

**Open Letter to
President Suzanne Bennett Johnson
American Psychological Association**

A.P.A. 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.

-- Gerald Koocher, former APA President, speaking on *Democracy Now!* (June 16, 2006)

September 18, 2012

Dear Dr. Johnson:

We are two psychologists committed to making certain that psychologists implicated in torture and prisoner abuse are held accountable by oversight bodies for their egregious ethical violations. We believe the public trust and the reputation of our profession depend upon such accountability.

We are writing at this time regarding ethics complaints filed with the APA Ethics Office against three psychologists who remain APA members in good standing: Dr. Michael Gelles, Dr. Larry James and Dr. John Francis Leso. Based on undisputed facts, these cases cry out for investigation and appropriate censure. We would like to briefly review some of the evidence for these complaints and express our concern with regard to the status of each complaint.

Attorney Jonathan Turley filed a complaint with the APA Ethics Office in 2001 against Dr. Michael Gelles for alleged complicity in the harsh treatment of US Naval Officer Daniel King, who had been accused of espionage.ⁱ ⁱⁱ King was held for 520 days without charge by the Navy Criminal Investigative Service (NCIS) and interrogated for 29 days in 15-20 hour sessions. During this period, Navy investigators gave King multiple polygraph tests and lied to him about the results. By the end of the month, King had signed a confession despite having no recollection of the actions to which he admitted. Prior to his military hearing, King had become suicidal and felt he was losing his grip on reality, since he could not remember the event. He requested a consultation with a psychologist to help him remember, via hypnosis or truth serum, and King was sent to Dr. Gelles for a psychological consultation.ⁱⁱⁱ ^{iv} ^v According to testimony of King's defense attorney before the Senate Intelligence Committee, "Gelles virtually ignored the statement of King that he had suicidal thoughts...two days before the interview."^{vi} He focused instead on pressuring King to give the agents "corroborating" evidence, offering to hypnotize King *if* he did so. These allegations are supported by the videotape of Dr. Gelles' session with King (made by NCIS without consent) which was provided by Turley to the Ethics Committee. (Ultimately, all charges against King were dismissed when a military judge concluded there was insufficient evidence even to sustain a determination of probable cause.^{vii})

The Ethics Committee apparently found that Dr. Gelles' behavior did not violate APA ethics; in fact, subsequent to this case, Dr. Gelles was chosen by the Director of the Ethics Office to sit on the PENS Task Force and help develop ethical guidelines for national security interrogations.

On December 5, 2007, Dr. Trudy Bond filed a complaint with the APA Ethics Office against Dr. Larry James for his alleged involvement in the harsh treatment of detainees. Among numerous ethical violations, Dr. James oversaw the transport of three child prisoners – one 12 years old and two 13 years old^{viii} – from Bagram, Afghanistan to Guantánamo, where Dr. James was the Chief Behavioral Science Consultation Team member (“BSCT #1”).^{ix x} According to the New York Times, during transport the boys were “put on a plane with other prisoners, chained by the wrists and ankles, with a hood” placed over their heads. At Guantánamo, Dr. James oversaw the daily interrogations of these boys. For ten months the boys’ families were not told what had happened to their children, who had been “disappeared” by American authorities. The United Nations Committee Against Torture has held that such “disappearance” is torture – not only for the subject, but also for the family of the child taken without public acknowledgement. In addition, there is no dispute that such treatment of children is a violation of international law.

The ethics complaint against Col. James was dismissed by the APA Ethics Office without investigation.

In 2006, Dr. Alice Shaw filed a complaint against Dr. John Leso with the APA Ethics Office, which was never officially acknowledged. On April 15, 2007, Dr. Trudy Bond filed a similar complaint against Dr. Leso, which also was not acknowledged. Dr. Bond refiled the complaint on September 4, 2007. That complaint was formally acknowledged by APA on February 27, 2008. Declassified U.S. government documents indicate that while serving at the U.S. Station at Guantánamo Bay Dr. Leso, in his position as BSCT #1 (he preceded Dr. James in this position), co-authored a document recommending that a series of escalating physically and psychologically abusive interrogation tactics be used on detainees there. Many of these techniques were applied to Guantánamo detainee “063,” Mohammed al-Qahtani, under Dr. Leso’s direct supervision.^{xi xii} Susan Crawford, the Convening Authority for the Guantánamo Military Commissions appointed by George W. Bush, dismissed the case against al-Qahtani precisely because “his treatment met the legal definition of torture.” Many of the techniques and conditions that appeared in Dr. Leso’s written interrogation document were subsequently applied to other men and boys held at Guantánamo and eventually to detainees held in U.S. custody in Iraq and Afghanistan.

Now, more than five years after filing, the ethics complaint against Dr. Leso still remains unadjudicated by the APA Ethics Office (apparently the longest unadjudicated case in APA history).

