

May 21, 2016

Dear Colleagues,

Following release of the Hoffman report, we provided documents that directly contradict Mr. Hoffman's findings and conclusions. Some of those documents were actually contained in Mr. Hoffman's own reference materials, some were contained in other documents he cites, and the rest were readily available on the Internet. When he wrote the report, Mr. Hoffman had evidence that did not support the case he was making, and he decided not to include that evidence in his report. Mr. Hoffman also distorted the history of the military's response to abusive interrogation tactics in the years between 9/11 and the formation of the PENS Task Force in 2005, mischaracterized interviews and emails, and cherry picked from other materials to construct a false narrative that has done irreparable damage to numerous careers. In the end, Mr. Hoffman wrote a prosecutor's brief disguised as an even-handed, neutral factual statement.

In an attempt to settle the matter, we have tried to sit down and discuss our concerns with APA, in the hopes that APA would acknowledge the serious flaws in Mr. Hoffman's supposedly independent review process and his report. APA has responded by agreeing that a review of the Hoffman report is indeed necessary—but, to our disbelief, has decided that Mr. Hoffman himself is the most appropriate person to conduct this review. To date, APA has shown no indication of recognizing the implications of this decision, which can only be described as a defensive maneuver designed to protect those most involved in the independent review process and its aftermath.

In response to this decision by the Board, we are providing you with the attached explanation of some of our concerns with that decision. It includes details and evidence that have not yet been made public. The document makes clear, among other points, that the special committee and non-recused members of the APA Board knew that key information in the Hoffman report was incorrect and did nothing to correct the misinformation before making the report public; that the chair of the special committee herself distorted the findings of the Hoffman report to the media; that Mr. Hoffman formed a relationship with the "critics" that was not disclosed to other witnesses and that, with the approval of the special committee, resulted in broadening the scope of the review; that the "critics" had attempted unsuccessfully to get the FBI to initiate a federal criminal investigation (a fact Mr. Hoffman was aware of but did not mention); and that Mr. Hoffman incorporated language into his report typically used to prosecute federal criminal actions without ever informing us or other witnesses of this agenda and the possible implications for our lives and careers.

You can find this statement and all of our previous communications on the issues at www.hoffmanreportapa.com under the page "releases."

Thank you for your continued support and for taking the time to keep informed of the issues that are so vital to APA's reputation. If you have any information that you think would be helpful, please contact us at info@hoffmanreportapa.com.

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

WHY IS THE APA SO COMMITTED TO RE-ENGAGING THE AUTHOR OF A FALSE REPORT TO REVIEW HIS OWN WORK?

Last October, we provided the American Psychological Association (APA) and its outside counsel [documentary evidence](#) that David Hoffman's purportedly objective and neutral report omitted key documents; mischaracterized and quoted selectively from other documents, e-mails and interviews; and fundamentally distorted the history of the military's response to abusive interrogation tactics in the years between 9/11 and the formation of the Psychological Ethics and National Security (PENS) Task Force in 2005.

We were gratified to learn that, confronted with the evidence presented by us and Division 19 (Military Psychology), the APA had decided to take a fresh look at the report's conclusions. However, we were convinced that asking the report's author to review his own work would guarantee an equally flawed result. Others agreed. For example, in February we were alerted by a Division 55 public listserv post that the Council of Representatives (Council), the governing body of the APA, had advised the Board of Directors (Board) not to re-hire Mr. Hoffman:

The Board announced they had contracted with Hoffman's law firm to review the response of Division 19 (Military Psychology) to the Hoffman Report indicating that Hoffman had failed to consider certain DoD [Department of Defense] policies in his interpretation of APA activities. Council objected to the use of the same law firm to evaluate the accuracy of its own conclusions, the failure of the Board to consult with Council on the decision, the justification for having to pay Hoffman to review his own possible errors, and other issues. In response, the Board rescinded the contract.

We were therefore shocked to learn that, against this clear guidance from the APA's governing body and despite simple common sense, the Board has in fact re-hired Mr. Hoffman to review his own work – and will pay him more of the APA's money for that task. At this point, the Directors have sufficient evidence and knowledge of Mr. Hoffman's willful distortions and omissions to make their reliance on him clearly unwarranted under the relevant [case law](#) and [statutes](#).

