

**APA COUNCIL OF REPRESENTATIVES**  
**Toronto, Canada**  
**August 2015**  
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**RIGHTING THE MORAL COMPASS**

*A good leader is not perfect. A good leader weathers the storm and carries on.*  
*The Last Ship 8/15/2015*

Prior to Council Meeting in Toronto, we all experienced a barrage of emails, documents, essays and media stories concerning the Hoffman Report and the resulting aftermath. Dr. Stephen Behnke was immediately terminated; Drs. Norman Anderson and Michael Honaker announced their retirements; and Ms. Rhea Farberman retired. Calls for more resignations were rampant and many members had very strong opinions in many different ways. The Hoffman Report was extremely lengthy and difficult to read on many levels with an Executive Summary of 70 pages and the complete report amounting to 522 pages. It is wonderful that so many members felt compelled to voice their opinions. This is democracy which we all welcome and freedom of speech which we all value. My only caveat has been that opinions must be based on facts and not on sensationalized media headlines which have frequently been erroneous. As tedious and painful as it may be, members **must** read the full report in order to truly formulate knowledgeable opinions. Otherwise, ill-informed voices merely add to unnecessary chaos and confusion.

***Plenary Session***

At the Plenary Session the Thursday afternoon prior to the formal Council Meeting, we were told that the Board of Directors and General Counsel approached an outside law firm when it commissioned the Independent Review to assist in any necessary legal guidance. APA hired David Ogden from the Wilmerhale firm. His colleague, Ms. Jeannie Rhee, spoke to Council at the Plenary Session to describe the Hoffman Report process and to answer any questions from the floor.

**Hoffman Report**

Ms. Rhee gave us a history of the inception of the Hoffman Report. She stated that to promote its value of transparency and integrity, the BOD voted last year to authorize legal counsel to conduct an independent review to assess the existence of any factual evidence to show collusion with the US government for the use of enhanced interrogation technique. Hoffman was selected by the BOD from the EMG (Executive Management Group) recommendations relying, in part, that Hoffman had significant investigation experience.

Ms. Rhee made clear that the BOD's sole objective for this Independent Review was "to ascertain the truth about the allegations in an independent review that would follow all available evidence wherever that evidence leads." Further, the original report would become public regardless of its findings. The BOD gave unfettered access to personnel, documents and emails. Hoffman's team reviewed over 50,000 documents and conducted 200 interviews of 148 people. Hoffman then had complete cooperation from APA and the result was a report of 522 pages and 1100 unique documents.

**Recusals from BOD, CLT and EMG**

Events that transpired after the BOD's receipt of the Hoffman Report included BOD/CLT/EMG recusals. The Board took a conservative approach to recusals when the report was initially received. Dr.

Anton voluntarily recused himself given his stated involvement in some key events. Ms. Gilfoyle voluntarily recused herself as soon as Hoffman told her in the beginning of June that she would be referenced in the report. Four other Board members were recused after the report was released: Drs. Linda Campbell, Bonnie Markham, Sandy Shulman and Bob Strickland. Those remaining on the BOD who were not named in the report reviewed and determined if those referenced in the report had involvement in any significant events regardless of culpability. Thus, it is important to note that recusals were not synonymous with guilt. However, to ensure candid discussions and the avoidance of any appearance of undue influence, the recused board members did not vote and were not present for any ensuing discussions or recommendations resulting from the Hoffman Report. This standard was also applied to the CLT and the EMG. All those who were recused graciously agreed to abide by this approach.

#### Recusals from Council members

Prior to COR, many COR members requested clarification about whether any COR members needed to be recused from discussion and/or voting. The BOD felt that it was important to encourage full, frank and inclusive discussion rather than focus on whether members should or should not speak. Therefore, COR members were advised that no one would be precluded from being present and participating in discussions. However, all COR members were asked to disclose any significant personal interests arising from the Hoffman Report before speaking.

