



The Honourable Peter Van Loan  
Department of Public Safety Canada  
269 Laurier Avenue West  
Ottawa, Ontario K1A 0P8

August 5, 2009

By fax: (613) 992-8351

Dear Minister Van Loan,

The Canadian Centre for International Justice and the Center for Constitutional Rights call on you to launch an investigation to determine whether visitors to Canada were complicit in war crimes and/or torture. Retired U.S. Army colonel and psychologist Dr. Larry C. James and others may be traveling to Canada this week to attend the American Psychological Association (APA) Convention in Toronto from August 6 to 9. Publicly-available information, summarized in the attached appendix, indicates that Dr. James, formerly a high-ranking advisor on interrogations for the U.S. military in Guantanamo Bay, should be investigated to determine whether he was complicit in war crimes and/or torture. Faced with this information, the Canadian government has the authority and duty to investigate whether Dr. James acted in violation of the Crimes Against Humanity and War Crimes Act and/or section 269.1 of the Criminal Code.

We note that a Canadian national, Omar Khadr, was among those tortured in Guantanamo during the time Dr. James was deployed as Chief Psychologist for the intelligence command at Guantanamo. Khadr has alleged two specific incidents of abusive treatment during interrogation in the spring of 2003, when Dr. James says he served at the detention facility.

The War Crimes Program, in which the Canadian government takes such rightful pride, is most needed in situations like this one, in which there is “no reasonable prospect of fair and real prosecution”<sup>1</sup> in the country that would otherwise be most likely to assume jurisdiction. We appeal to the Canadian government because the United States government, despite the change in administration, has failed to take proper steps to investigate those in positions of military, intelligence and political leadership who may have been involved in crimes in the so-called “War on Terror.”

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<sup>1</sup> Department of Justice, Canada, War Crimes Program website, <http://www.justice.gc.ca/eng/pi/wc-cg/mwcp-pcgc.html> (last visited Aug. 5 2009).

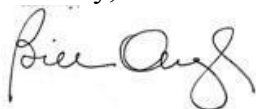
Although the public has had difficulty gaining full access to all the relevant documentation, Freedom of Information Act litigation and a U.S. Senate Armed Services Committee inquiry into the treatment of detainees in U.S. custody<sup>2</sup> have yielded documents that shed light on the role of military intelligence psychologists. Additionally, Dr. James published his own account of his involvement in a 2008 book titled, Fixing Hell: An Army Psychologist Confronts Abu Ghraib,<sup>3</sup> which covered his first deployment to Guantanamo in 2003 as well as his subsequent deployment to Iraq.

The publicly-available information from these documents shows that from January to May 2003, Dr. James served as Chief Psychologist and a senior member of the Behavioral Science Consultation Team (BSCT) of the Joint Intelligence Group at Guantanamo.<sup>4</sup> According to Dr. James' own statements, outlined in the appendix, he played an influential role in interrogation and detention policy, procedure and practices at Guantanamo during his deployment. In this period, documents indicate that men and boys detained in Guantanamo were subjected to interrogation tactics and conditions of detention that amounted to torture or other forms of cruel, inhuman or degrading treatment.

We believe Dr. James is likely to attend the conference because he has been elected president of the APA's Division 19 for Military Psychology.<sup>5</sup> We also suspect that other APA members who may have had a role in abusive interrogations in Guantanamo, Afghanistan or Iraq may travel to Canada.

The publicly-available documentation provides sufficient information to warrant further investigation about Dr. James and others who might attend the APA convention in Toronto. We call on you to launch such an investigation, through the War Crimes Program, to determine if sufficient evidence exists for action to be taken against them.

Sincerely,



William Quigley  
Legal Director  
Center for Constitutional Rights



Jayne Stoyles  
Executive Director  
Canadian Centre for International Justice

Cc: William J.S. Elliott, Commissioner, Royal Canadian Mounted Police (by fax)  
James Bray, President, American Psychological Association (by fax)

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<sup>2</sup> S. Rep. INQUIRY INTO THE TREATMENT OF DETAINEES IN U.S. CUSTODY (Nov. 20, 2008) [hereinafter SASC Report (Nov. 20, 2008)].

