

**IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA,	:	
vs.	:	CP-14-CR-2421-2011
	:	CP-14-CR-2422-2011
GERALD A SANDUSKY	:	
	:	

EXPERT WITNESS REPORT OF R. CHRISTOPHER BARDEN, Ph.D., J.D.

I declare under penalty of perjury that this expert witness report is true and correct as filed and signed on Jan 18, 2023. (See, e-signature below). This expert witness investigative report was written under substantial time and cost restrictions but is offered in its current in-process form, drafted to the best of my knowledge at this time, with the expectation that it will assist the court in understanding several essential issues of science, methodology, history, and current, ongoing investigative hypotheses. There is much additional evidence I hope to review before updating this report in the months to come. Clearly, it would years to review all relevant evidence in this very complex case. I am grateful to the court for providing extensions of time in 2022 to extend my review of a much evidence as possible in this time frame. My investigation of this complex case is continuing, and updates are expected.

1. I, R. Christopher Barden, Ph.D., J.D., LP, a licensed psychologist (MN and TX) and licensed attorney (MN and many other states pro hac vice), have testified in and/or consulted on and/or reviewed and/or litigated cases in many jurisdictions (including NY, MA, ME, NJ, VA, NC, GA, FL, TX, NM, AZ, CA, OR, WA, ID, UT, CO, NE, SD, MN, IA, IN, IL, MI, AR, WI, and others) with regard to psychological and investigative issues similar to the issues in this case. I have consulted and/or testified as an expert in psychology, child psychology, psychopathology, psychotherapy standards of care and ethics (including social work, psychology, psychiatry, counseling, etc.), psychological testing-assessment, mental illness diagnostic issues, the science of coping-resilience, the nature and philosophy of science, history-methodology-standards of care in police investigations/interviews, the science of memory-memory contamination-false memory, the science of trauma-dissociation, the history of the “Memory Wars”, the history of lawsuits and licensing revocation actions against “recovered repressed memory therapists”, the history of abuse investigations, the reliability or unreliability of various

methodologies-investigative methods-procedures, as well as standards of care-licensing-ethical rules-history for mental health and psychotherapy professionals (psychologists-MSWs-Counselors-GALs-social workers-psychiatrists-MFTs-parenting consultants, forensic experts, expert witnesses, etc.) and related issues.

As an expert witness, I never offer opinions regarding the veracity of witnesses or the guilt or innocence of defendants. I will, however, offer multiple opinions regarding science, history, methodologies, practices, procedures, assumptions, ideologies, errors, and misconduct as documented on the records of this case as well as questions and investigative hypotheses for future investigations. As an experienced scientist, psychotherapist, and trial attorney I will offer opinions and hypotheses about the conduct of psychotherapists and investigators. I will also offer questions and investigative hypotheses about the conduct of legal professionals (judges, lawyers, and government officials) in this case. I will also offer general investigative hypotheses to assist future investigations of controversial, unexplored issues in this case.

In my opinion, the key role/task of an expert witness is to assist courts, attorneys, government officials, defendants, litigation parties, the media, and the public to *understand and apply reliable* scientific, technical, and investigative principles, hypotheses, methods, and information *to protect the integrity of the legal system*. All opinions offered herein are to a reasonable degree of professional and scientific certainty. Alternative investigative hypotheses are offered to assist the process of investigating ongoing controversies in this case.

2. EXPERT QUALIFICATIONS IN PSYCHOLOGY (RELEVANT SCIENTIFIC COMMUNITY) AND LAW: I received a B.A. in child psychology from the internationally acclaimed Institute of Child Development at the University of Minnesota graduating Summa Cum Laude, Phi Beta Kappa and receiving the Distinguished Graduating Senior Award. I received my Ph.D. in clinical-child psychology from the University of Minnesota, an internationally acclaimed, American Psychological Association accredited, training program in clinical psychology. I received additional graduate and clinical training at the University of California, Berkeley and at the Palo Alto U. S. Veterans Administration/Stanford University Medical Center internship. I received several national fellowship awards from the United States National Institute of Mental Health. I am currently a licensed psychologist in the State of Minnesota and in the State of Texas. I have been in good standing in all jurisdictions where I have practiced as a psychologist, attorney, and/or expert witness and have never been disciplined in any way at any time. I have extensive clinical psychology experience in conducting psychotherapy and

assessments in medical, outpatient, forensic, correctional, educational, and inpatient settings working with a wide range of client populations including adults, children, adolescents, families, prison inmates, hospitalized inpatients, traumatized veterans, surgical patients, pediatric patients, traumatized prison inmates, traumatized survivors of the Pol Pot concentration camps, and other patient groups.

I've served on the Editorial Consulting Board of the official American Psychological Association journal for child psychology, *Developmental Psychology*. I've received two national research awards in child psychology and the psychology of coping and resilience from the Foundation for Child Development and the W.T. Grant Foundation. I've served as a Principal Investigator (the person responsible for the funds and validity-integrity of the research) on state, federal, and private research grants. I have published in, and/or served editing/review duties for several of the most highly regarded journals and texts in psychology, medicine and law including *Developmental Psychology*, *Child Development*, *Psychological Bulletin*, *Ambulatory Pediatrics*, *Advances in Child Clinical Psychology*, the *Journal of Personality and Social Psychology*, the *Journal of the American Academy of Psychiatry and the Law*, the *Journal of Plastic and Reconstructive Surgery*, the *Harvard Journal of Law and Public Policy*, and the *Harvard Journal on Legislation*.

I have given invited training addresses to the American Bar Association, the American Psychological Association, the American Psychiatric Association, the U.S. Surgeon General's Conference, the International Association of Plastic and Reconstructive Surgeons and other groups. I served a four-year term as a member of the Minnesota State Board of Psychology appointed by Minnesota Governor Arne Carlson. My national invited addresses have often focused on methodological and scientific problems in the mental health system. I have personally investigated — as an attorney, legal consultant, and/or as a psychological expert witness or consultant - hundreds of cases of negligence and malpractice by mental health professionals including cases of accurate, and/or tainted, and/or false memories. I have also been asked to consult with and/or train groups of law enforcement personnel — regarding the proper methodology for investigation and analysis of abuse cases — including the Midwest Sex Abuse Investigators Association meetings and other officials as well as F.B.I. agents, police officials, U.S. DOJ and Attorney's Office personnel and related professionals.

I served as a Special Assistant Attorney General for the State of Utah helping to enforce licensing rules and regulations, protect the public from junk science “therapies”, and prosecute misconduct by mental health professionals. One of my main areas of concentration as a psychologist has been to ***protect the integrity of the mental health and legal systems and also protect vulnerable patients from***

misleading junk science myths and unreliable methodologies in the psychotherapy/mental health industry including but not limited to helping courts and professionals understand the methodology of reliable investigations, the science of human memory, the science of memory contamination (including the risks of false memories induced by poorly trained psychotherapists and/or investigators), the risks of improper-unreliable interviewing and psychotherapies, proper and improper uses of psychological testing, the risks of reliance upon “clinical judgment” methods, the well-documented limitations of professional expertise in all psychotherapy professions, the well-documented inability of psychotherapy professionals to reliably distinguish true from false patient reports in the absence of any corroborating evidence, ethical rules requiring psychotherapists and experts to fully, fairly, honestly, and accurately disclose to attorneys-patients-courts-officials the methodological limitations and risks of their methods/practices, the risks of missing-hidden and/or manipulated evidence, the risks of failing to generate and test alternative investigative hypotheses (avoiding confirmation bias), and other issues.

I received a law degree with honors (J.D., cum laude) from Harvard Law School as well as training in forensic psychology/psychiatry from the joint Program in Law and Psychiatry at the Harvard Law and Medical Schools. I served as Adjunct Professor of Law at the University of Minnesota Law School and at the Hamline University School of Law, teaching "Psychology, Psychiatry and the Law" at both institutions. I was admitted to the practice of law in Minnesota on October 23, 1992 (License #227316), admitted to practice before the United States District Court of Minnesota on November 18, 1992 and was admitted to Practice before the United States Court of Appeals for the Eighth Circuit on May 24, 1994. I have practiced in many jurisdictions via pro hac vice admission. I am, and have always been, in good standing in every jurisdiction in which I have practiced. As a trial attorney, I have litigated or consulted on many cases in many states over the past 30 years involving complex legal and mental health issues including exposing misconduct by psychotherapy professionals — social workers, psychiatrists, psychologists, counselors, etc. — including several complex Frye and Daubert-Kumho hearings excluding junk science methodologies including ***controversial, unproven, and inherently unreliable notions*** such as “recovered repressed memories”, “multiple personality disorder”, and “dissociative amnesia” ideologies and methods (**RRM-MPD-DISS**) including the very controversial theory that that “buried memories”, “blocked out memories”, and related non-normal memories are reliable, accurate representations of real events suitable for courts of law.

I have been invited to speak on issues relevant to this case to several State Bar Association conferences as well as the American Bar Association's National Litigation Section meetings. I served as a Special Assistant Attorney General for the State of Utah assisting in licensing prosecutions of negligent

mental health professionals. I have also consulted with multiple states licensing boards regarding licensing prosecutions of negligent psychotherapists including social workers, psychologists, and psychiatrists. One of my main areas of concentration as an attorney and as a science expert witness has been to *protect the integrity of the mental health and legal systems as well as protect vulnerable patients and citizens from unreliable, unproven “treatment” methods* — including but not limited to helping courts and professionals understand the methodology of investigations, the science of memory-false memory, the science of memory contamination via improper interviewing, the nature of scientific evidence regarding alleged “repressed and recovered memories” “buried memories” “blocked memories” “dissociated memories”, improper-abusive investigative interviewing methods and psychotherapy of children and adults, use and misuse of psychological testing, limitations on “clinical judgment”, research documenting the general lack of expertise in the psychotherapy professions, the well-documented inability of psychotherapists to reliably distinguish true from false patient reports without corroborating evidence, the importance of generating and testing alternative investigative methodologies (avoiding confirmation bias), the standards of care in the psychotherapy professions (social work, psychology, psychiatry, counseling, etc.) and similar issues.

My scientific research began with studies on the relationships between emotion and cognition. Later I worked doing research with some of the world’s leading surgeons studying the ways in which children and families cope with the stresses of chronic, complex medical conditions. I was fortunate to receive several national research awards and was able to present my work at psychological and medical conventions in North America, South America, Australia, Europe, and Asia. I developed an interest in reforming and improving the health care system for children and was admitted to Harvard Law School to study such legislative and policy issues. One of my professors-advisors at Harvard, Stephen G. Breyer (then Chief of the US 1st Circuit Court of Appeals, later Assoc. Justice of the US Supreme Court), encouraged me to use my unusual mixture of science-law knowledge to help the legal system *reduce the influence of unreliable, “junk science” theories, methods, and ideologies and thus protect the integrity of the legal system.* (Justice Breyer later wrote the Kumho decision of the US SCT applying Daubert analyses to a wide range of experts and related evidence but continuing to include the foundational Frye analysis of “acceptance by the relevant scientific community”). I have been following Justice Breyer’s recommendation – to apply a multi-disciplinary process applying science-legal knowledge to *protect the integrity of the legal system* -- for over 30 years.

Following the success of our initial project – the Emergency Medical System for Children Act -- reform legislation enacted in many states that saved the lives of thousands of children annually (See

citations below). The next major reform project took years as *I worked with science-therapy-legal colleagues to reduce the historic, disaster of the inherently unreliable, unproven and controversial “Recovered Repressed Memory-Multiple Personality Disorder-Dissociation” (RRM-MPD-DISS) therapy movement.* Employing a multidisciplinary approach -- litigation (hundreds of therapy malpractice suits and/or Frye and also Daubert hearings), regulation (therapy licensing revocations, enforcement of informed consent rules), education (scientific research on research, international media), and legislation (the Truth and Responsibility in Mental Health Practices Act) -- my colleagues and I greatly reduced (nearly eliminated) the damage from this worst stain on the mental health system in history. Multiple Frye and Daubert hearings excluding such unproven, controversial, inherently unreliable notions nearly ended prosecutions in the US based on RRM-MPD-DISS evidence. (See citations below).

My next project sought to reduce damage to vulnerable patients from the reckless “Re-Birthing Therapy” movement. I testified as an expert witness in the criminal trial against the therapists whose “rebirthing therapy” resulted in the death of child patient CN. The therapists were convicted and received substantial prison sentences. I worked with the Colorado Legislature to pass a law banning “rebirthing therapy”. I also flew to NY to be interviewed on the ABC 20/20 TV journalism show to warn millions of Americans of the dangers of “rebirthing therapy”. To the best of my knowledge, this multidisciplinary reform effort ended the reckless practice of “rebirthing therapy” in the U.S.

Other reform projects have included lawsuits and licensing renovation hearings to reduce damage from the reckless “Coercive Holding Therapy” movement, as well as forcing the resignation of a Chairman of Psychiatry at a major medical school for violating the informed consent rights of vulnerable patients.

I have consulted with and testified for prosecutors in several states to convict criminals and protect the public from abusers (See, e.g., my Frye-Daubert-Kumho hearing testimony in the successful prosecution of the “Twilight Rapist” in TX) as well as help many professionals across the nation become more science-informed when dealing with complex memory cases and investigative methodological issues.

When Oxford University Press planned to publish an international book on Abuse Cases with a chapter on specialized memory issues such as RRM-MPD-DISS theories and practices, Frye-Daubert hearings, and related issues they asked me to write the relevant chapter. The Right Honorable, Lord John

Thomas, Lord Chief Justice of England and Wales attended our Oxford University Press book launch at Gray's Inn in London and told me he was aware of my reform work and grateful.

In multiple Frye-Daubert-Kumho hearings (see citations below), when I have participated as a consultant, testifying expert, or the trial attorney questioning scientists on both sides of the issues, we have prevailed in such hearings as the courts rejected expert witness and alleged victim testimony based on RRM-MPD-DISS “memories”, “blocked-off memories”, “buried memories”, “dissociated memories”, “changing memories” and related inherently unreliable “recovered repressed memories” and related non-normal memory processes that were excluded by courts to *protect the integrity of the legal system*.

I hope that this report in PA v Sandusky will be helpful to the court and assist in the process of *protecting the integrity of the legal system* of Pennsylvania. The goals of this report include generating and testing alternative investigative hypotheses, formulating expert opinions, and helping the legal system learn how to incorporate reliable, valid science while excluding unreliable “junk science” notions and testimony.

3. METHODOLOGY: My opinions in this case are the product of scientifically informed, rigorous, valid, and reliable methodological standards, procedures, and practices. My opinions in this case are consistent with those of my colleagues in the Relevant Scientific Community. In my opinion (a science opinion), I am a member of the relevant scientific community (RSC) (see comparison chart below). On the case record reviewed, To the best of my knowledge, I am apparently the only expert witness *member of the relevant scientific community* to review a wide range of records in this case. To the best of my knowledge, I am also apparently the only expert in the science-history of reliable-proper vs. unreliable-improper police interviewing methodologies to review a wide range of records in this case. To the best of my knowledge, I am also apparently the only expert in this case on the science-history of the legal, legislative, licensing, and scientific methods – including Frye and Daubert hearings -- used to dramatically reduce societal harms from RRM-MPD-DISS ideologies-practices to review a wide range of records in this case. To ensure the reliability, validity, consistency, and accuracy of my opinions in this case I have followed a series of reliable methodologies. These methodologies include the following components.

3A. Acquire and demonstrate expert knowledge of the relevant science and standards of care. I have published peer reviewed articles on the importance of the proper use of scientific methodologies and Frye-Daubert-Kumho analyses and standards to protect the integrity of the legal and mental health systems. These articles have been published in some of most authoritative and respected journals and

texts in the world including *Psychology, Public Policy, and Law* and with the Oxford University Press. I have also given invited training addresses on such issues to continuing education groups in law-psychology-social work-psychiatry, to the national convention of the American Bar Association Litigation Section, as well as to state and federal judges including an invited training presentation for Federal Judges at the request of the US 9th Circuit Court of Appeals Program Office. (See, 2022 CV Resume of RC Barden, Ph.D., JD).

3B. *Cite to and quote from high quality peer reviewed published research articles and texts from some of the most reliable sources in the world with many published by world experts in the relevant fields.* As a member of the relevant scientific community in psychological research (that is, someone who has obtained federal, state, and private grant funding to conduct science research and someone who has published in and performed editorial duties for leading peer-reviewed science journals and texts in psychology and medicine – also in law and public policy -- I am familiar with assessing the quality of scientific research and other journal articles and the specifics of how to review and assess the methodological soundness, reliability and validity of scientific research. In my reports in this case, I cite in detail —with quotes and citations — to the highest quality research often conducted by the most esteemed and methodologically sophisticated world experts in the field. I have known and worked with many of the world experts in the relevant fields for many years.

3C. *Form Opinions and Testify Applying Sufficient Knowledge, Training, and Experience to offer expert opinions and explain foundational science as a member of the Relevant Scientific Community.* As a member of the *relevant scientific community* -- the group of science experts like myself who —

--*create-write science articles, publish, and professionally write-edit-critique science journals*
and

-- have received *funding as a principal investigator from Federal and also State and also Private research grants*, and

-- have *engaged in editorial duties for the major peer reviewed scientific journals*, and

-- have given *invited addresses at the national conventions of relevant professions/sciences (American Psychological Association, American Bar Association, American Psychiatric Association)*
and

-- have *received national science awards*, and

-- have given *invited addresses at national science universities* and the US Surgeon General's Conference, and other indications of membership in the relevant scientific community.

I hope the following summary chart will be helpful to identify some of the differences between the knowledge, training, and experience of members of the Relevant Scientific Community as compared to local “counselors”, “therapists” and/or legal professionals.

EXPERT QUALIFICATIONS CHART: As a member of the national *Relevant Scientific Community*, I answer **YES** to all of the questions below while “counselors”, “psychotherapists”, attorneys, judges, and “investigators” involved in such cases often would answer **NO** to virtually all of these questions.

- Have you received national science awards?
- Have you received a Ph.D. from a leading university program? (U of MN, UC Berkeley, Stanford Univ Medical Ctr/Palo Alto USVA Medical Ctr.)
- Have you received a JD from a leading tier law school? (Harvard Law School)
- Have you obtained a Psychology Faculty Position at a leading University?
- Have you obtained a Medical Faculty Position at a leading University?
- Have you obtained a Law School Faculty Position at a leading University?
- Have you published in leading child psychology journals/texts?
- Published in leading pediatric journals/text?
- Published in leading social psychology journals/text?
- Published in leading clinical psychology journals/text?
- Published in leading psychiatric journals/text?
- Published in leading surgical journals/text?
- Published in leading legal/ethics journals/text?
- Have you received Federal grant funds as P.I. to conduct research? (PI = Scientist in Charge)
- Received State grant funds as P.I. to conduct research?
- Received Private grant funds as P.I. to conduct research?
- Have you given invited addresses at the:
 - National convention of psychologists (APA)
 - National convention of psychiatrists (APA)
 - National convention of lawyers re: use of expert witnesses (ABA)
 - National convention of the American Society for Clinical Hypnosis
 - National United States Surgeon General’s Conference?
 - International Medical Conferences... UK, France, US, Canada, India, Chile?
 - International Sports Psychology Conference at the Beijing Olympics (Aug-2008)
- Have you given an invited address at Harvard University?

- Have you given an invited address at Harvard Law School?
- Have you given an invited address at Yale University?
- Have you given an invited address at Columbia University?
- Have you given an invited address at University of Southern Ca.?
- Have you given an invited address at the Universities of TX, GA, IA, CA, MN, NC
- Have you given an invited address at the United States Military Academy at West Point, NY?
- Have you consulted with the US Department of Justice?
- Have you consulted with the US FBI?
- Testified as a Prosecution Expert Witness in Multiple States?
- Testified as a Defense Expert Witness in Multiple States?
- Given invited training addresses to Federal Judges?
- Given invited training addresses to State Judges?
- Given invited training addresses to the F.B.I.?
- Given invited training addresses to Sex Crimes Investigators Associations?
- Given invited CE addresses to over 10,000 psychologists, social workers, MDs?
- Have you written an invited chapter on Memory Issues in Law for Oxford University Press?
- Have you performed invited Editorial duties for leading Psychiatric Journals
- Performed invited Editorial duties for leading Law/Public Policy Journal?
- Performed invited Editorial duties for leading Child Psychology Journal?
- Editorial duties for leading Social Psychology Journal?
- Editorial duties for leading Law/Public Policy Journal?
- State Government Appointment to Licensing Board?
- Have you served as a Special Assistant State Attorney General prosecuting psychotherapists?
- Have you served as a Harvard Law School Intern for the Massachusetts Attorney General's Office for Victims of Violent Crimes?
- Expert Consultant to State Licensing Boards re: revocation hearings in many jurisdictions?
- Frye-Daubert Hearings: As a lawyer or expert have you succeeded in excluding unreliable, junk social science, psychotherapy, and/or medical evidence in multiple legal cases?

As a Psychotherapist/Counselor:

- have you treated patients in hospital inpatient settings?
- have you treated patients in outpatient settings?
- have you treated patients in prison-forensic settings?
- have you treated patients in independent practice?
- have you treated trauma victims in VA Hospitals, Clinics, Prisons, and Church settings?

- have you treated, counseled, and/or researched with victims of the Pol Pot concentration camps?
- have you treated, counseled, and/or researched with victims of the Holocaust?
- have you treated adult patients?
- have you treated psychotic patients?
- have you treated neurologically impaired patients?
- have you done diagnostic assessments of patients?
- have you treated families?
- you treated Children and Adolescents as patients?
- have you treated Medically ill patients?
- have you treated Drug Addicted patients?
- have you treated Incarcerated patients with criminal convictions?
- have you counseled troubled people included anxious, depressed, and traumatized victims in church settings?
- As a performance psychology consultant have you trained Olympic Athletes, NBA players, Navy Fighter Pilots, Harvard Law Students, Harvard College Students, and Intl Ranked Tennis players?
- As a University Faculty member have you trained MA graduate level psychotherapists?
- As a University Faculty member have you trained PhD graduate level psychotherapists?
- As a University Faculty member have you trained MD students and faculty in relevant areas?
- As a University Faculty member have you trained Law School students and faculty?

3D. Formulate Opinions and Testify Applying Sufficient Knowledge, Training, and Experience to be a member of the Relevant Clinical Mental Health Professional Community.

3E. Offer detailed, relevant, reliable, peer-reviewed, published scientific information as well as detailed opinions including alternative investigative hypotheses and research summaries to provide the legal system (court, lawyers, parties) with essential knowledge to understand the issues in a case. I have written this report to provide a summary for the court of my opinions and ongoing investigative hypotheses in this case, based upon my review of the case records as listed and discussed in this report.

3F. Train legal and mental health professionals in the basic and essential science that should guide and inform attorneys, judges, and juries in science-complex cases such as PA v Sandusky. For example, in my opinion, the science discussed below is essential to properly inform the legal system (judges, lawyers, and juries) in such cases to ***protect the integrity of the legal system.*** The research

discussed below includes essential, foundational, peer reviewed, published research to explicate and support the science information underlying my detailed opinions and hypotheses in this report.

3G. **RELIABLE SCIENCE IS ESSENTIAL FOR A RELIABLE LEGAL SYSTEM:** In an international publication for Oxford University Press on Sex Abuse cases, I was invited to contribute the chapter on Controversial Memory Issues (RRM-MPD-DISS, Frye-Daubert hearings, etc.) and began by writing:

“Reliance on science is essential to proper legal process. The science of memory is particularly important. Criminal investigations must often focus on individual memory reports in the absence of corroborative evidence. Controversial theories involving the notion of ‘repressed-recovered memories’ (RRM) include multiple personality disorder (MPD), dissociative identity disorder (DID), traumatic amnesia, dissociative amnesia, betrayal trauma theory, and related concepts. Such theories have generated some of the most contentious, complex, and forensically challenging issues in the recent history of the mental health and legal systems.”

I also noted that coordinated, multidisciplinary efforts in legislation, litigation, licensing regulation, education (public and professional), and science (memory research) abruptly halted most all of the widespread abuses of the RRM-MPD-DISS therapy movement while generating important legal and mental health reforms. The informed application of recent legal publications is often essential in complex legal cases such as *PA v Sandusky*. These reforms include *Frye-Daubert/Kumho hearings* applying the doctrines of multiple historic U.S. Supreme Court cases spanning decades from Frye to Daubert-Kumho. It is my understanding that in both Frye and Daubert-Kumho hearings the judge – acting as a gatekeeper to protect the integrity of the legal system -- must assess whether or not an idea-theory-methods-practices have acquired “*acceptance in the relevant scientific community*”. With regard to the controversial ideas/methods-practices known as RRM-MPD-DISS ideologies, our Frye-Daubert-Kumho hearings were to review the relevant research so the court could assess whether such methods had been accepted by the relevant scientific community and thus act as a gatekeeper to **protect the integrity of the legal system** from unreliable, tainting misinformation and also from inherently unreliable, tainted “memory” reports. The innovative, multidisciplinary, science-litigation team methods and practices that ended the RRM-MPD-DISS treatment industry (i.e., the “memory wars” malpractice lawsuits and licensing revocations) also provide a highly effective model for litigating controversial memory cases in civil, criminal, administrative, and family law systems.

It is worth re-emphasizing that for the purpose of properly reviewing and/or ruling on issues regarding the exclusion of the inherently unreliable RRM-MPD-DISS ideology, methods, and results -- ***the Frye standard and the Daubert-Kumho standards have produced identical results.*** It is my understanding that both standards require a foundational analysis of whether these novel, unproven, controversial RRM-MPD-DISS notions are "***generally accepted by the relevant scientific community.***"¹ As the Amicus cited below and multiple other publications demonstrate, *RRM-MPD-DISS ideology, methods, and results have been actively and repeatedly rejected by the relevant scientific community in both Frye and Daubert hearings. (See, case citations below).* See eg. in a Minnesota Frye hearing (MN uses a "Frye-Mack" standard) I participated in a complex week-long hearing with **five** national experts on these issues. Minnesota is one of the remaining "Frye" states yet came to the very same conclusion as my NH, RI, NE, CA, TX, and UT cases on such issues. For example, in the Frye hearing for John Doe v. Archdiocese of St. Paul (Case No. 62-C9-06-003962, December 8, 2009, 2nd Judicial District, Judge Gregg E. Johnson) after a detailed, complex, 5-days of science testimony the court ruled, "*Plaintiff failed to meet his burden of proof under the Frye-Mack standard of showing that the concept of repressed and recovered memory is generally accepted in the relevant scientific community*" ...Defendant's Motion to Exclude Expert Testimony under the Frye- Mack standard is hereby GRANTED." This decision was affirmed by the Minnesota Supreme Court on July 25, 2012, John Doe v. Archdiocese of St. Paul, 817 N.W.2d 150 (Minn. 2012). Note that the "non-normal-memory" reports of the alleged victim were excluded as they were based on the same unreliable notions of RRM-MPD-DISS "recovered repressed memories" theory – notions not accepted by the relevant scientific community --- and were thus also excluded and ***the case was dismissed.*** As I recall happening in other Frye-Daubert hearings in NH, NE, MN, and UT.

3H. SUMMARY OUTLINE OF THIS REPORT:

- Expert Qualifications and Methodology of this Report including a discussion on the "relevant scientific community" and review processes in Frye and Daubert hearings.
- SCIENCE-HISTORY: Essential Science-History Knowledge and Standards Designed to Ethically and Competently Investigate and Litigate Complex Abuse Cases
- NEWLY DISCOVERED EVIDENCE: Review and Analysis of the Newly Discovered Shubin-SS and AJ Dillon investigation evidence

¹ I am not offering legal opinions in this case but rather ***forensic psychological expert opinions.*** Forensic experts are expected to understand and apply the proper legal standards in their work. Although I am an experienced attorney as well, I fully understand that ***the court is the only legal expert in this case.***

-- DETAILED OPINIONS regarding science-memory issues in the PA vs. Sandusky Investigation and Trial.

-- INVESTIGATIVE HYPOTHESES, QUESTIONS, and DISCUSSION OF EVIDENCE ON THE RECORD.

4. ESSENTIAL SCIENCE-HISTORY KNOWLEDGE REQUIRED TO PROPERLY INVESTIGATE AND LITIGATE ABUSE CASES:

It is essential that child abuse cases be properly, reliably, and professionally investigated and prosecuted to protect the public. To protect the integrity of the legal process, it is also essential that professionals involved in abuse cases know, understand, and properly apply the lessons learned from the relevant history and science.

In 1996, I wrote the following statement — signed by a stellar group of colleagues (including several of the most widely cited social and clinical scientists in the world and a past President of the American Psychological Association) — to the U.S. Congress:

“Child abuse is a serious social problem that should be dealt with in an effective and responsible manner. We strongly support the implementation of effective programs to reduce the incidence of child abuse, assist victims of abuse, and punish those who harm children. Efforts to attain these important goals must, however, be based in fact rather than prejudice, science rather than hysteria, and reason rather than political ideology.”

Protecting children and abuse victims is a very important job in our society. I have profound respect for law enforcement professionals, investigators, prosecutors, allied staff, and all who work in the law enforcement, family law, and mental health fields who strive to protect our youth from harm. I am deeply grateful for the very important work that they do. I have consulted with, trained, and/or testified for, prosecutors in multiple states as well as conducted invited training for F.B.I. personnel and Sex Crimes Investigators Associations. I have also served in public roles as a Member of the Minnesota Board of Psychology, as a Special Assistant Attorney General in Utah, as a Harvard Law School Legal Intern for the Massachusetts Attorney General’s Office, as a Clinical Psychology (therapy and assessment) Intern for the Palo Alto Veterans Administration /Stanford Medical Centers and in other positions. I have also taught Continuing Legal and Psychology Education seminars to thousands of psychologists, psychiatrists, social workers, and/or investigators in many cities in many states. I hope my

opinions in this case will assist and inform the legal process and the hard-working professionals involved in protecting the public.

4A. THE ESSENTIAL HISTORY OF INVESTIGATING and PROSECUTING ABUSE CASES

In complex cases like the one under review, it is essential that the professionals involved (investigators, lawyers, judges, therapists, etc) know, comprehend, and properly apply basic history-science knowledge. Below is very short summary of essential information. See, e.g., Continuing Education presentation by Barden, R.C., “The Science and Law of Proper and Improper Criminal, Civil, and Family Law Investigations and Expert Opinions in Abuse Cases”, presented to the Pacific Judicial Council and American College of Trial Lawyers, Island of Guam, Jan 17-19, 2018. Invitation and funding from the U.S. Federal 9th Circuit Court of Appeals Programs Office.

For thousands of years, civilization produced little or no legal protections from abuse – finally we engaged in investigations-prosecutions, but the initial efforts were not well informed by science. Tragically, for centuries the legal system provided little or no protection or justice for the vulnerable and abused. From the 1960s to the 1990s criminal prosecutions for abuse grew rapidly. Troubles arose when law enforcement and therapists used interview methods that were not properly informed by the science of memory. Until near the end of the 20th century, the scientific community showed little interest in the centuries old debate over the accuracy of witness testimony.

Infamous Day Care Hysteria and related cases of abusive mis-interviewing led to science-informed protocols for proper interviewing methods: A wave of infamous criminal cases involving improper, abusive, memory-manipulative, repetitive, interview practices resulted in implanted-coerced false “memories” of abuse in multiple witnesses including the McMartin, Kelly Michaels, Wenatchee, Little Rascals, many therapist-tainted adult cases, and others. These tragic, infamous cases demonstrated ***how improper interviewing methods could taint or destroy the integrity of the legal process.***

These cases generated considerable controversy and interest in the development of ***science-informed investigative interviewing methods.*** See, e.g., Bruck, M. and Ceci, S. (1995). Amicus brief for the case of State of New Jersey v. Kelly Michaels presented by the committee of concerned social scientists. Psychology, Public Policy, and Law, 1, 272-322; and exposés earning a 2001 Pulitzer Prize Award for Rabinowitz, D., See, *No Crueler Tyrannies: Accusation, False Witness, and Other Terrors of Our Times.*

Decades of diligent research in memory, cognition, and false memories produced much more ***reliable, valid, science-tested methods and principles for the proper interviewing of witnesses of all ages in criminal cases***. See, e.g., Michael E. Lamb, Yael Orbach, Irit Hershkowitz, Phillip W. Esplin and Dvora Horowitz, “A structured forensic interview protocol improves the quality and informativeness of investigative interviews with children: ***A review of research using the NICHD Investigative Interview Protocol***,” Child Abuse & Neglect, Volume 31, Issues 11-12, November, December 2007, Pages 1201-1231 ; and. Michael E. Lamb, Irit Hershkowitz, Yael Orbach, & Phillip W. Esplin, *Tell Me What Happened: Structured Investigative Interviews of Child Victims & Witnesses*, Wiley Series in Psychology of Crime, Policing and Law, Sept. 2008 (and ALL citations and studies contained therein).

Satanic Cult Hysteria, Multiple Personality Disorder Hysteria, “Recovered Repressed Memories” Hysteria, “Traumatic Amnesia” claims and “Memory Wars I” –In the hysterias of the 1980s and 1990s, thousands of therapist-book-movie-induced false memories – many debunked by FBI and other investigations -- of horrific abuse in adults and children resulted from poorly trained therapists adopting the inherently unreliable RRM-MPD-DISS ideologies and methods. We learned from that era, that witnesses of all ages are often vulnerable to outside influences including especially Repetitive, Leading, Suggestive, and Coercive interviews. Vulnerable witnesses often ***incorporate suggested facts or narratives or repeated instructions from an interviewer's questions or other sources into their memories – resulting in actual changes in the the memory of the witness. Repeated questioning is a particularly powerful methods of producing changes in the memories of vulnerable – changes the witness may not be aware of.*** Such witnesses are not lying but are instead reporting “***believed-in-but-false memories***” induced via improper interviewing. See, Coyle, Joseph in D. Schacter (Editor), *Memory Distortion: How Minds, Brains, and Societies Reconstruct the Past*, page 24; See also, D. Schacter. *The Seven Sins of Memory*, Houghton Mifflin, 2001. p.4.

Poorly trained, science-uninformed, unethical psychotherapists by the thousands created a tsunami of false memories of abuse, cult abuse, “human sacrifice abuse” and other hysterical “memories” in the 1980 and 1990s. The FBI spent millions of dollars investigating and debunking thousands of such cases (See details below). My colleagues and I put together teams of litigators and scientists and launched multi-disciplinary reforms that included hundreds of successful lawsuits and many successful licensing revocation actions with State Licensing Boards. I was personally involved in many of these cases. See, Barden RC: Reforming the Mental Health System: Coordinated, Multidisciplinary Actions Ended “Recovered Memory” Treatments and Brought Informed Consent to Psychotherapy. *Psychiatric Times*.

2014;31(6): June 6, 2014; See also, Belluck, P. Memory Therapy Leads to a Lawsuit and Big Settlement [\$10.6 Million], The New York Times, Page 1, Column 1, Nov. 6, 1997 and many, many more. The battle between radical RRM-MPD-DISS therapists vs. the scientists/lawyers/licensing boards was known as the “Memory Wars”. These cases and stories featured prominently in the international media for years. I was personally interviewed on such subjects by U.S. Congressional Quarterly, CBS 60 Minutes, ABC NIGHTLINE, the CBS Evening News, TIME Magazine, Newsweek Magazine, U.S. News & World Report Magazine, Insight Magazine, The New Yorker Magazine, the L.A. Times, the New York Times, the Chicago Tribune, the Minneapolis Star and Tribune, the St. Paul Pioneer Press, the London BBC, U.S. National Public Radio, ABC News 20/20, National German Television, National Finnish Television, 60 Minutes Australia, Canadian Public Radio, PBS Frontline, NBC Dateline and many other media sources.

During this era, thousands of abuse claims based on “recovered repressed memories” and “dissociated memories” were *investigated and debunked* by the FBI (led by Special Agent K. Lanning and the National Center for Child Abuse and Neglect (led by Prof. G. Goodman) *finding essentially zero corroborating evidence for over 12,000 cases of recovered memory allegations* of horrific abuse based on “memories starting to come back”, “buried memories”, “blocked memories” and other typical RRM-MPD-DISS ideologies and methods. Finally, after lengthy and expensive (tens of millions of dollars) investigations in many states, FBI Special Agent Kenneth Lanning held a press conference and said, “*it is time for the psychotherapists to explain why patients are claiming things that do not appear to be true*”. (See, summaries of this history published by Ofshe/Watters, Pendergrast, Loftus, McNally, Barden and others as cited in this report plus hundreds of science and media articles available on the internet.)

Frye-Daubert-Kumho Hearings: The Legal System Adopted Frye and much later Daubert-Kumho Doctrines and Methods for Excluding Unreliable Junk Science – such as the RRM-MPD-DISS ideology tainted evidence so prominent in this case. Troubled by the weight of junk science corrupting the integrity of the legal system, the US Supreme Court has issued rulings over many decades from Frye to Daubert-Kumho and progeny instructing judges to act as gatekeepers to hold hearings, carefully examine evidence, then exclude from the legal system unreliable and invalid pseudoscience that has been *rejected by the relevant scientific community* (scientists not therapists!) to *protect the integrity of the legal system*.

The foundational issue *for both Frye and Daubert-Kumho analysis* is whether the proposed evidence (whether expert or witness testimony) has been “*accepted by the relevant scientific community* (scientists not therapists). It is important to note that virtually all *psychotherapists are not scientists* and they do not obtain research grants, and they do not serve in the *science* journal editorial process, they

rarely if ever publish in credible science journals, and are thus not members of the relevant scientific community. As discussed above, multiple Frye-Daubert-Kumho hearings have been conducted, several involving multiple international experts in the relevant science with some hearings extending for weeks and covering hundreds of peer-reviewed publications. *Multiple Frye-Daubert science review hearings I participated in – whether applying the Frye or Daubert standards or both – resulted in the judicial exclusion of RRM-MPD-DISS ideology-methods as well as the tainted “memories” that were “recovered” “buried” “blocked” “changed following multiple interviews-therapy) etc.* (See details and full citations below).

FOUNDATIONAL SCIENCE ESSENTIAL TO SUCH CASES

4B. THE ESSENTIAL SCIENCE OF INVESTIGATING and PROSECUTING ABUSE CASES

4B1. Basic Essential Science-History: Abuse cases rarely involve claims of clearly NON-NORMAL RRM-MPD-DISS “memories”. Multiple, non-normal “memory” claims are well documented in PA v Sandusky (See section below for citations to RRM-MPD-DISS allegations and testimony in this case). Under the Frye-Daubert-Kumho minimal standards for evaluating science-related evidence from Experts AND Witnesses, the opinion of the Relevant Scientific Community (RSC) is essential. With regard to the RRM-MPD-DISS controversial “memory” claims that were so essential in the investigation and trial of this case --and so totally ignored by the science-uninformed and/or corrupt PA investigators, lawyers, ad judges)— *dozens of the world’s leading experts in the relevant sciences have spoken publicly and clearly on the key issue of the reliability of RRM-MPD-DISS ideology and “dissociated” “blocked” “buried” or “repressed” memories of trauma that are “recovered” “clarified” “put together” “start coming back” or similar descriptions following multiple interviews/therapy/or exposure to RRM-MPD-Dissociation ideology (E.g. lawyer Shubin, therapist Macnab, Investigator Leiter, etc).*

Regarding the reliability of transformed, changed, formerly “buried”, formerly “blocked”, alleged “memories” the world’s science experts have clarified *the relevant scientific community reviewed and rejected RRM-MPD-DISS ideology-methods-practices:*

“Decades of research and scientific debate have clarified over and over again that the notion of traumatic events being somehow “repressed” and later accurately recovered is one of the most pernicious bits of folklore ever to infect psychology and psychiatry. This folklore provided the

theoretical basis for “recovered memory therapy” -- arguably the worst catastrophe to befall the mental health field since the lobotomy era.”