With respect to Conflict of Interest (COI), this would require a more formal disclosure and could result in recusal from certain votes. We were asked to consider:

- Does the COR member have substantial involvement in key underlying events?
- COI is not taking a public stance or having made an advocacy statement about the issues in the report.
- Was there meaningful participation in formal decision making or governance roles in connection with key events outlined in the Hoffman Report? If so, the COR member should not vote on those key issues and report the COI to the recording secretary.
- Responsibility of recusal is a personal one. If another member believes a COI exists, there needs to be room for discussion about it.

#### Recommendations

Recommendations proposed to Council made by the BOD and CLT, with help from the EMG, were divided into various categories:

- Actions related to the Ethics Office
- Actions related to policies about interrogations
- Actions related to checks and balances
- Actions related to communication
- Actions related to personnel issues

#### **Wednesday Meeting**

**8:00 AM – 5:30 PM**

**NOTE: Because of the recusals, Dr. McDaniels presided over the Council meeting for those issues pertaining to the Hoffman Report. Dr. Anton presided over the Council meeting for all other APA business.**

David Hoffman

David Hoffman and one of his colleagues spoke to COR in Executive Session during the first half of Wednesday morning. Although COR was initially told that Mr. Hoffman would not only entertain pre-submitted written questions, but he would also take questions from the floor. At the Plenary Session, COR members were informed that Mr. Hoffman insisted on speaking to COR in Executive Session and would only answer pre-submitted questions. Mr. Hoffman emphasized that it was highly unusual for him to speak to his clients once a report was completed but was making a rare exception in our case.

Mr. Hoffman stated unequivocally that the report **DID NOT** conclude that APA supports torture. However, the report **DID** conclude that there was collusion between APA and the DOD to allow psychologists to be present at interrogations where torture may have existed and that APA **WAS** trying to curry favor with the DOD. Mr. Hoffman stated that the report did not take a position on whether psychologists should be present in interrogations but noted that there was an inherent tension when psychologists are present in interrogation settings even when designated as safety monitors. He added that the report was not anti-military but also stated that reasonable people could certainly disagree and should this happen, he wondered what would need to be said in terms of policy that the report did not address.

Mr. Hoffman stated that APA should not define ethics based on what government rules are and mentioned that the APA ethics adjudication rules currently read as if APA is going to conduct thorough investigations into ethics complaints received. However, Mr. Hoffman informed COR that the APA process is, in fact, very limited and that investigations appeared to be merely collecting information from the complainant.

With respect to Conflict of Interest (COI), Mr. Hoffman suggested that it would be worth a new conversation for APA to revisit how COI is defined. He further stated that the pro human rights advocates were given lip service but their views were really subordinated to the APA pleasing the DOD. He added: "We assume APA will continue to have strong relationships with the DOD. Our guess is the DOD and other governmental institutions will not have a problem in letting APA know their priorities and concerns." He questioned whether something should be created structurally so that human rights issues always have a voice in order to guard against their voices being subordinated given what US administration is currently in power.

CEO/CFO Report

The CFO/Acting CEO, Mr. Archie Turner, spoke to COR for the second half of the morning, again in Executive Session. Because CEO Anderson has been recused following the Hoffman Report, CFO Turner has taken over his responsibilities along with his CFO duties. He has done a yeoman's job juggling both positions during this most challenging time.

Mr. Turner informed Council that APA is in good financial shape and that all extraordinary costs will come from the \$61.5 million in net assets. He informed Council that the Board of Directors makes decisions regarding the CEO and that the CEO (or acting CEO) has been making decisions concerning the rest of APA personnel, with the advice of the Board in some cases. Mr. Turner reported that a variety of considerations were evaluated when determining personnel actions, including: decency, past actions, core values, value of service to APA, due process, contractual obligations to senior executives, consultation with outside independent compensation firms to opine on our compliance with IRS regulations about level of severance packages being considered, avoiding wrongful termination, defamation, staff morale and reactions to how departures are handled. With regard to current

vacancies, Mr. Turner assured Council that there has been some reorganization and remaining staff have assumed some additional responsibilities. For example, Dr. Nancy Gordon Moore is now leading the communications department in the interim, supplemented by a recently hired outside PR firm.

