

FMS Foundation Newsletter

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May 1, 1996

Dear Friends,

"Does recovered memory therapy help patients get better?"

Elizabeth Loftus, Ph.D. presented the first outcome-data addressing this question when she spoke at the Southwestern Psychological Association meeting in Houston on April 5, 1996. The data are from the Washington State Crime Victims Compensation Program. The audience of 500 sat in stunned silence as data confirmed: **recovered memory therapy can make people worse, not better.**

There were 670 repressed memory claims to the Washington Victim's Compensation program between 1991 and June of 1995. The state approved 325 (49%). A review of 183 of the approved claims was made from which 30 were randomly selected for closer examination.

Of the 30 closely examined claimants, there were 29 women and 29 Caucasians. The median age was 39 (range from 15 to 67 years). Masters-level therapists treated 26 of the 30 people. Two patients saw a Ph.D.-level therapist and two saw an M.D.

For 26 of the claimants, the first memory surfaced when they were in therapy. All of the 30 claimants were still in therapy three years after their first memory. Eighteen of the claimants were still in therapy five years after the first memory.

Only 3 claimants thought about suicide or attempted suicide before recovering their first memory but 20 did so after memories. Two people had been hospitalized prior to their first memory while 11 were hospitalized after memories started. One person engaged in self-mutilation before memories but 8 did so after memories.

Twenty-nine claimants reported memories of satanic ritual abuse (the average age at which these memories were said to have begun was 7 months.) The number of murders reported by this group of patients was 150. Twenty-two patients claimed memories of birth and infant cannibalism. Twenty patients recalled memories of being tortured with spiders and 29 remembered physical torture and mutilation. The records of these patients showed no corroborating medical evidence of torture or mutilation. Not one of the allegations resulted in a police investigation.

Two thirds (21) of the patients had graduated from high school and seven had post high school education. Half of the patients (15) had been employed in the health industry and seventeen had been employed in fields that involved art or writing. **Before therapy 25 had been employed. After three years of therapy 3 still had jobs.**

Before their first memory, 23 of the patients were married. Three years after getting memories, 11 were divorced. Seven people lost custody of their minor children. 100% of patients were estranged from their extended family.

The average cost of non-repressed memory claims was \$2,672. The average cost of repressed memory claims was \$12,296 (median was \$9,296). The total cost to the Crime Victims Compensation Program for this group of 30 repressed memory claims was \$2,533,000.

These data will probably not surprise readers of this newsletter. FMSF Advisory Board members have expressed concern from the very beginning about the efficacy of recovered memory therapy. The data collected from parents and then supported by the accounts of retractors dramatize the concern of the few professionals who have had the courage to speak out. Sadly, the harm continues. New families still call to say that they have recently been accused by their grown daughter or son. Insurance companies, Medicare and Medicaid continue to pay for these treatments. Scarce mental health dollars continue to be wasted creating iatrogenic illnesses and then paying for the therapy to deal with what was created. Allowing these practices to continue further undermines the credibility of the mental health professions. The inability of the professions to self-police encourages those harmed by these practices to seek the only alternative left to them—courts and licensing boards.

Also undermining credibility of the whole profession is the resounding silence to the American Psychological Association's Final Report of the Working Group on Investigation of Memories of Childhood Abuse in which clinicians and scientists say they do not agree about the conception and mechanisms of memory. The silence implies an

endorsement of the report conclusion that clinicians do not agree with scientists about "the rules of evidence by which we can test hypotheses about the consequences of trauma and the nature of remembering"

The rules of evidence for science are clear: a theory must be testable and falsifiable, capable of meeting peer review and if involving a methodology or process, have a known rate of error. If clinicians do not hold

to these rules, it is not science. The public, then, has a right and a duty to ask how clinicians differ from astrologers and witch doctors.

The False Memory Syndrome Foundation has asked people to think about the lack of scientific evidence supporting the constellation of practices known as recovered memory therapy. Research on memory does not support any professional telling a patient that there is some way to get to historic truth other than external corroboration. Research does not support telling a patient that she or he has "all the signs of abuse." Data do not support the belief that in order to get better a person must recover a memory of a forgotten trauma. Data do not support confronting and suing. Data do not support cutting off strong social support systems..

The data from the state of Washington are a stark reminder of the harm that can be done when science is abandoned for a sociopolitical movement. These data come from a government source, not proponents or critics of recovered memory. How long will the profession be silent?

Pamela

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"Increases in self-injury and suicide attempts have been reported in some patients given recovered memory treatment."

Canadian Psychiatric Association, March 15, 1996
Position paper: "Adult recovered memories of sexual abuse"

A Social Political Movement

A memory researcher told us that research academics "don't even know what this memory debate is about. They see the evidence and to them the science of memory is obvious." He is right. The "science" of the "memory" is established. We are dealing with a sociopolitical movement.

Activities around the Southwestern Psychological Association (SWPA) give an example of the difference. Before the meeting, some therapists and survivors tried to stop the presentations of Dr. Loftus and other invited speakers (Larry Weisrantz, Henry L. Roediger, III, and John F. Kihlstrom) just because they advised the FMSF.

The SWPA meeting was a serious scientific affair, but after Dr. Loftus's talk, one recovered memory advocate stood up to say that the program was not balanced and that the program should have listed speakers' affiliation with the FMSF. He then stomped out of the room before anyone could respond—not good form in a scientific meeting. This prompted one member of the audience to quip, "Are you now or have you ever been a member of the Communist party?" a reference to the parallel with the McCarthy era.

How could a scientific program about memory be "balanced?" The notion makes no more sense than trying to balance a program in astronomy by including astrologers.

Smear is an indication of Sociopolitical Movement

Psychology Today, May/June, 1996, responds to the smear campaign against Elizabeth Loftus.

Why Loftus? And why now? The tide has turned. Many recovered memory convictions have been overturned. Much of this is due to Loftus; it would help if she could be discredited as an expert witness. But far more powerful a reason is that Loftus is a woman, a scientist, unshakable, and widely liked; she's broken too many taboos. Women are supposed to burn bras, weep, and yell, not marshal strong science in powerfully argued debates. And no woman is supposed to turn traitor to the cause—the misguided feminist cause of other women as victims.

CANADIAN PSYCHIATRIC STATEMENT DISCOURAGES CONFRONTATION

The Canadian Psychiatric Association issued a position statement on "Adult recovered memories of childhood sexual abuse," on March 25, 1996. It affirms the importance of external corroboration in knowing the truth of memory. In addition, it states: "Confrontation with alleged perpetrators solely for the supposed curative effect of expressing anger should not be encouraged. There is no reliable evidence that such actions are therapeutic."

The statement notes that psychotherapy based upon the assumption that "common symptoms such as depression, anxiety, anorexia or overeating, poorly explained pain and other bodily complaints" indicate "the likelihood of individuals having been abused" may "lead to deleterious effects." They also note that, "increases in self-injury and suicide attempts have been reported in some patients given recovered memory treatment."

FOCUS ON SCIENCE

From time to time, various scientific articles appear which discuss issues of childhood sexual abuse, memory, and responses to trauma. Since such studies are often widely cited in the scientific and popular press, it is critical to recognize their methodological limits. It is particularly important to understand what conclusions can and cannot legitimately be drawn from these studies on the basis of the data presented. As a result, we periodically present analyses of recent well-known studies, prepared with help from members of our Scientific Advisory Committee.

* * * *

In the ongoing debate about the scientific validity of "repressed" and "recovered" memory, one commonly hears of various case reports - anecdotal reports of specific individuals - which appear to document that "repression" has occurred. Do such case reports represent useful scientific evidence?

In answer to this question, it is fruitful to recall some of the other case reports which have appeared in the scientific literature from time to time. For example, a report in a prestigious peer-reviewed journal, the *American Journal of Psychiatry*, described a woman who appeared to have acquired the ability to speak another language by supernatural means (1). She was said to display a secondary personality, capable of speaking a language that she had never learned, that tended to appear on the eighth (ashtami) day of the waxing or waning moon. The authors did not provide any explanation based upon known scientific principles for this case of "paranormally acquired speech." Similarly, one can find compelling case reports of individuals who have had experiences in past lives (2,3) and, of course, individuals who have been abducted by space aliens (4). Now, can we conclude, on the basis of these case reports, that such phenomena actually occur? And if we do not accept these phenomena as proven, what is our reason for skepticism?

