



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

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APA Public Affairs Office

**Statement by the APA Board of Directors on the “No Cause for Action” Decision Regarding
the Ethics Complaint against Dr. John Leso**

In response to questions about the decision to close the ethics complaints against John Leso, PhD, the APA Board of Directors asked the chair of the Ethics Committee at the time the final decision to close the complaint was made to provide the board with an overview of the ethics process as it relates to the decision. The briefing took place during the board’s Feb. 20 meeting.

Releasing information pertaining to an ethics matter is unusual due to APA’s responsibility to protect the rights and privacy of both the complainant and the psychologist accused of wrongdoing via a confidential process. However, in light of the association’s interest in providing a clear understanding of its ethics adjudication process we are releasing the following statement.

Statement of the APA Board of Directors

Due process is the foundation for the rules and procedures that govern the APA ethics process. Those rules and procedures require balancing all evidence within an adjudication framework in an effort to determine if ethics charges should be brought, and can be proven, based on a preponderance of the evidence. APA’s responsibility is to enforce its Ethics Code while also protecting the due process rights of both the complainant and the accused. This requires that decisions be made on direct, substantiated information from primary sources, not secondhand accounts or supposition.

Dr. Leso was stationed at Guantanamo Bay Cuba for approximately six months from summer 2002 to January 2003. The Dr. Leso matter presented an unusual and challenging situation in that complaints were filed by individuals with no firsthand knowledge of the events at issue. For this reason, and to ensure that all possible relevant material was reviewed, the APA Ethics Office proactively sought information that might be relevant to the allegations. Because much of the relevant information was classified, the process continued over a seven year period while substantial, relevant information was released into the public domain.

The APA record concerning the Leso complaint includes approximately 2,000 pages of documents.

Among the information resources that the APA staff actively pursued and reviewed were:

- Report of the Committee on Armed Services, United States Senate, Inquiry into the Treatment of Detainees in US Custody (“Levin Report”), November 2008.
- Lt Gen. Randall Schmidt and Brig. Gen. John T. Furlow, Army Regulation 15-6: Final Report: Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility, June 2005.
- Final Report: Assessment of Detainee Medical Operations for OEF, GITMO, AND OIF, Office of the Surgeon General Army, by Maj. Gen. Lester Martinez-Lopez, May 2005.
- Report of the Constitution Project’s Task Force on Detainee Treatment, April 2013.
- Ethics Abandoned: Medical Professionalism and Detainee Abuse in the War on Terror, a task force report funded by IMPA/OSF, November 2013.

The amount of time, proactive information seeking and reviews devoted to the Leso complaint exceeded the standard activity in a typical case. This was due to the challenges in accessing relevant information. As a result, the APA Ethics Office staff and committee members needed to rely to an unusual degree on the outcome of governmental and military investigations, as well as litigation, where subpoena power could be used to obtain evidence.

The focus of the review in the Dr. Leso matter — as with any ethics complaint — is whether the evidence substantiates that the psychologist has violated a standard in the Ethics Code. The Ethics Committee’s *Rules and Procedures* require the evidence to show the psychologist him- or herself engaged in unethical behavior.

Based on the Ethics Committee’s *Rules and Procedures*, the committee chair and the office director or designee have the responsibility to determine if a complaint rises to the level of a cause for action by the committee. Due to the gravity of this case and the fact that the complaint was held open to allow for the introduction of new information should it become available, rather than one committee chair reviewing the file, two chairs reviewed it (in its entirety during their tenure). In addition, rather than one individual from the ethics office reviewing the file, four individuals did so: the ethics office director, the head of the office’s adjudication program, an ethics investigator and the former director of the ethics office.

All six came to the same conclusion. That based on the requirements set forth by the Ethics Committee *Rules and Procedures*, the record in this matter, read in its entirety, did not support bringing formal ethics charges against Dr. Leso.

Reasons for this conclusion included that primary sources did not substantiate the allegations against Dr. Leso based on a preponderance of the evidence, that multiple reviews conducted by individuals with access to classified material found no evidence of wrongdoing and affirmative evidence of safeguarding detainees, and that primary sources provided evidence that Dr. Leso argued against the use of abusive interrogation techniques and warned of harms that could come from the use of such techniques.

It would be incorrect to draw any inference from the resolution of the Leso matter that APA is equivocal in condemning torture and abuse. We will continue to exercise the association's influence wherever possible to prevent such treatment and will adjudicate any future claims against psychologists accused of unethical treatment of national security detainees in accordance with the Ethics Committee's *Rules and Procedures*.

In closing, the board wishes to reiterate its previous statements of strong concern and regret that some military and health professionals did not live up to their ethical obligation of humane treatment of national security detainees. That should not have happened and should never again happen. However, in this case, APA's responsibility was to determine, based on its rules and procedures, if a preponderance of the evidence suggested that Dr. John Leso acted in an unethical matter. That preponderance of evidence of wrongdoing was not found.