
The following is the transcript of an ethics panel presentation provided by COL(R) Sally C. Harvey, PhD to the faculty at Argosy University on 17 June 2016. Dr. Steven Reisner was also on the panel. Dr. Harvey, whose brief bio is provided at the end of this document, has kindly allowed PsychCoalition.org to post this transcript online.

Ethics in a Post-Hoffman APA: Challenges and Controversy

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Before I begin this presentation, I would like to thank Dr. Shaw, Dr. Aziz and Dr. Lynch for this opportunity. I have had the pleasure of working with a number of your graduates, and have found them to be quite well-prepared and very grounded - clear credits to your university. In addition, I have great respect for your roles as educators, as our profession relies upon your commitment and expertise in training "the next generation." I will be the first to acknowledge that the following topic is complex – while I have tried to limit acronyms and provide an explanation of elements unique to the military, this remains a presentation dense with facts.

As I begin this conversation, I feel compelled to state that I am not an academician, nor a politician or someone drawn to the spotlight. I am most comfortable on the frontline, in the trenches, involved in the hands-on application of my craft. While speaking engagements, such as this, are quite low on my list of preferred activities, the stakes are simply too high to avoid a little personal discomfort. So, while nervous, my contribution to the discussion is this: a deep understanding of military culture, the operational environment of national security within the military and the events surrounding the current controversy regarding military interrogations. I have spent my professional career as both a clinical and operational psychologist – 27 ½ years on active duty and, now, as a civilian continuing to serve at Fort Hood, Texas. I have been stationed all over the world, and have deployed, multiple times, to combat zones. There have been many highlights associated with these experiences, in both my primary roles, but there have also been times of despair and angst. I have seen the very best of the human spirit – courage, integrity and honor – not only in Americans, but in Iraqis, Afghans and members of many other countries. I have also borne witness to human fragility as well as pure evil, evil that has resulted in senseless death and injury to innocents, evil that has stripped hope from the lives of many across the globe, evil that continues to stalk all that we, as free people, hold dear.

It is in the interest of disclosure and transparency that I mention the following. I have had a tenuous relationship with APA over my twenty-two years of membership, an experience that is shared by many of my colleagues in public service. However, I was recently elected and am currently serving as the president-elect for Division 19, The Society for Military Psychology. In that role, I chaired the Division 19 Response to the Hoffman Report, a factual document that calls into question all the findings associated with the independent review. I must emphasize that I am not here as a representative of either the Department of Defense, known as DoD, or Division 19 – for good or bad, the following presentation is completely my own. Finally, not only do I know many of those named in the Hoffman report, but I am proud and honored to call them my colleagues and friends.

It is my premise that by the end of this presentation, you will have gained an appreciation for and understanding of some of the complexities, issues and concerns related to psychologists' support to interrogations, the pertinent ethical concerns involved and basis of the controversy that continues to have such a divisive impact upon APA today.

So, as I begin, I want to express my deep appreciation for this opportunity to provide, as the radio commenter Paul Harvey (no relation) used to say, "the rest of the story," for the events leading to and stemming from the Hoffman report. As a psychologist, a scientist in the realm of human behavior, I believe in data, verifiable facts – as a human being, I also recognized that an ounce of emotion can outweigh a pound of facts. The issues at hand do give rise to powerful emotions. Mr. Hoffman, a former prosecutor, presented an argument that, at its best, is based upon erroneous and illogical assumptions. Perhaps this can be explained, in part, by the statement he made during his meeting with the Council of Representatives in August 2015, one held in executive session – as have most the critical actions regarding the independent review. At that time, Mr. Hoffman acknowledged that he constructed the report to make the case for his conclusions – rather than letting the data speak for themselves. This is an approach clearly at odds with presenting evidence objectively and thoroughly. The consequences that have occurred as a direct result of this report are not rhetorical – individuals' careers have been destroyed, reputations shattered, lives devastated – and APA is in turmoil.

To forestall arguments that this presentation is limited only to military psychology, I have provided for your review the two letters sent to the Board of Directors (BoD) of APA by 10 former chairs of the Ethics Committee, roles which reflect the esteem and regard by which these individuals are held by their peers. The first reflects a request made to the BoD on 1 Jul 2015. In that letter, the signatories asked for an opportunity to review the Hoffman report prior to its public release in order to ensure the accuracy of issues related to the Ethics Committee as well as APA organizational processes involving ethics. While the Board acknowledged receipt of the letter, no other substantive reply was received. As a result, the signatories released an open letter to the Board in Feb 2016, reiterating their initial concerns and adding, among other items, a request for an independent review of the "independent review." On 15 May, these same individuals sent a second open letter, detailing their ethical concerns related to the Board's decision in mid-April to rehire Mr. Hoffman to review certain DoD policies that the Board described as having only recently been brought to their attention – in essence, requesting Mr. Hoffman to review the quality of his own report. Of note, the Div 19 report was provided to the BoD on 11 Nov 2015, 5 months earlier, and the initial response from those maligned in the report had been provided over a month before that. On 7 June 2016, for the first time in our history, Division 42, Psychologists in Independent Practice and the largest one within APA, issued a "vote of no confidence" resolution in reference to the BoD, with this action largely driven by concerns related to the handling of the "independent review." On 11 Jun, a letter penned by 8 past presidents of APA was provided to the BoD, CoR and Divisions leaders expressing concern regarding the direction taken by APA subsequent to the release of the Hoffman Report. On 15 Jun, the public member of the ethics committee, a retired judge, resigned her seat, citing her inability to continue in the face of irreconcilable conflicts of interests in the managing of an ethics complaint brought against Dr. Kaslow and Dr. McDaniel, the members of the Special Committee overseeing the independent review. The ethical and procedural concerns presented in the letters from these esteemed professionals speak for themselves and are quite consistent with those I will speak to during this presentation. One thing is clear - the level of divisiveness and rancor that exists within APA today is unparalleled, and poses a true threat to our professional organization.

