

Field Note

PSYCHOANALYSIS, THE AMERICAN PSYCHOLOGICAL ASSOCIATION, AND THE INVOLVEMENT OF PSYCHOLOGISTS AT GUANTANAMO BAY

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Abstract

This paper recounts the author's experience attempting to change the policy of the American Psychological Association (APA) that allows the participation of its members in Guantanamo Bay and similar detention centers. The efforts of the Division of Psychoanalysis and other divisions of the APA to oppose any such involvement are described as well as the reaction of the APA leadership to these efforts. The author speculates on the reason for the persistence of the APA governance in protecting the employment of psychologists as consultants to coercive interrogations.

Keywords

RCI report; Guantanamo; detention centers; PENS report; SERE; BSCTs; APA ethics code; UN commission on human rights; *Hamden* decision

Psychoanalysis, Culture & Society (2007) 12, 83–92.

doi:10.1057/palgrave.pcs.2100114

Introduction

In November 2004, Neil Lewis, a *New York Times* reporter, charged that a confidential Red Cross International (RCI) report, meant to be seen only by the White House, documented that American trained



psychiatrists and psychologists have been consulting to interrogators at various detention centers, including Abu Ghraib and Guantanamo Bay. The article stated that the tactics employed in these interrogations included coercive techniques, many of which fit the international definition of torture. As a psychoanalyst who is a member of the American Psychological Association (APA) and the Division of Psychoanalysis (Division 39), and a board member of Psychoanalysts for Social Responsibility (Section IX of Division 39), I was alarmed by the charges and felt that such serious allegations called for investigation. A lively discussion of what to do ensued on the Section IX listserv. Dr Steve Behnke, who runs the APA ethics office, told me that he felt the issue was for APA to provide the proper ethical guidelines to psychologists working in detention centers and to accomplish this goal, a task force would be named. When I asked about a formal inquiry into the charges, Dr Behnke said that APA only conducted ethical investigations in response to allegations filed against individual psychologists, and, because all such inquiries are confidential, he could not say if any such investigations were being conducted. Behnke seemed not to question whether psychologists should participate in facilities such as Guantanamo.

As the representative of Section IX to the Division 39 board, I decided to propose, at the January 2005 board meeting, that an independent investigation be undertaken. Although all agreed that APA members should not engage in or abet torture and some of the board members seemed to be in favor of my idea, I found that most of my colleagues, including the president of the division, thought that such an action would be premature. The consensus was to wait to see what the APA was going to do given the movement to form a task force.

A group of 10 psychologists, the names of whom were not known at that time, were appointed by the then president, Dr Ron Levant, to The Task Force on Psychological Ethics and National Security (PENS). The PENS report, issued in June 2005, while making clear that the task force has no “investigative or adjudicatory role,” was unambiguous in its assertion that “psychologists do not engage in or abet cruel, inhumane, or degrading treatment” (p 4). In addition, the report concluded that psychologists may serve in “national security roles” only in a manner consistent with the APA ethics code.

While much in the PENS report is laudable, reliance on the ethics code is questionable because, according to the code, a psychologist who finds herself in conflict between the principles of that code and orders given by an authority, may follow the orders. To many of my colleagues and me, this provision seemed to constitute a gaping loophole that could be used to justify unethical conduct on the basis of “following orders.” Moreover, I was frustrated that the scope of the report precluded any discussion of possible action for those who may be violating the strictures of the ethics code and the principles of the PENS report itself. Physicians for Human Rights (PHR) wrote a detailed critique of the report for failing to provide specific ethical guidance (Rubenstein, 2006). PHR listed many specific harmful practices that should be prohibited and recommended

that participation in interrogation be severely curtailed. Dr Phil Zimbardo (2006), who conducted the famous Stanford Prison Experiment that shows the ease with which people will inflict pain on others, objected to the report for using a model implying that psychologists act as independent contractors. Zimbardo emphasized that the client of an employed psychologist is his employer, in this case, the Department of Defense (DOD), and, therefore, to report torture or in any way counteract the DOD authorities comes at a great risk, a fact the PENS report ignored. Finally, Zimbardo noted that the PENS report used American law as its standard rather than international law and standards, such as the Geneva Convention and the International Covenant Against Torture.