See, Barden, R. C. (2006) Amicus Curiae Brief of the National Committee of Scientists for Academic Liberty, for Defendants and Appellants, Elizabeth Loftus, et. al., Submitted to the Supreme Court of the State of California, Feb., 2006. With AMICI Aaron T. Beck, Harrison G. Pope Jr., Richard McNally, James I. Hudson, Richard Ofshe, William M. Grove, Paul R. McHugh, Robert Perloff, Stephen J. Ceci, Henry L. Roediger, August Piper, B. Christopher Frueh, Steve Lynn, Peter von Koppen, John F. Kihlstrom, Gerald M. Rosen, Sally Satel, Maryanne Garry, Hans F.M. Cromberg, David F. Bjorkland, Phillip W. Esplin, James M. Wood, Richard Gist, Irving Kirsch, Steven Hayes, James D. Herbert, Robert Montgomery, Harald Merckelbach, James Ost, Scott O. Lillienfeld, Marc Sageman, Grant J. Devilly, Anthony Pratkanis, Jon D. Elhai, Timothy Tumlin, D. Stephen Lindsay, Paul A. Ornstein, Susan A. Clancy, John W. Bush, Paul R. Lees-Haley, Howard D. Eisman, Mark Creamer, W. Jake Jacobs, Timothy Moore, Daniel David, Margaret Bruck, Amina Memon, Jeffrey M. Lohr, Giuliana Mazzoni, Jean-Roch Laurence, Elizabeth Meadows, Ron Acierno, Steven E. Clark, Saul Kassin, Richard Shiffrin, Michael Tolia, Robert V. Kail, J. Don Read, Loren Pankratz, Michael A. Persinger, Debra Poole, Charles A. Weaver III, Joseph de Rivera, David S. Holmes, Terence W. Campbell, Emily Carota Orne, John Cannell, Howard Fishman, Richard A. Leo, Deborah C. Beidel, James Coyne, Fred Frankel, Nora S. Newcombe, Gordon J. G. Asmundson, Howard N. Garb, William G. Reiner, Mahzarin Rustum Banaji, Robyn M. Dawes, Robert A. Karllin, Harold I. Lief, Daniel L. Schacter, Steven Pinker, Naomi Breslau, and more.

See also, McNally, R.J. (2003) *Remembering Trauma*, Cambridge, MA: Belknap Press/Harvard University Press.

See also, Pope H., Oliva P., and Hudson J., ‘Repressed memories: The scientific status of research on repressed memories’ in Faigman, D.L., Kaye, D.H., Saks, M.J., and Sanders, J. (eds) (2012) *Science in the law: social and behavioral science issues*, St. Paul, MN: West Group, 807–913.

See also, Piper A., Lillevik L., and Kritznier R., ‘What’s wrong with believing in repression? A review for legal professionals’ (2008) 14 *Psychology Public Policy and Law*, 223–42.

See, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, Springer International Publishing, ISBN 9783319633749.

I have written an invited chapter for the Oxford University Press book on this subject. This publication is a peer reviewed summary of several essential issues relevant to the PA v Sandusky case including RRM-MPD-DISS ideology/methods, confirmation bias, the history of Frye and also Daubert hearing exclusions of this novel pseudo-science and related information essential to what ***could and***

should have been a competent, ethical, science-informed investigation and trial in PA v Sandusky. See, Barden, R.C., Memory and Reliability: Developments and Controversial Issues. In *Witness Testimony in Sex Cases*, Eds. Pamela Radcliffe, Anthony-Heaton Armstrong, Gisli Gudjonsson, and David Wolchover, Consultant Editor: Sir Anthony Hooper, Oxford University Press, March 2016.²

For a 2022 update on this research area, we should discuss the latest peer reviewed published science evidence from several world experts showing the striking and well-documented *lack of interest by the relevant scientific community in the novel, unproven, controversial, inherently unreliable notions of RRM-MPD-DISSOCIATION claims and ideology that were so prominent in this case – but somehow ignored*. See, e.g., H. G. Pope, J. Schnabel, J. I. Hudson, (2022), Current scientific interest in dissociative amnesia: A bibliometric analysis, *Appl Cognit Psychol.* 2022;1–10. DOI: 10.1002/acp.4021 In a bibliometric analysis, we used the PubMed search engine to count the number of publications identified by the search term “dissociative amnesia” for the years 2011– 2020. We then counted publications from the same decade for five representative comparison disorders: “panic disorder,” “anorexia nervosa,” “obsessive compulsive disorder,” “attention deficit hyperactivity disorder,” and “bipolar disorder.” ***Our search yielded only 89 publications for “dissociative amnesia,” and only seven of these involved localized or selective amnesia for specific events.*** By contrast, we found between 3000 and 21,000 publications for each of the five comparison (actual) disorders during 2011–2020. We performed several additional secondary analyses, all of which suggested that the diagnosis of “localized or selective dissociative amnesia” has generated little (virtually zero) actual scientific interest in recent years. The

² This case: On this record, it appears that the judges, prosecutors, and defense lawyers in PA v Sandusky were uninformed and misinformed with regard to the relevant science and history. *ALL failed to know, understand, comprehend, and properly apply the internationally reported essential science and history that was so relevant and essential to a proper investigation and trial in this case.* On this record, this essential information was never presented to the uninformed, misinformed jury. The attorneys failed to properly seek and conduct a FRYE hearing regarding admission of the novel, unproven, controversial, inherently unreliable evidence in this trial regarding “blocked”, “buried”, “changing memories”. Highly improper, coercive, and abusive interviewing methods and other unreliable procedures failed minimal standards of care. The legal professionals involved did not know nor realize that much of the RRM-MPD-DISS ideology and evidence investigated and presented in the case has been carefully reviewed and then *rejected by the relevant scientific community and also excluded by courts in multiple states following proper Frye and Daubert hearings (citations below).*

RRM-MPD-DISS “myths” are, however, still popular among some groups of poorly trained psychotherapists such as the ones reportedly involved in this case.

4B2. Basic Essential Science-History: CONFIRMATION BIAS is often the most serious of all investigation errors in law enforcement, science, law, medical diagnosis, and other professions. There are many examples of Confirmation Bias in this case.

Confirmation bias is one of the most serious, damaging, and/or fatal error in *criminal investigations and trials — as in this case*. To avoid Confirmation Bias -- the practitioner must follow the most basic procedures in science, that is first *generate then test alternative investigative hypotheses*. This hypotheses-test-refine hypotheses process is the essential core of science and all proper criminal investigations, health care diagnosis, and policy analysis. (See, the US SCT decision in the Daubert case, Sir Karl Popper’s philosophy of science, Sir Francis Bacon essays, etc.) and all proper, reasonable, effective investigations of crimes, illnesses, etc.

Confirmation Bias is “The tendency to test one’s beliefs or conjectures by seeking evidence that might confirm or verify them and to ignore evidence that might disconfirm or refute them.” — The Oxford Dictionary definition of confirmation bias

“He who does not expect the unexpected will not detect it” — Karl Popper (the US SCT Daubert and Kumho rely on the philosophy of science of Sir Karl Popper.) See also, C. Hempel, Philosophy of Natural Science 49 (1966) (“[T]he statements constituting a scientific explanation must be capable of empirical test”); K. Popper, Conjectures and Refutations: The Growth of Scientific Knowledge 37 (5th ed. 1989) (“The criterion of the scientific status of a theory is its falsifiability, or refutability, or testability”).

“If one were to attempt to identify a single problematic aspect of human reasoning that deserves attention above all others, the confirmation bias would have to be among the candidates for consideration.” See, Nickerson, R. Confirmation Bias: A Ubiquitous Phenomenon In Many Guises, Review of General Psychology, 1998, Vol 2, No 2, 175-220.

“Confirmation bias is perhaps the best known and most widely accepted notion of inferential error to come out of the literature on human reasoning.” (Evans, 1989, p. 41)

“Because of confirmation bias and desirability bias, *we will tend to collect and interpret evidence selectively to favor a judgment that, respectively, we already believe or wish to be true....* Dror coined a term for the impact of biasing information: the forensic confirmation bias. As soon as you know what others think, confirmation bias can lead you to form an overall impression (diagnosis) too early and to *ignore contradictory information.*” — Nobel Prize winner Daniel Kahneman, Ph.D. in *Noise, A Flaw in Human Judgment*, Little, Brown Publishers (May 18, 2021); See also S. M. Kassir, I. E. Dror, J.

Kukucka, and L. Butt, “The Forensic Confirmation Bias: Problems, Perspectives, and Proposed Solutions,” *Journal of Applied Research in Memory and Cognition* 2 (2013): 42–52.

The most fundamental principle of science is the requirement to *generate and test alternative hypotheses* (i.e., Sir Karl Popper’s concept of falsification was the philosophical core of the US Supreme Court Daubert ruling). Even 8th grade science students are typically taught this essential process *but too many science-uninformed, negligent psychotherapists, police investigators, judges, and trial attorneys (like those involved in the PA v Sandusky case) remain uninformed or misinformed on the essential nature of this process – or simply ignore this training*. Any criminal investigation, health care assessment-treatment, or analysis in hearings and trials that does not spend considerable time and attention discussing the “alternative investigative hypotheses” is defective and ***a danger to the integrity of the legal system***. In my experience, most all well-trained PhD and MD professionals working in major medical and/or science centers understand and apply this essential process but far too many poorly trained professionals in the mental health and legal systems remain tragically uninformed or misinformed as to critical knowledge and methodologies regarding confirmation bias.

Training has been nationally widespread for years on the essential need to avoid confirmation bias. For example, ***the U.S. Department of Justice calls investigations via questioning of alternative hypotheses essential for the integrity of an investigation***. See Chris Newlin, Linda Cordisco Steele, et al , *Child Forensic Interviewing: Best Practices, published by the* U.S. Department of Justice... See, <http://www.ojjdp.gov/pubs/248749.pdf> September 2015, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention << *Alternative Hypotheses... Contextually appropriate questions that explore other viable hypotheses for a child’s (or adult’s) behaviors or statements are essential to the overall integrity of the interview.* >>

In stark contrast to proper conduct, on this record, PA v Sandusky demonstrates an historically egregious example of the dangers of extreme Confirmation Bias. In some of ***most essential evidence in this case***, Inv. Leiter recorded statements during the interview of BH on April 21, 2011. Inv. Leiter forgot his microphone was “live” and inadvertently disclosed in detail an extraordinarily improper Confirmation Biased strategy (ie., Leiter claimed he “knew” beforehand what witnesses ***should*** say) . Even more importantly, Inv Leiter, in his recorded discussion also disclosed in detail the government’s highly improper, deeply corrupt, systemic, abusive, repetitive process of manipulating witnesses’ “memories” over and over again until the witness gave in and agreed with Inv. Leiter’s pre-conceived version of the evidence. Inv. Leiter’s disclosed, abusive, systemic government Witness Memory Manipulation strategy is unprecedented in my 30-years of experience reviewing cases throughout the US. (See, the April 21, 2011, recorded interview of alleged victim BH and detailed quotes/analysis below). Inv. Leiter’s April 21, 2011 “taped confession” of a highly improper, abusive, government program of memory manipulation

of witnesses should have been one of the key issues at the trial of this matter including motions to exclude all witnesses who experienced the Government Memory Manipulation Interviews disclosed by Inv. Leiter. The science of Memory-False Memories is essential to understanding the improper-memory-contaminative nature of Inv. Leiter's interviewing methods was never properly explained to the jury in this case by an Expert Witness in Memory-False Memories. In addition, the essential history of similar abusive-manipulative interviewing programs (See, McMartin, Wenatchee, the dozens of RRM-MPD-DISS therapist malpractice cases with adults, state licensing prosecutions and revocations, the results of Special Agent K. Lanning's FBI Special Task Force, etc.) was never properly explained to the uninformed, misinformed, misled, jury.

According to noted experts Bruck and Ceci (2002), the concept of *interviewer bias* is a defining feature of leading-suggestive interviews. –like those documented in PA vs Sandusky. Interviewer bias (i.e. a type of Confirmation Bias) characterizes those interviewers *who hold a priori beliefs about the occurrence of certain events and who mold the interview to maximize disclosures that are consistent with those prior belief* (This is exactly the kind of abusive, case contaminating, memory manipulating process that Inv. Leiter “confessed “ to in the recording of April 21, 2011. It is extraordinary that this most essential information was never presented to the uninformed, misinformed, misled jury in PA v Sandusky.)

One hallmark of such interviewer bias is *the single-minded attempt by an interviewer to gather only confirmatory evidence and to avoid all avenues that may produce disconfirming evidence. (This is, again, the highly improper, evidence-manipulative process that Inv. Leiter “confessed to” on April 21, 2011.* Again, it is extraordinary that this most essential information was never presented to the uninformed, misinformed, misled jury in PA v Sandusky.).

Thus, biased interviewers do not ask questions that might provide alternate explanations for the allegations or that might elicit information inconsistent with the interviewer's hypothesis. In addition, biased interviewers do not challenge the authenticity of a witness' report when it is consistent with their hypothesis. Even when witnesses provide inconsistent or even bizarre evidence, it is either ignored or interpreted within the framework of *the biased interviewer's pre-conceived beliefs*. In contrast, when the witness' statement is incongruent with what the biased interviewer believes, it will be challenged or pursued with repeated questions designed to manipulate the witnesses' subsequent reports with the interviewer's initial beliefs. (*As Inv. Leiter “confessed to” on April 21, 2011*). See, Bruck, Ceci, & Hembrooke, "The Nature of Children's True and False Narratives", Developmental Review. Volume 22, Issue 3, September 2002, Pages 520–554 plus many additional citations in the memory science section below.) Note that the Newly Discovered Evidence documenting the Memory Manipulation-Evidence Tampering method of interviewing used by civil attorney Shubin (discussed in detail later in this report) is

very similar to the improper government interviewing methods disclosed by Inv. Leiter. Again, none of this essential information was presented to the uninformed, misinformed, misled jury in PA v Sandusky

4B3. Basic Essential Science-History: “Fervently-Believed-In-But-False-“Memories” of abuse can be (and have been) induced in many *thousands* of adults, adolescents, and children via exposure to RRM-MPD-DISS ideology and improper-leading-suggestive interviewing/therapy methods by police investigators, prosecutors, civil attorneys, family members, psychotherapists, etc. (See, Special Agent Ken Lanning’s FBI Task Force national investigations of hundreds of alleged abuse cases and Prof Gail Goodman’s Nat. Assn. of Child Abuse and Neglect investigation of reportedly over 10,000 such cases, the “Memory Wars” research debate, State Licensing Board licensing revocation actions in multiple states against therapist-leaders of the RRM-MPD-DISS movement, the improper-Memory Manipulation investigations in the McMartin, Wenatchee, Kelly Michaels, and other infamous-controversial cases, the many RRM-MPD-DISS malpractice lawsuits against poorly trained, science-uninformed therapists, etc. as cited later in this report.). On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

The wave of “Day Care” prosecutions and other abusive mis-interviewing cases overturned by Appellate Courts and/or rejected by juries resulted in national science experts taking a very serious and sustained interest in reforming the abusive, memory-contaminating investigative methods used in such tragic cases. See, e.g., Bruck, M. and Ceci, S. (1995). ‘Amicus brief for the case of State of New Jersey v. Michaels presented by the committee of concerned social scientists. Psychology, Public Policy, and Law, 1, 272-322. The science world and the legal world began to work together to create rational, science-based standards for investigating cases and conducting proper non-abusive interviews.

The process of reforming investigative procedures to incorporate science-informed methods and standards was motivated by the rise of RRM-MPD-DISS ideology that produced the “Memory Wars” and thus some of the most contentious science-therapy controversies in history. Years of research, clinical experience, and jury trial investigation and legal case records clearly documented and demonstrated that multiple methods -- including exposure to abusive-leading-suggestive-repetitive interviews (e.g. Inv. Leiter’s and Attorney Shubin’s methods in this case), misleading information provided by Police Interviews, Interviews/Therapy with Science Uninformed Therapists and Civil Attorneys, exposure to False and Misleading Ideas about “recovered repressed memories”, “blocked memories”, “buried memories”, and improper, leading, suggestive psychotherapy -- can and have induced ***Fervently-Believed-In-But-False-“Memories”*** of horrific abuse in many thousands of people (children,

adolescents, and adults). To reduce the risk of false memories and *protect the integrity of the legal system*, the relevant scientific community and law enforcement have worked to create standards of care in abuse cases including :

MINIMAL STANDARDS FOR INVESTIGATIONS-TRIALS of ABUSE CASES:

A) It is essential that *ALL interviews be properly recorded* to permit proper review by supervising investigators, expert witnesses/consultants, judges, and defense attorneys. Such reviews are necessary to protect witnesses as well as *protect the integrity of the legal system* from abusive-leading-suggestive-repetitive questioning (such as Inv Leiter's and Attorney Shubin's methods in this case as Leiter's recorded discussion of April 21, 2011 and the reportedly newly discovered evidence of the Shubin-SS interview and investigative work of AJ Dillon.

Failure to properly record and document each and every interview should be considered a powerful indicator of Negligence and/or local corruption in any abuse investigation with witnesses of any age. In my experience, from rural Alabama, Nebraska, and Texas to Palm Beach, Beverly Hills, Scottsdale, and downtown NYC, interviewers across the USA now *record all interviews*. Why is this so important? *Without a recording the potential memory contaminating effects of an interview cannot be assessed*, and we return to the pre-1990s "bad old days" when interviewers could abuse and manipulate witnesses at will (e.g. Wenatchee, McMartin, Kelly Michaels, Therapist Malpractice Cases such as Hamanne, Carlson, Burgus v Braun, and many other infamous cases).

Recordings protect witnesses from overzealous and/or gross negligent and/or corrupt-abusive interviewing. In contrast to national practice, on this record MANY of the interviews – perhaps even MOST (?) – were never properly recorded. Alternatively, how many were recorded and then erased to hide evidence the abusive, improper Government interviewing program as confessed to by Inv Leiter on April 21, 2011.

Recordings also protect prosecutions. If a witness' "memory" reports change from one interview to the next – which apparently happened to multiple witnesses in PA v Sandusky. And IF there is no proper recording to review, *then the prosecution cannot prove beyond a reasonable doubt that improper interviewing was not the cause of the "new memory"*. A properly science-informed jury will not convict given such an egregious government error as failing to properly record all interviews. The jury in PA v Sandusky was not properly informed of the relevant science, nor the relevant history, nor the abusively

improper interviewing-memory contaminative methods used in this case, nor the unsolvable (without a recording to review) question of percentage of a witness' "new memories" were created by improper interviewing?

B) it is essential that investigators be properly **trained in science-informed, abuse interview methods/protocols** to protect witnesses from misleading-suggestive-repetitive-coercive-unrecorded-abusive interviews from police-therapists-lawyers to (cf. in contrast, on this record, note the unprecedented-in-my-experience, highly improper interview methods well-documented in PA v Sandusky) and reduce the risk of memory contamination.

C) it is essential that *all non-normal alleged "memories" (like many in this case) be properly reviewed and explained to the Jury by a Memory-False-Memory-RRM-MPD-DISS expert witness who generates and walks the jury through evidence for alternative investigative hypotheses in such cases. Experts should include a* member of the relevant scientific community (that is, no local, science-uninformed psychotherapist pseudo-experts) reviewing the reliability and validity of the methodology of underlying research and the evidence in the case.

D) it is essential to *chart ALL interviews with ALL witnesses as to Date, Interviewer, Location, and who was in the room during the interview.* This essential "Interview Chart" should be properly updated and shared with opposing counsel in all cases with sufficient time prior to trial for competent preparation. Such an essential "Interview Chart" --- nor the information required to complete such a chart -- was apparently gathered and shared in time for competent preparation in PA v. Sandusky.

E). it is essential that *on each recorded interview the witness be asked to state ALL previous interviews* (if not, the government might interview witnesses over and over and over again and not properly disclose the number of interviews nor who was present in the room, nor the abusive and improper methods used in some interviews -- as described in Inv. Leiter's recorded discussion (April 21, 2011) discussing his practice of repeated, leading-suggestive-coercive interviews (see quotes from Inv. Leiter's April 21, 2011 recording later in this report).

F) it is essential that all investigators must be properly trained to understand that *they are NOT reliable "human lie detectors"* and must therefore search for corroborative evidence and test alternative investigative hypotheses not overly and improperly rely upon unreliable "clinical experience" or "clinical judgment" or detective "intuition" (See, relevant research quoted in this report).

G) it is essential that all investigators be properly trained to understand the necessity of ***avoiding Confirmation Bias*** by generating and testing ***alternative hypotheses*** of the case (including the alternative hypothesis that false/exaggerated pseudo-memories were generated from mis-interviews/improper therapy by psychotherapists, civil attorneys, and poorly trained/corrupt investigators

H) it is essential that witnesses should never be subjected to multiple (more than 2), unrecorded, repetitive, biased interviews-therapy by investigators, therapists, and civil attorneys offering financial payments for “new” abuse memories.

J) ALL complex memory cases – especially those lacking corroborative evidence – should involve a competent ***Expert Witness in the Science (not “therapy”) of memory-false memory-contamination-science-history***. Such expert witnesses should be actual science experts and not local, science-uninformed psychotherapists -- to properly instruct the court, attorneys, and jury regarding the science-history of methods to evaluate “non-normal” memory claims including RRM-MPD-DISS “buried”, “blocked”, or “dissociated” memories that grow and/or transform and/or change over time. (Note memories do change over time – but memory claims regarding “buried”, “blocked”, or “dissociated” memories are Not Normal Memories and thus require expert witness explanation to avoid a misinformed, uninformed, jury as indicated on this record in PA v Sandusky.

On this record, in my opinion, the PA vs Sandusky investigation and trial FAILED to meet ANY of these essential minimal standards of a reliable investigation and properly-fair trial – as required by the basic foundational, and essential science-history. A key remaining questions remains -- where the historic, egregious, catastrophic failures documented in PA vs Sandusky the result of Negligence or local corruption driven by political-economic forces? (See, detailed analysis of this question later in this report).

See, citations to Loftus, McNally, Ofshe/Watters, Barden, Ceci/Bruck, Pendergrast, Snedden, Rabinowitz, Spanier, and many others in this report. See also, Michael E. Lamb, Yael Orbach, Irit Hershkowitz, Phillip W. Esplin and Dvora Horowitz, “A structured forensic interview protocol improves the quality and informativeness of investigative interviews with children: *A review of research using the NICHD Investigative Interview Protocol*,” Child Abuse & Neglect, Volume 31, Issues 11-12, November, December 2007, Pages 1201-1231 ; and. Michael E. Lamb, Irit Hershkowitz, Yael Orbach, & Phillip W. Esplin, Tell Me What Happened: Structured Investigative Interviews of Child Victims &

Witnesses, Wiley Series in Psychology of Crime, Policing and Law, Sept. 2008 (and ALL citations and studies contained therein).

4B4. Basic Essential Science-History: Science has conclusively demonstrated that *human memory is not a DVD nor video recording but is subject to manipulation, change, and even whole-creation of false memories via a variety of influences* (e.g, Alleged victims subjected to repetitive, leading, interviews-discussions-therapy with family members, therapists, investigators, civil lawyers – all of these types of potentially memory contaminating experiences are documented in PA v Sandusky).

A brief history of memory contamination research should include the famous research questions ... “How fast were the cars going when they collided?” and “How fast were the cars going when they smashed into each other?” (See, E. Loftus and Palmer, 1974). *This one-word difference in questioning created different memories* in the minds of witnesses. Those who were asked about cars that “smashed” into each other remembered faster car speeds and some even remembered broken glass in the scene – when in fact no broken glass existed at all. *Inducing false memories with a few simple questions was far easier than anyone had anticipated* prior to these studies and the decades of research that followed. See, See Loftus, E., Our changeable memories: legal and practical implications. Science and Society. Nature Reviews: Neuroscience Volume 4, March 2003, page 231- 235.

Given our scientific knowledge of human memory, juries cannot reliably evaluate an alleged victim’s reported “memories” unless they also review *the actual questions asked in sequence* on a proper **recording**. *Thus recording all investigative interviews is essential to the integrity of investigations and jury trials.* This is also why psychotherapists or police investigators or civil attorneys conducting leading, suggestive, and improper conversations with witnesses in UNRECORDED interviews-therapy can indeed create, new, horrific, detailed, Fervently-Believed-In-But-False-”Memories” of abuse. This is also why *the extraordinary failure to properly record all interviews is such a serious and fatal error that it should be viewed as evidence of actual corruption in an investigation* (as in this case in both the government’s investigation and the negligent Freeh Report). (See, Freeh Group Report and the multiple reviews by Thornburgh, PSU BD review, Corman Report and others. The Freeh Group apparently failed to record interviews and also failed to even interview multiple key witnesses – both quite fatal methodological flaws.)

Many years of research has shown memory contaminative processes can generate “new” and/or false memories via **source confusion/source amnesia** (e.g., being trained to consider dreams, nightmares,

imagination, hypnotic images, etc. as reliable indicators of “memories”). As Prof. Dan Schachter, former Chairman of Psychology at Harvard University has noted, “...false memories ... in studies often include bits and pieces of memories that are melded together... In these and other situations, the content of a past event *or imagining* becomes “unglued” from its original source and mistakenly connected to another “memory”... “contents and sources of past experiences mistakenly put together -- *it is easy to see how it could give rise to a strong subjective conviction that a false memory is real.*” See, Coyle, Joseph in D. Schachter (Editor), *Memory Distortion: How Minds, Brains, and Societies Reconstruct the Past*, page 24; See also, D. Schacter. *The Seven Sins of Memory*, Houghton Mifflin, 2001. p.4. See also, “Human memory is *not like a photograph album, a collection of cassettes, compact discs or videos or any other accumulative archive of the past.* Rather, memories are fragmentary, condensed, often distorted and inaccurate representations of experience. -Martin A. Conway (review in *Nature*). See additional citations infra and supra to the work of Ceci, Bruck, Loftus, and other memory experts.

Just one hour can be sufficient to implant false memories in some cases. How many interviews/therapy sessions were conducted in a case? How many of these interviews/therapy sessions were not recorded? How many interviews/therapy sessions does it take to produce detailed, false memories? E.g. William Bernet, M.D., Case Study: Allegations of Abuse Created in a Single Interview, *Journal of the American Academy of Child and Adolescent Psychiatry*, 36:7, July 1997, pp. 966, 970. In many litigation malpractice suits against RRM-MPD-DISS therapists, I personally reviewed multiple cases where vulnerable witnesses were led — in just a few hours — to fervently believe in detailed, horrific, but later proven to be false memories of abuse. Reviewing proper recordings is the only real defense – for witnesses and prosecutions – from the alternative hypothesis of interview-induced false memories. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

A FALSE MEMORY CAN BE FERVENTLY BELIEVED and REPORTED — SUCH REPORTS ARE “BELIEVED-IN-FALSE-MEMORIES” and THUS NOT LIES:

Once a false memory is induced can the victim tell the difference between true and false memories? ***Research indicates that once tainted, a false memory can seem just as real to the witness as other memories.*** See, Stephen J. Ceci and Maggie Bruck, *Jeopardy in the Courtroom*, 1995, p.218, 220; See, also, McNally, R.J., Lasko, N.B., Clancy, S.A., Macklin, M.L., Pitman, R.K., and Orr, S.P. 2004. Psychophysiological responding during script-driven imagery in people reporting abduction by space aliens. *Psychol. Sci.* 15: 493–497. [Consistent, emotionally powerful, stories from highly educated people -- e.g. alien abduction “memories” -- can be quite consistent, filled with much detail, emotionally

conveyed, and very compelling to listeners -- yet quite false.] See also, Ceci, S.J., Crotteau, M., Smith, E., & Loftus, E.W. Repeatedly Thinking about a Non-event: Source Misattributions among Preschoolers. *Consciousness & Cognition*, Vol 3, 388-407 (1994); See also, Loftus, E. F. (2002) Memory Faults and Fixes. *Issues in Science & Technology* (publication of the National Academies of Science), 18, #4, pp 41-50; Loftus, E.F. & Davis, D. (2006) Recovered Memories. *Annual Review of Clinical Psychology*. 2, 469-498 ; Loftus, E. F. (2005) Planting misinformation in the human mind: A 30-year investigation of the malleability of memory. *Learning and Memory*, 12, 361-366; Mazzoni, G. and Memon, A. Imagination Can Create False Autobiographical Memories, *Psychological Science*, Vol. 14, No. 2, March 2003 pg. 186-193 and other relevant research.

The science of memory and memory contamination is an essential feature of a proper review of such investigations. Thus clearly , ***every jury in such cases should be properly educated about at least the essentials of basic science-history in this field*** -- including the mouse trap study, imagination inflation, source amnesia/confusion, error rates, reliability and validity concepts, as well as the history of improper interview cases such as Wenatchee, McMartin, Kelly Michaels, Wee Care, Jordan Minnesota, and the hundreds of RRM-MPD-DISS therapy generated cases investigated and debunked by the FBI Task Force (Lanning) and thousands investigated and debunked by Goodman and others). Understanding the key basics of the research work of Loftus, McNally, Ekman, and other international scientists is essential to ***protect the integrity of the legal system***. This research work explores the conditions under which ***witnesses can provide accurate reports about past episodes but also shows convincingly that examiners (including psychotherapists and civil attorneys) who use suggestive or leading questions may introduce serious distortion into witness recollections***. Indeed, some of the recent research has revealed that some witnesses can be rather easily induced to create detailed narrative recollections of events that never happened (e.g , false memories of being attacked by a wild animal, riding in a hot air balloon, etc). *These witnesses may seem firmly convinced that their memories are real even when they are not. Protecting witnesses against repeated interviews, leading and suggestive questioning, and other memory contaminative processes is thus an essential part of a competent investigative process* (and the opposite of Inv. Leiter's and Attorney Shubin's highly improper methods). See, e.g., Daniel L. Schacter, Jerome Kagan, and Michelle D. Leichtman, True and False Memories in Children and Adults: A Cognitive Neuroscience Perspective, *Psychology Public Policy, and Law*, American Psychological Assn, 1995, Vol 1, No. 2, 411-428 and other citations in this report. See the "Mousetrap Study", Ceci, et al, Repeatedly Thinking About a Non-Event: Source Mis-Attributions among Preschoolers, *Consciousness and Cognition*, Vol. 3, 388-407, 1994.

ALL COMPETENT POLICE INVESTIGATORS, JUDGES, LAWYERS, and THERAPISTS SHOULD KNOW THAT HUMAN MEMORY IS QUITE MALLEABLE AND CAN BE TAINTED, CHANGED, or CREATED BY IMPROPER INTERVIEWING:

“Memories are precious. They give us identity. They create a shared past that bonds us with family and friends. They seem fixed, like concrete, so that if you stepped on them they would still be there as they always were.... But memories are not fixed. Everyday experience tells us that they can be lost, but they can also be drastically changed or even created. Inaccurate, false memories can sometimes be just as compelling and "real" as an accurate memory. ... Studies show that you can do more than change a detail here and there in someone's memory. You could actually make people believe that a childhood experience had occurred when in fact it never happened. Examples include being lost in a shopping mall for an extended period of time, being rescued by a lifeguard, surviving a vicious animal attack ... or even going on a hot air balloon ride. None of these events actually happened [to people who recalled "memories" of them] but people became quite convinced these were true "memories". ... These studies and many more like them, show that *people can develop beliefs and memories for events that definitely did not happen to them. They can do this when fed strong suggestions. They can even do this when induced to imagine the experiences. Large changes in autobiography can be achieved quickly.*”
– Prof. E. Loftus, internationally renowned memory researcher

Psychological science has not yet developed a reliable way to classify memories as true or false without corroborating evidence. Moreover, it should be kept in mind that many false memories have been expressed with great confidence....” ... “To reiterate the main points: memory is more prone to error than many people realize. **Our memory system can be infused with compelling illusory memories of important events.** These grand memory errors have contributed to injustices that could have been avoided or minimized.” See Loftus, E., Our changeable memories: legal and practical implications. Science and Society. Nature Reviews: Neuroscience Volume 4, March 2003, page 231- 235.

‘Our memories are constructive. They’re reconstructive. *Memory works ... like a Wikipedia page: you can go in there and change it, but so can other people.*’ — Professor Elizabeth Loftus, PhD, memory researcher

” Even the precious memories of our childhood can actually be shaped and reshaped like a ball of clay false memories – recollections that feel like memories, but which are not based on any real occurrence – are experienced all the time. And the consequences of such false memories can be very real. *Believing fictitious representations of reality can affect anything in our lives, potentially causing*

real joy, real upset, and even real trauma ... Any event, no matter how important, emotional, or traumatic it may seem, can be forgotten, misremembered, or even be entirely fictitious. — Professor Julia Shaw, PhD, memory researcher.

“Studies confirm that jurors (laypersons who are not memory experts) routinely “over believe” eyewitness testimony. See, e.g., Sigler & Couch, Eyewitness Testimony, and the Jury Verdict, 4 N. Am. J. Psychol. 143, 146 (2002) (conviction rate by mock juries increased from 49 percent to 68 percent when a single, vague eyewitness account was added to the circumstantial evidence described in a case summary). Even when unreliable eyewitness identification is admitted, juries are quite likely to believe it.... Cross-examination cannot be relied on to address this problem. As the US Supreme Court has observed, “even though cross-examination is a precious safeguard to a fair trial, it cannot be viewed as an absolute assurance of accuracy and reliability.” Wade, 388 U.S. at 235. That is particularly true with victims of RRM as *they often truly believe the mental images in their head are real, accurate “memories”*.

The process of false memory creation is a serious problem for in the legal system because what most affects many jurors’ assessment of a particular eyewitness is the level of confidence expressed by the witness. See Cutler & Penrod, Juror Sensitivity to Eyewitness Identification Evidence, 14 Law & Hum. Behav. 185, 185 (1990); Lindsay et al., Can People Detect Eyewitness-Identification Accuracy Within and Across Situations?, 66 J. Applied Psychol. 79, 83 (1981). Importantly, cross-examination can be quite ineffective with a mistaken (albeit honest) eyewitness who is testifying as to *“False-But-Fervently-Believed-In-Memories”* with confidence and consistency ... See, e.g., State v. Clopten , 223 P.3d 1103, 1110 (Utah 2009) (“Cross-examination will often expose a lie or half-truth, but may be far less effective when witnesses, although mistaken, believe that what they say is true.”).

Despite popular misperceptions, research shows that *witness confidence is quite often not a reliable, accurate indication of memory accuracy*. As one science report concluded, “[t]he outcomes of empirical studies, reviews, and meta-analyses have converged on the conclusion that the confidence-accuracy relationship for eyewitness identification is weak.” Brewer et al., The Confidence-Accuracy Relationship in Eyewitness Identification, 8 J. Experimental Psychol. Applied 44, 44-45 (2002). In addition, the confidence of eyewitnesses in actual cases, unlike in controlled experiments, may be infected by misleading feedback received in the investigative process (for example, an officer stating “good, you’ve told us what others have told us” – Inv. Leiter disclosed in this case or a science-uninformed psychotherapist (e.g Therapists Gillum and Macnab in this case) supporting a “survivor” reporting “buried-blocked-recovered inherently unreliable alleged “memories “of abuse. See supra n.6;

see also Wells et al., 7 *Psychol. Sci. in Pub. Int.* at 45; Wells & Bradfield, “Good, You Identified the Suspect”: Feedback to Eyewitnesses Distorts Their Reports of the Witnessing Experience, 83 *J. Applied Psychol.* 360, 374 (1998). Indeed, witness confidence can be affected by a host of factors that have no relation to reliability. See, e.g., Wells & Quinlivan, 33 *Law & Hum. Behav.* at 11-12”. Above excerpts are from the Amicus Brief of the American Psychological Association to the US Supreme Court in Barion Perry v. State of New Hampshire, [Docket No. 10-8974], 2012. Again, none of this essential information was properly presented to the uninformed, misinformed jury in this case.

4B5. Basic Essential Science-History: The science of Memory and False Memory has documented specific methods by which memories can be contaminated, changed, manipulated, transformed, or falsely created without the witness being aware of memory changes. The infamous cases of mis-interviewing discussed above led many States to expect and/or require ***ALL interviews with alleged victims to be Audio or Video-Recorded and reviewed for abusive mis-interviewing.*** (cf. On this record it appears that many or most interviews in this case *were apparently NOT properly recorded* – a level of negligence or corruption that is unprecedented-in-my-30 years of experience reviewing cases in many states. (See, the indicia of corruption and manipulative mis-interviewing documented by Inv. Leiter’s recorded discussion of Apr 21, 2011 and the Newly Discovered evidence regarding Attorney Shubin’s interviews).

In this case it appears that an essential information needed to compile an “Interview Chart” for of ALL interviews conducted was never constructed nor shared as required for competent, honest, proper trial preparation. (E.g., All interviews recorded? Interviewers name listed? Location listed? Date listed? Who was present in the room listed?). Such information was not collected and not properly shared with defense attorneys in time for a proper analysis with a competent expert. The defense attorneys also failed (due to Negligence or corrupt sabotage of their client’s case) to present the interview evidence they had (including Inv Leiter’s historic confession of an abusive Government Memory Manipulation scheme) to a competent memory Science (not a therapist) Expert Witness in Memory-False Memory-Interviewing Methodology for proper analysis. The totality of such egregious errors in this very troubled case is unprecedented in my 30-year experience and provides additional indicia of corruption in this matter. (See the detailed analysis of Indicia of Corruption below). Note that a Transcript should be considered quite Worthless without a Recording. Tragically, I have discovered in many cases that transcripts are often NOT consistent with the actual recording.

4B6. Basic Essential Science-History: Science has documented a series of methods, procedures, and ideologies that increase the risk of inducing Fervently-Believed-In-But-False-“Memories”. Alleged victims/patients – after contemplation, memory misinformation, and indoctrination via interviews-therapy in RRM-MPD-DIS ideology – can become convinced that mental images (from movies-books, or a suggested by therapists (Gillum, Macnab, civil lawyers (Shubin) or improper investigative interviews (Leiter) are actual “memories. Such patients have –in thousands of cases become convinced that suggested images are actual and accurate “memories” of real trauma that were formerly “buried” “blocked” or “dissociated”. See, e.g. Garry, Maryanne; Manning, Charles G., Loftus, Elizabeth F., Sherman, Steven J (1996). "Imagination inflation: imagining a childhood event inflates confidence that it occurred". *Psychonomic Bulletin & Review* 3 (2): 208–214. doi:[10.3758/bf03212420](https://doi.org/10.3758/bf03212420). See, also Dodier et al. presented a large meta-analysis of 139 studies involving 24,007 participants which found *a high link between fantasy proneness and “dissociative experiences”* as measured by the DES. See, also Merckelbach H, Otgaar H, Lynn S J. Empirical research on *fantasy proneness and its correlates* 2000-2018: a meta-analysis. *Psychol Conscious*; in press. See, Dodier O, Otgaar H, Lynn SJ. A critical analysis of myths about dissociative identity disorder. *AnnMe d Psychol* 2021. <http://dx.doi.org/10.1016/j.amp.2021.10.007>.

See, also Laney, C and Loftus, E. *Traumatic Memories Are Not Necessarily Accurate Memories*, *Can J Psychiatry*, Vol 50, No 13, 2005. ... Some therapists argue that the hypothesized repression (blocking memories) is more likely to occur in response to specific types of trauma. In particular, Terr claimed that repeated traumas are more likely to produce repression. Freyd argued that repression is caused when a trauma is perpetrated by a loved one on whom one depends for the basic necessities of life. ***These notions have virtually no credible, reliable, valid scientific support.*** ... Another observation lends support to the idea that people can become quite emotional about events that they have not personally experienced. How often do people cry in movies? *If there is one lesson from this research, it is probably this: Just because a memory seems detailed, just because the person seems confident in it, and just because emotion is expressed when the memory is contemplated, does not mean it really happened.* See, e.g. Garry, Maryanne; Manning, Charles G., Loftus, Elizabeth F., Sherman, Steven J (1996). "Imagination inflation: imagining a childhood event inflates confidence that it occurred". *Psychonomic Bulletin & Review* 3 (2): 208–214. doi:[10.3758/bf03212420](https://doi.org/10.3758/bf03212420). See, also Dodier et al. presented a large meta-analysis of 139 studies involving 24,007 participants which found *a high link between fantasy proneness and “dissociative experiences” as measured by the DES.* See, also Merckelbach H, Otgaar H, Lynn S J. Empirical research on fantasy proneness and its correlates 2000-2018: a meta-analysis. *Psychol Conscious*; in press. See, Dodier O, Otgaar H, Lynn SJ. A critical

analysis of myths about dissociative identity disorder. *Annals of Clinical Psychology*

2021. <http://dx.doi.org/10.1016/j.amp.2021.10.007>. See also, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, Springer International Publishing, ISBN 9783319633749

See also, Van Bergen, S., Horselenberg, R., Merckelbach, H., Jelicic, M., & Beckers, R. (2010). Memory distrust and acceptance of misinformation. *Applied Cognitive Psychology*, 24: 855-896. Post-event information can come from leading questions, statements made by others or suggestions of how events might have occurred (by lawyers, therapists, investigators, and judges). Since such suggested, improper memory encoding can lead to source amnesia and source monitoring errors and thus false memories, *witnesses who are exposed to suggestive questions or false RRM-MPD-DISS information may encode the wrong, imagined details into their memory, convincingly claiming to have seen or experienced things they only imagined, dreamed, or “saw” in therapy, guided imagery, suggestive interviews, or hypnotic images. “Such processes can lead to grave legal implications* as they can produce false testimony and wrongful convictions therefore, it *is important that interrogation practices are carefully conducted and videotaped* for a proper analysis of leading, suggestive, or coercive -- potentially memory contaminative -- questioning.” See, also Johnson, M.K., Hashtroudi, S., & Lindsay, D.S. (1993). Source monitoring. *Psychological Bulletin*, 114(1): 3-28. Again, apparently none of this essential information was properly shared with the apparently uninformed, misinformed jury in this case.

