

Coalition for an Ethical Psychology

human rights – ethics – social justice

July 26, 2010

Carol D. Goodheart, EdD, President
American Psychological Association.
750 First Street, NE
Washington, DC 20002-4242

Dear President Goodheart:

We are heartened to see the American Psychological Association submit its June 30, 2010 letter to the Texas State Board of Examiners in support of a thorough investigation of the charges brought against Dr. James Mitchell. We agree that psychologists, such as James Mitchell, in using their professional expertise in the service of abuse and torture, have contributed to the public's "[mis]understanding of the profession of psychology and its ethical principles." We applaud your statement that, should the allegations in the complaint be substantiated, psychologists who act in such ways, were they APA members, would be expelled from the Association. We also appreciate your "expectation that the individual's state license to practice psychology would be revoked."

In addition to the case against Mitchell, there are currently two other similar cases before ethics boards of psychologists accused of involvement in detainee abuse. We believe both of these cases merit parallel responses from the APA. We hope that you will offer similar support for full investigations and accountability.

On July 7, 2010, ethics complaints were brought before the New York Office of the Professions against Major John Leso, and before the Ohio Psychology Board against Col. Larry James. Each of these psychologists had command responsibility within the Behavioral Science Consultation Team (BSCT) at Guantánamo Bay. This was during the period when abusive psychological techniques and conditions were part of the standard operating interrogation and detention procedures overseen by BSCT psychologists.

You state in your letter that "longstanding APA policy prohibits psychologists' involvement in any form of torture or other types of cruel, degrading or inhuman treatment or punishment," and that these policies "date back to 1985."¹ You state further that acts such as "waterboarding and sexual humiliation are explicit violations of APA policy." Our aim in this letter is to bring to your attention that: (a) the charges against Leso and James assert that, in their dealings with detainees, they crossed these lines, by *planning, implementing, and/or permitting torture or other types of cruel, degrading or inhuman treatment or punishment*; and b) among the specific acts included in

¹ Against Torture: Joint Resolution of the American Psychiatric Association and the American Psychological Association, 1985.

the charges are ones involving *sexual humiliation*, a type of abuse you describe in your letter as being “utterly inconsistent with Ethical Standard 3.04 in the APA Ethics Code, which obligates psychologists to avoid harm.” The allegations against Leso and James, including the allegations having to do with sexual humiliation, are derived from government reports and documents and, even more damningly, from documents written by the two psychologists themselves.

Dr. John Leso

Like James Mitchell, Major John Leso (USA) is alleged to have written a memorandum suggesting tactics for abusive interrogation and detention techniques, which were then adopted as official policy and used to torture detainees with the knowledge of, and in the presence of, the author.

According to evidence released by the Senate Armed Services Committee (SASC), Leso and his fellow BSCT, Major Paul Burney, a psychiatrist, wrote a memorandum for Guantánamo staff developing interrogation and detention protocols for the facility. The memorandum proposed a list of increasingly aversive interrogation techniques and detention conditions. This memorandum was thus described by the SASC in their report released in April 2009 on mistreatment of detainees:

Category II techniques included stress positions; the use of isolation for up to 30 days (with the possibility of additional 30 day periods, if authorized by the Chief Interrogator); depriving a detainee of food for up to 12 hours (or as long as the interrogator goes without food during an interrogation); the use of back-to-back 20 hour interrogations once per week; removal of all comfort items including religious items; forced grooming; handcuffing a detainee; and placing a hood on a detainee during questioning or movement.... Category III techniques included the daily use of 20 hour interrogations; the use of strict isolation without the right of visitation by treating medical professionals or the International Committee of the Red Cross (ICRC); the use of food restriction for 24 hours once a week; the use of scenarios designed to convince the detainee he might experience a painful or fatal outcome; non-injurious physical consequences; removal of clothing; and exposure to cold weather or water until such time as the detainee began to shiver.”²

Most of these recommended techniques were adopted as official policy.

Recommending such abusive techniques for use against actual prisoners is manifestly a violation of psychologists’ ethical injunction against causing harm. It is, in addition, a violation of APA policy under the 1986 resolution prohibiting torture and other cruel, inhuman, or degrading treatment or punishment. (We cannot accept the implication in the APA letter that because the

² **Inquiry into the treatment of detainees in U.S. Custody.** Report of the Committee on Armed Services, United States Senate. November 20, 2008, pp 51-52.

worst of the techniques were only condemned explicitly in 2008³ they were not unethical in 2002.)

