

THE HOFFMAN REPORT: BRIEF FACT SHEET

1. In February 2005, APA convened the Presidential Task Force on Psychological Ethics and National Security (PENS) to “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.” In June 2005, the PENS Task Force affirmed that the APA Ethics Code was applicable, and established 12 clear and unambiguous statements about psychologists’ ethical obligations in such settings, to include the following: “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. In particular, PENS 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 report was reviewed and approved by both the APA Ethics Committee and the APA Board of Directors (BOD) – more than two dozen thoughtful experts – prior to being adopted as APA policy. The PENS Task Force, and its report, are at the center of the Hoffman Report.
2. Throughout the following decade, APA became embroiled in on-going debates regarding Bush-era detainee treatment and the role of psychologists in national security interrogations, led by a group of psychologists, within and outside of APA, who self-identified as “dissidents.” During this same time period, APA’s leadership responded to media reports regarding these issues and sent numerous letters to governmental officials while the Council of Representatives enacted a series of resolutions regarding interrogation and detainee abuse. As the protracted effort by the dissidents continued, the energy of APA’s leadership to counter their criticism began to wane (although APA leadership never yielded its belief that the dissidents’ allegations constituted unfounded innuendo). The PENS Report was rescinded as APA policy in 2013, an action clearly documented on APA’s website.
3. In November 2014, APA’s Board of Directors (BOD) commissioned the law firm of Sidley Austin and attorney David Hoffman, to conduct a review of the allegations in James Risen’s book, *Pay Any Price*, which had been published in October 2014. Risen, a *New York Times* (NYT) journalist, later conceded that he had not given all parties implicated a chance to respond to his allegations prior to publishing this book, stating he did not feel the need to do so.
4. The BOD established a “Special Committee,” co-chaired by Drs. Susan McDaniel and Nadine Kaslow, to handle this review. Two other members of the original committee were recused, leaving all decisions to the two co-chairs. With respect to recusals, APA stated that any individuals who had involvement with the significant events investigated, “regardless of culpability” would “be recused from all deliberations and discussions related to the IR report.” A review of APA governance materials, dating back to 2005, indicates that all of the non-recused BOD members, with the sole exception of the APAGS representative, had been involved in these same events, including the co-chairs of the Special Committee. Their prior involvement was overlooked, along with the fact that one of the co-chairs acknowledged to senior APA staff that she was facing and planning to privately settle a lawsuit alleging serious ethical misconduct on her part.
5. Scheduled for completion by March 2015, at a cost of \$400,000-\$800,000, Hoffman’s report was actually submitted to the BOD on June 27, 2015 at a cost of \$4.1 million. Since that time, APA has paid (out-of-pocket) **over \$8 million** for costs associated with the investigation and report.
6. APA and Hoffman stated that there had been a “strong preference” for the Hoffman Report to be discussed at Council’s August 2015 meeting. The 2015 BOD has never identified whose preference this was, nor why it was more important for the Hoffman Report to go forward before ensuring its factual accuracy. On July 1, 2015, a group of former APA Ethics Committee Chairs wrote to the BOD respectfully requesting to review the report prior to its public release in order to ensure its accuracy with respect to ethics-related matters. While this request was acknowledged, there was no substantive response. In addition, despite promises to the contrary, those named in the report had no opportunity to respond or, in some cases, to even see the report, before it was leaked to the *NYT* (see point 8).