The evidence also now shows that the Board, despite its repeated claims to be motivated only by the integrity of the process and [by a search for the truth](#), blocked the disclosure of Mr. Hoffman's notes and other supporting documents. In their engagement letter, the APA and Sidley Austin LLP expressly agreed that their work for the report would not be covered by privilege, and that [neither Sidley nor the APA would make any claims of privilege](#). Similarly, in a phone conversation between our attorney and one of the APA's outside counsel on August 26, 2015, the [counsel stated specifically that privilege would not be claimed](#). But the Board has now reversed course. On October 29, [in a letter to Council](#), just a few days after we submitted clear evidence that Mr. Hoffman's key conclusion was false, the Board claimed privilege, and it has refused to disclose Mr. Hoffman's notes and other supporting documents to us.¹ At this point, it is difficult to see a motive for this lack of transparency other than a fear of what a full review of the material would show. Such a full review of all the available evidence would demonstrate that Mr. Hoffman wrote the report by selectively including material that supported his conclusions, while intentionally omitting or minimizing evidence that contradicted his skewed narrative.

The Board's action is all the more disturbing because Mr. Hoffman's distortions and omissions are not trivial and cannot be considered inadvertent.

The distortions and omissions are at the core of Mr. Hoffman's conclusions and, without them, those conclusions collapse. Nor are they limited to the few policies the Board has asked him to reconsider. Since our initial response to the report last fall, we have [amassed even more evidence](#) (only some of which we include in this response) that contradicts Mr. Hoffman's conclusions but that Mr. Hoffman chose not to include in his report. Neither the Board nor the APA's outside counsel have shown any interest in discussing this evidence with us or taken any steps to mitigate the damage to our reputations and livelihoods caused by the report's false narrative.ⁱⁱ

Moreover, for at least two reasons the critical omissions cannot be considered inadvertent.

First, some evidence he chose not to analyze in the text of the report is [contained in documents in the report's appendix](#) or referenced by other documents he did analyze in the text. For example, one of the key documents Mr. Hoffman included in the appendix – but did not refer to in the report – is the Standard Operating Procedure (SOP) [drafted by Colonel \(Ret.\) Dunivin containing specific prohibitions against abusive interrogations](#). (This document was also contained in the file for the Leso ethics investigation that Mr. Hoffman's team reviewed at least twice, and that was available to the [Board for review in 2014](#).) Conversely, in the text of his report, Mr. Hoffman analyzes extensively an outdated SOP that [he retrieved from a website he cites](#), without noting that [the SOP drafted by Colonel \(Ret.\) Dunivin](#) is listed next to that outdated policy (Hoffman report, p. 214). In addition to that SOP, other relevant documents were [readily available to him on the Internet](#) – where our attorney found them – and, indeed, other emails and [documents Mr. Hoffman included in his appendix and text pointed to the existence of policies and procedures that were in place at the time of PENS but that he ignored](#).

Moreover, based upon reports from many of those he interviewed, we believe his interview notes – assuming his team took full notes – contain even more evidence Mr. Hoffman chose to omit. In our own interviews we provided Mr. Hoffman clear statements, including e-mails, that contradict portions of his report, make clear our position on interrogations, and show that the procedures we helped draft were *more* restrictive than overall DoD policy. For example, when Colonel (Ret.) James picked-up Mr. Hoffman from the airport for his interview, Colonel (Ret.) James told him that policies existed that prevented abuses. And, in direct contrast to the facts Mr. Hoffman presented, PENS incorporated those very restrictive local policies, at a time when the exact nature of overall DoD policy had been the subject of intense debates at the highest levels of government. While Mr. Hoffman cites portions of our interviews, he chose not to include the portions that contradict his case. Indeed, according to notes from his meeting with the Council, Mr. Hoffman admitted that he constructed his report to [make the case for his conclusions](#) rather than to present the evidence objectively and thoroughly, as he claims to be doing at the report's beginning, and is [best practice](#).

