for the Psychological Study of Gay, Lesbian, Bisexual, and Transgender Issues. This task force recommended ending the ban, and the Council quickly passed this recommendation as a resolution. Of note, military psychologists within the DoD were very influential in the subsequent repeal of "Don't Ask, Don't Tell," with their research proving critical in informing policy makers.<sup>19</sup> The senior author of the DoD Comprehensive Review Report was joined by several colleagues, all military psychologists and members of Division 19, in recommending to President Clinton that the ban on gays and lesbians serving in the military be lifted. These members worked closely with one another, some of whom were APA staff, some of whom were military members, and some of whom were members of Divisions 19 and 44. All of these individuals collaborated to find common ground.

The facts are straightforward: Many of the advances in psychology and APA itself have been forged by military psychology in war or the preparation for war. Much of the early history of APA and Division 19 was devoted to developing psychological tools to help the U.S. military services prepare for combat and perform well under fire and then to treat the mental ravages of war. Military psychology has also

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<sup>19</sup> Gade, P. (2012, September). Repealing don't ask, don't tell: A brief history, Society for Military Psychology. Retrieved from <http://www.apadivisions.org/division-19/publications/newsletters/military/2012/09/spotlight-history.aspx>

played a significant role in advancing the success and contentment of all people by developing theory to understand, and tools to measure, aptitude and personality, transformational leadership and organizational change, job performance and satisfaction, ergonomics and workplace factors, and how to treat posttraumatic stress disorder and mild traumatic brain injury. Psychologists within DoD have participated in humanitarian missions, contributed to efforts to prevent violence, and worked to defuse conflict. Despite the history of accomplishments and contributions of military psychologists to the profession as a whole over many years, some APA members find our profession's foundation in national defense and war objectionable. These psychologists prefer to turn a blind eye to military psychology's overwhelmingly constructive history of positive accomplishments.

### **The Department of Defense and Psychologists**

The following provides a very brief description of the DoD. TF19 considers this description important in light of the emphasis placed within our profession to be mindful of differences,<sup>20</sup> to include culture - the military is a culture. The Hoffman team acknowledged that they had very little understanding of the profession of psychology prior to beginning their investigation; an acknowledgment that they were equally unfamiliar with military culture would have been beneficial, with an explanation of what specific steps the team took during the course of the investigation to familiarize itself with military culture. Unfortunately, the report suggests that the Hoffman team made very little effort in this regard.

The DoD consists of the military services as well as a host of other agencies focused upon intelligence, research, and logistics. The Central Intelligence Agency (CIA), Department of Homeland Security, and the Federal Bureau of Investigation are not DoD entities, but they do coordinate activities in areas of mutual concern. The DoD is a federal agency that operates with established processes, policies, and regulations. The DoD operates under the guidance of the Secretary of Defense (SECDEF), a presidential appointee confirmed by the U.S. Senate. Each of the military departments falls under the purview of a civilian secretary, each of whom is also confirmed by the U.S. Senate. Both uniformed members and civilian employees take an oath to uphold the U.S. Constitution as a condition of their service.

Uniformed members are also subject to the Uniformed Code of Military Justice (UCMJ).<sup>21</sup> Article 90 of

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<sup>20</sup> Standard 2.01 (Competence): b) Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language or socioeconomic status is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation or supervision necessary to ensure the competence of their services, or they make appropriate referrals, except as provided in Standard 2.02, Providing Services in Emergencies.

<sup>21</sup> Retrieved from <http://www.ucmj.us/>

the UCMJ makes it clear that military personnel must obey lawful commands. This same law also mandates that uniformed personnel have an obligation and a duty to disobey unlawful orders. While DoD has an established hierarchy, the very complexity of the organization depends upon cooperation and collaboration in making decisions and formulating policy. As opposed to the perception that these actions are achieved by either individuals or small groups working alone, this process requires multiple reviews, compromise, and consensus by subject matter experts, stakeholders and senior leaders.

One of the fundamental errors repeatedly echoed throughout the Hoffman Report involves the relationship between U.S. and international law. Uniformed members of the military, including psychologists who serve as officers, are bound by oath and regulation to uphold the U.S. Constitution and federal laws. As such, for military psychologists, international law cannot take precedence should there be a conflict between the two; there are a number of international laws, for example, to which the United States is not a signatory. That said, when the United States is a signatory to an international law, then that edict becomes a part of U.S. law. The facts are that the United States is a signatory to the Geneva Conventions as well as the U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). This fact was clearly articulated by MAJ Nathan Hoepner who, in August 2003, responded to an exhortation to “take the gloves off” with regard to interrogation techniques:

We need to take a deep breath and remember who we are. Those “gloves” are . . . based on clearly established standards of international law to which we are signatories and in part the originators. . . . It comes down to standards of right and wrong – something we cannot just put aside when we find it inconvenient. . . . BOTTOM LINE: We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.<sup>22</sup>

While the Hoffman Report cites MAJ Hoepner as a rare example of a military officer taking a stand against abuse, the report ignores that this military intelligence officer’s unambiguous stance is precisely that taken by the PENS Report<sup>23</sup> in Statement 4: Military psychologists are bound by international

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<sup>22</sup> Hoffman Report, 2 July 2015, p 71. The Hoffman Report describes MAJ Nathan Hoepner as an “unknown officer.” Yet this quotation, included in the Hoffman Report, appears on pages 168-169 of the Senate Armed Services Committee Report (SASC). The SASC Report clearly identifies the author of this quotation as MAJ Hoepner, who was serving as the Operations Officer for the Army’s 501<sup>st</sup> Military Intelligence Battalion. Report of the Committee on Armed Services, United States Senate, *Inquiry Into the Treatment of Detainees in U.S. Custody*, November 20, 2008 (SASC Report). Retrieved from [http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf)

<sup>23</sup> “In July 2013, APA’s governing Council of Representatives adopted the ‘Policy Related to Psychologists’ Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.’ This policy unifies into a single document prior APA policies dating to 1986 related to detainee welfare and interrogation. As part of the policy reconciliation process, the council also voted to rescind the 2005 Report of the APA Presidential Task Force on Psychological Ethics and National Security (PENS) and two other APA policies dated 2007 and 2008. These policies had become outdated or rendered inaccurate with the passage of subsequent policies, most notably a 2010

treaties to which the United States is a signatory, to include the Geneva Conventions and the CAT. The Hoffman Report erroneously asserts that “the [PENS] report rejected the use of or reference to international law, except to the extent that it was incorporated into and consistent with U.S. law (as then defined, including through the DOJ memos”; p. 23). The Hoffman team failed to note that the memos at issue - the “Bybee memo” and the “Yoo memo” - had been publically withdrawn and superseded in December 2004 by the “Levin memo,” a document that underscored the requirement to adhere to the CAT as well as applicable federal law,<sup>24</sup> which includes the Geneva Conventions.

In sum, by the time the PENS Task Force convened in June 2005, the applicability of the CAT and the Geneva Conventions to DoD interrogations had been reaffirmed and, as such, was clearly identified in Statement 4 of the PENS Report:

Psychologists involved in national security-related activities follow all applicable rules and regulations that govern their roles. . . . Psychologists have an ethical responsibility to be informed of, familiar with, and follow the most recent applicable regulations and rules. The Task Force notes that certain rules and regulations incorporate texts that are fundamental to the treatment of individuals whose liberty has been curtailed, such as the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Geneva Convention Relative to the Treatment of Prisoners of War.

Today, there are approximately 700 uniformed and 1,250 civilian psychologists within the military services of DoD. The vast majority of these professionals serve in clinical roles, providing care for their organizations’ members and, for the uniformed services, their families; since 9/11, the number of clinicians within the Army has nearly doubled. In addition to civilian research psychologists who work under contract, there is a much smaller subset of uniformed psychologists who are focused upon research or staff functions and an even tinier group of psychologists whose primary duties are termed to be “operational,” approximately 50 across all the military services. At present, the federal government is the single largest employer of psychologists; the Veterans Administration is the largest single source of internships – 224 sites, at present; and the DoD provides substantial support to universities and foundations with respect to research funding.

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revision of the APA Ethics Code and the 2013 policy.” Retrieved from <http://www.apa.org/news/press/releases/2005/07/pens.aspx>

<sup>24</sup> Retrieved from [http://www.justice.gov/sites/default/files/olc/opinions/2004/12/31/op-olc-v028-p0297\\_0.pdf](http://www.justice.gov/sites/default/files/olc/opinions/2004/12/31/op-olc-v028-p0297_0.pdf)

## **Detainee Interrogations and Behavioral Science Consultation Teams**

As long as there have been wars, there have been interrogations of captives, with techniques ranging from seemingly casual conversation to overt torture. There is ample evidence to support the charge that some detainees from the conflicts in Afghanistan and Iraq were subjected to interrogation techniques that constituted torture and, without doubt, were cruel, inhuman, and degrading. However, it is critical to note that the time frame for those actions was from 2002 to 2004.

What the Hoffman team completely overlooks is this: DoD made concerted efforts and took concrete steps to investigate and correct the abuses. DoD conducted 11 investigations,<sup>25</sup> which determined the facts and analyzed the circumstances related to detainee abuse – not only at Abu Ghraib but at Guantanamo and other DoD detention facilities. These reports resulted in 492 separate recommendations leading to action – changes in practices, procedures, and processes. It is imperative to underscore that within DoD, “recommendations” from such investigations are not aspirational – these are mandates. It is also important to be mindful of the timeline described below, as all activities within the military, to include interrogations, are guided by regulations. It is critical to note that none of the aforementioned reports identified a single incident of misbehavior on the part of a military psychologist, a finding also supported by the Hoffman Report,<sup>26</sup> and in fact, several investigations specifically identified the proactive actions taken by psychologists in identifying abuse.<sup>27, 28</sup>

MAJ John Leso, PhD, a military psychologist, and MAJ Paul Burney, MD, a military psychiatrist were the first to be put into the roles that later became the Behavioral Science Consultation Team (BSCT). Neither had the expectation that he would be providing this type of support prior to his arrival to Guantanamo Bay, nor did either have any training or exposure to this type of work in previous assignments. Guantanamo Bay was in its infancy as a detention facility. There were considerable concerns that the detainees held information critical to keeping Americans safe, and the leadership was under constant pressure to produce results. When ordered to write a memorandum identifying

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<sup>25</sup> These reports are identified in Appendix C and are readily accessible on the Internet.

<sup>26</sup> During the town hall meeting held during the August 2015 annual convention, Nadine Kaslow, PhD, stated that Mr. Hoffman confirmed this fact during his earlier meeting with the Council of Representatives.

<sup>27</sup> DOD, March 2005, *Report of DoD Detention Operations and Detainee Interrogation Techniques*, Washington, DC, pp. 18-13--18-16.

<sup>28</sup> DOD, February 2009, *Review of Department Compliance with President's Executive Order on Detainee Conditions of Confinement*, Washington, DC, p. 60.

additional interrogation techniques, both attempted to delay. MAJ Leso reached out for consultation,<sup>29</sup> an effort that he continued throughout his deployment. The BSCT received little assistance from the Judge Advocate General (JAG) Corps lawyer assigned to the facility, an individual whose job it was to provide legal guidance consistent with military regulations and U.S. law.<sup>30</sup>

MAJ Leso and MAJ Burney eventually did write the memorandum, which included a statement that specifically cautioned:

Experts in the field of interrogation indicate the most effective interrogation strategy is a rapport-building approach. Interrogation techniques that rely on physical or adverse consequences are likely to garner inaccurate information and create an increased level of resistance. . . . There is no evidence that the level of fear or discomfort evoked by a given technique has any consistent correlation to the volume or quality of information obtained. . . . The interrogation tools outlined could affect the short term and/or long term physical and/or mental health of the detainee. Physical and/or emotional harm from the above techniques may emerge months or even years after their use. It is impossible to determine if a particular strategy will cause irreversible harm if employed. . . .<sup>31</sup>

However, as this memorandum moved up the chain of command, this paragraph was intentionally removed, and a modified memo eventually reached the office of the SECDEF.<sup>32</sup> Nonetheless, the Senate Armed Services Committee cited this language that was deleted from the memo to rebut the legal analysis allowing certain enhanced interrogation techniques.<sup>33</sup>

With the benefit of a lens polished by 13 years of warfare, a greater appreciation of the literature regarding effective interrogation strategies, extensive guidance provided by professional associations regarding member involvement in interrogations, the development of specialized training, and an acute awareness of the inherent ethical challenges, one can retrospectively posit any number of different responses to this challenging scenario were it to occur today, but one can never re-create that exact time and place or the pressures on an early career psychologist in that situation which occurred in October 2002.

