

# **Division 19's Response to the Hoffman Report: David versus Goliath**

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**Past-President (2017) Division 19**

# **Division 19 and APA: Key Historical Points**

- **APA gained credibility as a science with its role in supporting the military during WWI**
- **The application of psychology continue to grow during WWII, the Cold War and other conflict**
- **Division 19 is one of the charter divisions within APA, and is certainly one of the most diverse within the organization**
- **However, an inherent tension has long existed within APA, with certain factions**
  - **Vietnam and First Gulf War**
  - **Don't Ask, Don't Tell**
  - **PENS**

# Cast

- **APA Presidents**

Kaslow (2014); Anton (2015); McDaniel (2016); Puente (2017); Daniel (2018); Davis (2019); Shullman (2020)

- **DIV19 Presidents**

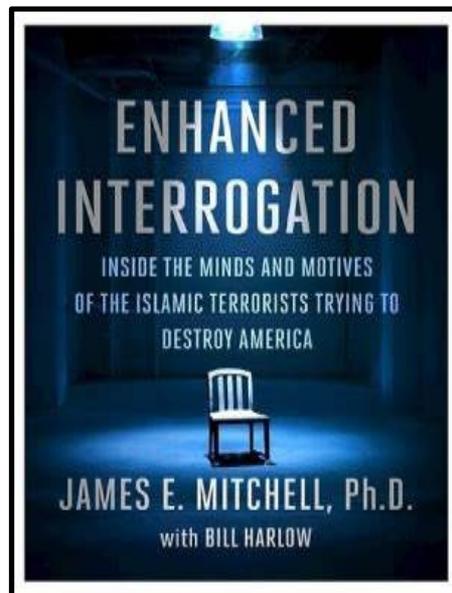
Williams (2015); Landes (2016); Harvey (2017); Staal (2018); Bowles (2019); Surface (2020)

- **DIV19 Members Named in Report**

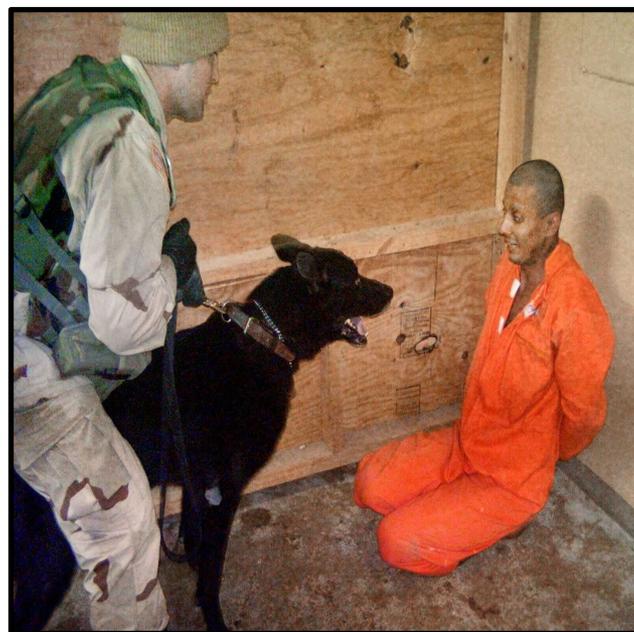
Morgan Banks, Debra Dunivin, Larry James, John Leso

# Key Historical Facts: Mitchell and Jessen

- Retired Air Force psychologists who worked as CIA contractors - developed the “Enhanced Interrogation Program”
- Jessen was never a member of APA; Mitchell resigned in 2006, citing his disagreement with APA’s developing policy statements against torture and detainee abuse