The reason that we are skeptical, or at least should be, is because of a principle known in science as "measurement error." This term refers to the fact that when one makes a large number of observations, a few errors are bound to occur. In other words, there is a certain "background noise," due to occasional "false positive" observations, which permeates even the most careful studies. A classic example of such a "false positive" was obtained by a police department in Florida, whose officers used a radar gun to clock a grove of trees moving at 86 miles per hour, and a house moving at a more leisurely 20 miles per hour (5). In other words, although radar is usually accurate (as most of us unfortunately know), it is, like everything else, vulnerable to false positive observations.

How do scientists deal with the problem of "measurement error?" There are various methods, depending upon the type of research being conducted. For example, if we know that a test for the HIV virus is wrong approximately 1% of the time, and this test yields a 10% prevalence rate for HIV in a given population of individuals, we can state with reasonable confidence (depending on the size of the population) that this population has an elevated rate of HIV infection, and that this finding cannot be explained merely by the rate of false positives expected from the test. This is

an example of what the United States Supreme Court had in mind, in its pivotal Daubert ruling, when it required that a scientific test have a "known rate of error" in order to be admissible in expert scientific testimony. When the rate of error is unknown and may be quite high, as in such methods as handwriting analysis, lie detector tests, or hypnotically refreshed memory, then the admissibility of the evidence is thrown into question. It may be ruled to be "junk science" and excluded from the courtroom.

Returning now to the issues of "repression" and "recovered memory," we find an analogous situation. There are various anecdotal cases in which individuals have provided dramatic stories of an allegedly "repressed" memory that was subsequently "recovered" many years later, and where corroborating evidence was allegedly found to prove that the "recovered memory" was actually true. But, when we consider that literally hundreds of thousands of therapists and counselors of every description have seen many millions of patients over the years, one would expect to see numerous case descriptions of "repressed memory," just from measurement error alone. Specifically, if the rate of "false positives" were only one in one thousand, but we have a denominator of millions of patients, then we would expect to see hundreds or thousands of reported "cases" even of a phenomenon which did not actually exist at all.

Not only do we have a very large and unknown denominator, but we also have very little idea of the rate of error to be expected. If we studied 100 patients with severe depression, and found 2 individuals with seemingly clear, corroborated cases of "repressed" memory, would this be a satisfactory scientific demonstration of "repression?" Or would a 2% rate be simply the level of "background noise" to be expected from measurement error, in which case the study would offer no evidence for "repression" at all? Since we do not know the rate of "false positives" to be expected as a result of measurement error, we would probably require a fairly robust prevalence of documented cases of "repression" in our hypothetical study to be certain that we were comfortably above the level that could be accounted for by measurement error.

In summary, then, when we hear a dramatic and seemingly ironclad case example of some individual who appears to have "repressed" and "recovered" a traumatic memory, it is easy to be impressed. Indeed, such cases may be valuable as "hypothesis generating" evidence. But they are not legitimate "hypothesis testing" evidence. In the modern scientific debate on the existence of "repression" and "recovered memory," such case reports have no more place than the 20-mile-per hour house or the 86-mile-per-hour trees.

References

1. Stevenson I, Pasricha S. A case of secondary personality with xenoglossy. *Am J Psychiatry* 1979; 136: 1591-1592.
2. Pasricha S, Stevenson I. The cases of the reincarnation type in India. *Ind J Psychiatry* 1977;19:36-42.
3. Woolger T. *Other lives, other selves*. New York: Doubleday, 1987.
4. Mack JE. *Abduction: Known encounters with aliens*. New York: Scribners, 1994.
5. Smith D, Tomerlin J. *Beating the radar rap*. Chicago: Bonus Books, 1990.

LEGISLATIVE ACTIVITY

FMSF Staff

Informed Consent Bill Passed in Indiana

Senate Bill No 210 sponsored by Senator Patricia Miller was passed in the Second Regular Session 109th General Assembly in 1996 (House 92-1 and Senate 48-0).

The bill "Provides that a mental health provider must obtain the consent of a patient (or other legal representative) before providing mental health services; provides certain exceptions to the consent requirements; provides that mental health services consent requirements expire July 1, 1998; establishes the mental health practice study committee to study informed consent for mental health services, the definition of mental health services, mental health scopes of practice, enforcement of mental health scopes of practice, and any other related area as determined by the chairman of the committee."

The bill states that "Before providing mental health services, a mental health provider must obtain written consent from each patient. The consent required..must include a statement that the patient is consenting only to those mental health services that the mental health provider is qualified to provide within: (1) the scope of the provider's license, certification, and training; or (2) the scope of the license, certification, and training of those mental health providers directly supervising the services received by the patient."

Mental health providers are: registered or licensed practical nurse; clinical social worker; marriage and family therapist; psychologist; school psychologist; drug and alcohol abuse counselor; and individuals who claim to be mental health providers. Physicians (and, therefore psychiatrists) are not covered by this bill.

This informed consent bill does not force providers to tell the patient the general nature of his or her condition, the expected outcome of the treatment, the material risks of the treatment, the reasonable alternatives, or that the patient has the right to withdraw consent for treatment at any time.

Statutes of Limitation

Four states have recently enacted or are considering legislation regarding the statute of limitations for both criminal and civil matters in cases involving childhood sexual abuse and sexual assault cases.

In New Jersey, the governor recently signed Senate Bill 452 which eliminates the statute of limitations in criminal sexual assault cases. Prior to the passage of this new legislation, homicide and manslaughter were the only crimes for which prosecutions could be brought at any time. Previously, sexual assault prosecutions could only be brought within five years of the crime. The new law also states that in cases where claimants under the age of 18 are sexually assaulted, prosecutors may bring charges before the victim's 23rd birthday or "within two years of the discovery of the offense by the victim, whichever is later." According to one newspaper report, this clause is meant to help those who were assaulted as young children and repressed the memory until they become adults (see, *The Record*, Trenton Bureau, March 1, 1996, p. A-3).

On February 23, 1996, Massachusetts Governor Weld signed into law S.B. 1965, which extends the statute of limitations in rape cases from 10 to 15 years. As Taunton defense lawyer, Francis O'Boy noted, many of the rape cases brought 10 or more years after the alleged incident will come on the basis of repressed memory. Mr. O'Boy is quoted as calling the new law, "an abomination" to justice "created by a small coven of advocates that stampeded the public into thinking it was the right thing to do." (*The Providence Journal-Bulletin*, March 4, 1996, p. 1-C).

Tennessee is currently debating the passage of H.B. 3002, which would establish a three year statute of limitations "from discovery and cause of injury for civil actions brought for sexual abuse occurring when the injured party was a minor."

Rhode Island introduced S.B. 825 which would eliminate the necessity of intentional conduct on the part of the perpetrator in its civil childhood sexual abuse statute. This would effectively hold employers or non-perpetrator defendants liable for alleged abuse by their employees.

It's important to understand the reasoning behind such legislation in order to interpret the impact these laws may have on claims involving repressed memory. The events leading up to the sudden proliferation of legislation commencing from the 1980's to amend or implement childhood sexual abuse statutes cannot be overlooked. As a result of these circumstances, over 24 states have amended their statutes of limitation or effected a delayed discovery rule specifically to allow civil claims for childhood sexual abuse decades after the alleged event.

In the late 1980's, the first civil repressed memory suit to argue for the delayed discovery rule was unsuccessful, *Tyson v. Tyson*, 727 P.2d 226 (Wash. 1986). There, the Washington Supreme Court expressed concern about the length of time which had elapsed since the alleged abusive events, and about the lack of "objective, verifiable evidence" (Id. at 227). The court also noted that a substantial risk of stale claims would result from allowing repressed memories to toll the statute of limitations.

Three years later, in 1989, a woman claiming repressed memories of childhood sexual abuse, found she was prevented from bringing suit against her alleged perpetrator in a Washington State court following the *Tyson* decision. Thereafter, she successfully lobbied the Washington state legislature to enact the first statute of limitations to apply the discovery doctrine to civil cases of childhood sexual abuse. She and her husband then lobbied every state in the nation, and it is largely through their efforts that many states followed Washington's lead and adopted similar statutes. Many legislators were sympathetic to testimony which argued that plaintiffs who were traumatized into repressing memories of alleged incidents should be allowed their day in court. 'At that time, it was generally assumed

the theory of repressed memory in these cases was valid.