There is not enough time, this morning, to go through each of the multitude of errors contained in the Hoffman report. As such, I will focus only upon the central conclusions – Mr. Hoffman’s assertion that APA colluded with DoD to ensure that military interrogations, by 2005, could continue to torture and abuse detainees, a decision that Mr. Hoffman believed was fueled by APA’s desire to “curry favor” with DoD.

Ethics Code 2.01, Boundaries of Competence, requires that psychologists attend to both context and cultural awareness. So, as a way to set the stage, I would like to start by providing a window into the interplay among APA, DoD and military psychology.

APA, as a professional organization, was established on the foundation of a relationship with DoD. The organization traces its beginnings to 1892 under the presidency of Stanley Hall. The onset of WWI created the basis upon which APA became recognized as a science when then-president Robert Yerkes established 12 committees through which to apply psychology principles to the national defense. The applications of psychology then grew exponentially during WWII in the areas of psychometrics, research and training. 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 have served as clinicians since the Korean War, in hospitals, clinics and on the battlefield. The largest provider of internships within the US is the Veterans’ Administration, and all the psychology internships connected with DOD are accredited by APA. The APA and the military have been partners for a long time. In sum, most psychologists today can trace their professional foundation and legacy, at least in part, to collaboration – not collusion - with the U.S. military.

Division 19 is one of the original divisions that emerged from the 1945-46 reorganization of APA. Its membership of over 1,200 psychologists represents one of the most diverse groups within APA, composed of clinicians, consultants, researchers, educators and students. Most members are civilian, some have military experience and a few are on active military duty. While small in numbers, it is one of the few divisions within APA that continues to demonstrate growth. However, the relationship between Division 19 and APA has been fraught with controversy throughout much of its history. During the Vietnam War, another division introduced a resolution for the abolition of Division 19 based solely upon opposition to the war. Similar issues were raised during the 1st Gulf War, as objections rose to the roles of psychologists within the military. Another controversy involved the conflict over DOD’s ban of gays and lesbians serving in the military, a ban that was instituted by Congress and not DoD. As a result, APA banned advertising by the military services for job and internship opportunities at APA conventions and in APA publications. As a side note, military psychologists were quite influential in the subsequent repeal of “Don’t Ask, Don’t Tell,” which was lifted in 2011.

It must be recognized that, over the past 75 years, the U.S. military has been a significant change agent in American culture in areas that the general population has had difficulty accepting, to include the integration of people of color, women and, most recently, the LGBT community – the newly confirmed Secretary of the Army is an openly gay man. Psychologists within the military continue to be at the forefront of research and clinical approaches to PTSD, substance abuse and TBI 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; and risk management as well as the myriad of challenges related to keeping this Nation and its citizens safe. In sum, military psychology – like APA - spans a diversity of specialties.

General Principle E of our Ethics Code acknowledges that cultural, individual and role differences, among other variables, can impact the work done by psychologists and states that we try to eliminate the effect of these biases. Mr. Hoffman, in his report, acknowledged that he, and his team, had very little understanding of the profession of psychology prior to beginning their investigation – an acknowledgement that they were equally unfamiliar with the military culture would have been beneficial. DoD is a complicated and complex bureaucracy, one that consists of the military services as well as a host of other agencies focused upon intelligence, research and logistics – however, it is important to acknowledge that the Central Intelligence Agency, or CIA, is not a DoD entity. The CIA is an intelligence organization that reports to the Director of National Intelligence and to the White House – not to the Secretary of Defense. As this distinction is not inconsequential, I ask that you keep this fact at the ready throughout the presentation. While both the CIA and DoD have intelligence missions, the authorities and regulations that guide those activities are not identical. I also want to confirm that the operational psychologists whose lives have been so seriously impacted by the Hoffman report – Morgan Banks, Debra Dunivin and Larry James –served their careers in the military and not the CIA. It is also of note to state that the Hoffman report, itself, exonerates the CIA from any collusion with APA.

Both uniformed and civilian members of DoD take an oath to uphold the U.S. Constitution as a condition of their service. Military members are also subject to the Uniformed Code of Military Justice, or UCMJ. Failure to adhere to those articles can have severe consequences, up to the institution of the death penalty. Article 90 of the UCMJ makes it clear that military personnel must obey lawful commands, but that they also have an obligation and duty to disobey unlawful orders, including orders by even the president that do not comply with the UCMJ. The moral and legal obligation of military members is to the U.S. Constitution and not to those who would issue unlawful orders, especially if those orders are in direct violation of the Constitution and the UCMJ. Certainly you are aware that a certain presidential candidate has periodically announced that he would bring back waterboarding...or worse, and pontificated that the military would follow his orders, no questions asked. Here was the near-immediate response from senior military officers, to include former combat commanders, written in a letter to Senator John McCain:

While international and domestic law, which now includes the 2005 Detainee Treatment Act, prohibit such cruelty, high-level officials in the (Bush) Executive Branch still managed to evade congressional intent by using loophole lawyering to authorize torture and cruel treatment. We need to make sure that this never happens again. The United States should have one standard for interrogating detainees that is effective, lawful and humane.

Ethics Code 1.02 states

“If psychologists’ ethical responsibilities conflict with law, regulations or other governing authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.”