But the documented evidence against Dr. Leso does not stop simply with helping to create the protocols for these abusive techniques. Like Mitchell, Leso was present at and advised on the implementation of those protocols. According to the Department of Defense log of the interrogation of Mohammed al Qahtani that was leaked in 2005 and posted online in 2006, Major Leso intervened to improve the effectiveness of certain techniques. At no point is there any documentation that Leso attempted to either stop or report the abuse. The interrogation was later described by Susan J. Crawford, the convening authority on the military commissions, appointed by the Bush Administration, as meeting the legal definition of “torture.” In Crawford’s explanation of her own refusal to refer Mr. al Qahtani’s case for prosecution, she told the *New York Times*: “We tortured [al] Qahtani... His treatment met the legal definition of torture. And that's why I did not refer the case.”

While we question the notion that sexual humiliation is in any way qualitatively different from the other manifest abuses recommended in Leso’s memorandum, we would like to point out that sexual humiliation, too, was among the abuses recorded during the al Qahtani interrogation. Following the Leso/Burney protocols, Mr. al Qahtani was forced to stand naked. This took place in front of female interrogators. In addition, during this interrogation, a female interrogator straddled him, pictures of swimsuit models were hung around his neck, and he was called a homosexual. At one point he was forced to wear a woman’s brassiere and had a thong placed on his head. Thus, from an ethics perspective, the alleged abuses raised in the allegations against Leso are quite similar to abuses allegedly committed by James Mitchell. They therefore deserve the same response from the APA: the strong recommendation that should these charges be proven, Dr. Leso should be stripped of his APA membership and his license.

Dr. Larry James

³ The 2006 and 2007 resolutions “reaffirmed” the 1986 Council resolution against torture, which made the 1985 declaration against torture official APA policy. Because of the specific forms of abuse reported to be in use at the time, in 2007 Council prohibited those explicitly. There is no ethical basis that we can see to separate out waterboarding and sexual humiliation, for example, from induced hypothermia or convincing the detainee that he is facing imminent death. All of these are, by any definition, harmful, as well as cruel, inhuman or degrading. And all are specifically defined as such under the amended 2007 resolution: “An absolute prohibition against the following techniques therefore arises from, is understood in the context of, and is interpreted according to these texts: mock executions; water-boarding or any other form of simulated drowning or suffocation; sexual humiliation; rape; cultural or religious humiliation; exploitation of fears, phobias or psychopathology; induced hypothermia; the use of psychotropic drugs or mind-altering substances; hooding; forced nakedness; stress positions; the use of dogs to threaten or intimidate; physical assault including slapping or shaking; exposure to extreme heat or cold; threats of harm or death; isolation; sensory deprivation and over-stimulation; sleep deprivation; or the threatened use of any of the above techniques to an individual or to members of an individual's family. Psychologists are absolutely prohibited from knowingly planning, designing, participating in or assisting in the use of all condemned techniques at any time and may not enlist others to employ these techniques in order to circumvent this resolution's prohibition.” Amendment to the Reaffirmation of the American Psychological Association Position Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Its Application to Individuals Defined in the United States Code as "Enemy Combatants," 2008.

Col. Larry James (USA) took over for John Leso as Guantánamo BSCT #1 in January 2003 and remained in that position until May 2003. James was also Chief Psychologist for the Guantánamo Joint Intelligence Group. According to government documents, abuses such as those implemented under Leso's memorandum continued under James' watch. According to the complaint against James:

Reports of abuse were so numerous in the spring of 2003 that a subsequent government review concluded that they "signif[ie]d a consistent problem" and resulted from command failure at the prison. The U.S. Senate Armed Services Committee found that the techniques reported, used, or planned for use while Dr. James and his team advised on interrogations in Guantánamo included "threats of death," "sensory deprivation," "loud music" and "strobe lights," religious humiliation, and sexual assault and cultural humiliation by female interrogators, including a forced "lap dance" and "wip[ing] . . . [fake] menstrual blood on a detainee's face and forehead." Military personnel held detainees in extreme temperatures, sometimes for days, and some prisoners reported being subjected to pressurized or ice cold water. Interrogation and detention teams often applied these techniques in combination, which severely intensified their effect.

The International Committee of the Red Cross (ICRC) has reported on conditions during and after this period (Spring of 2003), stating, ""The construction of such a system, whose stated purpose is the production of intelligence, *cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture*" (emphasis added).⁴

Equally egregious is the fact that James misrepresented the treatment of Guantánamo detainees to other members of the APA Task Force on Psychological Ethics and National Security (PENS), the Task Force responsible for creating APA policy on these very interrogations and conditions. While the ICRC, SASC, the Department of Defense Inspector General, and even the Camp Delta standard operating procedures themselves describe a program of behavioral and psychological detainee abuse, James wrote to the other members of the Task Force: "I am very proud of the fact, it was psychologists who fixed the problems and not caused it. ***This is a factual statement!*** the fact of the matter is that since Jan 2003, where ever we have had psychologists no abuses have been reported."⁵ Through this misrepresentation, James, along with other PENS members from chains of command accused of abuses, manipulated APA policy to encourage participation in an abusive interrogation system.