Second, the documents, e-mails and other evidence we have amassed – which were available to Mr. Hoffman – not only contradict Mr. Hoffman's conclusions, but also demonstrate his [close collaboration](#) with and [overreliance on our critics](#). As a result of that undisclosed collaboration, Mr. Hoffman failed to take an independent approach, maintain the integrity of the investigation,

or present a neutral and objective review of the evidence. Instead, he [embraced the narrative](#) and the “evidence” of our critics – to [whom he promised confidentiality](#), as he did not to us – and shaped the evidence to fit their narrative:

- [The Board asked Mr. Hoffman to investigate three questions arising from allegations made by James Risen in *Pay Any Price*](#). He found that the evidence did not support those allegations, but he does not, as one would expect from an independent investigator, draw from that finding any conclusions about the reliability or veracity of Mr. Risen or the critics of the APA with whom he collaborated. Instead, Mr. Hoffman softly characterizes those false allegations as “understandable” inferences and fails to directly address Mr. Risen by name in relation to evidence that his allegations are incorrect. (Hoffman report, p. 48)
- In December, [shortly after the review began](#), our critics [discussed with him](#) an expansion of its scope. As [Drs. Soldz](#) and [Reisner](#) and [Nathaniel Raymond](#) repeatedly stated publicly, their goal was to find grounds for extending the statute of limitations so they could renew their push for an unwarranted criminal prosecution.ⁱⁱⁱ (The FBI [had twice concluded there were no such grounds](#), a fact Mr. Hoffman does not report.) [Dr. Reisner](#) confirmed that Mr. Hoffman was open to expanding the scope of the review in early December, shortly after Mr. Hoffman had signed his engagement letter with APA.
- As Mr. Hoffman proceeded with his expanded investigation, he repeatedly and explicitly refused to tell us what its scope was or what questions, beyond those initially posed by the Board, he was exploring. [Our critics had helped him create that path forward](#); we were [induced to respond to his questioning with false promises of disinterest and neutrality](#), while in the dark about his changed and true objectives.^{iv}
- Not surprisingly, therefore, his report, far from being an independent review that [described the facts in a fair, even-handed and objective manner](#), played directly into the hands of our critics, without our ever having the opportunity to respond in any meaningful way to the report’s allegations before APA released the report to the public. Mr. Hoffman’s intentions are revealed not only through the facts he chose to include or exclude, but also in his use of language such as “collusion,” “joint venture,” and “joint enterprise” that is often applied in criminal prosecutions, [as Mr. Hoffman, a former prosecutor, knows full well](#). It is particularly revealing that, at the meeting with the Council, [Mr. Hoffman said he would have preferred not to have used the term “collusion” because less loaded terms such as “behind-the-scenes communication” would have been more accurate. But he then claimed he felt constrained by that aspect of his charge that used the term “collusion.”](#) This does not constitute following the evidence wherever it leads, as Mr. Hoffman was obligated to do and as he repeatedly claimed to have done.

Because Mr. Hoffman was trained as a prosecutor in an adversarial system, it is not surprising that his report is written as a prosecutorial brief designed to “win” a case, not as the independent review following all the evidence that he was paid millions of dollars to conduct. [But the case he made for the public is the very case argued by our critics for many years](#). His report is a prosecutor’s one-sided indictment disguised as a judge’s factual statement.

The damage done by Mr. Hoffman's malicious approach to the investigation has been compounded by the actions of or lack of action by the Special Committee and the Board that demonstrate their own lack of neutrality and independence.

