

From: Morgan Banks [<mailto:DocMB@aol.com>]

Sent: Sunday, March 01, 2015 5:50 PM

To: Hoffman, David H.

Subject: Documents & Questions relevant to the PENS Report Investigation

Mr. Hoffman,

I have taken the liberty of listing the specific requests for documents below, along with my initial responses. More detailed information may follow once I have the ability to search the paper documents in my office. I need to be clear that all of the documents that I am providing you are my own, and are not, unless otherwise verified, US Government policy. Much of what I worked on during this time may have become Government policy, and in the cases I am able, I will send you a link to download those documents from the US Government directly. Some of what I am sending you will be working documents.

Any documents related to the PENS Task Force, including documents relating to (a) the idea of creating such a task force, (b) the planning and preparation for the task force, (c) the selection of task force members, (d) the formation of the task force, (e) the meetings of the task force (including meeting notes and agendas), (f) the drafting and dissemination of the task force report (including any drafts or comments on drafts), and (g) subsequent discussions and follow up actions relating to the report.

Here are the documents I have been able to find on my personal computer. As a point of reference, until the establishment of the PENS TF, I did not have any relationship with APA. I was a colleague and friend of several Army Officers who were associated with APA, but from 1996 until 2009 I was not a member of APA. I left the APA in 1996 because I viewed their behavior as inappropriate for an Army Officer, and potentially unethical. (At that time they refused to allow the US Military to recruit at their convention or in their publications.)

The first five are documents that you may already have, and they include my comments and suggested changes, and should be self explanatory. I have attempted to simply copy them without changing the date from the last time I modified the document. The next document is one that I intended to send to the president of APA. I wished it to be reviewed by my Public Affairs Office and my boss, because my position had the potential effect of implying consent by the US Army Special Operations Command, and to the best of my knowledge, I do not believe that I was able to get it reviewed in a timely manner, and I decided not to send it. Because I am not completely sure if I sent it or not, I have included it here. The next document, concerning the implementation of the Petition Resolution, is attached along with my comments. Next is a memo that I sent, along with the previous document, to a large number of Army psychologists. I believe it is self-explanatory. The next document is self-explanatory, and it is one that I also sent to a large group of Army psychologists. As you can see, I signed it without my rank or position, for obvious reasons, and was written after I rejoined the APA. For some reason, this memo appears to be mislabeled, but I have attached it as I found it. Although so labeled, it was NOT a letter to Dr. Bray.

Any documents that pre-date 2009 relating to the role of psychologists in national security interrogations, including any documents (such as notes or emails) relating to any discussions or correspondence on this topic with anyone affiliated with the APA (whether Board members, management, staff, or otherwise), or with military, CIA, or other government officials;

Again, since I had some responsibility for overseeing the training of psychologists to support interrogation and detention operations, and I was an active duty officer at the time, this would include many emails that I sent over a several year time period. Almost all of those emails were sent on official DoD email systems, and I no longer have access to those emails. Some of these emails have made it into at least one major Senate report, and I understand you have a copy of that report. In addition to my emails, this report discusses in detail facts and observations and interviews that were declassified and I can discuss.

During the time period in question, I was involved in a tremendous number of discussions within the DoD at all levels, up to the Surgeons General, having to do with the use of psychologists to support interrogations. At no time was APA involved in these (primarily classified) discussions. The only question that we addressed in these meetings that concerned APA had to do with whether or not our work was consistent with the APA Code of Ethics. Both Surgeons General that I worked with on this topic were emphatic that all ethical standards be followed. Lieutenant General Kiley even spoke to the leadership of APA on this, in a completely open forum. The ethics counselor (I cannot remember his exact title) who provides ethical consultation for the Army Surgeon General often attended such meetings, and directly observed the training that we established.

Many of the documents I have either included or recommended that you retrieve demonstrate the positive benefits of utilizing psychologists in the role of supporting national security interrogations. At this point, the evidence appears to be quite conclusive that there have been an extremely low rate of likely inappropriate (much less illegal) behavior by psychologists in these roles within the DoD, and a uniform finding among all the reports that have been conducted, that their presence has increased the safety and effectiveness of these interrogations.

If you do not already have the following documents, I recommend that you retrieve them.

The 2004 DAIG Detainee Operations Inspection Report:

<http://www1.umn.edu/humanrts/OathBetrayed/Mikolashek%20Report.pdf>

Although such documents have corporate authors, I had significant responsibility for pages 16-22, Finding 2.