Since 1989, legislatures throughout the country have heard similar testimony from many groups, including plaintiffs' attorneys, victims rights organizations, NOW and other similarly disposed parties. In Connecticut in 1991, for example, the head of the Sexual Assault Crisis Services testified to the General Assembly's Judiciary Committee that a lengthy statute of limitations was needed because "the vast majority" of victims are completely unaware they have been sexually abused until later in life.... "[O]ur experience tends to show a large increase in memory retrieval in the 30's and 40's." Other testimony cited Ellen Bass as a "well-known therapist in the field of incest," who "knows our thoughts and feelings." As many who read this newsletter know, Ellen Bass is not a therapist but a creative writing teacher and the well-known author of the controversial self-help book, *The Courage to Heal*, which advocates suing as part of the healing process and contains the infamous line, "If you think you were abused, and your life shows the symptoms, then you were."² Nevertheless, the Connecticut legislature, relying on these misstatements and inaccuracies,

passed the bill to extend the childhood sexual abuse statute of limitations from two to seventeen years.

One must always keep in mind the principles underlying the statute of limitations. These laws are

in place to protect the courts from fraudulent claims and the difficulty of discerning the truth in cases where evidence has been lost due to the passage of time. And, further, the statute of limitations seeks to protect defendants from defending against stale claims where witnesses have died, records have been lost or destroyed, memories faded, etc. The delayed discovery rule evolved to allow plaintiffs equitable relief in cases where the cause of action was "inherently unknowable" at the time of the injury, e.g., a surgical sponge left in the body. Historically, courts have been cautious when applying the delayed discovery doctrine to any set of circumstances by requiring independent, objective and verifiable evidence of the injury.

Before the controversy surrounding the scientific validity of repressed memory theory became well-known, many courts and legislatures accepted the theory and gave special exception to this class of claims. However, courts have matured in their understanding of repressed memory theory over the past few years, as exemplified in the Michigan case, *Lemmerman v. Fealk*. In 1993, the Michigan Appeals Court in *Lemmerman* went so far as to state, "[W]e find it illogical to require corroborative evidence under the delayed discovery rule." The Michigan Appeals Court, accepting repressed memory theory as scientifically valid, stated, "[C]onsidering the present broad

memory repression," *The Journal of Criminal Law & Criminology*, Vol. 84, No. 1 (1993).

2. Haller, K., "Satan's Theater," *Connecticut Magazine*, April 1996, Vol. 59, No.4. The article chronicles a repressed memory civil suit which was instituted 3 months after Connecticut extended the statute of limitations for childhood sexual abuse claims from two to seventeen years. See, *Borawick v. Shay*, 68 F.3d 597 (2nd. Cir., Conn., 1995).

The Salem Witch Trials ended only after the Massachusetts legislature passed legislation that forbade the use of spectral evidence as proof alone of guilt.

Boyer, P. and S. Nissenbaum (1974), *Salem Possessed: The Social Origins of Witchcraft*, Cambridge: Harvard University Press, pp. 181-185.

1. Ernsdorff, Gary M. and E.F. Loftus, "Let sleeping memories lie? Words of caution about tolling the statute of limitations in cases of

acknowledgment that child sexual abuse can be suppressed, we believe that plaintiff's claims cannot be sacrificed in favor of a policy discouraging stale claims."³ Fortunately, two years later, in 1995, this decision was reversed by the Michigan Supreme Court, holding, "[I]f we applied the discovery rule to such actions, the statute of limitations would be effectively eliminated and its purpose ignored. A person would have an unlimited time to bring an action, while the facts became increasingly difficult to determine. The potential for spurious claims would be great and the probability of the court's determining the truth would be unreasonably low."⁴ The Michigan Supreme Court's concerns are strikingly similar to those voiced nine years ago in Tyson.

Recently, the Texas Supreme Court, in a reasoned decision in a civil repressed memory suit, reviewed the legislative history of childhood sexual abuse statutes noting: "[T]he first generation simply adopted the discovery rule or extended the statute of limitations for some fixed, extended period after the minor reached majority....[T]he second generation of statutes, including amendments to existing statutes, is more complex and gives greater weight to avoiding the danger of possibly fraudulent claims." The court goes on to cite examples of California, Oklahoma, Colorado and New Mexico childhood sexual abuse statutes which include language that, while not alleviating potential problems entirely, attempt to protect innocent persons from defending themselves against false allegations by requiring a higher standard of proof.⁵

Today, as courts and legislatures carefully examine the reliability of repressed memories, more decisions reflect a reluctance to allow actions based on unsubstantiated theory, unsupported by objective, verifiable and corroborative evidence.⁶ As doors to these claims are closing, many of the same groups who lobbied the legislatures in the 1980's continue to vigorously lobby the legislatures of the 1990's. They seek to circumvent the current trends in recent legislation and court decisions without regard to evidentiary concerns or the pain and suffering that many wrongfully accused individuals undergo in trying to defend an action brought decades after the alleged event. Likewise, advocates of repressed memory theory continue to give testimony and publish in law reviews and professional journals claiming the widespread occurrence of repression of childhood sexual abuse. They do so despite the fact that comprehensive reviews of the literature have concluded that there is no controlled experimental evidence to support the authenticity of such memories or even the very existence of repression. Such efforts will no doubt continue to influence courts and legislatures as seen in the recent spate of legislation. So, while much progress has been made in educating lawmakers on the scientific reliability of repressed memory theory, much work still remains to be done.

3. Lemmerman v. Fealk, 507 N.W.2d 226, 229 (1993).

4. Lemmerman v. Fealk, 534 N.W.2d 695, 702 (1995).

5. S.V. v. R.V., 1996 Tex.LEXIS 30 (March 14, 1996).

6. See, e.g., *FMS Foundation Newsletter*, "Summary of Cases

Involving the Scientific Status of Repressed Memories," April 1, 1996, p. 13.

ARTICLES RECENTLY ADDED TO FMSF BIBLIOGRAPHY

61 Collection F "Newspaper Articles from 1995" \$10.50
FMS Foundation. 1995. 12 newspaper articles on various topics including FMS, retractor lawsuits against therapists, Wenatchee accusations, Satanic accusations and legal cases. 46 pp (unbound).

#513 Margolin, E. "A Lawyer's View of Invented Memory: The Ramona Case" *The Champion*. Jan./Feb. 1996 \$3.00
Overview: how memory works, how it can be manipulated, what "repressed memory" is, and the importance of the 3rd party Ramona case in causing mental health workers to re-examine their support for the "repressed memory" hypotheses.

NEW ARTICLES OF INTEREST

Abrams, Stan "False memory syndrome vs. total repression." *Journal of Psychiatry & Law*. Summer 1995. A polygraph was used to test alleged child abusers accused on the basis of recovered memories vs those whose purported victims experienced no repression. The former group was found to be deceptive in only 4% of the cases in contrast to 78% for the latter group.

Crews, Frederick "The Verdict on Freud". *Psychological Science* Vol. 7, No. 2, March 1996. In this book review of Malcolm Macmillan's *Freud Evaluated: The Completed Arc*, Crews declares that the product of Freud's efforts proved to be a pseudoscience.

Dubois, Stephanie and Persinger, M.A. "Personality profiles of women who report and who do not report physical assault or sexual harassment: comparisons with traumatic brain injury". *Social Behavior and Personality*, Vol. 24, No. 1, 1996. In this study, the groups reporting a history of physical assault or who had sustained brain trauma displayed significantly higher scores that infer egocentricity and deviations from rule systems than the group reporting no history of assault.

Futelle, David "The Mouths of Babes". *Chicago Reader* 25(23). March 15, 1996. Gerald Hill was charged with hundreds of counts of sexual assault, injecting his children with drugs and feeding them rats and roaches. This article examines press coverage of this and hundreds of other cases of fantastic stories including SRA and repressed memory.