- Certain of the Special Committee members and several other Board Members, as well as a member of the legal staff, had as much, or more, involvement in the underlying events as others who were named in the report and therefore forced to recuse themselves. For example, to focus only on their role in the Leso matter:
 - Dr. Nadine Kaslow, the chair of the Special Committee and the [2014 President of the APA](#), asked staff to draft a Board communication regarding the closing of the Leso matter and was involved in revising that document. (Contrary to Mr. Hoffman's claims that the matter was handled improperly, documents he does not disclose demonstrate that the decision to close the Leso matter was fully reviewed and discussed by the Board members, among others.)
 - [Ann Springer, Associate General Counsel](#), reviewed the Leso matter on behalf of the General Counsel's office as liaison to the Ethics Office and Committee and commented on several of the relevant documents. At no point did Ms. Springer ever indicate that the Leso matter had not been handled in an entirely proper manner, consistent with the Ethics Committee *Rules and Procedures*. Ms. Springer is not listed as a witness for the independent review.
 - Dr. Jennifer Kelly held leadership positions, including the Board liaison to the Ethics Committee when the Leso matter was closed, that made her privy to facts that showed much of what Mr. Hoffman wrote about the matter was false and at odds with actions taken by her and other members of the Board just a year earlier. Dr. Kelly knew, for example, that Ms. Springer had not raised objections to the handling of the Leso matter or claimed that the review or closing of the Leso matter was "improper."
 - In February 2014, [the Board](#) (and others) received two special briefings about the closing of the Leso matter. (Some of that evidence is in the [Board's statement on the issue](#). It relied in part on experts with expertise in psychology and ethics, expertise Mr. Hoffman admitted he does not have. (Hoffman report, p. 5)) Mr. Hoffman does not list any of the non-recused Board members who were present at either of those briefings (including Dr. Kaslow) as witnesses for the independent review, despite the briefings' direct relevance to one of his major conclusions (Hoffman report, pp. 9-10). When those Board members voted to publish the Hoffman report on the APA website and act on its conclusions, because of the evidence they considered when they reviewed and discussed the decision to close the Leso matter, they clearly had knowledge that one of its major findings was false.
- The Special Committee members who were not named in the report and therefore not recused were the very individuals who expanded the scope of the review "broadly" beyond the Board's November 2014 charge to Mr. Hoffman (Hoffman report, p. 64), and were also thus responsible for Mr. Hoffman receiving considerably more compensation than originally envisioned by the Board. Conversely, those recused included some of those most likely to be skeptical of our critics' positions. The selective recusals, based upon Mr. Hoffman's decisions about whom to name in his report, are deeply disturbing.
- As early as February, several months before Mr. Hoffman submitted his report, Dr. Kaslow, who had been in frequent contact with Mr. Hoffman as the investigation

proceeded, discussed having the APA issue an apology; in other words, she had reached a conclusion about our critics' allegations [months before the investigation was completed](#). By March, a full month before any of us were even interviewed, members of the Special Committee approached at least two people with the idea of putting one of the critics on the Special Committee. Then, just a day after the report was published, Dr. Kaslow made her [personal views on these issues very clear to the press](#).

- Our critics were given access to the report [on June 28](#), the day after it was received by the Board, and [met with the Board on July 2](#). Dr. Soldz was not a member of the APA when he was given access to the report.^v In contrast, we were given no opportunity to meet with the Board or the Special Committee or to respond publicly to the report's allegations before the Board precipitously acted on them. Members of senior staff who had information that could counter the false allegations in the report sat waiting in their offices to be called to speak to the Board, but were never summoned. Drs. Soldz and Reisner took to social media on July 4th, [claiming they were "consulted" by the Board, using the hashtag "torture,"](#) before we even knew the report was complete.
- The damage to our reputations and livelihoods that began as soon as the report was leaked to James Risen^{vi} and published in the *New York Times* was compounded by public statements from Dr. Kaslow. [In a video-taped press interview, she stated falsely that we enabled abusive interrogations](#), an allegation the report itself did not directly make. Illogically, Dr. Kaslow nonetheless stated in the same interview that Mr. Hoffman had found no criminal wrongdoing. Enabling an abusive interrogation would have been a criminal offense.^{vii}

Based on these facts, Mr. Hoffman and his client, the APA through the work of its Special Committee, are fully responsible not only for the report's contents, but also for its damaging consequences. Moreover, the continued reliance on Mr. Hoffman by the APA's Board, in the face of what it now knows not only about the report's misrepresentations, but also about Mr. Hoffman's approach to the investigation, is clearly [unwarranted](#).

Dr. McDaniel's most recent statement simply compounds these issues. [The statement claims](#): 1) that the report is "based upon all reasonably available evidence" and 2) that Mr. Hoffman's "supplemental review is a continuation of Mr. Hoffman's prior work, based on the existence of factual information that has recently been called to our attention." [Since last October, the Board and its outside counsel have had evidence in their possession that shows that those two statements are false](#). The evidence Mr. Hoffman failed to discuss in his report was available to him at the time he was conducting his review; in fact, some of the DoD procedures and policies he is now being asked to review again were contained or referred to in the report's supporting documents provided to Council on July 9, before the report was published. Moreover, in May of 2004, these documents and policies were widely reported on by [CNN](#) and in the *Washington Post* and the *New York Times*. In addition, Colonel James wrote about their existence on the PENS listserv (and, on July 13, 2015, on the Council of Representatives listserv).