Mr. Hoffman, in his analysis, appears to believe that military personnel, fearful of the impact upon their careers and unable to withstand external pressures, are prone to obey all orders, regardless of legality or, in the case of psychologists, ethical constraints. Military psychologists constitute a tiny fraction of the uniformed officer corps – as such, we tend to be a fairly tight-knit community with shared

experiences through training, education, deployments and postings. After querying a broad swath of senior psychologists throughout the Army, Air Force and Navy, it was found that there have been a handful of psychologists who have been found culpable in many of the same ethical violations that occur among other psychologists – inappropriate sexual relationships and financial improprieties being the most common. However, none of the senior military psychologists surveyed could cite a single example of a psychologist who was sanctioned, disciplined or otherwise harmed for standing on ethical principles. This mirrors my personal experience where, once the ethical issues were identified, the commander, superior, supervisor, recognizing the importance of psychologists following ethical principles of practice, sought consultation in choosing a different course of action. These experiences occurred in both the clinical realm, where patient-provider confidentiality was the most common issue, as well as in my role as an operational psychologist. Please let me emphasize: I am talking about the Department of Defense, and only the Department of Defense, as that is the organization with which I am familiar.

It is a fact that there were detainees who were tortured in the early years of the Afghan and Iraqi conflicts, and that a few psychologists appear to have been involved in that abuse. Dr. Resiner and I are in absolute agreement on this point: Torture is an anathema. Recognition of its presence evokes a strong visceral response for us all, as it must. In addition to the deep inconsistency that such abuse holds with the ethics of psychology, torture is equally incongruent with the ethics and values inherent to military service. As was so eloquently stated by Senator John McCain, himself a former prisoner-of-war and victim of torture, “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.” Mr. Hoffman may have had an inkling of that ethic for military officers, himself, as he included the following quotation from a military intelligence officer in his report: “We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.”

As any student of history understands, events do not occur in a vacuum. To that end, I will now spend a little time walking through the timeline that led to the Psychological Ethics and National Security, or PENS, Report in June 2005, the document over which the Hoffman report takes such umbrage. I realize that the following several slides are dense with facts – but an understanding of the timing and sequence of events is another critical component to this discussion.

Let’s start with the law. One of the fundamental errors repeatedly echoed in the Hoffman report involves the relationship between U.S. and international law. As mentioned earlier, uniformed members and civilian employees of DoD are bound by oath and regulation to uphold the U.S. Constitution and federal laws. International laws not affirmed by the U.S. cannot take precedence should there be a conflict between the two. As an example: Divorce is illegal in two recognized countries – the Philippines and Vatican City. Should they establish an agreement between themselves, regarding this edict, it becomes, in effect an international law. On that basis alone, the fact it is an international law, would we want the US to comply as a result? When the U.S. is a signatory to an international law, then that edict becomes a part of U.S. law. The U.S. is a signatory to the Geneva Conventions, as of 1955, as well as the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, ratified in 1994.

Most of us remember where we were on 9-11 – I appreciate that the events of that tragic day occurred 15 years ago, so the younger members of this audience may have been in kindergarten. For myself, I was serving as the Chief of the Psychology Service at Landstuhl Regional Medical Center, Germany, a location that would soon become the hub for all the wounded evacuated out of both Afghanistan and

Iraq. On 7 October 2001, Operation Enduring Freedom in Afghanistan, commenced, with the first detainee taken on 1 December 2001. In late December, Donald Rumsfeld, the Secretary of Defense or SECDEF, announced that GTMO, the acronym for the detention facility in Cuba, would be the site where detainees would be held, and that facility opened on 11 January 2002.

Between February 2002 and March 2003, The Department of Justice's Office of Legal Counsel (OLC), which defines the law for the Executive Branch of the U.S. Government, wrote three legal memos regarding interrogation. In sum, these memos argued that the Geneva Conventions did not apply to Taliban or Al Qaeda detainees, authorized the use of enhanced interrogation techniques (EIT) and concluded that federal laws against torture did not apply to interrogations of terror suspects held overseas. It is not nearly as well-known that these memorandums were not met with universal approval within the Bush Administration – for example, retired general Colin Powell, then the head of the Department of State, among others, argued that this would “reverse over a century of US policy and practice....and undermine the protection of the Law of War for our troops.” Of particular note for our discussion today, senior military lawyers strongly pushed back against these legal analyses as well.

In June 2002, the first psychologist arrived at GTMO with the assumption that he was going to provide clinical services – clinical psychology was the basis of both his education and experience. However, the Commander reassigned him, and the psychiatrist who arrived with him, as the first Behavioral Science Consultation Team, or BSCT. The BSCT teams had and have two primary tasks – the first is to provide their psychological expertise to the interrogators, to assist in the process of effectively eliciting information; the second is to ensure that interrogations are conducted in a safe, legal and ethical manner.

Recognizing his lack of expertise in this area, the aforementioned psychologist called his former supervisor who directed him to then-LTC Morgan Banks, the senior operational psychologist at Fort Bragg, for advice and guidance, actions consistent with Ethical Standard 2.01, Boundaries of Competence. It is important for this audience to know that COL Banks had no authority or supervisory role over this psychologist – they worked for different Commands, which would be the equivalent of being a faculty at one university, feeling responsible for a student at another school. However, COL Banks felt a moral and ethical obligation to provide assistance for this junior psychologist – consistent with Principle B, Fidelity and Responsibility, of our Ethics Code. COL Banks arranged for several subject matter experts in the arena of interrogation, captivity and legal issues to convene at Fort Bragg, consistent with the importance of Ethical Code 1.02, Conflicts between Ethics and Organizational Demands

The first iteration of BSCT training occurred in September 2002 at Fort Bragg, and the BSCT team from GTMO attended. In testimony during a congressional hearing, one of the participants at the training stated the following:

“It was stressed time and time again that psychological investigations have proven that harsh interrogations do not work. At best it will get you information that a prisoner may think that you want to hear to make the interrogation stop, but that information is strongly likely to be false.”