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<sup>29</sup> SASC Report, pp. 39-40.

<sup>30</sup> The legal analysis allowing the use of certain aggressive interrogation techniques provided by the JAG lawyer at Guantanamo in October 2002 was described as “legally insufficient” and “woefully inadequate” by senior military lawyers and an “incompetent product of legal analysis” by Alberto Mora, then U.S. Navy General Counsel. SASC Report, pp. 21, 107.

<sup>31</sup> Ibid., p. 52.

<sup>32</sup> Retrieved from <http://detaineeetaskforce.org>, p. 238.

<sup>33</sup> SASC Report, p. 64.

Historically, Army regulations governing military intelligence interrogations have been used by all the uniformed services. Prior to 6 September 2006, that guidance was provided by Army Field Manual (FM 34-52), Intelligence Interrogations,<sup>34</sup> which mandates that prisoners of war be treated humanely, in accordance with the Geneva Conventions. However, in November 2002, SECDEF Donald Rumsfeld approved several enhanced interrogation techniques, with the exception of waterboarding, for use at Guantanamo, a DoD detention facility; these approved techniques did result in abuse. Subsequent investigations in 2004 revealed that similarly coercive treatment of detainees had occurred in Iraq, specifically in Abu Ghraib, and in Afghanistan.

On 6 May 2004 GEN John Abizaid, then Commander, U.S. Central Command (USCENTCOM), suspended the use of all non-FM 34-52 techniques, including those previously approved by SECDEF Rumsfeld, in the CENTCOM Area of Operations, a swath of 27 countries that includes both Iraq and Afghanistan.<sup>35</sup> FM 34-52 states the following:

The GWS [Geneva Convention for the Amelioration of the Wounded and Sick in Armed Forces in the Field], GPW [Geneva Convention Relative to the Treatment of Prisoners of War], GC [Geneva Convention Relative to the Protection of Civilian Persons in Time of War] and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of aid to interrogations. (p. 1-8)

Torture is defined as the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure. Examples of physical torture include . . . forcing an individual to stand, sit or kneel in abnormal positions for prolonged periods of time . . . . Examples of mental torture include . . . abnormal sleep deprivation . . . . (p. 1-8)

While using legitimate interrogation techniques, certain applications of approaches and techniques may approach the line between lawful actions and unlawful actions. It may often be difficult to determine where lawful actions end and unlawful begin. In attempting to determine if a contemplated approach or technique would be considered unlawful, consider these two tests:

Given all the surrounding facts and circumstances, would a reasonable person in the place of the person being interrogated believe that his rights, as guaranteed under both international and US law, are being violated or withheld, or will be violated or withheld if he fails to cooperate.

If your contemplated actions were perpetrated by the enemy against US PWs [prisoners of war], you would believe such actions violate international or US law.

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<sup>34</sup> Retrieved from <http://fas.org/irp/doddir/army/fm34-52.pdf>, p. 17.

<sup>35</sup> SASC Report, pp. 222-224.

If you answer yes to either of these tests, do not engage in the contemplated actions. If a doubt still remains as to the legality of a proposed action, seek a legal opinion from your servicing judge advocate.<sup>36</sup> (p. 1-9)

While documents contained in the Hoffman Report's supplemental material indicate that sleep deprivation was banned at Guantanamo in March 2004,<sup>37</sup> the Church Report noted that the interrogation policy that was in effect on 16 April 2003, a year earlier, did not include either sleep deprivation or stress positions as approved interrogation techniques.<sup>38</sup>

On 24 July 2005, Senator John McCain introduced an amendment (the McCain Amendment) to the annual legislation to fund the DoD. This amendment, also known as the Detainee Treatment Act, 1) restricted military interrogations to only those techniques identified in the Army Field Manual and 2) explicitly prohibited "cruel, inhuman or degrading treatment or punishment." On 28 October 2005, APA sent letters to Senator McCain as well as the ranking members of the DoD Appropriations Subcommittee, in support of that amendment. In those documents, APA cited, as an example of its affirmation of the CAT, its adoption of the PENS Report in June 2005.<sup>39</sup> On 3 November 2005, DoD Directive (DoDD) 3115.09, Intelligence Interrogations, Detainee Debriefings and Tactical Questioning, was issued, stating "all captured or detained personnel shall be treated humanely . . . in accordance with applicable law and policy."<sup>40</sup> On 6 September 2006, Human Intelligence Collection Operations (FM 2-22.3) was published,<sup>41</sup> translating DoDD 3115.09 into doctrine. Field Manual 2-22.3 provides guidance on interrogations in language that clearly establishes that humane treatment is the standard for all detainees.<sup>42</sup> Executive Order (EO) 13491, Ensuring Lawful Interrogations, was signed by President Obama on 22 January 2009, and explicitly makes the use of the interrogation approaches and techniques described in FM 2-22.3 U.S. law.<sup>43</sup> Individuals who violate these tenets are subject to disciplinary action, courts martial, and/or prison sentences.

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<sup>36</sup> Retrieved from [http://www.loc.gov/rr/frd/Military\\_Law/pdf/intel\\_interrogation\\_sept-1992.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/intel_interrogation_sept-1992.pdf), Chap., 1, p. 9.

<sup>37</sup> Binder 5, Hoffman Report, 2 July 2015, GEN Schmidt.

<sup>38</sup> Report on DoD Detainee Operations and Detainee Interrogation Techniques, VADM A.T. Church, III, 7 March 2005, p. 143.

<sup>39</sup> Retrieved from <http://www.apa.org/news/press/statements/interrogations.aspx>

<sup>40</sup> Retrieved from [http://fas.org/irp/doddir/dod/d3115\\_09-2005.pdf](http://fas.org/irp/doddir/dod/d3115_09-2005.pdf), p. 2.

<sup>41</sup> FM 2-22.3 was the successor to FM 34-52.

<sup>42</sup> Retrieved from <http://fas.org/irp/doddir/army/fm2-22-3.pdf>, pp. 5-20.

<sup>43</sup> Retrieved from [https://www.whitehouse.gov/the\\_press\\_office/EnsuringLawfulInterrogations](https://www.whitehouse.gov/the_press_office/EnsuringLawfulInterrogations), (Sec3(b)).



In a nutshell, by the time that the PENS Report was released in July 2005, DoD, in a clear effort to address the abuse that had occurred, had already issued strict policies, tight guidelines, and close oversight for military interrogation activities. Although abusive techniques had been employed in the early years of the conflict, the assertion made in the Hoffman Report with reference to DoD psychologists that “by June 2005, it would have been clear to all well-informed observers that . . . there was a substantial risk that they [enhanced interrogation techniques] were still occurring”<sup>44</sup> is patently and demonstrably false. The conclusion that the Hoffman Report draws from this incorrect statement - that military psychologists and APA colluded in order to keep ethics guidelines “loose” to allow enhanced interrogation techniques - is simply wrong.

Just as APA is a bureaucracy, one that required over five years of consensus building and collaboration to revise the 1992 Ethics Code, so is DoD. That being said, by June 2005, DoD had reacted affirmatively in providing strict, clear, and unambiguous direction for interrogations and detainee treatment. Regulations and policies were consistent in their prohibition of physical or psychological acts of torture. The McCain Amendment, also known as the Detainee Treatment Act, soon made it law that the only the legal interrogation techniques available to DoD were those listed in the Army Field Manual (FM 34-52 and, then, subsequent doctrine, FM 2-22.3, effective September 2006). The methods and procedures in both FMs are consistent with what is allowed by Common Article III of the Geneva Conventions and, as the United States is a signatory, are consistent with U.S. law.

### **Evolving Role of Behavioral Science Consultation Teams**

From TF19’s perspective, it is critical to integrate the facts discussed above with the timeline for the BSCTs and the creation of the PENS Report. The BSCT Standard Operating Procedure, in effect at Guantanamo as of 28 March 2005,<sup>45</sup> described the roles and responsibilities of the BSCT team in detail, to include the following cite from Section 10(a), Ethical and Legal Responsibilities:

In addition to the other duties and responsibilities noted in this document, it is the responsibility of all BSCT personnel to familiarize themselves with and adhere to the UCMJ, Geneva Conventions, applicable rules of engagement, local policies, as well as professional ethics and standards of psychological practice (pp. 6-7).

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<sup>44</sup> Hoffman Report, 2 July 2015, p. 65.

<sup>45</sup> Retrieved from [http://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-standard-operating-procedures/bsct\\_sop\\_2005.pdf](http://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-standard-operating-procedures/bsct_sop_2005.pdf). The Hoffman Report states that “attempting to gather definitive information from government sources may be a time-consuming process” (p 5). The documents central to TF19’s analysis are readily available on the Internet and took the time required by an internet search to find.

The APA's PENS Task Force was formally established in February 2005 and convened on 24-26 June 2005 – the resulting report was released to the public on 5 July 2005.

Concurrent to the actions of APA's PENS Task Force, the military continued to provide written guidance regarding detainee treatment, interrogations, and BSCTs. As several of the aforementioned investigations had identified a lack of clarity regarding organization structure, command relationships, and the roles and responsibilities of individuals operating detainee facilities, the Army Medical Command issued Special Text Medical Support to Detainees (ST 4-02.46) on 30 September 2005. This document provided guidance with regard to organizational structures, command relationships, and roles and responsibilities of personnel operating internment facilities, to include BSCTs, as well as the detainees' protections under the Geneva Conventions. DoD Instruction 2310.08, dated 6 June 2006, is the regulation covering medical support to interrogation and detainee operations and is the parent document for DoD regarding BSCTs and related activities by psychologists. On 20 December 2006, the Army's Office of the Surgeon General issued Policy Memorandum 06-029, further detailing the roles, responsibilities and limitations of the BSCTs.

The need for training was identified by COL(R) Morgan Banks, PhD, prior to the existence of any policy or doctrine on the use of BSCTs. The BSCT training was initially conducted on an ad hoc basis as ethical and performance standards were established and codified in U.S. Army Medical Command policy. This training was subsequently made into a formal course. This three-week course is funded and run by the Army Medical Department Center and School and conducted in conjunction with U. S. Army Intelligence Center of Excellence at Fort Huachuca, Arizona. The coursework includes an in-depth study of the legal and ethical boundaries associated with this mission, approved interrogation techniques, and reporting responsibilities and processes in the event of violations. To date, 133 psychologists from the Army, Air Force, and Navy have graduated.<sup>46</sup> None of the students who graduated have refused to deploy or participate in the mission, and their informal feedback has served as testimony both to the quality of the course and the value of the mission.

As revealed in the list of witnesses,<sup>47</sup> the Hoffman team did meet with two interrogators with extensive experience at either Guantanamo or Iraq during the period of interest to the Hoffman investigation, Col(Ret) Steven Kleinman and Jennifer Bryson, PhD. Each has spoken out publically against abusive

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<sup>46</sup> One additional individual elected to leave. There has been no adverse career consequences for that individual as a result of this decision; she simply returned to her existing assignment.

<sup>47</sup> Hoffman Report, 2 July 2015, Attachment A.

interrogations and has worked with human rights organizations to oppose detainee abuse. Each has stated that the Hoffman Report either significantly mischaracterized their positions or omitted important information from their interviews.<sup>48</sup>

In the Hoffman Report, dated 2 July 2015, (the original Hoffman Report), Col(Ret) Kleinman was purported to have stated “that the ‘safe, legal, ethical and effective framework’ [as set forth in the PENS Report] was not useful” and that “clinical psychologists in general were not the best kind of psychologists to have on BSCTs in the first place.”<sup>49</sup>

In October 2015, TF19 received the following statement from Col(Ret) Kleinman:

It should be noted that I have served on the training staff for the BSCT course from its inception and am intimately familiar with how psychologists are selected and trained for this role. That experience has led me to two conclusions. First, I adamantly believe that the BSCT concept would benefit from incorporating the research-based insights of a broader array of behavioral scientists, especially social and cognitive psychologists, beyond the current structure that exclusively limits participation to clinical psychologists. This is far more than a nuanced difference; rather, it reflects a substantially different perspective than that found in the Hoffman Report footnote.

Secondly, I have long maintained the position that the presence of clinical psychologists at interrogation centers has the potential to reduce the risk of detainee abuse by identifying interrogators who are exhibiting signs of extreme stress and/or fatigue before they become involved in an abusive scenario, by providing thoughtful and human rights-compliant alternative questioning strategies to interrogators who might otherwise be planning to employ harsh or coercive methods, and by promoting a standard of conduct – in both word and deed – based in large part on their code of professional ethics.<sup>50</sup>

The footnote that included Col(Ret) Kleinman’s purported statements appeared in the original Hoffman Report but was omitted in the revised report, dated 4 September 2015. The Hoffman team deleted this passage only after Col(Ret) Kleinman’s attorney contacted Sidley Austin.