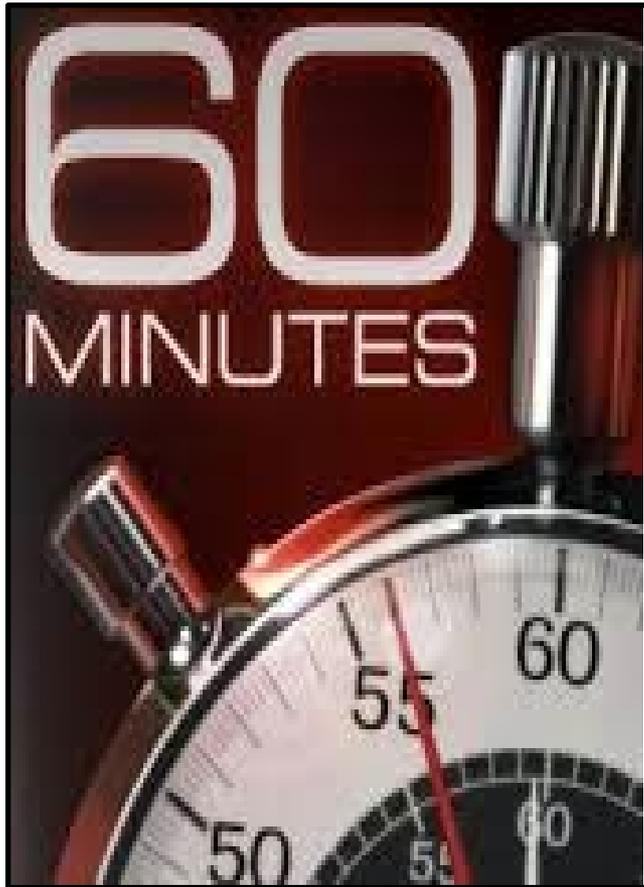


# Abu Ghraib Scandal Spring 2004

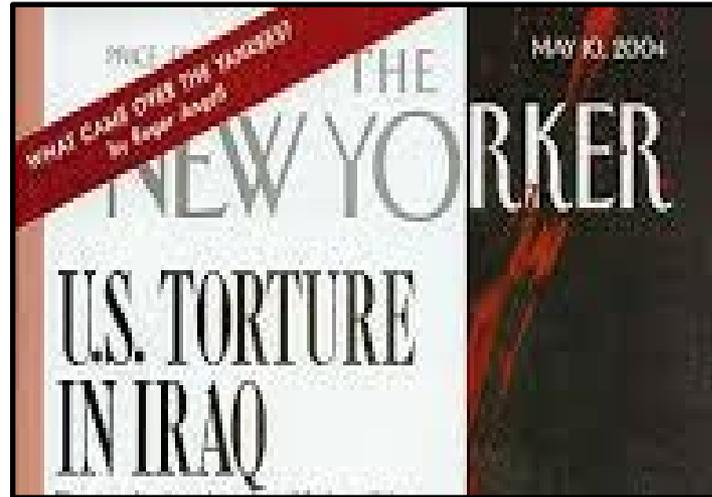


# Growing Pressure on APA: Media Reports

April 30, 2004



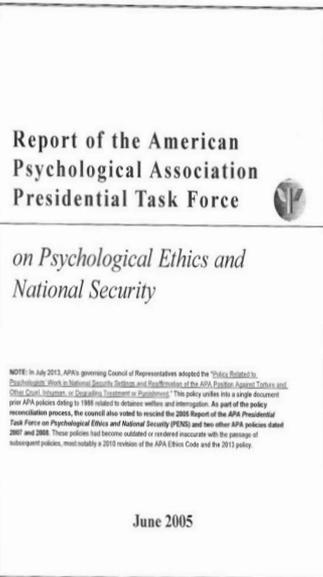
May 10, 2004



*New York Times:* November 30, 2004

*Red Cross Finds Detainee  
Abuse in Guantánamo*

# APA and PENS: Central to Hoffman Report (June 2005)



**“examine whether our current Ethics Code adequately addresses [the ethical dimensions of psychologists’ involvement in national security-related activities], whether the APA provides adequate ethical guidelines 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.”**