For months, we have been told that that the APA and its outside counsel would respond to our concerns promptly after reviewing what we had given them. We also made it clear that we wanted to work with the APA to find a mutually agreeable resolution to this matter that would clear our names without harming the organization or its members. We made the APA an offer

through our attorney that would not have entailed their rehiring Mr. Hoffman, and would have allowed all sides to find a resolution that would be in the best interests of the APA as well as the individuals named in the report. But the APA Board and its counsel never responded to that offer. At this point, we are left to conclude that their main goal is to protect the Hoffman report and the members of the Special Committee and the Board, not to rectify the damage the report has done or repair the ripped fabric of the organization.^{viii}

The Board's repeated actions and failures to act, in the face of clear knowledge of Mr. Hoffman's malicious actions and the false statements contained in his report, have left us with no alternative but to move forward with other steps to correct the record. This result, which could so easily be avoided if the Board cared to do so, will likely continue to mire the APA in controversy and contention over many years. Any illusions that these issues will simply fade from public view are misinformed and ill-founded. Mr. Hoffman's new analysis can't address the damage we have already suffered; only negotiation or legal proceedings will do that. And, even without formal discovery, the amount and nature of the evidence we have gathered will allow us to defeat any attempts to have the matter dismissed quickly in a formal legal action.

This sort of extended controversy was exactly what Mr. Hoffman was initially engaged to settle – a goal that, by any measure, he has failed to achieve. In light of these facts, no reasonable Board member could make a decision to engage him yet again and expect to be protected under the relevant legal standards.

¹ In further evidence that the claim of privilege was an afterthought designed to inappropriately shield and protect Mr. Hoffman's work from public scrutiny, in a number of places in the report Mr. Hoffman actually refers the reader to the interview of a witness – an interview he now won't allow the public to see. See for example, Hoffman report footnote 966, "See Newman interview (April 29, 2015)" and footnote 1615, "See Dunivin interview (May 27, 2015)." A reader can't "see" any of the interview material because the APA and Mr. Hoffman won't allow you to see these interviews.

While we have not yet addressed the issue of attorney work-product, we believe those claims are also disingenuous for at least five reasons. For a claim of attorney work product to successfully shield documents, those documents must also be prepared in anticipation of litigation. However:

- Mr. Hoffman, Dr. Kaslow, and the APA represented to us that the "sole objective" of the review was to merely determine the truth. In fact, Mr. Hoffman [induced us to participate by repeatedly claiming he was disinterested](#):

"...we are conducting the review in a completely independent fashion with the sole objective of ascertaining the truth about the allegations through an independent review of all available evidence, wherever that evidence leads, without regard to whether the evidence or conclusions may be deemed favorable or unfavorable to APA."

Neither, Mr. Hoffman or the APA told us he in fact was conducting an investigative legal proceeding [as preferred by our critics](#). Similarly, he didn't advise any of us whom he interviewed that [he wasn't licensed to practice law in DC](#) or any other of the jurisdictions where we were interviewed and in which he now claims he was engaged in giving "legal advice" in order to prepare for litigation – the claim that would allow him to shield documents from public view under the attorney work product doctrine. The only evidence that Mr. Hoffman and the APA have that he was rendering "legal advice" were those few words from the Sidley Austin LLP form engagement letter, which wasn't made public until after his report was made public. The mere fact that the Sidley Austin LLP form engagement letter says it was rendering "legal advice" is not enough to counter the weight of the evidence to the contrary.

