

COALITION FOR AN ETHICAL PSYCHOLOGY

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If Not Now, When? – APA Fails to Sanction Psychologist in Guantanamo Torture Case

Denying and enabling torture require nothing more than refusing to acknowledge evidence that torture occurred or that specific individuals were involved.

...Governments, groups, cultures, or individuals need only reflexively dismiss all evidence as questionable, incomplete, misleading, false, or in some other way inadequate.

– [Ken Pope](#), former Chair of the APA Ethics Committee (1988)

The Ethics Office of the American Psychological Association (APA) has announced that it will not proceed with formal charges against military psychologist Dr. John Leso, despite extensive public documentation that this APA member designed and participated in abusive interrogations at Guantanamo Bay, Cuba. In fact, Susan Crawford, the convening authority on military commissions at Guantanamo appointed by President George W. Bush, refused to refer the case of detainee Mohammed al Qahtani to trial because she concluded his interrogation met the legal definition of torture. Dr. Leso is known to have been a supervisor and participant in that interrogation.

Because Dr. Leso's documented actions so clearly violated psychological ethics and because this abuse of psychological expertise was undertaken at the behest of governmental authorities, this case represents a landmark test of the independence of psychological ethics and professional standards from governmental and institutional pressures. The APA's failure to pursue charges against Dr. Leso jeopardizes our profession's fundamental ethical principles. In this synopsis we review (1) APA's repeated vow to bring such cases to account; (2) the public record of clearly documented violations by Dr. Leso; (3) APA's justifications for closing the Leso case without formal charges; and (4) our procedural and ethical assessment of the APA's resolution of this case.¹

1. APA's Vow to Hold Accountable Any and All Psychologists Involved in Abusive Interrogations

In 2005, APA's Ethics Office Director Stephen Behnke [stated](#):

If psychologists have engaged in any activity, and at this point the media reports are long on hearsay and innuendo, short on facts, the American Psychological

¹ Coalition member Trudy Bond filed the [ethics complaint](#) against Dr. Leso with the APA Ethics Office *almost seven years ago* on April 15, 2007, and she provided [additional documentation](#) the following year. Coalition member Steven Reisner filed an [ethics complaint](#) regarding Dr. Leso's actions with the New York State Department of Education on July 7, 2010.

Association wants the facts. And when we have the facts, we will act on them. And if individuals who are members of our association have acted inappropriately, the APA will address those very directly and very clearly.

Echoing Dr. Behnke and the APA's longstanding prohibitions on psychologists' involvement in abusive treatment, then-APA President Gerald Koocher, like every APA president since, [reiterated](#) this assurance:

APA has taken a very strong stance against the use of torture, inhumane, and degrading treatment, and if anyone is able to identify A.P.A. members who have been involved in such activities, we will take disciplinary action... I have asked...for names so that A.P.A. could investigate its members who might be allegedly involved in them, no names have ever been forthcoming.

At the time of these assertions by Drs. Behnke and Koocher, the involvement of APA member John Leso in the abusive interrogation of detainee Mohammed al Qahtani had already been [publicly documented](#). In 2005, the "Dr. L" mentioned as one of the Behavioral Science Consultation Team (BSCT) members responsible for overseeing one of the most brutal interrogations at Guantanamo was [revealed to be Dr. Leso](#).

2. The Ethics Case against APA Member John Leso

Through a combination of journalist reports, congressional investigations, a leaked interrogation log, and documents released from a decade of Freedom of Information Act requests and lawsuits by the American Civil Liberties Union, the following information documenting Dr. Leso's actions became publicly available.²

- Dr. John Leso led the BSCT at Guantanamo from June 2002 to January 2003. According to the 2008 [Senate Armed Services Committee investigation](#), Dr. Leso, along with Paul Burney who was the psychiatrist on his BSCT team, devised, recommended, and implemented psychologically and physically harmful and abusive detention and interrogation tactics.
- As "BSCT #1," Dr. Leso co-authored an October 2002 ["Counter Resistance Strategy Memorandum"](#) that included the following proposed techniques (among others): daily 20-hour interrogations; strict isolation for up to 30 days without visitation from treating medical professionals or the International Committee of the Red Cross (with extended isolation upon approval); sleep deprivation; removal of all comfort items such as mattresses, sheets, and religious items; removal of clothing; handcuffing and hooding; exposure to extreme temperatures; the use of scenarios designed to convince the detainee he might experience a painful or fatal outcome; and exposure to cold weather or water. The memorandum also recommended that "all aspects of the [detention] environment should enhance capture, shock, dislocate expectations, foster dependence, and support exploitation to the fullest extent possible."

² The Leso case can also be seen as potentially implicating other psychologists. Dr. Leso's actions at Guantanamo were overseen by at least two APA members. It has been documented that they knew about Dr. Leso's actions and either arranged training for him or reviewed his interrogation protocols.