**STATEMENT 1: “Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment” [a statement made without any stipulation].**

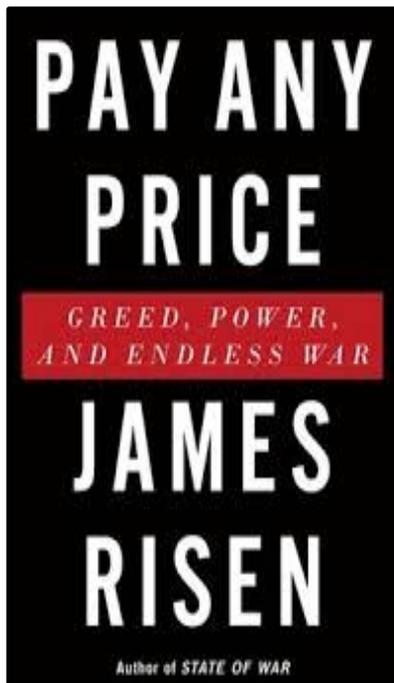
**STATEMENT 4: incorporated restrictive local military policies for interrogation related work that were actually more restrictive than those policies that had been issued at higher levels of government and/or Department of Defense (DoD).**

# The Rise of the Dissidents

A decade of discussions, debate and rancor

Series of Council Resolutions

PENS rescinded in 2013



Published in October 2014

Alleges that APA:

colluded with the CIA to allow  
torture

amended its 2002 Ethics Code to  
enable torture

# Enter Hoffman, stage left

- In November 2014, APA engages Sidley Austin, Hoffman's law firm, to investigate claims made by Risen
- The BOD establishes a "Special Committee" to oversee the project. Originally 4 members, recusals left only 2: Kaslow and McDaniel
- But...ALL non-recused BOD members (less APAGS) HAD BEEN involved with the events investigated by Hoffman, including members of the Special Committee
- Hoffman encouraged to first spend time with the dissidents. In April 2015, the *New York Times* publishes article by Risen regarding a document written by dissidents repeating same incorrect assumptions previously made by Risen.
- Investigation estimated to cost \$400,000-\$800,000 and be completed by March 2015. Hoffman delivered his report to the BOD on June 27, 2015, at a cost of \$4.1M.

# The drama continues...

- On July 1, 2015, a group of former Ethics Committee Chairs asked for opportunity to review report for accuracy with respect to ethics-related matters. APA declined.
- Council received report on July 8, but BOD had met – in secret - with two dissidents on July 2. Their recommendations included staff firing, permanent bans on some serving in APA governance and a referral to the FBI for criminal investigation. One of those to be banned was the Division 19 COR representative, against whom racially-based animus had been openly expressed by one of the dissidents.
- On July 10, the report was leaked to the *New York Times*, where Risen published a story about it. The BOD did not investigate this leak – recent evidence suggests that the source was Hoffman, or someone on his team.
- The only mechanism available for those named in the report to respond was through a website, created after the report was leaked and widely disseminated.

# Hoffman's primary conclusions:

- 1. No evidence that APA had colluded with the CIA**
- 2. The timeline refutes any connection between changes in the Ethics Code and torture/interrogation.**
- 3. Suggested that DoD attempted to "curry favor" with APA, in the absence of any evidence that DoD offered contracts, jobs, or any financial benefit in exchange for APA adopting a policy position related to interrogations.**
- 4. Concluded, based upon innuendo and supposition, that certain APA staff and military psychologists had colluded with the intent to keep ethics guidelines "loose," i.e. no stricter than existing DoD guidelines governing interrogations.**
- 5. Cited an undisclosed conflict of interest between a former APA staff member who was an observer on the PEN Task Force and a military psychologist serving on a BSCT**
- 6. Reported that ethics matters involving national security psychologists were handled improperly**

## **What Hoffman Report FAILED to State:**

- **DoD policies at the time of PENS prohibited the very techniques that Hoffman claimed that DoD policy then allowed.**
- **Hoffman did not discuss current state of DoD interrogations at time of PENS, and declined offers from experienced interrogators to learn**
- **The “undisclosed” conflict of interest had been fully disclosed, and observer’s role during the PENS Task Force meetings was overblown by Hoffman**