Haller, Karon "Satan's Theater". *CONNECTICUT Magazine*. April, 1996. In addition to pointing out the inaccuracies of the information provided to legislators by survivor groups that resulted in Connecticut changing its statute of limitations, this is a fascinating anatomy of the B v S lawsuit

Hipp, Deb "Rare everywhere but here, MPD is being called an 'American Disease'". *PitchWeekly*. (Kansas City) November 30, 1995. Peppered with quotations from interviews with professionals having opposing views, as well as with retractors, this article describes the controversy around the MPD diagnosis.

Hipp, Deb "When evil resides within the therapist". *PitchWeekly*, (Kansas City) March 7, 1996. This well-researched article uses personal stories to tell how families are devastated by accusations of satanic ritual abuse as a result of "memories" of heinous acts uncovered in therapy.

Hubner, John "Not my brother's keeper". *San Jose Mercury News*. March 17, 1996. The author poignantly describes how his

brother, a minister, renounces his family and claims satanic ritual abuse as a young child, abuse the author knows did not occur.

Kiesling, Angela "Digging up the Pain". *Charisma*. February 1996. This Christian magazine tells how some Christian counselors promote the practice of retrieving "buried memories" through prayer and psychotherapy, and how this practice hurts more people than it helps.

Lueders, Beth "Total Recall". *Aspire*. May 1996. Written from a Christian perspective, this article relates how the pursuit of psychological treatment can lead to divergent memory lanes. The differing experiences of two young women with repressed-memory therapy are depicted, as well as interviews with several Christian therapists.

Neimark, Jill "Dispatch from the Memory War". *Psychology Today*, March/April 1996. Neimark addresses the details of the smear against E. Loftus and asks why Loftus is the object of such a campaign. As a scientist, unshakable, she has broken the taboo—"the misguided feminist cause of other women as victims."

The Fall 1995 issue of *The Journal of Psychiatry and Law* is a collection of papers presented at the Hopkins/FMSF Baltimore Conference: "Memory and Reality." The following articles are included: **Elizabeth Loftus and Laura Rosenwald** - "Recovered Memories: Unearthing the Past in Court"; **Harrison Pope and James Hudson** - "Does Childhood Sexual Abuse Cause Adult Psychiatric Disorders? Essentials of Methodology"; **Ralph Slovenko** - "The Duty of Therapists to Third Parties"; **Harold Lief and Janet Fetkiewicz** - "Retractors of False Memories: The Evolution of Pseudomemories"; **Michael Kenny** - "The Recovered Memory Controversy: An Anthropologist's View"; **Stephen D. Lindsay and Debra Poole** - "Remembering Childhood Sexual Abuse in Therapy: Psychotherapists' Self-reported Beliefs, Practices, and Experiences"; **Steve Paul Moen** - "Consequences of the Therapist's Claim 'I'm Not a Detective'."

To order this issue, at \$14.00 per copy, contact: Federal Legal Publications, Inc., 157 Chambers Street, New York, NY 10007; (212) 619-4949.

Psychoanalytic Dialogues, 6(2), 1996 is devoted to a symposium on the "False Memory" controversy, with the commentators providing a range of considerations and points of view. We expect to publish a review of this special issue soon. Articles include: **Adrienne Harris** - "False Memory? False Memory Syndrome? The So-Called False Memory Syndrome?"; **Jody Messler Davies** - "Dissociation, Repression, and Reality Testing in the Countertransference: The Controversy Over Memory and False Memory in the Psychoanalytic Treatment of Adult Survivors of Childhood Sexual Abuse"; **Commentary on Papers by Davies and Harris**; **C. Brooks Brenneis** - "Cause for Skepticism About Recovered Memory"; **Frederick Crews** - "Forward to 1896? Commentary on Papers by Harris and Davies"; **Donnel Stern** - "Dissociation and Constructivism"; and **Replies to Commentaries**; **Adrienne Harris** - "The Anxiety in Ambiguity"; **Jody Davies** - "Maintaining the Complexities".

The single issue price is \$17.50, and can be ordered from: The Analytic Press, Inc., 101 West Street, Ste. 15; Hillsdale, NJ 07642

Continuing Education

Terence Campbell, Ph.D., a member of the Foundation's Professional and Advisory Board, is the featured presenter at a continuing education program, "Appropriate Standards of Care in Working with Memories." Psychologists and Social Workers can earn seven continuing education credits. The program will be held in Stiteler B 21 on the University of Pennsylvania campus. Members who register by May 10 pay the reduced \$60.00 fee (non-member's fee \$80.00). For registrations received after May 10, member's fee is \$75.00 (non-members \$95.00). For a brochure, call the Foundation at 215-387-8663 (or 800-568-8882). Please specify that you want a brochure and leave your full name and a complete address including zip code.

SAN DIEGO AUDIO TAPES AVAILABLE

Audio tapes from the highly successful FMSF /Johns Hopkins conference held in San Diego on March 30, 1996 can be purchased from Aaron Video.

BASIC STANDARDS OF CARE IN DIAGNOSTIC AND THERAPEUTIC PRACTICES WITH MEMORY AND THE PROCESS OF FAMILY RECONCILIATION.

The tapes are approximately 90 to 120 minutes long and cost \$ 8.00 (US) per tape [Ohio residents add 7% sales tax].

Tap 1 features Elizabeth Loftus, Ph.D. and Pamela Freyd, Ph.D. who discuss current experimental research and detail the scope of the problem.

Tap 2 focuses on clinical research with Jason Brandt, Ph.D. and a panel (Drs. McHugh, Loftus, Brandt and Freyd's) conversation with the audience.

Tap 3 is a presentation by Paul R. McHugh, MD on the standards of care.

Tap 4 is devoted to family issues and reconciliation and is led by John Hochman, MD. This tape is largely an interview conducted by Allen Feld, LCSW with a retractor, Diana Anderson and her sister, Elizabeth Erickson. Dr. McHugh's concluding remarks are also part of tape 4.

Aaron Video's address is
6822 Parma Park Blvd. Parma, OH 44130.
The phone is (216) 886-0923 [fax 216 478-8949].

SPECIAL THANKS

We extend a very special "Thank you" to all of the people who help prepare the FMSF Newsletter.

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READERS' RESPONSES TO "FOOD FOR THOUGHT"

August Piper, Jr., M.D.

The February edition of this column was entitled "A special delivery of some food for thought." Apparently the article provided food energy for writing as well as thinking, because it generated several letters. Today, we sample readers' responses. **We will sample more next month.**

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A question in the February column asked why therapists treat patients in ways that promote false memories. This question intrigued a reader from Washington state, who wrote a dignified but provocative reply. She says the field of psychotherapy in general has contributed to the false memory syndrome phenomenon because of:

- 1) the lack of objective, scientific research-based diagnostic and treatment guidelines and standards. Because of this deficiency, the kind of therapy a patient receives depends less on the patient's diagnosis than it does on the psychotherapist's theoretical orientation;
- 2) the lack of educational and training standards for practitioners and the lack of education in salient other fields such as social psychology;
- 3) the lack of objective documentation of therapy sessions. This results in therapists being able to claim credit for any benefits of the treatment, without needing to be concerned about being required to produce concrete evidence (such as audiotapes) to provide proof of what really took place in the sessions;
- 4) the apathy and tolerance of many professionals toward colleagues' incompetence and improprieties, combined with the lack of external social controls on the profession; and
- 5) the attitude of many mental health professionals toward patients that, because they are patients, everything they feel, say, or do is explainable by the patient's pathology.

These statements answer the question of how a therapist could treat patients in ways that are harmful. However, the real spirit of the February question seemed to be why would a therapist do so.

The writer from Washington also described some goings-on at a well-known mental health center in the Seattle area:

at this center, we were specifically told (in addition to other nonsense) that there are several satanic cults and witches' covens in our area where infants are being murdered and children horribly abused.

She enclosed 26 pages from a social psychology textbook. Among other fascinating points, the book warned about "Barnum Descriptions" -- named for P.T. Barnum, who believed "there's a sucker born every minute." Such descriptions are recipes for impressing patients:

- give people a subjective test;
- make them think that its interpretation is unique to them;
- and, drawing upon things true of most people, tell them something that is ambiguous.