- Mr. Hoffman's engagement letter doesn't set forth any litigation on the basis of which he could claim that he conducted the review in anticipation of litigation because there was none; the Board Resolution makes it clear

the review was conducted [in response to Mr. Risen's book and with the "sole" objective to ascertain the truth of those allegations.](#)

- Illinois takes a very narrow approach to the protection of attorney work product. Ordinary work product (any relevant material generated in preparation for trial that does not disclose "conceptual data") is freely discoverable. And opinion or "core" work product (materials generated in preparation for, or because of the prospect of, litigation, that reveals the mental impressions, opinions, or trial strategy of an attorney) is subject to discovery upon a showing of impossibility of securing similar information from other sources.
- We have a substantial need for the materials to prepare our case and we cannot, without undue hardship, obtain the substantial equivalent of those notes and underlying documents by other means. Mr. Hoffman has the only copies of the notes of our interviews and APA has refused to provide us with any of the documents they provided to Mr. Hoffman, claiming they are work product or privileged. We cannot obtain those documents from any other sources. In this situation, courts require production of the materials.
- Where the work product is either the basis of a lawsuit or the basis of a defense of a lawsuit, there is an exception to the work product doctrine in Illinois and elsewhere. Mr. Hoffman and APA have absolutely no good-faith basis for withholding the information we requested in late August from WilmerHale and Mr. Hoffman. They are making these claims to protect each other and the non-recused Board members.

ⁱⁱ The report had three principle findings:

- 1) **Claim:** Key APA officials, principally the APA Ethics Director joined and supported at times by other APA officials, colluded with important DoD officials to have APA issue loose, high-level guidelines that did not constrain DoD in any greater fashion than existing interrogation guidelines which permitted stress positions, exploitation of phobias, and sleep deprivation.
Facts: The regional policies governing interrogations at the time of PENS, some of which we helped to draft, contained firm prohibitions against specific forms of abusive interrogations. Those documents are incorporated by reference into Statement Four of the PENS Guidelines. Their existence destroys the foundation of his claim: Because the PENS guidelines incorporated those policies by reference, they were *more* restrictive than general DoD policy, and prohibited the techniques Mr. Hoffman says were allowed. Even if that were not the case, the fact that we worked hard to put in place the restrictive policies destroys his claim that we had a motive to ensure that the PENS guidelines remained loose.
- 2) **Claim:** APA officials engaged in a pattern of secret collaboration with DoD officials to defeat efforts by the Council of Representatives to introduce and pass resolutions that would have definitively prohibited psychologists from participating in interrogations at Guantanamo Bay and other U.S. detention centers abroad.
Facts: The bans were openly [debated on Council floor](#) on each occasion and then defeated when they failed to obtain enough votes – as an [audiotape](#) of a Town Hall meeting, as well as the [documents still available](#) on the [APA website, show](#). DoD psychologists, like any other APA members, are permitted to attempt to influence APA policy and, in fact, a number of APA governance groups openly rejected the adoption of the proposals. Dr. Kaslow, who was on Council in 2007, knew that the 2007 moratorium resolution was reviewed by multiple governance groups (including a group chaired by Dr. Jennifer Kelly), and that, following this review and review by the Board of Directors, the 2007 resolution was discussed, debated, and voted upon on the floor of Council. This information directly contradicts Mr. Hoffman's characterization of the process, as Drs. Kaslow and Kelly knew when they reviewed the report.
- 3) **Claim:** Ethics complaints against prominent national security psychologists were handled in an improper fashion, in an attempt to protect these psychologists from censure.
Facts: In our initial response in October 2015, we showed how [Mr. Hoffman distorted the James matter](#). Although Colonel (Ret.) James was subjected to disciplinary proceedings in a number of states, none of those proceedings resulted in a finding of any wrongdoing – because there was none. Mr. Hoffman seems to concede this point when he states that the handling of the APA ethics complaint against Colonel (Ret.) James was "technically permissible." Mr. Hoffman's allegations about the handling of the Leso matter are similarly contradicted by the evidence. Although he implies that the staff of the Ethics office did not undertake a careful review but merely "took the additional step of conducting internet searches," Mr. Hoffman and Danielle Carter, the second Sidley partner involved in the investigation, knew that was not the case. On at least one occasion when Ms. Carter and an associate reviewed the Leso file, they found a very long list of evidence the Ethics office had gathered and analyzed. This list was given to the Board and others during its reviews of the Leso

matter in early [February 2014](#), during one of several meetings in which the matter was discussed. None of those Board members objected to the closing of the Leso complaint nor suggested at any time that it was handled improperly under the Ethics Committee *Rules and Procedures* and, as [the Board](#) and [Dr. Kaslow, the head of the Special Committee, stated](#) at the time, the Board found the closing to be appropriate. Mr. Hoffman's report discloses none of this information. [Five of those Board members](#) remained on the Board in 2015 but were not recused when the Board voted to publish the contents of the Hoffman report – including the false allegation about the handling of the Leso matter – on the APA website.