# **Clear, Unmistakable Anti-Military Bias**

- **Hoffman acknowledged that he knew little about psychology prior to starting his investigation**
- **His report clearly demonstrates he knew even less about the military**
  - How policy is established**
  - How assignments are made**
  - How promotions are earned**
- **Primary assumption:**
  - A military psychologist cannot support interrogations and do so ethically**

# Division 19's Initial Response: 2015

- Jul 29, 2015 DIV19 letter to Kaslow and McDaniel
- Aug 3, 2015 DIV19 letter to membership
- August Convention
  - Meeting with Kaslow and McDaniel
  - Townhall in Toronto
  - Established Division 19 TF
- Nov 11, 2015 BOD receives DIV19 TF Report
- Nov 22, 2015 Dr. Anton promises “substantive response within a couple of weeks.”
- Dec 22, 2015 DIV19 expresses disappointment in APA’s depiction of HR in APA’s year-end summary
- Dec 22, 2015 Dr. Anton proposes a meeting, DIV19 agrees



# **Interactions with the BOD: 2016**

- **Jan 3, 2016 DIV19 provides 5 questions in advance of Feb 17 meeting**
- **Jan 26, 2016 DIV19 receives response to administrative questions with McDaniel confirming Feb 17 meeting**
- **Feb 14, 2016 McDaniel cancels meeting, stating BOD “unprepared” to answer questions about:**
  - **1. actions to address errors and misrepresentations in report, and**
  - **2. actions to address harm done to DIV19 members named in report**
- **Feb 16, 2016 DIV19 expresses disappointment with the BOD’s reticence to deal with our concerns while supporting the critics**
- **Apr 19, 2016 McDaniel forwards her posting on COR, citing the BOD’s “fiduciary responsibility” to “examine certain matters brought to our attention” (DIV19 TF Report and statements from impacted DIV19 members) – and that Hoffman has been rehired. She proposes a meeting - DIV19 responds, asking for meeting during APA Convention in Denver, and underscores need for “fiduciary responsibility.”**

# Interactions with BOD: 2016

- **May 26, 2016 Dr. McDaniel proposes a meeting with a select group for weekend of June 10, and offers to pay for DIV19 leadership to attend (Hoffman's supplement report was expected on Jun 8 but stated date could change)**
- **June 1, 2016 DIV19 declines meeting in June, reiterating desire for meeting in August**
- **June 4, 2016 Dr. McDaniel offers a telephone call a week after supplemental report is released, with perhaps "some contact" at Convention**
- **June 6, 2016 DIV19 willing to meet via teleconference, but also suggested a townhall to address DIV19 during Convention**
- **June 17, 2016 Dr. McDaniel replies that "we haven't lost track of this desire to communicate in some way. I'll be back in touch." Last conversation with her.**

# Legal Developments

- **In February 2017, a defamation lawsuit was filed by 5 individuals (Banks, Dunivin, James, Newman, Behnke)**
- **APA responds with threats and intimidation, essentially shutting down debate and discussion**
- **Critics of report have been excluded from governance meetings and threatened with sanction**
- **Mediation failed in July 2019 (a fact not revealed to Council during their meeting in August)**

## **Interactions with BOD: 2017-2019**

- **Jan 23, 2017: Request for substantive response**
- **Jan 26, 2017: Puente responds that BOD will be in touch “within several weeks.”**
- **Feb 1, 2017: DIV19 Statement re: POTUS consideration of allowing torture; cosigned by 44 Divisions**
- **Dec 31, 2017: Request for substantive response**
- **Apr 18, 2019: Request for substantive response**
- **May 1, 2019: Davis replies that litigation prevents any discussion or action on DIV19 concerns**
- **Sep 13, 2019: Letter to BOD re: panel presentation**
- **Oct 3, 2019: Davis responds to letter re: panel, citing a desire to “welcome diversity of thought.”**

# Defamatory Statement

Dr. Soldz's 2012-2013 interview for the "Rule of Law Oral History Project," Columbia University:

**"James can't write an English sentence...To our amusement, James became dean of the School of Psychology at Wright State University. ...They gave him the job – partly because he is black. The president came in and basically said, 'we're going to have a black dean, and that's it.' ...but I hear that he has been, an awful, awful dean. He doesn't show up for work. He basically doesn't do anything."**

Multiple requests across successive BODs to address this comment have been ignored.