4B7. Basic Essential Science-History: Human are not reliable “Human Lie Detectors” without reviewing actual corroborative evidence. Even so, poorly trained investigators (Leiter and others), therapists (Gillum, Macnab) and attorneys (Shubin) are VERY often not aware of this essential scientific information. False hubris and science-uninformed beliefs in “professional experience” can lead to Confirmation Bias and induced false memories consistent with the assumptions of science-uninformed interviewing professionals (eg. see Leiter’s recorded discussion and newly discovered Shubin evidence on this record).

Science-uninformed legal professionals, investigators, and therapists too often turn courtrooms, interviews, and therapy sessions into gambling casinos. Science-uninformed judges fail to fulfill their “gatekeeper” function and force juries to make choices that no person can reliably, accurately make – assessing “memory” claims *without corroborating evidence*. Science demonstrates that humans – including Investigators, Psychotherapists, Lawyers, Judges, and All other Humans are unreliable lie detectors in the absence of corroborating evidence. The science is clear that humans cannot reliably

distinguish true from false verbal statements in the absence of corroborative evidence. Professionals such as police, psychotherapists, and investigators often (gullibly) believe they can reliably detect false patient reports but the science shows they cannot and, in fact, professionals *are typically no better at this task than laypersons*. See, Vrij, Aldert, Granhag, P. and Porter, S. (2010) Pitfalls and opportunities in nonverbal and verbal lie detection. *Psychological Science In The Public Interest*, 11 (3). pp. 89-121. ISSN 1529-1006 10.1177/1529100610390861 “The final error that we will highlight is that professional lie catchers (i.e., including GALs and psychotherapists) tend to overestimate their ability to detect deceit. **Research has consistently shown that when professional lie catchers and laypersons are compared, “professionals are more confident in their veracity judgments but are NO more accurate”** Emphasis added. See, Rosen, G. M. and Phillips, W.R., A Cautionary Lesson from Simulated Patients, *Journal of the American Academy of Psychiatry and Law*, 32, 132-133, (2004); See, McNally, RJ, Troubles in Traumatology, *Canadian Journal of Psychiatry* 50:815–816 (2005) (showing experienced expert clinicians routinely misdiagnose — fooled by false reports — of PTSD in veterans whose records prove they never actually experienced any combat).

During the past several decades, the detection of deception has come under increasing empirical scrutiny (e.g., see Vrij, 2008). One reason for the enormous scientific interest in deception is *the increasingly recognized problems that have arisen in the legal system as a result of failed credibility assessments, such as wrongful convictions* (e.g., Porter & ten Brinke, 2010; Vrij, Granhag, & Porter, 2010). Assessing the credibility of reports of sexual victimization – often in the absence of corroboration – presents a significant challenge for legal decision makers. This study examined the accuracy of observers in discriminating genuine and fabricated sexual assault allegations. **“Results indicated that overall accuracy was below chance (M = 45.3%)”** See, Kristine A. Peace, Stephen Porter and Daniel F. Almon, *Sidetracked by emotion: Observers’ ability to discriminate genuine and fabricated sexual assault allegations*, *Legal and Criminological Psychology* (2011), The British Psychological Society.

See also, K. Peace and S. Porter, A Longitudinal Investigation of the Reliability of Memories for Trauma and other Emotional Experiences, *Appl. Cognit. Psychol.* 18: 1143–1159 (2004). The nature of traumatic memories has become a major focus of cognitive research and a heated debate in psychology (e.g. Read, 2001) **“Traumatic images tended to persist in memory with NO apparent impairment**, whereas features of positive memories were subject to considerable distortion, regardless of interview style. The findings contribute to the understanding of the impact of trauma on memory with the passage of time.” See also, Ivan Mangiulli, Henry Otgaar, Marko Jelicic & Harald Merckelbach, A Critical Review of Case Studies on Dissociative Amnesia (April, 2021) *Clinical Psychological Science*, DOI:

10.1177/21677026211018194 (and all citations and research discussed therein). See also, Henry Otgaar, Olivier Dodier, Maryanne Garry, Mark L. Howe, Elizabeth F. Loftus, Steven Jay Lynn, Ivan Mangiulli,, Richard J. McNally, and Lawrence Patihis., Oversimplifications and Misrepresentations in the Repressed Memory Debate: A Reply to Ross, Journal of Child Sexual Abuse, July 2022.

See also, Richard J. McNally (2021): Are memories of sexual trauma fragmented? Memory, DOI: 10.1080/09658211.2020.1871023 at <https://doi.org/10.1080/09658211.2020.1871023> ... [*Findings do not support the existence of special memory mechanisms that are unique to experiencing traumatic events.*] ; See also, Elke Geraerts, Dragica Kozarić-Kovacic', Harald Merckelbach, et al, Traumatic memories of war veterans: Not so special after all. Consciousness and Cognition 16 (2007) 170–177.... *traumatic memories were not qualitatively different from neutral memories* with respect to their stability and sensory qualities. The severity of PTSD symptoms was not significantly correlated with dissociative experiences. Our findings do not support the existence of special memory mechanisms that are unique to experiencing traumatic events. See also, K. Peace and S. Porter, A Longitudinal Investigation of the Reliability of Memories for Trauma and other Emotional Experiences, Appl. Cognit. Psychol. 18: 1143–1159 (2004). *The nature of traumatic memories has become a major focus of cognitive research and a heated debate in psychology (e.g. Read, 2001) ...Traumatic memory imagery tended to persist in memory* whereas features of positive memories were subject to considerable distortion, regardless of interview style. The findings contribute to the understanding of the impact of trauma on memory with the passage of time.

We should note that “heated debates” over “controversial notions” have clearly *not been accepted by the relevant scientific community and thus fail the test of a competent Frye and also Daubert analysis leading to exclusion to protect the integrity of the legal system.* On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

4B8. Basic Essential Science-History: THE LIMITS ON CLINICAL KNOWLEDGE AND “CLINICAL JUDGMENT” ARE OFTEN UNKNOWN TO POORLY TRAINED THERAPISTS and LEGAL PROFESSIONALS. The Mental Health System (therapists) lags far beyond the rest of Health Care in using science-evidence-based treatments. FRYE and/or DAUBERT hearings are supposed to protect the integrity of the legal system from such pseudo-science, unreliable methodologies. : Psychotherapists often do not receive reliable, accurate feedback in therapy work settings. Without accurate feedback they CANNOT develop reliable, improved expertise or “judgment” over time.

See, Tracey, T.J., Wampold, B.E., Lichtenberg, J.W., Goodyear, R. K., (2014) Expertise in Psychotherapy: An Elusive Goal, *American Psychologist*, Vol. 69, No. 3, 218-229. “In a review of expertise across professions, Shanteau (1992) identified several professions in which practitioners develop expertise, which he defined as increased quality of performance that is gained with additional experience. These professions, which demonstrate there can be a relation between experience and skill, include astronomers, pilots, chess masters, mathematicians, accountants, and insurance analysts. Shanteau ***also identified several professions for which expertise was not demonstrated [including psychotherapists]***. See also, Garb, H. N., & Boyle, P. A. (2003). Understanding why some clinicians use pseudoscientific methods: Findings from research on clinical judgment. In S. O. Lilienfeld, S. J. Lynn, & J. M. Lohr (Eds.), *Science and pseudoscience in clinical psychology* (pp. 17–38). New York, NY: Guilford Press. See also, W. M. Grove and P. E. Meehl, Comparative Efficiency of Informal (Subjective, Impressionistic) and Formal (Mechanical, Algorithmic) Prediction Procedures: The Clinical-Statistical Controversy, *Psychology, Public Policy, and Law* (1996) Vol. 2, No. 2, 293-323 1076-8971/96/

As a former faculty member in major University Departments of Medicine (Surgery) and Psychology (Clinical-Developmental) and also Law, I am well aware that over the past century many components of the health care system — surgery, radiology, laboratory testing, internal medicine, pharmacological systems — became science-driven and far more effective and reliable. Courts and families are too often unaware that this transformation — from the widespread use of unreliable methodologies (junk science) to the widespread use of reliable science-based methodologies has, in many ways, ***not yet occurred in the mental health system***. See, “A century ago, American medicine was an unregulated and unscientific craft, *with little research to support its practices*. In 1910, *The Flexner Report*, published by early 20th century Abraham Flexner of Harvard Medical School, under the auspices of the Carnegie Foundation for the Advancement of Teaching, exposed the sorry state of medical practice, leading to major reform of both the training and practice in medicine. Among other things, the report revealed that half of the nation’s medical schools were sub-par, and many were closed down as a result. The remaining schools adopted rigorous admissions and training standards for their students, focusing on the scientific approach to medical education and practice that is still evident today. ***Tragically, unknown to many legal professionals, clinical psychology, social work, psychiatry, and counseling, are currently in a tenuous situation similar to where medicine was in the early 20th century***. For example, the past President of the Association for Psychological Science, Prof. Walter Mischel, has stated ***“the current disconnect between psychological science and clinical practice is an unconscionable embarrassment”***. See, e.g., West, Catherine, ‘An Unconscionable Embarrassment’, Association for Psychological Science, Observer, October 2009; Also see, Mischel, W. Connecting Clinical Practice to Scientific Progress,

Psychological Science in the Public Interest, Vol 9, No 2, 2009 ;_See, also Baker, T., McFall, R. & Shoham, V., Current Status and Future Prospects of Clinical Psychology: Toward a Scientifically Principled Approach to Mental and Behavioral Health Care, Psychological Science in the Public Interest, Vol. 9, No. 2 (2009); See also, Harrington, A., Mind Fixers: Psychiatry's Troubled Search for the Biology of Mental Illness, W. W. Norton & Company; 1st edition, April 16, 2019 ; Dawes, R.M., House of cards: Psychology and psychotherapy built on myth, New York: Free Press (1997).

4B9. Basic Essential Science-History: PTSD symptoms other “trauma” mental health symptoms and DSM diagnoses, are often NOT reliable indicators of actual trauma or abuse. PTSD symptoms are often NOT reliable indicators of actual, historic trauma events — such symptoms also occur with FALSE-believed-in memories as well as real memories of trauma and such symptoms are also easily faked. For example, most “flashbacks” are of unknown origin and traumatized veterans have reported dying and other impossibilities in their “flashbacks”.

See, “Consistent, emotionally powerful, stories of memories from highly educated people — e.g. alien abduction “memories” -- can be quite consistent, filled with detail, and very compelling -- yet quite false.” See, McNally, R.J., Lasko, N.B., Clancy, S.A., Macklin, M.L., Pitman, R.K., and Orr, S.P. 2004. Psychophysiological responding during script-driven imagery in people reporting abduction by space aliens. *Psychol. Sci.* 15: 493–497.]. During my clinical psychotherapy and assessment work at the Palo Alto VA Hospital/Stanford Medical School, I interviewed combat veterans who “died” in their “flashbacks” — obviously so-called “flashbacks” are NOT reliable depictions of accurate “real” memories.

In sum, competent, properly trained, science-informed psychotherapists and investigators (cf. unlike the negligent, science-uninformed investigators, lawyers, and therapists involved in this case) readily admit that without actual, corroborative evidence they CANNOT reliably assess the accuracy of patient-witness verbal reports. ***It is a serious licensing-ethics violation for any therapist to claim they have ANY reliable method for evaluating the origin or accuracy of abuse allegations without corroborative evidence.*** (cf. On this record, compare this basic, essential knowledge to the incompetent- or corrupt, fully documented Confirmation Bias reportedly displayed in this case by Inv. Leiter and Therapist Gillum as on this record they both disclosed the firm (irrational, incompetent) belief that they (magically) “knew” what patients-witnesses were supposed to tell them and then they apparently worked via improper, repetitive, coercive, abusive, improper, mis-interviewing to get patients-witnesses to change their “memories” to fit a pre-conceived – confirmation biased- narrative).

4B10 Basic Essential Science-History: Human memory is a **RECONSTRUCTIVE PROCESS NOT A RECORDING** – not like a video recording and NOT a DVD record that can be “recovered” or played back at will. Human memory is subject to post-event manipulation, contamination, and change via many processes but especially repetitive-leading interviews, improper-misleading psychotherapy, and/or suggestive mis-information from lawyers, media, and other sources (e.g., On this record, all of these memory-contaminating influences were documented in PA vs Sandusky). ***This is why proper interviewing methodology is ESSENTIAL to the integrity of the legal process and why review of ALL RECORDINGS of all interviews is essential to a fair investigation and trial. Psychological science has not yet developed a reliable way to classify memories as true or false in the absence of corroborative evidence.*** In some of the most significant and important psychological research in history, Prof. E. Loftus has demonstrated that ***ONE WORD in ONE QUESTION can induce a FALSE memory that did not exist prior to the ONE WORD in ONE question.*** This is why corroboration is so essential in accessing memories and this is why ALL conversations are potential sources of memory contamination and ***why ALL interviews MUST BE PROPERLY RECORDED.*** Memory is malleable and subject to contamination. “To reiterate the main points: memory is more prone to error than many people realize. Our memory system can be infused with compelling illusory memories of important events. These grand memory errors have contributed to injustices that could have been avoided or minimized.”

See, Barden RC: Reforming the Mental Health System: Coordinated, Multidisciplinary Actions Ended “Recovered Memory” Treatments and Brought Informed Consent to Psychotherapy. Psychiatric Times. 2014;31(6): June 6, 2014.

See Loftus, E., Our changeable memories: legal and practical implications. Science and Society. Nature Reviews: Neuroscience Volume 4, March 2003, page 231- 235;

See, Bruck, M. and Ceci, S. (1995). ‘Amicus brief for the case of State of New Jersey v. Michaels presented by the committee of concerned social scientists. Psychology, Public Policy, and Law, 1, 272-322

See, Loftus, E.F. & Davis, D. (2006) Recovered Memories. Annual Review of Clinical Psychology. 2, 469-498;

See, Loftus, E. F. (2005) Planting misinformation in the human mind: A 30-year investigation of the malleability of memory. Learning and Memory, 12, 361-366.

See, Ofshe, R. and Watters, E., *Making Monsters: False Memories, Psychotherapy, and Sexual Hysteria*. 2nd Edition. University of California Press, 1996;

See, Acocella, J., *The Politics of Hysteria*, The New Yorker, April 6, 1998, pg. 64-79; See also, Barden, R. C., Foreword in Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened*

and *What We Need to Learn from It*, [Springer International Publishing](#), ISBN 9783319633749 ; See also, Loftus, E. *The Myth of Repressed Memory, False Memories and Allegations of Sexual Abuse*, St. Martin's Press, 2013.

See, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, [Springer International Publishing](#), ISBN 9783319633749 ;

See, Loftus, E. *The Myth of Repressed Memory, False Memories and Allegations of Sexual Abuse*, St. Martin's Press, 2013; See, McNally, R.J. (2003) *Remembering Trauma*, Cambridge, MA: Belknap Press/Harvard University Press.

See, Pope H., Oliva P., and Hudson J., 'Repressed memories: The scientific status of research on repressed memories' in Faigman, D.L., Kaye, D.H., Saks, M.J., and Sanders, J. (eds) (2012) *Science in the law: social and behavioral science issues*, St. Paul, MN: West Group, 807–913; and

See, Piper A., Lillevik L., and Kritznier R., 'What's wrong with believing in repression? A review for legal professionals' (2008) 14 *Psychology Public Policy and Law*, 223–42.

See, Barden, R.C., *Memory and Reliability: Developments and Controversial Issues*. In *Witness Testimony in Sex Cases*, Eds. Pamela Radcliffe, Anthony-Heaton Armstrong, Gisli Gudjonsson, and David Wolchover, Consultant Editor: Sir Anthony Hooper, Oxford University Press, March 2016.

See, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, [Springer International Publishing](#), ISBN 9783319633749.

4B11 Basic Essential Science-History: It is essential for Investigators, Attorneys, Therapists, and Journalists to understand the history of the “Memory Wars” and the collapse of the “Recovered Memory-Multiple Personality Disorder-Dissociative Ideology-Therapy Movement of the 1990s) (the novel notions of RRM-MPD-DISS fail Frye analysis). History has documented that error-ridden RRM-MPD-DISS ideology taught to patients-clients via science-uninformed-misinformed-unethical therapists (e.g. On this record, Gillum and Macnab) have created false memories and damaged the integrity of the legal and mental health systems. These apparently science-uninformed “therapists” should be properly questioned under oath at Legislative and Licensing Investigations. Note also that, reportedly, collusive memory contaminating discussions among alleged victim witnesses also took place (e.g. See the Newly Discovered information provided by “sting investigator” AJ Dillon who has alleged that Attorney Shubin and Therapist Macnab ran memory contaminative processes groups for alleged victims ... and thus cross-contaminated “expected” memories worth apparently millions of dollars in settlement payoffs). More importantly, the well-documented, highly improper police investigations in this case (See, Inv. Leiter's April 21, 2011 recorded discussion of a program of systemic Government

witness memory contamination) failed to employ minimal standards for proper, ethical interviews. This information was apparently not properly shared with the jury in this case.

History documents that tens of thousands of families were destroyed by these very same RRM-MPD-DISS ideologies and methods in the 1990s before a tsunami of lawsuits and licensing revocations largely shut down the once thriving RRM-MPD-DISS therapy industry. See, Barden RC: Reforming the Mental Health System: Coordinated, Multidisciplinary Actions Ended “Recovered Memory” Treatments and Brought Informed Consent to Psychotherapy. *Psychiatric Times*. 2014;31(6): June 6, 2014.

The history of the “Memory Wars” —shows that many thousands of families were destroyed by therapist induced false memories of abuse. This mental health system-legal system debacle was reformed by many lawsuits and licensing revocations. Although this history — is very well known and very well documented in articles, textbooks, published legal case decisions, and international media – apparently ***none of this essential information was properly presented to the jury in this case.*** (See detailed citations below). See, Ofshe, R. and Watters, E., *Making Monsters: False Memories, Psychotherapy, and Sexual Hysteria*. 2nd Edition. University of California Press, 1996; See, Acocella, J. The Politics of Hysteria, *The New Yorker*, April 6, 1998, pg. 64-79; See also, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, [Springer International Publishing](#), ISBN 9783319633749 ; See also, Loftus, E. *The Myth of Repressed Memory, False Memories and Allegations of Sexual Abuse*, St. Martin’s Press, 2013 **and hundreds of additional citations See eg.** ³

³ Barden, R.C., (2001) Informed Consent in Psychotherapy: A Multidisciplinary Perspective, *The Journal of the American Academy of Psychiatry and the Law*, Vol 29, No. 2, pgs. 160-166.

Barden RC: Reforming the Mental Health System: Coordinated, Multidisciplinary Actions Ended “Recovered Memory” Treatments and Brought Informed Consent to Psychotherapy. *Psychiatric Times*. 2014;31(6): June 6, 2014.

Bruck and Ceci, Amicus Brief for the Case of State of New Jersey V. Michaels Presented by Committee of Concerned Social Scientists, 1 *Psychology, Public Policy and Law* 272 (1995)

Ceci, S.J., & Bruck, M. (1993b). Children's recollections: Translating research into policy. *SRCD Social Policy Reports*.

Ceci, S.J., & Bruck, M. (1995). Jeopardy in the courtroom: A scientific analysis of children's testimony. Washington, D.C.: American Psychological Association.

Ceci, S.J., Crotteau, M., Smith, E., & Lotus, E.W. Repeatedly Thinking about a Non-event: Source Misattributions among Preschoolers. *Consciousness & Cognition*, Vol 3, 388-407 (1994).

Dodier, O., Otgarr, H., Lynn, S., A Critical Analysis of Myths About Dissociative Identity Disorder, *Medico-psychological annals*, August 2021. <https://doi.org/10.1016/j.amp.2021.10.007>

Grove, W. M. and Barden, R.C. (2000) Protecting the Integrity of the Legal System : The Admissibility of Testimony from Mental Health Experts Under Daubert/Kumho Analyses, *Psychology, Public Policy and Law*, Vol 5, No. 1, 234-242. Excerpts reprinted in AF, George (Prof. Stanford Law School), *Evidence: University Casebook Series*, Foundation Press - West Group, New York, 2002, pg. 688.

Houben, S. T. L., Otgaar, H., Roelofs, J., Merckelbach, H. (2018). Lateral eye movements increase false memory rates. *Clinical Psychological Science*, 6, 610–616. <https://doi.org/10.1177/2167702618757658>.

Loftus, E. F. (2002) Memory Faults and Fixes. *Issues in Science & Technology* (publication of the National Academies of Science), 18, # 4, pp 41-50.

4B12. Basic Science-History, Psychotherapy Ethics, and Licensing Violations: Counseling or therapy with alleged “trauma” victims during an ongoing criminal investigation and prior to trial should be carefully examined as a potential form of tampering with the memories of witnesses.

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- Loftus, E.F. & Davis, D. (2006) Recovered Memories. *Annual Review of Clinical Psychology*. 2, 469-498.
- Loftus, E. F. (2005) Planting misinformation in the human mind: A 30-year investigation of the malleability of memory. *Learning and Memory*, 12, 361-366.
- Mazzoni, G. and Memon, A. Imagination Can Create False Autobiographical Memories, *Psychological Science*, Vol. 14, No. 2, March, 2003 pg. 186-193.
- Mangiulli, I., Otgaar, H., and Jelicic, M., A Critical Review of Case Studies on Dissociative Amnesia, *Clinical Psychological Science (APS)*, June 8, 2021. <https://doi.org/10.1177/21677026211018194> ... ***Dissociative amnesia, defined as an inability to remember important autobiographical experiences, usually of a stressful nature, is a controversial phenomenon.*** We systematically reviewed 128 case studies of dissociative amnesia reported in 60 articles that appeared in peer-reviewed journals in English over the past 20 years (2000–2020). Our aim was to examine to what extent these cases met core features of dissociative amnesia. All cases were about reports of autobiographical memory loss, but the evidence offered in support of a dissociative amnesia interpretation was often ***weak and plagued by an ambiguous heterogeneity with respect to nature, etiology, and differential diagnoses of alleged memory loss.*** Most case studies failed to rule out plausible alternative explanations of dissociative amnesia, such as ordinary forgetting and malingering.”
- McNally, R.J., Lasko, N.B., Clancy, S.A., Macklin, M.L., Pitman, R.K., and Orr, S.P. 2004. Psychophysiological responding during script-driven imagery in people reporting abduction by space aliens. *Psychol. Sci.* 15: 493–497.
- Nourkova, V.V., Bernstein D.M., and Loftus, E.F. 2004. Altering traumatic memories. *Cognition and Emotion* 18: 575–585.
- Patihis, L. and Pendergrast, M. , Reports of Recovered Memories of Abuse in Therapy in a Large Age-Representative U.S. National Sample: Therapy Type and Decade Comparisons, *Clinical Psychological Science*, 1-19, 2018...."The potential hazards of endeavoring to recover ostensibly repressed memories of abuse in therapy have previously been documented. Yet no large survey of the general public about memory recovery in therapy has been conducted. In an age-representative sample of 2,326 adults in the United States, we found that 9% (8% weighted to be representative) of the total sample reported seeing therapists who discussed the possibility of repressed abuse, and 5% (4% weighted) reported recovering memories of abuse in therapy for which they had no previous memory. ***Participants who reported therapists discussing the possibility of repressed memories of abuse were 20 times more likely to report recovered abuse memories than those who did not.*** Recovered memories of abuse were associated with most therapy types, and most associated with those who reported starting therapy in the 1990s. We discuss possible problems with such purported memory recovery and make recommendations for clinical training."
- Schacter, D.L. and Slotnick, S.D. 2004. The cognitive neuroscience of memory distortion. *Neuron* 44: 149–160.
- Schmolck, H., Buffalo, E.A., and Squire, L.R.
- Thomas, A. K., Bulevich, J. B., & Loftus, E.F. (2003) Exploring the role of repetition and sensory elaboration in the imagination inflation effect. *Memory & Cognition*, 31, 630- 640.
- LINK Editorial Board, Comparing the NICHD and RATAAC Child Forensic Interview Approaches - Do the Differences Matter? *THE LINK: Official Newsletter of the Intl Soc. for the Prevention of Child Abuse and Neglect* , Vol 20, No 1, Fall 2011.
- Michael E. Lamb, Yael Orbach, Irit Hershkowitz, Phillip W. Esplin and Dvora Horowitz, “A structured forensic interview protocol improves the quality and informativeness of investigative interviews with children: A review of research using the NICHD Investigative Interview Protocol,” *Child Abuse & Neglect*, Volume 31, Issues 11-12, November, December 2007, Pages 1201-1231
- Michael E. Lamb, Irit Hershkowitz, Yael Orbach, & Phillip W. Esplin, *Tell Me What Happened: Structured Investigative Interviews of Child Victims & Witnesses*, Wiley Series in Psychology of Crime, Policing and Law, Sept. 2008 (and ALL citations and studies contained therein).

Including all research cited within the works listed above.

Science and history have shown that memories can be manipulated and radically changed by post-event information, leading interviews and therapy. Is that what happened in this case? Is that the reason multiple alleged victims' "memory" reports apparently changed substantially AFTER exposure to coercive-repeated interviews with Inv. Leiter and crew and AFTER interviews-therapy with Attorney Shubin and therapist Macnab. See, Branaman, T. F. & Gottlieb, M. C. Ethical and Legal Considerations for Treatment of Alleged Victims: When Does It Become Witness Tampering? Professional Psychology: Research and Practice, 2013, Vol. 44, No. 5, 299–306. The ethics of such practices is FAR more doubtful when the therapist is financially involved with a lawyer seeking millions of dollars in payment for transformed "new memories" of abuse. See for example, Attorney Shubin and Therapist Macnab's reportedly joint efforts resulting in new "changed memories" and payoffs of millions of dollars in cases apparently lacking proper vetting, investigation, or corroborative evidence of abuse. (See, Newly Discovered evidence of this report).

4B13. Basic Science, Psychotherapy Ethics, and Licensing Violations: Science un-informed psychotherapists (See, e.g. Gillum, MacNab, and Chambers in this case) often violate the international human rights (and licensing duties, statutory duties, ethics codes, and common-sense fairness) of patients by *failing to obtain proper informed consent*. On the record of this case, it appears that the therapists involved, and all of them -- failed to understand professionally, competently, or ethically -- WHAT is required to obtain informed consent from the alleged victim patients involved in this case. I have written on such issues in one of the leading journals in the world. See, Barden, R.C., (2001) Informed Consent in Psychotherapy: A Multidisciplinary Perspective, The Journal of the American Academy of Psychiatry and the Law, Vol 29, No. 2, pgs. 160-166. I incorporate all references and citations in that publication into this report. It is crucial to understand that informed consent is NOT just some statutory duty but rather *a key Quality Control process in ALL psychotherapies which requires maintaining an honest, open, trustworthy relationship with the patient*. Telling the patient negligent, false, misleading, harmful RRM-MPD-DISS misinformation while failing to tell the patient the honest truth about the contentious debates over science issues, the unreliability of the process, and the known dangers of RRM-MPD-DISS therapy is not just an informed consent rules/ethics violation it is a violation of the Standard of Care for ALL psychotherapies by social workers, counselors, psychologists, psychiatrists or any other mental health worker.

Note that a proper, ethically-informed, science-informed consent discussion must include the known risks of Fervently-Believed-In-But-False- "Memories" that "come back" or were "buried" or "blocked" or "dissociated". Such a documented discussion must include *a complex, detailed, proper,*

professional, and acceptable consent process which would require instruction and discussion about many essential issues including:

A) *the nature of reconstructive memory and how memory is subject to contamination* (e.g., source confusion/amnesia, misinformation, multiple interviews, etc.)

B) *the history of the “Memory Wars”* and the tsunami of tens of thousands of Fervently-Believed-In-But-False-“Memories”, the harm of false abuse claims, etc.

C) *the risk of mixing imagination-dreams-movie images with memory*

D) **that the relevant scientific community has rejected the novel notions of RRM-MPD-DISS including “recovered repressed memories” as a “pernicious myth”** and other critical information required for any patient to make an informed choice as to “counseling” treatments.

“Informed consent is the process in which a health care provider educates a patient about the risks, benefits, and alternatives of a given procedure or intervention. The patient must be competent to make a voluntary decision about whether to undergo the procedure or intervention. Informed consent is both an ethical and legal obligation of medical practitioners in the US and originates from the patient's right to direct what happens to their body. Implicit in providing informed consent is an assessment of the patient's understanding, rendering an actual recommendation, and documentation of the process. The Joint Commission requires documentation of all the elements of informed consent "in a form, progress notes or elsewhere in the record." The following are the required elements for documentation of the informed consent discussion: (1) the nature of the procedure, (2) the risks and benefits and the procedure, (3) reasonable alternatives, (4) risks and benefits of alternatives, and (5) assessment of the patient's understanding of elements 1 through 4.

It is the obligation of the provider to make it clear that the patient is participating in the decision-making process and avoid making the patient feel forced to agree to with the provider. The [health care] provider must make a recommendation and provide their reasoning for said recommendation... Obtaining informed consent in medicine is process that should include: (1) describing the proposed intervention, (2) emphasizing the patient's role in decision-making, (3) discussing alternatives to the proposed intervention, (4) discussing the risks of the proposed intervention and (5) eliciting the patient's preference (usually by signature). Discussion of all risks is paramount to informed consent in this context. Most consent includes general risks, risks specific to the procedure, risks of no treatment and alternatives to treatment.” See, Shah P, Thornton I, Turrin D, et al. Informed Consent. StatPearls Publishing; 2022 Jan. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK430827/>.

Such essential, minimal informed consent rules, principles and requirements have been in effect for decades. Many of the “Memory Wars” lawsuits that shut down clinics and resulted in licensing revocations focused on just these kinds of informed consent violations.⁴

On this record, there is evidence indicating that *case-involved psychotherapists Gillum and Macnab are apparently “true believers” in controversial, unreliable, novel RRM-MPD-DISSOCIATION ideology but no evidence that they know or understand the science and history debunking such controversial notions*. Similarly, there is no evidence that such local therapists understand the hazards of confirmation bias, or the risks of coercive-multiple interviews, or the history of thousands of cases of false memories induced by therapist malpractice. Given the defense attorneys negligent (or corrupt case sabotage) failure to investigate the influence of these local therapists on alleged victims’ memories as well as their failure to obtain a competent memory-false memories expert who would have required such an investigation, the record I have to review is limited. Future public investigations the multiple types of misconduct in the investigation-trial of this case should obtain detailed sworn depositions-testimony from all mental health professionals involved in PA v Sandusky using questions written by competent science and mental health ethics experts. These therapists should also be properly investigated for evidence of multiple licensing violations (eg., dual conflicting roles, failure to obtain informed consent, etc).

4B14. Basic Essential Science-History: Coping and Resilience Science, Positive Psychology, and competently conducted Cognitive Behavioral Therapy offer a variety of effective science-validated methods for reducing multiple forms of mental health and emotional disturbance. On this record, none of the alleged victims in this case were apparently truthfully informed by any therapist involved (e.g. Gillum, Macnab) regarding the dangers and risks of the *inherently unreliable process of recovering* “blocked”, “buried”, “dissociated” “memories that come back” vs. the known benefits of multiple *more effective treatment alternatives* including scientifically validated Coping and Resilience Science, Positive Psychology, Cognitive Behavior Therapy, and others.

It is ESSENTIAL in such matters to obtain and review ALL *certified complete mental health records* of ALL alleged victims. This is especially true for all alleged victims who A) were in therapy

⁴ The history of informed consent is instructive. See also, Jochen Vollmann, Rolf Winau, Informed consent in human experimentation before the Nuremberg code, BMJ's Nuremberg issue, British Medical Journal 1997;314:439 See also, The Nuremberg Code and the Declaration of Helsinki, See also, “Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10”, Vol. 2, pp. 181-182. Washington, D.C.: U.S. Government Printing Office, 1949.] and Nuremberg Code text from: <https://history.nih.gov/display/history/Nuremberg+Code>

during this investigation and trial and B) radically changed their “memory” reports during the investigation and trial. These complete mental health records should be obtained and reviewed by a competent EXPERT for evidence of RRM-MPD-DISSOCIATION malpractice, misinformation, failures of informed consent, dual role ethics violations (acting in dual conflicting roles as a therapist to a patient but also a consultant to the State in the same case – as Gillum and Macnab appear to have done on this record -- would be a serious ethics/dual conflicting role violation and should be properly reported to the PA licensing board.) (cf. On this record, during the corrupt, improper, often unrecorded, improperly repetitive, unethical investigative-therapist practices in this case involved permitting a RRM-MPD-DISSOCIATION therapist, Mr. Gillum, sit in on a police investigative interview (!) – egregious misconduct – for the investigator and for the therapist -- that is unprecedented in my 30 year experience reviewing hundreds of cases in dozens of jurisdictions.

Apparently safer, less controversial, and potentially more effective alternative treatments were not discussed nor offered to patients in this case. see, Coping and Resilience Science treatments. See, e.g., S. Southwick and D. Charney, *Resilience: The Science of Mastering Life’s Greatest Challenges*, Cambridge University Press, Second Edition, 2018; Seligman, M. and Steen, *Positive Psychology Progress: Empirical Validation of Interventions*, *American Psychologist*, July 2005 ; See, Seligman, M. E. P. (2002). *Authentic happiness: Using the new positive psychology to realize your potential for lasting fulfillment*. New York, NY: Free Press ; See, Seligman, M. E. P., & Csikszentmihalyi, M. (Eds.). (2000). *Positive psychology* [Special issue], *American Psychologist*, 55(1) ; See also, Linley, P. A., & Joseph, S. (Eds.). (2004). *Positive psychology in practice*. Hoboken, NJ: Wiley ; See also, Burns, D. (Stanford Medical School), *Feeling Good: the New Mood Therapy*, Quill Harper Collins Publishers (January 1, 2000) ; See, King, L. A., Hicks, J. A., & Krull, J., & Del Gaiso, A. K.. (2006). Positive affect and the experience of meaning in life. *Journal of Personality and Social Psychology*, 90, 179–196 ; See, Feder, A., Nestler, E. J., & Charney, D. (2009). Psychobiology and molecular genetics of resilience. *Nature Reviews*, 10, 446–466 ; See, Charney, D. S. (2004). Psychobiological mechanisms of resilience and vulnerability: Implications for successful adaptation to extreme stress. *American Journal of Psychiatry*, 161,195–216 ; See, Bonanno, G. A. (2005). Resilience in the face of potential trauma. *Current Directions in Psychological Science*, 14, 135–138 ; See, Vaillant, G. E. (2002). *Aging well: Surprising guideposts to a happier life from the landmark Harvard study of adult development*. New York, NY: Little, Brown & Co.

4B15. NEGLIGENCE or CORRUPTION SERVING POLITICAL-ECONOMIC INTERESTS? How is it possible that so much essential history and science evidence was never properly shared with the uninformed, misinformed, jury in PA vs Sandusky?

What essential information was never shared with the jury in PA v Sandusky?

-- the well-documented history of RRM-MPD-DISS memories – like many in this case – being REJECTED as inherently unreliable by the relevant scientific community and excluded from multiple courts properly applying FRYE or DAUBERT-KUMHO analyses to evidence presented at complex, detailed, intensive hearings often involving multiple world experts.

-- the well-documented history of the *thousands of false “recovered repressed memory” claims of criminal sexual abuse that were investigated and debunked by the FBI* (Spec. Agent Kenneth Lanning Special Task Force) *and the National Center for Child Abuse and Neglect* (Gail Goodman, Ph.D). or

-- the well-documented history of years of intense international *scientific debates and a wave of national litigation* -- “*The Memory Wars*” – regarding the controversial “pernicious myth” of recovered repressed -- “buried”, “blocked”, dissociated”, “trauma memories” (much like several of the alleged “memories” reported in PA v Sandusky) ;

-- the well-documented history of decades of science showing the trauma victims REMEMBER and do not forget in “fragmented” portions of memory to be recovered over time ;

-- the well-documented history of cases like McMartin, Wenatchee, Kelly Michaels and many others showing how systematic, abusive, repetitive interviewing methods (like those described in detail in Inv. Leiter’s April 21, 2011 taped discussion) can produce horrific, detailed, yet quite false memories.

-- the well-documented history of *many psychotherapy malpractice lawsuits* that successfully shut down most of the RRM therapy industry as widely reported in the international news media for years. See, e.g. Belluck, P. Memory Therapy Leads to a Lawsuit and Big Settlement [\$10.6 Million], The New York Times, Page 1, Column 1, Nov. 6, 1997; See, Belluck, P. She Recovered Memories, Then 10 Millions in Damages, The New York Times, Nov 9, 1997, Sec. 4, Week in Review, page 2, Column 3 ; See, United Press International, Woman wins \$10 M in false memory suit, Chicago, Ill. November 4, 1997; See, Gustafson, Paul. Jury awards \$2.5 million in lawsuit against psychiatrist: 'Memories' were induced. Minneapolis/St. Paul Tribune, January 25, 1996, 1B ; See also, Guthrey, M. and Kaplan, T., 2nd Patient Wins Against Psychiatrist: Accusation of planting memories brings multi-million (\$2.5) dollar verdict. St. Paul Pioneer Press, Jan. 25, 1996, 4B ; See, Ann Zimmerman, Cult of Madness: Seeking help for depression, Martha Hurt turned to therapists. That's when her insanity truly began, Dallas Observer Oct 14, 1999; See, also, Wallace, C.G., Idaho Falls Post Register, "State board suspends psychologist's license," July 3, 1996, p. A-8 ; See, Duran, Sarah. Man wins therapy lawsuit and \$2.1 Million, Tacoma Washington, The News Tribune, January 13, 2001 ; See, Rovella, David E. , Malpractice suit nets \$2.1 million in mental health case, THE NATIONAL LAW JOURNAL, February 22, 2001; See, Mooney, Tom. Recovered Memory Rejected: Judge rules out key element in landmark case. The Providence Journal (Rhode Island). April 28, 1999, etc.

The Essential History of the RRM-MPD-DISS movement leaders was apparently not shared with the jury in PA v Sandusky: Why? (e.g., On this record, it appears that Gillum and Macnab and also attorney Shubin as well as many others (See “RRM” evidence from the case record section below). were all “believers” in this novel, very controversial, unproven, unreliable RRM-MPD-DISS ideology, methods, and practices). On this record, it appears that the essential history of malpractice litigation, licensing revocations, and other documented misconduct of leaders of the “Recovered Repressed Memory” Movement was apparently unknown to everyone involved in confused PA vs Sandusky investigation and trial. None of this information was apparently offered to the misled jury in this case.

For example, reportedly:

— Dr Bennett Braun, MD. Former President of ISSD and Chief Editor of “Dissociation” was sued leading to a world record settlement. Dr Braun’s clinic was also closed and his medical license was surrendered to the State of IL Licensing Board following prosecution by the Illinois Attorney General. Dr Braun’s license – after years of suspension was restored – and then his license was reportedly surrendered again and this time permanently for drug offenses. In addition, Dr Braun has been on in many lawsuits as widely reported by the media. Several of these were listed by the State of Illinois in the formal complaint against Dr. Braun by the Attorney General's Office including but not limited to: Shanley v. Judith Peterson, Braun, et al. ; Schwidersky v. Peterson, Braun, et al. ; Benoit v. Assoc. Mental Health Services ; Higgins v. Rush Presbyterian St Luke's Medical Center, Braun, et al. ; Becker v. Rush Presbyterian St Luke's Medical Center, Braun, et al. ; Bloom v. Braun, et al. ; Dale v. Braun, et al. ; Kreger v. Braun, et al. ; Doe v. Robins, Braun et al. ; Department v. Braun and others. This list includes the most famous of all "recovered memory" cases Burgus v. Braun, reportedly the largest psychiatric malpractice settlement in history. See, Belluck, P. (1997, November 6). Memory therapy leads to a lawsuit and big settlement. *The New York Times*, page 1, col 1. This report appears in hundreds of AP publications, TV shows, and radio stations worldwide. Virtually all MPD and RMT clinics in North America were closed following this news. Apparently, none of this historic information on the credibility of the RRM-MPD-DISS ideology that figure so prominently in the case was properly shared with the jury in PA v Sandusky. Such information is also essential in a properly litigated FRYE hearing on this novel ideology.