<sup>3</sup> Larry C. James, Fixing Hell: An Army Psychologist Confronts Abu Ghraib (2008) [hereinafter Fixing Hell].

<sup>4</sup> Dr. James returned to Guantanamo in 2007, and he also served as Director of the Behavioral Science Unit, Joint Interrogation and Debriefing Center at Abu Ghraib in 2004. Although the evidence presented in this letter relates to Dr. James' 2003 deployment, additional information may exist that would warrant further inquiry into these other roles.

<sup>5</sup> American Psychological Association website, <http://www.apadivision19.org/leadership.htm> (last visited Aug. 5, 2009).

## APPENDIX

### **BSCT's Role in Advising and Developing Policies**

Public information indicates that from January to May 2003, Dr. James served as Chief Psychologist and a senior member of the Behavioral Science Consultation Team (BSCT) of the Joint Intelligence Group (JIG) at Guantanamo. Descriptions of the BSCT's mission and tasks at Guantanamo, as outlined by the Senate committee Report (SASC Report) and by Standard Operating Procedures (SOP) dated shortly before and after Dr. James' time in Guantanamo, support Dr. James' own assertions that, as the senior BSCT psychologist, he was in a position to significantly impact interrogation and detention policies and procedures at Guantanamo.

In his book, Dr. James claims that he was the senior psychologist of the intelligence command, known as "Biscuit 1,"<sup>6</sup> and describes his task at Guantanamo as "reform[ing]"<sup>7</sup> and "oversee[ing] ... the interrogation process."<sup>8</sup> James writes several passages about his important role at Guantanamo: "General Miller knew from the outset that we needed to reform the interrogation process and that was the main reason I was on his island."<sup>9</sup>; "The room was packed with the key leaders of the command, and the psychologist – that would be me from now on – was required to sit right behind the general."<sup>10</sup>; "The juvenile prisoners consumed much of my time and energy, but they were not my only tasks. While working with them, I was still expected to oversee the rest of the interrogation process at Gitmo and to fix what had gone so wrong in the past."<sup>11</sup>; "I was the senior psychologist, so I was known as Biscuit 1."<sup>12</sup> In several of these statements, James claims that he was brought to Guantanamo to improve conditions for prisoners and change the way interrogations were done. The material documented in this letter seems to be at odds with these accounts.

The BSCT's mission, as defined by a November 12, 2002 draft of the BSCT Standard Operating Procedures (BSCT SOP) for Guantanamo, was to "provide behavioral science consultation in support of JTF GTMO's interrogation mission."<sup>13</sup> "Consult[ing] on interrogation approach techniques," and "[a]ssist[ing] in the development of detention facility behavior management plans" are listed among several of its "Mission Essential Tasks."<sup>14</sup> While the 2002 draft BSCT SOP does not define the role of each BSCT member, a later BSCT SOP issued in December 2004 specifies that the BSCT Chief (BSCT1), a position to be filled by a U.S. Army clinical psychologist, is "Chief, responsible for all issues relating to BSCT operations," including "develop[ing] detailed BSCT policies and operating procedures."<sup>15</sup> It also states that the BSCT1

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<sup>6</sup> Fixing Hell at 35.

<sup>7</sup> *Id.* at 36.

<sup>8</sup> *Id.* at 49.

<sup>9</sup> *Id.* at 36.

<sup>10</sup> *Id.* at 32.

<sup>11</sup> *Id.* at 49.

<sup>12</sup> *Id.* at 35.