Meanwhile, in July 2005, just weeks after the issuance of the report, Jane Mayer reported in *The New Yorker* on a program of questionable ethical conduct deployed at Guantanamo. The original program, Survival, Evasion, Resistance, Escape (SERE), simulated techniques used by Vietnamese and Chinese torturers to help American soldiers resist breaking under the pressure of those interrogation tactics. In Guantanamo and Abu Ghraib, Mayer reported, the DOD used those same tactics under the advisement of psychologists and psychiatrists to extract information from detainees held in American-run detention centers. Behavioral Science Consulting Teams (BSCTS), each of which consisted of at least one psychologist and psychiatrist, organized and ran the program. Unlike the Lewis article, Mayer mentioned the names of two military psychologists involved in the Guantanamo SERE program: James Mitchell and Morgan (Louie) Banks, neither of whom is an APA member.

The next APA convention took place in August 2005, just two months after the report was issued. New business is normally introduced one year in advance unless there is a two-thirds vote to suspend the rules. The Divisions of Social Justice (DSJ), a consortium of several APA Divisions including Division 39, under the leadership of Dr Neil Altman was able to achieve a suspension of the rules, and the governing body of APA, The Council of Representatives (COR), passed a resolution asking the Ethics office to change the code to indicate that any departure from the code in favor of following authority must be in accordance with “basic human rights.”

Many of us were relieved and encouraged to see that COR was willing to take such quick action in favor of closing the loophole in the Ethics Code. Unfortunately, despite the persistent efforts of Dr Altman and DSJ to work with the Ethics Office, the code has not been changed as of this writing. Some divisions, such as Forensic Psychology and even some divisions of DSJ, feared that the language of “basic human rights” would mean that if a psychologist suggested incarceration, institutionalization, or even custody of a child, s/he could be accused of violating “basic human rights.” DSJ offered some “talking points” on the PENS report, including the suggestion that APA call for an investigation of allegations that psychologists are involved in the violation of

human rights of detainees (Altman, 2006). The Ethics Office asked DSJ for help in defining “basic human rights”; and DSJ replied with a definition based on the Universal Declaration of Human Rights.

Meanwhile, press reports about the use of mental health professionals in detention facilities continued to tarnish the image of APA. When reporters went to the American Psychiatric Association (APsychiA) for comment, then President Dr Steven Sharstein consistently and clearly stated that there is “no role” for psychiatrists in detention centers. When reporters sought comment from the APA, Dr Behnke would comment that there were “gray areas” and raised the question of “how much water” and “deprivation” constituted torture. News accounts reported that the APsychiA was unequivocal in its opposition to abusive interrogation, whereas the APA left the door open for psychologists to engage in such behavior. Behnke and the APA leadership were quick to point out that the APsychiA had not taken a formal position as an organization, and, in fact, had tabled a motion to oppose psychiatric involvement in detention facilities.

In October 2005, Dr Levant, as president of the APA, traveled to Guantanamo with a group of representatives of health agencies to observe the facility. Levant confined his observations to talking to psychologists who assured him their behavior was within the ethical guidelines of the profession. Without seeing a single detainee or observing any interrogations, Levant concluded that no ethical violations were being committed by psychologists. In the absence of contact with detainees or observing the conduct of interrogations, I wondered how he could possibly know that the psychologists’ behavior was ethical. Either Levant was astoundingly naïve, I thought, or he went to the camp with his conclusions already drawn. But why would he do that?

At the next meeting of the Division 39 Board, in January 2006, I again raised the issue of the need for some type of investigation of the media allegations of psychologists’ unethical behavior. Dr Altman weighed in regarding his efforts to work with Behnke to change the ethics code. Board members expressed a variety of opinions on the issue, some of them favorable to psychologists’ involvement, but most were concerned about the allegations of unethical behavior. However, the overriding sentiment was that to call for an investigation would be an amorphous, overwhelming, and premature move. The President of Division 39, Dr David Ramirez, decided to appoint a Task Force on Basic Human Rights (BHRTF) and asked for volunteers. The BHRTF was appointed just before our spring 2006 meeting and includes five board members: Dr Altman as chair, Dr Jaine Darwin, Dr Marilyn Jacobs, Dr Laurel Bass Wagner, and me. The work of that group is ongoing.