The 2005 Martinez-Lopez Report.

http://www.docstoc.com/docs/155119854/Final-Report--Assessment-of-Detainee-Medical-Operations-for-OEF_-GTMO_-AND-OIF-Office-of-the-Surgeon-General-of-the-Army-13-Apr-2005

or

<http://www1.umn.edu/humanrts/OathBetrayed/Army%20Surgeon%20General%20Report.pdf>

Page 1-8 gives their recommendations concerning psychologists supporting interrogations.

The 2008 Church Report, Review of Department of Defense Detention Operations and Detainee Interrogation Techniques, can be retrieved here:

http://www.dod.mil/pubs/foi/operation_and_plans/Detainee/Church_Report_pp353-365.pdf

Page 355 and 359 covers Psychology Support of Interrogations.

I was able to retrieve the entire document (redacted) here:

https://en.wikipedia.org/wiki/Church_Report

Finally, in 2009, the Review of the Department Compliance with President's Executive Order, often referred to as the Walsh Report, can be found here:

http://www.defense.gov/pubs/pdfs/REVIEW_OF_DEPARTMENT_COMPLIANCE_WITH_PRESIDENTS_EXECUTIVE_ORDER_ON_DETAINEE_CONDITIONS_OF_CONFINEMENTa.pdf

Pages 59-60 contains a Strong Recommendation on the use of psychologists in interrogations. These recommendations are the result of a detailed investigation of the treatment of detainees by the current administration, and resulted in the strongest possible recommendation that this work continue.

The final document that you must have for review, is OTSG/MEDCOM (Office of the Surgeon General/Army Medical Command) Policy 13-027, Behavioral Science Consultation Policy, dated 8 MAY 2013. This is the latest, although there have been three of these promulgated since 2006, with minor changes each time. Although this document is not classified, I am unable to find a publically available copy for your review. If you do not have a copy, you may need to file a FOIA request to get it. I will attempt to see if I can get one sent to you through formal channels without the need of a FOIA.

Any documents related to conferences or meetings sponsored, organized, or hosted by APA between 2001 and 2005 where one of the topics to be discussed was interrogations, educating information, or deception detection.

I believe that I had a small presentation at one of the large APA conventions (completely open to the attendees at the convention) that discussed some of the unclassified issues. I was one of several speakers. I cannot remember which year it was, but I will attempt to look it up in the convention books when I return to my office. I have looked, but cannot find a copy of the slides I used. I will continue to look, but they are likely not with me on my personal computer. Again, this presentation would have been open to any who attended the convention.

Any documents relating to the 2002 revisions to the APA Ethics Code (such as documents relating to the meetings, discussions, and draft revisions of the Ethics Code Task Force) that have any bearing on psychologists' participation in interrogations; and

Any documents relating to resolutions, petitions, or referendums considered or acted on by the APA Council of Representatives on this subject matter from 2005 to 2009.

The only documents I can find that are responsive to this are attached or linked above.

For what I hope are obvious reasons, I have not included any documents that relate to the CIA, or any non-DoD organizations, as any actions they may or may not have taken were not known to me at the time, nor even if I had known of them, would they have been relevant to DoD operations in this area. The most relevant document that I used when this support was first instituted, was the Army Regulation 190-8, (copied verbatim in the regulatory guidance of all uniformed services) which translates the Geneva Conventions Relative to the Treatment of POWs and Civilian Internees into specific guidance. Although there has certainly been a tremendous amount of legal discussion on the status of currently held detainees, I have always assumed and taught that Common Article Three applies, and that the Uniformed Code of Military Justice (which contains punishments for assault and for battery) also applied during the period in question. It was always a foundation for all of my discussions on this topic, and for all the discussions to which I was a party, including those of the PENS TF. Here is a link the AR 190-8.

http://www.apd.army.mil/pdffiles/r190_8.pdf

Finally, I apologize for adding what may be documents not directly relevant to the questions you are asking. In my opinion, they document the fact that with very minor possible exceptions, the DoD psychologists supporting interrogation operations have performed admirably, both within US law, and within the Ethical Standards of the American Psychological Association, both before and after the revisions.

Morgan Banks

L. Morgan Banks, Ph.D.
Operational Psychology Support, LLC
(910) 528-6990