Dr. Bryson, who was interviewed by two members of the Hoffman team, provided this statement to TF19 in October 2015:<sup>51</sup>

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<sup>48</sup> Col(Ret) Kleinman’s report that his remarks were mischaracterized by the Hoffman team are consistent with the statements of numerous other witnesses who likewise state that their comments were mischaracterized. Retrieved from <http://www.apa.org/independent-review/responses.aspx>. The fact that witnesses have consistently stated that they were misquoted or their comments mischaracterized underscores the importance of having access to the Hoffman source materials.

<sup>49</sup> Hoffman Report, 2 July 2015, p. 297, fn. 1317.

<sup>50</sup> Col(Ret) Kleinman, personal communication, 20 October 2015.

<sup>51</sup> Jennifer Bryson, PhD, personal communication, 28 October 2015.

The Hoffman Report purports to be fair and objective, but it is not. The allegations contained within the report rest largely upon the claim that interrogations conducted by the DoD in 2005 and following, included, or were very likely to include, abusive interrogation techniques. This assumption is false.

The U.S. Army trained me in interrogation at Fort Huachuca, Arizona, in the fall of 2003 in a course designed specifically for interrogators deploying to Guantanamo. The methods of interrogation that were taught were limited strictly to the Army Field Manual 34-52. This training also included teaching about the Geneva Conventions.

I arrived at Guantanamo in 2004 where I worked both as an interrogator and a supervisor of interrogators. When then-Brigadier General Jay Hood arrived as Commander of Joint Task Force Guantanamo in the spring of 2004, he gave everyone at Guantanamo clear orders to follow the Geneva Conventions (i.e. at a time when there was still ambiguity about this coming from American political leaders). As an interrogator at Guantanamo, I was under clear guidance for the humane treatment of detainees. BG Hood never wavered from this stance during the entire time I worked under his leadership. He departed Guantanamo in 2006.

Moreover, Army FM 34-52 was the guide for interrogation when I was at Guantanamo. The preface of FM 34-52 makes clear, "These principles and techniques of interrogation are to be used within the constraints established by FM 27-10, the Hague and Geneva Conventions, and the Uniform Code of Military Justice (UCMJ)." Field Manual 27-10 on the Law of Land Warfare, Section IV.93, informs, "No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind." At no time when I was an interrogator at Guantanamo were sleep deprivation or stress positions allowed.

This is how the U.S. military taught interrogation in 2003 and what I applied as my guidance in supervising interrogations during the 24 months I was at Guantanamo in the 2004-2006 time period. In this I had absolutely complete and unambiguous support from BG Hood, who commanded for the majority of the time I was there.

When I first began to read the Hoffman Report, I was struck by how discordant the report was from my experience serving as an interrogator at Guantanamo between 2004 and 2006. I was also struck with by the confusing way that the Hoffman report presents my place within DoD structure. I told the interviewers that my relationship to the APA was strictly through non-DoD contacts and never as a representative of DoD. The final report fails to mention this important fact.

I find it very strange that the conclusions of this report rest upon the assumption about the nature of interrogations in 2005 and, yet, this absolutely vital information was not what the investigators who questioned me focused on. The failure of the investigators to question and gather information related to the underlying assumption is a severe flaw in the report.

TF19 notes the discrepancy between the "findings" in the Hoffman Report and the actual facts. The Hoffman team states how "time consuming" it was to obtain resources and the limitation they faced, secondary to a lack of access to classified material. And yet, when witnesses with highly relevant

information were readily available and openly cooperative, the Hoffman team failed to take this advantage to inform their analysis. It is fair to raise the question about whether the statements made by Col(Ret) Kleinman and Dr. Bryson during their interviews with the Hoffman team were discounted or mischaracterized because they did not correspond with the central conclusions made in the report.

The role of “safety monitor” is, by no means, unique to BSCT psychologists, but the responsibility of anyone who becomes aware of abusive acts during an interrogation. The Hoffman Report described the “safety role” played by BSCT psychologists as “naïve or intentionally disingenuous,” concluding that the psychologist would be unable to overcome the pressures inherent within an interrogation, unless there were “clear lines drawn by an external source (e.g., DoD or APA guidelines).”<sup>52</sup> This statement is misleading, at best: Clear guidelines regarding interrogations had been established and were in force by mid-2005. The PENS Report reinforced these guidelines, exactly as it was intended to do, by stating that psychologists must follow the “most recent applicable regulations and rules.”

In the initial years of the conflict, 2001-2004, there was a scarcity of experienced interrogators and no formal training for the BSCT role. Not counting the mass screenings that were conducted during Operation Desert Storm in 1991-1992, there were only five interrogators within all of DoD with wartime experience on 11 September 2001, and that experience dated from Vietnam.<sup>53</sup> As time progressed, more experienced and better trained interrogators became involved, and training for the BSCT role became formalized. As a result, the need for the safety role, while still present, became less prevalent. Following the adoption of the PENS Report as APA policy in 2005, there has been no allegation that any BSCT psychologist has engaged in inappropriate interrogation activity or has failed to intervene or report an inappropriate interrogation.

The Hoffman Report’s comments, that the safety roles of BSCT psychologists were “naïve or intentionally disingenuous,” indicate how little the Hoffman team learned about how effective interrogations actually work and the safeguards that are employed. The Hoffman Report suggests that “safe” and “effective” support to interrogations by psychologists is disingenuous because the two cannot coexist. For the Hoffman team, it is apparent that ethical interrogations are not effective, and effective interrogations are not ethical. The implication of this statement is that interrogations involving psychologists are either safe or effective, but not both. TF19 strongly rejects this erroneous conclusion, which is contrary to the experience of psychologists who have served in the BSCT role.

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<sup>52</sup> Hoffman Report, 2 July 2015, p. 295.

<sup>53</sup> Mark Staal, personal communication, 8 October 2015.

There are multiple references within the Hoffman Report regarding the influence of COL(R) Banks and COL(R) Dunivin within DoD. While not to detract from their efforts to provide ethical guidelines and effective training for the BSCTs, it is inaccurate to portray these two individuals as either “DoD officials” or the architects of DoD’s policies regarding interrogation support and detainee operations. The development of service-wide policies and regulations is an intensive staff action that involves literally hundreds of individuals over the course of months or, in some cases, years. DoD Instruction 2310.08, the parent document for DoD regarding BSCTs, was developed over the course of months by dozens of military staff members; COL(R) Banks and COL(R) Dunivin did assist in drafting several components of that policy, but these drafts were subject to multiple reviews and approval processes. The Hoffman Report brings forth no evidence to suggest that COL(R) Banks or COL(R) Dunivin were working to impede the development of strict guidance. In fact, the data points to exactly the opposite direction - they were attempting to ensure that there could be no deviation from the strict DoD guidance in place by June 2005. To suggest that these two officers had the authority to establish DoD policy is simply incorrect.

The Board directed the Hoffman team to determine whether APA had colluded with the Bush Administration, CIA, or DoD to support enhanced interrogation techniques.<sup>54</sup> In the 2014 Senate Intelligence Committee Report,<sup>55</sup> 12 such “enhanced interrogation techniques” also referred to as “reversed SERE<sup>56</sup> engineered techniques,” are listed:

1. Attention grasp
2. Walling
3. Facial hold
4. Facial slap
5. Cramped confinement
6. Wall standing
7. Stress positions
8. Sleep deprivation
9. Waterboard
10. Use of diapers
11. Use of insects
12. Mock burial

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<sup>54</sup> Hoffman Report, 2 July 2015, p. 64.

<sup>55</sup> Retrieved from <http://www.feinstein.senate.gov/public/index.cfm?p=senate-intelligence-committee-study-on-cia-detention-and-interrogation-program>, p. 32.

<sup>56</sup> For an explanation of Survival, Evasion, Resistance, and Escape (SERE), see p. xxxi of the Senate Armed Services Committee Report. Retrieved from [http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf)

A 2005 U.S. Department of Justice memo for the CIA identifies 13 interrogation techniques for use by the CIA.<sup>57</sup>

1. Dietary manipulation
2. Nudity
3. Attention grasp
4. Walling
5. Facial Hold
6. Facial Slap or Insult Slap
7. Abdominal Slap
8. Cramped confinement
9. Wall standing
10. Stress positions
11. Water dousing
12. Sleep deprivation
13. Waterboard

While these two lists have considerable overlap, they are not the same. For the purposes of TF19, it is noteworthy that both lists contain stress positions and sleep deprivation, the two techniques that the Hoffman Report asserts that APA and military psychologists were colluding to allow under “loose” ethical guidelines, that is, guidelines that would be no stricter than DoD regulations.<sup>58</sup> However, the Hoffman Report does not limit the object of collusion to stress positions and sleep deprivation; these are examples (“such as,” p. 12) of techniques that the “loose” ethics guidelines were allegedly intended to permit. As has been clearly demonstrated, DoD regulations did not allow either technique by June 2005.<sup>59</sup> In fact, when the PENS Task Force met on 24-26 June 2005, the regulations and policies governing the BSCT role did not allow any technique that appears on either of these lists. That is, none of the techniques on these two lists, including stress positions and sleep deprivation, were permitted for DoD interrogations when the PENS Task Force issued its report in June 2005. Thus, the Hoffman

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<sup>57</sup> Bradbury, S. G., Principle Deputy Assistant Attorney General. (2005, May 10,) U.S. Department of Justice, Office of Legal Counsel, Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency.

<sup>58</sup> Hoffman Report, 2 July 2015, pp. 9, 66.

<sup>59</sup> On 6 May 2004, GEN Abizaid suspended all non-FM 34-52 techniques within CENTCOM. On 4 June 2004, however, GEN Abizaid approved the use of four techniques found in FM 34-52, none of which are found in either of the lists cited above. Their use was contingent upon the approval of the “first general officer in the chain of command,” and specified that none of the techniques could be used beyond a 72-hour period “without a review by the SMU TF [Special Mission Unit Task Force] Commander” SASC Report, p. 224. Nonetheless, TF19 could find no evidence that any of these techniques were used after the PENS Report became APA policy in July 2005.

Report's conclusion that collusion was intended to allow stress positions and sleep deprivation, among other enhanced interrogation techniques, is patently incorrect.<sup>60</sup>

The Hoffman team lists five enhanced interrogation techniques and asserts "In short, by June 2005, it would have been clear to all well-informed observers that abusive interrogation techniques had almost certainly occurred and that there was a substantial risk they were still occurring."<sup>61</sup> By June 2005, it was known to all that abuses taken place. In fact, the very reason the PENS Task Force was meeting was because abusive interrogation techniques had occurred. But, as the Hoffman team should have known, by June 2005, none of the five interrogation techniques the report named in this passage – stress positions, sleep deprivation, threats, playing on phobias, and waterboard—were allowed by DoD. In fact, in a 7 July 2005 letter to the *New York Times*,<sup>62</sup> which the Hoffman Report itself cites, the President of APA gives the use of phobias as an example of a technique prohibited by the PENS Report.<sup>63</sup> The Hoffman Report's allegation that collusion was intended to keep ethical guidelines "loose" and "high-level" in order to allow specific interrogation techniques is contradicted not only by then-existing DoD guidelines but also by how APA was interpreting the PENS Report immediately after the PENS Report became APA policy. All this information was available to the Hoffman team.

Given its considerable resources, it is unclear how the Hoffman team could not have been aware of the relevant DoD policies as those policies existed in June 2005. Although the Hoffman team interviewed multiple witnesses who could have provided this information, the Hoffman team appears not to have been interested. Nor is it clear why the APA Special Committee, upon receiving the report, did not take the time to ensure that the Hoffman Report's characterization of then-existing DoD policies was correct, or, at the very least, did not give those named in the report, who had the relevant knowledge and experience, an opportunity to review the report and to correct inaccurate information before the report was made public. As troubling as these facts are, however, there is an even deeper problem with the Hoffman Report and the Special Committee's actions.

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<sup>60</sup> The Hoffman Report states "during the Task Force's pre-meeting communications, during its 3-day meetings, and in preparing the task force report, Behnke and Banks closely collaborated to emphasize points that followed then-existing DoD guidance (which used high-level concepts and did not prohibit techniques such as stress positions and sleep deprivation) . . ." (p. 12). In addition to being incorrect, the statement is highly implausible on its face: COL(R) Banks and Dr. Stephen Behnke had never met prior to the PENS Task Force meeting (personal communication, Morgan Banks, 22 October 2015).