# **Council of Representatives**

- **Div19 gained a second seat on Council, beginning in 2017**
- **Litigants filed a lawsuit against APA in Feb 17—James steps down as DIV19 representative and Harvey takes his seat**
- **Lack of awareness of military culture among COR**
- **Several initiatives:**
- **August 2018:**
  - **Resolution to remove Hoffman Report from APA's website**
  - **Resolution to allow military psychologists to treat detainees**
- **August 2020:**
  - **NBI to remove Hoffman Report from APA's website**

# **What APA is now saying...**

- **Report is merely Hoffman's own "opinion" and his "right of advocacy" as opposed to a factual report**
- **There is no evidence that non-recused members of the 2015 BOD either read or understand documents related to interrogation, to include the Hoffman Report**
- **The Leso ethics matter – not handled improperly or to protect him from censure (Sidley-Austin disagrees)**
- **The review for which Hoffman was rehired to conduct was never undertaken**

**WHERE IS APA'S FIDUCIARY RESPONSIBILITY TO ITS MEMBERS?**

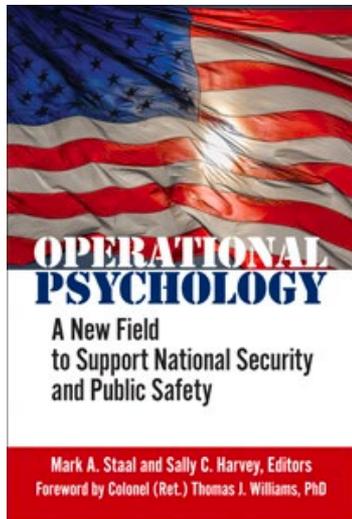
# **Additional efforts to correct the record**

**APA Convention, workshops, seminars (2016-2020)**

**Debates with Steven Reisner**

**Argosy University (Harvey, 2017)**

**American Psychology Law Society (Staal, 2018)**



**Book on Operational Psychology  
(Staal & Harvey, 2019)**

## Articles: 2018-2020

***Peace and Conflict Journal of Peace Psychology*** (Staal, 2018)

“Applied Psychology Under Attack: a response to the Brookline Principles.”

“Lies, Statistics, and Brookline: A Response to Soldz, Arrigo, Frakt, & Olson.”

***American Psychologist*** (Harvey, 2019)

“Diversity and social justice? Comment on Leong, Pickren, and Vasquez.”

***National Psychologist*** (Harvey, 2020)

“Hoffman Reports Flaws Should be Acknowledged.”

***The Specialist*** (ABPP Newsletter) (Harvey, Staal & Johnston, in press)

“Civility at What Cost?”

***Professional Psychology: Research and Practice*** (Harvey & Koocher, in press)

“Learning to Paddle Against the Current: A Response to “Moving Upstream in the Post-Hoffman Era...”

# **On-Going Cost of the Hoffman Debacle**

**APA acknowledges over \$8,000,000 (out-of-pocket) expenses**

**Unwarranted strain on military psychology**

**Students cautioned against military career**

**Aspersions cast upon uniformed psychologists**

**Reputations and careers destroyed**

# Challenges and Concerns

- **Nearly 5 years since Hoffman Report published; 15 years since PENS**
- **APA's response: legal over ethical action**
- **Impact of civility efforts on discussion and debate**
- **Complicated relationship: APA and military psychology**
- **Ethics Code update**

# Questions?

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