- Dr. Leso's October BSCT memorandum directly formed the basis for the December 2002 [authorization memo](#) from Secretary of Defense Donald Rumsfeld, which gave approval to most of the techniques Leso and Burney had recommended (with the explicit exception of scenarios aimed to convince the detainee of imminent death and exposure to what was understood to be the wet towel, or waterboarding, technique).
- The Leso-Burney BSCT memorandum also formed the basis of the [interrogation](#) of Mr. al Qahtani who, over the course of 49 days, was subjected to almost daily 20-hour interrogations; was held in isolation without contact with other detainees; was forcibly injected with excessive fluids until his limbs swelled; was frequently hooded; was stripped and forced to stand naked with female interrogators present; was straddled by a female interrogator; was forced to wear a woman's bra and had a thong placed on his head; was terrorized by military dogs; and was led around by a leash and forced to perform dog tricks.
- In addition to his role in designing the implemented abusive interrogation protocols, a [leaked log](#) of the interrogation of Mr. al Qahtani indicates that Dr. Leso was present and participated in at least some of these sessions. A [sworn statement](#) from a BSCT member also asserts that at least one member of the three-person BSCT was *always* present during the interrogation of Mr. al Qahtani. None of the voluminous documentation on this interrogation provides any indication that Dr. Leso – or a BSCT member under his direction – ever intervened to curtail these abusive practices.

In short, the publicly available evidence of Dr. Leso's harmful, exploitative, and unethical actions as a psychologist is considerable and indisputable. By all reasonable measures, it meets and exceeds the "preponderance of evidence" standard used by the APA's Ethics Committee in its deliberations.

3. APA's Stated Justifications for Closing the Case Without Formal Charges

On December 31, 2013, almost seven years after the complaint against Dr. Leso was filed, the APA Ethics Office communicated its decision in the Leso case in a [letter](#) to Dr. Trudy Bond. Without disputing any of the above findings, Lindsay Childress-Beatty, Deputy Director of the Ethics Office, suggested that the burden of proof had not been met. The letter stated: "We have determined that we cannot proceed with formal charges in this matter. Consequently, the complaint against Dr. Leso has been closed."

In light of the publicity generated by the case, the letter also briefly referred to several factors that apparently led to the decision not to reprimand, censure, or expel Dr. Leso: (a) he did not "request to become involved with detainee interrogations"; (b) he was an "early-career psychologist trained as a health care provider"; (c) he reportedly "sought consultation and argued...in favor of rapport-building approaches;" and (d) APA did not issue its first policy on interrogations until 2005.

4. Procedural and Ethical Assessment of the APA's Justifications for Closing the Case

The justifications offered by the APA Ethics Office are not valid.

(a) *Dr. Leso's expectations.* Based on the Senate Armed Services Committee report, it appears that Dr. Leso did expect to be placed in a clinical rather than an intelligence-gathering role when he arrived in Guantanamo. However, our professional ethics do not apply only to roles and activities for which we volunteer. Since the Nuremberg trials, it is broadly understood that ethical principles apply to all actions, regardless of whether they are undertaken freely or in response to orders from superiors. It is also important to note that Dr. Leso's actions took place *before* the APA Ethics Code was changed to permit the violation of psychological ethics in favor of law or regulations (a change that has since been rescinded).

(b) *Early career status.* Although Dr. Leso was an early-career psychologist, the APA Ethics Code does not privilege or exempt members based on their years of professional work. (Neither does the Uniform Code of Military Justice.) Moreover, Dr. Leso had already been licensed as a psychologist for several years at the time of his BSCT activity, and he was being considered for the position of Director of Training at Walter Reed Army Hospital. As a licensed military professional, under consideration for the training of other clinical psychologists, he certainly should have been familiar with the APA Ethics Code, as well as the Nuremberg Protocols and the Geneva Conventions. Indeed, Standard 8.01 of the 1992 APA Ethics Code clearly states: "Psychologists have an obligation to be familiar with this Ethics Code, other applicable ethics codes, and their application to psychologists' work. Lack of awareness or misunderstanding of an ethical standard is not itself a defense to a charge of unethical conduct."

(c) *Dr. Leso's support for "rapport-building approaches" and seeking consultation.* The APA Ethics Office letter to Dr. Bond notes that, in their October 2002 Guantanamo memo proposing three increasingly aversive categories of abusive interrogation techniques, Drs. Leso and Burney also expressed [concerns](#) about these tactics. These BSCT members did indeed write, "Experts in the field of interrogation indicate the most effective interrogation strategy is a rapport-building approach. Interrogation techniques that rely on physical or adverse consequences are likely to garner inaccurate information and create an increased level of resistance..." However, the same APA letter fails to acknowledge that Drs. Leso and Burney apparently resolved their concerns with the simple recommendation that "Individuals employing Category II or Category III interrogation techniques must be thoroughly trained."

