

Response I

Division 19 Response to APA Ethics Committee Call for Comments

The leadership of the Society for Military Psychology, Division 19, American Psychological Association (APA) opposes the proposed revision to the APA Ethics Code for the following reasons:

First, we contend that the proposed changes are unnecessary. That is, as reflected by a careful reading and rendering of the proposed changes to the APA Ethics Code, there is an apparent struggle to put forth a rational and defensible basis for the changes.

Second, the proposed changes represent an acknowledged attempt to codify an APA Council of Representatives (COR) resolution that was based on information from the increasingly questionable and controversial Hoffman report. Enough information has now come forward to the APA Board of Directors and made widely available on the Division Officers Listserv (cf. Division 19 Task Force on the Hoffman Report), to bring into serious question what fiduciary roles and responsibilities the APA leadership now has (and needs to exercise) in order to assure our membership that that report has been appropriately "fact checked," and whether it "reflects the most appropriate and relevant scientific data and literature available" (see e.g., APA 30. Procedures of Councils, subsection 30-6.3). Due diligence, prudence, and APA's own procedures demand an identification of the limitations (to include an "independent scientific merit review") of the Hoffman report's conclusions, given the clear, compelling, and factual evidence that contradicts many of the purported findings that served as the basis for the COR resolution (and that now serves as the impetus for the proposed change to our APA Ethics Code).

Third, we view the proposed changes to the ethics code, based on what we see as false pretense, as representing a dangerous slippery slope that potentially places APA at risk for violating "anti-trust" laws since by these actions, APA is attempting to limit practice setting, not professional behavior. In other words, the proposed changes represent the brazen attempts by APA as a Non-Governmental Organization (NGO), to usurp the more appropriately represented and delegated (from the US Constitution) authorities of the President of the United States in making determinations of deployment settings for military and civilian psychologists who serve in

support of military and intelligence operations. These actions also serve to undermine the sovereignty of our various states and their licensing laws that use the APA ethics code; with APA assuming a role normally preserved for a sovereignty in its effort to exercise coercive power (enforceable standards, cf. laws) over the President, the Secretary of Defense, and others in via letters and enforceable ethics code changes, taken in an effort to dictate, and/or constrain, deployment setting determinations more appropriately preserved by law and tradition to our national security leaders.

In essence, these changes are cloaked in "do no harm" protestations but when "de-cloaked," the actions are revealed for their true intent: As efforts to assert unfounded and ill-conceived determinations as to "where" it would, or would not, be ethical for psychologists supporting military and intelligence operations to serve. And just what is the basis of wisdom and/or the most appropriate knowledge and science used to make this determination on behalf of our national security interests?: The "prevailing notions" of a group of psychologists. Even if some within our profession seem relatively unconcerned with our national security and the efforts necessary to preserve it, what they may find they care about is that with the Version B change, it will mean we will have an ethics code in "perpetual change" rather than one that offers our profession a "perpetually binding" standard of ethical conduct.

We find it very concerning that the expressed motivations for many of the actions being taken by the COR and APA in the aftermath of Hoffman have repeatedly made reference to the opposition to the Bush Administration policies. We are concerned and call upon APA leadership to ensure that actions such as this proposed ethics code change, with its expressed linkage in opposition to past Bush Administration policies, does not create a potential vulnerability for these actions to be seen as politically motivated, thereby risking a violation of APA's 501c3 status (see e.g., APA's Rule 100-1.10). Make no mistake: Attempts to now codify a COR resolution to limit the "settings" in which members of our profession can practice, creates a serious and deeply concerning "overreach" of our Ethics Code. By these actions, we would be creating the precedent of imposing "mandatory," "enforceable mechanisms" on "where" we can practice while displacing legitimate, independent determinations that we now freely exercise ourselves (or through credentialing determinations that we seek).

Importantly, taking these steps may not even be permissible under APA's own rules. For example, in reviewing what authorities APA has vested within its own procedures (see e.g., APA Procedures for Councils, 30.8. Standards and Guidelines), clear guidance is presented for the legitimate rules related to the "...specifications for conduct, performance, services...standards," while remaining appropriately silent in formulating enforceable standards for

"settings" (i.e., rather than conduct or behavior, see e.g., Procedures of Councils, subsection 30-8.1). Apparently, in the past APA has recognized that there are very good reasons "why" it has focused on "behavior" versus "settings." For one, by restricting "settings" APA would then, by its actions, risk establishing "exclusionary practice" for psychologists supporting military or intelligence operations. This might be viewed by some as the exercise of, and resulting in, an inappropriate use of monopoly power (e.g., using enforceable standards to coerce compliance). It also could be viewed as placing unreasonable constraint on the practice of psychologists in military and intelligence operations (i.e., in violation of anti-trust laws; a risk that is potentially increased by the on-the-record assertions of political motivations as the basis behind the exercise of the coercive power and actions to change the ethics code).