Prior to the Good Governance Project (GGP), the BOD was charged with CEO searches. Once an individual was found, the Board would then seek approval from Council. Since the GGP, Council abdicated their approval process which leaves the Board solely responsible for this new and important hire. Although Dr. Kaslow has assured Council that input from APA members will be sought for characteristics necessary for our new CEO, Mr. Turner clearly stated that while Council may have influence, it has no authority over personnel issues, including the CEO. While there is no doubt that the BOD will do an exemplary job in hiring our new CEO, one must pause for at least a moment in realizing that COR has relinquished any checks and balances in this new process.

### Independent Report Discussion

Council spent most of Wednesday afternoon discussing the Hoffman Report and its impact. Prior to the full debate, it was emphasized repeatedly by many COR members that it was paramount that COR maintain civility in its discussions and that we must be deliberate, thoughtful and not be tempted to rush into hasty decision-making. Some COR members felt that it was important to address a number of different areas, including:

- Issues of institutional cultures
- Issues of transparency/openness
- Shared responsibilities for accountability for individuals and organizations
- Influences of outside entities
- Freedom of expression
- Ethics Office, Code and Policies should be revisited
- Allegations of malfeasance of staff and members
- Conflicts of interest as well as very serious consideration of fidelity and fiduciary responsibilities
- Better staff/member collaborations

As a result of the afternoon discussion, several actions were taken, including:

- ❖ COR voted to create a blue-ribbon panel of psychologists and non-psychologist experts to review APA's Ethics Office as well as APA's Ethics policies/procedures and then issue recommendations to ensure our policies are clear and aligned with the very best practices in the field.
- ❖ COR voted to develop a statement of principles for each board/committee/task force/Council member to sign on an annual basis. A subgroup of members of COR, boards, committees and the membership will be formed by the CLT to create a statement which will be finalized at the February 2016 COR meeting. This was approved by 95.73% of COR.
- ❖ CLT will create virtual work groups. Everyone on COR can work on these work groups as s/he chooses. These work groups will take motions back to COR in February that further stem from the Hoffman Report, including perhaps, an Office of Human Rights.

### **Friday Meeting 8:00 AM to Noon**

#### NBI #23B

Probably the most important action COR took during the entire COR meeting was to address and approve NBI #23B: Implementation of the 2008 Membership Vote to Remove Psychologists from All Settings and Operate Outside of International Law. This is a Resolution to amend the 2006 and 2013

Council Resolutions to Clarify the Roles of Psychologists Related to Interrogations and Detainee Welfare in National Security Settings, to Further Implement the 2008 Petition Resolution, and to Safeguard Against Acts of Torture and Cruel, Inhuman, or Degrading Treatment or Punishment in All Settings as APA policy.

This motion garnered many human rights advocate psychologists as well as media in the “peanut gallery” who were quite vocal in supporting their views. And after much discussion, including such questions never answered about whether this motion allows international law to supersede US law and whether the motion would affect federal employees, there was a call for a vocal rollcall vote, passed by only 2%. However, the vote on the main motion became a pivotal moment in APA history with COR voting 157-1 in favor with 6 abstentions and 1 recusal.

- The new resolution basically states that psychologists “shall not conduct, supervise, be in the presence of, or otherwise assist any national security interrogations for any military or intelligence entities, including private contractors working on their behalf, nor advise on conditions of confinement insofar as these might facilitate such an interrogation.”
- The resolution redefines the term “cruel, inhuman or degrading treatment or punishment” (CIDTP) in the 2006 and 2103 Council resolutions in accordance with the UN Convention Against Torture (rather than with the 1994 US Reservations to this treaty, which were co-opted by the Bush administration to justify harsh interrogation techniques) to ensure it provides protections to everyone, everywhere, including foreign detainees held outside of the United State.
- The resolution continues to offer APA as a supportive resource for the ethical practice of psychologists in organizational settings (including those in military and national security roles), while recognizing that they strive to achieve and are responsible to uphold the highest levels of competence and ethics in their professional work.
- The resolution urges the US government to withdraw its understandings of and reservations to the UN Convention Against Torture in keeping with the recent recommendations of the UN Committee Against Torture.
- The resolution clarifies that the UN Committee Against Torture and the UN Special Rapporteur Against Torture would serve as the authorities for determining whether certain detention settings would fall under the purview of the 2008 petition resolution as operating in violation of international law.
- The resolution ensures that federal officials will be informed of the expanded APA human rights policy, while stipulating prohibited detention settings and requesting that psychologists at these sites be offered deployment elsewhere.
- The resolution does not apply to domestic law enforcement interrogations or domestic settings where detainees are under the protection of the US Constitution.
- The resolution bans psychologist participation in any national security interrogation, not merely those at sites in violation of international law.