<sup>13</sup> JTF GTMO-BSCT Memorandum for Record, BSCT Standard Operating Procedures (Nov. 11, 2002) (draft) at para. 3 [hereinafter BSCT SOP (Nov. 11 2002) (draft)]. Although the final BSCT SOP is not publicly available, SASC reported that the draft SOP "comports with what BSCT members told the [Senate] Committee about their activities." SASC Report (2008), at 39, note 277.

<sup>14</sup> BSCT SOP (Nov. 11 2002) (draft) at para. 4(a), 4(d).

<sup>15</sup> JTF GTMO-BSCT Memorandum for Record, BSCT Standard Operating Procedures (Dec. 10, 2004) at para. 3(a) [hereinafter BSCT SOP (Dec. 10, 2004)].

reported to the Director of the Joint Intelligence Group (JIG), coordinated with the Commander of the Joint Detention Operations Group (JDOG) and, “as directed, provide[d] special staff officer functions to the Commander, JTF-GTMO.”<sup>16</sup> Although the 2004 BSCT SOP was issued after Dr. James’s departure from Guantanamo, its description of the BSCT’s duties and chain of command are consistent with James’ account of his activities and relationships with the command at the base.

Another set of Standard Operating Procedures that was issued in February 2003 (Camp Delta SOP) and applied to all operations at Camp Delta, Guantanamo’s detention complex, contains a Behavior Management Plan (BMP).<sup>17</sup> The BMP was designed “to enhance and exploit the disorientation and disorganization felt by a newly arrived detainee in the interrogation process”<sup>18</sup> by “concentrat[ing] on isolating the detainee and fostering dependence of the detainee on his interrogator.” To that end, the BMP mandated that all incoming detainees be subjected to prolonged isolation (30 days, to be extended at the discretion of the interrogator),<sup>19</sup> denial of access to the International Committee of the Red Cross (ICRC)<sup>20</sup> and chaplains,<sup>21</sup> and deprivation of religious articles needed to pray.<sup>22</sup> Three factors indicate that Dr. James may have contributed to development of the BMP: 1) the Camp Delta SOP containing the BMP is dated February 28, 2003 and was approved on March 27, 2003, after Dr. James arrived in Guantanamo;<sup>23</sup> 2) “[a]ssist[ing] in the development of detention facility behavior management plans” is included in the draft 2002 BSCT SOP as one of the BSCT’s “Mission Essential Tasks”;<sup>24</sup> 3) Dr. James appears to have been the head of the BSCT from January to May 2003.

### **BSCT’s Operational Role**

The BSCT also seems to have served an important operational role in interrogations. According to the Senate committee report, the draft 2002 BSCT SOP described the BSCT’s consulting function as “conducting detainee file reviews to construct personality profiles and provide recommendations for interrogation strategies; observing interrogations and providing feedback to interrogators on detainee behavior, flow of the interrogation process, translator and cultural issues and possible strategies for further interrogation; and providing consultation/training on specific behavioral science interviewing and observational techniques that promote productive interrogation.”<sup>25</sup> The BSCT was also expected to “[a]ct as a liaison between the JIG and the JTF GTMO medical assets,” by “[d]escrib[ing] the implications of medical diagnoses and treatment for the interrogation process.”<sup>26</sup>

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<sup>16</sup> BSCT SOP (Dec. 10, 2004) at para 3(a).

<sup>17</sup> JTF GTMO Memorandum for Record, Camp Delta Standard Operating Procedures (March 28, 2003) at 4.3, 8.1-8.8 [hereinafter Camp Delta SOP (March 28, 2003)].

<sup>18</sup> Camp Delta SOP (March 28, 2003) at 4.3.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> BSCT SOP (Nov. 11 2002) (draft) at para. 4(d).

<sup>25</sup> SASC Report (Nov. 20, 2008), at 39, note 277

<sup>26</sup> BSCT SOP (Nov. 11 2002) (draft) at para. 4(e).