7. Prior to Council receiving the Hoffman Report, the BOD did make the report available to two of APA's critics on interrogations, Drs. Steven Reisner and Stephen Soldz (who had previously resigned his APA membership), and invited them to the BOD's July 2, 2015 meeting. This arrangement occurred in secret, despite the Board's promise of transparency. Reisner and Soldz made extensive recommendations at this meeting while also acknowledging they had not had time to read the 542-page report nor, presumably, the thousands of supplemental documents. Their recommendations included staff firings, a permanent ban on certain individuals serving in APA governance and referral of the report to the FBI for a federal criminal investigation. One of those to be banned was Dr. Larry James, Division 19's Representative to Council, against whom Dr. Soldz had openly expressed racially-based animus.
8. Council received the Hoffman Report on July 8, and the supplemental materials the following evening. Since receiving the report in late June, APA had instituted tight controls over access to this document; nevertheless, the report was leaked and on July 10, the *NYT* published a story by Risen which included the full text of the HR, less the supplemental materials. While the BOD did nothing to discover the leak's source, credible evidence has now emerged that Hoffman, himself (or a member of his team), was responsible - as the BOD must have suspected - raising significant questions about the "independence" of this process. The majority of the BOD, despite their involvement in underlying events and knowledge of the report's falsity (point 3) remained silent as they proceeded to publish the report through APA's website. APA has now repeatedly stated that there is no evidence "that Board members actually read and understood certain documents" related to the interrogation, documents that include the Hoffman Report.
9. In April 2015, as Hoffman was conducting his investigation, the *NYT* had published another article by Risen highlighting a document written by Reisner, Soldz and Nathaniel Raymond, one based upon emails provided by Risen. In this article, *All the President's Psychologists*, the authors repeated many of the same incorrect assertions previously made by Risen. While the Special Committee was well-aware of these events, they nevertheless gave Reisner and Soldz privileged, secret access to the Hoffman Report (point 6).
10. The Hoffman Report found:
 - a. No evidence that APA had colluded with the CIA, as Risen had claimed.
 - b. No evidence that APA amended its Ethics Code to enable torture, as Risen also claimed. The timeline of the 2002 Ethics Code revision process and drafts clearly and definitively disproved this allegation, as the relevant amendments had been drafted *prior* to the terrorist attacks on September 11, 2001. Despite this readily available information, Hoffman devoted 38 pages of his report and considerable APA funds and staff time to reach this foregone false conclusion.
 - c. No evidence that the DoD offered contracts, jobs, or any financial benefits in exchange for APA adopting a policy position related to interrogations. Rather, the Hoffman Report alleged that APA wished to "curry favor" with DoD, without giving any specific content to this vague and undefined term.
11. The Hoffman Report concluded that APA staff and certain military psychologists had colluded with the intent to keep ethics guidelines "loose," i.e. no stricter than existing DoD guidelines governing interrogations which, according to the Hoffman Report, allowed sleep deprivation and stress positions among other "enhanced interrogation techniques."

The Hoffman Report *failed* to state that:

- a. DoD policies at the time of PENS **prohibited the very techniques that Hoffman claimed that DoD policy then allowed**. These policies were unclassified, were freely available on the internet **and** were included as part of Hoffman's supplemental materials.
- b. Hoffman did not discuss the state of DoD interrogation policies as of June 2005 with witnesses his team interviewed, declining offers from at least one experienced interrogator who was willing and able to provide this information.
- c. Despite thousands of email messages and voluminous documents, the Hoffman Report does not include a shred of evidence that demonstrates any collaboration between APA staff, members or military psychologists for the purpose of allowing abusive interrogations. Hoffman's findings – now

described by APA as merely his own “opinion, as opposed to APA’s original statement that the purpose of the investigation was to ascertain the facts – are based upon inference in the context of incorrect assertions without any factual basis or consideration given to other plausible explanations.