Specific Comments on Version A: We reaffirm our position that this revision to the APA Ethics Code is unnecessary. We view Version A as formulated in an effort to resolve the tension "to do something" that was generated in the aftermath of the Hoffman report. However, we do concede that if this change offers a cathartic opportunity to discharge that tension for our members, we view it as a "reasonable step to avoid harm" when compared to the "foreseeable and unavoidable harm" that is evident in the Version B change.

Specific Comments on Version B: As stipulated above in the general comments, Division 19 does not agree with this proposed revision. Every psychologist should carefully consider this fact: Version B takes unprecedented steps to insert a politically-motivated standard of deciding "where" instead of "what" our Ethics Code should address. And importantly, it does so without regard to the fact that, by its own rules, the APA can only establish enforceable standards on "conduct, performance, [or] services" of psychologists. The proffered justification for doing so emphasizes how this encroachment of the code flows into practice "settings" whenever, in the "prevailing view of other psychologists," whatever is happening in that setting is deemed unacceptable.

That should bring a bone-aching chill to every professional and rational psychologist. By this action, Version B would open the door to every, or any, other area of psychological practice setting. For example, what if the "self-proclaimed dissidents" offered the next "prevailing view" that psychology as a science should remain areligious and then apply the same reasoning to any pastoral counseling setting with a religious affiliation. Of course, someone may wish to quickly counter that Version B specifically links "setting" to only military and intelligence operations. However, that "setting" is just the precedent for adopting a "settings standard" and therefore is only one

"prevailing view of psychologists" determination away from a similar, unfortunate outcome.

The wording of Version B represents an egregious overreach and is misguided primarily for the apparent absence of any consideration for the science that is required (see notes above) that should help substantiate and reflect the most appropriate and relevant scientific data upon which to base important actions and conclusions. To demonstrate both the overreach of Version B, and the carelessness with which it was crafted, any scientifically minded psychologist should conduct a literature search in either PubMed or APA's database and search for "sleep deprivation" (since that is represented as a prohibited action in Version B). That would allow anyone (to include psychologists or lawyers) to quickly surmise the overreach of the wording in Version B. They would quickly note the connection between "sleep deprivation" and the apparently large number of "tortuous" activities (to include demanding professors who apparently knowingly participate (and potentially promote) "tortuous activities" in "academic settings" when they knowingly (and coercively?) assign reading materials that results in final exam rituals that they "know" (or should have known) then results in significant amounts of associated sleep deprivation). Psychologists assigned as faculty in medical schools may be just as "guilty". And so it (potentially) goes. We fear that in advancing the effort to address the tension within APA generated by the Hoffman report, those advocating for Version B have not completely considered its full implications.

There have been far too many misunderstandings, distortions, misrepresentations, and deceptive actions in advancing what appears too often as the politically motivated "prevailing view" expressed by Version B. What has just as often been ignored or missed, is that when psychologists provide support to military and intelligence national security operations, to include ethical and legal interrogations, they are providing those professional activities in support of our nation's efforts to ensure the ultimate "safeguard[ing] of the welfare of others." If any psychologist could offer assistance in thwarting a suicide bomber, would that not be "safeguarding the welfare of others" (Ethics Code, 2010, Principle A) and represent the ultimate in "avoiding harm" (ES: 3.04)? To that end, imagine if you will two psychologists standing before the American people and one has leveraged his/her psychological skills to help stop a suicide bomber, saving countless lives and the other stands before them as well, asserting their ethical stance that our profession of psychology, via its ethics code, actually forbids them from helping. Which of the two will truly be seen as "safeguarding the welfare of others?" Which of the two is in reality advancing "the creation, communication, and application of psychological knowledge to benefit society and improve people's lives?" Which one indeed...? Many psychologists

do not want to face that dilemma. But we submit that the greater dilemma is when you have the demonstrated ability to provide that support with specific professional behavior and conduct that is ethical, not being permitted to do so. The psychology profession should not deny that opportunity to those who wish to serve and protect the welfare of our society in this way.

In summary, it is the view of Division 19 leadership that neither Version A nor Version B is necessary. However, of the two, Version B raises especially serious ethical, legal, policy, and professional concerns. The proposed changes are unwarranted, unsubstantiated, and would create more problems for our profession. Version B would also serve to manacle the application of our professional knowledge and the conduct of the ethical practice of psychology in support of military and intelligence operations. We strongly oppose it as neither benefitting our profession nor the society and people whose lives we seek to protect and improve.

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