Over the course of the next several years, this training was formalized, and is now a 3-week course funded by the U.S. Army Medical Command and run in conjunction with the U.S. Army Intelligence Center of Excellence. A point here: While COL Banks did hold the job of Command Psychologist, that

title does not confer command authorities – he was the senior psychologist within his Command, just as I was the Command Psychologist within the Army’s Intelligence and Security Command. The assertion that has been made that military psychologists assigned to detention facilities held “command” over interrogation operations is erroneous – they were, as the BSCT acronym asserts, consultants and advisors to the command.

On 2 December 2002, SECDEF Rumsfeld, authorized “counter-resistance strategies,” with the exception of water-boarding, for use by military interrogators at GTMO. Significant concerns about these techniques were quickly raised by the head of the Naval Criminal Investigative Service (NCIS) and its chief psychologist, Dr. Michael Gelles, another DoD psychologist acting in concert with both Principle A, Beneficence and Maleficence, and Ethics Standard 1.02 of the APA’s Ethical Code. As a result of this information, Alberto Mora the General Counsel of the Navy, a position equivalent to a 4-star general, expressed his deep concerns to Mr. Rumsfeld, describing the memos as “catastrophically poor legal reasoning” and arguing that this “isn’t only how to protect our country....it’s how to protect our values.”

On 15 January 2003 - 6 weeks later after his decision to allow use of enhanced interrogation techniques – Mr. Rumsfeld suspended this authorization for DoD interrogations at GTMO, the only interrogations over which he had authority. That same month, a trained BSCT psychologist arrived at GTMO.

On 19 March 2003, Operation Iraqi Freedom began.

In December 2003, the new head of Office of Legal Council, Jack Goldsmith, verbally withdrew the memos regarding the inapplicability of the Geneva Conventions to detainees and the torture memos, describing them, at best, as “legally flawed.”

Within this same time frame, between April and May 2004, the abuse that had occurred between July 2003 and February 2004 involving the detainees at Abu Grahیب became public, secondary to statements from Amnesty International in late 2003 and a report from a courageous young Army specialist on 13 January 2004. The Army then embarked on a series of investigations - not only at Abu Grahیب, but at GTMO and in Afghanistan regarding interrogations and detainee treatment. Very shortly after the chain-of-command at Abu Grahیب was relieved as a direct result of these investigations, the new commander requested that a BSCT psychologist be assigned, specifically as one of many measures designed to prevent future abuse – and COL Larry James soon arrived – there are not been a BSCT psychologist at Abu Grahیب previously.

Between May and August 2004, Congress was briefed regarding the findings of these 11 senior-level government investigations. A grand total of 492 separate recommendations came from these investigations, regarding training, oversight and procedures. As an aside, such recommendations are not aspirational with respect to enactment within DoD. They are mandates. Several of these investigations specifically identified, however, the proactive actions taken by psychologists in identifying detainee abuse, a fact omitted in the Hoffman report. In July 2004, OLC Associate Attorney General Patrick Philbin testified in Congress regarding the techniques authorized for use in military interrogations. In that testimony, he made it clear that abuse was punishable under a number of relevant statutes and treaties, as well as under the US Constitution. This testimony became the legal guidance for DoD in the late summer of 2004, a fact that Mr. Hoffman did not mention in his report.

A substitute memo was issued by the OLC in December 2004, almost 6 months prior to the PENS Report, which stated that “torture is abhorrent,” that interrogators were bound by the UN Convention against

Torture and that those same prohibitions were reflected in US criminal laws. On 4 February 2005, the General Counsel of DoD was reminded in writing by the OLC that the memo underpinning the DoD interrogation program overseas had been verbally withdrawn in December 2003, and was now being formally withdrawn. DoD, in response, notified OLC that a replacement memo guiding interrogations overseas was not needed, as local guidance was already in place.

Now, what was that local guidance? Once again, this is not a rhetorical question, as an understanding of what restrictions and limitations were in place for the DoD by the time the PENS Task Force met is critical. The “local policies” are policies that governed interrogations where the interrogations were actually taking place – much like states are able to determine speed limits within their state’s own boundaries. However, what is not commonly known in civilian circles is that, once regulations or directives from higher commands are issued, local policies can only become stricter – they cannot exceed the limits established by higher Commands.

Unfortunately, as will be discussed below, Mr. Hoffman did not include any of these critical documents in his analysis. This omission is inexplicable as all were unclassified and readily available on the internet, despite Mr. Hoffman’s comment regarding their accessibility. In a case of supreme irony, several of these documents were included within his own bulging binders of supplemental materials, but never referenced. Spoiler alert: While Mr. Hoffman was writing his report, all of the policies that would demonstrate that his findings and conclusions were, in a phrase, just plain wrong, were easily and readily available to him, had he conducted an internet search or taken notice of the documents that had been offered to him by several witnesses. As we look into the specific policies, please remember to gauge this information by this measuring stick: by the time that the PENS Task Force met in June 2005, what were the policies, regulations and standard operating procedures (SOPs) that were in effect, at the setting where psychologists were actually supporting interrogations? Hint: You won’t find them by reading Mr. Hoffman’s 542-page report.

What is key right now is to remember what Mr. Hoffman concluded: that, beginning in 2005, APA Ethics Guidelines were kept “loose” so that military psychologists could continue to engage in abusive interrogations – specifically, so that sleep deprivation and stress positions could be used as techniques.