Here's an example:

You have a strong need for other people to like you and for them to admire you. You tend to be critical of yourself, and have a great deal of unused energy that you have not turned to your advantage. At times you seriously doubt whether you have made the right decision or done the right thing. You have found it unwise to be too frank in revealing yourself to others.

Research shows that if people are told that descriptions like the above are designed, on the basis of psychological tests or astrological data, specifically for them, they will say the description is very accurate. (In fact, given a choice between a fake "Barnum description" and a real personality description based on a bona fide test, people tend to say that the phony description is more accurate!)

The textbook also warns that people can easily be induced to give information that fulfills the expectations of the treating clinician. This "confirmatory bias" is responsible for many self-confirming beliefs in psychotherapy. For example, consider a therapist who strongly believes that gay adult males had poor relationships with their mothers. Studies show that such practitioners may meticulously probe for recalled—or fabricated—signs of tension between gay patients and their mothers, but neglect to perform a similarly-careful review of their heterosexual patients' relationships with their mothers.

This material has obvious relevance to concerns of the FMSF. Barnum descriptions play a significant role in the current overdiagnosis of multiple personality disorder cases. That is, proponents of MPD actually say that having significant mood swings, speaking in a childlike voice during therapy sessions, or sometimes dressing in bright colors may signal MPD. Barnum descriptions also play a significant role in the current overdiagnosis of sexual abuse based on "repressed memories." That is, trauma-search therapists actually say that being unable to remember what happened in the fifth grade, experiencing discomfort when using public bathrooms, or not liking to have water on your face when swimming or bathing may signal past sexual mistreatment.

Before closing, I thought it would be good to acknowledge the compliments from a California reader. He thought this column was as pleasurable to read as his favorite (but now defunct) comic strip, "Calvin and Hobbes." Because I too used to wait every day to see what Calvin and his funny stuffed tiger would do, I consider this quite a compliment!

August Piper, M.D. is in private practice in Seattle, Washington. His book on multiple personality disorder will be published in the summer of 1996. He is a member of the FMSF Scientific and Professional Advisory Board.

LEGAL CORNER

FMSF Staff

Maine's Highest Court Prohibits "Repressed Memory" from Providing a Basis for the Application of Equitable Estoppel to Toll the Statute of Limitations

(Equitable estoppel is a principle of law which allows a plaintiff to extend the statute of limitations if the defendant acted in such a manner which actually induced the plaintiff not to take any legal action which could have been taken. To rely on this doctrine, the plaintiff must demonstrate that she intended to seek legal redress but failed to do so specifically because of the defendant's conduct.)

The Supreme Judicial Court of Maine, that state's highest tribunal, issued a unanimous opinion on April 8, 1996 in Nuccio v. Nuccio, 996 Me. LEXIS 82, holding that "repressed memories" could not serve as the basis for the application of the legal doctrine of equitable estoppel to toll the statute of limitations. The United States Court of Appeals, First Circuit, a federal court, seeking guidance on Maine law, had certified the following question to the Maine court: "Does a showing that a plaintiff, who was the victim of childhood sexual abuse, suffered repressed memory as a result of a defendant's threats of violence and generally violent nature, her witnessing acts of violence by the defendant and her fear of the defendant, provide a basis for the application of equitable estoppel so as effectively to toll the statute of limitations during the period that the plaintiff's memories remain repressed?"

To have a full understanding of the significance of this decision and how this litigation landed in state court, a review of the case history is in order.

In 1992 Kathleen Nuccio, age 42 at the time, filed an action in federal court against her father, Luke, seeking compensatory and punitive damages as a result of his having allegedly sexually abused her from the age of 3 to the age of 13 and threatening to cut her throat if she told anyone. She claimed to have repressed all awareness of her father's purported abuse until her memory was triggered by a dream. Plaintiff claims that the repression was the result of her father's threats and violence. The record reflects Ms. Nuccio's independence and level of over-all functioning in the years prior to her filing this claim. She graduated in the top 15% of her high school class, completed college in 1972, earned a masters degree in social work in 1973 and a doctorate in 1987. She held a variety of professional posts, including that of a college professor, a caseworker, research assistant and consultant. Personally, she managed her own financial affairs, purchased real estate on several occasions, participated in political campaigns, and had intimate relationships. Since 1970 she has been treated as both an inpatient and outpatient for numerous psychological afflictions, including depression, multiple personality disorder, and post traumatic stress disorder. She cited stress or workplace pressure, depression and mental illness as reasons for leaving various positions and discontinuing consulting assignments in 1993. In 1994 she left her tenured position as an associate professor at the University of Minnesota.

The trial court granted the father's motion for summary

judgment so that the case never went to trial, ruling that her claim was barred by the statute of limitations. It was not persuaded that Ms. Nuccio had a mental illness which prevented her from filing or that equitable estoppel prevented her father from raising the statute of limitations as a defense. From this adverse ruling dismissing her case on motion, Ms. Nuccio appealed.

The federal appellate court in Nuccio v. Nuccio, 62 F.3d 14 (1st Cir. 1995), certified the question set out above to the Supreme Judicial Court of Maine since there was no clear, controlling precedent in that state on the issue. The reason the federal court sought guidance can be gleaned from its comment:

"Cases involving repressed memory stemming from alleged childhood sexual abuse have appeared in increasing numbers in recent years. We are convinced that the question is of considerable prospective importance. Thus, the Supreme Judicial Court of Maine should be given the opportunity to resolve the issue."

In its opinion, the Maine court pointed out that, unlike at trial level, the daughter was not pressing her claim that she had a mental illness. In addressing the certified question, the court wrote that "equitable estoppel is a doctrine that should be carefully and sparingly applied" and "requires clear and satisfactory proof." The caution is justified in balancing the need to "provide potential defendants with the assurance of eventual repose from claims made stale by the passage of time." The court held that Plaintiff's claim was insufficient to invoke the equitable estoppel doctrine. "There was no evidence in this record that Luke continued to utter threats or display violence toward Kathleen when, by reason of her majority, she was no longer under his control. Accordingly, the fact that she suffered repressed memory as a result of the previously imposed violent conduct does not at this time equitably estop Luke from invoking the statute of limitations....The victims claims accrue at the time of the alleged abuse or when the victim reaches the age of majority."

Issue of duty owed to a third party to be reviewed in two repressed memory cases

Two recent cases brought by third parties argue that when a third party is directly injured by the practice of scientifically unproven, dangerous, experimental therapy or negligently administered traditional therapy, the granting of third party standing is justified. In cases where the misdiagnosis of childhood sexual abuse is made, and where false memories are negligently implanted or reinforced by a health care professional, the patient may be unwilling to bring an action against the therapist on her own behalf or incapable of perceiving the injury to herself and her family. If an injured third party were not granted standing in these cases, the falsely accused parent would be rendered powerless to redress the profound injury suffered and powerless to bring a measure of accountability to the health care provider who negligently propagates false allegations.

The question of whether defendant therapists owe a duty to third party plaintiffs may be heard by the 7th Circuit

Court in the case of *Lindgren v. Moore*¹ On April 1st, the defendant therapists filed a petition for leave to appeal with that court. However, at the time of this writing, the 7th Circuit has not decided whether it will hear the appeal.

In a September 1995 memorandum opinion, the U.S. District Court had dismissed 2 of the 5 counts (malpractice and negligence) against the therapists but had allowed 3 others to stand (Intentional Infliction of Emotional Distress (IIED), Loss of Society, and Public Nuisance). Then in March 1996, the court agreed to reconsider whether Illinois law allowed a cause of action for the remaining counts of IIED and loss of society in connection with mental health treatment provided to an adult patient who is not a party to the claim. Though not generally an immediately appealable order, the court granted an order certifying an interlocutory appeal on those remaining counts.

Originally the court had denied the motion to dismiss the IIED and the loss of society claims because it believed the Illinois Supreme Court would allow those claims based on the facts. However, in the 1996 opinion, the Court allowed the appeal of its earlier order because it agreed that the question of whether either defendant owed a duty to the third party plaintiffs was a controlling question of law which would require reversal if decided incorrectly and that there was "substantial ground for difference of opinion and that an immediate appeal may materially advance the ultimate determination of this litigation." In other words, if the case were to go forward, any decision in favor of the Plaintiffs could be reversed if, on appeal it were found that Illinois law does not allow these claims. The court agreed that the question of duty should be resolved prior to trial.