That winter a colleague, Dr Gary Walls, and I were asked by the president of our Chicago Division 39 chapter, to present a program on the issue for local psychologists who might not be aware of the national discussions. The venue was the Chicago School of Professional Psychology, and the experience was one

of the most gratifying of my involvement in the effort to oppose APA policy. The audience consisted primarily of graduate students, and every seat was taken. The students displayed a great deal of interest in and moral concern over both the participation of psychologists in coercive interrogation and the attitude and position of the APA leadership.

In the February 2006 issue of the APA monthly newsletter, *The Monitor*, the new president, Dr Gerald Koocher, wrote an editorial defending the employment of psychologists in detention facilities, attacking allegations of impropriety as predicated chiefly on rumor and speculation, and pointing out that the Ethics Committee affirmed that the recommendations of the PENS task force were in conformity with the APA ethics code (Koocher, 2006). Koocher then went on to demean critics of psychologists' involvement: "A number of opportunistic commentators masquerading as scholars have continued to report on alleged abuses by mental health professionals. However, when solicited in person to provide APA with names and circumstances in support of such claims, no data have been forthcoming from these same critics and no APA members have been linked to unprofessional behaviors" (p 5). This statement represents Koocher's consistent position, repeated on a number of occasions, that the allegations are rumors and no names of APA members have been offered in support of the charges.

Koocher's brief editorial shocked me for its disingenuousness and the vitriolic attacks on those who reported evidence of abuses. By castigating anyone who raised ethical questions about psychologists' behavior, he was making clear that he was not interested in discovering the truth of the allegations, but only in protecting psychologists acting on behalf of the military. Koocher had to know that the RCI report was classified and the only person to see it outside of the White House was Neil Lewis who said it documented psychologists' involvement in consulting on torture and coercion. Furthermore, Koocher very well knows that the identity of psychologists working in Guantanamo is kept secret, so no names can be given. He had to know that the fact that the identities are classified does not mean that abuses are not taking place. Furthermore, despite the efforts at absolute secrecy in the detention centers, a name had surfaced: Dr John Leso, about whom more will be said later. It was this absolute indifference to the possibility the allegations had merit, along with the alacrity to use abusive language against those who made them, that made me suspicious of Koocher's motives.

It was the Koocher article that finally broke through the last vestiges of my denial about the organization that represented my profession. Koocher's willingness to attack those who raised ethical questions about psychologists' behavior, combined with his lack of concern for the validity of those accusations, demonstrated that his interest lay in facilitating the relationship between the APA and the DOD, rather than in insuring that the ethical standards of the profession are met. His editorial, along with Levant's baseless

conclusions, demonstrated that the APA was not about upholding its ethical standards, but about providing protection for those who would violate them while working for the DOD.

Ironically, the United Nations Commission on Human Rights (2006) had recently issued its report on the situation of detainees at Guantanamo Bay, documenting: (1) widespread abuses of detainees “amounting to torture” in violation of the Geneva Convention; and (2) the systematic breaching of professional ethics by health-care professionals who, it concluded, have been “complicit in abusive treatment of detainees detrimental to their health” (p 33). The UN Commission was unambiguous in its statement that health-care professionals who use their expertise to assist in ways that *may* adversely affect the physical or mental health of the detainee are violating professional ethics.

Evidence of psychologists’ involvement in abusive behavior continued to mount. In March, *Time* magazine (Zagorin, 2006) published a detailed log of the interrogation of Mohammed Al-Qahtani, who was suspected of being the “twentieth hijacker.” The 84 page log, covering a 50-day period in the winter of 2002–2003, showed that the interrogators used extreme sleep deprivation, exposure to cold, prolonged standing, denial of bathroom breaks, and a variety of psychological manipulations in an effort to extract information from Al-Qahtani. The FBI reported that Al-Qahtani hallucinated and talked to non-existent people, behavior consistent with exposure to extreme psychological stress. The log referred to a “Dr L.” who both consulted to and was present at the interrogation. Dr Steven Miles (2006) and two bioethicists, Gregg Bloch and Jonathan Marks (2005), identified “Dr L.” as the aforementioned Major John Leso, a counseling psychologist.