Additional documents add to the portrait of the BSCT as an essential and ubiquitous element of the interrogation operation. In an e-mail about Guantanamo that appears to have been sent in July 2003, only two months after James' departure, an FBI officer wrote that he had met "with the BISC (Biscuit) people several times and found them to be a great resource. They know everything that's [sic] going on with each detainee..."<sup>27</sup> An interrogation plan form from April 22, 2003 includes a standard field for "Behavioral Analysis Assessment," and one was completed "YES FROM BSCT."<sup>28</sup>

Dr. James writes of several interactions with guards and interrogators, including:

As I walked toward the observation room with its one-way mirror that would allow me to peek into the interrogation booths, I heard lots of yelling, screaming, and furniture being thrown around. I saw Luther and three MPs wrestling with a detainee on the floor. It was an awful sight. I wanted to run back to my room and wash my eyes with bleach. The detainee was naked except for the pink panties I had seen hanging on the door earlier. He also had lipstick and a wig on. The four men were holding the prisoner down and trying to outfit him with the matching pink nightgown, but he was fighting hard. My first instinct was to rush in and start barking orders at the men, demanding they stop this ridiculous and abusive wrestling match. But I managed to quell that urge and wait. *I opened my thermos, poured a cup of coffee, and watched the episode play out, hoping it would take a better turn and not wanting to interfere without good reason, even if this was a terrible scene.* I waited several minutes, but with no good end in sight I had to act.<sup>29</sup> (emphasis added)

James eventually stepped in to stop the abuse. However, rather than discipline the interrogator, he tried to convince him to build a better rapport with the detainee. James writes, "I never once said anything about the lingerie or the interrogation. My purpose was to build a relationship with Luther rather than to attack him as being wrong or as a human being."<sup>30</sup>

James describes another interrogation at 2:00 a.m.:

Like on many of the nights before, I heard a noise, yells and screams, and decided to check it out. As I watched through a one-way observation window, I saw a detainee being held straight up in a corner by two large, mean, badass-looking MPs, an interrogator, and an interpreter. The four of them yelled at the prisoner as loudly as they possibly could.<sup>31</sup>

After the interrogator decided to take a break when the detainee spit in the eye of one of the MPs, the interpreter told James the interrogation had been going on for three hours:

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<sup>27</sup> E-mail [parties redacted] re: Guantanamo (Jul. 31, 2005), FOIA Document #: DOJFBI001428-DOJFBI001429, available at <http://www.aclu.org/projects/foiasearch/pdf/DOJFBI001327.pdf> (last visited Aug. 5, 2009).

<sup>28</sup> *Commander's Inquiry, Allegation of Inhumane Treatment of [redacted]* (May 3, 2003), at #1323 [hereinafter *Commander Inquiry* (April 8, 2003)], available at <http://action.aclu.org/torturefoia/released/072605/> (last visited Aug. 5, 2009).

<sup>29</sup> *Fixing Hell* at 50-51.

<sup>30</sup> *Id.* at 51.

<sup>31</sup> *Id.* at 62.

“Three hours of that?” I asked. “Yes sir,” he said. “This one won’t talk, so we’re on him pretty hard.” When the interrogator returned from wherever he’d gone on a break, I asked if it was okay if I came into the room and simply observed. I didn’t really need his permission... [T]he prisoner immediately noticed that there was now a fifth person to scream at him and toss him around the room.<sup>32</sup>

James then describes how he suggested that the interrogator be kinder to the prisoner and offer him a drink and a bathroom break. After an exchange with the detainee, James left the interrogation. He does not indicate that he reprimanded the interrogator or MPs or ordered them to avoid aggressive, physical actions toward the prisoner.<sup>33</sup>

### **Detainee Abuse at Guantanamo in the Spring of 2003**

Public reports suggest that abuse in interrogations during the spring of 2003 was common. The Senate committee, in a section entitled, “Aggressive Interrogations at GTMO,” cited a memorandum called, “Historic Look at Inappropriate Interrogation Techniques Used at GTMO.”<sup>34</sup> The “Historic” memo concluded that “incidents occurring during the Spring of 2003 signif[ied] a consistent problem at GTMO.”<sup>35</sup> The Senate committee also indicated that “forced shaving, sensory deprivation and even implied threats of death were either used or planned for use in specific interrogations” around the time that Dr. James was at Guantanamo.<sup>36</sup>