The results of the case against Dr. Leso in New York clearly establish why the APA must take the lead in such cases. Unlike the NYOPD, the APA’s standards for psychologists do not permit the sidestepping of ethical issues through legal gymnastics. As the APA Ethics Code states:

This Ethics Code applies only to psychologists' activities that are part of their scientific, educational, or professional roles as psychologists. Areas covered include but are not limited to the clinical, counseling, and school practice of psychology; research; teaching; supervision of trainees; public service; policy development; social intervention; development of assessment instruments; conducting assessments; educational counseling; organizational consulting; forensic activities; program design and evaluation; and administration.

Most states follow the lead of the APA Ethics Office in determining ethical standards and in adjudicating cases.

Because of the Ethics Committee's delay in adjudicating the Leso case, Dr. Steven Reisner initiated an ethics complaint against Dr. Leso with the New York Office of Professional Discipline (NYOPD), which grants his license to practice.^{xiii} The NYOPD and the New York Attorney General acknowledged the fact that, "Dr. Leso, apparently, was asked to use his skills as a weapon; not to help the mental health of the detainees." But the NYOPD used these very facts to determine that – since the aim of Dr. Leso's activity at Guantánamo was explicitly to cause harm, and since there was no "therapist-patient relationship between Dr. Leso and any of the Guantánamo detainees" – Dr. Leso's professional behavior could not be considered the "practice of psychology" under the New York Education Law and therefore the ethics code did not apply. *The case was dismissed without investigation.*

Dr. Reisner pursued the case against Leso in New York State Supreme Court. The Court refused to overrule NYOPD, not on the merits of the case, but based on a technicality: that harm to the profession at large notwithstanding, Dr. Reisner could not show that he had been *personally* harmed by Dr. Leso's activities. But harm to the profession of psychology is precisely a central issue for the American Psychological Association. The ability of our association to establish and uphold ethical principles is the very basis upon which we garner and maintain public trust. And that trust has been sorely challenged by the failure of the APA Ethics Office to determine when a psychologist's behavior in national security interrogations has violated our basic, time-honored ethical principles.

In light of the circumstances we have described here, we are requesting that you, as President of the APA:

1. Open a full review of the practices of the APA Ethics Office with regard to the investigation and adjudication of cases alleging torture, cruel, inhuman or degrading treatment or punishment in general, and the cases of Drs. Leso, James, and Gelles in particular.
2. Ensure that the case against Dr. Leso now receives a prompt adjudication, five years after it was filed.
3. Move to rescind the current statute of limitations on cases of torture, cruel, inhuman or degrading treatment so that there can be accountability for psychologists who participate in classified abuses whenever the evidence of such abuses becomes available.

Sincerely,

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Endnotes

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- ⁱⁱ Turley, J. (2007, August 20). *Testimony in Senate Intelligence Committee on Abuses By Naval Intelligence and the Daniel King Case Published 1, Aug*. Retrieved September 7, 2012, from <http://jonathanturley.org/2007/08/20/testimony-in-senate-intelligence-committee-on-abuses-by-naval-intelligence-and-the-daniel-king-case/>
- ⁱⁱⁱ (Turley, 2007)
- ^{iv} (Kaye, 2009)
- ^v Soldz, S. (2009, December 7). *The "Ethical Interrogation": The Myth of Michael Gelles and the al-Qahtani Interrogation*. Retrieved September 7, 2012, from The PsySR Blog: <http://www.psysr.org/blog/2009/12/07/michael-gelles-and-the-al-qahtani-interrogation/>
- ^{vi} (Turley, 2007)
- ^{vii} (Kaye, 2009)
- ^{viii} James, L. (2008). *Fixing Hell*. Grand Central Pub. p. 43.
- ^{ix} International Human Rights Clinic. *Public Accountability for U.S. Doctors and Psychologists Involved in Torture*. Retrieved September 7, 2012, from Human Rights Program Harvard Law School: http://www.law.harvard.edu/programs/hrp/clinic/current%20projects/current_americas_projects.html
- ^x Center for Constitutional Rights. *Evidence: Larry James*. Retrieved September 7, 2012, from When Healers Harm: <http://whenhealersharm.org/sources-call-for-an-investigation-on-larry-james/>
- ^{xi} Center For Constitutional Rights. *John Leso*. Retrieved September 7, 2012, from When Healers Harm: <http://whenhealersharm.org/john-leso/>
- ^{xii} UC Berkeley School of Law. *Do No Harm? Intelligence Ethics, Health Professionals and the Torture Debate*. Retrieved September 7, 2012, from BerkeleyLaw - University of California: <http://www.law.berkeley.edu/8307.htm>
- ^{xiii} The Center for Justice & Accountability. *Reisner v. Leso: Accountability for One of the Psychologists Behind the Guantánamo Abuses*. Retrieved September 7, 2012, from The Center for Justice & Accountability: <http://cja.org/article.php?list=type&type=412>