After the vote and the cheering ended, Dr. McDaniels announced to COR that she was very pleased that motions in the areas of Ethics, Conflicts-of Interest and Interrogations were accomplished at this meeting.

While the resolution was momentous and absolutely necessary for a variety of reasons, there are some COR members who remain concerned about possible “unintended consequences” for military, police and forensic psychologists. I think these concerns must be taken seriously and APA certainly does not want to disenfranchise any further member groups. As a result, I suggested to a CLT member that APA establish a task force composed of representatives of these concerned groups along with human rights advocate representatives to discuss these potential unintended consequences in the resolution to find common ground so that no APA group feels disregarded.

#### *Oh Yes. And There Were Even Some Regular Agenda Items Reviewed*

While the Hoffman Report sequelae understandably took up most of our 1 ½ Council meeting days, we were able to accomplish a small part of our regular agenda. This included several substantive issues approved on our consent agenda, including:

- Election of Fellows
- National Ethnic Minority Association Delegates Attendance at Council Meetings
- Request to Extend Expiration Date of Guidelines
- APA Technology Implementation Plan
- Guidelines on Trauma Competencies for Education and Training
- Revised Standards and Criteria for Approval of Sponsor of Continuing Education for Psychologists
- Guidelines for Psychological Practice with Transgender and Gender Non-Conforming People
- CRSPPP Recommendations for the Renewal of Recognition of Psychoanalysis in Psychology as a Specialty in Professional Psychology
- CRSPPP Recommendations for the Extension of Recognition of Forensic Psychology as a Specialty in Professional Psychology
- CRSPPP Recommendation for the Renewal of Recognition of Treatment of Alcohol and Other Psychoactive Substance Use Disorders as a Proficiency in Professional Psychology
- CRSPPP Recommendation for the Recognition of Rehabilitation Psychology as New Specialty in Professional Psychology

The agenda items that were discussed by Council included:

- **Amendments to Bylaw and Association Rule Amendments Approved by Council at its February 2015 Meeting**

Council was asked to approve amendments to the Bylaws and Association Rules changes it approved at its February 2015 meeting.

Given the call for an examination of the structure and function of APA governance in the light of the Hoffman Report, many Council members felt that perhaps a revisit of the GGP motions would be appropriate rather than sending out amendments to the membership this fall that would dramatically change governance as we now know it. It was my feeling that Council would be well served by reexamining all the GGP motions to ensure that accountability, checks and balances, transparency and conflicts-of-interest issues are all embedded in these motions rather than rushing into a membership vote. For example, Council voted for a Council Leadership Team to function as our Executive Committee, much like the Board of Directors had prior to the GGP changes. The CLT is comprised of a chair, chair-

elect, Past Chair, the APA President, the APA President-elect, the APA Treasurer, APAGS Chair, and Early Career Representative, three members-at-large and CEO (without vote). The Bylaws amendment that Council plans to send to the membership appoints the CLT Chair and Chair-elect to the Board of Directors as full voting members who would attend all Board meetings. This would result in 5 out of 11 voting members of the CLT being voting BOD members. Some feel that the significant number of the leadership of both the BOD and CLT being part of the CLT might result in unintentional influence of BOD recommendations/concerns/decisions onto the CLT. Thus, this would render, in effect, the CLT to be simply an extension of the BOD rather than an entity separate from the Board whose objectives would be to advocate for Council without undue influence from the BOD.