Additional findings in the report:

- 1) The relationship between the CIA and the APA did not contribute to the outcome of the PENS report and the APA did not “collude” with the CIA. (Hoffman report, p. 10) We believe Mr. Hoffman was trying to make [the critics'](#) and [Mr. Risen's](#) case that Colonel (Ret.) Banks was working for the CIA, but he abandoned that notion late in the review. He falsely conflated the CIA and DoD policies throughout his report at a time when their interrogation policies [diverged](#) dramatically.
 - 2) No evidence was brought forward that APA psychologists were engaged in abusive interrogations. (Hoffman report, p.9)
- iii There was close collaboration among these three and James Risen, who not only sparked the investigation with his book, *Pay Any Price*, and was interviewed but not quoted in the investigation, but also was allowed by the *New York Times* to continue to report on its results.

- Mr. Raymond [arranged for Mr. Risen to gain his initial access to the “Gerwehr” e-mails](#).
- [In a letter to the FBI in 2012](#) pressing for criminal prosecutions, Mr. Raymond states that he then obtained the e-mails from Mr. Risen in 2011.
- In *All the President's Psychologists*, Drs. Soldz and Reisner as well as Mr. Raymond also claim that they obtained the e-mails from Mr. Risen.
- In April 2015, while Mr. Hoffman was conducting his investigation, the three published [All the President's Psychologists](#), which was then reported on and published on the *New York Times* website by Mr. Risen. At that time, Mr. Risen claimed that [the e-mails were “newly disclosed,”](#) a claim he knew to be incorrect and a claim Mr. Hoffman echoes in his report. In his article, Mr. Risen shades the truth to bolster the credibility of the allegations he made in his book, *Pay Any Price*, rather than disclosing that *All the President's Psychologists* is based on exactly the same e-mails, [analyzed by the same source \(Nathaniel Raymond\)](#), that formed the basis for his book which in turn gave rise to APA engaging Mr. Hoffman. All of those e-mails (which we now have and intend to make publicly available) were also given to Mr. Hoffman and not all of them support the contentions made by Mr. Raymond, Mr. Risen, and others (Hoffman report, p. 21).
- Mr. Raymond also served as a source for other authors who were critical of the APA, including Katherine Eban of [Vanity Fair](#), Mark Benjamin of [Salon](#), and Jane Mayer of [The New Yorker](#). (Jane Mayer is married to Bill Hamilton, [who was the National Security Editor for the Washington Bureau of the New York Times](#) where Mr. Risen is employed as the *Times*' most visible National Security reporter.)

Thus, the bulk of the allegations against the APA were coming from the same source: [Nathaniel Raymond](#), who was [at times aided by Dr. Reisner](#). (Mr. Risen also kept Mr. Raymond's identity anonymous in his book, although [Mr. Raymond used Mr. Risen's name to bolster his credibility](#).) Mr. Raymond and Dr. Reisner knew that they [had “one card left” to play: the allegations Mr. Risen was going to make in his book](#). But Mr. Risen admits in an excerpt from the draft of his book chapter that he couldn't verify [what Mr. Raymond told him about Scott Gerwehr](#), an admission not contained in the book's final version. And, in an interview published in the *Inside Higher Ed*, Mr. Risen also admits he didn't verify [any information in the Gerwehr e-mails](#). Mr. Risen has been previously criticized for [these sorts of reporting techniques](#). Mr. Risen's reporting has been characterized by journalism watchdogs as an example of [what can go wrong when politics infect investigations and reporters rely on unnamed sources](#).