In regard to Dr. Leso's seeking of consultation, the Senate Armed Services Committee reported that he sent a copy of the interrogation memo to his superior, APA member Dr. Morgan Banks. Dr. Banks wrote back immediately, praising Dr. Leso for a "great job" but cautioning against the use of "physical pressures." Dr. Leso himself had independently [made the case](#) for the use of "psychological pressures" over physical pressures, stating, "Psychological stressors are extremely effective (i.e., sleep deprivation, withholding food, isolation, loss of time)." Such "psychological stressors" themselves are abusive and violate psychologists' ethical standards, as APA acknowledged in its anti-torture policy of 2007.

(d) *APA's first policy on interrogations was not issued until 2005.* Indeed, APA did not, technically, issue its first *interrogation* policy until 2005. But that 2005 policy, the [Report on Psychological Ethics and National Security \(PENS\)](#), itself made the case that previous policy, along with the Ethics Code, were already "fundamentally sound in addressing the ethical dilemmas that arise in the context of national security-related work." The report cited specific,

existing APA policy from twenty years earlier, when APA joined the American Psychiatric Association in a [joint statement](#) condemning torture “wherever it occurs.” The following year (1986) APA Council reiterated this condemnation in a [policy statement](#) opposing torture and other cruel, inhuman, or degrading treatment or punishment.³

Indeed, the APA issued the following [statement](#) to a state licensing board that had received a complaint against another psychologist involved in interrogations, Dr. James Mitchell:

Some of the more recent APA policies regarding the unethical nature of coercive interrogation techniques were not in effect at the time of the actions described in the Complaint. In APA's view, **those policies are not necessary** to find that actions of the type described in the Complaint are patently unethical. Acts such as water boarding and sexual humiliation are explicit violations of APA policy, and utterly inconsistent with Ethical Standard 3.04 in the APA Ethics Code, which obligates psychologists to avoid harm. [Emphasis added]

Conclusion

- The APA has stated, repeatedly and in no uncertain terms, that psychologists shown to have participated in torture or cruel, inhuman or degrading treatment will be held accountable.
- Dr. John Leso is known to have designed, supervised, and implemented state-sanctioned torture at Guantanamo.
- It is precisely when such abuse is institutional – in this case, sanctioned by the state – that our profession’s independent ethical principles and standards are most necessary.
- Yet the APA Ethics Office has decided to close the complaint against Dr. Leso without taking any disciplinary action whatsoever. In adopting this course, the APA has backed away from its crucial ethical commitments and obligations.

Health professionals adhere to an independent code of ethics precisely because we are entrusted with protecting the well being of the individuals with whom we come in contact. We use our skills to heal and not harm, and we do not abuse the authority of our roles, even if the individual is a criminal or an enemy on the battlefield. It is our obligation to protect each person’s right to health and care even if the government, the police, or the military insists otherwise. Without such a code of ethics, – and without holding psychologists accountable to such a code – the hard-won public trust in our profession understandably evaporates.

When the U.S. government lost its own ethical bearings and sanctioned the torture of prisoners of war and other detainees, it requested that physicians and psychologists oversee the program. Whether for reasons of patriotism, careerism, sadism, or obedience to authority,

³ This resolution specifically cited the UN Principles of Medical Ethics, which states, unconditionally, “It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.”

many acquiesced. Psychological research has taught us that when the state organizes and sanctions abuse and torture, many will conform. Our profession established a code of ethics in part because we know that situational and personal pressures can lead us to betray even our most cherished principles.

In refusing to implement its ethics code and hold abusers accountable, APA has abandoned its responsibility for ethical leadership and squandered the opportunity to offer clarity to the public and guidance to its military and intelligence psychologists who, were similar circumstances to arise again, will be called upon again to play such roles.

We believe the Council of Representatives should use its authority ⁴ to uphold what the Ethics Office has obscured: our ethical responsibility and accountability as professional psychologists. We recommend a full review, investigation, and report of the APA's Ethics Office process regarding the case of John Leso – and other cases where public evidence implicates APA members in aiding or assisting torture or abuse. We ask too that Council revoke the statute of limitations on ethics cases that involve torture or cruel, inhuman, or degrading treatment or punishment.

We also encourage all concerned psychologists to let APA know that members of our profession must be held accountable for their ethics violations, especially when these violations involve torture or abuse. That such a request may be perceived as radical, rather than reasonable, is itself testament to how far we have strayed from our basic standard of ethics.

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⁴ From Article IV of the APA Bylaws: "There shall be a Council of Representatives which shall be the legislative body of the Association and shall have full power and authority over the affairs and funds of the Association within the limitations set by the Certificate of Incorporation and these Bylaws, including the power to review, upon its own initiative, the actions of any board, committee, Division, or affiliated organization."