— Dr Bessel van der Kolk, MD (VDK) was reportedly fired (“released”, “let go”, “contract not renewed”) from Harvard Medical School for multiple reasons including reportedly a deposition conducted by Dr RCB Barden in a RI federal case. The deposition documented serious misconduct (false statements to the NH v Hungerford court) and exposed serious questions about whether VDK ever actually conducted the research for his “Fragmentary Nature of Trauma Memories” research. For example, VDK reportedly admitted that Danya Vardi, VDK’s 2nd named author in the paper offered to the Hungerford court, was actually prosecuted and found guilty of *research fraud* by Federal/Harvard investigation panel

prior to VDK giving their joint study to the court — the fraud conviction was apparently not honestly reported to the court in that NH criminal trial. The Federal District Court in Rhode Island reportedly then ordered Dr. VDK to produce his alleged data for the “Fragmentary Nature of Trauma Memory” for review of accuracy and credibility. Dr. VDK reportedly refused to comply with the Federal Court order, fled from the process server, dropped out of the relevant cases and years later claimed in sworn deposition testimony that the “only copy of his data” on the essential “fragmentary nature of trauma memories” study “burned up in a fire”, a fire that VDK never reported to fire, police or hospital officials. No other witness to the alleged “fire” apparently exists. See, pg 171 of the May 4, 2005, Videotaped deposition of B. van der Kolk, MD in *Bonse v. Archdiocese of St Paul and Minneapolis*, Court File No. 62-C4-02-11412, Second Judicial District, Ramsey County, Minnesota. VDK was also reportedly fired from his Trauma Clinic amidst allegations that he abused employees. VDK’s expert testimony and analysis was reportedly excluded as unreliable following a DAUBERT hearing in *State of New Hampshire v. Hungerford* and *State of New Hampshire v. Morahan* 698 A.2d 1244 (N.H. 1997). VDK’s expert testimony and analysis was also excluded as unreliable following a DAUBERT hearing in a Neb case, *Rivers v. Father Flanagan’s Boys Town*, Doc 1024, Case No. 743, Nebraska State Court Judge Sandra L. Dougherty, November 25, 2005 resulting in another case dismissal, *Duffy v. Father Flanagan’s Boys Town*, Case No. 8:03CV31, United States District Court for the District of Nebraska, Memorandum and Order of January 26, 2006. VDK’s expert opinions on “trauma memories” were reportedly again excluded as unreliable in Franklin v. Stevenson, 987 P.2d 22 (1999) as the Utah Supreme Court noted the “evidence clearly did not meet the initial foundational showing of *reliability*” ... “Not only has this court held that *unreliable* techniques are inadmissible as evidence, but also that any expert testimony based upon unreliable techniques is also *unreliable and inadmissible....* the *necessary* threshold *reliability* of these techniques was not established in the instant case.”

— Dr Renee Fredrickson, PhD. Author of the RMT foundational book “Repressed Memories”. Dr RF was sued, paid settlement, and was punished by MN licensing board with restriction on practice. See, “Before the Minnesota Board of Psychology, Stipulation and Consent Order of May 7, 1999 In the Matter of Renee Fredrickson, Ph.D., L.P. License No. LP2653... "It is hereby ordered that the Licensee is placed in a Restricted and Conditional status and that all other terms of this stipulation are adopted and implemented by the Board this 7th day of May, 1999." See, e.g. American Psychological Association MONITOR, Recovered-memory lawsuit is settled out of court, Vol. 29, Number 9 -September 1998 ; See, Lerner, Maura, *Psychologist barred from treating cases involving false memories*, Minneapolis/St. Paul Tribune, June 3, 1999.

— Dr George Greaves, PhD. RMT expert and **Past President** of Intl Society for the Study of Dissociation. His *license was permanently revoked* for abusing multiple patients using hypnosis and

“dissociation” to obtain sexual access to vulnerable patients.... “Despite his personal knowledge of the patient's extreme vulnerability due to emotional disorders.... [Dr Greaves} repeatedly hypnotized the patient for the purpose of engaging in sexual intercourse." See, “Before the Georgia State Board of Examiners of Psychologists, Docket Number 93-598 , AG NO. 64PB-CA-97300-92, In the Matter of George B. Greaves, Ph.D. , Consent to license revocation signed April 1, 1994.

— Dr Colin Ross, MD. Another **Past President** of ISSD. Dr Ross was reportedly sued ending in settlement, testimony excluded from Tx v Harris case following a Daubert hearing for unreliable methods (junk science), testimony reportedly excluded from Hamanne vs Humenansky (MN) for unreliable methods (junk science). See, Texas vs. Harris. Associated Press, “Texas man suspected of raping older women claims he suffers from multiple personality disorder”, Washington Post, National Desk Sept. 19, 2011; and see, “*Expert witnesses disagree on validity of multiple personality disorder*” by Sonny Long, Victoria Advocate News, September 20, 2011 Edna, Texas; and see, Platenberg, G. Jury sentences convicted rapist to life in prison. Victoria Advocate News, Sept. 30, 2011. The court excluded the testimony of the defense expert witness (psychiatrist Colin Ross, MD) who testified regarding the defendant’s “multiple personalities”, “dissociated memories”, etc. The court found the testimony regarding Dissociative Identity Disorder (DID) [... a variant of Repressed Recovered Memory -Multiple Personality Disorder] was **controversial, unreliable, and not accepted by the relevant scientific community.**” Dr Ross has also produced unusual theories about controlling “energy” from his eyes. See, "Dr. Colin Ross Demonstrates How He Sends a Beam of Energy From His Eyes" at <https://vimeo.com/1449829>

— Dr Judith Herman, MD was reportedly arrested by Federal agents for multiple drug violations, lost prescription privileges, punished by MA licensing board, and paid large fines. See, July 5, 1995, Boston Globe, “US Attorney settles Drug Lawsuit with Cambridge Psychiatrist (fine paid and loss of prescription privileges). “The United States of America seeks civil penalties against the defendant for numerous violations of the Comprehensive Drug Abuse Prevention and Control act of 1970, 21 U.S.C. §§ 801 et seq..” . Federal Complaint at pg 2. "on numerous occasions during the period relevant to this Complaint, Herman used her DEA registration to purchase controlled substances from wholesale drug distributors. Specifically, Herman purchased significant quantities of Schedule III narcotic and non-narcotic controlled substances, including Fiorinal with Codeine, Idenal, and Butalbital, and Schedule IV controlled substances such as Diazepam, Flurazepam, and Halcion. Each of these controlled substances has a high potential for abuse and poses a risk to the user of psychological or physical dependence" at pg. 3 of the Federal Complaint. "On March 16, 1994 representatives of the DEA and the Board visited the Collective and spoke with Dr. Herman. Dr Herman openly acknowledged her actions, voluntarily surrendered her DEA registration at that time..." See, page 4 of the MA ST Bd of Medicine Complaint.

— Dr Daniel Brown, PhD – opinions reportedly excluded from the RI vs. Quattrocchi case following a Frye-Daubert hearing for unreliable expert testimony. [His cross examination reportedly exposed ethics violations and misrepresentations of research]. See, State of Rhode Island v. Quattrocchi, C.A. No. P92-3759 (R.I. 1999) [on remand from the Rhode Island Supreme Court 681 A.2d 879 (R.I. 1999)]. Dr Brown apparently has no history of obtaining Federal or State research grants.

— Dr Judith Peterson, PhD, was reportedly indicted by a Federal Grand Jury in Texas and criminally prosecuted by the US DOJ for implanting “recovered memories” and thus creating “dissociated splits” (MPD) in order to charge insurance to treat the fabricated symptoms. The case ended in a mistrial (too many jurors had to drop out of the very long trial). The co-defendant hospital was reportedly closed and sold. See, Criminal Charges Filed in Recovered Memory Case. December 1, 1997. Psychiatric Times, Psychiatric Times Vol 14 No 12, Volume 14, Issue 12. See, See, U.S.A. v. Judith Peterson, Ph.D., et al., U.S. Southern District of Texas, Crim. Case No. H-97-237, James H. Deatley, U. S. Attorney.

— Dr Constance Dalenberg, PhD – Her opinions were reportedly excluded as unreliable following a Frye-Mack-Daubert hearing in Doe vs. Archdiocese (MN is a Frye state.) [See, John Doe v. Archdiocese of St. Paul, Case No. 62-C9-06-003962, December 8, 2009 and affirmed by the Minnesota Supreme Court on July 25, 2012, John Doe v. Archdiocese of St. Paul, 817 N.W.2d 150 (Minn. 2012). In testimony at that hearing, Dr Dalenberg admitted to refusing other scientists access to review her research data. She also admitted to later **destroying the only copy** of her essential data set and “nobody else” viewed such data.

— Dr Phillip Coons, MD. RMT expert psychiatrist. Dr Coons admitted that *he “destroyed” the only copy of his most important data* on repressed memories and dissociation and that no other person has apparently ever seen Dr. Coons’ alleged data. See, Barden, R.C., Deposition of P. Coons, Hurt v. Ash et al. (Tx) Sept 20, 2000 at page 223... “8 Q. And do you still have the raw data for that 9 study? 10 A. No. 11 Q. Where did it go? 12 A. Well, as I said, I’ve -- I’ve not kept that 13 data. 14 Q. Meaning that it was destroyed? 15 A. Yeah, I -- I threw it out. 16 Q. So were you the one who personally destroyed 17 it, or did you hire somebody else to do it? 18 A. No, I personally destroyed it.”

4B16. Basic Essential Science-History: As noted in this report, on this record, it appears that **NONE** of the science-history uninformed Legal Professionals (prosecutors, defense attorneys and judge) associated with this case seemed aware of the history of the “Memory Wars” one of most important chapters in the history of the Mental Health System in the U.S. Similarly, on this record, it appears that *nobody associated with this case seems aware of the history of the many Frye-Daubert-Kumho hearings excluding such “junk science” testimony from “pieced together”, “recovered”, “buried”, “blocked” or “dissociated” memories*, nor the many lawsuits successfully suing

and some reportedly bankrupting RRM-MPD-DISS therapists for some of the kinds of practices described in this case, nor the national and international news stories about these cases-suits-licensing revocations, nor the state licensing board revocation proceedings that ended the practices of several leaders of the recovered repressed memory movement. The alternative hypothesis is that these legal professionals were aware but improperly (improperly?) kept all of this information from the jury.

Histories of these internationally reported events have been published in leading professional and science journals and in medical textbooks as well as international media including page one, col. one of the NY Times, hundreds of Associated Press newspaper articles, the BBC, NBC Dateline national TV broadcast, many magazines, and many other outlets. There were many such lawsuits and licensing cases over a period of years resulting in the closing down of clinics practicing such dangerous forms of psychotherapy. This was one of the most infamous chapters in the history of the US mental health system. I participated in many of these cases, hearings, and licensing actions to protect the safety of the public and *protect the integrity of the legal system.*

I have also published histories of these events in leading scientific and professional outlets such as Oxford University Press. (See, Dr Barden's resume). Many of these cases received national or international press coverage. See, Hanson, Cynthia, Dangerous Therapy, Chicago Magazine, June, 1998. "The [\$10.6 Million] Burgus settlement is said to be the largest sum ever awarded in a psychiatric malpractice suit." See, Rierden, A., "When a buried truth wants out, is it real?" The New York Times, April 24, 1994, Section 14 CW, p. 1, Connecticut Weekly Desk. "R. Christopher Barden, the lawyer-psychologist who is representing Mrs. Downing, said he has talked to hundreds of women across the country who have undergone recovered memory therapy and that their stories are strikingly similar. He called the psychological technique one of the biggest consumer frauds of recent times." McKenna, M.A.J., "Abuse' backlash builds: 'Victims' deny 'memories,' sue therapists," The Boston Herald, April 8, 1994, p. 45 ; See, Ann Zimmerman, Cult of Madness: Seeking help for depression, Martha Hurt turned to therapists. That's when her insanity truly began, Dallas Observer Oct 14, 1999 ; Johnson, P.M., "Patients sue psychologist over false abuse memories: Repressed memory cases on the rise nationwide," Idaho Falls Post Register, January 30, 1995, p. A-1 ; See, In the Matter of the License to Practice Psychology: Mark D. Stephenson, License No. Psy-253, Before the Board of Psychologists, State of Idaho, Case No. PSY-03-95-005. "At issue was the treatment of female patients who initiated complaints to the Board. They said through hypnotic procedures, Dr Stephenson implanted false memories of sexual abuse into their minds. The State filed a complaint alleging that respondent violated the American Psychological Association (APA) ethical standards in his treatment of the female patients. The board ordered

respondent's license suspended for three years.”; Duran, Sarah. Man wins therapy lawsuit and \$2.1 Million, Tacoma Washington, The News Tribune, January 13, 2001 ; Lief, H. , Patients Versus Therapists: Legal Actions Over Recovered Memory Therapy, Psychiatric Times, November 1999 Vol. XVI Issue 11 ; Lief, HI & Fetkewicz, JM. (1999) Casualties of recovered memory therapy: The impact of false allegations on accused fathers. In Review of Psychiatry, Vol. 1., RC Friedman & JI Downey, Eds., 115-141 ; Mooney, Tom. Recovered Memory Rejected: Judge rules out key element in landmark case. The Providence Journal (Rhode Island). April 28, 1999; AP News Wire story, Psychiatrist loses license over cult abuse recovered memory allegations. Chicago, Friday Oct. 8, 1999.

Publications on the History of the Rise and Fall of the RRM-MPD-DISS ideology that figured so prominently in PA v Sandusky but was never properly shared with the jury.

See, e.g. Barden RC: Reforming the Mental Health System: Coordinated, Multidisciplinary Actions Ended “Recovered Memory” Treatments and Brought Informed Consent to Psychotherapy. Psychiatric Times. 2014;31(6): June 6, 2014.

See, e.g. Barden, R.C., (2016) Memory and Reliability: Developments and Controversial Issues. In *Witness Testimony in Sex Cases*, Eds. Pamela Radcliffe, Anthony-Heaton Armstrong, Gisli Gudjonsson, and David Wolchover, Consultant Editor: Sir Anthony Hooper, **Oxford University Press**, Foreword by Lord John Thomas, Chief Justice of England and Wales.

See, Belluck, P. *Memory Therapy Leads to a Lawsuit and Big Settlement [\$10.6 Million]*, The New York Times, **Page 1, Column 1**, Nov. 6, 1997.

See, e.g. Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, **Springer International Publishing**, ISBN 9783319633749. Preface by R. Chris Barden, Ph.D., JD.

Thus a key investigative hypothesis in this case — essential to the integrity of this investigation — has never been properly investigated. *The theory is that the alleged victims in this case were defrauded by negligent, “recovered memory” therapists in PA — including Therapist Macnab (who was reportedly working with civil Attorney Shubin) and therapist Gillum who reportedly spent 3+ years in “treatment” with an alleged victim before the patient reported “memories” of criminal abuse.* Why haven’t the certified-complete office forms, all billing records, and all mental health treatment records of the alleged victims been properly reviewed by a national expert? Was this failure due to Negligence or a deliberate joint effort to sabotage this case and produce a rapid, certain conviction?

On this record, no other national expert in the field of therapist malpractice, misconduct, and licensing violations has reviewed these records and none testified at the science-ethics-uninformed PA v Sandusky trial. On the records reviewed thus far this case appears to contain significant evidence supporting the alternative hypothesis that some or all of the *alleged victims were indoctrinated into the controversial, novel, pseudoscientific ideology of RRM-MPD-DISS including “recovered repressed memory” therapy, “traumatic amnesia”, “dissociated memories” “pieced together memories” “recovered trauma memories” and even “speaking to an “inner child personality”* (See, alleged victim MS’s book on how he recovered his “memories” and other cites to the record below) and similar very controversial, unproven, inherently unreliable novel notions that have been *soundly rejected by the relevant scientific community* (as a “pernicious myth”) and also excluded by multiple courts in multiple states following competent FRYE or DAUBERT hearings. Apparently little or none of this essential information was shared with the jury in PA v Sandusky.

4B17. Basic Essential Science-History: Therapist Licensing Revocations: The well-documented history of nationally reported *licensing revocations of leaders of the RRM-MPD “therapy” movement was apparently unknown to all of the science and history uninformed legal professionals in this case.* See, AP News Wire story, Psychiatrist loses license over satanic allegations. Chicago, Friday Oct. 8, 1999; See, also, Wallace, C.G., Idaho Falls Post Register, "State board suspends psychologist's license," July 3, 1996, p. A-8, and others.

4B18. Basic Essential Science-History of Frye and Daubert-Kumho hearings: *The well known, published, and widely discussed Science-History of multiple Frye-Daubert-Kumho hearings excluding “recovered memory” alleged victim testimony and expert testimony in cases like PA v Sandusky was apparently unknown to ALL of the legal professionals in this case.* Specifically, such evidence (expert testimony and alleged victim “memories”) was excluded following Frye and Daubert-Kumho hearings because RRM-MPD-DISS novel notions of “buried-blocked-dissociated “memories”, methods, and science have been *rejected (not accepted) by the relevant scientific community* as inherently unreliable “therapy world” evidence not for use in the legal system.

The novel RRM-MPD-DISS ideology, controversial, unreliable evidence subjected to FRYE or DAUBERT hearings in other states was excluded to *protect the integrity of the legal system* because RRM-MPD-DISS ideology and practices have:

- not been accepted by the relevant scientific community (see cited science below and see Amicus from dozens of world-leading science experts who opined “Decades of research and

scientific debate have clarified over and over again, that the notion of traumatic events being somehow “repressed” and later accurately recovered is one of *the most pernicious bits of folklore ever to infect psychology and psychiatry.*”

-- *NOT been supported by methodologically competent science published in peer reviewed journals, and have...*

-- *NO known error rate* – (and thus might *have a potential error rate of 100%*).

The results of properly conducted Frey and also Daubert-Kumho hearings on “memories” similar to some of those alleged by several of the PA vs Sandusky accusers *were apparently unknown to ALL of the legal professionals in this case. The hearings include:*

See, Hamanne, et al. v. Humenansky, Ramsey County Minnesota File No. C4-94-203, Judge Betrand Poritsky, June 30, 1994, Transcript page 83-84. “The Frye hearing has been concluded and we are still on the record... It’s my finding, first, that the theory a person can block out of awareness [repress or dissociate] a long stream of [traumatic] events and subsequently recall them accurately is not supported by experts in the field. And further that there is general agreement by experts that such [recovered memory] evidence is not reliable nor trustworthy. That’s the Frye standard. As to the Daubert standard, it is also my ruling that such [recovered memory] evidence is not reliable nor helpful to the jury.”

See, Carlson v. Humenansky (Ramsey County Minnesota Trial Court), Judge Betrand Poritsky (January, 1996). Judge Poritsky again found (as he had in Hamanne v. Humenansky) that repression and recovered memories were unreliable concepts, not accepted by the relevant scientific community, not helpful to a jury and thus inadmissible.

See, Engstrom v. Engstrom California App., 2nd App. Dist., Div 2, (CA 1997) “[Repressed memory] is not generally accepted as valid and reliable by a respectable majority of the pertinent scientific community...”

See, State of New Hampshire v. Hungerford and State of New Hampshire v. Morahan 698 A.2d 1244 (N.H. 1997) “The phenomenon of recovery of repressed memories has not yet reached the point where we may perceive these particular recovered memories as reliable.”

See, State of New Hampshire v. Walters 697 A.2d 916 (N.H. 1997) “[W]e conclude, as we did in Hungerford , that ” [t]he indicia of reliability present in the particular memories in [this] case[] do not rise to such a level that they overcome the divisive state of the scientific debate on the issue.”

See, Franklin v. Stevenson, 987 P.2d 22 (1999). Utah Supreme Court ruling. ”Stevenson objected to the reliability of both the [recovered repressed memory] recovery techniques and Franklin's own

testimony concerning the recovered memories, as well as to the experts' testimonies regarding both the theory of repressed memory and Franklin's memories in particular.... As we conclude below, the trial court erred in not finding the plaintiff's experts' testimonies [regarding “repressed memories”] inadmissible... On cross-examination in this case, Stevenson elicited concessions from both of Franklin's expert witnesses, Dr. Bessel van der Kolk, and Franklin's therapist, Dr. Laurie Hoover, regarding *the lack of scientific foundation* for the therapeutic techniques Dr. Hoover used with Franklin... Franklin's evidence clearly did not meet the initial foundational showing of reliability... Not only has this court held that *unreliable techniques are inadmissible as evidence...* the *necessary* threshold reliability of these techniques was not established in the instant case.”

See, State of Rhode Island v. Quattrocchi, C.A. No. P92-3759 (R.I. 1999) [on remand from the Rhode Island Supreme Court 681 A.2d 879 (R.I. 1999)] "The State has not met its burden of establishing that repressed recollection is reliable and admissible as scientific evidence.” [The testimony of the alleged victim — based on recovered “memories” of abuse — was excluded and the case was dismissed.]

See, State of New Hampshire vs. Bourgelais, Docket No. 02-S-2834, Judge T. Nadeau, April 4, 2005. “the State’s motion [to use repressed memory evidence at trial] is denied... the court determines, based on the law and the evidence, that *the reliability of memory retrieval has not been sufficiently established...*”

See, Rivers v. Father Flanagan’s Boys Town, Doc 1024, Case No. 743, Nebraska State Court Judge Sandra L. Dougherty, November 25, 2005. “In conclusion, the Court finds and concludes that Rivers *has not met his burden of establishing that repressed and recovered memory is reliable and admissible as scientific evidence* or that it is properly applied in this case. The Plaintiff’s evidence lacks the scientific reliability and proper application necessary to admission under Rule 702 and Daubert/Schaferman. As a result, the Courts finds and concludes that the Defendants’ Motion in Limine No. 1 (banning all testimony regarding repressed and recovered memories) shall be sustained.” [The testimony of the alleged victim — based on recovered “memories” of abuse — was excluded and the case was dismissed.]

See, Texas vs. Harris. Associated Press, “Texas man suspected of raping older women claims he suffers from multiple personality disorder”, Washington Post, National Desk Sept. 19, 2011; and see, “Expert witnesses disagree on validity of multiple personality disorder” by Sonny Long, Victoria Advocate Newspaper, September 20, 2011 Edna, Texas; and see, Platenberg, G. Jury sentences convicted rapist to life in prison. Victoria Texas Advocate, Sept. 30, 2011. The court excluded the testimony of the defense expert witness (a psychiatrist) who testified regarding the defendant’s “multiple personalities”, “dissociated memories”, etc. The court found the testimony regarding Dissociative Identity Disorder

(DID) [... a variant of Repressed Recovered Memory -Multiple Personality Disorder] ***was controversial, unreliable, and not accepted by the relevant scientific community.***”

See, John Doe v. Archdiocese of St. Paul, Case No. 62-C9-06-003962, December 8, 2009, 2nd Judicial District, Judge Gregg E. Johnson after a detailed, complex hearing found, “***Plaintiff failed to meet his burden of proof under the Frye-Mack standard of showing that the concept of repressed and recovered memory is generally accepted in the relevant scientific community***” ...“Inclusion of the diagnosis of dissociative amnesia in the DSM-IV does not establish general acceptance of that diagnosis”... “Plaintiff failed to meet his burden of proof under the Frye-Mack standard of showing that the theory of repressed and recovered memory is reliable and trustworthy based on well-recognized scientific principles because of the significant methodological flaws in the studies presented by plaintiff in support of that theory and the lack of any test to show reliability. Defendant’s Motion to Exclude Expert Testimony under the Frye- Mack standard is hereby GRANTED.” This decision was affirmed by the Minnesota Supreme Court on July 25, 2012, John Doe v. Archdiocese of St. Paul, 817 N.W.2d 150 (Minn. 2012). [The testimony of the alleged victim — based on recovered “memories” of abuse — was excluded and the case was dismissed.]

See, Texas v. Hays, No. CR14-095, CR14-096, CR14-097 & CR14-190 (Bandera Co., Tex. Dist. Ct. July 27, 2015). “It is hereby ordered that the expert testimony of Lisa Watts relating to her opinions regarding Dissociative Identity Disorder (DID) [Testimony on DID ... a variant of Repressed Recovered Memory-Multiple Personality Disorder was excluded as ***controversial, unreliable, and not accepted by the relevant scientific community.***”] None of this information was apparently shared with the jury in PA v Sandusky.

4B19. Basic Essential Science-History: National continuing education courses have taught this essential science-history, the requirement of informed consent for psychotherapy, and the dangers of memory contamination by improper leading-repetitive interviews by investigators, therapists, and attorneys. How is it possible given the world-wide distribution of this knowledge via media, education, CLEs, and other means for apparently ALL of the lawyers, judges, therapists and investigators involved in PA v Sandusky to demonstrate ***unprecedented levels of ignorance of such basic science-history so essential to this case?*** Or, alternatively, is this a case of systemic corruption and sabotage in pursuit of local political and economic goals? (See analysis of these questions later in the report). In addition to the hundreds of national and international news media reports on the RRM-MPD-DISS malpractice cases, licensing revocations, and Memory Wars in addition to the numerous published DAUBERT hearings results excluding “buried” and “blocked” memories surfacing following interviews with local science-uninformed therapists (e.g. Gillum, Macnab), or abusive repetitive Government interviews (as described

by Inv Leiter on April 21, 2011 recording) as were many of the alleged “memories” reported in the trial of this case,

See also, continuing education courses on the science memory-false memory, debunking “recovered repressed memories”, proper use of the Frye-Daubert-Kumho process as taught to many thousands of lawyers, therapists, physicians etc. (CLE, CPE, CME, etc). I personally taught many of these courses in multiple states to thousands of professionals and others did also in addition to Medical, Psychological and Legal symposia on these important issues --- all apparently ignored (or improperly suppressed) in the investigation and trial of the PA v Sandusky case.

International journals, books, and other publications discussing this essential component of the history of the mental health system, the science of psychology/psychiatry, and historic interactions between law and science issues --- were all ***apparently ignored (or improperly suppressed and hidden)*** in the investigation and trial of the PA v Sandusky case.

See e.g. Barden, R.C., Memory and Reliability: Developments and Controversial Issues. In *Witness Testimony in Sex Cases*, Eds. Pamela Radcliffe, Anthony-Heaton Armstrong, Gisli Gudjonsson, and David Wolchover, Consultant Editor: Sir Anthony Hooper, Oxford University Press, March 2016 with a foreword by The Right Honorable, The Lord John Thomas, Lord Chief Justice of England and Wales.

See, also, Grove, W. M. and Barden, R.C. (2000). ‘Protecting the integrity of the legal system: The Admissibility of Testimony from mental health experts under Daubert/Kumho analyses.’ *Psychology, Public Policy and Law*, 5(1), 234-242. Excerpts reprinted in AF, G. *Evidence: University Casebook Series* (2002), Foundation Press – West Group, New York, p. 688.

4B20. Basic Essential Science-History: **There is no credible, reliable research base to ascertain a guess as to what % of abuse allegations are false.** ALL police or mental health or other professionals who report some “guess” (usually a low % hunch with ZERO competent scientific basis and no peer-reviewed citations offered) are simply guessing and it is ***unethical to guess without letting everyone know it’s just a guess.*** The only actual, peer reviewed, published study of this issue I am currently aware of was done by Dr E. Kanin in Indiana. In PA v Sandusky, defense counsel failed to provide the jury with expert witness testimony on such key issues. For example, zero evidence was properly presented to the jury regarding the research of Prof Kanin documenting that when his cases were fully investigated until actually solved -- that **41% of all rape allegations were proven to be false** (by confession of the false accusers) and that a key motivation in false rape claims was “revenge”. [See, Kanin, E. “False Rape Allegations”, *Archives of Sexual Behavior* 23, no. 1 (1994). In my experience,

science uninformed therapists (e.g., Gillum, Macnab) are often quite unaware of the Kanin research and believe RRM-MPD-DISS misinformation claiming a “very low” rate of false allegations. Presenting such misinformation to patients or courts without stating “nobody really knows” is unethical, violates licensing and ethics rules, and is clearly misconduct that should be properly exposed and refuted by competent attorneys and opposing expert witnesses.

4B21. Basic Essential Science-History: Defense Lawyer Negligence or Sabotage: Why did the defense attorneys in this fail to provide the jury with competent expert witness testimony on Memory-False Memory RRM-MPD-DISS issues to help the jury understand the essential science-history issues so relevant to this case.

The jury in PA v Sandusky was not properly informed by a competent expert witness on Memory-False Memory- RRM-MPD-DISS that research on thousands of trauma patients studied in detail showed *they remembered many kinds of abuse without “blocking” memories, without “burying memories” and without “dissociating memories”* or having such memories “come back” later. (See Pope, et al. and other detailed research citations in this report).

The jury in PA v Sandusky was not properly informed by a competent expert witness that one of the key functions of the human brain is to *remember bad, terrifying, horrific, awful, abusive things so we can avoid them in the future*. The controversial, novel, unreliable RRM-MPD-DISS notion that trauma “blocks memories” or “buries memories” and that such “memories come back” in a reliable manner *is a “pernicious myth” according to the relevant scientific community*. See, dozens of research studies as cited in this report as well as the Amicus Statement of many of the world’s leading scientists in this area (See research summaries and Amicus citation in this report).

4B22. Basic Essential Science-History: On this record, no competent expert witness testimony was provided to the jury on the memory-contaminating effects of multiple, leading-suggestive-coercive interviews-therapy by poorly trained and/or corrupt investigators (e.g. Leiter), civil attorneys (e.g. Shubin), and local therapists (e.g. Gillum, Macnab), etc.

WERE MILLIONS of \$ FOR NEW “MEMORIES”? No proper, essential science-history evidence was properly presented to the jury in this case regarding the millions of dollars potentially offered to alleged victims by civil attorneys (Shubin, Andreozzi) and therapists (e.g. Gillum, Macnab).

(See, e.g., Newly Discovered Evidence of sting investigator AJ Dillon's investigative recordings as well as the Newly Discovered SS-Shubin Interview Transcript).

On the April 21, 2011 recording of the BH interview, Inv. Leiter disclosed to Attorney Andreozzi the corrupt-abusive-improper nature of the Government 's investigative interview process in this case including:

PLANNED MEMORY MANIPULATION -- the interviews were apparently carefully planned to be abusively coercive, leading, suggestive, and repetitive. (See, Inv Leiter's discussion of April 21, 2011 with transcript quotes in this report)

A HIGHLY IMPROPER, MEMORY CONTAMINATING INTERVIEW PROCESS. -- the Government interview process described by Leiter in the April 21, 2011 recording appear *carefully planned to deliberately and repetitively manipulate the memory reports of witnesses until they agreed with the Confirmation Bias Goals of Inv Leiter's pre-chosen narrative.* With a competent Expert Witness in Memory-False Memory, this extraordinary discussion of a corrupt interview system could have been the most important evidence in the trial but was instead not properly shared with the jury by the negligent and/or corrupt-sabotage efforts of defense counsel. (See, similar interviewing errors in the infamous McMartin, Wenatchee, Kelly Michaels cases as well as the many RRM-MPD-DISS malpractice litigation cases). (See, Police Investigator Leiter's inadvertently recorded discussion statement at the April 21, 2011 police interview of BH.)

RRM-MPD-DISS IDEOLOGY – WHO INDOCTRINATED THE WITNESSES? No proper evidence from a Memory Expert Witness was properly presented to the jury regarding one of the very ESSENTIAL issues in this trial – HOW, WHEN, WHY, and from WHOM did multiple alleged victims learn the terms, concepts, and ideas to become indoctrinated into the unreliable controversial RRM-MPD-DISS ideology and methods regarding “buried memories”, “blocked memories”, “dissociated memories” “memories stored in an inner child”, “memories from abuse at age 2” and other controversial, inherently unreliable notions? See, Ofshe, R. and Watters, E., *Making Monsters: False Memories, Psychotherapy, and Sexual Hysteria*. 2nd Edition. University of California Press, 1996. [This book explains in detail how and why patients and witnesses came to adopt new “memories” that re-wrote their auto-biographies].

4B23. OPINION: *In sum, on this record, basic, reliable, valid scientific-historical information essential for a competent-fair trial in such cases was never provided to the jury.* Was this the result of unprecedented, Negligence of the lawyers and/or deliberate corruption and sabotage of the case for local political-economic reasons, and/or other motivations? (See detailed evidence and analysis of these investigative hypotheses later in this report).

In sum, on this record, the jury in PA v Sandusky was misled and uninformed regarding essential scientific-historical issues of memory, false memory, systemically-abusive-corrupt interviewing methods and other essential issues. Will these issues be properly investigated with public hearings and witnesses under oath?

5. REVIEW and ANALYSIS OF THE NEWLY DISCOVERED ALLEGED VICTIM SS-ATTORNEY SHUBIN TRANSCRIPT and AJ DILLON TRANSCRIPT EVIDENCE – BOTH SHOWING IMPROPER, MEMORY CONTAMINATING, ABUSIVE MIS-INTERVIEWS. s

5A. Analysis of the newly discovered transcript of a discussion between attorney Shubin and alleged victim SS. In reviewing the newly discovered transcript of a Jan 15, 2018 interview of SS (reportedly since deceased) with his lawyer Andrew Shubin, JD, it is my opinion that this *interview transcript documents highly suggestive, unethical, improper, and abusively leading and memory contaminative interviewing methods by Attorney Shubin*. It is quite clear on this transcript (and I have reviewed hundreds of transcripts as a consultant or testifying expert witness for prosecutors and defense attorneys in dozens of states) that Attorney Shubin was ***not properly interviewing alleged victim SS*** but *improperly and unethically instructing the witness as to the facts Shubin wanted to hear from alleged victim SS*.

This review of the newly discovered transcript produces at least two Investigative Hypotheses. First, that Mr. Shubin was a negligent attorney who somehow was not aware of the decades of basic science-legal history demonstrating how such improperly leading interviews can manipulate-influence-change and transform the “memories” of witnesses thus tainting the integrity of the legal process. An alternative investigative hypothesis is that Mr. Shubin was engaged in an apparently improper and unethical attempt to manipulate and change alleged victim SS’s testimony to obtain payments of settlement money for himself and SS. (See, Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022; (See, Transcript of Shubin- alleged victim SS’s discussion and Affidavit from Attorney D. Litman ; See, Transcript of AJ Dillon Investigation and Affidavit from AJ Dillon).

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that other alleged victims in this case also apparently demonstrated ***radical changes in their “memory” reports following meetings/interviews/discussions/ with Attorney Shubin***.

On the available record, these “memory changes” apparently made the victim’s “new memories” far more financially valuable in future lawsuits and settlements.

On this record, discussions-interviews-therapy with Attorney Shubin and his affiliated psychotherapist Macnab were apparently involved prior to several alleged victim witnesses offering significant changes in their “memory” reports. These changes in memory reports were apparently in the direction of “new memories” of criminal abuse for which Shubin and the witness were likely to be paid enormous sums of money. (See, Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022).

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that the PA Office of the Attorney General was reportedly concerned about Attorney Shubin’s attempts to ***control the testimony of his clients***. See, Police Report “*One of the OAG attorneys had advised me that one of several problem areas with Shubin was his insistence that he be present for the interview of Alleged Victim AM*” [Dr Barden notes: It is **very** unusual anywhere in the US for a civil litigator to be present in a police investigation interview with the litigator’s client, a potential crime victim and a future plaintiff of the civil litigator in a lawsuit for money damages. The serious potential memory-contaminating influences of the civil litigator’s presence in an interview are obvious.]

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation reveals that that on May 7, 2011 — SS (currently deceased) according to a police report told Investigator Anthony Sassano on May 7, 2011 that he did NOT view any of Sandusky’s behavior around him as sexual in nature and never felt uncomfortable around him. Alleged victim SS reportedly told Office of the Attorney General Investigator Sassano “*Sandusky is a great role model as he helps people in need.*” See, Exhibit C, June 1, 2011, Pennsylvania Office of the Attorney General, Investigative Report of Anthony Sassano as noted in the Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.

Following my initial review of the newly discovered Shubin-alleged victim SS transcript, my additional and ongoing investigation revealed that the Office of the Attorney General Investigator Sassano *also reported on his June 1, 2011 interview with JSi , SS’s brother.* ***On this record, unlike his brother, SS, the brother JSi was never interviewed by Attorney Shubin and was never in therapy with Shubin’s affiliate psychotherapist, C. Macnab.*** The police report documents JSi (who reportedly spent

far more time with the defendant than his brother JSi) denied any abuse by Sandusky and told Sassano “he had heard of the allegations against Sandusky in the news and does not believe they are true. He indicated that Sandusky is a very generous and most positive person who helps kids with problems. He indicated that to this day, he has occasional contact with Sandusky via phone and considers him a friend.” (See, Exhibit C, Pennsylvania Office of the Attorney General, Investigative Report of Anthony Sassano, June 1, 2011.)

Investigator Sassano also reported on his May 9, 2021 interview with JSi (File No: 683-12-2914-1 ... [Note: Again, JSi was never interviewed by attorney Shubin and was never in therapy with Shubin-affiliate Macnab and his reported “memories” did not change over time.] Inv. Sassano noted, “He stated that after staying at Sandusky’s house many, many times he knows that Sandusky would have had ample opportunity to abuse him if he was so inclined to do so. He never once ever tried anything out of line with JSi. JSi stated that Sandusky is kind of a grandfatherly, huggy type of guy and genuinely tries to encourage kids with his enthusiasm. His hugging and caring for kids was never sexual at all. He said that he does not believe that these allegations are true and *feels that this might be some type of attempt by these kids to get money or their parents to get money from Penn State and Jerry Sandusky.* He has never heard anyone speak about Jerry Sandusky in a negative way. He (Sandusky) has always had a tremendous impact on a lot of kids ... He said he speaks with (another alleged victim) AM on Facebook and AM never mentioned anything about any incident involving Jerry Sandusky. He stated Jerry Sandusky was a positive influence in his life to say the least. Sandusky set JSi on his life course and JSi feels he would have never gotten into college and would never be in the position he is in today without Sandusky’s help. He said that Sandusky was extremely influential in his life.

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that alleged victim 2’s (AM’s) initial statements reportedly claimed he was “the boy in the shower” and that he reported suffering NO abuse at all from the defendant in this case. AM did not testify at trial as a witness in Sandusky’s defense, reportedly because Attorney Shubin actually hid AM in an undisclosed location. (See, AM’s statement to Investigator Everhart). Consistent with this analysis on Nov 9, 2011 alleged victim #2 (AM), reportedly told investigator Curtis Everhart, “never in my life did I ever feel uncomfortable or violated by Sandusky...never did Jerry do wrong by me... I will never have anything bad to say about Jerry”. In addition, in the Everhart interview the alleged victim AM reported gross misconduct by the investigators consistent with Inv. Leiter’s recorded statements of April 21, 2011 -- documenting a highly improper, systemic, abusive, memory-contaminative government system of Memory Manipulation interviewing (See detailed analysis below). AM reportedly told

Everhart, after telling PSP interviewers that Sandusky never mistreated or abused him in any way “I felt very uncomfortable with the PSP interview process as they would try to put words in my mouth, take my statements out of context. The PSP investigators were *clearly very angry and upset when I would not say they wanted to hear.*” (Exhibit D, Interview with Everhart in Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022).

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that both Investigator Sassano and Inspector Corricelli reportedly *suspected the honesty of Attorney Andrew Shubin with regard to AM’s changed “memories”*. Investigator Sassano reportedly claimed that *Attorney Shubin made a false representation to him (serious unethical misconduct for an attorney)* of alleged victim AM’s “memories” of abuse. In addition, investigator Sassano reportedly rejected AM’s written statement of “memories” as Inspector Corricelli indicated *he suspected Attorney “Shubin wrote it”*. See, Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022, Exhibit E, Supplemental Report of Sassano at pg 5-6.

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that, JS (Alleged Victim #3, on July 19, 2011 - in JS’s *first interview with police – that is, prior to interviews-therapy with Shubin and/or Macnab*), said *“Sandusky never did anything inappropriate to him”* and *“I don’t believe any of this stuff is true and hope he is found not guilty.”* See, Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022, at Exhibit F, JS Police Report.