The third-party suit was brought by the father and two siblings of Amy Lindgren against her therapist and the therapist's supervisor "for inducing what has been labeled as 'False Memory Syndrome.'" Plaintiffs allege that although Amy originally sought treatment in 1990 for depression and bulimia, unlicensed therapist Janet Moore used various clinical psychological methods to treat the daughter, including hypnosis. As a result of the treatments, the daughter

began having "flashbacks" of being sexually abused by her father, one of the plaintiffs. Plaintiffs deny that any such events ever occurred. Amy is not a plaintiff in this action.

Plaintiffs maintain that not only was Moore's treatment of Amy not proper for the disorders she suffered, but that the therapist took advantage of Amy's mental state in using "Recovered Memory" therapy. In addition, they challenge the use of such methods in general as being unreliable and improper under the circumstances. These allegations formed the basis of the negligence and malpractice claims. On 9/29/96, the Court dismissed the malpractice and negligence counts holding that under Illinois law², absent a "special relationship", the plaintiffs did not have standing to sue.

NATIONAL PUBLIC RADIO, WEEKEND EDITION
A Delusion of Satan: The Full Story of the Salem Witch Trials. Doubleday, Discussion with author
 Frances Hill, October 29, 1995

Liane Hansen: This was a case of mass hysteria. We had political, social, theological, historical reasons for it happening. One of the interesting points that you make in your book, and I think one of the reasons you actually wrote it, is that it could happen again. Could it:

Frances Hill: Indeed, yes, it certainly could. I mean—and to some extent it is happening. There are all these cases now of recovered memory where people think they remember abuse, which was so traumatic they'd repressed the memories of it when there is no evidence that the abuse took place and what is happening is that there are therapists, counselors, people in their church, social workers, whomever, suggesting to them that this abuse might have taken place. Sometimes they go into hypnosis. Sometimes they go into trance-like states. They start to think they remember these things, and I'm sure the same thing happened in the prisons in Salem—that the minister would go in, he would talk to the women, he would say, "But didn't you see the devil?" and "What did the devil look like?" and "Where did you go?" and their imaginations would start to work. And in those conditions, in prison conditions where they were cold, hungry, probably deprived of sleep, it would be so easy for that to happen, especially when they had the tremendously strong motive that if they confessed they

Plaintiffs also allege that the defendants "falsely convinced Amy that she was abused by [her father] in the course of 'therapy.'" The therapist knew, or had reason to know that such a course of treatment would ultimately lead to destruction of the family unit and permanent estrangement of the daughter from the rest of her relations. Before the treatment, all the plaintiffs had maintained close, enjoyable relationships with Amy. These claims are the basis of charges of intentional infliction of emotional distress (IIED) and loss of society. The fifth cause of action, public nuisance, was based on the allegation that while Moore practiced as a psychologist, she did nothing to affirmatively indicate that she was not, in fact, a clinical psychologist.

The 1995 opinion noted that determination of whether the conduct on which the IIED claim is based was "extreme or outrageous" is objectively made on a case-by-case basis and that "the methodology of 'recovered memories' will undoubtedly play a role." The

court also referred to *Dralle*³ for support of the decision that an intentional tort involving direct interference, such as IIED, would be allowed by the Illinois Supreme Court. Furthermore the Court likened the facts of this case to those of

2. citing *Kirk v. Michael Reese Hospital*, 117 Ill.2d 507, N.E.2d 387 (1987). The Kirk court expressed its concern about extending a doctor's duty of care beyond the patient to the general public because the duty would extend "to an indeterminate class of potential plaintiffs." at 399.
3. *Dralle v. Ruder*, 124 Ill. 2d 61, 529 N.E. 2d 209 (1988).

1. *Lindgren, et al. v. Moore, et al.*, 1996 U.S. Dist. LEXIS 3450, March 22, 1996. See also 1995 U.S. Dist. LEXIS 15140.

Sullivan v. Cheshire⁴, in which the patient is convinced that he sexual abuse had occurred and was therefore not likely to bring a suit against the doctor so that only the injured third party was able to take action. These circumstances, the court felt, were unlikely to result in the multiplicity of claims feared by the Dralle court.

In a case of first impression in California,⁵ a plaintiff father charged a defendant social worker with professional negligence, alleging that "without the proper education, training or licensure authority" she diagnosed his daughter as being a victim of repressed memories of childhood sexual abuse. Defendant therapist advised the daughter that her mental and psychological problems were the direct result of the alleged abuse and that she suffered from "body and cell memories" which were accurate and confirmed the abuse. Plaintiff charges that defendant social worker encouraged the daughter to take legal action against her father and that defendant knew or should have known that charging plaintiff with a crime of childhood sexual abuse foreseeably endangered plaintiff's reputation. Because of the foreseeable nature of the injury and the close connection between therapist's conduct and the father's injury, a duty was owed to plaintiff.

The Plaintiff father appealed an order of dismissal, dated 9/20/94, after the trial court sustained defendant's demurrer to complaint without leave to amend. One of the issues presented for consideration to the California Court of Appeal, 4th Appellate District is whether the therapist owes a duty to Plaintiff not to falsely diagnose him as a child sexual abuser, despite the absence of a professional therapeutic relationship between therapist and father. The case has been fully briefed but a date for oral arguments has not yet been scheduled.

The National Association of Social Workers (NASW) filed an amicus curiae brief in the matter, arguing that "expanding the social worker's duty of care to include third parties when the social worker's diagnosis is that the patient is a victim of child abuse would be unreasonable." The brief of the NASW further argued that allowing a "duty of care" in this situation would eventually "widen the scope of duty well beyond the current standard and open the social worker to conflicts in complying with child abuse reporting statutes." Plaintiff argues that under special circumstances when the patient herself does not recognize the injury, only the injured third party is able to hold the therapist liable for his or her actions. As the Plaintiff's Opening Brief eloquently concludes, "Without granting the injured father standing in these cases, the falsely accused parent is powerless to redress the profoundly tragic injury suffered and powerless to bring a measure of accountability to the health care provider who negligently propagates false allegations. The ruling of the Trial Court in this case effectively bars the father, as a direct victim of the therapist's negligent and wrongful conduct, from any source of redress for his damage. This is wrong."

4. Sullivan v. Cheshire, 846 F. Supp. 654 (U.S. Dist., N.D. Ill., 1994).

5. Father v. Social Worker, California Court of Appeal, Fourth Appellate District, Div. 3, Case No. GO16875. See FMSF Brief Bank #41.

Ex-teacher wins new trial on sex charges

The Vancouver Sun, by Larry Still, March 19, 1996

The British Columbia Court of Appeal says a trial judge erred in denying the accused adequate access to a complainant's therapeutic records. The unanimous decision by the court (Regina v. Kliman, Case No. CA 18381, 3/18/96) said that defendant Kliman had been deprived of the right to a fair trial because the production of adequate records is essential to a case in which the defense contends that therapy sessions improperly influenced the retrieval of memory. A new trial was ordered.

Michael Kliman was convicted in 1994 of 5 sex-related offenses involving 2 young female students. The offenses were alleged to have occurred between 1974 and 1977 at the school where Kliman taught. Defense attorney Ace Henderson tried to show that one of the complainants, because of therapy aimed at reviving hidden memories, had difficulty distinguishing fact from fiction. During the appeal, Kliman's new lawyer, Michael Carroll, noted one of the complainants had no recollection of the assaults until 1992, when she underwent counseling by a clinical psychologist. One of the purposes of the counseling was to bring back memories of childhood sexual abuse.

The trial judge, following the principles applicable at the time of trial, ordered a restricted set of therapy notes be made available, which in this case, amounted to only one page of clinical notes. Justice Hugh Legg, writing for the Court of Appeal, stated, "I consider that the learned trial judge erred in denying the appellant sufficient access to the records...when it was apparent that these records may have cast doubt on [the complainant's] ability to testify accurately. The rulings also limited the ability of the defense to demonstrate that [the complainant] was either confused or fantasizing with respect to specific allegations." The court noted a recent Supreme Court of Canada case which set guidelines for the production of records in sex-offense cases.