<sup>61</sup> Ibid., p 65.

<sup>62</sup> Retrieved from <http://query.nytimes.com/gst/fullpage.html?res=9404E4D61E31F934A35754C0A9639C8B63>

<sup>63</sup> PENS listserv, July 8 2005.



According to the Hoffman Report, the purpose of the collusion was to allow certain abusive interrogation techniques to continue. And yet, the report provides no evidence that the military psychologist who the report alleged to have been primarily involved in the collusion, COL(R) Banks, ever intended to support, allow, recommend, or use such techniques or have any interrogator use them. Rather, the report infers nefarious intent from the fact that COL(R) Banks did not believe that providing a list of specific techniques in the PENS Report or in subsequent APA policy was a good idea.<sup>64</sup>

As a group of lawyers, the Hoffman team is certainly well aware that policy makers frequently grapple with this precise problem – how specific a law, regulation, or policy should be. The fact that policy makers differ on this question is not a sign that they disagree over underlying policy goals, but rather that they have different concepts on how policies should be written. Policy makers struggle with this challenge all the time. Given the number of techniques at issue, it was certainly reasonable for a psychologist in COL(R) Banks’s position to conclude that a framework for decision making, rather than a laundry list, was the appropriate approach and was consistent with how standards are written in the APA Ethics Code. The nature of the PENS Report, to provide guidance, is consistent with the approach taken by guidelines in practice areas which provide frameworks for decision making rather than lengthy lists of prescribed actions. And therein lies perhaps the most insidious aspect of the Hoffman Report.

Rather than acknowledge that there could be genuine, honest differences of opinion on how the PENS Report and subsequent APA policy should be written, the Hoffman Report takes differences of opinion and turns them into condemnations. The Hoffman team never acknowledges what it is doing.

Whenever there are multiple, plausible explanations for a behavior, the Hoffman Report invariably chooses the explanation that reflects most poorly on military psychologists and that provides the most positive explanation for the critics of APA. Given the very brief, less than one week, time between when the Board received the Hoffman Report, 27 June 2015, and the Board’s meeting with the critics, 2-3 July 2015, it is highly doubtful that the Board and Special Committee were able to read the report with the necessary care to fully grasp the scope and degree of bias.

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<sup>64</sup> According to the Hoffman Report, COL(R) Banks declined to state categorically that the “safe, legal, ethical, and effective” framework would prohibit sleep deprivation and stress positions in all circumstances. The Hoffman team then makes this purported admission central to their argument that COL(R) Banks’s intent in colluding with APA was to ensure that these techniques could continue to be employed (p. 66). This passage is an excellent example of the Hoffman methodology. In fact, in reviewing this passage, it is very unclear as to the specific question the interviewer has actually posed and what point COL(R) Banks is making in response. COL(R) Banks appears to be attempting to determine how the interviewer is using these terms, but the text of the report is ambiguous. This makes it even more important for the Board to make the Hoffman source materials available.

Even more disturbing than the fact that APA expended such considerable resources on a deeply flawed report, is the fact the Special Committee allowed colleagues to be treated in this manner, while it was issuing repeated apologies for unspecified offenses.

With this background, context, and perspective, we move now to the specific terms of reference provided to TF19 by the president of Division 19.

### **Terms of Reference**

TF19 was provided the scope, objectives, and purpose for conducting this review in the form of a “Terms of Reference” (Appendix A), which provided eight major focus areas, listed a-g, for TF19 to address. Several of these objectives, specifically terms of reference a and f, have multiple components. In an effort to reduce confusion for the reader, each term of reference is identified in bold print prior to the ensuing discussion.

**a. Carefully review the Hoffman Report to identify and document any objective evidence of “collusion;” any significant conflicts of interest that were not acknowledged by any Division 19 member, and whether there is evidence that meaningful field guidance was not provided that resulted in any Division 19 members’ actions that enabled, contributed to, or supported abusive interrogation techniques and/or contributed to violations of human rights.**

1. **Collusion:** According to the Hoffman team’s description, “the specific question APA has asked us to consider and answer is whether APA officials colluded with DoD, CIA, or other government officials ‘to support torture.’” Collusion was defined as “a secret agreement, understanding, or cooperation for some harmful, improper, or illegal purpose.”<sup>65</sup> The Hoffman Report connected circumstantial evidence to infer and conclude that nefarious acts had occurred, with the implication that these acts would continue. The Hoffman Report’s primary finding was that APA colluded with DoD on two levels: in an attempt to “curry favor,” a term that the Hoffman team never defined, and in efforts to ensure that the interrogation policies preferred by DoD would not be constrained by APA’s ethics guidelines and so would allow certain enhanced interrogation techniques to continue.

The Hoffman Report concluded that APA “intentionally implemented a policy (the PENS Report) that would allow DoD officials to continue to engage in their existing practices based on the guidelines and

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<sup>65</sup> Hoffman Report, 2 July 2015, p. 64.

procedures they had in place.”<sup>66</sup> The report continues, asserting that these guidelines and procedures were “loose”<sup>67</sup> and, therefore, allowed enhanced interrogation techniques such as sleep deprivation and stress positions.<sup>68</sup> Underscoring this assertion are several themes that are present throughout the report: 1) Interrogation equates to torture; 2) the military, and by extension, military psychologists, have little, if any, concern for either human rights or ethical behavior; and 3) APA abrogated its concern for ethical practice in its quest for favorable treatment from DoD.

The Hoffman Report ignored the corrective actions taken by DoD following the abuses of 2002-2004, including the specific guidance prohibiting enhanced interrogation techniques and direction to utilize only interrogation techniques included in the Army Field Manual. In addition, the Hoffman Report failed to note that the interrogation policy in place by June 2005 (FM 34-52) reiterated that detainee treatment was to be conducted in a manner consistent with the provisions listed in Common Article III of the Geneva Conventions. These actions as well as the subsequent regulations require that detainees be accorded humane treatment, a requirement that was clearly emphasized in the PENS Report by the “absolute” prohibition “against torture and other cruel, inhuman, or degrading treatment.”<sup>69</sup> These regulations also specifically prohibit torture as well as acts that are cruel, inhuman, or degrading, as required by U.S. law and international treaties to which the United States is a signatory.

The Hoffman Report’s central conclusion regarding the collusion between APA and DoD is further undermined by the extensive efforts that APA took to support passage of the McCain Amendment. The McCain Amendment prohibited “cruel, inhuman, or degrading treatment” and mandated that the only techniques authorized for use in military interrogations were those identified in the Army Field Manual, a regulation that, itself, explicitly forbade the very interrogation techniques that the Hoffman Report alleges were the goal of the APA-DoD collusion. In order to support passage of the McCain Amendment, APA took numerous steps, which included contacting Senator McCain directly to thank him for his attention to human rights in the military context; sending letters to select members of the U.S. Senate urging passage of the McCain Amendment; sending out a grassroots alert to APA members encouraging them to contact their congressional delegations in support of the McCain Amendment; and actively

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<sup>66</sup> Ibid., p. 65.

<sup>67</sup> Ibid., pp. 9, 20, 21, 33, 51, 70, 270, and 309.

<sup>68</sup> Ibid., p. 3, 12, 18, 28, and 30.

<sup>69</sup> PENS Report, Statement #1.

lobbying at the subcommittee level, potentially risking Republican support for the funding of a psychology training program.<sup>70,71</sup>

To believe the Hoffman Report's central conclusion, one would have to believe that APA was colluding with DoD to allow enhanced interrogation techniques in June 2005, but within weeks, was publically and aggressively advocating for the humane treatment of detainees through passage of the McCain Amendment. It strains credulity that any reasonable and informed psychologist could find both of these assertions to be correct.

In October 2005, APA Chief Executive Office Dr. Norman Anderson sent a letter to Senator McCain and other Congressional leaders on the Appropriations Committee, invoking the U.N. Convention Against Torture, the U.N. Principles of Medical Ethics, and the PENS Report as documents critical in APA's efforts to "strive for the preservation and protection of fundamental human rights."<sup>72</sup> This public endorsement of international human rights texts alongside the PENS Report directly contradicts the Hoffman Report's assertion that APA was unconcerned with international human rights documents and detainee abuse.<sup>73</sup> In a letter to the *New York Times* on 4 November 2005, the presidents of the American College of Physicians and the American Psychiatric Association joined with the president of APA to state:

If approved intact by Congress, the McCain amendment, by proscribing abusive treatment of all detainees in United States custody, would help ensure that our colleagues in the national-security setting are never drawn into abusive, harmful or unethical interrogations and detention practices. Above all, it would eloquently clarify our country's values and our traditional, legal and moral commitment against torture and abuse.<sup>74</sup>

In sum, the conclusion that the results of the PENS Task Force were critical to DoD's efforts to retain abusive techniques falls completely apart when viewed in the context of all the facts, including the timeline and an informed understanding of how DoD policy and relevant legislation evolved during the years covered by the Hoffman Report.

The concerns raised within the Hoffman Report regarding misconduct or unethical behaviors by military psychologists supporting interrogations stem from a timeframe, 2002-2004, prior to the establishment

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<sup>70</sup> PENS Task Force listserv, January 2006.

<sup>71</sup> In 2015, APA took similar actions in supporting another piece of anti-torture legislation authored by Senator McCain.

<sup>72</sup> Retrieved from <http://www.apa.org/news/press/statements/interrogations.aspx>

<sup>73</sup> Hoffman Report, 2 July 2015, pp. 9-10.

<sup>74</sup> Retrieved from <http://www.nytimes.com/2005/11/04/opinion/torture-detainees-not-in-our-name-716391.html>.

of strict guidelines governing interrogation, the PENS Task Force, the McCain Amendment, DoDD 3115.09, the Office of the Surgeon General’s Memorandum regarding BSCTs, and FM 22.2-3. Within its Executive Summary, the Hoffman Report includes five references to the substantial risk that abuse would continue in the absence of strict constraints,<sup>75</sup> electing to ignore the fact that by the time the PENS Report was released, those exact strict constraints had been put into place by DoD. Despite the Hoffman Report’s concerns regarding the “large loopholes” created by “APA’s loose high-level ethics guidelines,”<sup>76</sup> the report fails to provide a shred of evidence that military psychologists, subsequent to the PENS Report, engaged in detainee interrogation abuse. The Hoffman Report, instead, relies upon various unsubstantiated inferences – “it seems,” “it is possible,” “it is likely” - based upon assumptions or assertions inconsistent with events as they actually unfolded over the following decade.

In brief, although the Hoffman Report indicates that military psychologists “could have” been involved in abusive military interrogations, the report, with a decade of data to draw upon, provides no evidence that following the PENS Report, any abuses occurred within the context of military interrogations where a BSCT psychologist was involved – because there is no such evidence. There have been thousands of hours of interrogation support and observation provided by military psychologists conducted without incident. In fact, the proactive efforts of military psychologists in preventing and/or reporting abuse have been documented. In contrast, the Hoffman Report does not discuss any of the work military psychologists did to minimize abuse and protect human rights, dismissing the role that psychologists played as safety monitors as “disingenuous.” This omission is additional evidence of the confirmatory bias found throughout the report, which, for all intents and purposes, is a prosecutorial brief rather than an objective and/or scientific investigation with a sound methodology.

The Hoffman Report also points to the membership of the PENS Task Force as evidence of collusion. It is fact that, of its 10 members, six had clear connections with DoD. However, it is critical to note that none of the six were either authorized to represent the U.S. Government or authorized to provide any guarantee of benefits or services to APA on behalf of the U.S. Government. The Hoffman Report acknowledges that the DoD members did not act in lockstep fashion; there were areas of disagreements and differing opinions among the DoD members over the course of the meeting. While there is no guidance within APA’s current bylaws about the selection criteria for a task force, it appears both logical and prudent to select members who have specific expertise and/or an abiding interest in the focus area.

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<sup>75</sup> Hoffman Report, 2 July 2015, pp. 9, 65, 66, and 68.

<sup>76</sup> Ibid., p. 9.

Additionally, there is no way to assess whether this composition was inappropriate or even unusual without reviewing the membership of other APA task forces commissioned to consider specific areas of practice, something which the Hoffman team apparently did not investigate.