Later, after six reported meetings with Attorney Shubin and “treatment” with affiliated therapist C. Macnab, JS’s “memory” reports apparently changed radically, and JS then first began to report “memories” of criminal acts of abuse. (N.T. Trial, Day 4 at 97, 99, 102-103). Mysteriously, after the allegations JS reportedly said he wanted to be adopted by Sandusky. (N.T. Trial, Day 4 at 109). See, Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that *alleged victim JS was reportedly paid \$7.25 million for his “new memories”* that emerged AFTER discussions with Attorney Shubin and AFTER “treatment” in therapy with Shubin-affiliated therapist C. Macnab. As per typical civil litigation practices, *Attorney Shubin may well have*

received 40% of that amount, a profound financial incentive to help his clients “find new abuse memories”. See, Exhibit G, affirmation by Ralph Ciprano regarding settlement amounts in Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.]

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that DS (Alleged Victim 7) in 2004, reportedly sent an application for financial aid writing “Jerry Sandusky, has helped me to understand so much about myself. He is such a kind and caring gentleman, and I will never forget him.” (N.T. Trial, Day 3 at 138). Consistent with the evidence reported above, *after multiple (10-15) reported meetings with Attorney Shubin and “therapy” with Shubin-affiliated therapist C. Macnab, DS’s reported “memories” were apparently radically transformed.* After exposure to Shubin and Macnab DS stated that “**through counseling different “memories” were “triggered”**... “that doorway that was closed, has since been opening more... **through counseling and different things I can remember a lot more detail that I had pushed aside** then” (N.T. Trial, day 3 at 143 in Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.

As discussed in detail further in this report, this kind of classic “recovered repressed memory” RRM testimony was *not properly discussed by an expert witness* on Memory-False Memory-RRM at the trial of this matter, *no proper Daubert hearings* were sought or conducted (although many have been held on identical issues in other states as discussed in this report), and *the essential science-history of the RRM “Memory Wars” was never reported to the jury* including licensing revocation prosecutions against RRM-MPD-DISS therapists. (See Gillum and Macnab’s publicly stated views and misconduct discussed below) . No history of the licensing revocations of therapists who engaged in such “therapy” was reported to the jury. No actual science debunking the notion that “different memories” that are “triggered” in therapy are reliable or accurate for real events or in any way suitable for admission in a court of law (See multiple Frye and also Daubert hearings in other states excluding such evidence). No essential charts documenting the number of interviews for each AV were produced for the jury. No essential charts were produced for the jury documenting how many of the interviews for each AV were not properly RECORDED nor who was present in the room and how many such interviews were NOT reported and not RECORDED. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that as predicted by the Alt. Hypothesis of unethical (and/or potentially criminal)

manipulation of witnesses for financial gain, enormous financial payments were indeed made to Attorney Shubin and to several of his clients (and affiliated Therapist Macnab's patients) *after they reported radically new, changed "unblocked" RRM-MPD-DISS "memories" of criminal abuse*. Reportedly Attorney Shubin's clients and Macnab's patients included alleged victims 2, 3, 7, and 10. Payments (financial incentives for new "memories") reportedly included :

AM - \$6.9 million

JS - \$7.25 million

DS - \$3.25 million

RR - \$5.5 million

FP - \$9 million

(See, Exhibit G, affirmation by Ralph Ciprano in Defendant's Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.)

There is apparently zero corroborative evidence for the changed, transformed "memories" of abuse arising AFTER demonstrably improper, leading, interviews with Shubin and apparently RRM therapy with Macnab. (See, Newly Discovered Evidence of Shubin and Macnab interview methods.)

OPINIONS: In my opinion, the newly discovered transcripts of Attorney Shubin's interviewing methods document improper, manipulative, leading-suggestive questioning methods well-known to be capable of, and likely to, manipulate and change the "memories" of witnesses. In addition, in my opinion the Shubin SS and AJ Dillon and other evidence in the Defendant's Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022 further supports the Investigative Hypothesis of unethical and/or negligent practices by attorney Shubin with potential assistance from affiliated therapist Macnab that manipulated and changed the "memory reports" of alleged victims -- by improper leading and suggestive interviews and psychotherapy. Was this possibly for the purpose of obtaining millions of dollars in settlement funds -- as announced via a public offer? This important investigative question/hypothesis should be properly investigated. On this record, the jury in PA vs Sandusky remained uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing issues.

5B. Analysis of the newly discovered transcript in the investigation of A.J. Dillon.

In reviewing the newly discovered transcript of the interview of attorney Shubin with "sting investigator" A.J. Dillon. In my opinion, his transcript provides further corroborative evidence supporting the investigative hypothesis that attorney Shubin and therapist Macnab were engaged in improper, manipulative, memory contaminating interviewing practices. On this transcript, attorney

Shubin strives to *manipulate and change the “facts” of Mr Dillion’s reported allegation “memories”*. Shubin’s conduct, on this newly discovered transcript, supports the investigative hypothesis that Shubin’s goal was to manipulate the “memories” of alleged victims to enhance their monetary value for civil litigation. This transcript and the other newly discovered transcript of Shubin with alleged victim SS contain evidence of unethical and potentially criminal misconduct and should be properly reported to The Office of Disciplinary Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania.

Given this prima facie evidence of a corrupt process of producing-indoctrinating “new memories of abuse” in exchange for life-altering-enormous cash payments (for apparently unvetted, uninvestigated stories of abuse) -- the defense attorneys should have obtained all emails-correspondence-phone records between Shubin and therapist Macnab as well as all billing records and therapy records of Macnab for each AV “patient” to properly assess the potential memory-transforming-manipulating therapy methods used. Given the well-documented, FBI debunked, *thousands of cases of false memories of abuse implanted in the minds of gullible, vulnerable patients by science-uninformed and/or corrupt therapists* during the RRM-MPD-DISS debacle of the 1980s and 1990s, a key alternative defense hypothesis for presentation to the jury was this evidence supporting the investigative hypothesis that Shubin-Macnab were in business to create “brand new memories of abuse” for millions in cash.

As AJ Dillon reportedly said in a Podcast interview with journalist John Ziegler “I was shocked (that Shubin brazenly changed my story) and I am immediately thinking this entire thing (Sandusky investigation/trial) is BS. I came as a fake accuser (conducting a sting investigation), and he (Shubin) changed my story (to produce new and cash-valuable “memories of abuse”). *What makes me think he didn’t do this with everyone?*” (See, With the Benefit of Hindsight, Podcast, 4/21/2021). Dillon’s report and hypothesis appears consistent with the “changing memories” of other alleged victims represented by Attorney Shubin and in therapy with Macnab.

Several of Shubin’s clients reportedly previously told the OAG and state police investigators they were not abused by Sandusky but then gave different “memory” reports at trial after multiple interviews with attorney Shubin and/or after therapy with Shubin’s affiliated therapist C. Macnab. On this record, the “new memories of abuse” were likely to produce large cash payments in the millions of dollars with essentially “few questions asked”. (See, Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022). On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

The newly discovered transcripts of Attorney Shubin's interviews with alleged victim SS and AJ Dillon support the Investigative Hypothesis that Shubin (and his affiliated therapist Macnab) were either A) negligent of the science-history demonstrating the inherent unreliability of RRM-MPD-DISS notions as well as science showing that leading-suggestive interviews can improperly "change-manipulate memories" leading to substantial taint and defects in the integrity of the legal process and/or B) were engaged in an unethical and/or criminal scam to manipulate witnesses to produce "new memory claims of abuse" and thus obtain large settlement sums in civil litigation.

Both of these ongoing investigative hypotheses are supported by my continuing and ongoing investigation of this matter including reviews of evidence documenting a "Culture of Corruption" in the investigation and trial of this case including negligent and/or unethical, and/or deceitful and/or criminal misconduct by investigators, lawyers, and a judge (See, details below). My investigation of these hypotheses continues.

Following this analysis of the newly discovered evidence in this matter, my ongoing investigation, opinions, and investigative hypotheses in this case are detailed below.

6. DR BARDEN's OPINIONS and INVESTIGATIVE HYPOTHESES REGARDING AN ONGOING EXPERT REVIEW OF THE PA v SANDUSKY CASE:

Having reviewed much evidence in this case, I offer several opinions.

In my opinion, the investigation and trial of this case was the most tragically science-uninformed and science-misinformed case I have reviewed in the past 30 years.

In my opinion, the Government's investigative interview procedure as described by investigator Leiter in his recorded statements of April 21, 2011 document a highly improper, abusive, and likely memory contaminative interview scheme that violates any ethical protocol or principles developed by law enforcement and science. Inv. Leiter's recorded description documents one of the most improper, abusive, memory contaminating interview schemes I've reviewed in the past 30 years. Any witness interviewed by Inv. Leiter or using Leiter's methodology should have been challenged by the defense and subject to Expert Witness review and explanation at trial of the relevant-science-history of the kinds of memory contamination often seen from such defective interviewing methods.

— In my opinion, the newly discovered evidence including the transcript of attorney Shubin’s interview of alleged victim SS, as well as the transcript/results of AJ Dillon’s reported “sting investigation” document a very improper, very leading, very suggestive, and likely memory contaminative interview process used by Attorney Shubin, in which he improperly instructs, leads, and suggests facts to “coach the witness” in ways that clearly would enhance the financial settlement value of a client’s new “memories”. The science regarding such memory-contaminating interviewing was never properly presented to the jury in this case.. This is one of many examples of why the investigation and trial of this case was the most tragically science-uninformed and science-misinformed case I have reviewed in the past 30 years.

— It appears on this record that government investigative interviews were conducted that were not properly recorded (and others were apparently recorded but the recordings were never properly reviewed by the extraordinarily negligent defense counsel in this case). In my opinion, failures to properly **record** investigative interviews in such cases, should be viewed as powerful indicia of corruption and egregious misconduct and an attack on the integrity of the legal process. Without proper recordings of all interviews, it is impossible to rebut the alternative hypothesis that changes in a witnesses “memory” reports over time were due to improper interviewing. On the records reviewed, it is not clear how many interviews in this case were recorded and how many were not. Note that transcripts without accompanying recordings should also be viewed as indicia of corruption. I have caught multiple government transcripts in cases with recordings where transcripts had been mis-transcribed “in error” to assist the government’s case. A jury must be able to see and hear the actual questions asked and the actual answers given to form any reliable opinion as to whether or not an interview was improperly leading and suggestive— after learning the relevant science from a competent Memory-False Memory expert witness. Missing recordings of interviews is one of many examples of why the investigation and trial of this case was the most tragically science-uninformed and science-misinformed I have reviewed in the past 30 years.

Investigative Hypotheses, Questions for future Inquiry, and Relevant Evidence from the Record Reviewed.

Given the limited evidence regarding a number of issues in this case, I am not able to provide expert opinions about a number of important investigative questions. For several questions and issues, I will generate and offer a number of investigative hypotheses to assist the court in **avoiding confirmation bias** and consider investigating important unanswered issues-questions in the future. In assessing aspects of

these investigative hypothesis, I will also attempt to document evidence on the record relevant to various questions and hypotheses. I hope this effort will assist the court in determining what further information and investigations might clarify what actually happened in this complex and troubled case -- and why.

The following information contains a summary of essential, foundational evidence as well as investigative hypotheses and questions regarding evidence of a reportedly secret, “off the record”, unrecorded motel meeting (Hilton Garden Inn on December 12, 2011), apparently secretly collusive investigations (Fina and Freeh), as well as evidence reportedly documenting the unprecedented, troubled group of legal professionals involved in this case including (based on subsequent evidence) a law license-suspended lawyer (Fina) and a disbarred-prosecuted-imprisoned lawyer (Rominger) and two lawyers publicly reprimanded for manipulative misconduct lawyers (Fina, Baldwin) and a lawyer fired for pornography misconduct (Fina) and a memory-manipulating investigator (See, Inv. Leiter’s recorded statements on April 21, 2011 describing an improper government interviewing scheme), and a collection of apparently science/history-uninformed lawyers (Fina, McGettigan, Amendola, Rominger, Kelley, , Cleland), and “secret meeting”-recused-fired-relieved of duty judges (Cleland, Feudale) involved in this historic, controversial, improperly conducted case.

The number and severity of misconduct charges, prosecutions, disbarments, firings, resignations, and recusals of the legal professionals involved in this troubled case is quite remarkable. In 30 years of reviewing cases I do not recall reviewing a case involving any attorney, judge or investigator who :

- reportedly was disbarred or prosecuted for crimes and imprisoned (Rominger),
- reportedly was suspended from the practice of law for manipulating and misleading a judge (Fina),
- reportedly was publicly reprimanded for misconduct/violation of legal ethics including failure to protect client privileged information (Baldwin),
- reportedly was proven to be mass transmitter of explicit, racist, violent pornography then resigned (Fina),
- reportedly was held a secret-off the record, “secret” meeting producing key processes for a trial including waiving defendant’s essential rights with no documented discussion (Cleland),
- reportedly was hiding a secret off the record meeting for 4 years even hiding such a meeting from defense co-counsel (Cleland),
- reportedly was hiding a secret Motel meeting for 4 years even from his own co-counsel (Amendola)

-- reportedly was harming (or was negligent in harming) his client's trial in multiple, serious ways (Amendola)

-- engaged in the level of documented misconduct shown by several of the "professionals" involved at some point in this case.

To have so many of the most reprimanded, suspended, fired, prosecuted-imprisoned, recused, hiding secret meetings, investigators, lawyers, and judges I've seen in 30 years **all involved in this one defective case** is indicia of a troubled, improper legal process.

More specifically, how and why did so many serious and unusual errors occur in the PA vs Sandusky investigation and trial? Why does this case remain so controversial many years after the trial and conviction? A key role of an expert witness in such cases is to assist the court, lawyers, and/or parties to understand and apply reliable scientific, technical, ethical, and investigative information principles, and methodologies, *while generating/testing alternative hypotheses*. These hypotheses will, I hope, assist the court in understanding what might have gone wrong in this controversial case.

6A. KEY EVIDENCE, QUESTIONS, and ALTERNATIVE INVESTIGATIVE HYPOTHESES and OPINIONS IN PA v SANDUSKY.

To avoid Confirmation Bias all investigators and experts (like all scientists and medical diagnosticians) should ***generate and explore alternative investigative hypotheses***. This case leads to many complex and important alternative hypotheses – to the best of my knowledge, zero have been properly investigated thus far. To assist the court in efforts to protect the integrity of the legal system, and to guide potential future investigations, I offer a series of investigative hypotheses and related questions and related evidence from the record.

Ongoing Investigation of Alternative Investigative Hypotheses in this case:

Which Investigative Hypothesis -- or combination -- is correct? Will public hearings explore these issues?

1 – the defendant is guilty as charged and the many, well-documented, very serious errors in the investigation and trial of this case are irrelevant

2 – the defendant may be guilty or innocent but the many, well-documented, serious errors in the investigation and trial of this case as well as a science-uninformed media frenzy and collusive local political corruption deprived a citizen of PA of a fair and honestly conducted trial as well as misled an unsuspecting jury into rendering a false verdict.

3 -- the defendant may be guilty or innocent but the “changing uncorroborated abuse memories” of many or all of the “victims” were the product of investigators’, lawyers, and/or therapists improper mis-interviewing methods, improper-witness memory tampering, science-uninformed psychotherapists (Gillum, Macnab) who apparently indoctrinated patients-clients into gullibly believing some of the most controversial and dangerous pseudo-scientific, inherently-unreliable notions in the history of psychology and law.

4 -- the defendant may be guilty or innocent but the level of improper misconduct in this case is highly unusual, even historic, and includes :

-- investigators (reckless, highly improper, memory-contaminative interviewing methods as documented by Inv. Leiter in his April 21, 2011 recorded statements during the break in interviewing BH.),

-- Judge Cleland’s reportedly secret, off the record, Hilton Garden Motel meeting that produced a held a “sure conviction, impossibly rapid trial schedule”, a refusal to provide time for defense attorneys to even review basic evidence or retain a competent expert in Memory-False Memory Science, and continuing to hide the secret Motel meeting for 4 yrs, in collusion with Fina and Amendola.

-- legal professionals Cleland-Fina-Amendola entered into an agreement apparently to hide the secret Hilton Garden Motel meeting, quickly convict the defendant, and thus prevent \$500 million in damages to the local economy from the looming, threatened NCAA “death penalty” for Penn State football, this hypothesized agreement explains the very unusually long list of negligent failures to provide the jury with competent Science of Memory-False Memory Expert Witness testimony, no Frye hearings, no exposure of Shubin-Therapist mis-practices, no discussion of the relevant science-history, failure to fully expose the abusive, improper interviewing scheme of Inv. Letier as discussed in his recorded statements etc. and many other errors as listed in this report), and

-- politicians and allies (Corbett/Kelley/Fina desired to “get” and “remove” Corbett’s most persuasive and powerful political foes in his efforts to radically defund PSU with a 50% reduced budget. The most persuasive foes to Corbett’s plan to provide “half the previous budget” were PSU President Graham Spanier and Coach Joe Paterno – both were removed rapidly in the apparently pre-planned media frenzy resulting from this case.)

-- outsiders (the negligent Freeh Group Report investigators apparently failed to even record interviews (!) – a sign of Negligence or corruption, the Freeh Groups Report investigators apparently failed to disclose secret collusion with AG prosecutors including Fina when an “*independent*” investigation had been promised and paid for with \$8 MILLION dollars resulting in just “opinion”, the negligent Freeh Group Report investigators reportedly failed to even interview key witness some were not interviewed reportedly upon instructions from the FINA/AG office).

-- these and other errors produced *severe damage to the reputation, credibility, and integrity of the PA legal system*

5 -- the defendant is innocent, and the victim of one of the most improper, corrupt, falsely investigated and improperly, negligently tried cases in US history.

6 – other hypotheses as they become available.

6A1. INVESTIGATIVE HYPOTHESES and RELATED QUESTIONS: ARE THERE MULTIPLE INDICIA of A “CULTURE OF CORRUPTION” in the PA LEGAL SYSTEM? IS THERE EVIDENCE OF SIMILAR TYPES OF CORRUPTION IN THE CASE of PA v SANDUSKY?

Quis custodiet ipsos custodes? Who judges the judges? Who polices the police?

On this Record, multiple indicia exist of a “Culture of Corruption” in the PA legal system. On this Record, evidence suggests similar types of corruption in the PA v. Sandusky case.

EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Does the State of PA have a well-documented history of Corruption and Criminal Misconduct at the highest levels of the State Legal System? Were similar corrupt processes involved in PA v Sandusky?

EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* A SERIES OF KEY QUESTIONS:

Why were there so many extraordinary errors and/or so much Negligence and/or so much corruption in PA v Sandusky? Does a well-documented, remarkable history of serious corruption-misconduct in the PA legal system -- help us understand, and even predict, several of the many egregious, highly suspicious “errors” and/or corrupt acts that tainted the PA v Sandusky investigation and trial?

EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption? Improper Economic Influences? Did the looming NCAA “death penalty” economic damages improperly impact this case?*

On this record, it appears there were very real and serious concerns in the local jurisdiction in pre-trial 2011-2012 that the NCAA could invoke a “death penalty” sanction ending the Penn State football program for years thus predictably producing *economic damages of over \$100 million per year for five*

years or more to PSU and the local economy. Is it true that a rapid and sure conviction of the defendant in this case (as opposed to continuing the national media hysteria during a one-year proper preparation for a six week long, complex, multi-expert, FRYE hearing, controversial trial) could be viewed by some as the best way to avoid “the NCAA death penalty” and prevent a \$500 + million loss and devastation to the local economy.

EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Improper Political Influences? Did the ongoing, intense, high-stakes political battle between Corbett-Kelley-Fina vs. Spanier/Paterno/PSU improperly impact this case? Did Corbett, Kelley, and Fina seek to destroy PSU President G. Spanier and Coach Joe Paterno and damage the reputation of the PSU football program for political gain? On this record, there is evidence that former PA AG then PA Gov. Corbett’s key legislative-political goal was to drastically slash funding for Penn State Univ. (Gov Corbett’s State budget reportedly sought a 50% cut in funding to PSU, reportedly a devastating reduction in Univ. funding that was reportedly unprecedented in the history of US higher education. Corbett’s goals were reportedly quite unpopular sending his popularity percentages from the 60s to the 30s. On the record reviewed, there is evidence that Corbett-Kelley-Fina were politically aligned and sought to reduce the influence of – or find a way to fire -- *the very popular and highly nationally regarded PSU President Spanier and the very popular and highly nationally regarded Football Coach Joe Paterno* including some reports of efforts to “get Spanier and Paterno” and somehow remove them to stop their persuasive voices in support of PSU. Reportedly, Corbett/Kelley had previously held multiple (2 or 3) Grand Juries to investigate the charitable work of J. Sandusky with hundreds of troubled youths – many in the “Second Mile Foundation” charity. Reportedly, the early, multiple Grand Juries and investigations of AG Corbett and his protégé replacement PA AG Kelley resulted in many (*perhaps dozens to hundreds*) of reports of *non-abusive, effective charity work with zero criminal allegations of abuse thus the initial, multiple Grand Juries reportedly produced zero criminal charges filed.*⁵ The final (of 3 or 4?) Kelley/Fina Grand Juries did produce multiple witnesses with reportedly radically “newly changed, once-buried, once-blocked” memories of abuse and criminal charges and a controversial “presentment” (a public report of charges) with resulting controversies regarding questionable Grand Jury (GJ) testimony and accusations of Government corruption via GJ leaks, the misreporting of GJ evidence, and a (planned, pre-arranged?)

⁵ See, **Snedden Federal Investigation Summary**: “The 1998 (ZK) investigation was aggressively investigated by the Penn State police, also by Children and Youth Services, also by Centre County District Attorney’s Office then dismissed (insufficient evidence)... In regard to the 1998 investigation the police worked independently under the District Attorney – nobody at PSU managed the investigation at all” (See, Snedden Federal Investigation at pg 21)

media frenzy that effectively smeared Corbett's opposition, Spanier and Paterno. The raging media scandal badly damaged PSU's reputation and resulted in Spanier's rapid resignation and Paterno's very controversial firing, and a controversial *misdemeanor* conviction for Spanier after years of PA court decisions that rejected all charges then reinstated charges followed by US federal court decisions rejecting (vacating) all charges then reinstating charges. In sum, how much of the PA vs Sandusky final (3rd or 4th?) grand jury process/media frenzy was driven by Corbett-Kelley-Fina political machinations to "get Spanier and Paterno" and damage PSU's political clout? Will the key witnesses be called to testify under oath in a proper investigation in a public forum on these issues? Will all Corbett-Kelley-Fina emails be properly obtained and reviewed to assess collusion on these issues, or have those emails already been destroyed?

Note that Spanier and Paterno were reportedly far more credible voices on multiple Higher Education/Sports Issues than Gov. Corbett and thus presented serious obstacles to Corbett's goal to drastically reduce funding to PSU and limit PSU's development and political clout. Spanier was also reportedly nationally very well-known and highly respected for his work in education as well as with law enforcement and national security issues. (See, J. Snedden Federal Investigation regarding G. Spanier's DOD, CIA, DOJ Security Clearances). For example, Spanier reportedly served as chair of the National Security Higher Education Advisory Board, a member of the National Counterintelligence Working Group, and as a member of the Board of Advisors of the Naval Postgraduate School and the Naval War College. Spanier had reportedly also received numerous recognitions for his contributions to national security, including being honored as one of the "Most Influential People in Security," the "Wings of Law" Award from the Respect for Law Alliance, the Director's Award for "Exceptional Public Service" presented by the FBI, and the Warren Medal for "Outstanding Contributions to the National Security of the United States of America." Spanier had also reportedly been a frequent speaker at FBI and other governmental and educational conferences and seminars on topics related to national security." The very detailed investigation by Federal Investigator John Snedden -- by far the best trained and most credible investigator involved in any way in this case -- cleared Spanier of any wrongdoing and noted that key Government witness Mike McQueary's multi-version-changing story of witnessing a violent shower attack but making no effort to stop it (even he was 6ft 5in and over 250 pds and a highly trained athlete) made "no sense" at all. (See, J. Snedden Federal Investigation regarding G. Spanier's DOD, CIA, DOJ Security Clearances). Also see, alleged victim AM's initial statement, McQueary's father, Dr Druvo, and Joe Paterno all apparently contradicted McQueary's changing, "no sense" testimony.⁶

⁶ **"Why didn't Federal Investigator J. Snedden buy McQueary's "rape in the showers" story?** Back in 2001, Snedden told a media outlet that "Mike McQueary was a 26-year-old, 6-foot-5, 240-pound former college quarterback used to running away from 350-pound defensive linemen. If McQueary actually saw Jerry Sandusky

6A2. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Why was an unprecedented (in my experience) Secret Motel Meeting reportedly arranged by Judge Cleland? Was this “secret meeting” to produce a collusive “likely conviction, impossibly rapid” trial schedule? One investigative hypothesis is that a “likely conviction, impossibly rapid” trial schedule in PA v Sandusky was the result of an apparently corrupt, secret, off the record, unrecorded, no court reporter invited, unprecedented, December 12, 2011 meeting of Judge Cleland, Prosecutors Fina-McGettigan, and Defense Counsel Amendola at a local Hilton Garden Motel? Why was the secret Motel meeting kept a secret even from Defense Co-counsel Rominger? (See, Rominger’s testimony at Aug 2016 hearing ; See Motion to recuse Judge Cleland after the secret meeting was discovered by defense appellate counsel.)

Will this apparent evidence of corruption and these investigative hypotheses be properly explored in public hearings before PA Legislative Committees with witnesses under oath and/or by Federal Anti-Corruption investigators?

6A3. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Why was the Secret “Off the Record” Hilton Motel Meeting kept a secret until 4 YEARS after the Trial and Conviction? -- Why was the reportedly secret, off the record, unrecorded, no court reporter invited, unprecedented, December 12, 2011, meeting of Judge Cleland, Prosecutors Fina-McGettigan, and Defense Counsel Amendola at a Hilton Garden Motel meeting kept a secret – reportedly even from Co-defense Attorney Rominger until 4 years after the trial and conviction when it was reportedly discovered by Appellate Counsel? Was this an ongoing improper agreement to rig-sabotage the trial and continue covering-up the secret meeting for years? Did this “agreement-to-sabotage the trial theory” help us understand why so many egregious and unusual, even “errors” were made by defense counsel in the PA v Sandusky trial including

raping a young boy in the shower, Snedden said, he probably would have done something about it.” “I think your moral compass would cause you to act and not just flee,” Snedden said. If McQueary really thought he was witnessing a sexual assault on a child, Snedden said, wouldn't he have gotten between the victim and a "wet, defenseless naked 57-year-old guy in the shower?" Or, if McQueary decided he wasn't going to physically intervene, Snedden said, instead of going home and doing nothing about a child rape in progress, why didn't he call the cops from the Lasch Building? *As Snedden says, McQueary’s story simply makes no sense.* Reportedly, in Snedden’s view, it was also *egregious prosecutorial misconduct for the state attorney general's office to fictionalize and sensationalize such a flimsy, decade-old story, and then hang an entire grand jury presentment on it.”*

- no Memory-False Memory Expert was called by the “defense attorneys” ?
- no Interviewing Methodology Expert was called by the “defense attorneys” ?
- no member of the relevant scientific community expert on RRM-MPD-DISS junk science and Frye hearings was called by the “defense attorneys” ?
- no expert on the malpractice, misconduct of therapists Gillum and Macnab was called by the “defense attorneys” ?
- the “defense attorneys” reportedly convinced the defendant not to testify in his own defense (near-certain suicide in such cases)?
- the “defense attorneys” failed to expose Judge Cleland’s improper “off the record, secret, unreported, unrecorded meeting at a local Motel” where crucial decisions were made including setting a “likely conviction, ,” trial schedule and also waiving the defendant’s essential right to a preliminary hearing?
- was this historic, unprecedented litany of extreme “errors” and the “secret unreported meeting” due to Negligence or to an actual improper agreement to manipulate “rig” and sabotage the trial and obstruct justice? (See, the PA Attorney General Kane’s conviction and the PA Judges “Kids for Cash” improper agreement case).

6A4. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* *If the SECRET MOTEL MEETING was proper, then why did Judge Cleland recuse from the case when his secret meeting was finally exposed?* Why did Judge Cleland recuse himself following public exposure (finally) by defense appellate lawyers of the secret, off the record, unrecorded, no court reporter invited, unprecedented, December 12, 2011, meeting of Judge Cleland, Prosecutors Fina-McGettigan, and Defense Counsel Amendola at a Hilton Garden Motel? Why did Amendola participate in the secret meeting and keep the meeting secret even from his own co-counsel Rominger? (See Motion to Recuse Judge Cleland and Aug 2016 testimony of Rominger in Appellate hearing).

6A5. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* **Are Secret, “Off the Record” Meetings to Decide Essential Trial Issues Standard in PA or was Judge Cleland’s Dec 15, 2011 Secret Motel “off the record” “no court reporter” and “not even disclosed to Defense co-counsel” Meeting actually Evidence of Corruption in this Case?**

Did the secret, unreported, unrecorded Motel Meeting produce key decisions that sabotaged the trial of this case? For example, why did Judge Cleland set an impossibly rapid (a “likely conviction,

impossibly rapid”) trial schedule at the “secret Motel meeting”? Why did Defense Attorney Amendola waive the defendant’s essential right to a preliminary hearing (where alleged victims could have been questioned about mental health issues, the number and type of interviews issues, memory-contaminating psychotherapy issues, RRM-MPD-DISS ideology indoctrination issues, and many others) – at the secret Motel meeting? Are these kinds of “secret, unreported, unrecorded” Motel meetings (unprecedented in my 30+ year experience of reviewing cases throughout the US) a standard part of a deeply troubled PA legal system or is the secret meeting in this case evidence of improper, unusual, misconduct in PA? Is PA vs Sandusky the ONLY case in PA where a “likely conviction impossibly rapid ” trial schedule, and a waiver of the defendant’s essential right to preliminary hearing, were produced in a secret, off the record, unrecorded, no court reporter invited, meeting of Judge, Prosecutors, and Defense Counsel at a local motel --- or is this a standard feature of the PA legal system?

6A6. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Did defense attorney Amendola, Judge Cleland, and Prosecutor Fina enter into a corrupt improper agreement at the December 15, 2011 Secret Hilton Garden Motel Meeting to actively sabotage the defendant’s case to prevent \$500 million dollars in damages to the local economy from an expected, looming, threatened NCAA “death penalty” for the lucrative PSU football program? (... and to further the anti-PSU political goals of PA Gov Corbett and his protégé PA AG Kelley?).

Do these investigative hypotheses clearly explain and predict WHY defense attorneys Amendola and Rominger produced an historically defective “defense” at trial including why they:

-- **Failed to file a *FRYE* motion** for a hearing to exclude the *inherently unreliable “recovered repressed memories”* of multiple alleged victims in this case? Would any witnesses have remained?

-- **Failed to call a Memory-False Memory-RRM-MPD-DISS expert in SCIENCE** witness – a member of the relevant scientific community -- to explain the odd, non-normal “memories” of alleged victims and how *the relevant scientific community has rejected the RRM-MPD-DISS ideology*, methods and results?

-- **Failed to call an Investigation Methods expert to expose the Government ’s corrupt, abusive, repetitive interviewing procedure** that was disclosed by Inv Leiter in his April 21, 2011 recorded discussion on a break when interviewing BH.

-- **Failed to publicly expose the December 15, 2011, apparently corrupt, secret, unreported, unrecorded Motel meeting** with Cleland, Fina, and Amendola at the Hilton Garden Inn. Is this why Amendola reportedly hid the “secret meeting” for over 4 years from his own defense co-counsel Attorney Rominger?

-- **Failed** to require a preliminary hearing where alleged victims could have been properly questioned about mental health issues, the number and type of interviews issues, memory-contaminating psychotherapy issues, RRM-MPD-DISS ideology indoctrination issues, and many other key evidence issues. The results of a proper preliminary hearing would have produced the predicate for a FRYE hearing that may well have excluded many or even all of the alleged victim witnesses. Attorney Amendola reportedly mysteriously waived his client's essential right to a preliminary hearing at the "secret, unreported, unrecorded" Hilton Garden Motel meeting of December 15, 2011.

-- **Failed** to demand and acquire a complete list of *all interviews conducted* in the investigation of the two (or three?) *previous Grand Juries that reportedly produced zero criminal charges*. How many (dozens? hundreds?) of interviews were conducted where witnesses extolled the charity work of the defendant and denied any abuse of any kind at any time.?

-- **Failed** to demand and acquire a *complete set of all psychotherapy records* for any witness that changed "memory reports" following psychotherapy – especially with reportedly RRM-MPD-DISS science-uninformed RRM "believers" like Gillum and Macnab. This is essential because *ANY unrecorded psychotherapy session in a witness' history* makes it quite impossible for the prosecution to meet the required burden of proving "beyond a reasonable doubt" that improper psychotherapy did not produce the "changed", potentially false memories of abuse in that witness.

-- **Failed** to properly have an Expert Witness explain to the jury the apparent *ethical and licensing violations of therapists Gillum and Macnab* including Gillum's dual-conflicting role boundary violations of attending a police investigation interview and spending "a full week" with a patient helping change that witness' memory reports and both Gillum's and Macnab's apparent failures to obtain proper informed consent for their therapy methods specifically failing to inform patients of the controversial (debunked) nature of their RRM-MPD-DISS beliefs and practices and the known risks of the induction of false memories. Macnab's financial arrangements with Shubin should also be properly explored – are they jointly running a business to generate unvetted, uncorroborated "new memories" of abuse in exchange for millions of dollars in settlements?

-- **Failed** to properly have an Expert Witness explain to the jury the history of thousands of examples of *therapist induced false memories* from the "Memory Wars" malpractice litigation as well as the hundreds of therapist-induced false memories of abuse debunked by Special Agent Lanning's FBI Task Force.

-- **Failed** to demand and acquire a complete list of *all unrecorded interviews*. Also failed to have a national Memory-False Memory expert witness explain to the jury that because abusive, leading, suggestive, repetitive, mis-interviewing (See, Inv. Leiter's April 21, 2011 taped confession of such

interviews) can easily change “memories” and produce false “memories” of abuse ANY unrecorded interview in a witness’ history makes it quite impossible for the prosecution to meet the required burden of proving “beyond a reasonable doubt” that improper interviewing did not produce the “changed”, potentially false memory of abuse in that witness. This is why, the best of my knowledge and experience, ALL jurisdictions in the US now record ALL interviews in such cases – except for the apparently deeply improper investigation in this case. (See, Inv. Leiter’s April 21, 2011 taped confession).

NEGLIGENCE or CORRUPTION? : Is this historic – unprecedented in my experience – list of extreme failures of the defense counsel due to historic levels of Negligence or it is more likely they participated in a joint effort to obtain a rapid and sure conviction of a retired PSU coach to save the local economy from the expected \$500 million in economic damages from the looming NCAA “death penalty”? Either way, it seems clear on this record that the trial was a debacle of historic proportions. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

6A7. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Negligence or Corrupt Sabotage? Why was there No Defense Memory-False Memory-RRM-MPD-DISS Expert Witness at trial?* Why did the defense lawyers in this case FAIL to retain, prepare, and bring to trial a competent Memory-False Memory Expert Witness to debunk and explain the inherently unreliable “recovered repressed memories”, “buried memories”, “blocked memories” and “dissociated memories” testimony of multiple alleged victims in this case?

6A8. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption? – Why was No Defense Expert in Investigation Methodology provided by the Defense Lawyers to expose the grossly improper, abusive, interviewing misconduct of the Government in this case?* Why did the defense lawyers FAIL to retain, prepare, and bring to trial a competent Investigation Methodology Expert to expose and debunk, the extraordinarily improper, abusive, repetitive, memory-contaminative interview methods of the Government as disclosed by Investigator Leiter in his April 21, 2011 recorded discussion during a break in the BH interview?

6A9. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption? Why were Inv. Leiter’s Corrupt Interview Methods not properly exposed to the jury and the FOUNATIONAL SCIENCE of memory contamination not properly explained to the jury by a competent Memory-False Memory-Interview Methodology expert witness?* Why didn’t Investigator Leiter’s April 21, 2011 recorded discussion of an abusive, manipulative,

repetitive, highly improper PA Government interviewing methodology (essentially coercive witness memory tampering until the witness changed stories to agree with Leiter's pre-conceived ideas) result in Leiter being fired, or removed from the case for re-training, and the contaminated witnesses being excluded at trial?

6A10. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Did the defense attorneys let civil Attorney Shubin get away with *Witness Tampering?* Did Attorney Shubin actually hide witness AM (Shubin's civil litigation client) to prevent AM from testifying that he was the "shower boy" reported by Mike McQueary and that actually no abuse at all took place as per AM's previous witness statement -- thus destroying the credibility of the uncorroborated, "multi-changing memories" of Mike McQueary whose story was used by Corbett allies Kelley-Fina to attack Paterno, Spanier, Curley, Shultz, and PSU? Will this issue be investigated in public hearings?

6A11. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Did Freeh Group and Prosecutor Fina defraud the public by secretly colluding on their claimed-to-be "Independent" investigations?

Did Prosecutor Fina and the Freeh Group defraud the public and PSU (who reportedly paid the Freeh Group over \$8 MILLION dollars for a defective, science-uninformed report) by lying about and secretly colluding together on investigations they both promised would be "independent"? The Freeh investigation team's co-leader, Kathleen McChesney, reportedly created a diary that summarized her daily briefings and other highlights from the Freeh investigation, *including multiple, secret, collusive contacts with other agencies including FINA and other AG staff*. On November 4, 2019, appellate counsel (Attorney Lindsay) for the Defendant reportedly received a copy of a document purporting to be a diary maintained by Ms. McChesney regarding events occurring during the Freeh investigation. In addition, in February of 2020 appellate counsel reportedly obtained copies of summaries of emails among, and including Freeh Group members showing secret, unreported collusion in the supposedly "independent" investigation. (See, multiple examples of diary entries in relevant Defense Motions).

6A12. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Why did the Freeh Group make so many fatal, "rookie", science-uninformed errors in their \$8 MILLION investigation/report that was (negligently) relied upon by the apparently science-uninformed NCAA to fine PSU tens of millions of dollars and relied upon by the apparently science-uninformed PSU BD members to "adopt" the error-ridden report and thus "accept"

tens of millions of dollars of NCAA sanctions based on Freeh Groups speculative, uncorroborated opinions?

-- Did the FREEH GROUP really *fail to properly RECORD* all investigative interviews. Did they in fact, record NO interviews –if so, a staggering failure and key indicator of a corrupt investigation?

-- Did the FREEH Group really *fail to interview essential witnesses* in this case – especially “the multi-changing memories, most controversial witness” Mike McQueary?

-- Was the FREEH GROUP really *collusively instructed by Prosecutor FINA or other AG staff* to *NOT interview key witnesses* including “the multi-changing memories, most essential” witness Mike McQueary?

-- Did the FREEH GROUP really *fail to notice and report the essential Secret Meeting* at the Hilton Garden Inn Motel that waived the defendant’s right to a preliminary hearing and set the trial on a “impossibly rapid” rapid schedule to conviction?

-- Did the FREEH GROUP really *fail to notice and report the inherently unreliable “recovered repressed” RRM-MPD-DISS ideology-tainted memories”* of multiple alleged victims in this case several AFTER unrecorded interviews with Shubin and his reportedly RRM-MPD-DISS therapist ally Macnab?

-- Did the FREEH GROUP really fail to notice and report that the negligent or improperly sabotaging defense lawyers *failed to file a motion requesting a FRYE hearing* to exclude inherently unreliable non-normal “memory” RRM-MPD-DISS “memory” reports. Such tainted “memory” reports have been excluded following Frye and Daubert hearings in multiple other states *under both FRYE and DAUBERT analyses*?

-- Did the FREEH GROUP really fail to notice and report the defense lawyers’ *failure to provide a Memory-False Memory-RRM-MPD-DISS expert witness thus* leaving the jury misled and misinformed in the PA v Sandusky case?

-- Did the FREEH GROUP really *fail to notice and report Investigator Leiter’s April 21, 2011 recorded discussion* during a break in the BH interview in which Leiter reports in detail *the Government’s abusive, highly improper, repetitive, often unrecorded, leading-suggestive, manipulative interviewing methods*?

-- Did the FREEH GROUP really *fail to notice and report the rather obvious Alternative Hypothesis in this case of improper influences by Economic Forces* (i.e., the looming \$500 MILLION in damages to the local economy from an NCAA “death penalty” ending the Penn State Football program).

-- Did the FREEH GROUP really *fail to notice and report the Alternative Hypothesis in this case of improper influences by Political Forces* including Corbett’s attempt to slash 50% of the PSU budget, effectively opposed by the nationally admired Pres Spanier and Coach Paterno and reported efforts by

Corbett-Kelley-Fina to “get” or “remove” Spanier and Paterno to facilitate Corbett’s reportedly unpopular political goals.