California jury awards plaintiffs \$1.1 million after judge rejects motion to hold a pre-trial Kelly/Erye hearing

An Orange County jury awarded two women \$1.1 million in compensatory damages but only \$1 each in punitive damages. The suit (Wilson and Nemeth v. Phillips, Superior Ct., Orange Co., CA, Case No. 636967) was brought by two sisters, each of whom claimed to have recovered repressed memories of childhood sexual abuse by their father. The defendant father adamantly denied the allegations.

Following an eight week-long trial, the jury took 3 days to reach a verdict, voting 10-2 in favor of Wilson and 9-3 in favor of her sister. According to the *Los Angeles Times* (4/11/96), juror Bob Bloough said he found conflicting testimony on both sides of the case, but that jurors felt bound to rule for the sisters if there was at least a 51% chance they had been abused. "There was a chance he did it, but it is not clear," he said. "Based on the chance that he did, the [sisters] were given the ability to recover. That's all this verdict means."

The defense presented several pre-trial motions

seeking to limit the use of the repressed memory testimony. A motion to hold a pre-trial Kelly/Frye hearing on the reliability of repressed memory was rejected by Judge Bryan McMillan. The judge also rejected a pre-trial motion aimed at limiting the prejudicial impact caused by prematurely labeling the plaintiffs' claims as "memories." The motion argued that by referring to the claims as "memories" rather than, for example, "mental images" prior to their being proven to be more than mere "mental images" usurped the role of the jury. The role of the jury is to decide whether the claims were, in fact, memories of actual events or were simply confabulation or fantasy.

At trial, the defense expert witness testimony was presented through the cross-examination of the plaintiffs' experts. For example, a psychopharmacologist who had treated plaintiff Wilson testified that on the maternal side of her family, there was an extensive history of bipolar and manic depressive disorders so it could not be determined with certainty whether plaintiff Wilson's symptoms were the result of the alleged abuse or were genetically influenced. Plaintiffs' experts included psychologist Diana Elliott who testified regarding the "classic symptoms" of abuse. Other family members testified that the defendant had been seen in "compromising situations" with the girls.

Defense attorney Gerald Blank of San Diego intends to file a motion for a new trial based largely on the judge's denial of a request for a special hearing to consider the admissibility of expert testimony based on recovered memory therapy. If that motion is unsuccessful, an appeal may be filed.

Florida Court of Appeals upholds dismissal of repressed memory case as barred by statute of limitations.

The Florida Court of Appeals (Boyce v. Cluett, 1996 Fla. App. LEXIS 3325, 4/3/96) held that a Florida Statute of Limitations enacted in 1992 (95.11(7)) could not be applied retrospectively to claims which had been barred under an earlier statute (95.11(3)(O)). In this case, a step-daughter, age 33, had sued her step-father for childhood sexual abuse she claims to have uncovered in 1990 through psychological counseling. In 1995, the trial court had dismissed the claim as time-barred and awarded attorney fees to the defendants. The Court of Appeals affirmed the dismissal. The court rejected Plaintiff's claim that the financial support given to the daughter by her parents amounted to continuing control over her which should estop the defendants from asserting the statute of limitations defense. The court noted that the weight of case law⁶ rejects Plaintiff's position.

6. See, e.g., Burpee v. Burpee, 578 N.Y.S.2d 359 (N.Y. App. Div. 1991); Schmidt v. Bishop, 779 F.Supp. 321 (S.D.N.Y. 1991); Bailey v. Lewis, 763 F.Supp. 802 (E.D.Pa. 1991); Hewczuk v. Sambor, 803 F.Supp. 1063 (E.D.Pa. 1992). The FMSF Summary of Legal Resources, Chapter VIII contains a summary of case law regarding the doctrine of equitable estoppel in repressed memory cases.

Ex-police captain's rape trial set to begin this summer *Providence Journal* by C.J. Chivers, April 16, 1996

A criminal case based on a 28-year-old woman's alleged "flashbacks" of repeated rapes during the 1970's by her step-father is set for trial in July. The defendant, former police captain Anthony Rubino, has maintained his innocence. On 4/15/96, Associate Justice Frank J. Williams denied a motion to block evidence derived from the alleged victim's "repressed" memories, saying that the credibility of the evidence is a matter for a jury to decide. Judge Williams wrote, "The burden is on the state to prove Rubino's guilt beyond a reasonable doubt."

Therapist's certificate revoked in 'demon' diagnosis *The Arizona Republic* by Jodie Snyder, April 7, 1996

A therapist accused of telling his client she was possessed by demons has had his certificate to practice revoked by the Arizona Board of Behavioral Health Examiners. The revocation, which is the board's most severe punishment, followed an investigation into the treatment of a patient of Alfred Eells, director of the House of Hope (formerly Samaritan Counseling Services) in Scottsdale, AZ. According to the patient, instead of counseling her for post-traumatic stress, Eells almost had her believe that her father sexually abused her, that her church had satanic rituals, and that she was possessed by demons. Board members said that after reviewing the details of this case, they believed he was guilty of both unprofessional conduct and gross negligence.

Eells was already on one year's probation because of complaints by relatives of five patients who said therapists working under Eells wrongly convinced patients that they were abused as children. There are two malpractice suits brought by former patients currently pending against Eells. Eells has denied the allegations, saying that his actions were misinterpreted and that he plans to continue his practice, because the state doesn't require therapists to be certified.

Psychologist loses bid to regain license March, 1996

A malpractice suit brought in 1993 against Sacramento clinical psychologist Richard J. Boylan by three former patients has been settled out of court and the terms are confidential. The former patients also complained to the California Board of Psychology, which last year revoked Boylan's license. In addition, Boylan's licenses as a child counselor and clinical social worker were revoked by the Board of Behavioral Science Examiners. In January, Boylan went to court arguing that his licenses had been wrongly taken away. On Feb. 8, the court turned him down.

The three former patients alleged that Boylan had used his belief in extraterrestrial life and UFOs to diagnose and treat their emotional problems. The women claimed Boylan's counseling left them dependent upon him as a "father-like figure," and that he asked them to join him in nude exercises. Boylan denied the sexual allegations and defended his therapy as meeting acceptable standards.

False bills, diagnoses cost doctor \$1.5 million, prison*The Boston Globe*

by Judy Rakowsky, March 23, 1996

A Massachusetts psychiatrist who invented diagnoses, session notes and bills for patients he never saw was sentenced March 22 to nearly four years in a federal prison camp and ordered to pay \$1.5 million in fines and restitution. Dr. Richard P. Skodnek used the diminished capacity defense, but a jury convicted him of 136 counts of fraud. U.S. District Judge Nancy Gertner said that the false records Skodnek created for his patients may haunt them for years, possibly making it difficult to get medical insurance or a government security clearance. "I am deeply troubled by the fact that Dr. Skodnek made up records of family members he never saw and assessed teen-agers as drug abusers, being sexually dysfunctional or having sexual identity problems," she said. "It is an information age, and we cede so much to psychiatrists."

**Psychotherapist surrenders counseling license
prior to hearing of California regulators**
San Diego Union-Tribune, March 21, 1996
John Wilkens and Jim Okerblom

A La Mesa psychotherapist facing state disciplinary hearings has surrendered her counseling license amid allegations that she coerced an 8-year-old rape victim into falsely identifying her father as the attacker. Kathleen King Goodfriend was accused by government regulators of being "grossly negligent or incompetent" in her treatment of the child, Alicia Wade. The California Board of Behavioral Science Examiners said that "pressure" by Goodfriend over a period of 13 months finally led the girl to falsely accuse her father. As a result, her father, James Wade was arrested, charged and faced 16 years in prison. Alicia was nearly placed for adoption. Alicia's mother, Denise Wade attempted suicide. Authorities overlooked DNA evidence which proved the father had not assaulted his daughter and disregarded a suspect already convicted of attacking other girls in the neighborhood.

Under the agreement that takes effect April 15, Goodfriend admits no wrongdoing, but she will no longer be allowed to practice as a marriage, family and child counselor in California. By law, Goodfriend could apply for a new license in three years. But in doing so, she would have to acknowledge that her treatment of the child was "unprofessional" and "recklessly caused emotional or physical harm" to Alicia, according to the agreement. "The burden would be on her to show that she is rehabilitated," said Susan Fitzgerald, a deputy state attorney general who prepared the case against the therapist. Although regulators had looked forward to a full airing of the case against Goodfriend, they felt the settlement was merited, Fitzgerald said.