Like Mitchell and Leso, the allegations against Dr. Larry James also include violations involving sexual humiliation of a detainee. This charge is derived from James' own report in his book, *Fixing Hell*. According to James, he watched behind a one-way mirror while an interrogator and three prison guards wrestled a struggling, near-naked man on the floor. The prisoner had been

⁴ "Red Cross Finds Detainee Abuse in Guantánamo," Neil Lewis, New York Times, November 30, 2004. <http://www.nytimes.com/2004/11/30/politics/30gitmo.html?scp=10&sq=neil%20lewis%20guantanamo&st=cse>

⁵ E-mail Messages to the Listserv of the APA PENS Presidential Task Force, at p. 47, available at <http://www.propublica.org/documents/item/e-mails-from-the-american-psychological-associations-task-force-on-ethics#search/p47>. Grammar and spelling is in the original.

forced into pink women's panties, lipstick, and a wig. The men then pinned the prisoner to the floor in an effort "to outfit him with the matching pink nightgown." Instead of immediately stopping the abuse and reporting the men for discipline, which was his ethical and legal responsibility as Chief Psychologist and BSCT supervisor, Dr. James wrote that he "opened [his] thermos, poured a cup of coffee, and watched the episode play out, hoping it would take a better turn and not wanting to interfere without good reason, even if this was a terrible scene." It was only later that Dr. James claims to have determined that "someone [was] gonna get hurt" and purportedly decided to intervene. Even then, Dr. James admits that he "never once said anything about the lingerie or the interrogation"⁶ to the interrogator and did not report the incident. This account is consistent with his comments to the Associated Press where he talked about "staying in my lane" when involved with intelligence operations at Guantánamo.⁷

By APA ethical standards, as well as military standards, there is an ethical and legal duty to intervene and report such abuses, as James himself has acknowledged: "...military psychologists as military officers are bound by the Geneva convention, APA ethics code and the UCMJ (uniformed code of military justice). A military officer found guilty of violating the UCMJ . . . may very well get an all expenses paid trip to Leavenworth federal prison. As a military officer, [i]f I observe a violation and I do not act I may be subject to prosecution under the UCMJ."⁸

Responsibility to the Profession

Like the APA, we are concerned about the "public's understanding of the profession of psychology and its ethical principles" and with the "scope of misperception and harm" done to the reputation of professional psychology. We believe that the public's understanding of the profession is derived not only from our avowed ethics, not only from the behavior of psychologists, but from whether it perceives the American Psychological Association as upholding those standards evenhandedly and universally. The APA has taken an unprecedented action in joining the call for an investigation of Dr. Mitchell and in calling for full accountability should the accusations be borne out.

But, as you point out, "Dr. Mitchell is not an APA member, and accordingly APA has no jurisdiction over this matter." Drs. Leso and James, on the other hand, *are* APA members.

We believe that the public's understanding of and respect for psychologists' ethical principles depends on the APA holding its own members to the same standards that it applies to non-members.

⁶ *Fixing Hell*, pp. 50-51.

⁷ "I learned a long, long time ago, if I'm going to be successful in the intel community, I'm meticulously — in a very, very dedicated way — going to stay in my lane," [James] said. "So if I don't have a specific need to know about something, I don't want to know about it. I don't ask about it." *Pentagon Quiet after Commander Acknowledges Secret Holding Area*, <http://www.foxnews.com/story/0,2933,329466,00.html>.

⁸ E-mail Messages to the Listserv of the APA PENS Presidential Task Force, at p. 47, available at <http://www.propublica.org/documents/item/e-mails-from-the-american-psychological-associations-task-force-on-ethics#search/p47>. Grammar and spelling in original.

The ethical issues at stake in the Leso case are essentially the same as those in the Mitchell case. James is accused of similar breaches in terms of command responsibility for torture, cruel, inhuman or degrading treatment, including the non-reporting of a case of gross sexual humiliation. We therefore ask that you, on behalf of the APA, write letters to the New York Office of the Professions and the Ohio Psychology Board as you did to the Texas State Board of Examiners. Explain that the charges against APA members Leso and James amount to serious violations of the APA ethics code and of APA policy under the 1986 resolution, and offer the same recommendation that, should these charges be substantiated, they would be cause for expulsion from the association and the recommendation of de-licensure.

Sincerely,

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For the *Coalition for an Ethical Psychology*

The Coalition for an Ethical Psychology is dedicated to putting psychology on a firm ethical foundation in support of social justice and human rights. The Coalition has been in the lead of efforts to remove psychologists from torture and abusive interrogations.