-- Did the FREEH GROUP really claim as a defense to a defamation lawsuit filed by G. Spanier, that the Freeh Group report contained the *reporting of “no facts” but “just opinions”*?

-- Did the FREEH GROUP really produce a *science-uninformed report by FAILING to retain and listen to a competent SCIENCE expert and member of the “relevant scientific community”*?

-- Was the gullible “adoption” and payment of over \$8 MILLION for a fatally flawed, amateurish, science-uninformed Freeh Report more evidence that local *Economic Forces* (the fear of \$500 million in economic damages over years from an NCAA “death penalty” sanction) and *Political Forces* (Corbett-Kelly-Fina’s drive to smear and remove Spanier and Paterno for political gain) improperly influenced this process at multiple stages?

6A13. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Did the PSU BD actually pay out millions of dollars for changing-morphing “memories” of “abuse” from “victims” with zero corroborative evidence and a documented history of abusive, unrecorded, mis-interviewing by Government investigators and a history of RRM-MPD-DISS ideology memory contamination and a history of exposure to “interviews” from a civil attorney seeking millions of dollars for “newly-changed abuse memories” and a history of exposure to apparently poorly trained RRM-believing, science-uninformed local psychotherapists (e.g., Gillum, Macnab). Were Millions of dollars in payments made to multiple alleged “victims” with virtually no vetting, nor investigation, and no competent science-informed expert (a scientist-clinician with relevant peer reviewed, published science articles) evaluating such cases? Were these payments issued to cover up the multiple, serious errors, and/or corruption and/or secret Motel meetings, etc. that tainted the investigation and trial in the first place? Are these payments with no vetting and no competent investigation continuing today? If the conviction in this case is overturned for massive errors, gross negligence, and/or corruption and a “not guilty” verdict is rendered in a properly conducted trial, will the millions in payments be recovered from alleged “victims” with no corroborative evidence and a history of memory contaminative experiences with abusively leading-suggestive-repetitive Government investigators, lawyers with financial incentives, and therapists with RRM pseudo-science beliefs?

6B. FOUNDATIONAL EVIDENCE ESSENTIAL TO THE ANALYSIS OF ALTERNATIVE HYPOTHESES IN THIS CASE:

6B1. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Indicia of Corruption: Former Pennsylvania Attorney General Kane reportedly was sentenced to prison for committing multiple felonies involving manipulation of the legal system for political gain. (*Did something quite like this also happen in PA v Sandusky?*) ...

Reportedly -- NATIONAL RANKINGS – The Pennsylvania AG was rated the worst in the nation. See, “In August 2015 the U.S. Comprehensive Enterprise Institute, in its evaluation of state attorneys general, rated Pennsylvania AG Kathleen Kane as the worst of all fifty in the country, citing a long list of abuses.”

Was AG Kane prosecuted as “payback” for exposing corruption in the PA legal system? A lingering question is how much of PA AG Kane’s downfall was payback from the “system” for her exposing so much PA legal system corruption that had taken place over so many years when the PA Attorney General’s office was controlled by *former PA’s Corbett and Kelly* as well as corruption at the highest levels of the Judiciary of PA including several members of the PA Supreme Court?

Indicia of PA Legal System Corruption: Reportedly -- PA ATTORNEY GENERAL *sentenced to prison*: -- A PA Attorney General was reportedly *sentenced to prison* (Kane) : — a PA Attorney General (Kane) was reportedly *disbarred, prosecuted, and imprisoned* for crimes of manipulation/deceit including perjury/obstruction of justice.

Indicia of PA Legal System Corruption: The Pennsylvania Attorney General, Kathleen Kale, JD, *reportedly committed perjury/obstruction, was disbarred, sentenced, and served time in prison...* This history documents actual criminal corruption at the highest levels of the PA legal system – including deceit, manipulation, and manipulation of the legal process by a PA Government Official at the very highest levels of the Pennsylvania Prosecution-Investigation Legal System. (Did this type of corruption also occur in the PA v Sandusky case?).

See, *Former PA Attorney General Kathleen Kane gets prison term ... A judge sentenced former Pennsylvania Attorney General Kathleen Kane on Monday to 10 to 23 months in prison for committing multiple felonies* stemming from a politically motivated act of retribution. Kane, who resigned after her conviction of perjury and obstruction in August, also will be on probation for eight years following her release, according to Kim Bathgate, spokeswoman for the Office of Pennsylvania Courts. Kane, a Democrat who was elected in 2012,

faced a possible 12-24 years in prison, according to Kate Delano, a spokeswoman for the Montgomery County District Attorney's Office. ... The charges had alleged that Kane acted in anger about a local newspaper article that accused her of dropping an investigation into politicians accepting bribes. To get back at her predecessors, the complaint said Kane (deceitfully, manipulatively) leaked sealed, confidential grand jury documents to the media and then lied under oath about her manipulative crimes.

<https://www.cnn.com/2016/10/24/politics/pennsylvania-attorney-general-sentencing/index.html>

**DO INDICIA OF HIGH LEVEL CORRUPTION SUPPORT
ONGOING INVESTIGATIVE HYPOTHESES REGARDING
CORRUPTION IN PA vs SANDUSKY? :**

This example of egregious, brazen corruption in the Office of the PA State Attorney General—reportedly involving deceit and manipulation of evidence and judges as well as perjury -- are unprecedented in my 30+ year experience reviewing cases in many states. We should note that criminals often commit many crimes before being caught. How much corruption in this system remains undisclosed?

This history of well-documented improper activity *involves high ranking PA Government officials*

A) creating criminal plans to

B) manipulate evidence,

C) deceive judges, and

*D) lie to hide criminal plans, conspiracies, and practices. Such demonstrated misconduct supports **investigative hypotheses** of similar corruption occurring in the investigation and trial of PA v Sandusky. (See, detailed evidence supporting hypotheses of corruption below).*

6B2. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Additional Indicia of Corruption: Two PA Supreme Court Justices Were Reportedly Involved in Gross Misconduct and Resigned in Disgrace. (Was judicial misconduct also involved in PA v Sandusky?)

Reportedly -- TWO PA SUPREME COURT JUSTICES REPORTEDLY RESIGNED IN DISGRACE AND PA AG's PROSECUTORS WERE REPORTEDLY ALSO INVOLVED IN JOINT, MASSIVE, CORRUPT PORNOGRAPY TRANSMISSIONS (thousands of reportedly racist, sexist, violent, explicit, messages) ON GOVERNMENT EMAIL ACCOUNTS. WAS ADDITIONAL EVIDENCE of CORRUPTION ORDERED DESTROYED? Two PA Supreme Court Justices reportedly resigned for sending and receiving massive batches (1,000s of images) of grotesque-depraved-explicit-violent-racist pornography transmissions to and from PA Attorney General (**Corbett and Kelley**) Staff prosecutors and also to the Governor's (**Corbett's**) Staff.

Reportedly -- Additional Indicia of Historic Systemic Corruption in the PA Legal System: Reportedly, documented Thousands of *Explicit, Racist-Violent-Sexist-Explicit Pornography Transmitted by PA Supreme Court Justices to and from PA Attorney General's Staff and also PA Gov. Corbett's staff and also AG Prosecutor Frank Fina from the Sandusky case.*

Reportedly -- Pornography Cases against PA Supreme Court Justices and OAG Prosecutors: See, Pa. Supreme Court suspends justice over porn emails ... Pennsylvania's Supreme Court has suspended one of its justices, Democrat Seamus McCaffery, over the revelation that he received and sent pornographic emails to friends. ... The episode also highlighted a long-running feud between Justice McCaffery and Chief Justice Ron Castille, a Republican, *who issued a separate statement saying his colleague (McCaffery) exhibits "pathological symptoms" of a "sociopath."* ... Chief Justice Castille wrote that a "prominent medical journal" defined a sociopath as someone *"not caring about others, thinking he or she can do whatever is in that person's own self-interest and having little or no sympathy for others."*....The order suspending Justice McCaffery said *he exchanged "hundreds of sexually explicit emails" with staff of the PA Attorney General's office and that he "importuned" (threatened) associate PA Supreme Court Justice J. Michael Eakin to get Justice Castille to stop pursuing a probe of the matter, or else he'd leak embarrassing emails about Justice Eakin to the media (Blackmail? Improper agreement? Witness tampering?)* The state's "porn wars" have also become an issue in the governor's race, with two top aides to Gov. Tom Corbett resigning after it was revealed they traded explicit, violent, racist pornographic emails while they worked for Mr. Corbett during his time as attorney general several years ago.... Justice Eakin filed a complaint with the state's Judicial Conduct Board on Friday after the Philadelphia Daily News reported that he had received sexually explicit and racist emails ... He told the board that Justice McCaffery had called him last week before

the emails were leaked to say *he “was not going down alone,”* the paper reported (*Blackmail? Improper agreement? Witness tampering?*). ... Justice Castille’s statement on Monday said “that sort of threat *borders on criminal conduct.*”.... The order suspending Justice McCaffery said that Justice Castille found *some of the material in Justice McCaffery’s emails “extremely disturbing.”* He described one “depicting a naked 100-year-old woman as the target of a sexually explicit joke and a video of a woman in sexual congress with a snake.” ... Justice McCaffery last week apologized for a “lapse in judgment” about the emails... “ See,

<https://m.washingtontimes.com/news/2014/oct/21/pa-supreme-court-suspends-justice-over-porn-emails/>

Reportedly -- And see also, *Pennsylvania Supreme Court justice in (violent, racist, sexist, explicit) porn email scandal retires*, “The decision followed a disclosure that McCaffery had sent or received 234 emails with sexually explicit content or pornography from late 2008 to May 2012 and an accusation by a fellow justice that McCaffery had tried to coerce him into taking his side against Chief Justice Ronald D. Castille.”...” The suspension order brought up allegations that McCaffery had tried to exert influence over a Philadelphia judicial assignment and about a traffic citation received by his lawyer-wife, plus *referral fees the wife collected from law firms while working in his chambers.*” ... “The inappropriate emails surfaced during an internal review by the attorney general's office into how it had handled the Jerry Sandusky child molestation case. *Three senior officials in Governor Corbett's administration and a county prosecutor who all formerly worked under Gov. Corbett in the attorney general's office have resigned their government jobs as a result.*”

<https://www.nydailynews.com/news/politics/pennsylvania-justice-porn-email-scandal-retires-article-1.1988800>

6B3. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Additional Indicia of Corruption? : “Kids for Cash” -- the Ultimate Judicial Corruption. **Reportedly** -- 2 PA Judges engaged in a truly depraved *improper agreement to obstruct justice and sabotage over 4,000 cases*, depriving children and families of Constitutional Rights, in order to receive \$2.8 million dollars in criminal kick back payments. (Was an improper agreement *to obstruct justice and “sabotage just one trial”* involved in PA vs Sandusky?)

Reportedly – The “Kids-For-Cash” Improper agreement Involved “Two PA judges who were reportedly sentenced to prison for an improper agreement to

A) shut down the county jail and

B) assist in building a “for profit” jail in collusion with criminal business owners then

C) the owners would bill the PA Government for private jail services and

D) the judges would falsely imprison innocent youth in the for-profit jail (some reportedly as young as 8yrs old!) then

E) the improper agreement business owners would receive profitable Government payments to run the private, for-profit jail and

F) the improper agreement judges received reportedly some \$2.8 million in illegal kickback payments from the private jail company owners.”

See, 2 PA judges pled guilty to improperly, illegally, deceitfully, and manipulatively sentencing hundreds of youth to a for-profit detention facility (jail) in exchange for illegal-criminal kick-backs of over \$2 Million dollars. Both were sentenced to decades in prison for this improper agreement to manipulate trials and hearings, defraud the public, and destroy the legal rights of citizens of Pennsylvania. [Is this what happened in Pa v Sandusky to obtain rapid-sure conviction and prevent the anticipated \$500+ million in local economic damages expected from the threatened, looming NCAA “death penalty” for PSU football program? Did Cleland-Fina-Amendola and allies sell-out – at the secret “off the record” meeting at the Hilton Garden Motel and agree to sabotage the trial of one retired PSU coach to save the local economy? How else can we explain the unprecedented list of historic failures in the investigation and trial of this matter?]

And also see, “Two Pennsylvania judges were ordered to pay \$200m in damages to kids-for-cash scandal victims “Judges Mark Ciavarella and Michael Conahan accepted \$2.8m in illegal bribe payments to send children were sent to for-profit jails. Two **Pennsylvania** judges who orchestrated a scheme to send children to for-profit jails in exchange for kickbacks were ordered to pay more than \$200m to hundreds who fell victim to their crimes.

US district judge Christopher Conner awarded \$106m in compensatory damages and \$100m in punitive damages to nearly 300 people in a long-running civil suit against the judges, writing the plaintiffs are “the tragic human casualties of a scandal of epic proportions”.

In what came to be known as the kids-for-cash scandal, Judge Mark Ciavarella and another Judge, Michael Conahan, (entered into an improper agreement to) shut down a county-run juvenile detention center and accepted \$2.8m in illegal payments from the builder and co-owner of two for-profit lockups.

Ciavarella, who presided over juvenile court, pushed a zero-tolerance policy that *likely large numbers of children would be sent* to PA Child Care and its sister facility, Western PA Child Care.

Ciavarella ordered children as young as eight to detention (jail), many of them first-time offenders convicted of petty theft and other minor crimes. *The judge often ordered youths he had found legally delinquent to be immediately shackled, handcuffed and taken away* without giving them a chance to say goodbye to their families.

“Ciavarella and Conahan abandoned their oath and breached the public trust,” Conner wrote on Tuesday in his explanation of the judgment. Their cruel and despicable actions victimized a vulnerable population of young people, many of whom were suffering from emotional issues and mental health concerns. The Pennsylvania state supreme court overturned and threw out some 4,000 juvenile convictions after the scheme was uncovered. Former PA Judge Ciavarella is *serving a 28-year prison sentence*. Conahan, who was *sentenced to more than 17 years in prison*, was released to home confinement in 2020, with six years left on his sentence, because of the coronavirus pandemic.

<https://www.theguardian.com/us-news/2022/aug/17/pennsylvania-judges-kids-for-cash-damages-ciavarella-conahan>

AND

“*The Kids-for-Cash improper agreement scandal* also included Robert Powell, Robert Mericle, Mericle Construction, Pinacle Group of Jupiter LCC, Beverage Marketing of PA, and Vision Holdings. Judge Conahan *used his judicial position to remove funding from the Luzerne Court detention facility*, then “exerted influence to facilitate the construction, expansion and lease of the PACC facility.” On Luzerne County’s behalf, he signed a secret improper agreement “Placement Guarantee Agreement” with PACC. He also granted a corrupt injunction to prevent the results of a Pennsylvania Department of Public Welfare audit of PACC from being disclosed to the public.

In conjunction with Judge Conahan, Judge Ciavarella sentenced thousands of juveniles to terms of incarceration in violation of their constitutional rights – denying them counsel, the right to an impartial tribunal, and the right to free and voluntary guilty pleas. The two judges also pressured probation officers to make recommendations in favor of detention, even when they otherwise would have sought alternative sentences. [See: PLN, Nov. 2009, p.42; May 2009, p.20; <https://www.prisonlegalnews.org/news/2010/jun/15/pennsylvania-judges-involved-in-corruption-case-face-liability-5000-convictions-thrown-out/>]. Such egregious judicial corruption is unprecedented in my 30+ year experience of reviewing cases in dozens of states. Did such an improper agreement happen again in PA vs Sandusky?

The current investigative hypothesis of a Cleland-Fina-Amendolan improper agreement to sabotage and/or manipulate the PA vs Sandusky trial with -- an “impossibly rapid” trial schedule created at a secret-not reported-Motel meeting kept secret for 4 years after the trial-conviction, plus no Memory-False Memory expert, plus no Improper Interviewing methodology expert, plus no FRYE hearing, plus no discussion of the underlying Economic-Political pressures, plus no discussion of the history of the Memory Wars and the thousands of false memories of abuse implanted by RRM-MPD-DISS therapists and debunked by the FBI – such an improper agreement frankly looks quite tame indeed compared to the infamous “Cash for Kids” historic corruption in PA which resulted in the PA SUP CT overturning some 4,000 sabotaged, manipulated convictions!

6B4. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Reportedly – YET ANOTHER PA SUPREME JUSTICE WAS SENTENCED TO CONFINEMENT for ILLEGAL POLITICAL ABUSE OF GOVERNMENT WORKERS. Reportedly -- Additional Indicia of Corruption in the PA Legal System: Joan Orié Melvin is a former justice of the Pennsylvania Supreme Court. In 2013, Melvin was convicted of several criminal counts related to her use of legislative and judicial staff to perform campaign work. *Justice Joan Orié MELVIN resigned from the PA SUP CT as of May 1, 2014, a few days before she was sentenced to confinement for illegally using court and legislative employees to work on her political campaigns. That sentence is on hold while she*

appeals. See, <https://www.nydailynews.com/news/politics/pennsylvania-justice-porn-email-scandal-retires-article-1.1988800> and

6C. INDICIA OF CORRUPTION in the case of PA v SANDUSKY? Does the historic evidence of general corruption in the PA legal system help us predict the misconduct in this case?

6C1. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

On this record, it appears that an unprecedented collections of suspended, prosecuted, disbarred, imprisoned, fied, reprimanded, and/or corrupt Lawyers, Investigators, and Judges were involved in this case (misconduct documented after the trial of this case is still illustrative of the character of the attorney, some of the misconduct occurred during the PA v Sandusky case). On this record: An unprecedented -- in my 30+ year experience -- astonishingly defective group of unethical, troubled, and/or suspended and/or prosecuted and/or imprisoned and/or publicly reprimanded and/or fired and/or negligent group of investigators, lawyers, and judges were involved in this historically defective case.

6C2. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Reportedly – The DECEMBER 15, 2011 SECRET HILTON GARDEN MOTEL MEETING produced a “impossibly rapid” trial schedule that sealed the fate of the defendant – with no discussions of such decisions on the record. Are such “secret” meetings unusual in PA?

Reportedly, AN UNPRECEDENTED SECRET “OFF THE RECORD” MEETING was held in a local Hilton Garden Motel involving Judge Cleland, prosecutors Fina and McGettigan, and Defense Counsel, Amendola. A key investigative hypothesis is that these “improper lawyers and an improper judge” entered into an improper agreement at this secret meeting to set a corrupt “likely conviction impossibly rapid” trial schedule thus “rigging the outcome” of PA v Sandusky to ensure a rapid and sure conviction and thus prevent the expected NCAA “Death Penalty” to PSU football program that would have resulted in over \$500 MILLION in economic damages to the local economy and PSU as well as assist the political goals of Gov. Corbett. Judge Cleland, Prosecutor Fina, and Defense Attorney Amendola ALL reportedly, not only unethically attended this corrupt meeting but then collusively HID all evidence of this corrupt meeting until 4 YEARS AFTER the trial and conviction of the defendant. Reportedly, even defense co-counsel Rominger was NOT told about the corrupt, secret, Motel meeting until 4 years later. (See, Rominger’s testimony in a subsequent appellate hearing). ***When the secret meeting finally became public Judge Cleland recused himself from the case.*** Has such a “secret” “off the record” meeting ever be held in any other PA case? If so, which case and who was involved?

6C3. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Investigator Leiter. INDICIA OF CORRUPTION IN THIS CASE: Reportedly -- Investigator Leiter recorded a discussion of the Government's corrupt, abusive, improper, repetitive Memory Manipulating interview scam in this case. On this record, in PA v Sandusky, Inv. Leiter's inadvertent recording of April 21, 2011 appears to be a clear discussion of an Improper, Systemic, Abusive Government Witness Memory Manipulation Scheme much like other infamous cases such as Wenatchee, McMartin, Kelley Michaels and the RRM-MPD-DISS malpractice trials and Licensing Revocation Actions. Investigator Leiter confessed on a recording during the April 21, 2011 interview of BH. He described his abusive, improper, unethical, repetitive, leading-suggestive, memory manipulation strategy. Was the failure to record all interviews Negligence or an improper agreement to obstruct justice? That is, recordings were destroyed if they documented abusive interviews. How many interviews were NOT properly recorded or documented in any way?

OPINION: THE TAPED discussion OF INV LEITER on April 21, 2011 documents a corrupt, abusive, historically defective interview system that appears carefully designed to *to MANIPULATE, SHAPE, and CHANGE WITNESS "MEMORIES" into agreement with Leiter's pre-conceived ideas that fit the government's narrative of this case. (e.g., Classic Confirmation Bias)* : See, Investigator Leiter's recorded discussion of an Abusive, Improper, Systemic Government Witness Manipulation Scheme of April 21, 2011 s

Inv. Leiter's Recorded Confession of Systemic Witness Tampering by the Government Was Never Properly Presented to the Jury with an Expert Witness in memory to explain how memory contaminative such a procedure could be. : All legal professionals in this case appears to have Negligently and/or Improperly Failed to Properly Deal With the Systemic Witness Tampering Methods Disclosed in Investigator Leiter's Recorded Statement (his discussion) : All attorneys (both sides) appear to have negligently failed to note and properly deal with Investigator Leiter's recorded statement (confession) of abusive, unethical, corrupt, systemic witness tampering: The attorneys (and all of them) in this case negligently or improperly failed to note and expose at trial — and provide competent expert witness testimony at trial to help the jury understand the well-documented dangers of such abusive and corrupt interviewing procedures. (See, Police Investigator Leiter's recorded confession at the April 21, 2011 interview of BH. During a break in the interview Inv. Leiter apparently forgot he left the recorder running and told others in the room (apparently Inv. Rossman and/or Lawyer Benjamin Andreozzi his starkly corrupt, unethical, and abusive interview methods. Essentially Inv. Leiter's confessed methods

sometimes took “months” of “repetition, repetition” until the witness agrees with Inv. Leiter’s pre-conceived theory of the case. (E.g. Confirmation Bias).

TRANSCRIPT of Inv Leiter’s recorded statements of April 21, 2011 -- (i.e., an historic confession of corrupt, abusive, Systemic Witness Memory Manipulation Methods):

Inv. Leiter: “**That’s the way it was with the first one. It took MONTHS to get this first kid that brought this to our attention. It took MONTHS to get him ... because it was ... well he would rub my shoulders and then he would do this ... it just took REPETITION and REPETITION and then finally he would tell us what happened”.** ... [note the repetition questions = memory tampering manipulation plus the obvious, extraordinary confirmation bias, plus Inv Leiter clearly falsely believes he is a “human lie detector”, an unresolved question is how many interviews, using the “repetition for months” to “get him” were NOT recorded? Was there Obstruction of Justice to engage in interviews that were NOT recorded because they were abusively repetitive, leading, and suggestive? Was there Obstruction of Justice to record interviews then destroy the recordings if the interviews were damaging to the prosecution case?

INDICIA OF CORRUPTION – See, INV. LEITER’S TAPED CONFESSION of April 21, 2011:

See, 1:11:26 : Lawyer Andreozzi: “Can we at some point in time say to him [the witness]...”listen we’ve interviewed other kids, other kids have told us that there was intercourse and that they’ve admitted this, um, is there anything else that you want to tell us”

Speaker Inv. Leiter (i.e., historic confession of corrupt, abusive, Systemic Witness Memory Manipulation Method) : “We do that with ALL the other kids and they listen ...‘This is what we’ve found so far and you do fit the same pattern as ALL the other ones” (NOTE: e.g., Leiter admits to lying to witnesses and demonstrates a Confirmation Bias even though many interviewees apparently said no abuse ever happened), **that’s the way he (Sandusky) operates and we know** (NOTE: e.g. a LIE and Confirmation Bias) **the progression of the way he operates** (NOTE: e.g. a LIE and Confirmation Bias) **and the other kids we’ve dealt with have told us that this has happened after this and did that happen with you?**

1:12:05 Speaker Lawyer Andreozzi: “*And I need to tell ‘em (that) too. OK.*” ...]

Dr Barden’s Opinion: This appears to be an historic taped confession of an abusive, systemically corrupt interviewing procedure for Government Witness Memory Tampering (see Wenatchee, McMartin, Kelly Michaels, and dozens of RRM-MPD-DISS therapist malpractice cases involving thousands of false memories of abuse generated by RRM-MPD-DISS therapists. This taped

confession is quite consistent with the Investigative Theory of a Culture of Corruption in the State of Pennsylvania legal system and in this case.

In addition, alleged victim AM's reported statement is very consistent with Leiter's confession report of abusive interviewing. On this record, alleged victim 2's (AM's) initial statements reportedly claimed he was "the boy in the shower" and that he reported suffering NO abuse at all from the defendant in this case. AM did not testify at trial as a witness in Sandusky's defense, reportedly because Attorney Shubin actually hid AM in an undisclosed location. (See, AM's statement to Investigator Everhart). Consistent with this analysis on Nov 9, 2011 alleged victim #2 (AM), reportedly told investigator Curtis Everhart, "never in my life did I ever feel uncomfortable or violated by Sandusky...never did Jerry do wrong by me... I will never have anything bad to say about Jerry". In addition, *in the Everhart interview the alleged victim AM reported gross misconduct by the investigators consistent with Inv. Leiter's recorded statements of April 21, 2011* -- documenting a highly improper, systemic, abusive, memory-contaminative government system of Memory Manipulation interviewing (See detailed analysis below). AM reportedly told Everhart, after telling PSP interviewers that Sandusky never mistreated or abused him in any way *"I felt very uncomfortable with the PSP interview process as they would try to put words in my mouth and take my statements out of context. The PSP investigators were clearly very angry and upset when I would not say they wanted to hear."* (Exhibit D, Interview with Everhart in Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022). This is confirmation, corroborative evidence of Leiter's confession of April 21, 2011.

6C4. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Frank Fina, JD . Reportedly -- How about Sandusky Prosecutor Frank Fina? Mr. Fina's law license was reportedly suspended for a full year by the State of PA for reportedly (deceitfully) manipulating a judge. AG Prosecutor Fina – the key prosecutor in PA v Sandusky -- was also, reportedly, guilty of transmitting massive batches of depraved, violent, racist, pornography files on Government Time and over Government email systems to PA Attorney General prosecutors and PA Supreme Court judges? Amelia Kittredge with the PA Office of Disciplinary Counsel *called AG Prosecutor Fina "someone who cannot or will not separate right from wrong."*

Prosecutor Fina – Law License Suspended for Unethical, Misconduct —

Frank Fina, JD – The key AG prosecutor in the Sandusky case was reportedly found guilty of unethical misconduct in the case. Mr Fina's law license was suspended for a year for unethical misconduct by the PA Supreme Court. The justices issued a 5-1 decision to suspend Frank Fina's law license for

a year agreeing with the Office of Disciplinary Counsel that Fina's actions were unethical and improper "Mr. Fina chose to mislead the supervising judge, causing that jurist to believe such resolution was unnecessary because Fina undertook to refrain from inquiry into areas of potential privilege," Wecht wrote. "Fina promptly and unethically reneged on those assurances. This conduct fell far below the ethical standard we rightly demand of a prosecutor in this type of situation."... "Amelia Kittredge with the Office of Disciplinary Counsel called AG Prosecutor Fina "someone who cannot or will not separate right from wrong."

See, Feb. 19, 2020 news that Sandusky **prosecutor Frank Fina loses his law license for a year ...** <https://www.pennlive.com/news/2020/02/frank-fina-sandusky-prosecutor-and-former-penn-state-lawyer-loses-his-law-license-for-a-year.html>

See also, Prosecutor who led Jerry Sandusky investigation disciplined by Pa. Supreme Court. A lawyer who led the child molestation investigation and prosecution of former Penn State assistant football coach Jerry Sandusky lost his law license for a year Wednesday over his handling of a grand jury witness in the case, the Pennsylvania Supreme Court ruled.

<https://www.mcall.com/news/pennsylvania/mc-nws-pa-frank-fina-license-suspended-20200219-meuwodyplrfrwzkfwzfru6vng6y-story.html>

Reportedly -- WAS FINA ALSO A PORNOGRAPHY ADDICT? :

See, Porn, Emails And Criminal Charges: Multiple Scandals Embroil Pennsylvania's Legal Community. Insisting that she has done nothing wrong, **Kane said in August** that the chain of events that led to the charges against her "began with a group of state prosecutors and judges passing pornographic, racially offensive, and religiously offensive emails amongst each other — email traffic sent and received on government computers, and on government time." ... Kane said she became a target as soon as she announced that her office's inquiry would unearth every email that had passed through CORBETT's and KELLY's offices. In their inquiry, investigators pulled together thousands of raunchy emails between officials, many of which had been forwarded on to others.

Hundreds of pages of those porn emails — and their attached images — were released in late August, under an order by the Pennsylvania Supreme Court. Many were sent either from or to high-ranking officials.

As Metro US reported: *"Several of the [violent, racist, explicit, hard core] porn emails originated with Frank Fina, a former prosecutor at the Attorney General's office and the lead prosecutor in the Sandusky case"*

<https://www.wbur.org/npr/454872418/porn-emails-and-criminal-charges-scandal-embroils-pennsylvanias-legal-community>

See the exposes reported regarding PA Supreme Court Justices and AG prosecutors like Sandusky prosecutor Frank Fina. They were reportedly sharing depraved, *hard-core, violent, sexist and racist pornography*, The Philadelphia Daily News published an editorial calling for PA Supreme Court Justice Eakin to be removed from office, citing conduct “so extreme that it brought the judicial office into disrepute,” and saying, “the Eakin case is the tipping point we need to change the system.”...Governor Wolf then called on Eakin to resign. The governor’s spokesperson said, “This process is absurd...Justice Eakin’s behavior is reprehensible and beyond unbecoming of an individual, let alone a supreme court Justice.” The Pennsylvania Judicial Conduct Board reviewed the matter directly and charged Eakin with violating the state’s rules of judicial conduct and the state constitution. They said he participated knowingly and often in email chains that were sexually suggestive, vulgar, and **offensive**”

See, Hundreds of Pages of PA Prosecutor's Pornographic Emails Released. by Joanna Rothkopf, August 27, 2015. “On Monday, Pennsylvania Attorney General Kathleen Kane was instructed to **stand trial** for charges of perjury and obstruction of justice. Prior to her trial she revealed that a main enemy, *Philadelphia prosecutor Frank Fina, had amassed thousands of emails containing graphic (explicit, violent, racist) pornographic content.*” On Wednesday, Fina’s porno collection was released to the public. “*The attorney general knew full well that Mr. Fina had a pornography collection of thousands and thousands of images, inappropriate statements, misogynist points of view and disgraceful content,*” said Kane’s attorney Gerald Shargel in the middle of the hearing <https://jezebel.com/hundreds-of-pages-of-pa-prosecutors-pornographic-emails-1727004974>

And ... Sandusky prosecutor FINA RESIGNS amid email scandal June 7, 2016, “The prosecutor at the center of an email scandal that sparked fallout across Pennsylvania's legal system has resigned from his job at the Philadelphia District Attorney's Office. Frank Fina had been with the city DA's office since

2013. Action News learned Tuesday that *Fina quietly resigned last month*. Fina was a lead prosecutor in the Jerry Sandusky case when he worked at the state Attorney General's office. But he's also tied to the pornographic email scandal that has already forced two state Supreme Court justices to step down. See, <https://6abc.com/frank-fina-resigns-porngate-email-scandal/1375462/>

6C5. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

History of Improper Misconduct? How about PA Attorney Generals Corbett and Kelly?

“PA prosecutor Moulton discovered more than *1500 pornographic emails containing videos and pictures that had been **exchanged during the Corbett and Kelly PA Attorney General administrations** among prosecutors and investigators in the Office of the Attorney General, politicians, and judges, including state Supreme Court Justices Seamus McCaffery and Michael Eakin*. Moulton found the pornography exchanges amid **recovered emails that had been ordered deleted from the offices of former attorneys general Corbett and Kelly**.

See, The Great Pennsylvania Government Porn Caper... “Loads of pornography littered the exchanges between government officials like so much cow sh*t in an open field. Office-secretary porn. Sarah Palin-Photoshopped porn. Hardcore, objects-stuck-in-a-woman's-every-orifice porn. The more she clicked, the worse it got. Fat jokes. Gay jokes. Racist jokes. Domestic-violence jokes. ***The bulk of which were sent on state computers, on state time, from one state employee to another.*** The emails on the disc were just the tip of the iceberg; the full scope wasn't immediately clear. In time, Kane and everyone else in the state would come to realize the emails were like strands of a spiderweb, stretching out in every possible direction, connecting small-town attorneys to big-name prosecutors to State Supreme Court Justices.”

The men exchanging these images were among the most prominent names in the state's judicial system. And *they'd been doing it for years*, with no fear of being reprimanded. *No*, Kane thought. *This is wrong. All wrong*. She had to blow the whistle, to show Pennsylvanians the true personas of men they could someday face inside a courtroom.

At first, Kane identified only a handful of top figures on then-Governor Tom Corbett's staff. Corbett condemned the exchanges and called on the participants to resign. But the list of the participants kept growing. And growing.”

<https://www.esquire.com/news-politics/a42234/porngate-pennsylvania-kathleen-kane/>

6C6. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Judge Feudal History of Improper Misconduct?

Reportedly – Judge Feudal was reportedly removed for unethical misconduct and an improper relationship with Prosecutor FINA.

Alt Hyp Questions: How about Sandusky case PA Grand Jury Judge Feudal who was reportedly removed by the PA Supreme Court for Unethical Misconduct?

See, "The Philadelphia Inquirer published a report concerning emails sent and received from the *private email account of Judge Barry F. Feudale*. Metadata from the Office of Attorney General's servers confirm the following: These emails are currently housed on Office of Attorney General servers. Any implication that the OAG is in possession of emails from Judge Feudale's personal email account that are not currently on OAG servers is false. Any implication that these emails are on OAG servers by any other means than the ordinary course of business is, again, false.... Contrary to impressions created by the Philadelphia Inquirer's story that Judge Feudale was concerned with the law or his commitment to secrecy, make no mistake: **Judge Feudale's overriding concern was how to leak sealed Supreme Court documents without getting caught....** *The seriousness of this reckless breach of sealed Supreme Court documents, orchestrated by the presiding judge of a state investigative grand jury, with attorneys and the very reporters who have covered some of the Sandusky, Computergate, and Bonusgate cases, cannot be overstated. The OAG is currently litigating post-conviction motions involving these cases. I have instructed my office to send a complete set of these emails to the Judicial Conduct Board.*" <https://www.wgal.com/article/kane-responds-to-report-about-judge-feudale-emails/6239651>

AND

“The Pennsylvania Supreme Court has removed a senior judge who once presided over many of the state's biggest grand jury investigations, accusing him of judicial misconduct and abandoning his sense of objectivity during a feud with Attorney

General Kathleen G. Kane. In a letter, the PA high court told *Barry F. Feudale* it was "deeply concerned" about his judgment and behavior, citing in part emails he sent to *Inquirer* reporters after Kane had successfully bid to have him ousted as the supervising grand jury judge in Harrisburg.... The court also said it believed that Feudale's judicial objectivity had been "clouded" by his relationship with a former prosecutor in Kane's office - a reference to Frank Fina, the once-ranking prosecutor in the Attorney General's Office who has been in a long-running feud with Kane. The court's letter, dated Oct. 20 and obtained this week by The Inquirer, gave Feudale two weeks to respond. Apparently, he never did. On Nov. 12, the court sent a second letter to Feudale, removing him. See, <https://www.mcall.com/news/pennsylvania/mc-pa-kathleen-kane-judge-removed-20151127-story.html>

6C7. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Attorney Rominger Alt Hyp: History of Improper Misconduct?

Reportedly -- *Defense Attorney Rominger - Criminal Conviction and Imprisonment* for Deceitfully Manipulating Clients (Embezzlement) — A PA v Sandusky case involved attorney - Mr. Karl Rominger, JD, subsequent to the Sandusky trial *was convicted of felony embezzlement and imprisoned for five years*. In addition, in my opinion, Mr Rominger demonstrated Negligence and misconduct at the Sandusky trial by failing to conduct a proper investigation, failing to obtain a competent memory-false memory expert, failing to obtain a competent Daubert expert, failing to obtain a competent investigation methodology expert, failing to obtain a proper psychotherapy malpractice expert, failing to have his client testify at trial and other errors.

6C8. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Attorney Baldwin, Former Judge and PA Supreme Court Justice. History of Improper Misconduct?

Reportedly -- PSU Attorney Baldwin – Reportedly received a humiliating Public Reprimand for her Unethical, Manipulative Misconduct and violation of Attorney-Client Privilege — Yet another former PA SUP CT Justice-attorney involved in PA v Sandusky, at the time Penn State Counsel Cynthia Baldwin, JD reportedly was *formally reprimanded by the Pennsylvania Supreme Court for manipulative unethical misconduct related to the Sandusky case*. Baldwin reportedly was present at the Grand Jury as the lawyer representing 3 clients -- witnesses Spanier, Curley, and Shultz. Her representation of a witness

was apparently, under PA rules, the only reason Baldwin was permitted in the Grand Jury room. Then later, having apparently misled the court, Baldwin then reportedly “switched” and later claimed that actually, she had only been representing PSU and NOT her three clients. She later reportedly testified against her own clients leading to their prosecution. This kind of misconduct is highly unusual in my experience.

6C9. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Judge Cleland Investigative Questions: History of Improper Misconduct?

Reportedly -- Judge John Cleland *reportedly recused himself following Public Exposure of an apparently unprecedented, never explained, “off the record”, un-recorded, un-transcribed, “secret” meeting with prosecutors and defense lawyers at a local Motel (Hilton Garden Inn).*

That apparently corrupt meeting reportedly produced as “likely-conviction-death-march”, trial schedule that precluded any chance of a fair trial. Even highly specialized experts in such cases could NOT properly prepare and try such a complex case on the “likely-conviction-death-march” schedule set by Judge Cleland at his reportedly “secret off-the-record”, unrecorded, apparently improper meeting at the Hilton Garden Inn with apparently improper (license suspended for misleading a judge) Prosecutor Frank Fina and apparently improper defense lawyer Amendola (e.g. Amendola attended a “secret, corrupt, off the record meeting” then HID this unprecedented “secret” meeting from his own defense co-counsel Rominger until years after the trial and conviction in PA vs Sandusky). **During the trial it appears that Amendola behaved at times like an attorney determined to harm his client’s case, with no competent science experts, no competent science consultant to draft RRM-MPD-DISS questions, no motion for a FRYE hearing, and convincing his client to NOT testify in his own defense (often a fatal error in such cases), etc.**

Reportedly, when Judge Cleland’s secret, unrecorded, unreported, local Motel meeting with AG Fina and Defense counsel Amendola finally did become public – 4 YEARS after the trial and conviction - Judge Cleland recused himself. Just how unusual was the secret, Motel meeting that produced two essential trial-controlling decisions (1- waived defendant’s right to a preliminary hearing and 2- set an impossibly rapid “impossibly rapid”, no time to properly prepare, trial schedule) such decisions were reached with no discussions on the record? See, Briefs, Motion, Appeals, and Media:

<https://www.fox43.com/article/news/local/contests/judge-john-cleland-recusing-himself-from-all-future-jerry-sandusky-hearings/521-cfb89259-236f-4a6c-997f-b6d8a8cfbd29>

EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?* Judge Cleland’s apparent sabotage of the Defense Case *during the trial:*

On this record, Judge Cleland bizarrely (or conspiratorially) dismissed concerns about the way Rossman and Leiter questioned BH or other “victims” and whether their interview methodology was likely to lead to false allegations.

Specifically, on this record, at trial Judge Cleland reportedly said “***The issue is not whether or not the witness’s testimony was corrupted by any questions***”. Was this wildly false and trial contaminating statement a result of science-uninformed Negligence or a just another part of an improper agreement to sabotage the trial?

Cleland reportedly also instructed the jurors. “*The purpose of the evidence is to show that the troopers didn’t tell the truth, not that BH didn’t tell the truth.*”

Judge Cleland’s statements appear to eviscerate the most essential defense argument in such a case – that improper interviewing produced “changed-false” memories of abuse.