Although the SOP regarding interrogations for the first four months of Dr. James’ time in Guantanamo is not publicly available, the Senate committee reports that during that period members of the Guantanamo command were pressing hard for Secretary of Defense Donald Rumsfeld’s approval of additional and more abusive interrogation techniques.<sup>37</sup> On February 12, 2003, JTF-GTMO Staff Judge Advocate General LTC Dianne Beaver sent an email to the Defense General Counsel’s office stating that “we must have interrogation technique approval immediately ... The hallmark is isolation and up to 20 hour interrogation. Without that we can’t be successful in the community environment.”<sup>38</sup> In a March 21, 2003 memo to Chairman of the Joint Chiefs of Staff General Richard Myers, SOUTHCOM Commander General James Hill wrote that both he and Guantanamo Commander Major General Geoffrey Miller felt that approval of the full spectrum of possible techniques, including the “the use of food restriction for 24 hours once a week; the use of scenarios designed to convince the detainee he might experience a painful or fatal outcome; non-injurious physical consequences; removal of clothing; and exposure to cold weather or water until such time as the detainee began to shiver” was “essential.”<sup>39</sup> On April 16, 2003, Secretary Rumsfeld approved a list of 24 interrogation techniques that included “isolation,” “adjusting the sleep times of the detainee (e.g, reversing

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<sup>32</sup> *Id.* at 63.

<sup>33</sup> *Id.* at 63-65.

<sup>34</sup> SASC Report (Nov. 20, 2008), at 133 (Nov. 20, 2008).

<sup>35</sup> *Id.* at 134.

<sup>36</sup> *Id.* at 134-135.

<sup>37</sup> *Id.* at 128-129

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 129

sleep cycles from night to day),” “environmental manipulation” (“e.g., adjusting temperature or introducing an unpleasant smell”) and “dietary manipulation.”<sup>40</sup>

There are also detainee reports of abuse during the spring of 2003. Canadian national Omar Khadr, who was a child of 16 at the time, stated in a sworn affidavit before a Canadian federal court that “[d]uring one interrogation at Guantanamo in the spring of 2003,” an interrogator spit in his face, pulled his hair, threatened to send him to Egypt so that he would be raped, and told him that his life was in the interrogator’s hands.<sup>41</sup> Khadr said that his hands and ankles were then shackled and he was made to sit and stand repeatedly. When he was unable to comply, Military Police (MPs) “lifted and dropped [him] to the floor” “approximately five times.”<sup>42</sup> Khadr also alleged that in March 2003, he was taken to an interrogation room in the middle of the night, where an interrogator told him that he would not see his brother and that he should “get ready for a miserable life.” He continued:

The interrogator became extremely angry, then called in military police and told them to cuff me to the floor. First, they cuffed me with my arms in front of my legs. After approximately half an hour they cuffed me with my arms behind my legs. After another half hour they forced me onto my knees, and cuffed my hands behind my legs. Later still, they forced me on my stomach, bent my knees, and cuffed my hands and feet together. At some point, I urinated on the floor and on myself. Military police poured pine oil on the floor and on me, and then, with me lying on my stomach and my hands and feet cuffed together behind me, the military police dragged me back and forth through the mixture of urine and pine oil on the floor. Later, I was put back in my cell, without being allowed a shower or a change of clothes. I was not given a change of clothes for two days. They did this to me again a few weeks later.<sup>43</sup>