At the Division 39 spring conference, a last minute decision was made by Section IX to have a discussion of the issues. Despite the fact that the only available time slot was 7:00 am on a Saturday, we had an overflowing crowd and a lively discussion during which we talked to Dr Behnke by telephone. That experience told me that there is a great deal of interest in opposing psychologists’ participation in detention centers among the Division 39 membership despite the cautious approach of the leadership.

A major turning point in the entire situation occurred in May 2006, when the APsychiA voted to oppose any involvement of its members in Guantanamo Bay or any similar detention facility. It seemed to many of us that this newly minted policy undercut the APA position that organized psychiatry had not taken an unequivocal stance in opposition to its members’ involvement in detention centers. However, the APsychiA also said it would not punish any members who violated the policy. Behnke and Koocher have since used the lack of sanctions to argue that there was little difference between the APA position and the stance of organized psychiatry. In June, the AMA adopted a nearly identical position to the APsychiA stating that physicians must not participate in any way in interrogations. Behnke wrote an editorial in the July/August issue of *The*

Monitor arguing that both the APsychiA and AMA positions were similar to the official statement of the APA. This effort to blur the boundary between what seemed like clearly incompatible positions appeared to me to be a disingenuous attempt to hide the fact that APA's refusal to take a definitive stand against participation in detention centers differentiated it from psychiatric and medical opposition to those facilities. Two weeks after the APsychiA adopted its unequivocal stance, the Pentagon announced that it would give preference to psychologists over psychiatrists in its hiring practices. Both the AMA and APsychiA subsequently issued statements opposing Behnke's effort to blur the distinction between the APA position and theirs. The AMA chair of the Council on Ethical and Judicial Affairs (CEJA), Dr Robert Sade, published a letter in *The Monitor* objecting to Behnke's characterization of the AMA policy and drawing the clear distinction between the AMA position that physicians must not participate in interrogation and the APA policy of allowing a role for psychologists in interrogation proceedings.

Shortly after the Pentagon shifted its policy to give preference to psychologists, Dr Koocher submitted a brief letter to the *New York Times* (which as far as I know has never been published) contending that the new Pentagon policy reflected the DOD's recognition of the unique and superior contribution of psychologists to national security. For many of us, this letter was both offensive and mendacious. Offensive because Koocher was delighting in a preference that psychologists received as a result of their willingness to compromise themselves ethically. It was clearly mendacious to claim that this preference was a result of psychologists' exceptional expertise. The contention that the Pentagon had suddenly recognized the superior skill of psychology over psychiatry two weeks after psychiatry's ethical opposition to its members' participation in DOD facilities defies credulity.

While there was no organized campaign, many of us decided to write to Koocher of our concern. Admitting to receiving more than 300 emails, he responded with a dismissive message that said we should be skeptical of news media reports and that we did not have all the facts. I wrote back summarizing the facts as I knew them, taken largely from the UN Commission Report, and asking Koocher to respond with any contravening facts he may have. After receiving no response, I sent two more messages telling him I was awaiting his response. He finally answered: "Don't hold your breath." This man had accused me of not knowing the facts and then when I sent him my account of the evidence, he refused to respond. Needless to say, I was offended by both his refusal to engage the issues and his infantile demeanor. In my view, when an authority responds to inquiries with hostility rather than debate, he is acknowledging the paucity of evidence on his side. Koocher's behavior was analogous to the Bush administration's response to those who question its policies – they attack their critics personally. I told him that his dismissive hostility was unbecoming of a president of a professional organization and went

on to tell him, “You demean yourself with infantile sarcasm. For shame.” His response? “You demean yourself with infantile sarcasm. For shame.” I did not know if the man was simply revealing a severe developmental arrest or psychologically deteriorating, but I knew the APA power structure he represented was determined to uphold the rights of psychologists to participate in concentration camps and denigrate anyone who attempted to take seriously the ethical issues raised thereby.