At GTMO, the SOP in force by March 2004 prohibited abuse, “any form of corporal punishment,” physical exercise as punishment (considered a stress position) and “verbal harassment.” It also mandated that “detention operations meet with the principles of the Geneva Conventions.”

Elements of General Schmidt’s testimony to Congress are included in Mr. Hoffman’s binder #5. When questioned by Senator McCain in March 2005, during Senate testimony, General Schmidt, one of the senior leads in the investigations of detainee treatment, replied, twice, that he had “no doubt in his mind” that the interrogation techniques now in use by DoD were now in keeping with international laws and treaties to which the US is a signatory. The report of the Independent Panel to Review DoD Detention Operations, otherwise known as the Schlesinger Report, was released in August 2004 and detailed exactly which interrogation methods were approved for use by DoD in Iraq, Afghanistan and GTMO. This entire document, included in Mr. Hoffman’s binder #4, but never referenced in his text, makes it clear that, since April 2003, the techniques that were specifically authorized by the SECDEF did not include sleep deprivation, stress positions or exploitation of phobias.

The SOP governing BSCT personnel in GTMO, issued on 28 March 2005 and written primarily by then-LTC Dunivin, stated that psychological expertise was to be applied “to provide monitoring, consultation

and feedback regarding the entire detainee environment in order to assist the command in ensuring humane treatment of detainees, the prevention of abuse and the safety of US personnel....in addition to the other duties and qualification 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. All BSCT personnel will be expected to...immediately report any suspicions of abuse of detainees or misconduct by US personnel.” This document is consistent with both Ethical Standards 1.02 and 2.01.

Prior to September 2006, the regulations governing military intelligence interrogations were provided by Army Field Manual, FM 34-52, Intelligence Interrogations. That document mandates that prisoners of war be treated humanely, in accordance with the Geneva Conventions. On 6 May 2004, GEN John Abizaid, then Commander, USCENTCOM (a command that includes 27 countries, including both Iraq and Afghanistan) suspended use of all non-FM 34-52 techniques, including those previously approved by SECDEF Rumsfeld, throughout CENTCOM. FM 34-52 explicitly prohibits acts of violence or intimidation, including physical or mental torture, threats, insults or exposure to inhumane treatment as a means of aid to interrogations. Just as is the case with recommendations stemming from an investigation, guidance and limitations detailed by field manuals are not suggestions – they form the foundation for how business in the military is conducted.

On 13 May 2004, the policy in Iraq specifically prohibited sleep management, stress positions, “change of scenery,” dietary /environmental manipulation, and sensory deprivation. The Schlesinger report made it clear that these restrictions were in place at that time.

On 27 January 2005, the 6 May 2004 policy that covered CENTCOM was reinforced for Iraq, with the SOP stating “All interrogation and tactical questioning will comply with the applicable provisions of the Law of War, the Geneva Conventions, and with US policy, which require us to treat all persons humanely and with dignity and respect. This policy also expressly prohibits acts of violence or intimidation and physical or mental torture. Humiliation is a violation of the Geneva Conventions and is therefore prohibited. Threats, insults, and exposure to inhumane treatment as a means to aid interrogation are not authorized and will not be condoned. Under no circumstances will the following interrogation techniques be approved or utilized: sleep management, stress positions, diet manipulation, environmental manipulation, removal of clothing, or sensory deprivation. Military working dogs will not be used for, or be present during, interrogations.”

On 16 May 2004 an order was issued that stated unequivocally “Intelligence questioning of detainees will be conducted strictly in accordance with the Geneva Conventions. Physical abuse of any type, any form of intentional humiliation, verbal abuse, or deprivation of sleep, food or water are explicitly forbidden. Intelligence value remains secondary to treating all detainees humanely with a view to their ultimate release and reconciliation as part of Afghanistan’s future.” The Schlesinger report makes clear that restrictive policies were in place for Afghanistan by June 2004.

There is one more Army Field Manual that is important to note – FM 22.2.3, or Human Intelligence Collector Operations. This manual superseded FM 35-52, Intelligence Interrogations, in September 2006, and makes clear the requirement that these activities be conducted in accordance with pertinent regulations, U.S. law and applicable treaties. However, while previous FMs have applied only to the military services, this document is now, itself, U.S. law, signed by President Obama in Jan 2009, and applies to the DoD and other executive agencies, to include the CIA.

As this timeline makes crystal clear, by the time that the PENS Task Force met in June 2005, DoD – in a clear and concerted effort to address the abuse that had occurred - had already issued strict policies, tight guidelines and close oversight for interrogation activities. Regardless of what may have still been authorized for use within the CIA, interrogations within DoD were governed by strict regulations, guidance and oversight. The analysis offered in the Hoffman report 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” 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” in order to allow the enhanced interrogation techniques favored by DoD to continue – is simply wrong and has had a devastating impact upon the lives and careers of those maligned in the report.

Collusion is a powerful charge, one that has specific legal connotations. In sum, collusion was defined as “a secret agreement, understanding or cooperation for some harmful, improper or illegal purpose.” When speaking to the Counsel of Representatives during the August 2015 Convention, Mr. Hoffman was asked: “Why did you use words like “collusion” which have a sinister connotation?”

His response: “We prefer collaboration, coordination, but we were asked specifically if there was collusion. “Behind the scenes communication” would have been a more accurate description.”