Mr. Hoffman [knew about these close circular relationships that cast doubt on Mr. Risen's credibility](#), but he failed to describe them in his report, much less to subject them to the same zealous prosecutorial scrutiny than produced his false allegations of collusion against some of us. To the contrary, he goes out of his way to protect Mr. Risen, despite concluding that the allegations by Mr. Risen -- allegations that, according to [the Board resolution launching the investigation, formed its “sole objective”](#) -- were unfounded. Because he turned [his prosecutorial zeal in only one direction](#), he enabled Mr. Risen to continue his destructive reporting in the aftermath of the report's publication.

With regard to the allegations in James Risen's book, *Pay Any Price* :

- APA did not support the development or implementation of "enhanced" interrogation techniques that constituted torture. (Hoffman report, p. 9)
- Neither changes to Section 1.02 of the APA Code of Ethics in 2002 nor the formation or report of the PENS Task Force were the product of collusion with the government to support torture or intended to support torture. (Mr. Hoffman acknowledges that the relevant changes to the ethics code all preceded the events of September 11, 2001, and thus could not have been related to the Bush administration interrogation program.) (Hoffman report, p. 10)
- No APA action related to torture was improperly influenced by government-related financial considerations, including government grants, contracts or government policy regarding prescription privileges for psychologists serving in the military. (Hoffman report, p. 523)

In spite of those findings, which Mr. Risen clearly knew because he [published the full text of the Hoffman report in the New York Times on July 10th](#), 2015, Mr. Risen then [published the paperback version of his book on October 6th](#), 2015 without changing one word of the false allegations in his book.

^{iv} Mr. Hoffman and his team failed to observe a number of best practices in the conduct of the review. Indeed, another partner at Sidley Austin LLP has stated in an article that any changes to the scope of an [investigation should be in writing](#). Changes in the scope of Mr. Hoffman's review were neither put in writing nor communicated to us orally. When we questioned the scope of his review [he refused to clarify what he was doing](#). And, far from being a document of the caliber that a client would expect from Sidley Austin LLP, Mr. Hoffman's report is riddled with typographical errors and cites documents that don't exist or popular press books instead of original source materials. The review and report has cost the APA \$4.3 million (excluding other legal and crisis management expenses and severance packages), or 8% of its reserves, and will now likely result in even greater costs. To better understand the full context of those costs and expenses, some additional information is necessary: the average psychologist makes approximately \$80,000 per year; at Sidley Austin LLP a first-year associate makes approximately \$175,000 per year and the average profits per partner are [approximately \\$2 million per year](#).

^v Dr. Soldz had also stated that [Colonel \(Ret.\) James "can't write a sentence," and that he got his job "partly because he is black." And that "we use that phrase chains of command, because we can't prove what any individual did."](#)

^{vi} We have evidence that suggests Mr. Risen received the report prior to the July 3rd holiday weekend and began writing his article prior to July 8th when Council received the report. Over that weekend access to the report was quite limited.

Although some members named in the report were given access to its contents on July 7th, with a statement that APA felt it was important that they receive the document prior to it being sent to Council on July 8th, the document was never sent to Drs. Banks, Dunivin or Newman, and no public mechanism was set up for anyone named in the report to respond to its allegations until July 19th, a full five days after a comment section was set up for the general public on July 14th. Even then the [small space established, separate from the main allegations](#) and document, did nothing to mitigate any of the damage done to us.

^{vii} APA has done nothing beyond setting up the small website referenced above to help us correct Mr. Hoffman's false narrative. To the contrary, they have continued to [falsely insist we had an opportunity to comment on the document](#) and to reply to its contents. [Dr. Reisner](#) or [Dr. Kaslow](#), continued to make false statements while identifying themselves as members of the governing bodies of APA. Counsel for APA was notified of this fact as early as August 2015. Our attorney also asked APA's counsel to assist her in correcting the false narrative with the *New York Times*, but in spite of agreeing that Mr. Risen's reporting was false, they have repeatedly refused to help her, and told her quite vehemently she should take on Mr. Risen.

^{viii} APA's outside counsel, a partner with the law firm of WilmerHale, in a call with our attorney on April 15, 2016, refused to clarify whether he was representing Dr. McDaniel and Dr. Kaslow personally, in addition to the APA as a corporate entity. Instead, he said that, despite our being members of the APA who had been harmed by their actions, our attorney had no right to that information.