**Action: Motion to Postpone: 72.61%**

➤ **Resolution on Independence of Psychologists**

This Resolution aims to affirm that doctoral level health service psychologists, to which this Resolution applies, are trained professionals who are licensed to practice independently and provide the full range of services, in accordance with the scope of practice laws and regulations, as defined by state statute, without the need for or expectation of supervision or oversight by any other profession.

This item was postponed from the February 2015 Council meeting basically because some council members were concerned that the wording of the Resolution might limit negotiations for those psychologists seeking RxP to Psychology Licensing Board authorities unlike those in RxP psychologists in Louisiana who are housed under the Medical Licensing Board. The compromise was to change the phrase:

*“Be it further resolved that the American Psychological Association affirms that the **most appropriate** licensing and oversight board in any state, province or territory for the services provided by psychologists is an independent psychology licensing board.”*

to

*“Be if further resolved that the American Psychological Association affirms that the **appropriate** licensing and oversight board in any state, province or territory for the services provided by psychologists is an independent psychology licensing board.”*

**Action: Approved by 96.86%**

➤ **Diversity Training in 2016**

Council approved diversity training take place in 2016 and the topic will be determined after Council members are surveyed.

**Action: Approved by 74.21%**

➤ **Template for Bylaw Amendment Ballots**

Council was asked to approve a new format for Bylaw amendment ballots sent to the membership and request that an evaluation of the effect on the Bylaw amendment votes be conducted by staff and provided to Council at the conclusion of the trial period.

Basically, the new format states:

**When Council votes by a 2/3s majority against including pro and con statements:**

Council approves that in addition to the text of the amendment, an explanatory paragraph stating a factual explanation (saying what the bylaws amendment means in common language) will be included with the Bylaws amendment ballot. The CLT selects the authors of the explanatory statement

and reviews the statement prior to review by the Election Committee. The President shall be the final arbiter in the event a clear decision can't be made by the Election Committee.

#### **When Council includes pro and con statements**

Council approves that in addition to the text of the amendment, the following be included with the Bylaw amendment ballot:

1. An explanatory paragraph stating a factual explanation (saying what the Bylaws amendment means in common language).
2. A paragraph labeled "Statement in favor of adopting this amendment emphasizes that..." and "Statement against adopting this amendment emphasizes that..." The wording of the two statements should be equivalent.

**Action: Approved by 84%**

The reason for this new template was because the majority of Council members felt that when they sent Bylaws amendments to the membership with pro/con statements, the amendments would inevitably fail. Some Council members felt that the amendments could have failed simply because the membership did not agree with Council's amendments but the majority felt this needed to be tested by this trial template.

- **APA Task Force on Violent Media Report on the Review of the Violent Video Game Literature**  
Council was asked to receive the Report on the Review of the Violent Video Game Literature.

**Action: Approved by 98.10%**

- **Resolution on Violent Video Games**

Council was asked to adopt as APA policy the Resolution on Violent Video Games. Part of the resolution states:

*"Thus, all violence, including lethal violence, is aggression, but not all aggression is violence. This distinction is important for understanding this research literature which has not focused on lethal violence as an outcome. Insufficient research has examined whether violent video game use causes lethal violence. The distinction is also important for considering the implications of the research and for interpreting popular press accounts of the research and its applicability to societal events."*

**Action: Approved: 94.44%**

- **Endorse in Principle ASPPB Interjurisdictional Compact to Facilitate Telehealth Across Jurisdictions.**

**Action: Approved: 90.44%**

In summary, the majority of COR time was spent on righting APA's moral compass with respect to the human rights issue of torture in detainee interrogations. An inescapable offshoot of this requires a righting of APA's moral compass with respect to transparency, checks and balances, conflicts-of-interest and accountability throughout APA governance. Unquestionably APA has done and will continue to provide many valuable benefits and resources for both our profession as well as to the public. APA will weather this storm and carry on, but we will learn from our mistakes and create an even better association that all psychologists can proudly call our professional home.