Despite this statement, made by Mr. Hoffman after he submitted his report, the Hoffman report is filled with charges of “collusion.” If this process was one truly focused upon a “thorough review...in search of a full understanding” of the facts, Mr. Hoffman’s damning use of “collusion” despite his own recognition that “behind the scenes communication,” an activity that is routinely practiced in all organizations, was a more accurate portrayal, defies the description of this as an “independent investigation.” Political differences will always exist – but the profession of psychology is diminished when politics drive the science, rather than science informing the politics.

At the risk of redundancy, I will repeat here one of the primary findings from the Hoffman report. APA colluded with DoD in an effort to ensure that the interrogation practices preferred by DoD – specifically sleep deprivation and stress positions – would not be constrained by APA ethics guidelines or, specifically, the PENS Report. Underscoring this assertion are several central 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.

As was demonstrated in the earlier discussion regarding the timeline, by the time the PENS Task Force convened in June 2005, the policies, guidelines and regulations governing interrogations within DoD mandated compliance with both the Geneva Conventions and the UN Convention Against Torture. The primary argument posed by Mr. Hoffman is further undermined by the fact that extensive efforts were made by APA that same summer in supporting the passage of the McCain Amendment. To believe that APA was colluding with DoD to allow enhanced interrogation techniques in June 2005 but, within a few short weeks, was publically and aggressively advocating for the humane treatment of detainees through passage of the McCain Amendment strains credulity.

The assertion that military psychologists, or more specifically, operational psychologists within the military, are unconcerned about human rights appears based on a deeply held bias, a view that finds military service to be incompatible with such values. What was not acknowledged in the Hoffman

report were findings from several of the investigations that specifically cited the efforts of operational psychologists in reporting abuse, to include those by Dr. Michael Gelles at GTMO. The report places military psychologists at either end of a broad dichotomy – as powerful players within DoD, capable of creating policy and running interrogations or as pawns of their commands, incapable of standing on ethics for the fear of losing their careers. I can attest, with complete authority, that neither is accurate. One of the core missions for military intelligence is the prevention of conflict. DoD psychologists can, and do, serve invaluable roles in supporting intelligence operations. Commitment to our professional code of ethics is not inconsistent with military service – rather, each is marked by the same values of integrity, courage and commitment.

With respect to the charge that APA colluded with DoD to “curry favor,” a term that Mr. Hoffman never defined, – 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 APA’s strategic plan to “excel as a valuable, effective and influential organization advancing psychology as a science.” But, 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,” 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 provider 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.”

Fact-check. The Hoffman report was written in 2015, a decade after the PENS Report was adopted. It is true that the number of psychologists employed by the military has grown, a fact easily 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 operational psychology, as the growth has been almost solely in the clinical arena. Today, there are fewer than 2000 military, civilian and contractor psychologists providing clinical and operational support to the Army, Air Force and Navy – of that number, approximately 50 have a clear and primary operational focus, a growth of approximately 10 psychologists over the past decade – 1 every year hardly equates to a “substantial” gain. This information was readily available to Mr. Hoffman and his team, if they had bothered to ask for it.

I also want to comment on the assertion that has been made that the military psychologists involved with BSCTs had some “dog in the hunt,” so to speak, with respect to insuring that interrogations would continue, so that they would presumably receive accolades, promotions or monetary compensation as a result. “Terminal rank” for psychologists in the Army is Colonel – there has never been nor is it ever likely that any psychologist will become a general, as our career path is inconsistent with the duties and requirements of that rank. I also wish to debunk the thought that any BSCT psychologist would have been “punished” should the PENS Report not be passed in 2005 – they simply would be reassigned, as was the case for several psychologists, members of APA, after the 2015 Resolution was passed.

Psychological support to interrogations was not – and is not – a duty commonly performed by military psychologists. As the conflicts in Iraq and Afghanistan continued, however, this did become a voluntary mission for some and, consistent with our Ethics Code, there were efforts to seek guidance from APA, our professional organization, regarding the ethics involved. However, the formation of the PENS Task

Force was cited within the Hoffman report, as another example of the “collusion” that existed between APA and DoD.

Here are the facts. In February 2005, the then-president of APA, Dr. Ron Levant, established the PENS Task Force, and charged this group with the following:

“To examine whether our current ethics code adequately addressed the ethical dimensions of psychology’s involvement in national security related activities, whether the APA provides adequate ethical guidance to psychologists involved in these endeavors, and whether APA should develop policy to address the role of psychologists and psychology in investigations related to national security.”

The process for selecting members for the task force followed the exact model used for other such groups at the time – divisions were queried for interest and several made nominations. For years, APA has selected persons with experience and interest in the topic of concern to be on task forces, groups and committees. It is true that, of the 10 members on the PENS Task Force, 6 had clear connections with DoD. I can cite a number of other task force groups whose membership appears “weighted” in a specific area of expertise. However, none of these members were either authorized to represent the US government or to provide any suggestion of benefits or services to APA, the “curry favor” slant, on behalf of the US government. The Hoffman report itself acknowledges that the DoD members did not act in lockstep fashion – there were areas of disagreement and differing opinions over the course of the meeting. But, the Hoffman report did not acknowledge the fact that the non-DoD members of the PENS Task Force voted not once, but twice, to accept the final PENS Report and, in doing so, made the following comments:

“Beyond impressive, beyond complete.” (Nina Thomas, 26 June 2005)

“Many thanks for sending this excellent revision” - a comment made after the Ethics Committee recommended revisions. (Mike Wessels 27 June 2005)

“The depth, scope and wisdom of this document are indeed impressive.” (Jean Maria Arrigo, 29 June 2005)

Please let me be clear: the members of the PENS task force were senior, experienced psychologists, all of whom who had experience working in groups. There is no reason to believe that these statements are anything other than what those individuals believed about the PENS report when they voted – twice – to approve it. In explaining their behavior, over 10 years later, Mr. Hoffman cited “intense group pressure” and “psychological groupthink” as factors in their actions, ironically, the same argument that he uses to damn military psychologists in the belief that they caved to command pressures rather than stand upon their professional ethics. It appears that revisionist history is at work.