Having litigated or consulted on hundreds of “recovered memory therapist” lawsuits in many states, consulted on multiple licensing revocation actions against “recovered memory therapists” and having testified in many criminal cases and family law cases where “memories”, “morphing memories”, “question contaminated memories”, and related issues are essential, having written international reviews for Oxford University Press and Reuters-Thompson Publishers, having given invited talks on these and related issues at the national conventions of psychologists (APA), psychiatrists (APA), lawyers (ABA) and the US Surgeon General’s conference, and having given training talks to Federal Judges, Sex Crimes Investigators Association conventions, and the FBI -- this statement by Judge Cleland “**The issue is not whether or not the witness’s testimony was corrupted by any questions,**” is the most science-uninformed, incompetent, improper, illogical, and/or corrupt attempt to manipulate a trial to ensure a rapid conviction of the defendant that I’ve seen (e.g., just like Judge Cleland’s secret meeting at the Hilton Garden Inn producing his order for a “likely-conviction-death-march” schedule to overwhelm and crush the local science-uninformed defense counsel at the only such “secret meeting” I’ve seen or even heard of over the past 30 years.

Judge Cleland’s misleading and apparently corrupt statement that “**The issue is not whether or not the witness’s testimony was corrupted by any questions**” is, in my opinion, further evidence of a Culture of Corruption in the legal system of the State of Pennsylvania. Note that multiple other States – with more science-literate or less corrupt legal systems spent enormous amounts of time and resources getting this issue right – in detailed Frye-Daubert science hearings involving multiple national experts (see numerous citations above). In all such hearings in which I have been involved in – those courts rejected recovered repressed (“dissociated”) memories of trauma as unproven, unreliable, NOT accepted by the relevant scientific community, and having NO known error rate (thus possibly 100% false) thus **excluding the junk science based testimony and dismissing the entire case.**

It is truly astonishing that nobody involved in this case including the Freeh Group, the NCAA, the AG's office, the National and Local Media nor the incompetent, overwhelmed defense attorneys raised the issue of the wildly controversial claim that ""buried trauma memories reliably are reported following psychotherapy and lawyer interviews -- after being "blocked out". ***A properly held Frye hearing would likely have eliminated many – if not all – of the alleged victims testimony in this case as RRM-MPD-DISS ideology and methods have been rejected by the relevant scientific community*** (e.g. Frye standard) as a "pernicious myth" and would have resulted in a competent defense expert explaining the ease with which therapist/lawyer interviews can change-morph, distort, and contaminate "memories" as well as the U.S. history of thousands of RRM-MPD-DISS abuse hysteria-satanic cult hysteria - false memory cases debunked by law enforcement and others. Such a result would have produced a properly competent trial in this matter instead of the tragic debacle of the science-uninformed criminal investigation and trial that is documented on this record. The people of the State of Pennsylvania deserve a more competent, less corrupt legal system and public hearings at the Pennsylvania State Legislature would help to fully document what actually happened at the secret Motel meeting, was well as what actually happened in the investigation and trial of this very complex and controversial matter.

6C10. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

ADDITIONAL INDICIA OF CORRUPTION, RRM-MPD-DISS evidence on the record:

Obvious "recovered repressed memories" and the underlying RRM-MPD-DISS ideology were never challenged at trial, no competent science Memory-False Memory expert debunked such inherently unreliable memories, no science expert exposed Leiter's corrupt interviewing practices. Were such coordinated, multiple, unprecedented, egregious defense counsel "errors" possible without an actual improper agreement to sabotage the defendant's case?

EVIDENCE OF RECOVERED REPRESSED (buried, blocked, dissociated) MEMORIES IN THIS CASE-- IDEOLOGY, METHODS, and PRACTICES :

Evidence of Recovered Repressed (buried, blocked, etc) Memories in this statement from Corbett protégé PA Attorney General Linda Kelly.

"It was incredibly difficult for some of them to unearth BURIED memories of the shocking abuse they suffered. Most of us cannot possibly fully comprehend what they testified." See,

https://www.pennlive.com/midstate/2012/06/jerry_sandusky_verdict_attorne.html

More Evidence of Recovered Repressed (buried, blocked, etc) Memories in this case from Alleged Victim DS.

At trial (Day 3), Witness DS was asked if his testimony had changed dramatically over previous months. He said “Yes. That doorway that I had closed has since been reopening more. More things have been COMING BACK and things have changed since that grand jury testimony. Through counseling and different things, I can remember a lot more detail that I had pushed aside than I did at that point.” (Trial transcript, Day 3, p. 143) ...

AND Witness DS also said...

“Through counseling and through talking about things in my past, different things triggered different memories and I have had more things COME BACK, and its changed a lot about what I can remember today and what I could remember before, because I had everything BLOCKED OUT.” (Trial Transcript, Day 3, p. 152)

AND Witness DS also said...

“During his testimony, DS also revealed that he and alleged victim ZK had talked about how their therapy was going. “ZK would ask me sort of what happened to me almost—I feel so that he could confide in me. *But he had asked me if I remembered anything MORE, if counseling was helping ...*” (Trial Transcript, Day 3, p. 154)

AND Witness DS also said...

When Prosecutor McGettigan asked DS why he hadn't disclosed Sandusky's abuse to the police during his first or second interrogation, DS explained: “I had sort of BLOCKED OUT that part of my life. Obviously, going to football games and those kinds of things, I had chosen to sort of to keep out in the open, so to speak. And then the more negative things, I had sort of pushed into the back of my mind, sort of like closing a door, closing—putting stuff in the attic and closing the door to it. *That's what I feel like I did.*” (Footnote 11, Trial Transcript, Day 3, p. 119).

AND Witness DS also said...

Witness DS was reportedly the only alleged Sandusky victim who agreed to speak to science writer and expert on RRM, Mark Pendergast -- a Harvard College Alumni journalist/author who has written several books on RRM-MPD-DISS history and ideology. In October 2014, Pendergast reportedly spoke with Witness DS at length in his home in State College, Pennsylvania, with follow-up by email and phone, and *Mr. DS verified that he had indeed recovered memories of abuse in therapy and that he thought the door to his abuse memories was still only part way open*. Pendergast reported DS

said he remained in therapy with Cindy MacNab at The Highlands in State College, a therapist reportedly suggested to and working with his civil lawyer, Andrew Shubin.

DS reportedly told Pendergrast, “Actually both of my therapists have suggested that I have repressed memories, and that’s why we have been working on looking back on my life for triggers. My therapist has suggested that I may still have more repressed memories that have yet to be revealed, and this could be a big cause of the depression that I still carry today. We are still currently working on that.” (See, Pendergrast Interview of DS, DS Email, Oct. 15, 2014.) (See, Pendergrast, M., *The Most Hated Man in America: Jerry Sandusky and the Rush to Judgment*, Sunbury Press (2017) ISBN-10: 162006765X; ISBN-13: 978-1620067659.)

More Evidence of Recovered Repressed (buried, blocked, etc) Memories and Debunked Multiple Personality Disorder Methods and RRM Ideology in this case from Alleged Victim MS and his book.

In 2016, alleged victim MS wrote “Undaunted: Breaking My Silence to Overcome the Trauma of Child Sexual Abuse” in which he reported radically transformed “new memories” of childhood abuse. MS disclosed classic RRM-MPD “dissociation” therapy methods. For example, he reportedly printed a conversation with his “inner child” in which he recovered a new (developmentally virtually impossible) memory of being abused at TWO years of age (Note: Virtually Zero chance of accuracy as 2 yrs olds’ memories are quite unreliable due to the well-documented process of infantile amnesia). In his newly recovered “memory” MS claimed his father was “holding the red-hot flame of a cigarette lighter to his tiny, fragile toes” [Zero medical evidence of burns or scars on this record.] **He said “this is what I do now for my INNER CHILD. I tell him (note the bizarre, debunked, inherently unreliable Multiple Personality aspect of this reported conversation with MS’s “inner child”) that it is safe to disclose, to admit what happened, to me”. MS noted that he “had to access the traumatized child self “[this is an example of junk-science RRM-MPD therapy for which therapists LOST their license]. in order to heal. MS further writes, “I had kept my child self LOCKED UP in the prison of my pain and my silence where HE (the “inner child” personality) couldn’t grow up.” (This is Classic Multiple Personality Ideology junk science).**

MS continued his classic RRM-MPD-DISS discussion writing that his “mental escape mechanisms allowed him to take his mind away”. He writes that when he unearthed his memories “I felt like my mind had been a swollen wound full of infection

and pus, and I had lanced it and all the poisonous junk had flowed out”.. He continued, these were “things I had kept hidden deep within me in the deepest LOCKED DOORS of my heart.” (very standard, inherently unreliable, RRM-MPD-DISS ideology, practices and ideas EXCLUDED in multiple Frye and Daubert hearings in multiple states and IGNORED by negligent and/or corrupt sabotage by defense counsel). MS went on to write, the shame of abuse led him to “put it away in a compartment of your brain, and LOCK THE KEY to that dark place forever, which is the way a victim DISSOCIATES and denies.” MS continued, “The more I tried to BLOCK IT OUT, the more visuals I would see. I had denied it for so long that now I was owning up to it, the (recovered repressed) memories flooding over me. I had spent most of my life blocking out or DISSOCIATING from the victimization.” MS disclosed that he had been seeing a “specialized trauma therapist” for years when he wrote the book. Having perfectly described the classic recovered repressed memory RRM-MPD-DISS inherently unreliable process — including a DISSOCIATED “inner child” personality — MS futilely tried to claim that he had not really “recovered memories” — apparently knowing that the legal and science worlds had debunked RRM-MPD-DISS “memories” long ago. (See, *Undaunted* by MS at pg 20, 63, 122, 142, 146-155, 164, 192-193 ; See, M. Pendergrast book on the Sandusky case).

[Note the theories and methods MS is describing are the classic controversial, inherently unreliable RRM-MPD-DISS psychobabble debunked by dozens of research studies and excluded in multiple states following complex FRYE and/or Daubert science hearings as unreliable junk science, a “pernicious myth”, rejected by the relevant scientific community.

More Evidence of Recovered Repressed (buried, blocked, etc) Memories in this case from Alleged Victim BH at Trial: On the witness stand, BH reportedly stated at Trial... “I have spent, you know, so many years BURYING this in the back of my head forever”. [Although BH admitted to major transformation in his “memory” stories over time, Attorney Amendola negligently failed to properly follow-up and ask how these “buried memories” were brought to the surface.]

More Evidence of Recovered Repressed (buried, blocked, etc) Memories in this case from Alleged Victims.

Testimony at trial J.S., B.S.H. and Z.K. reportedly also claimed their “memories” of abuse changed over time *as a result of psychotherapy* helping them to UNBLOCK memories of past trauma.

Classic (Science-uninformed) Recovered Repressed Memory Quote from ZK's Attorney Howard Janet:

ZK's attorney, Howard Janet, explained in an interview how ZK and the other alleged victims could "*create a bit of a Chinese wall in their minds. They BURY these events that were so painful to them deep in their subconscious.*" [Classic RRM-MPD-DISS pernicious myth – yet another gullible, science-uninformed believer.]

6C11. EXPORING CURRENT INVESTIGATIVE HYPOTHESES:

Therapist Gillum. *More Evidence of Recovered Repressed (buried, blocked, etc) Memories in this case from local, apparently science-uninformed, Psychotherapist Gillum's book: "Emotional signs of trauma, however, can remain LOCKED within the victim's psyche as they search for the magic bullet to mask their pain."* Therapist Gillum's controversial RRM-MPD-DISS ideology has been called a "pernicious" myth by the relevant scientific community.

Therapist Gillum should be properly deposed by a science-literate attorney (or an JD-only litigator with a science consultant) to properly document Gillum's reportedly unethical misconduct and licensing violation boundary issues and other violations in this complex case.

Clearly, given Gillum's apparent views on RRM-MPD-DISS ideology Therapist Gillum (like therapist Macnab) appears to have engaged in unethical misconduct and licensing violations by failing to properly **obtain informed consent** from patients by failing to inform them of the hazards of induced false memories, the history of the Memory Wars, and the existence of MUCH scientific research debunking RRM-MPD-DISS ideology. (See the many citations in this report).

More Evidence of Recovered Repressed (buried, blocked, etc) Memories in this case from Alleged Victim AF (regarding his 3 year therapist, Mike Gillum):

At trial... AF said that his therapist Mike Gillum "believed something more did happen and we talked" ... he disclosed he'd been seeing Gillum for "quite some time now" (3 years). ... AF also disclosed that the investigators had told him what "memories" they expect to hear (See, Ins. Leiter's taped confession of just such Memory Manipulative interviewing procedures of April 21, 2011). The investigators AF said,

encouraged him to tell them more and as “other Second Mile alums were claiming abuse, “They said I’m not alone”, AF reported. (See Trial Transcript, Day 2, pg 4-104).

6C12. Yet another Defective, apparently Science-uninformed local psychotherapist was involved tangentially in PA vs Sandusky: Alleged victim ZK’s psychotherapist Alycia Chambers reportedly taught ZK science-uninformed-defective hydraulic “venting” notion of stress reduction.

“During a therapy session that Monday, Chambers probed ZK for the details of an outing with the defendant (witness tampering by a therapist intruding into investigation “memories”?). Chambers at one point thought ZK seemed to be getting irritated, so she directed him to *do some “release” work*. In her notes, she expressed her satisfaction with the good job he did *whacking the chair with a tennis racket*. She explained how to make *a homemade punching bag so that he could release his anger safely at home*. On this record, *Chambers also violated her patients right to informed consent* and engaged in quack practices while failing to honestly and properly disclose the risks and benefits and alternative including CBT, Positive Psychology, Gratitude Journals, and Coping/Resilience Science treatments. (See, Pendergrast, M., *The Most Hated Man in America: Jerry Sandusky and the Rush to Judgment*, Sunbury Press (2017) ISBN-10: 162006765X; ISBN-13: 978-1620067659.)

On this record, it is not clear what, if any, other kinds of controversial “therapies” were provided to patients by Therapist Chambers. Her records should have been obtained and reviewed with a competent expert witness by defense counsel.

6C13. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Shubin and Macnab Investigative Questions: Were Attorney Shubin and Therapist Macnab in “business” together? Reportedly -- Additional Indicia of Corruption in the Newly Discovered evidence regarding alleged memory contaminator Attorney Shubin and his affiliated RRM therapist Macnab? ...

See previous review of the Newly Discovered Evidence interviews of SS-Shubin and AJ Dillon “sting investigation” recordings. Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that DS (Alleged Victim 7) in 2004, reportedly sent an application for financial aid writing “Jerry Sandusky, has helped me to

understand so much about myself. He is such a kind and caring gentleman, and I will never forget him.” (N.T. Trial, Day 3 at 138).

Consistent with the evidence reported above, *after multiple reported meetings with Attorney Shubin and “therapy” with psychologist C. Macnab, DS’s reported “memories” were apparently radically transformed into NEW “MEMORY” allegations of criminal abuse (worth millions of dollars).* After exposure to Shubin and Macnab DS stated that “through counseling *different “memories” were “triggered”*... “that doorway that was closed, has since been opening more... *through counseling and different things I can remember a lot more detail that I had pushed aside* then” (N.T. Trial, day 3 at 143 in Defendant’s Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022.

The potential memory contaminating effects of Shubin-Macnab were not properly explored at trial. Macnab’s records were not obtained and reviewed by an expert for evidence of RRM-MPD-DISS memory contaminating therapy. The jury apparently learned nothing of this essential alternative hypothesis in the case.

6C14. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Was there an improper agreement in PA v SANDUSKY designed to produce a “sabotaged” trial? Is so, that would explain:

-- No Memory-False Memory, RRM-MPD-DISS Expert Witness ... a goal to leave no time to find and retain an actual Science Expert Witness on RRM-MPD-DISSOCIATION and False Memory issues (not local, science-uninformed therapists like Gillum and Macnab who “treated” several alleged victims in this case) -- (as result of an improper agreement a science-memory expert was never retained, and none testified at trial leaving the jury uninformed and/or misinformed about multiple key memory issues including THE SCIENCE OF FALSE-BUT-FERVENTLY-BELIEVED-IN-MEMORIES)

-- No Expert Memory Litigation Consultant -- the criminal co-conspirators also ensured there was no time to hire a science-litigation consultant to teach the poorly-trained, science uninformed local defense lawyers how to deal with the complex RRM-MPD-DISSOCIATION, changing “memories” issues so essential in this case and

-- No history of Therapist Quackery and License Revocations -- leave no time for an expert to properly instruct the jury as to the history of licensing revocations for the unethical, memory contaminating practices of RRM-MPD-DISS therapists like Gillum and Macnab (thus this history was never discussed) and

-- No history of the Infamous “False Conviction Cases” -- leave no time for an expert to properly instruct the jury as to the history of the Infamous “False Conviction Cases”: (e.g., Amirault, Wenatchee, Wee Care, Kelly Michaels, etc). On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

-- No history of the Thousands of Proven False “memories” Created by Therapists -- leave no time to properly instruct the jury as to the history of THOUSANDS of F.B.I. investigation-documented FALSE allegations of abuse such false memories being induced by improper RRM-MPD-DISS ideology therapists like Therapists Gillum and Macnab of this case (thus this history was never explained to the jury)

-- No Review of Essential Evidence -- leave no time to even review the crucial evidence in this complex case which could take a year or more (thus much essential evidence was never reviewed.

-- No FRYE Hearing -- leave no time to file a proper DAUBERT motion (thus no DAUBERT motion was ever filed and no DAUBERT hearing was held, despite other states throwing out such cases based on RRM-MPD-DISS radically changing “memories”)

-- No Proper or Competent Cross Examinations -- leave no time to prepare cross-examinations (thus the cross examinations were horrifically incompetent),

-- No Science Expert Explanation of the Memory Contaminative Power of Inv Leiter’s Confessed Corrupt Interview Practices -- leave no time to fully expose and have an expert explain the gravity of the corruption displayed by Investigator Leiter’s April 21, 2011 taped confession of massively unethical, improper, memory-manipulation, “repetition until the witness agrees” interviewing practices (thus the memory contaminative power of Leiter’s systemically abusive interview process was never properly disclosed and properly explained to the jury)

-- No Testimony by the Defendant -- and to ensure that when the time came Defense Counsel Amendola would convince Defendant Sandusky NOT to testify in his own behalf know that such a move would guarantee conviction (thus the Defendant did not testify and was convicted).

-- Was the Motivation for misconduct Prevention of the NCAA Death Penalty that would have produced a loss of \$500 MILLION and thus a Local Economic Disaster: Was the “likely-conviction-death-march” trial schedule and other corrupt goals designed to produce a very short trial and rapid conviction in order to prevent the PSU football program from receiving the publicly threatened NCAA “death penalty” closing down the PSU football program which *would have cost PSU and the local community hundreds of millions of dollars in economic damages (losses of over \$100 million per year for multiple years)?*

6C15. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Was the “secret” , “off the record” , unreported, Hilton Garden Motel meeting “likely-conviction-death-march” trial schedule of Cleland-Fina-Amendola designed to:

A) give lawyer Amendola cover and an excuse to not even bother to review the evidence, which was reportedly not even gathered at that time, and

B) give lawyer Amendola cover and an excuse to not even bother to retain proper Memory-False Memory-RRM-MPD-DISS expert witnesses to instruct the defense attorneys and the jury regarding the very essential and very complex science issues in this case, and

C) give lawyer Amendola cover and an excuse to not even bother to put together a competent FRYE motion and hearing which could have resulted in the testimony of many if not all “victims” who experienced radical changes in “memories” following multiple therapist-civil attorney meetings being excluded. (See the section on ignored Basic Essential Science-History above).

D) give lawyer Amendola cover and an excuse to not even bother to gather key evidence in the case including the certified-to-be-complete mental health records of all alleged victims including ALL therapy sessions and especially joint-group therapy sessions, hypnotic procedures, etc.

E) give lawyer Amendola cover and an excuse to not prepare competent cross examinations of the prosecution witnesses.

6C16. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption ?*

Dr Barden’s Notes and Investigative Hypotheses: In a non-corrupt legal system involving ethical attorneys -- local defense counsel Amendola *would have refused to attend a secret, “off the record”, un-recorded, un-transcribed meeting with Judge Cleland and the prosecutor Fina,* to set an all-important trial schedule and for the “defense” to suicidally waive a preliminary hearing where they could have questioned the alleged victims about their mental health history, exposure to RRM-MPD-DISS ideology, exposure to civil attorneys offering millions for abuse “memories”, Inv. Leiter’s abusive interviewing practices and other essential information.

Further, in a non-corrupt legal system, when the court refused to give the local science-uninformed defense attorneys time to review the evidence nor obtain competent experts and thus have a chance of understanding what happened in this multi-year complex investigation -- *both defense counsel should have resigned from the case and refused to participate in a sham trial rather than simply comply with Judge Cleland’s “likely-conviction-death-march” trial schedule reportedly generated at the secret “off the record” motel meeting.* Attorney Amendola knew or should have known this , “impossibly rapid” trial schedule would surely doom his client’s case.

On this record, *alleged criminal co-conspirators* Fina-Cleland-Amendola *did not tell anyone about the existence of the “corrupt secret off-the-record Motel meeting” until 2016* – 4 years after the trial and conviction of the Defendant.

On this record, the alleged criminal co-conspirators – Cleland, Fina, and Amendola -- even hid the “corrupt secret meeting” from defense co-counsel Rominger. (See testimony of Rominger at the August 2016 post-conviction hearing).

On this record, the December 12, 2011 unprecedented, corrupt, secret Motel “off the record”, no court reporter, hidden from defense co-counsel for 4 years, hidden from the public for 4 years, **meeting** remained hidden until MAY of 2016: Defendant’s Appellate Attorneys reported first learning of the “corrupt secret meeting on May 2, 2016. (See, Motion for Recusal of Judge Cleland, filed on May 9, 2016.)

As stated in the Motion for Recusal, on May 2, 2016 after the scheduled argument in the underlying PCRA matter, the PCRA hearing Judge Cleland placed on the record that HE could be a fact witness with respect to one of the Defendants claims. Specifically, Judge Cleland represented, on the record, that HE was present with trial counsel Joe Amendola, counsel for the Commonwealth and District Magistrate Scott at the Hilton Garden Inn in State College before the scheduled preliminary hearing at a reportedly “unrecorded, “off-the-record”, undisclosed for 4 YEARS, “secret” meeting.

At this off-record, no court reporter, not disclosed to defense co-counsel, meeting at the Hilton Garden Inn, certain representations appear to have been made by both the Commonwealth and Mr. Amendola and an unrecorded agreement was reached regarding the mysterious waiver of Mr. Sandusky’s essential preliminary hearing plus creating an impossibly rapid “likely conviction, ultra-fast, impossibly rapid” trial schedule – with the entire discussion “off the record” .

The Essential Alternative Investigative Hypothesis here is that a criminal co-Improper agreement was reached for Amendola to work with Fina and Cleland to actively **sabotage the defendant’s case (much like the infamous PA Kids for Cash corruption scheme** only far more simple) to ensure a rapid, sure conviction thus saving the local economy from hundreds of millions of dollars in losses by preventing an NCAA “death penalty” for the PSU football program – and also facilitating the political goals of Gov Corbett, reportedly a mentor-ally of Cleland, Fina, and Kelley.

More evidence the corrupt-appearing, secret Motel meeting was actually an improper agreement: Defense Attorney (1 of 2) Carl Rominger, JD testified in the PCRA proceedings of August 12, 2016 that even he, defense co-counsel Rominger, was reportedly NOT informed about the Cleland-Fina-Amendola secret Motel “off the record” meeting until he was told by appellate defense counsel Lindsay, the night before Rominger’s testimony at the hearing on August 11, 2016. This appears to be powerful evidence that the alleged criminal co-conspirators, Cleland, Fina, Amendola were actively and successfully hiding knowledge of the unprecedented, secret, unrecorded, meeting at the Hilton Garden Inn for years.

6C17. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

More evidence supporting the Investigative Hypothesis that the corrupt-appearing, secret Hilton Garden Motel meeting did indeed produce an improper agreement:

To the best of my knowledge, no judge in any other state has ever held such a *secret Motel “off the record”*, with no court reporter, even hidden from defense co-counsel, also hidden from the public, meeting at a local motel to waive defendant’s essential right to a preliminary hearing and set up a “likely conviction, impossibly rapid” trial schedule. An ethical attorney would NEVER have attended such a meeting much less kept it secret from his own defense co-counsel for Four Years.

Key Inv. Hyp. Notes: In addition, on this record, an ethical, clean defense attorney **would not have stayed in the case** if they “lacked time to even review basic evidence” or had “no time to retain and hire essential expert witnesses) as Amendola reportedly claims in his “covering-up corruption” motions for additional time and to withdraw (both of which he apparently pre-arranged with Cleland to lose) and his subsequent affidavits for appellate counsel. ***Given the lack of time, no experts, Amendola and Rominger had no ethical path but to RESIGN from the case and walk away*** – but they stayed and participated in what appears to have been a historically uninformed and/or misinformed trial. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

6C18. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

On this record, the dysfunction, misconduct, ignorance of basic-essential science-history, well-documented corruption, and Negligence displayed in the PA v Sandusky investigation and trial are all unprecedented in my 30+ years of experience in dozens of states reviewing hundreds of cases. Why did such a disastrous investigation and trial take place?

Investigative Hypotheses Questions: Why were fundamental standards violated including:

-- Where were *ALL* interviews *NOT* properly recorded? An essential Memory-False Memory-expert witness was NOT provided to inform jury. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

-- A essential FRYE-DAUBERT motion and hearing required in such cases to protect the integrity of the legal system was NOT sought and NOT conducted, and secret “off the record” hearings held in a local Motel and not disclosed for YEARS -- to set a “likely-conviction-death-march” trial schedule -- are NEVER, EVER permitted?

Why were key issues like the obvious memory contaminative effects of exposure to science-uninformed local therapists Gillum and Macnab (both clearly uninformed proponents of the debunked RRM-MPD-DISS ideology) not properly raised and explained to the jury by expert witnesses at trial? Why was the history of lawsuits and licensing revocations for RRM-MPD-DISS therapists like Gillum and Macnab? Why were the apparent licensing violations and other misconduct by local therapists Gillum and Macnab not fully exposed at trial (e.g., more evidence should have been gathered but on this record which includes Gillum's book plus public statements by both as well as the "sting investigation" by AJ Dillon plus other evidence, the local science-uninformed therapists Gillum and Macnab committed serious licensing-ethics informed consent violations, as well as unethical dual conflicting role violations, as well as applying-teaching-indoctrinating vulnerable patients in the "pernicious myth" of RRM-MPD-DISS ideology and other ethics-licensing violations NONE of which were raised at trial, nor explained to the jury by an expert in Memory-False Memory-Memory Contamination, etc).

6C19. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Not Properly Dealing with Probable Memory Contamination Effects of Science Uninformed Psychotherapist Interviews: Negligently and/or Improperly Ignoring the Controversial, Malpractice of Recovered Repressed Memory Psychotherapists Gillum, Macnab, and Chambers. –

All attorneys (both sides) also negligently or improperly failed to note and properly deal with and respond to the documented known-to-be often memory contaminating procedures and unethical methods of at least two (and potentially more) apparently poorly trained, science-uninformed psychotherapists Gillum and MacNab, — both of whom appear to have treated alleged victims and both of whom apparently gullibly believe that "recovering repressed (blocked, buried) memories via psychotherapy, via rumination, via interviews with civil attorneys, in "group RRM therapy", *or other methods*) can **reliably** "bring back" or "reconstruct" or "free up" or "open the door" to "newly reported" trauma memories that are somehow magically accurate representations of real events—a pernicious myth.

In multiple, previous litigation cases RRM therapists lost malpractice lawsuits and several were prosecuted by State Licensing Boards and lost their license.

There is no evidence in this record that these local therapists were aware of the science debunking RRM-MPD-DISS ideology. There is no evidence in this record that these local therapists were aware of such ideas being very controversial. *Failure to obtain informed consent from their patients – including informing them of the well-documented controversies of debunking of RRM-MPD-DISS would be unethical misconduct and subject them to potential license revocation.* None of this essential information

and analysis was apparently told to the jury. On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

6C20. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Not Properly Dealing With Probable Memory Contamination Effects of Science

Uninformed Attorney Interviews : Negligently and/or Improperly Ignoring Potentially Memory Contaminating (Unrecorded) “Interviews with Civil Attorneys Shubin and Andreozzi : All attorneys (both sides) also negligently or improperly failed to note and properly deal with and respond to — the memory contaminative interview process of several civil attorneys who — like the investigators — appear to have worked to synch with investigators and therapists to manipulate, coerce, and change he memories of their clients to maximize financial recoveries. (See, Newly Discovered Evidence of SS-Shubin interview and the Sting Investigation results of AJ Dillon)

Inv. Hyp Note: It is important to consider that in the recorded discussion of Inv Leiter of April 21, 2011 – *Leiter was apparently TRAINING Attorney Andreozzi (who was improperly present at the interview) HOW to conduct memory manipulative, Confirmation Bias, improper interviews just like Leiter’s improper interviews.* In sum, on this record Leiter was apparently *helping attorney Andreozzi to SUE the STATE for millions of dollars* thus providing more damage/disrepute for PSU. Was this odd result actually predictable as a key political goal of Corbett-Kelley-Fina?

6C21. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

MUCH ESSENTIAL EVIDENCE WAS NEGLIGENTLY OR IMPROPERLY WITHELD FROM THE JURY IN THIS CASE:

A leading world expert on memory contamination and trauma memories Prof E. Loftus of the Univ of California wrote a book about the relevant research entitled **THE MYTH OF REPRESSED MEMORY** but the jury in the Sandusky trial was never informed of this essential evidence.⁷

The leading world trauma expert, Prof Richard McNally, Director of the Harvard Univ Clinical Psychology program, wrote a book about the relevant science entitled **REMEMBERING TRAUMA**, Harvard Press. (not “repressing trauma” and not recovering memories of trauma and not when memories start to come back about trauma) but the jury in the Sandusky trial was never informed of this essential evidence.

⁷ Reportedly, Dr Loftus participated in a *post*-conviction hearing but apparently was only given a very slender, limited file of records to review in this case].

The leading expert on cult influence, coercive influence, and indoctrination Prof Richard Ofshe of UC Berkeley wrote a book on RRM cult indoctrination called **MAKING MONSTERS** (i.e., how RRM ideology and practices took people with no history of trauma and produced new “memories” that turned their parents into abusive monsters – with NO corroborating evidence and with the FBI investigating and debunking thousands of these cases – just like in Pennsylvania v Sandusky) but the jury in the Sandusky trial was never informed of this essential evidence.

World experts in the history of methodological errors of RRM-MPD-DISS ideology -- Profs Harrison Pope and James Hudson of Harvard Medical School -- wrote an exhaustive review of research on thousands of victims of trauma showing NONE blocked out and later reliably recovered memories – ***because humans remember horrific trauma in searing detail and DO NOT BLOCK out such memories*** -- but the jury in the Sandusky trial was never informed of this essential evidence.

An entire ***medical textbook*** was published on the RRM debacle and how lawsuits and licensing revocations cleaned MOST of this destructive ideology out of courts and hospitals but pockets remain. See, Pendergrast, M., (2017) *The Repressed Memory Epidemic: How It Happened and What We Need to Learn from It*, [Springer International Publishing](#), ISBN 9783319633749 -- but the jury in the Sandusky trial was never informed of this essential evidence.

In the ***International book on Sex Cases from Oxford University Press*** the Oxford Press Editors invited me as an international expert in RRM-MPD-DISS ideology and the related history and legal-science issues to provide a chapter explaining the history of science of debunking and exposing as inherently unreliable (and based on junk science methods/theories) recovered repressed memories like the ones presented to the jury in Pennsylvania v Sandusky. See, Barden, R.C., Memory and Reliability: Developments and Controversial Issues. In *Witness Testimony in Sex Cases*, Eds. Pamela Radcliffe, Anthony-Heaton Armstrong, Gisli Gudjonsson, and David Wolchover, Consultant Editor: Sir Anthony Hooper, Oxford University Press, March 2016 -- ***but the jury in the Sandusky trial was never informed of ANY this essential, published, widely discussed evidence. ...***

On this record, the jury in PA vs Sandusky was uninformed and/or misinformed with regard to essential scientific-history-memory-interviewing and related issues.

6C22. Investigative Hypotheses: Defense Counsel Failed to Retain, Prepare, and Have Testify an EXPERT WITNESS to PROPERLY EXPLAIN TO THE JURY THAT “Fervently-Believed-In-But-False-“Memories” are often not lies : A very essential issue for juries to hear and understand in such cases. Juries often believed (mistakenly) that human memory is like Recording or DVD and can be “played back”. Such jurors are often torn between the “truth or lie” issues – helping them understand that Fervently-Believed-In-But-False-“Memories” are not lies permits jurors to consider

this essential alternative hypothesis in such cases. It is often one of the most powerful pieces of evidence in a case where alleged “memories” with no corroborative evidence are all the jury can consider.

6C24. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

NO OPINIONS ON MOTIVATION ONLY INVESTIGATIVE HYPOTHESES: Alternative Hypotheses for future potential Investigations into the troubled Pa v Sandusky case.

As a SCIENCE Expert Witness, I, like everyone else, am *not a reliable human lie detector* and thus cannot offer any opinions as to the motivations of anyone engaged in *Errors? and/or Negligence? and/or Corruption?... in this case.*

in this case. To avoid Confirmation Bias and *protect the integrity of the legal system*, I have generated and offered in this report several Alternative Investigative Hypotheses that Federal Anti-Corruption or PA Legislative Committee Investigators could pursue.

6C25. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

MISCONDUCT THEORY ONE = Did looming Economic Damages taint this case? Was this the motivation for the lawyers and judge joining forces to produce a sabotaged, rapid, and sure conviction?

Did a looming ECONOMIC disaster influence the legal process in this case? How much of this case was driven by corrupt manipulation of the legal system to avoid the threatened and expected NCAA death penalty and the resulting \$500 million in economic damages to the local community and PSU?

6C25. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

MISCONDUCT THEORY TWO = Did the misconduct of Local Civil Attorneys and Therapists taint this case? Were local civil lawyers and therapists contaminating-manipulating vulnerable clients-patients “memories” for millions of dollars in easy payoffs?

How much of this case was driven by corrupt manipulation of the legal system and the minds of troubled young men to obtain payoffs of millions of dollars? Were Attorney SHUBIN-Therapist MACNAB in business together to acquire huge payouts for unvetted, uninvestigated brand-new, “memories” that were formerly “blocked, buried, or dissociated”? How much of this case was driven by local civil **LAWYERS and PSYCHOTHERAPISTS** involved in the process of “finding new memories of abuse” with reportedly no competent vetting, no competent investigations, and no corroborative evidence

required. Is it true that OVER \$100 MILLION has been paid thus far for “memories of abuse” with no corroboration, no competent vetting, and no competent investigation?

-- How many alleged victims “memories” were manipulated thus producing “new memories” following unrecorded interviews/therapy by negligent therapists Gillum and Macnab or by Civil Attorneys Shubin and Andreozzi,?

-- plus the unprecedented, corrupt, “confessed” PA AG systemic Government campaign of memory manipulation (See, Inv Leiter’s confession of April 21, 2011 as analyzed in this report),

-- plus the use of local RRM-MPD-DISSOCIATION “true believers” to do “interviews-therapy” with multiple alleged victims resulting in “new memories” of abuse worth millions of dollars to low-income, troubled young men represented by civil attorneys (e.g. Andrew Shubin, JD and Benjamin Andreozzi, JD who reportedly repeatedly “interviewed” witnesses

-- plus the investigative issue of whether Attorneys like Andrew Shubin, JD and Benjamin Andreozzi, JD in multiple unrecorded “interviews” may have offered the low-income, troubled young men MILLIONS of dollars in exchange for “new memories” of abuse? No more factory work with multi-millions in PSU payout dollars the alleged – very wealthy – victims could buy a nice house, a nice car, buy beer, smoke weed, and play video games for life. Is this what happened? Could the vetting system be improved?

--plus the alleged victims reportedly the novel, very controversial, the “pernicious myth”, inherently unreliable, debunked in multiple Frye-Daubert hearings, RRM-MPD-DISSOCIATION “victim” ideology notions including reporting new “memories” of abuse at age 2, gaining new memories by having conversations with an “inner child” personality, and/or finding new memories that had allegedly been “blocked”, “buried” or “dissociated” etc (see detailed analysis of repressed memory statements by witnesses in this report).

-- plus why were lawyers Shubin and Andreozzi reportedly permitted to attend police interviews with their civil litigation clients, in the same room (!) ... something I’ve not seen in any other state over the last 30 years. The memory contamination concerns are obvious.

.. how much of all this process was due to simple greed amid virtually assured payments of millions of dollars in exchange for a few, new, unverified, unvetted, non-corroborated, changed-over-time alleged “memories” of abuse?

6C26. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

MISCONDUCT THEORY THREE = Political Forces. How much of this case was the result of a corrupt manipulation of the prosecutorial system to smear and remove two of Gov Corbett’s most

powerful and persuasive opponents, Pres. Spanier and Coach Paterno, in Corbett's desperate and unpopular political campaign to reduce the PSU budget by over 50% (thus destroying the school?).

*Investigative Hypotheses and Questions: On this record, PA GOV Corbet was AG then he became GOV. He then appointed one of his close associates Linda Kelly to serve as acting **Pennsylvania Attorney General**. Kelly reportedly proceeded to “go after “ Gov Corbet’s main political obstacles to his legislative priority of reducing the PSU budget by 50% (FIFTY percent).*

PSU President G. Spanier – a FAR more educated and NATIONALLY successful public official than PA Gov Corbett could ever hope to be -- was reportedly, a key obstacle to Gov Corbet's most essential legislative-political agenda issue. The other obstacle was renowned football Coach Joe Paterno, one of the most famous and revered coaches in the history of college sports. These two powerful, persuasive defenders of PSU posed very real political dangers to Gov Corbett – did he act through proxies like Kelley and Fina to take them out?

Federal Investigator J. SNEDDEN – the best trained and most competent investigator in this case by far -- spent months on a very detailed investigation of Spanier's Federal Military-Intelligence Secrecy Clearance and Snedden's report noted that Spanier was a very highly regarded person not just in PA but nationally in the US-Military and Law Enforcement and Intelligence Communities. Snedden's report found Spanier not guilty of any misconduct but was in contrast very highly thought of at PSU, nationally, at the DOD, at the DOJ, at the CIA, etc etc.

Thus on this record, PSU Pres. Spanier was thoroughly investigated by experienced Federal Investigator Snedden and fully cleared of any wrongdoing. On this record Inv. See, Snedden Federal Investigation of PSU President Spanier's Federal Security Clearance, finding Spanier did nothing wrong. Snedden also found the changing, morphing story of a “shower attack” from highly controversial witness Mike McQueary (the story used to “take out” Spanier and Paterno) “*made no sense*”.

Federal Investigator Snedden noted that McQueary's father, Dr Drunov, and Joe Paterno had *unanimously contradicted McQueary's story*. In addition, Snedden found it “made no sense” that a 6ft 5in 250+ pound agile athlete like McQueary would not have acted *immediately* to save a child being horrifically attacked just a few feet away. In contrast, to Snedden, Corbett's ally-protege Kelley and “proven-to-be-a-improper” prosecutor FINA attacked Spanier and Paterno.

See, <https://www.mcall.com/news/mc-xpm-2012-11-01-mc-penn-state-president-graham-spanier-sandusky-20121101-story.html>.

See, **Ex-Penn State president charged in Jerry Sandusky case.** By John L. Micek and Peter Hall and Of the Morning Call ... HARRISBURG —

When it really counted, three top administrators at Penn State University engaged in a "conspiracy of silence" to cover up child sex-abuse allegations against retired assistant football coach

Jerry Sandusky. *Those were the words Pennsylvania Attorney General Linda Kelly (Corbett's protege and ally) used Thursday as she made the announcement Nittany Nation had been expecting for months: that former Penn State President Graham Spanier has been charged in the Sandusky scandal.* "This was not a mistake. This was not an oversight. This was not misjudgment," Kelly said during a news conference at the state Capitol. "This was a conspiracy of silence." ... **In a statement, Spanier's attorneys dismissed the charges as a "farce" and accused Gov. Tom Corbett, who initiated the Sandusky probe while serving as attorney general from 2004 to 2010... "These charges are the work of a vindictive and politically motivated governor working through an un-elected attorney general (Corbett's close ally who he appointed) Linda Kelly, whom he appointed to do his bidding and who will be a lame duck five days from now,"** the statement jointly attributed to lawyers Timothy K. Harris, Elizabeth Ainslie and Peter F. Vaira reads.

Under questioning from reporters, ***Kelly, a former federal prosecutor who worked for Corbett when he was U.S. attorney for the Western District,*** defended the investigation.