The public record contains at least one example of a BSCT member’s direct involvement – possibly Dr. James himself or a subordinate – in the physical abuse of a detainee during James’ time at Guantanamo. Records of an internal inquiry into allegations of inhumane treatment at Guantanamo show that in April 2003, a member of the BSCT was present in the interrogation booth while MPs, at the direction of an interrogator, treated a prisoner violently.<sup>44</sup> As described by a contractor who made the allegation and an additional witness, the MPs “pushed in the back of the detainee’s knees with their knees, taking the detainee to his knees. Then holding the detainee by his upper arms they slammed his upper body to the floor,” repeating this procedure somewhere between 18 and 30 times.<sup>45</sup> The contractor added “that the floor [and the next booth over] was shaking” due to the use of force, and that “as the detainee was forced to the floor, he turned his head so the side of his face was hitting the floor.”<sup>46</sup> The other witness said that some

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<sup>40</sup> *Id.* at 132.

<sup>41</sup> Affidavit of Omar Ahmed Khadr, submitted in *Omar Ahmed Khadr v. The Prime Minister of Canada, et al.*, No. T-1228-08 (F.C.C.) at para 56-57.

<sup>42</sup> *Id.* at para 59.

<sup>43</sup> *Id.*

<sup>44</sup> Commander Inquiry (April 8, 2003) at 1335.

<sup>45</sup> *Id.* at 1318-1319.

<sup>46</sup> *Id.*

of the personnel involved were laughing. A medical examination of the detainee found bruising and swollen kneecaps.<sup>47</sup>

According to the Senate committee, the BSCT member told the investigator that he or she “believed that the technique was appropriate, approved, applied properly, and was common practice in the teams.” The interrogator apparently agreed, telling investigators that “[a]t no time was I, the MP’s or BSCT or any other member that was assisting with the interrogation out of line with the regulations allowed for JTF-GTMO.”<sup>48</sup> The investigator’s handwritten record of an interview with one of the team members seems to support this. The notes suggest that the interrogation consisted of “very planned procedures,” that the interrogator or analyst met daily with the BSCT member while developing the “IP” [interrogation plan] and that the “exercises [were] talked about ahead of time.”<sup>49</sup>

It is possible that Dr. James himself was the BSCT member involved in the abusive interrogation. Even if he was not directly involved, as the “BSCT1” of senior rank, James likely had command authority over other members of the BSCT. If so, then James could bear command responsibility for this BSCT member’s involvement in the abuse. The public record contains no indication that the BSCT member was sanctioned.<sup>50</sup>

The command had received reports of violent compulsory exercise in March and April 2003, as well as an allegation that, on April 17, 2003, a female interrogator sat on a detainee’s lap “making sexual affiliated movements with her chest and pelvis while again speaking sexually oriented sentences.”<sup>51</sup> Another allegation involved “a female military interrogator who wiped what she told the detainee was menstrual blood on a detainee’s face and forehead.”<sup>52</sup>

### **Canadian Law**

The Crimes Against Humanity and War Crimes Act defines “war crime” according to “customary international law or conventional international law applicable to armed conflicts.”<sup>53</sup> The most current version of international law on war crimes is the Rome Statute of the International Criminal Court. The Rome Statute includes in its list of war crimes the following offenses:

- (ii) Torture or inhuman treatment, including biological experiments;
- (iii) Wilfully causing great suffering, or serious injury to body or health;

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<sup>47</sup> *Id.*

<sup>48</sup> See SASC Report (Nov. 20, 2008), at 133; Commander Inquiry (April 8, 2003) at 1336-1337.

<sup>49</sup> Commander Inquiry (April 8, 2003) at 1365.

<sup>50</sup> Although the Judge Advocate General lawyer who conducted the inquiry (LTC Beaver, the same attorney who told the DoD’s General Counsel’s office that 20-hour interrogations and isolation were the “hallmark” and necessary for success) concluded that the command had not approved the technique and “the leadership was unaware that it was being used,” and Major General Miller directed that the technique known as “Fear Up Harsh” no longer be used, a subsequent memo titled “Historic Look at Inappropriate Interrogation Techniques Used at GTMO” criticized the internal inquiry as “too limited and found that the disciplinary action ‘did not address the command failures that allowed such activity to take place, despite apparent command sanction of the incidents.’”