The PENS Task Force Report was clear and unambiguous regarding the applicability of international law to military interrogations. Statement 4 of that report reads:

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.

No written rule or regulation will ever fully constrain human behavior – the APA Ethics Code has 5 separate sections dealing with sexual misconduct and psychologists still sleep with their patients...still sleep with their students. The purpose of a rule – or ethical standard – is to minimize the likelihood of inappropriate behaviors from occurring, and then to provide a framework from which to act.

The Hoffman report described the “safety role” played by BCST psychologists as “naive or intentionally disingenuous,” concluding that the psychologist would be unable to overcome the pressures inherent within the interrogation process, unless there were “clear lines drawn by an external source (e.g. DoD or APA guidelines).” However, as was clearly illustrated by the timeline, clear lines had been established by DoD and were in force by mid-2005 – the PENS Report reinforced those guidelines, exactly as it was intended to do.

This assumption is one of the many that demonstrate how little the Hoffman team learned about how effective interrogations actually work and the safeguards that are, now, routinely employed. Between 2001 and 2004, there was a scarcity of experienced military interrogators. Not counting the mass screenings that had been conducted during Operation Desert Storm in 1991-92, there were only five interrogators within ALL of DoD with wartime experience as of 11 September 2001, and that experience dated from Vietnam. As a result, the typical Army interrogator was an enlisted Soldier, typically under the age of 26. The role of “safety monitor” is, by no means, unique to BSCT psychologists, but was and is the responsibility of anyone who becomes aware of abusive acts during an interrogation. As experience and training improved with time, the safety role taken by the BSCTs became less prevalent, but the requirement that any abuse of detainees held in military custody be reported remained, and remains today.

The central issue to this argument follows: The Hoffman report suggests that providing “safe” and “effective” support to interrogations is disingenuous because the two can’t coexist. So, under that assumption, ethical interrogations are ineffective and effective interrogations are unethical. This faulty reasoning leads to the conclusion that, to be effective, the conduct of interrogations must run counter to the ethics of psychologists. Therefore, the ethical course is to remove all psychologists from interrogations – which is exactly what the 2015 Resolution sought to achieve. What is lost in this Ostrich Approach is this fact – intelligence interrogations will continue, with or without psychologists. Removing psychologists from the process has nothing to do with protecting detainees – its only purpose is to advance a political agenda. I suppose one could argue that all interrogations are unethical by their very nature, as a reason to remove psychologists from every venue in which interrogations occur. I have yet to hear anyone seriously make that argument.

What was lost in all of the fervor, however, is this simple fact. Since the adoption of the PENS Report as APA policy in 2005, there has not been a single allegation that any DoD BSCT psychologist engaged in inappropriate interrogation activity or failed to intervene or report an inappropriate interrogation. Once again, for the Hoffman report to conclude, in 2015, that the PENS Report “loosened” ethical strictures for psychologists involved with interrogations is simply, undeniably incorrect.

Following the leak, and then release, of the Hoffman report in July 2015, the leadership of APA has continued to barrel down the road, firing staff and encouraging the transition of others; supporting the

resolution banning psychologists' support to intelligence interrogations; sending letters to government officials, the press and international colleagues; establishing a committee to look at conflict of interest concerns and a commission to look at ethics processes. These actions have occurred despite evidence provided to the BoD, as early as October 2015, regarding the multiple inaccuracies and misrepresentations contained within the Hoffman report.

My colleagues and I were heartened to see that, in response to policies we and other brought to the Board's attention, the Board concluded that the Hoffman report must be reviewed. And we were further pleased to learn that the Board had allocated \$200,000 for that purpose. We were then stunned to learn that the Board had rehired Mr. Hoffman for that purpose, to "review and respond to questions regarding specific, DoD policies that many be relevant" to his own "independent review," despite strong objections raised by a majority of the CoR. That report, one that will cost APA another \$200,000 on top of the \$4.1M already paid to the law firm of Sidley Austin was due on 8 June, and then between 15 and 18 June...but now there has been another delay, with no specific release date in sight. Meanwhile, concerns raised by Division 19 as well as many APA members regarding these actions have largely gone unanswered by the Board.

In the emotionally-laden atmosphere that followed the leak, and then release, of the Hoffman report, APA passed the August 2015 resolution, banning all psychologists – or at least those who are APA members – from providing support to intelligence interrogations. I ask that you consider the logic of banning practice based solely upon a setting, as opposed to identifying and sanctioning unacceptable behaviors - that resolution was unprecedented in its scope and rationale. If that is to become APA's mantra, can we then expect all psychotherapists to be banned from seeing individual clients, given the proclivity of a few for sexual misconduct? If an ardently pro-life group became a "force" within APA, is it out of the realm of possibility that psychological interventions based upon a "pro-choice" model be banned? If psychologists are found to have been culpable in overcharging for services to geriatric patients, should psychologists be banned from working with that population?

If you are not among the small group of psychologists who have been involved in interrogations, do not think, for a moment, that you could not be impacted, at some level. The supporters of this ban are already on record in identifying similar opposition to psychological support to police interrogations – it can be reasonably assumed that the work done by forensic psychologists may well follow. For psychologists in national security settings, where the "client" is the government, what does this mean for those who work on behalf of national security?