See, <https://www.mcall.com/news/mc-xpm-2012-11-01-mc-penn-state-president-graham-spanier-sandusky-20121101-story.html>

Also see March 9, 2011 – Fierce POLITICAL battle between Gov Corbett and PSU Pres. Spanier. Corbett seeking a 50% reduction in PSU budget. "Yesterday morning, many in the Penn State community tuned in to PCN to watch Governor Tom Corbett announce [his budget proposal](#), one chockfull of budget cuts. According to [the Patriot News](#), nearly \$850 million was cut from this year's budget by "eliminating funding for 103 budget lines, reducing funding for more than 150 appropriations and consolidating 55 others." *Corbett's plan included a massive and unprecedented cut to Penn State's appropriations— an overall reduction of at least \$182 million, not including various other cuts hidden in the many pages of the budget, cuts associated with Penn State's massive array of extension programs. The cut reduces Penn State's appropriation by more than 50%, down from about \$330 million this year.* Penn State officials had been anticipating budget cuts— the poor financial standing of our state's government is no secret— but according to President Graham Spanier, the university had not imagined that things would be this bad. See, <https://onwardstate.com/2011/03/09/gov-corbett-proposes-huge-budget-cuts-for-penn-state/>

March 2011 – PA Governor Tom Corbett proposed a 52.4% cut in Penn State Univ. funding. **Pres. Spanier pushed back against the proposed cut** and gave a speech warning such a cut would be "devastating" to PSU. The GOV "got into fighting mode" "starting forcefully attacking PSU".... GOV Corbett is a Lebanon Valley College graduate (private college) and a strong supporter of the voucher system, where individuals can choose to utilize funding toward private education as opposed to public

education and is thus not fond of PSU and is not fond of public higher education. “ (See, Snedden Federal Investigation report at pg 24).

Investigative Hypotheses and Questions: NOTE the Fierce political Battle over the future of public university funding in PA. The battle of Spanier and Paterno vs Gov Corbett. ... “During State Budget hearings, other University Presidents would *defer to Spanier to make the presentation for public funding*. Gov. Corbett proposed unprecedented major budget cuts to Public Education (50% cut for PSU). When Gov Corbett proposed these major budget cuts to public education, *Spanier was the natural leader to lead the fight* (against Corbett). Spanier’s impression was that as someone who was very confident, persuasive, well-known and strongly opposing Gov Corbett’s position (his main Legislative goal?), this must have greatly irritated Gov. Corbett. “ See, e.g. **Snedden Federal Investigation report at pg 89.**

Investigative Hypotheses and Questions: Federal Agent Snedden’s investigation showed Pres Spanier to be BY FAR the most competent and Nationally Successful person in the PA v Sandusky case story – along with Joe Paterno. See, Snedden Federal Investigation -- Interview report ... “Spanier is very committed to making life better for people and was a great representative of Penn State. ... Spanier was the most knowledgeable University President in the USA regarding collegiate athletics.” See, Snedden Federal Investigation report at pg 92.

See, Snedden Federal investigation re: Pres Spanier’s US DOD, CIA, FBI consulting and U.S. Security Clearance history.

- former PSU President, G. Spanier Board Memberships -- Graham Spanier, former President of PSU, has served as a **board member** for the following national boards of directors/trustees:
- Association of American Universities, where he **served as chair**, 2007–08
- Association of State Universities and Land-Grant Colleges, where **he served as chair**, 2001–02
- Big Ten Conference Council of Presidents/Chancellors, where he served as chair
- National Collegiate Athletic Association Division I, where **he served as chair** and was a member of the Association's executive committee, 1997–2001
- Kellogg Commission on the Future of State and Land-Grant Universities for the Association of Public and Land-grant Universities, where **he served as chair**, 1996–2000
- University Corporation for Advanced Internet Development (Internet2), where he was a founding member, 1997–2000
- Child Fund International (formerly Christian Children's Fund), 1985–94; **chair**, 1992–94
- Worldwide Universities Network, where he served as a **founding member and vice-chair**, 2000–07
- National Council on Family Relations, where he served as president from 1987 to 1988
- Universities Research Association, 2001–05
- Business Higher Education Forum, 2005–11
- Council on Competitiveness, 1998–2011
- United States Department of Education Commission on Opportunity in Athletics], 2002–03

- U.S. Presidential Policy Advisory Board on Information Technology, **served as chair**, 1997–99
- Joint Commission on Accountability Reporting in Higher Education, 1994–97
- Association of Academic Health Centers Council on Health Sciences and the university, where he **served as co-chair**, 1996–99
- Joint Committee on Higher Education and the Entertainment Communities, where he **served as co-chair**, 2002–06
- National Security Higher Education Advisory Board, where he served as chair, 2005–11
- United States Steel Corporation, where he served as independent director and was a member of both the Audit Committee and the Corporate Governance & Public Policy Committee, 2008–11
- Citizens Financial Group, where he served as director, 2002–11
- Junior Achievement Worldwide, where he served on the Board of Governors, 2003–2011
- FM Global Insurance Company, where he served as director, 2010–12
- Bowl Championship Series, where he served as chair of the Presidential Oversight Committee
- In addition, Spanier served on the board of advisers for the U.S. President at the Naval Postgraduate School and Naval War College.
- **Spanier served as Chair of the Association of American Universities and Chair of the Association of Land Grant Universities and on the Board of the World Universities.**
- **Spanier was obviously FAR more credible, educated, and nationally successful than Gov Corbett – is that why Kelley and Fina targeted Spanier?** (See, Snedden Federal Investigation report)
- **Also, Spanier was very involved nationally with ...**
- **National Counterintelligence Working Group, 2005–11**
- **Advisor to the U.S. Department of Defense, (DOD)**
- **Advisor to the Central Intelligence Agency (CIA),**
- **Advisor to the Federal Bureau of Investigation (FBI) See, Snedden Federal Investigation.**

November 10, 2011 – Following the (pre-planned?) media firestorm Graham B. Spanier resigned (negotiated as “without cause” thus not terminated) as President of Pennsylvania State University AND retained at that time his full faculty status as University Professor, and Professor of Human Development and Family Studies, Sociology, Demography, and Family and Community Medicine. (See, Snedden Investigation Report at pg. 24). d Dr. Spanier retained his U.S. Military Intelligence security clearance at that time following the detailed investigation report by Federal Investigator Snedden which cleared Spanier of any wrongdoing. (See, Snedden Investigation Report at pg. 4).

Note: “Spanier feels that his departure was retribution by Gov Corbet for his speaking out against Corbett’s proposed PSU budget cuts. (See, Snedden Investigation Report).

Snedden found that “Spanier had no knowledge of any circumstances involving Sandusky beyond the one meeting with Curly and Schultz who reported **McQueary’s vague “concerns” that McQueary**

did NOT report to police ... Spanier attributed his departure as President of Penn State to a “Media Frenzy” and a “Rush To Judgment”. Spanier had no contact with Mike McQueary. Spanier served as Chair of the Association of American Universities and Chair of the Association of Land Grant Universities and on the Board of the World Universities. (See, Snedden Federal Investigation Report at pg. 25-27).

Spanier was also on the Board of U.S. Naval Post Graduate School, Advisor to the U.S. Department of Defense, (DOD) Advisor to the Central Intelligence Agency (CIA), Advisor to the Federal Bureau of Investigation (FBI) – ***Subject had a great reputation with those agencies.*** The circumstances surrounding Spanier’s departure from the PSU Presidency does not adversely impact his judgement, reliability, or ability to safeguard national security information. ***Spanier has a very high reputation and very high character, has very high moral character, is very responsible and takes on hard issues.... Spanier holds positions on various boards specifically the Board of US Steel, The Big Ten, The NCAA, the Association of Undergraduate Universities, etc.*** (See, Snedden Federal Investigation Report at pg. 40-43).

See, Snedden Federal Investigation Report at pg 75. “Spanier’s reputation as President was very high. ***Spanier holds a very high standing, was a well acknowledged leader, one of the top guys in this field. Spanier’s character and stature are very high.*** Spanier is responsible, reliable, friendly, gets along well with others and is enthusiastic.” [NOTE: Compare Snedden’s character judgment regarding Spanier to the “character” of the reprimanded, disbarred, sentenced, fired, “secret meeting attending”, recused, “porno addict”, apparently sabotaged trial performance, attorneys and judges involved in PA vs Sandusky.].

Snedden Federal Investigation at pg 86 and 87... eg. Spanier said Curley identified the source of the “concerned” Graduate Assistant to be Mike McQueary. (“ NO rape was ever reported only “horseplay” and “wrestling” and McQueary was only expressing “concerns”.

Joe Paterno, Dr Drunov, Curley, Shultz, and McQueary’s father reportedly all agreed that M. McQueary told them nothing about criminal abuse in the shower – only vague “concerns” and “horseplay”. . Upon detailed questioning from mandated reporter Dr Drunov, McQueary stated he saw NO crime of abuse. Apparently, No crime of abuse was reported to police by Mr. McQueary. This information is consistent with the investigative hypothesis that the attack on Spanier and Paterno was a political smear with no factual basis. Is this yet another Indicia of Corruption in the PA Legal System? Will these questions be properly investigated in public Legislative and/or Federal hearings?

6C27. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Investigative Hypotheses and Questions: Was there a Secretly Collusive Investigation with FINA and FREEH and the NCAA?

Freeh Group Investigator Ms McChesney's Secret Diary reportedly showed unethical, corrupt collusion in the supposedly "independent" investigation of the Freeh Group working with the "since proven to be an improper - license suspended - lawyer" Fina of the AG's Office. (See filed Motions with Exhibits).

Reportedly:

The Penn State BD of Trustees Special Investigative Task Force engaged the Freeh Law Firm (FLF) to "perform an independent, full and complete investigation of the recently publicized allegations of sexual abuse... and the alleged failure "to report such sexual abuse to appropriate police and government authorities" ...

The Freeh investigative team co-leader *Kathleen McChesney reportedly created a SECRET DAILY DIARY* that summarized daily briefings — including contacts with the Office of Attorney General and Frank Fina.

On Nov 4, 2019 Defense appellate lawyer Mr Lindsay reportedly received a copy of Ms McChesney's "secret" diary. Later, Defense Appellate attorney Lindsay reportedly received copies of "summaries of emails" from and to Freeh Group team members investigating this case as well as Defense Trial Lawyer documents and an Affidavit from Defense Attorney Amendola. The "secret diary" appears to *document substantial, secret, and collusive communications and sharing of information* between the AG's Office and the Freeh team in direct contradiction to the public claims of an "independent investigation". *These communications apparently included "information, even testimony, from the special investigating grand jury then in session (was this a criminal violation of Grand Jury secrecy rules?)"*.

In sum, on this record, evidence (e.g. Freeh investigator McChesney's personal daily diary) indicates there was *never any independent investigation by the AG or Freeh Group as they were intensively and secretly sharing information throughout this process. In sum, claims of "independent investigations" appear to have been manipulative, deceitful, and false and issued to cover a corrupt, deceitful process to "control the narrative"*.

Note the conclusions of other reports regarding the Freeh Group report:

-- "Louis Freeh produced a report with conclusions that were not supported by his own investigation, contrary to the terms of his engagement with University, in order to promote his own business interests" See, 2018 - PSU BD of Trustees Report on the Freeh Report Flawed Methodology

-- Penn State's Board scapegoated some of the University's most loyal, honorable, and longstanding servants in a misguided attempt to quickly put the crisis behind them. See, 2018 - PSU BD of Trustees Report on the Freeh Report Flawed Methodology

-- Governor Corbett slashed the University's funding and *then actively influenced the handling of the Sandusky crisis in ways that harmed the Commonwealth's land grant University*, an institution he was obligated to support both as Governor and as a Trustee. See, 2018 - PSU BD of Trustees Report on the Freeh Report Flawed Methodology

As a result of our full, fair, and thorough review of the Freeh investigation source materials, we repudiate the conclusions of the Freeh Report. See, 2018 - PSU BD of Trustees Report on the Freeh Report Flawed Methodology, See also, Thornburgh, "Review of the Freeh Concerning Joseph Paterno," February 6, 2013., See also, lawsuit of Corman and McCord vs. NCAA and PSU, December 15, 2014., See, Van Natta, "Court Documents indicate NCAA and Freeh Investigators worked together on Penn State Nittany Lions investigation. ESPN, November 12, 2014, Senator Corman Sues NCAA to Keep Penn State Fine Money in PA, Centre Daily Times, January 5, 2013, Home, K. "New Emails Show NCAA Helped Freeh In Investigation. Onward State, Nov 12, 2014. ; How Penn State Turned a Crisis Into A Disaster: An Interview with Crisis Management Pioneer Steven Fink." Harvard Business Review, Sept 15, 2014. ; Thompson, C. Penn State Alumni Trustees Win Battle to Review Freeh Report Files, PennLive.com, November, 19, 2015. ; See, Freeh Group Diary, ; See Freeh, McNeill, McChesney June 25, 2012, and Email exchanges, and other evidence.

6C28. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Investigative Hypotheses and Questions: Indicia of Misconduct and/or Negligence in the FREEH GROUP investigation – Secret collusion with the PA AG (Fina)?

Was the AG/FREEH Investigation actually secretly and fraudulently Collusive and not "Independent" as was reportedly claimed by Freeh Group, the OAG, and the NCAA? Were the massive errors and omissions in the FREEH GROUP report deliberate machinations to facilitate the AG-Corbett narrative?

Why did the attorneys and judges in this case (including all attorneys on all sides) negligently or improperly fail to notice and properly deal with and respond to

—the obvious and serious FRYE issues in this case with regard to the inherent unreliability of therapy-interview-tainted, “buried”, “blocked”, “repressed”, “recovered”, “dissociated” and other types of abnormal and controversial RRM-MPD-DISS “memories” thus contaminating the integrity of the PA legal system

-- no competent expert witness testimony on Memory-False Memory-Interviewing Methods to explain the relevant science and history to the misled, uninformed, and/or misinformed jury.

-- Inv. Leiter's historic discussion of an infamous Memory Manipulative interviewing scheme

-- and other obvious, serious flaws in the investigation and trial of this matter as detailed in this report. Why did the "experts" at Freeh Group not notice (or deliberately hide) all of these errors? For \$8 million, one might expect the Freeh Group to have noticed and reported on at least a few of the historic evidence of Negligence or corruption in this troubled case.

Many other reports have found faults in the Freeh report one concluding *the Freeh Report was a failure that does not meet the basic requirements of a thorough, objective and fair investigation.*⁸

⁸ "Former U.S. Attorney General and former PA Governor Dick Thornburgh concluded in a February 10, 2013 report, *"A RUSH TO INJUSTICE THE FAILURE OF THE FREEH REPORT, that the Freeh investigative methodology was flawed, the factual findings limited and incomplete, and its observations about Joe Paterno unreliable and unfounded."* And... "The lack of factual support for the Freeh Group's Special Investigative Council's *inaccurate and unfounded findings* related to Mr. Paterno and its *numerous process-oriented deficiencies was a rush to injustice and calls into question the credibility of the entire Report.*" ... He concluded that the *"The Freeh Report is factually wrong, speculative and 'fundamentally flawed.'*" Other experts on the report included: top FBI profiler Jim Clemente, prominent Washington attorney Wick Sollers and the director of The Johns Hopkins Sexual Behaviors Consultation Unit, Dr. Fred Berlin. They Concluded that , conclude that *the Freeh Report was a failure that does not meet the basic requirements of a thorough, objective and fair investigation.*

Among other findings, the experts determined that the conclusions of the Freeh Report are based on raw speculation and unsupported opinion—not facts and evidence. *"The Freeh report is a profound failure," Sollers said. "It isn't a little wrong on the minor issues. It is totally wrong on the most critical issues.* That the board and the NCAA relied on this report, without appropriate review or analysis, is a miscarriage of justice."

"Former attorney general Dick Thornburgh noted *Freeh's failure to conduct interviews with most of the key witnesses is a glaring deficiency.* ... Freeh investigators did not have subpoena power, and *no one testified under oath.* Worse, *witnesses were allowed to speak anonymously,* something that would never happen in a legitimate legal proceeding.

The conspiracy claim made by the Freeh report based on *a string of three (out of 100,000) emails* falls apart under scrutiny. Because of an email system technology change in 2004, *most of the Penn State emails for the time in question are not accessible.* Moreover, there are no emails authored by Joe Paterno and none that he received. ... On August 22, 2012, Tim Lewis, a former federal appeals court judge issued *a strong condemnation of the Freeh Report* at a press conference in Philadelphia. Lewis's scathing attack on the Freeh Report stimulated some reporters, bloggers, and analysts to dig deeper into Freeh's report and question its truth.

Groups such as Penn Staters for Responsible Stewardship deconstructed the Freeh Report, exposing serious flaws. Other reviews include Ray Blehar, a former U.S. intelligence analyst, Eileen Morgan, a U.S. government technology analyst, and others. ... Freeh's negligent and defective report simply *assumes without credible evidence* that McQueary explicitly reported a sexual act to coach Paterno; It then *assumes without credible evidence* that either Paterno or McQueary reported a sexual act to either Curley, Schultz or both; It next *assumes without credible evidence* that either Curley or Schultz reported a sexual assault to Dr. Spanier. Curley and Schultz have denied that they ever told Dr. Spanier anything of the sort. Dr. Jonathan Dranov, a close friend to the McQueary family who heard McQueary's first-hand account of what happened just hours after the incident occurred, and who testified at Sandusky's trial, has consistently stated that he asked McQueary if he had witnessed any sexual contact or abuse. McQueary replied, unequivocally, "no." Moreover, the law requires any physician who receives information about the sexual abuse of a child to report it immediately. Nothing McQueary told Dr. Dranov suggested to the doctor a need to do so"... "A 2002 article in Salon summed up how some observers have criticized Freeh's time as Director of the FBI: "It's no secret the FBI suffered a series of embarrassments during Freeh's tenure, some of them deadly. They include the botched handling of the investigations into Waco and Ruby Ridge; the bombing at the Atlanta Olympic Village and the heavy-handed tactics used against Richard Jewell; the breakdown of the FBI crime labs; the inept pursuit of suspected atomic spy Wen Ho Lee; the belated discovery of turncoat agent Richard Hanssen; and

6C29. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption?*

Investigative Hypotheses and Questions: Indicia of Negligence and/or Misconduct in the FREEH GROUP investigation? Was grossly improper interview methodology permitted as reported by multiple interviewees at PSU?

Evidence of improper leading-suggestive, abusive and potentially fraudulent, improperly-improperly unrecorded interviews by Freeh Group investigators as reported by PSU faculty witnesses. Note when investigative interviews are NOT properly recorded it becomes impossible for investigators to convincingly rebut allegations that improper-coercive-threatening-repetitive-memory contaminative practices were used or statements of witnesses were improperly mis-reported.

See, evidence in The Report to the Board of Trustees of the Pennsylvania Univ” submitted June 29, 2018). “Multiple individuals... told us they were “subjected to coercive tactics when interviewed by Freeh investigators....” Interviewers shouted, were insulting, and demanded specific information (e.g. tell me that Joe Paterno knew Sandusky was abusing kids!”... Some interviewees were told they could not leave until they provided the information interviewers wanted, even when interviewees protested that this would require them to lie” ... “Some individuals were called back for multiple interviews where the same questions were repeated; some were told they were being “uncooperative” for refusing to untruthfully agree, with an interviewer’s statement. Those who were currently employed by the University, had been told their cooperation was a requirement for keeping their jobs. One individual indicated that *he was fired for failing to tell the interviewers what they wanted to hear*; this is confirmed by a notation in the FREEH group diary of an interviewee contemporaneously reporting his firing to the investigators. Another entry in the diary indicated that “*coaches are scared for their jobs*“. It is deeply disturbing that members of our community were allegedly *subjected to harassment and mistreatment at the hands of Freeh Groups investigators*. Further, the use of coercion indicates a lack of neutrality on the part of investigators and as previously noted, increases the likelihood of inaccuracy.”

the failure to deliver thousands of documents to defense attorneys during the trial of Oklahoma City bomber Timothy McVeigh.” ... “On June 24, 2014, when an arbiter for the Pennsylvania State Employee Retirement System, hearing an appeal of a ruling about Sandusky’s State pension, said in his ruling, “[The Freeh Report] was *based on significant hearsay and was mostly ruled inadmissible* [for the proceedings].” The hearing officer, Michael Bangs, went on to declare that *the Freeh Report had been misleading in significant ways*. He continued, “*The terrifically significant disparity between the findings in the Freeh Report and the actual truth is disturbing.*” He adds that the error “calls into question the accuracy and veracity of the entire report.”

6C30. Investigative Hypotheses and Questions: Investigative Hypotheses and Questions: Indicia of Negligence and/or Misconduct in the FREEH GROUP investigation – Multiple “rookie” mistakes in the negligent/corrupt Freeh Group Investigation. (See, Thornburgh report noting Freeh Group errors and other critical reports from PSU BD members and others from various sources).

Investigative Hypotheses and Questions:

Why did the FREEH GROUP report *negligently fail to document, review, and be concerned about:*

- the *lack of a FRYE hearing*,
- evidence of highly controversial, junk science “recovered memories” at trial,
- the lack of peer reviewed science on Memory and False Memory explained to the jury at the trial,
- the lack of a competent Memory-False Memory expert in this complex-non-normal memory RRM-MPD-DISS case with little evidence but changing “memories”, Inv. Leiter’s April 21, 2011 recorded statement regarding abusive repetitive interviewing methods, and the other errors documented in this report including:
 - the multiple “recovered repressed memory” allegations – like those excluded in other states following a Frye or Daubert hearing
 - the failure of Defense Counsel to provide a Memory-False Memory Expert Witness for the jury
 - the failure of Defense Counsel to provide an expert to explain the history of the thousands of false memories debunked by the FBI (Ken Lanning) and the history of the Memory Wars including licensing revocations for RRM-MPD-DISS therapists like Gillum and Macnab.
 - the evidence of dramatic “memory changes” in witness following interviews-therapy with Attorney Shubin and/or Therapist Macnab? (See, Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022; (See, Transcript of Shubin-Alleged victim SS’s discussion and Affidavit from Attorney D. Litman ; See, Transcript of AJ Dillon Investigation and Affidavit from AJ Dillon).

Will these investigative hypotheses and questions regarding potential Corruption/Negligence in this case be properly investigated in a public forum?

6C31. EXPLORING CURRENT INVESTIGATIVE HYPOTHESES: *Errors, and/or Negligence and/or Corruption? Protecting the integrity of the legal system.*

Will there be PA Legislature Oversight Committee hearings publicly investigating this case? Will such hearings provide everyone involved a full, fair, and proper opportunity to answer questions and explain in a public forum the multiple, unusual errors in this case and why they happened?

-- Consider for example, Cleland, Fina, and Amendola's apparently "**secret Motel meeting**" that seems to have set this case on a "likely-conviction-death-march" trial schedule. Why was this meeting not held in court? Why no court reporter? Why no recording? Why was this meeting hidden from defense co-counsel Rominger? Why was this meeting kept a secret until **4 years after** the trial and conviction? Has Judge Cleland held other secret "off the record" meetings in other cases? If so, what cases?

-- Consider for example, Inv. Leiter's April 21, 2011 recorded discussion of a "Systemic Memory Manipulation Process" in this case. Why did Inv. Leiter believe he "knew" what the witnesses' testimony was "supposed" to be and thus keep interviewing them via repetition and repetition until they agreed with him? Was Inv. Leiter aware of the McMartin, Wenatchee, Kelly Michaels and many other cases where convictions were overturned for abusive interviewing misconduct similar to what Leiter describes in his recorded discussion in the April 21, 2011 recording of witness BH?

-- Consider for example, defense counsels' failure to retain and provide an expert witness in memory-false memory-RRM-MPD-DISS. Why did Amendola-Rominger fail to retain and consult with a memory-false memory-RRM-MPD-DISS Scientist (not a therapist) expert?

-- Consider for example, defense counsels' failure to file Frye motions, *and the many other related errors listed in this report*. Why did Amendola-Rominger FAIL to file a Frye motion to exclude the "changing" "morphing" alleged "memories", memories the witnesses claimed were "buried", "blocked" and/or "dissociated" thus clearly-not-normal memories? Had Amendola even heard of a Frye hearing? Was he aware of cases similar to the Sandusky case that ended when such an unreliable "memory" process -- of unknown origin, rejected by the relevant scientific community and with no known error rate -- was excluded, along with all such tainted witnesses, ***to protect the integrity of the legal system?***

-- Consider for example, the question of whether Judge Cleland held other secret, "off the record" meetings at a local motel to set "impossibly rapid" impossibly rapid trial schedules? ***Is this the only case where such a secret motel meeting setting a very rapid "impossibly rapid" trial schedule was held?*** If other secret Motel meetings were held -- in what cases? Was this an improper agreement to control the trial process? Has anyone asked these rather obvious questions previously?

-- Shouldn't Cleland-Fina-Amendola have a fair, open and public opportunity to testify about why they participated in the reportedly secret-unrecorded-no court reporter meeting in a local Motel that apparently set a "likely conviction impossibly rapid" trial schedule that was so rapid and in such a complex trial that:

-- precluded competent review of evidence -- which would have taken a full year by any attorneys and more for the local, poorly trained, science-uninformed Amendola-Rominger.

-- precluded a competent memory-false memory expert -- required in such cases,

-- precluded competent cross-examination of witnesses -- grossly incompetent during trial

-- precluded having the alleged victim AM testify who would have destroyed the credibility of the key prosecution witness Mike McQueary (Did Attorney Shubin commit criminal Obstruction of Justice by hiding witness AM so he could not testify?)

-- precluded holding an essential Frye hearing to exclude witnesses whose “memory” testimony was based upon the *inherently unreliable, novel, pernicious myth notions rejected by the relevant scientific community* notion of “blocked, buried, dissociated memories” that “come back” following unrecorded interviews with financially conflicted civil attorneys (Shubin) and science-uninformed “therapists” (Macnab)?

-- Shouldn’t Freeh and McChesney and Fina and NCAA lawyers have a fair, open and public opportunity to testify about the reported secret collusion in the production of the Freeh Report and about the many “rookie”, negligent errors in the Freeh report and investigation as listed in this report and other reports (cf. with the Corman, PSU Trustees, Thornburg, Snedden and other reports). Shouldn’t Freeh-Kelley-Fina-Corbett have any opportunity to testify about publicly claiming that the FREEH investigation was “independent”? Was it? Didn’t the PSU BD as well as the NCAA both state they relied upon the “independent” Freeh investigation when Ms. McChesney’s diary, a key Freeh Group investigator reportedly documents many Secret and Extensive contacts between AG team and the FREEH team? Were there Grand Jury leaks and other information shared between the AG and FREEH investigators?

7. DR BARDEN WILL OFFER PROBONO TESTIMONY:

7A. PA LEGISLATURE: I offer to testify as a pro bono donated service in any *PA Legislative public hearings* investigating the negligent and/or criminal debacle and alleged conspiracies involved in the PA v Sandusky case. This testimony is offered as a pro bono donated service to the people of Pennsylvania to *protect the integrity of the legal system*.

7B. PA LICENSING BOARDS: I offer to testify as a pro bono donated service in any *PA Licensing Board hearings* investigating the negligent and/or criminal misconduct by Therapists Gillum, Macnab, Chamgers or others involved in the PA v Sandusky case. This testimony is offered as a pro bono donated service to the people of Pennsylvania *to protect the integrity of the legal and mental health systems*.

8. IT IS MY OPINION TO A REASONABLE DEGREE OF PROFESSIONAL CERTAINTY THAT THE ANALYSES AND CONCLUSIONS IN THIS REPORT ACCURATELY REFLECT KNOWLEDGE, RESEARCH, AND METHODOLOGIES THAT ARE WIDELY ACCEPTED IN THE RELEVANT SCIENTIFIC COMMUNITY.

In my opinion, the analyses and opinions in this report reflect the knowledge, research and methodologies of the relevant scientific and professional communities. For example, I have written Amicus Briefs on similar complex science and history issues joined by many international leaders in the fields of psychology and psychiatry. See e.g., also Barden, R. C. (2006) Amicus Curiae Brief of the National Committee of Scientists for Academic Liberty, for Defendants and Appellants, Elizabeth Loftus, et. al., Submitted to the Supreme Court of the State of California, Feb., 2006 with AMICI Aaron T. Beck, Robert Spitzer, Harrison G. Pope Jr., Richard McNally, James I. Hudson, Richard Ofshe, William M. Grove, Paul R. McHugh, Robert Perloff, Stephen J. Ceci, Henry L. Roediger, August Piper, B. Christopher Frueh, Steve Lynn, Peter von Koppen, John F. Kihlstrom, Gerald M. Rosen, Sally Satel, Maryanne Garry, Hans F.M. Cromberg, David F. Bjorkland, Phillip W. Esplin, James M. Wood, Richard Gist, Irving Kirsch, Steven Hayes, James D. Herbert, Robert Montgomery, Harald Merckelbach, James Ost, Scott O. Lillienfeld, Marc Sageman, Grant J. Devilly, Anthony Pratkanis, Jon D. Elhai, Timothy Tumlin, D. Stephen Lindsay, Paul A. Ornstein, Susan A. Clancy, John W. Bush, Paul R. Lees-Haley, Howard D. Eisman, Mark Creamer, W. Jake Jacobs, Timothy Moore, Daniel David, Margaret Bruck, Amina Memon, Jeffrey M. Lohr, Giuliana Mazzoni, Jean-Roch Laurence, Elizabeth Meadows, Ron Acierno, Steven E. Clark, Saul Kassin, Richard Shiffrin, Michael Toggia, Robert V. Kail, J. Don Read, Loren Pankratz, Michael A. Persinger, Debra Poole, Charles A. Weaver III, Joseph de Rivera, David S. Holmes, Terence W. Campbell, Emily Carota Orne, John Cannell, Howard Fishman, Richard A. Leo, Deborah C. Beidel, James Coyne, Fred Frankel, Nora S. Newcombe, Gordon J. G. Asmundson, Howard N. Garb, William G. Reiner, Mahzarin Rustum Banaji, Robyn M. Dawes, Robert A. Karllin, Harold I. Lief, Daniel L. Schacter, Steven Pinker, Naomi Breslau and more.

9. I HAVE PREVIOUSLY TESTIFIED REGARDING SIMILAR ISSUES IN A NUMBER OF JURISDICTIONS:

I have been qualified as an expert and testified in court and/or given depositions and/or submitted expert reports in a number of jurisdictions across the United States on similar subjects. I have also testified before several state legislatures (NH, AZ, UT, CO, etc). My testimony in these venues often focuses on a range of issues including but not limited to: child and developmental psychology, methodological principles and errors, ethics violations, proper and improper investigation methods, standards of care in psychotherapy for all therapist professions, memory contaminative effects of improper questioning of witnesses, assessments of the reliability and validity of therapist-expert witness practices, the science of coping and resilience, testing and assessment, psychopathology, the science and history RRM-MPD-DISS memory-false memory-memory contamination, the history of the mental health system, and related matters as discussed in this report. .

10. BASES FOR MY EXPERT OPINIONS IN THIS MATTER:

My opinions in this matter are based upon my education, knowledge, training, and years of experience in the fields of adult-clinical, child-clinical, and forensic psychology as well as my extensive review of case materials in this matter. My relevant experience in these fields includes:

FORENSIC TRAINING and TEACHING: I received forensic training at the joint Harvard Medical School/ Harvard Law School forensic training program. I have taught forensics at the Univ of MN Law School and at CLE, CME, CPE talks to thousands of professionals across the US as well as at invited talks to the American Psychological Association, the American Psychiatric Assn, the American Bar Association, and others.

PSYCHOTHERAPY TRAINING, EXPERIENCE and TEACHING: I have provided psychotherapy to numerous patients including children, families, and adults (in schools, clinics, and hospitals), as well as training psychology graduate students in interviewing and psychotherapy standards and methods. I have done therapy-counseling with hundreds of patients/people in a wide range of settings including Stanford and the U of MN medical Schools, the Palo Alto VA Medical Ctr/Stanford Medical Ctr APA approved Internship, the Mental Health Clinic of the Stillwater Maximum Security Prison in MN, the UC Berkeley Psychology Clinic, the U of MN Hospitals, various church counseling settings, the Minneapolis Walk-In Counseling Center, and others. At the University of Utah APA Approved PhD Clinical Psychology Program I taught and supervised PhD students in how to conduct psychotherapy. See also, the detailed qualifications chart above that includes a list of therapy experiences.

RESEARCH REVIEW AND ORIGINAL RESEARCH: I have reviewed hundreds of peer reviewed published research studies, serving editorial roles for multiple leading professional journals, and initiating, as well as conducting and publishing original research in the leading journals in child psychology, social psychology, personality psychology, surgery, public policy and legislation. More specifically, I have published in, and/or served as an editor or reviewer for, several of the most highly regarded journals and texts in a number of professional fields including Developmental Psychology, Child Development, Psychological Bulletin, Ambulatory Pediatrics, Advances in Child Clinical Psychology, the Journal of Personality and Social Psychology, the Journal of the American Academy of Psychiatry and the Law, the Journal of Plastic and Reconstructive Surgery, the Harvard Journal of Law and Public Policy, and the Harvard Journal on Legislation;

RECIPIENT OF NATIONAL RESEARCH AWARDS in PSYCHOLOGY: including the Foundation for Child Development National Award for Young Scholars in Social and Affective Development, 1982 - 1983 and the National W. T. Grant Foundation Faculty Scholar Award for Research in Mental Health, Stress and Coping 1987. Both awards are relevant to my analysis in this case;

TEACHING AND TRAINING. I have given invited addresses and advanced courses at major Ph.D. graduate programs, a leading law school, and continuing education courses for Psychologists, Psychiatrists and Attorneys. I have also trained investigators including F.B.I., Sheriff's Officers, and police staff. I was an Invited Training Speaker at the Minnesota Sex Crimes Investigators Association (1994) and Invited Training Speaker at the Midwestern Sex Crimes Investigators Association. I also served as a Special Assistant Attorney General of the State of Utah as a trainer and consultant on cases involving licensing prosecutions of mental health professionals.

EVIDENCE REVIEWED IN THE PA v SANDUSKY CASE and RELATED ISSUES:

-- Evidence including trial-hearing transcripts, motions, exhibits, media, books, etc., the Freeh Report, Corman Report, Thornburgh report, PSU BD report, Snedden Federal Investigation Report, and other information as listed in this report.

-- Published Research on Memory, False Memory, Dissociation, and many other areas as cited and discussed in this report.

PUBLIC SERVICE EXPERIENCE

- Psychology Practicum - University of Minnesota Medical School, Dept. of Psychiatry
- Psychology Practicum - Stillwater Minnesota Maximum Security Correctional Facility
- Psychology Practicum - Minneapolis, Minnesota Public Schools
- APA Approved Psychology Internship - Palo Alto V.A. Med Ctr/ Stanford U. Med Ctr.
- Psychology Consultant Craniofacial Surgical Team, Baylor Medical School, Dallas, Tx
- Psychology Consultant Craniofacial Surgical Team, Primary Children's Hospital, SLC, UT
- Harvard Law School Intern, Mass. A.G.'s Office, Crime Victim Compensation Program
- Chief Author and Legislative Consultant, Emergency Medical Systems for Children Act
- Forensic Psychology Intern, Harvard Medical School/Harvard Law School Forensic Program, Massachusetts Mental Health Center
- Member, Minnesota State Board of Psychology (Appointment of MN Governor)

- Member, Minnesota Higher Education Coordinating Board (responsible for overseeing the MN. multi-billion-dollar budget for all state colleges, universities and trade schools) by appointment of Governor Arne Carlson (1993-1994))
- Invited Training Speaker, Minnesota Sex Crimes Investigators Association (1994)
- Invited Training Speaker, Midwestern Sex Crimes Investigators Association (1995)
- Invited Training Speaker, US Surgeon General's Conference
- Consultation with the U.S. Attorneys Office, F.B.I., other national experts
- Court appointed expert witness, St Croix, Wisconsin
- Legislative Consultant, Legislation to ban "Holding Therapy" in Utah
- Legislative Consultant, Legislation to ban "Rebirthing Therapy" in Colorado
- Author, Emergency Medical System for Children Act
- Consultant, Minnesota law protecting patient's rights
- Consultant to various State Boards re: licensing actions
- Special Assistant Attorney General for the State of Utah (2004-2005).
- Expert Witness for the Prosecution, State of Colorado v. Watkins, et al. (Newmaker "rebirthing therapy" case) 2001.
- Expert Witness for the Prosecution, State of Texas v. Harris, (MPD "Twilight Rapist" case) 2011.
- Prosecution consultant King County, Seattle, Washington (Green MPD case 2003).
- Prosecution consultant U.S. Attorney's Office, Houston, Texas U.S. v. Peterson, et al.
- Testifying and consulting expert witness, U.S. Federal Public Defenders Office
- Consultation with national experts in law and psychology
- President, Board Member - Character & Morality in Entertainment (CAMIE Awards) 2008-2010
- Invited International Address on Performance Psychology, Beijing Olympics (Aug-2008)
- Legislative Consultant, Minnesota Legislation to ban abuse of incompetent patients in research studies See, 253B.095 RELEASE BEFORE COMMITMENT (2012) *"The treating psychiatrist must not be the psychiatrist conducting the psychiatric clinical drug trial. The court must determine that, under the circumstances of the case, the patient is competent to choose to participate in the trial, that the patient is freely choosing to participate in the trial, that the compulsion of the stayed commitment is not being used to coerce the person to participate in the clinical trial, and that a reasonable person may choose to participate in the clinical trial."*
- Pro bono consultation and testimony for Prosecution and Public Defender cases in many states
- Invited address, Center for Enhanced Performance, US Military Academy, West Point (4-2010)
- Invited address, F.B.I. Midwest Regional Supervisor Training Conference, (9-2010)
- Invited address, F.B.I. Midwest Regional All-Employees Training Conf., (12-2010)

- 2012 - Captain, US Air Force Auxiliary Civil Air Patrol - Viking Wing, MN

- Reforming the EMERGENCY MEDICAL SYSTEM FOR CHILDREN - See, Barden, R. C., Kinscherff, R., George, W., Flyer, R., Seidel, J., & Henderson, D., (1993), Emergency Medical Care and Injury Prevention Systems for Children: An Economic-Medical-Legal-Psychological Analysis and Legislative Proposals, Harvard Journal on Legislation, Vol. 30, No. 2, pgs 461497. Some version of this proposed legislation was reportedly enacted by the States of New Jersey (1992), Texas (1993), Utah (1994), Colorado (1995), Hawaii (1996), Louisiana (1996) and others. These legislative ideas have continued to expand across the U.S. As of July 1997 18, states reported the creation of a separate Emergency Medical System for Children Advisory Board (as required by this legislative proposal) and 15 states required pediatric representation on State EMS Advisory Boards. (See, EMSC News, Vol 10, No. 2, Summer 1997).

8. LIMITATIONS ON THIS REPORT and TESTIMONY: My opinions and hypotheses in this matter are subject to the limitations of all documentary and related evidence, the impossibility of absolute predictions, as well as the limitations of social science analysis. I have not met, nor interviewed, nor evaluated, nor assessed, nor produced any diagnoses nor psychological diagnostic descriptions of anyone in this investigatory process. As always, I have no expert opinions regarding the veracity of witnesses, the judgment of juries, or the guilt/innocence of any defendant. I will continue to review evidence in this case and update opinions. My opinions are thus subject to change at any time as new information becomes available to me including any observations, analyses, and opinions from observations at future public hearings, court hearings, or any future re-trial of this matter. I continue to seek to review all relevant evidence in this case. Only the trier of fact can determine the credibility of witnesses and how scientific research may or may not be related to the specific facts of any case. In my opinion, a key role of an expert witness is to help the court, lawyers, parties, and the public understand and apply reliable and proper scientific, technical, and investigative principles, hypotheses, methods, and information *to protect the integrity of the legal system*. I have transmitted this updated expert witness report to the PA office of Attorney Al Lindsay, JD for use consistent with the rules of the relevant jurisdiction.

9. My investigation of this complex and important matter continues and updates to this report are expected. For future updates, I hope to have time to do a more thorough organization and editing process plus fully citing more of the evidence on this very complex case. There simply wasn't enough time for such finishing touches on this version of the report.

I, R. C. Barden, Ph.D., JD, do swear and affirm the truthfulness of this expert witness report as filed and signed on January 18, 2023

EXPERT REPORT E-Signed, Dated: January 18, 2023

R. Christopher Barden, Ph.D., J.D.

R. Christopher Barden, Ph.D., J.D.

Investigating Expert Witness in Pennsylvania v Sandusky

A key role of an expert witness is to help the court, lawyers, and/or parties understand and apply reliable scientific, technical, ethical, and investigative principles, methods, alternative hypotheses, and information.”

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