Aside from the task force chair, there were three other psychologists on the PENS Task Force. These individuals were, and are, members of divisions and groups that continue to be highly critical of psychologists' roles in interrogations. They each voted to accept the PENS Report on two occasions - first when the task force had completed the report and again after the Ethics Committee recommended revisions. The Hoffman team characterized these individuals as deeply ambivalent about approving the PENS Report, "the three non-DoD members acknowledge that if they had firmly and officially dissented and refused to accept the task force report, they might have made a difference."<sup>77</sup> This characterization stands in stark contrast to the words of these individuals, themselves, who when voting to adopt the report, stated:

- Nina Thomas, PhD: "Beyond impressive, beyond complete." (26 June 2005);<sup>78</sup>
- Mike Wessells, PhD: "Many thanks for sending this excellent revision," (27 Jun 2005); and
- Jean Marie Arrigo, PhD: "The depth, scope and wisdom of this document are indeed impressive" (29 June 2005).

Dr. Arrigo made several additional approving comments regarding the process and the composition of the PENS Task Force:

- "Thanks to all, especially the military psychologists, for an enriching and heartening experience of democratic process. I am grateful for the opportunity to participate in this process." (27 June 2005) ;
- "I think the constitution of the Task Force was very fine and also appropriate. It could be favorably compared to the 1993-1995 President's Advisory Committee on Human Radiation Experiments, for example, which did not include any military or intelligence expertise on the Committee or staff." (11 July 2005); and
- "I am very pleased with the Task Force participation of psychologists from the armed services. I am not aware of any commitment from psychologists who work for the CIA or other intelligence agencies." (16 August 2005).

To argue that the unanimous decision to approve the PENS Report by email - not only once, but twice, after members of the task force had left the meeting and had been given an opportunity to reflect on

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<sup>77</sup> Hoffman Report, 2 July 2015, p. 25.

<sup>78</sup> All six of the following quotations are from the PENS Task Force listserv, which Dr. Arrigo made public. Retrieved from <http://www.propublica.org/documents/item/1445-e-mails-from-the-american-psychological-associations-task-force-on-ethics-and-national-security#p=1>

the report - was the result of “groupthink”<sup>79</sup> or that the results of the PENS process were the product of a “larger counterintelligence operation”<sup>80</sup> is simply not grounded in any data. At minimum, these assertions appear to be the result of revisionist history.

With respect to the charge that APA colluded with DoD to “curry favor,” if the “favors curried” were to further the economic, professional status, and employment aims of the Association, this effort is completely consistent with the aims of the APA’s strategic plan “to excel as a valuable, effective, and influential organization advancing psychology as a science.” If APA’s objective was to curry favor with a government entity, it would have made much more sense for APA to pursue the CIA, a non-DoD organization with considerable financial resources available for this purpose as described in the 2014 Senate Intelligence Committee Report.<sup>81</sup> However, the Hoffman Report suggests that APA efforts in that regard were likely derailed by the retirement of APA’s key contact in 2005, prior to the PENS Task Force meeting.<sup>82</sup> If APA had been motivated by government contracts as the Hoffman Report suggests, the retirement of a single individual would hardly have served as a deterrent. Again, a reasonable, informed psychologist could not view this rationale offered by the Hoffman Report as persuasive, much less convincing, for why APA did not pursue the CIA in its policy work on interrogation.

Despite the Hoffman Report’s conclusion that “we did not find that APA was motivated by any specific contract or grant, or that APA itself received any substantial grants, contracts or other payments from DoD during this period,”<sup>83</sup> the report, nevertheless, describes APA’s adoption of the PENS Report as:

a very large victory for those who were focused on growing opportunities for employment and influence for psychologists, especially compared to psychiatrists. By winning the primary position with DoD regarding which mental health providers would provide support for DoD interrogations, APA cemented its position with DoD in a manner that is likely to produce substantial employment and other financially-beneficial opportunities for psychology.<sup>84</sup>

The Hoffman Report was written in 2015, a decade after the PENS Report was adopted, and it is true that the number of psychologists employed by the military has grown during this time, a fact readily

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<sup>79</sup> Hoffman Report 2 July 2015, p. 25.

<sup>80</sup> Ibid., p. 344.

<sup>81</sup> The Senate Intelligence Committee Report on Torture, p. 11 of the findings and conclusions section (Conclusion #13).

<sup>82</sup> Ibid., p. 10.

<sup>83</sup> Ibid., pp. 68-69.

<sup>84</sup> Ibid., p. 40.

explained by DoD's evolving understanding and appreciation of the terrible effects of war on the psyche and efforts to prevent and treat war injuries. Only a very few of these professionals are engaged in the practice of operational psychology, as the growth has been almost solely in the clinical arena.<sup>85</sup> Today, there are approximately 1,950 psychologists – military, civilian, and contractors – supporting the Army, Air Force, and Navy.<sup>86</sup> Of that number, 50 or 2.6% have an operational focus, a growth of approximately 10 psychologists over the past decade, hardly what one would fairly characterize as "substantial"<sup>87</sup> employment gain. There have been 133 psychologists who have completed the BSCT course and deployed in support of that mission – these individuals, all volunteers, all active duty - were already employed by the military, and upon redeployment, the vast majority returned to their traditional clinical duties. Despite references to "financially-beneficial opportunities," the facts over the past decade directly contradict the Hoffman Report's assertion that the PENS Report would result in "substantial employment" in the area of operational psychology. These data were available to the Hoffman team.

**2. The second element of this task requested a review of the Hoffman Report for any significant conflicts of interest that were not acknowledged by any Division 19 member . . . that resulted in any Division 19 members' actions that enabled, contributed to, or supported abusive interrogation techniques and/or contributed to violations of human rights.**

Having Dr. Newman serve as an observer on the task force was not unusual in and of itself; as the executive director for the Practice Directorate, the largest directorate within APA, such representation was logical, given the focus on the task force. The relationship between Dr. Newman and COL(R) Dunivin was made known to all APA members. The October 2002 *Monitor on Psychology* contains a photograph of Dr. Newman participating in COL(R) Dunivin's promotion to Lieutenant Colonel, with the accompanying text identifying their marital status.<sup>88</sup> After COL(R) Dunivin was nominated for a seat on the Finance Committee in 2004, a Council member raised an objection to the Board. This objection was based upon concerns that the Finance Committee had oversight over other APA sections, to include the Practice Directorate, for which Dr. Newman served as executive director. After the CEO and legal counsel sought an opinion from PriceWaterhouseCooper, the Board did not forbid COL(R) Dunivin from

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<sup>85</sup> The Hoffman Report provides no comparative analysis of the proportional growth of psychologists to other healthcare professionals, such as physicians and nurses hired by DoD during this time period.

<sup>86</sup> Personal communication, Psychology Consultants for U.S. Army, U.S. Air Force, and U.S. Navy, September 2015.

<sup>87</sup> Hoffman report, 2 July 2015, p. 40.

<sup>88</sup> APA *Monitor on Psychology*, (2002, October). 33, 87.



running, requesting only that she submit a plan of how to mitigate those concerns. However, given time constraints coupled with her military assignment, she elected to withdraw her nomination. These facts are evidence that APA leadership was well aware of the relationship between Dr. Newman and COL(R) Dunivin before the PENS Task Force was created. The fact that she was in the military and, at the time of the events under question, serving at Guantanamo, was also well known to the APA president and the entire Board, as evidenced in this same email string.<sup>89</sup> With full awareness of Dr. Newman's relationship with COL(R) Dunivin, to include her military assignment at Guantanamo at the time of the PENS Task Force, the Board asked him to serve as an observer.<sup>90</sup>

COL(R) Dunivin was not a member of the PENS Task Force nor was she present during any of their meetings - a fact that the Hoffman Report obscures - as she was stationed at Guantanamo during this time. Dr. Newman was an observer with no voting rights. In fact, based upon the notes taken by Dr. Arrigo, Dr. Behnke, and Dr. Brandon during the PENS Task Force meetings,<sup>91</sup> It appears that Dr. Newman was a minor contributor to the process, as would be expected of someone with his role. This stands in stark contrast to how the Hoffman Report characterizes Dr. Newman's "forceful" role at the meeting.<sup>92</sup> While the Hoffman Report implies that COL(R) Dunivin's career was dependent upon the outcome, this is, in fact, also untrue. As anyone with an understanding of the military knows, if the outcome of the PENS Task Force would have restricted or even eliminated the role of psychologists in interrogation support, COL(R) Dunivin would have simply been reassigned elsewhere. The report's analysis of the conflict of interest reveals very little knowledge or understanding of how the military, and most consensus panels focused on scientific issues, work.

From another perspective, the conflict of interest identified by the Hoffman Report is even more disturbing. According to the Hoffman Report, APA:

was in the midst of determining its ethical position on this critical issue. In doing so, APA needed to determine how to balance at least two important values: (i) the importance of psychologists assisting the government in getting accurate intelligence information about

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<sup>89</sup> Hoffman Report, 2 July 2015, Binder 5, pp. 1401-1403.

<sup>90</sup> Despite subsequent objections, in an email from Dr. Arrigo to the Chair of the PENS Task Force in reference to observers at the PENS Task Force meeting, Dr. Arrigo stated "I couldn't imagine objecting to any particular person" (PENS listserv 7 June 2005). It is difficult to reconcile this statement from her later objections to Dr. Newman's position as an observer at the PENS Task Force meetings.

<sup>91</sup> Hoffman Report, 2 July 2015, Binder 3.

<sup>92</sup> *Ibid.*, p. 282.

potential future attacks in order to protect the public; and (ii) the importance of psychologists not intentionally doing physical or psychological harm to individuals, perhaps especially in the situation in which the individual is in custody and is outside the protections of the criminal justice system. In determining its position, APA also needed to balance the views and positions of military and national security psychologists with the views and positions of those outside the military, and national security systems.<sup>93</sup>

The Hoffman Report then states “Because of Dunivin’s obvious and strong interest and bias on these points, Newman had a classic conflict of interest.”<sup>94</sup> The bias against military psychologists in this passage is unmistakable. The Hoffman Report characterized the situation as either/or: Given that COL(R) Dunivin was a military psychologist - and presumably because she was a BSCT psychologist as well - she must have supported “intentionally doing physical or psychological harm to individuals” in order to gain accurate intelligence information. The Hoffman Report brings forth absolutely no evidence that COL(R) Dunivin viewed gaining accurate intelligence information and respecting human rights as incompatible. This false dichotomy, which the Hoffman team creates, is a window into the deep, unrelenting bias against military psychology that runs throughout the report. There are no data and no facts upon which to conclude that Dr. Newman’s participation in the PENS Task Force meetings or the “long distance” influence of COL(R) Dunivin had any deleterious impact on the treatment of any DoD detainee.

**3. Provision of Field Guidance: The third element of this task involved a query into whether there is evidence that meaningful field guidance was not provided that resulted in any Division 19 members’ actions that enabled, contributed to, or supported abusive interrogation techniques and/or contributed to violations of human rights.**

When faced with a situation for which a psychologist lacks knowledge and competence, the APA Ethics Code mandates that he or she seek avenues of study, training, and consultation.<sup>95</sup> When MAJ John Leso arrived at Guantanamo in June 2002, his expectation was that he would be providing clinical treatment. When that role was abruptly changed to that of interrogation support, MAJ Leso actively sought and received, in turn, guidance from senior active duty Army psychologists regarding his activities. This guidance, once initiated, was sustained throughout his deployment. Recognizing that this would be a recurrent issue, COL(R) Banks developed a field course. This course was the precursor for the three-week Behavioral Science Consultation Course and focused upon the legal issues at hand, the APA Ethics

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<sup>93</sup> Ibid., pp. 13-14.

<sup>94</sup> Ibid., p. 15.

<sup>95</sup> APA Ethics Code, 2002, Standard 2.01.

Code, and the common psychological responses to capture and detention. TF19 finds that meaningful ethical and supportive field guidance was provided, and substantial efforts were made to standardize this support through training.

As news reports and articles about the detainee abuse were published in 2002, 2003, and 2004, the emails contained in the Hoffman Report's supplemental materials demonstrate that APA leadership began to discuss ethical concerns. Concurrently, there were psychologists from both outside and inside the military who raised similar concerns in their discussions with APA. In response, the DoD developed the BSCT course and formal guidance in the form of the Office of the Surgeon General Memorandum and policies while the APA established the PENS Task Force. It is fact that APA and DoD had a shared goal. That goal was not, as was concluded in the Hoffman Report, to allow abusive interrogations to continue. Rather, the shared goal was to ensure that interrogations were conducted in an ethical manner.