12. Immediately after the Hoffman Report was made public, numerous witnesses cited by Hoffman stated that his report mischaracterized or misstated their interviews. An attorney for one witness contacted Hoffman’s law firm, demanding that incorrect material be removed and, on September 4, 2015, Hoffman issued a revised report. Many of the witnesses who had informed APA of the report’s inaccuracies were not told that the report was being revised, nor that there was a deadline for asserting corrections. Some witnesses did attempt to contact Hoffman well before September 4, but Hoffman did not respond. Despite these witness protests – and a July 11, 2015, communication from the Special Committee that “interview data” would help members understand “how Mr. Hoffman came to his conclusions” – APA and Hoffman have consistently refused to release source materials claiming that these materials were somehow privileged, a decision again at odds with the promised transparency.
13. The Hoffman Report stated that ethics matters related to national security interrogations were handled improperly, largely based upon the report’s analysis of the Leso ethics matter. In addition, apparent violation of the Ethics Committee’s Rules and Procedures regarding confidentiality, Hoffman disclosed information related to an ethics complaint against Drs. Larry James and Michael Gelles. APA now asserts that “nor does the report identify any improprieties in connection with the handling of the Leso file.” The HR devoted more pages of discussion to the Leso ethics matter than to the other three ethics matters combined.
14. The Hoffman Report alleges that an undisclosed conflict of interest (COI) existed between a former APA staff member who was an observer on the PENS Task Force and a military psychologist serving as a behavioral science consultant at Guantanamo Bay. The Hoffman Report focused on the fact these two individuals are married. The Hoffman Report failed to provide any COI policy in place for 2005 nor the following facts:
 - a. The marriage had been fully disclosed, to include a story and photo in APA’s *Monitor on Psychology* which is sent to every APA member;
 - b. APA’s General Counsel had obtained an opinion from PriceWaterHouseCoopers which stated that this marriage, in and of itself, did not constitute a COI for members of APA governance, but rather should be assessed on a case-by-case basis. APA’s General Counsel was aware of the staff member’s role as a PENS observer; and
 - c. Three sets of contemporaneous notes, including those from a dissident and long-term critic of APA, clearly indicated that the staff member’s role at the PENS meeting was nowhere near as influential as described in the Hoffman Report. The staff member was a non-voting observer of the Task Force and not a party to its listserv discussions.
15. In its Task Force Report, Division 19 (the Society for Military Psychology), highlighted the deep anti-military bias in the Hoffman Report, including a lack of familiarity with basic aspects of DoD culture and practice. As one example, Hoffman claimed that the military psychologist in the alleged COI situation (point 12) would have suffered adverse professional consequences had the outcome of the PENS Task Force restricted or even eliminated the role of psychologists in interrogation support. In fact, a military psychologist in this situation would have been assigned to another duty without penalty or adverse consequence. Running throughout the report is the unproven assumption that military psychologists are incapable of supporting interrogations and performing in an ethical manner. The Hoffman Report also alternates between depictions of military psychologists as the masterminds of interrogation policy and that as pawns of nefarious Commanders bent upon abusing detainees. These assumptions are without merit and deeply offensive to those in uniform.
16. In August 2015, Council adopted a resolution prohibiting psychologists from consulting on military and national security interrogations – even those that conform to international human rights documents. At this same meeting, Council never discussed the fact that this resolution also prohibits military psychologists from providing health care to detainees, in contravention to Common Article 3 of the Geneva Conventions.

17. The August 2015 Resolution states that psychologists may consult on humane **methods** of interrogation, but that psychologists may not consult on humane interrogations. Council did not identify what – if any – ethical distinction permits one and yet **prohibits the other**.
18. The BOD finally concluded that a review was necessary only after substantial evidence mounted that Hoffman had, in his possession, documents and witness statement that refuted all of his major findings. In April 2016, stating it had a “fiduciary responsibility to the association” to conduct this review, the BOD rehired Hoffman for this task - against many Council members’ protests. Despite multiple assurances that this review was proceeding and would be provided to Council in a timely and cost-effective manner, APA stated in May 2017, that this project was “postponed indefinitely.” In December 2019, APA stated that “Hoffman and Sidley did not ultimately undertake this project.”
19. In February 2017, a defamation lawsuit was filed by five individuals named in the report. Efforts to resolve the issues through mediation failed in July 2019, a fact that was withheld from Council during their meeting in August 2019. Additionally, APA asked the court, and it agreed, to compel the former APA employees involved in the lawsuit to engage in arbitration with APA and Sidley.
20. In August 2018, a motion regarding the removal of the Hoffman Report, dated July 2, 2015, from APA’s website underwent lengthy discussion on the Council floor. This motion did not pass, nor did APA agree to include any statement indicating that the report was pending review. APA merely posted a link taking the interested reader to the flawed revised report, dated September 4, 2015.
21. In a deposition provided for the Eastern District Court of Washington at Spokane in 2017, Dr. James Mitchell, one of the CIA contract psychologists who developed the “enhanced interrogation” program, testified that he resigned from APA in 2006, specifically because he disagreed with its strong stance against detainee abuse and its efforts to ensure that interrogations were conducted in a manner consistent with APA’s Ethics Code.
22. The evidence regarding the flaws of the Hoffman investigation and report is overwhelming and irrefutable; yet APA leadership remains silent and refuses to exhibit the courage to truly reset its moral compass by exonerating those psychologists whose reputations have been grievously damaged by the negligence and defamation of the Hoffman Report and the underlying processes documented here.