Meanwhile, the names of the PENS task force members had become public. To my shock, I found not only that six of the 10 members had military and intelligence ties, but also that one of those members was none other than Col. Morgan Banks, who was involved in the SERE program at Guantanamo, is alleged to have run it, and is not an APA member. (One member, Mike Wassells, resigned because he reached the conclusion that the task force legitimated the APA inaction on the human rights violations at detention centers.) The composition of the task force seemed clearly designed to protect the interests of military psychology. I asked Steve Behnke about the appointment of the task force members, and he told me this information was beyond his purview and that the appointments were made by Ron Levant, the then president. When I emailed Levant, he told me that I should speak with Behnke. When I told him Behnke had referred me to him, he urged me to go back to Behnke.

I met with Steve Behnke at the American Psychoanalytic Association convention in June 2006. Unlike Koocher, Behnke is a friendly, approachable, warm person who conveys a desire to find a way to negotiate compromise among competing interests. Nonetheless, we could not come to any common ground in our positions. Over a cup of coffee, I asked him if he could distinguish Guantanamo from a concentration camp. While the question clearly startled him, he could not find a distinction. So, I asked him why psychologists should participate in concentration camps. His response was, “That’s one way of looking at it; the other way is that these people are there, they want to do the right thing, they are asking for ethical guidance, and we are giving it to them.” He said that Morgan Banks wants “to do the right thing” and is pained by the ethical considerations raised by the detention centers. The line of demarcation between our positions is Behnke’s view that there is an ethical way for psychologists to be involved in detention centers, and my belief that these prisons are concentration camps, existing in violation of international law, that preclude any ethical participation. With regard to the PENS task force appointments, he said he did not remember telling me to talk to Levant about the appointments, but said that more than 100 people were considered, and the appointments were made on the basis of expertise. This is, of course, the same rationale the Bush Administration uses to put the leaders of oil companies in charge of national energy policy.

After my meeting with Behnke, I decided to check on Leso and found out he was, in fact, an APA member. I brought Leso’s name to Koocher’s attention. In

this exchange, he was polite and respectful, and I had the distinct impression that someone had spoken to him about his behavior. Nonetheless, he denied that Leso was an APA member. It was only after I insisted that Leso's name was to be found on the APA website that he checked his information and responded, "You may have made an important discovery!" I gave the information on Leso to Steve Behnke, and my colleague, Dr Alice Shaw, has filed an ethical complaint against Leso.

Ironically, the US Supreme Court decision in *Hamden*, which held that the Geneva Convention applies to Guantanamo, took some of the motivation away from opposing Guantanamo involvement, because a consensus seemed to be growing that Guantanamo is going to have to change or be shut down completely. Even the DSJ at the August convention felt that it would marginalize itself by pursuing a prohibition on any participation. It did introduce a measure to affirm the UDHR and to propose changes in the ethics code, both of which passed, but did not initiate any further action. Nonetheless, the irrepressible Dr Altman introduced a resolution on his own to oppose the participation of psychologists in Guantanamo and similar detention facilities. That proposal has been vetted and action will not be taken until next year's convention.

Other avenues are being pursued. There is an online petition, created by a colleague, Dr Steven Soldz, that now has more than 1,700 signatures. Some psychologists have either resigned from the organization or threatened to do so. At the August 2006 convention, a number of APA members used the occasion to educate the membership on the issue and publicize the petition through leafleting and discussions.

The question that has plagued me throughout my efforts to overturn the APA position is: Why is the APA so insistent on finding a way to rationalize and protect behavior that is clearly unethical and in violation of basic ethical precepts? Koocher's letter gave me a clue. He seemed to be unashamedly excited in anticipation of psychologists playing the major behavioral science role for the DOD. Since World War II, psychological research has received large amounts of DOD funding, some of it going to former APA presidents, to investigate techniques applicable to coercive interrogation (McCoy, 2006). As long as it does not oppose the ethics of military activities, psychology can establish itself as the primary recipient of DOD research money as well as consulting contracts, especially now that psychiatry has adopted an unequivocal moral stance against some DOD facilities. While I do not and could not have definitive evidence that research and consulting funds are the motives for the bond between psychology and the DOD, the behavior of the APA leadership strongly suggests that this is the case. So, in the end, the elderly gentleman at the drug store near where I grew up had a time-honored insight that may explain the puzzle. "Boys," he used to tell us, "when something doesn't make sense, just follow the money."

About the author

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