**b. Identify any Division 19 practices, processes, or policies that may have directly or indirectly contributed in any way to APA's perceived failure to maintain their own internal checks and balances for how policies regarding ethics and/or the standing up of task forces related to interest areas of importance to Division 19.**

A thorough review of Division 19's governance documents, including the division's bylaws (binding policies) and handbook (non-binding processes),<sup>96</sup> was conducted by TF19. Similar to the current procedures within the larger APA, no official policies were found regarding the nomination of individual members to task forces of the APA or any of its divisions. According to the Division 19 handbook, the president coordinates with the APA central office, responding to requests or inquiries from the Council of Representatives, Board of Directors, Committee on Scientific and Professional Ethics and Conduct, and various task forces, committees, councils, and boards. Historical practice highlights the cooperation of Division 19's EXCOM in responding to such requests and inquiries. As the division's governing body, consisting of officers elected by its members, the EXCOM has traditionally made recommendations to the president. The EXCOM may also determine, via general consensus, whose names should be forwarded to APA governance for participation on task forces. These recommendations are based upon the specific purpose of the task force and the subject matter expertise of the recommended individuals. Unless a "representative of Division 19" is specifically requested, these individuals are selected by merit

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<sup>96</sup> Retrieved from <http://www.apadivisions.org/division-19/about/bylaws.aspx>

of their expertise, and their opinions are not necessarily reflective of the views and opinions of the division.

Division 19's EXCOM naturally recommended members for participation in the PENS Task Force.<sup>97</sup> The recommendations made by Division 19 leadership were, consistent with historical precedent, based upon the individuals' professional expertise. Aside from these recommendations, Division 19 had no additional role in the selection of PENS Task Force members. TF19 finds no evidence that any Division 19 practice, process, or policy inappropriately contributed to, or unduly influenced, APA's decision making regarding the selection of its task force members.

Regarding revisions to APA's 2002 Ethics Code, the Hoffman team concluded in its report that "the meaningful changes occurred prior to 11 September 2001 and were not influenced by an effort to help the government's interrogation efforts."<sup>98</sup> Although it is true that there was a military psychologist on the Ethics Code Task Force, that psychologist had not been selected by, nor was he representing Division 19. Regardless, any suggestion that the outcome of this Ethics Code revision process was a product of collusion between APA and DoD was rendered moot by the timeline. As the Hoffman Report itself points out, all the relevant changes were made to the 2002 Ethics Code prior to the events of 11 September 2001. This fact was known to the Hoffman team at the very beginning of the investigation. It is therefore unclear why the Hoffman team felt it necessary to conduct interviews and include extensive materials in the report regarding allegations related to the 2002 revision to the Ethics Code.

The Hoffman Report also concludes that there is "no evidence to suggest that the failure to discuss the Nuremberg Defense in the context of revisions to Standard 1.02 was in any way connected to the work of psychologists in national security settings or interrogations."<sup>99</sup> While the report goes into great depth regarding the Nuremberg Defense, the Hoffman team fails to note that, during the time in question, the ethical standards for many other national psychological associations, in addressing conflicts between law and ethics, include language very similar to APA's Standard 1.02, as it was adopted in 2002.<sup>100</sup> It is fair to raise a question regarding why the Hoffman team chose to include this lengthy discussion as its

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<sup>97</sup> Hoffman Report, 2 July 2015, p. 239.

<sup>98</sup> Ibid., pp. 56-67.

<sup>99</sup> Ibid., p. 57.

<sup>100</sup> International Union of Psychological Sciences, Retrieved from <http://www.iupsys.net>

only purpose appears to be that of rhetorically establishing the presumption that military psychologists are prone to unethical conduct secondary to the “we were only following orders” defense.

Finally, TF19 found the inclusion of COL(R) James’s ethics complaint as a component of the Hoffman Report to be very concerning and, frankly, improper in relation to the APA bylaws as well as the Ethics Committee’s “Rules and Procedures.”<sup>101</sup> In addition, although the Hoffman Report “found that the handling of ethics complaints against prominent national security psychologists was handled in an improper fashion,”<sup>102</sup> the report subsequently states that “the way in which the Ethics Office handled the James matter was technically permissible under the Rules.”<sup>103</sup>

**c. Identify and objectively assess the findings in the Hoffman Report to determine whether and/or how, in any way, the report findings convincingly demonstrate that any Division 19 member contributed to APA not living up to its core values.**

The general findings of the Hoffman Report were the following:

1. Members of the APA colluded with “DoD officials to create and maintain loose APA ethics policies that did not significantly constrain” the DoD or its interrogation program and allowed the continued use of abusive techniques, including sleep deprivation and stress positions.<sup>104</sup>
2. “APA officials intentionally and strategically avoided taking steps to learn information” to confirm suspicions of abusive interrogation tactics.<sup>105</sup>
3. “APA officials engaged in a pattern of secret collaboration with DoD officials to defeat efforts by the APA Council of Representatives to introduce and pass resolutions that would have

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<sup>101</sup> APA bylaws: Article XI (Boards and Committees), Section 5: “The work of the Ethics Committee, including information and recommendation on all cases before it, shall be kept confidential, except as provided by the Ethics Committee in rules and procedures approved by the Board of Directors, consistent with the objectives of the Committee and the interest of the Association. APA Ethics Committee Rules and Procedures: Part II General Operating Rules, 3.1 Requirement of Confidentiality: “All information concerning complaints against members shall be confidential, except that the Director may disclose such information when compelled by a valid subpoena, in response to a request from a state or local board or similar entity, 3 when otherwise required by law, or as otherwise provided in these Rules and Procedures. Such information may also be released when the Chair and the Director agree that release of that information is necessary to protect the interests of (a) the complainant or respondent; (b) other investigative or adjudicative bodies; (c) the Association; or (d) members of the public, and release will not unduly interfere with the Association’s interest in respecting the legitimate confidentiality interests of participants in the ethics process and its interest in safeguarding the confidentiality of internal peer review deliberation.”

<sup>102</sup> Hoffman Report, 2 July 2015, p. 10.

<sup>103</sup> *Ibid.*, p. 59.

<sup>104</sup> *Ibid.*, p. 9.

<sup>105</sup> *Ibid.*, p. 9.

definitely prohibited psychologists participating in interrogations.”<sup>106</sup>

4. The APA’s “handling of ethics complaints against prominent national security psychologists was handled in an improper fashion.”<sup>107</sup>

5. The APA’s motive was “to align APA and curry favor with DoD.” Secondary motives were creating “a good public-relations response” and “to keep the growth of psychology unrestrained in this area.”<sup>108</sup>

Additionally, there were other neutral findings within the Hoffman Report that would not necessitate investigation or further explanation into how Division 19 members were not living up to the APA’s core values. Examples of such findings are that there was no evidence that the APA knew about the use of enhanced interrogation techniques<sup>109</sup> and that the revisions of the 2002 Ethics Code “were not influenced by an effort to help the government’s interrogation efforts.”<sup>110</sup>

The critics are likely to cite ethics complaints against current or past Division 19 members as evidence said member contributed to the compromise of APA core values. Such an assertion is contingent upon the erroneous belief that the mere act of filing an ethics complaint is itself proof of guilt. The standard TF19 used to determine if Division 19 members, by commission or omission, failed to personally live up to APA core values, or caused others to compromise APA core values, was the presence of verifiable evidence that such behaviors actually occurred. To be clear, TF19 did not conduct an investigation but rather relied upon evidence brought forth by the Hoffman Report.

In this regard, TF19 did not find that the Hoffman Report produced any evidence of a substantiated ethics complaints against Division 19 members by APA’s Ethics Committee or any state licensing board, with relation to supporting unethical interrogations. In addition, TF19 did not find that the Hoffman Report produced any evidence suggesting that any Division 19 member 1) participated in or encouraged others to participate in torture or cruel, inhuman, or demeaning treatment of detained personnel; 2) engaged in, aided, or condoned falsification of reports or purposeful destruction of records pertinent to the numerous government investigations subsequent to reports of detainee abuse; 3) failed to endorse

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<sup>106</sup> Ibid., p. 9.

<sup>107</sup> Ibid., p. 10.

<sup>108</sup> Ibid., p. 71.

<sup>109</sup> Ibid., p. 66.

<sup>110</sup> Ibid., p. 10.

evidenced-based practices as the science became available; 4) did not seek peer consultation and training when faced with the emerging area of psychological support to wartime detainee operations; 5) were remiss in voicing and trying to resolve conflicts between APA's Ethics Code and organizational demands; or 6) secretly brokered or engaged in any quid pro quo arrangements to enable the use of torture or enhanced interrogation techniques.

**d. Identify and objectively assess if any Division 19 member took specific actions, recommended policies and/or contributed to creating a dependence on government influence for APA.**

The Hoffman report defined "dependence on government influence" as a quid pro quo relationship between APA and DoD. Specifically, the Hoffman Report argues that if APA sanctioned the role of psychologists in the abusive interrogations of detainees as "ethical," then APA would benefit in some unidentified manner. Whereas the Hoffman Report does contain a plethora of conjectures and innuendo that suggest nefarious intent by DoD psychologists who worked with APA staff, there is no evidence to support that any identifiable quid pro quo was solicited, offered, or actually occurred – no contract, no promise for employment, no linkage to research monies or discussion of any tangible benefit.<sup>111</sup>

Across the field of psychology, subject matter experts are routinely called upon to determine how the Ethics Code applies to their area of practice wherein their expertise lies. This is exactly what occurred with the PENS Task Force, as a review of both the PENS listserv and notes taken during the PENS Task Force meetings makes clear. The Hoffman Report asserts that APA "colluded" with DoD to ensure that abusive interrogations would continue. This collusion, according to the Hoffman team, was made in lieu of an independent decision. Apparently, the only way that "collusion" could have been prevented was if APA refused to engage with DoD. Mutual collaboration and agreement is not collusion, nor does it foster dependence on one group over another.

To support their allegations of collusion, the Hoffman team would have had to examine the nature and extent of relationships between APA and psychologists in other practice areas where specialty guidelines had been written. To the knowledge of TF19, the Hoffman team did not do so. In addition, the Hoffman team alleges that collusion between APA and DoD occurred after the PENS Report as well. Neither can this allegation cannot stand up to the facts. Resolutions submitted to Council following the

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<sup>111</sup> Ibid., pp. 68-6

PENS Report received extensive governance review.<sup>112</sup> The failure of Council to adopt a particular policy is not evidence of collusion but rather is evidence that the sponsors of the policy failed to persuade their colleagues to support it.

In conclusion, there is no evidence in the Hoffman Report or other evidence that TF19 is aware of that any Division 19 member a) served as an intermediary to broker a quid pro quo between APA and DoD; b) was authorized to make promises to APA on behalf of DoD, or c) approached an APA official offering promises that DoD would provide any type of favorable treatment to APA in exchange for any action. There was also no evidence provided by the Hoffman Report to indicate that APA policies were derived from “collusion.”

**e. Determine and provide recommendations regarding whether the Hoffman Report findings warrant Division 19 leadership expressing regret and/or apologizing for any division supported, endorsed, or sanctioned behavior and the consequences that ensued.**

TF19 acknowledges that detainee abuse was inflicted by individuals working for the U.S. government. Such abuse is completely counter to the core values of military members, military officers, and military psychologists. TF19 does not discount, in any manner, the abuse that occurred or its significance. However, in the absence of any evidence provided by the Hoffman Report demonstrating that the division or any individual member was complicit in this abuse, the Hoffman Report findings do not warrant Division 19 leadership expressing regret and/or apologizing for any division supported, endorsed, or sanctioned behavior and the consequences that ensued.