<sup>51</sup> SASC Report (Nov. 20, 2008), at 134.

<sup>52</sup> *Id.*

<sup>53</sup> Crimes Against Humanity and War Crimes Act, S.C. 2000, c. 24, section 6(3).



(xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment.<sup>54</sup>

Section 269.1 of the Criminal Code defines torture as “any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person (a) for a purpose including (i) obtaining from the person or from a third person information or a statement, (ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed, and (iii) intimidating or coercing the person or a third person...”<sup>55</sup> In addition, “[i]t is no defence to a charge under this section that the accused was ordered by a superior or a public authority to perform the act or omission that forms the subject-matter of the charge or that the act or omission is alleged to have been justified by exceptional circumstances, including a state of war, a threat of war, internal political instability or any other public emergency.”<sup>56</sup>

Under the Crimes Against Humanity and War Crimes Act, a military officer can be held accountable either individually or as a commander. A military commander is legally responsible if:

- (a) [the] military commander, outside Canada ... (ii) fails ... to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits [genocide, crimes against humanity or war crimes];
- (b) the military commander knows, or is criminally negligent in failing to know, that the person is about to commit or is committing such an offence; and
- (c) the military commander subsequently (i) fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences ... or (ii) fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.”<sup>57</sup>

### **APA Convention**

The American Psychological Association (APA) is “a scientific and professional organization that represents psychology in the United States.” With 150,000 members, APA is the largest association of psychologists worldwide.<sup>58</sup> Despite charges that their actions constituted violations of APA ethics rules, the APA has not investigated allegations against Dr. James and other APA members who were in Guantanamo and may have been complicit in abuses. Despite information that psychologists played an integral role in the development, justification and implementation of abusive interrogation techniques,<sup>59</sup> the leadership of the APA has resisted meaningful attempts by its membership at reform, prevention, truth-seeking and accountability.

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<sup>54</sup> Rome Statute of the International Criminal Court (U.N. Doc. A/CONF.183/9), article 8.

<sup>55</sup> Criminal Code (R.S., 1985, c. C-46 ), section 269.1(2).

<sup>56</sup> *Id.*, section 269.1(3).

<sup>57</sup> Crimes Against Humanity and War Crimes Act, section 7(1).

<sup>58</sup> APA website, <http://www.apa.org/about/> (last visited Aug. 5, 2009).

<sup>59</sup> See generally SASC Report (Nov. 20, 2008); DOJ OLC Memorandum from Jay Bybee for John Rizzo (Aug. 1, 2002), available at [http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc\\_08012002\\_bybee.pdf](http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_08012002_bybee.pdf). See also Physicians for Human Rights, “OLC Memos Confirm Integral Role of Health Professionals in US Torture” (Apr. 16, 2009), available at <http://physiciansforhumanrights.org/library/news-2009-04-16.html> (last visited Aug 5, 2009).

Thanks to vocal resistance from its ranks, it has passed several resolutions on the issue, as well as one far-reaching and hard-fought referendum in 2009. However, none of these policy statements has been adopted as enforceable rules of conduct. Moreover, the APA chose to bestow Dr. James with honors and invited him to serve on the task force charged with deciding whether psychologists had a proper place in interrogations.<sup>60</sup> The APA also recently reaffirmed their ethics rule that allows medical psychologists to utilize the defense of following superior orders.<sup>61</sup>

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<sup>60</sup> Wright State University School of Professional Psychology website, <http://www.wright.edu/sopp/faculty/admin/James.html> (last visited Aug. 5, 2009).

<sup>61</sup> Stephen Soldz, “Will the American Psychological Association Renounce the Nuremberg Defense?” (Jul. 27, 2009), available at <http://www.counterpunch.org/soldz07272009.html>.