The Hoffman report, as well as arguments of those who believe that psychologists should not be involved in interrogations, appears to assume that the only legitimate and ethical role for a psychologist is a clinical role, as a health care provider. This stance diminishes the roles and contributions made by thousands of psychologists in this country who, on a daily basis, function as organizational consultants, forensic practitioners, advisers to law enforcement and correctional organizations, and in many other roles not defined as health care. So, while the current debate involves the role of military psychologists in interrogations, the real fulcrum facing APA is this: What does it mean to be a psychologist? Is psychology solely a health care profession, defined as a relationship between a patient and a psychotherapist, or a profession that uses scientifically-founded and ethically-based theory and practice in a variety of settings?

This discussion will almost certainly include the question of what is meant by "do no harm" – actually, ethics standard 3.04 speaks of taking reasonable steps to avoid harm and to minimize harm when it is

foreseeable and unavoidable. As a clinician, I have hospitalized Soldiers who were suicidal, homicidal and/or psychotic – some were placed into restraints. I have consulted forensically where my client was the court, not the individual, with assessment findings an element in findings of guilt and, subsequently, incarceration. As an operational psychologist, where my client was the Army, my assessment contributed to the identification and incarceration of a Soldier bent upon mass murder. When a psychologist consults in a child custody case, the child's interests take precedence over that of the parents. When a consultant provides guidance regarding a hiring decision, one person gains a paycheck, hundreds could leave empty-handed. When a psychologist's expertise is used in developing a sales campaign, there will be people who spend money on things they don't need. Each of these actions resulted in "harm" to individuals – their freedoms were constrained, their "free will" taken, their lifestyle and/or health impacted.

This conundrum mirrors that facing our Nation. How does a democracy determine the boundaries between individual rights and social protection? These are tough, difficult and demanding questions – as the tragic events in Paris, Bakersfield and Orlando demonstrate - but turning our backs on the problem, by restricting our ability to assist, is not the answer.

Our current Ethics Code is due a review, one that I welcome. The last comprehensive process was completed in 2002, following nearly 5 years of reflection, consideration and debate. Since that time, our world has changed. The use of technology has brought us closer and, it can be argued, also driven us farther apart in our personal and professional relationships. The physical and psychological health of Americans, according to polls, demonstrates a steady decline. The divisions in our Nation – economic, racial, religious, political – appear to be becoming more entrenched, even as the threats to our safety, security and well-being grow. Climate change, population growth and environmental pollution are taxing our planet's ability to sustain life. I have to believe that psychologists – in all of our varied specialties - can play a positive role in addressing these challenges. An ethics code that guides our actions in a generally prescriptive, as opposed to proscriptive, manner is an essential component of our practice – to do otherwise is to establish a code that is vulnerable to prevailing political winds.

Such a review will not be easy. It will require us all to focus upon what is right for the profession and what is just for those we serve. This process cannot serve as a pulpit for an agenda but, rather, must take into account the very diversity that is our strength. That will require civility and respect on all sides, and a sense that we – as individuals, divisions, specialties – have a seat at the table and a voice in the process.

With regard to the topics under discussion this morning, I do ask that you consider whether it is ethical for psychologists to stand on the sidelines when their expertise can be helpful in thwarting violence, in gaining information that can protect others, in providing risk assessments - activities that may well result in "harm" to individuals while protecting the lives of others. Is protecting the rights of the individual incompatible with protecting the rights of others and society? Finally, consider how the general ethical principles of beneficence, fidelity, integrity, justice and respect fit into the actions taken by APA in response to the Hoffman report, a document that, now, has been shown to be biased, inaccurate and, frankly, just plain wrong in its central conclusions.

Imagine if you were accused of a career-jeopardizing act, one of which you knew you were innocent. One that you had verifiable exculpatory evidence to support your case. And yet, you were not given a credible opportunity to respond before you were found guilty in the court of public opinion. Imagine, further, and place yourself in a situation where you sacrificed time with family and friends in

undertaking arduous, life-threatening assignments to protect the lives of others, only to have your actions misrepresented, your integrity maligned and your motivations questioned – all without recourse. Imagine, if you would, that you had dedicated your professional life to the advancement of psychology as a science, committed to ethical practice, for the enrichment of individuals and the betterment of society, only to have your professional organization refuse to even entertain the possibility that their initial emotional response to the charges were based solely on inaccurate and incomplete information. If you can imagine any of these scenarios then, this evening, at your home, office or hotel, Google the names of those whose reputations and lives have been irrevocably harmed by this report - Morgan Banks, Debra Dunivin, Larry James, Russ Newman and Stephen Behnke - and measure the pages and pages of vitriol you find against the facts - and then ask yourself if this is right and just and fair...if this fits the standard of “do no harm.”

In closing, I want to express my deepest appreciation for your time and attention – I realize that these are emotional, complicated and challenging issues. I also want to say that it has been an honor to serve my Nation – and its greatest assets, its sons and daughters - throughout my professional career as a military psychologist.

About the Author: COL(R) Sally C. Harvey, PhD, served on active duty with the U.S. Army for over 27 years, and is continuing to serve Soldiers at Fort Hood, Texas. as a civilian. She attained her PhD from UCLA and subsequently completed a two-year fellowship in neuropsychology as well as training in aeromedical psychology and Survival, Evasion, Resistance and Escape (SERE). Her career has encompassed the full range of psychological duties, ranging from traditional clinical care and research to repatriation of former hostages and prisoners-of-war. From 2004 until 2015, she served with the Army's Intelligence and Security Command as an operational psychologist, providing support to national security missions. Most recently, she served as the Chair for the American Psychological Association's Division 19 (Military Psychology) Presidential Task Force, resulting in a formal response to the Hoffman Report.