**f. Prudently assess the recommendations to the APA’s governing Council of Representatives related to the following:**

- 1. Consider APA’s adoption of a policy prohibiting psychologists from participating in interrogation of persons held in custody by only military and intelligence authorities and how this unduly focuses upon only national security and not law enforcement activities, and the implications pertaining thereto.**

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<sup>112</sup> “Resolution Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment,” 9 August 2006, retrieved from <http://www.apa.org/about/policy/chapter-3.aspx>; “Reaffirmation of the American Psychological Association Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Its Application to Individuals Defined in the United States Code as ‘Enemy Combatants,’” 19 August 2007, retrieved from <http://www.apa.org/about/policy/torture.aspx>; “Policy Related to Psychologists’ Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment,” 31 July 2012, retrieved from <http://www.apa.org/about/policy/national-security.aspx>



One of the approved “Recommended Board Actions Related to the Report of the Independent Review Relating to APA Ethics Guidelines, National Security Interrogations and Torture”<sup>113</sup> is

*Recommend that Council adopts the following as APA policy: APA prohibits psychologist participation in interrogation of persons held in custody by military/intelligence authorities. Recommend that Council requests that the 2013 Policy Related to Psychologists' Work in National Security Settings and Reaffirmation of the APA Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment be fully implemented (with the amendments proposed in New Business Item 23B).*

An excerpt from New Business Item 23B reads:

*BE IT FURTHER RESOLVED that, in keeping with Principle A (Beneficence and Nonmaleficence) of the Ethics Code to “take care to do no harm,”<sup>4</sup> psychologists shall not conduct, supervise, be in the presence of, or otherwise assist any national security interrogations for any military or intelligence entities, including private contractors working on their behalf, nor advise on conditions of confinement insofar as these might facilitate such an interrogation. This prohibition does not apply to domestic law enforcement interrogations or detention settings that are unrelated to national security interrogations.<sup>5</sup>*

In the absence of evidence to support the assertion that any DoD psychologist supported or was complicit in abusive military interrogations or inhumane detention operations since APA adopted the PENS Report as Association policy in June 2005, TF19 does not believe that this policy is justifiable. The adoption of this regulation is suggestive of selection bias based upon a political agenda as it focuses only upon military interrogations despite the fact that the U.S. military does not operate outside of U.S. law regardless of geographic location. Finally, while prohibiting a behavior that is felt to be unethical is logical, basing a prohibition upon a location or setting is not. What the August 2015 Resolution has done is prohibit certain psychologists from practicing their work in certain locations under the unsupported assumption that any act that they would perform in that location would be unethical

TF19 is exceptionally concerned about this precedent, one that indicates that APA’s only method of dealing with the ethical breaches of a very few is to prohibit all from working in that setting. This action is tantamount to prohibiting all psychologists from having a home office in a psychotherapy practice, because a handful of psychologists engaged in sexual intimacies with their clients in their homes. The Ethics Code applies to all psychologists within the professional organization irrespective of employer, setting, or location. Individual psychologists should and must be held accountable for their behaviors. If

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<sup>113</sup> Retrieved from <http://www.apa.org/independent-review/recommended-actions-073115.aspx>

those professionals working within military and intelligence settings commit ethical violations, then individual and institutional charges and punishments would be the appropriate course of action.

Restricting the scope of practice in this manner is made even more puzzling given President Obama's 15 September 2015 call for the federal government to use behavioral science insights to better serve the American people.<sup>114</sup> The wielding of such power in this manner by a private, voluntary association whose mission is to promote the field of psychology directly contradicts its role in supporting its members in the competent and ethical practice of their profession. The decision is unfathomable, unless it is viewed within the context of the tension between those who believe that the profession is best served through traditional roles - providers and individual clients - and those who view agencies and organizations as their clients. In essence, to exclude agencies, organizations, and/or work settings from the receipt of psychological support runs the distinct risk of introducing a litmus test as to what defines psychology, a development that would be a significant concern to Division 19 and possibly other divisions whose members work in the United States and across the world with organizational clients.

TF19 strongly encourages APA through the efforts of a balanced working group to issue "practice guidelines" for psychologists working in national security and military settings in the same tradition as it has promulgated guidelines for other areas of psychological practice where adversarial processes exist and loss of liberty or other high-stakes outcomes exist.

## **2. Identify any Division 19 recommendations pertaining to the evaluation and recommend changes to APA ethics processes.**

TF19 strongly encourages APA to consult with Division 19 regarding any proposed revisions to its Ethics Code that pertain to or have the potential to impact the provision of services by military psychologists or that are likely to create or facilitate legal or professional conflicts of interest for military psychologists. Minimally, this may be accomplished through direct consultation with Division 19's president or a representative appointed by Division 19's EXCOM. Consultation with subject matter experts before and during the process of developing or revising Association policies, guidelines, or doctrine is consistent with professionally responsible practice. By virtue of its mission statement, its members' expertise, and its historical importance as a founding division of the APA, Division 19 is in a unique position to provide vital insight, guidance, and support to APA leadership, committees, and task forces on issues pertaining to topics of relevance to the field of military psychology.

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<sup>114</sup> Retrieved from <https://www.federalregister.gov/articles/2015/09/18/2015-23630/using-behavioral-science-insights-to-better-serve-the-american-people>

By example, military psychologists must practice under additional laws, regulations, and guidelines beyond those imposed by the APA and their state of licensure, such as the UCMJ. Failing to consult with military psychologists in advance of implementing policy changes puts members at risk of being simultaneously held to conflicting legal doctrines. Relatedly, the recommended inclusion of international laws and regulations into the APA Ethics Code and/or other policies adds an additional layer of legal complexity not only for military psychologists but potentially for all psychologists employed by a government entity or by any organization funded by government dollars.

**3. Review existing Division 19 bylaws and policies to ensure they are anchored in APA core values, including promoting human rights, human welfare, and ethics.**

Bylaws, as would be expected, focus on procedures, leadership, and financial management. Division 19 bylaws advocate the advancement of psychology as a means of promoting human welfare. While support to human rights and ethics is not explicitly stated in the bylaws or procedures, TF19 did not find any that were contradictory to those same values. In reviewing the mission statements and bylaws of the other divisions within APA, we found that, in general, the bylaws of other APA divisions mirror the bylaws of their parent organization. Only five other divisions - Society for the Psychology of Aesthetics, Creativity, and the Arts (10); Society for Industrial and Organizational Psychology (14); Society for the History of Psychology (26); Society for Addiction Psychology (50); International Psychology (52); and Trauma Psychology (56) - specifically identify the promotion of human welfare within their mission statements and/or bylaws.

**4. Develop language appropriate for Division 19 leadership endorsement to once again express and affirm our commitment to opposing acts of torture and cruel, inhuman, or degrading treatment or punishment in all settings.**

TF19 does not recommend any additions, deletions, or modifications to Division 19's established position on this matter, finding this stance to be unequivocal in tone and intent.

The position of the Society for Military Psychology has been and continues to be that

- Division 19 has always fully supported APA's positions prohibiting torture;
- Division 19 fully supports the Geneva Conventions as well as the U.N. Convention Against Torture, to which the United States is a signatory;
- Division 19 expects all psychologists to adhere to the letter and spirit of the APA Ethics Code; and
- Division 19 expects all psychologists to report Ethics Code violations to the APA Ethics Committee.

**5. Increase Division 19 membership awareness for the APA's increased engagement around human rights activities in collaboration with other organizations.**

As one of the founding divisions of APA, Division 19 endeavors to facilitate its members' access to information of importance to our parent organization, to include the growing emphasis around human rights activities. Most recently in its history, the division has actively utilized its growing social media presence to share information and announcements from APA's various electronic mediums and publications. TF19 recommends that Division 19 continue to facilitate this access to news, announcements, and other information from APA via its various communication channels. Given Division 19's emphasis on "engaging and educating our profession and the society we serve," TF19 also recommends that the division seek opportunities to engage with APA divisions and organizations outside of APA regarding these critical issues. In many ways, the military is a microcosm of our society and, as such, a community very much invested in protecting fundamental human rights.

**6. Evaluate existing conflict-of-interest policies regarding financial, policy or relationship-based conflicts to ensure the policies are understood and followed by Division 19 members and officers.**

The Division 19 bylaws do not specifically address conflict of interest so, by default, the division relies upon the APA's Ethical Standard 3.06 (Conflict of Interest) to delineate where objectivity, competence, or effectiveness can be impaired or relationships exploited. As noted on the APA website, the Council Leadership Team is already working to convene a group to clarify and strengthen the process and content of APA's governance policy on conflicts of interest. It is recommended that Division 19 monitor future guidance on this issue and disseminate findings and/or actions to its members.

**7. Provide recommendations for the adoption of clear procedures within the division for appointing and/or recommending Division 19 members to APA task forces and committees.**

Clearly, individuals nominated for participation in APA task forces and committees should have the requisite expertise and experience. It is also recognized that our students and early career psychologists bring valuable perspectives that should be considered as well. It is recommended that the EXCOM appoint a working group to identify the best practices to achieve this task, with a focus upon identifying best qualified candidates, the process by which to ensure diversity across the spectrum and the specific procedures to be followed.

**g. Explore the development of Division 19 mechanisms for mentoring and development of ethics training.**

As has been underscored throughout this report, the development of mentorship and ethics training is a critical task for all divisions. For Division 19, TF19 recommends a multi-pronged approach utilizing current technologies in order to broaden dissemination, ensure ongoing discussion, and reduce financial cost. A fifth seat on the Division 19's program committee should be established, with the specific task of coordinating and disseminating the issues related to ethics mentorship and training.

It is recommended that consideration be given to adding an ethics break-out session during the annual convention. The use of case examples in a small group format, one consisting of students, early career psychologists, and senior psychologists, would allow for mentorship during discussions involving challenging ethical dilemmas - both those common throughout the field as well as those unique to military psychologists. Summaries from those discussions could be posted to the Division 19 website and/or included in the Division 19 newsletter which would help ensure widespread dissemination. It is also recommended that thought be given to inviting other APA divisions who share interests and/scope of practice - Society of Consulting Psychology (13); Society of Counseling Psychology (17); Psychologists in Public Service (18); Society for Neuropsychology (40); Society for the Study of Peace, Conflict, and Violence (48); and Trauma Psychology (56) - to participate in joint presentations and workshops, allowing for thoughtful and open discussion. Such an approach would allow for shared consultation and collaboration to advance the profession.

Outside of the annual convention, the use of live chat and other forms of social media resources should be explored, with the goal of linking students and early career psychologists with senior psychologists for continual mentorship. A recent addition to Division 19's list of resources is the Adobe Connect live chat and virtual conference program, which provides an opportunity for periodic ethics presentations or workshops while also allowing ongoing mentorship. Finally, TF19 recommends the addition of a dedicated section within the Division 19 newsletter and/or regular emails to all Division 19 members that could be used to summarize relevant books, articles, and continuing education opportunities.

**h. Provide recommendations for Division 19 to endorse and help ensure that all of APA's relevant policies are anchored in APA's core values, including promoting human rights, human health and welfare, and ethics.**

The diversity of APA's divisions is its strength, and one would be hard pressed to find a division that is more diverse than Division 19. As practitioners, researchers, academics, and consultants, the pursuit of

excellence and ethical action is grounded in our synergy and adherence to scientific principles. The lack of knowledge regarding military practices, structure, and culture by the larger APA community is understandable – only 1% of the current American population has served in uniform. To that end, it is recommended that Division 19 increase its interaction and involvement throughout APA to address any misconceptions, reduce barriers to communication, increase sensitivities to each other’s equities, and bolster collaboration in areas of mutual interest.

### **General Observations**

TF19 was afforded neither the luxury of nearly eight months to develop these findings nor the largesse that comes with a \$4,000,000 check<sup>115</sup> to support our work. What we did bring to the table was a deep resolve to address the charges presented in the Hoffman Report in a data-based review with recognition of the importance of scientific principles and processes. While we believe we were successful in this mission, the readers of this document are left to form their own conclusion.

We were struck by several themes that ran throughout the report. General Principle E of the 2002 APA Ethics Code, states in part “psychologists try to eliminate the effect on their work of biases based upon these factors . . .” [referencing culture, individual and role differences]. However, the lack of understanding displayed by the Hoffman team with respect to military culture, practices, standards and policies was a clear, contributory factor in the report’s misunderstandings, mischaracterizations, and faulty conclusions. While the infliction of torture appropriately evokes a strong and visceral response for us all, as it must, the persistent linkage of that abhorrent behavior with military interrogations falsely assumed and erroneously portrayed operational psychologists as being unconcerned for human rights. The acceptance of torture is deeply inconsistent with the ethics and values inherent in military service, as was eloquently stated by MAJ Hoepner in August 2003, whom the Hoffman team approvingly quoted: “We are American soldiers, heirs of a long tradition of staying on the high ground.”<sup>116</sup>

This investigation appears to have been launched on the following simplistic formula: Bad things happened; bad actors, psychologists in DoD working with APA staff, sought to ensure that bad things could continue to happen; there remained “a substantial risk” that bad things would continue to happen because of “loose” ethical guidelines; and APA turned a blind eye because it wished to curry favor with

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<sup>115</sup> As of 27 October 2015, the total amount billed by Sidley Austin was \$4,135,255, with the total for all independent review costs to date, \$4,989,377. This figure represents approximately 8% of APA’s financial reserves.

<sup>116</sup> Hoffman Report, 2 July 2015, p. 71.

DoD. The first element in the equation is fact - there were instances of abuse and torture in the early years of the war. However, when one takes an informed and objective look at the timeline, one that involves DoD's responses to the events at Guantanamo and Abu Ghraib, as well as the proactive actions of DoD psychologists and several APA leaders, the rest of the equation falls apart. While it is critical to acknowledge when psychologists engage in unethical behavior and respond appropriately, it is equally important to acknowledge when psychologists hold fast to their core values, even when such acknowledgment may be difficult in the face of severe criticism.

But the onus for this outcome does not rest on the shoulders of the Hoffman team alone. They were, in fact, hired to do a job by a small number of APA leaders. From an organizational standpoint, by Spring 2015 the project was well over budget. The Board's initial budget for this effort was between \$400,000 and \$800,000. The document was later than originally anticipated; the initial report, scheduled to be completed by the end of March 2015, was finally submitted to the Board on 27 June 2015,<sup>117</sup> prodded, it appears, by factors identified in the Hoffman Report's very first footnote,<sup>118</sup> in which it was acknowledged the Special Committee had voiced a "very strong preference" that the report be available prior to the August 2015 annual convention. The delay in fully completing the investigation was due, at least in part, to the Special Committee's decision to expand the scope of the original questions to include "a review of the issues specifically identified in the Board's statement, the relevant issues in Risen's book, and the critics' allegations regarding the changes in APA policies and the driving forces behind those changes."<sup>119</sup> The scope of the review was broadened in order to achieve a "full understanding of what happened and why" - an expectation that clearly was not met.

As any psychologist versed in assessment knows, the way a question is phrased has significant impact on the answers that are found; by the time the investigation started in earnest, there was a substantial risk that the investigation was not one in which an exploration of the facts would occur; rather it was one in which "facts" would be sought to support a predetermined set of conclusions based on many incorrect assumptions and inferences for which no credible foundation had been established. In establishing the parameters for the investigation, the Hoffman team was encouraged to spend substantial time with the critics prior to conducting the team's work, a decision that many psychologists would view as questionable in the conduct of an "independent, objective" investigation. It is difficult to imagine that

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<sup>117</sup> Retrieved from <http://www.apa.org/monitor/2015/09/cover-policy.aspx>

<sup>118</sup> Hoffman Report, 2 July 2015, p. 21.

<sup>119</sup> *Ibid.*, p. 64.

any competent, experienced forensic psychologist would have proceeded with such an instruction in a custody evaluation, for example, given the importance both to appear, and to be, neutral with regard to the parties and the relevant allegations. Certainly, all voices needed to be heard, but the approach taken by Mr. Hoffman is consistent with what would be expected from a prosecutor accustomed to establishing the best case for his client (the state), rather than engaging in a deliberate, balanced, thorough investigation to establish the truth, as a judge would do.

Numerous individuals who were interviewed by the Hoffman team have reported that what they said was significantly mischaracterized or reported flat-out wrong. For example, the mischaracterization of Col(Ret) Kleinman's statements, which were deleted only after Col(Ret) Kleinman's attorney contacted Mr. Hoffman, raises legitimate concerns about the validity of the comments made in other interviews. This concern is especially pressing for Interviews with individuals who were most likely to provide evidence and opinions contrary to the Hoffman Report's central conclusions.

The Hoffman Report is filled with examples of the Hoffman team shaping the data to fit its conclusions, rather than allowing the data to speak for themselves. This feature of the Hoffman Report, coupled with, among other features, incorrect facts, directly contradicts the Hoffman team's promise to "go where the evidence would lead."<sup>120</sup> Political differences will always exist; the profession of psychology is diminished when the politics drive the science, rather than science informing the politics.

We are deeply disappointed that this investigative process had no mechanism for an adequate opportunity to respond nor any time allowed for the mistakes and mischaracterizations included in the report to be brought forth, discussed, and corrected prior the report's public release. No one interviewed in the process of the investigation has yet been afforded the opportunity to review the source material used by the Hoffman team for accuracy, nor was anyone named in the report sent a draft prior to the report's release in order to meet with the Board to correct mistakes and affirm or disagree with the findings. Critics of APA, however, were allowed access to the Hoffman Report even before Council was given access. While the report's leak to the *New York Times* expedited the process of making the report public, as far as TF19 can determine, the Special Committee never had created a timeline or a process by which people named in the report would have an opportunity to respond before the report's public dissemination. Apparently, only after Council members named in the report requested an avenue by which to respond, did the Board create a venue on the APA website – many days after the report appeared in the *New York Times*.

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<sup>120</sup> Ibid., p. 8.



The Special Committee accepted the report without the slightest indication that the findings were anything less than correct. People were fired or “encouraged to retire,” with careers spent in long service to APA or DoD left in tatters. It is difficult to understand why the clarion call to “do no harm” did not apply to all.

Shaping of the response to the Hoffman Report was immediate – the intensity of the affect overwhelmed clarity of thought. Immediately following adoption of the Resolution, the chair of the Special Committee wrote about “the tears” of those on Council and the Council dais. Two days later, those entering the town hall meeting were greeted by two large screens with affect-laden, negatively charged words and phrases describing reactions to the report. These events occurred after the Board had been put on notice that there were serious flaws in the Hoffman Report.

The allegations leveled against the PENS Task Force in the Hoffman Report - the lack of transparency, the rush to adopt policy without considered judgment, conflicts of interest, communications intentionally kept from APA’s highest governing body, the failure to abide by relevant APA policy, and the preoccupation with how APA would appear in the media - were apparently mirrored by the very responses of the Special Committee to the Hoffman Report.

While TF19 found no basis for an apology from Division 19 leadership for any actions of the division or its members, the same cannot be said for APA. The Special Committee did not establish an adequate opportunity for those named in the report to defend themselves, setting the stage for potentially protracted litigation; substituted politics for leadership in a time of high emotion; allowed misinformation to be disseminated on APA listservs to members without any apparent oversight by APA, fueling the subsequent rush to judgment against individuals named in the report; and created fissures within the discipline of psychology that threaten to fracture the community. Nearly four months after APA adopted the 2015 Resolution, the organization appears to have very little understanding of the Resolution’s implications. Today, more than ever, psychologists need to return to the core of APA as a professional organization dedicated to advancing psychology as a science, a field dedicated to the pursuit of excellence, knowledge, diversity, and ethical action.

The Hoffman Report got it wrong.

If Mr. Hoffman had followed the evidence – as he had promised to do – the efforts of military psychologists and APA staff to end detainee abuse would have been appropriately recognized. Instead, readers are left to believe that all military interrogations equate to torture, operational psychologists

are devoid of ethics, and APA is an ineffectual organization that does the bidding of external agencies. The Hoffman Report and APA's response have irreparably damaged the reputations and livelihoods of dedicated professionals who did not see a dichotomy between professional ethics and patriotic duty at a time of national crisis, and who viewed gaining accurate information to prevent acts of violence and respecting human rights as entirely compatible.

APA now faces the largest challenge of its history.

## **Appendix A**

### **Division 19, Society for Military Psychology**

#### **Terms of Reference**

**14 July 2015**

#### **Hoffman Report: Actions, Lessons Learned, and Way Ahead**

##### **General Objective**

Identify science, practice, and membership implications and opportunities, as well as policy and process improvements that Division 19 should adopt as a result of the APA Hoffman Report.

##### **Background**

The APA Board of Directors responded to ongoing critics of its processes by retaining the services of attorney David Hoffman of the Sidley Austin law firm this past November. The APA asked Mr. Hoffman to conduct a thorough and independent review of the alleged relationship between various activities of the APA and Bush Administration policies on interrogation techniques. According to the APA website, the Hoffman report states that the intent and motivation for the individuals who participated in actions related to the PENS report, which was described as “collusion,” was their efforts to “curry favor” with the Defense Department. The report alleges this “may have enabled the government’s use of abusive interrogation techniques.” According the Hoffman report and the APA website, this resulted in the 2005 PENS report becoming a “document based at least as much on the desires of the DoD as on the needs of the psychology profession and the APA’s commitment to human rights.”

We have addressed our concerns in a letter forwarded to our membership. My letter expresses disappointment in the perceived lack of complete objectivity in the report and calls for the establishment of a senior panel of members of our division to carefully evaluate and explore these issues and opportunities.

##### **Specific Tasking**

- a. Carefully review the Hoffman report to identify and document any objective evidence of “collusion;” any significant conflicts of interests that were not acknowledged by any Division 19 member, and whether there is evidence that meaningful field guidance was not provided that resulted in any Division 19 members’ actions that enabled, contributed to or supported abusive interrogation techniques, and/or contributed to violations of human rights.
- b. Identify any Division 19 practices, processes, or policies that may have directly or indirectly contributed in any way to APA’s perceived failure to maintain their own internal checks and balances for how policies regarding ethics and/or the standing up of task forces related to interest areas of importance to Division 19.
- c. Identify and objectively assess the findings in the Hoffman report to determine whether and/or how, in any way, the report findings convincingly demonstrate that any Division 19 member contributed to APA not living up to its core values.

- d. Identify and objectively assess if any Division 19 member took specific actions, recommended policies, and/or contributed to creating a dependence on government influence for APA.
- e. Determine and provide recommendations regarding whether the Hoffman report findings warrant Division 19 leadership expressing regret and/or apologizing for any division supported, endorsed, or sanctioned behavior and the consequences that ensued.
- f. Prudently assess the recommendations to the APA's governing Council of Representatives related to:
  - Consider APA's adoption of a policy prohibiting psychologists from participating in interrogation of persons held in custody by only military and intelligence authorities and how this unduly focuses only national security and not law enforcement activities, and the implications pertaining thereto.
  - Identify any Division 19 recommendations pertaining to the evaluation and recommend changes to APA ethics processes.
  - Review existing Division 19 bylaws and policies to ensure they are anchored in anchored in APA core values, including promoting human rights, human welfare and ethics.
  - Develop language appropriate for Division 19 leadership endorsement to once again express and affirm our commitment to the opposing acts of torture and cruel, inhuman, or degrading treatment or punishment in all settings.
  - Increase Division 19 membership awareness for the APA's increased engagement around human rights activities in collaboration with other organizations.
  - Evaluate existing conflict-of-interest policies regarding financial, policy, or relationship based conflicts to ensure the policies are understood and followed by Division 19 members and officers.
  - Provide recommendations for the adoption of clear procedures within for appointing and/or recommending Division 19 members to APA Task Forces and Commissions.
- g. Explore the development of Division 19 mechanisms for mentoring and development of ethics training as components of our annual convention programming.
- h. Provide recommendations for Division 19 to endorse and help ensure that all of APA's relevant policies are anchored in APA core values, including promoting human rights, human health and welfare, and ethics.

## Appendix B

### Division 19 Members Named in or Interviewed for the Hoffman Report

Arrigo, Jean-Marie

Banks, Morgan

Crow, Bruce

Bartone, Paul

Dunivin, Debra

Grill, Dennis

James, Larry

Knapp, Deirdre

Laurence, Janice

Matarazzo, Joseph

Nichols, Robert

Roland, Robert

Sammons, Morgan

Seligman, Martin

Sternberg, Robert

Strickland, William

Williams, Tom

## **Appendix C**

### **Investigations Regarding Detainee Operations, Detainee Treatment, and Interrogation Techniques: 2003-2005**

Investigations Pertaining to Detention Operations and Interrogation Techniques 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade (MG Antonio M. Taguba), 9 March 2003

Assessment of DoD Counter-Terrorism Interrogation and Detention Operations in Iraq (MG Geoffrey D. Miller), 9 September 2003

Assessment of Detention and Corrections Operations in Iraq, (MG Donald J. Ryder), 6 November 2003

Inspection of Detainee Operations and Facilities in Afghanistan (MG Charles H. Jacoby), 26 June 2004

Department of the Army Inspector General Assessment of Detainee Operations in Afghanistan and Iraq, 21 July 2004

15-6 Investigation of the Abu Ghraib Detention Facility and the 205<sup>th</sup> Military Intelligence Brigade (LTC Anthony R. Jones and MG George L. Fay), 6 August 2004

Independent Panel to Review DoD Detention Operations (The Honorable James R. Schlesinger, Chairman), 24 August 2004

15-6 Investigation of Combined Special Joint Operations Task Force on Detainee Operations (BG Richard P. Formica), 8 November 2004

Review of DoD Detention Operations and Detainee Interrogation Techniques (VADM Albert T. Church, III), 7 March 2005

15-6 Investigation regarding FBI Allegations of Detainee Abuse at GTMO (LTG Randall M. Schmidt and BG John T. Furlow), 1 April 2005

Assessment of Detainee Medical Operations for OEF (Operation Enduring Freedom), GTMO (Guantanamo), and OIF (Operation Iraqi Freedom) (MG Lester Martinez-Lopez, Commander of U.S. Medical Research and Materiel Command), 13 April 2005