Two years ago, the Wade family settled a multimillion-dollar civil suit filed against Goodfriend, social workers, detectives, prosecutors and others involved in the case. The settlement was about \$3.7 million. Of that, \$1 million came from Goodfriend.

LEGAL UPDATES:

Oral arguments were heard on Monday, April 5, 1996 in the cases Doe v. Maskell, Roe v. Maskell before the Maryland Court of Appeals, Maryland's highest court. Among the questions the court will consider are whether the lower court correctly held that the concept of repressed memory does not meet the Frye-Reed standard and whether the lower court correctly held that the theory of repressed memory does not merit application of Maryland's discovery rule. The 7 appellate judges heard 90 minutes of legal arguments, but gave no indication of when they would issue a ruling.

The retrial of George Franklin is scheduled to begin Sept. 16 in San Mateo County Superior Court. George Franklin's daughter, Eileen Franklin-Lipsker will testify regarding her "recovered memories" of the murder of her childhood friend. According to the *California Lawyer*, April 1996, page 19, defense attorneys hope to exclude prosecution experts on repressed memories. Rex Bossert, the author of the *California Lawyer* article writes, "Skepticism now runs so deep [over repressed memory] that many wonder why prosecutors would even bother to retry the case."

An evidentiary hearing regarding the reliability of repressed memory testimony has been completed before Judge Edward Harrington in the U.S. District Court, Boston (Shahzade v. Gregory). Testimony given by Dr. Alexander Bodkin and Richard Ofshe, Ph.D. discounted the scientific validity of repressed memories. Dr. Bessel van der Kolk testified that a victim's flashes of traumatic memory are reliable but that victims do not necessarily piece the disconnected flashes together into an accurate narrative. The plaintiff, age 68, claims she had repressed memories of being raped by her cousin, now 75, until after she entered therapy in 1990. At the time of this writing, no decision has been rendered.

Public record in Harris County, Texas reveals that a malpractice suit brought by a former patient against her treating therapists and hospital was settled as to all defendants early in March 1996. The terms of the suit (Gornic v. Peterson, Seward, and Spring Shadows Glen Psychiatric Hospital) are confidential.

....There is no videotape in the mind. We all have false memories, confusions of events, people, sequences, stories and even dreams. Most of the time it doesn't matter if these are true or false.

But when a parent is accused of a horrific crime it becomes critical....The gravity of the charges, usually sexual abuse, prevents the parents from reaching out for support....At this time of tremendous need, the last thing they may consider is supportive therapy. Increasingly they may consider litigation, and they are winning against recovered memory therapists. Unfortunately, this doesn't mean they win back their children. Like a hotly contested divorce, nobody wins."

Michael Freeny, L.C.S.W.,
The Orlando Sentinel, 7/23/95

BOOK REVIEW

Convicting the Innocent: The Story of a Murder, a False Confession, and the Struggle to Free a "Wrong Man"

Edited by Donald S. Connery

Brookline Books, 1996, Paperback \$16.95

Reviewer: Gary W. Schons

Gary Schons is a Senior Assistant Attorney General and head of the Criminal Justice Division of the California Attorney General's Office in San Diego, which he joined in 1976. The views expressed in this review are his and do not reflect those of Attorney General Daniel Lungren or the California Department of Justice.

Editors comment: Readers of this newsletter know how false memories, when conjured up in psychotherapy, can lead to wrongful accusations. The ABC movie "Forgotten Sins" that aired in March about Paul Ingram and Richard Ofshe gave insight into both false memories and false confessions. Confessions in the criminal justice system sometimes lead to erroneous convictions.

In *Convicting the Innocent*, editor Donald S. Connery binds news and magazine articles around a centerpiece report on the September 1995 public forum in Hartford, Connecticut convened to explore the issues surrounding the conviction of Richard Lapointe for the 1987 rape/murder of his grandmother-in-law. Noted writer William Styron chips in an introduction and the book finishes with the hopeful telling of the recent pardon of Johnny Lee Wilson in Missouri and the retrial acquittal of Rolando Cruz in Illinois, both mentally disabled men convicted on the strength of false confessions obtained by police. Connery is the author of *Guilty Until Proven Innocent*, which explored the 1973-77 manipulated and forced confession and conviction of Peter Reilly in Connecticut.

On the evening of March 11, 1987, police and fire officers found Bernice Martin's raped and strangled body in her smoldering apartment. Lapointe, who had walked from his home nearby, discovered the fire and called in the alarm. Lapointe was interviewed by police and cleared. For nearly two and a half years, police sought in vain for Martin's killer. In June 1989, a new detective was assigned to review the case and he soon focused on Lapointe, despite the absence of any witnesses or physical evidence linking Lapointe to the crime. On the Fourth of July, Lapointe voluntarily accompanied detectives to the police department where he was read and waived his "Miranda rights" and was accused of Martin's murder. For the next nine and a half hours Lapointe was interrogated by three detectives without benefit of counsel or a tape-recording. Despite repeated denials of any involvement in the crime, Lapointe signed three separate confessions penned by the detectives. True to their promise to release him if he confessed, the detectives set Lapointe free and he returned home. The next evening, after a day at his job as a dishwasher, police arrested Lapointe and held him in lieu of \$500,000 bail. Lapointe has been in custody since.

Lapointe languished in jail for nearly two and one-half years before counsel was appointed to represent him. Although his defenders argued that the confession was

obtained in violation of the Miranda safeguards and that he was so mentally damaged that he lacked the capacity to challenge the allegations made by the police-authority figures, Lapointe was convicted and sentenced to life in prison. His appeal is pending in the Connecticut Supreme Court, which is expected to rule this summer.

At the heart of the controversy over Lapointe's confession and conviction is the man, himself. Lapointe is a 50-year-old, 5'4" man who wears glasses and a hearing aid which has earned him the sobriquet of "Mr. Magoo." More critically, Lapointe suffers with Dandy-Walker Syndrome and has an IQ just below average. Lapointe underwent five surgeries before age 15 to relieve symptoms of related hydrocephalus.

(America's most well known hydrocephalus sufferer to be charged with a major crime, Dale Akiki, who in 1991 was charged with multiple counts of child molestation based on therapeutically retrieved memories of 3- and 4-year-olds from a church daycare, was acquitted after the longest and costliest trial in San Diego history. Perhaps fortunately for Mr. Akiki, authorities were so convinced of his guilt that despite waiving his Miranda rights and being willing to make a statement, police and prosecutors never sought to interrogate him about the charges.)

Despite his mental, physical and social handicaps, Lapointe earned a living as a dishwasher, was married to a woman who suffers from cerebral palsy (she divorced him after the conviction), and was raising a normal, bright son. Lapointe had no prior criminal record or suggestion of sexual pathology. Fortunately, Lapointe has friends.

Shortly after Lapointe's 1992 sentencing, citizens who had attended his trial, including advocates for persons with mental impairments, began meeting as The Friends of Richard Lapointe to assist in overturning his conviction. The group's work resulted in widespread media attention to the case. The forum attracted legal and financial resources to battle the conviction and produced the book's centerpiece six-hour public forum in Hartford which brought together writers, including playwright Arthur Miller, attorneys, journalists, and academic experts, most notably social psychologist and false memory/confession expert Professor Richard Ofshe of Berkeley, mental disability advocates, the falsely convicted, and ordinary, but extraordinarily caring, citizens.

In his preface, Connery warns that the reader will never think about the criminal justice system in the same way again, as the reader will be "appalled—perhaps horrified—by the dirtiest secret in the darkest corner of law enforcement: 'coerced, involuntary false confessions.'" But it is hardly the horrifying secret Connery suggests. Indeed, the book is salted with a number of cases involving false convictions and confessions stretching over the past century. So what does *Convicting the Innocent*, which acknowledges that it is an attempt "to illuminate the whole by focusing intensely on a single case," offer?

Connery's work powerfully demonstrates the need for the citizenry, enlightened, educated and empowered by its press, to keep watch over its criminal justice system. Just as the post-War perfection of "scientific management" divorced the man-on-the street from understanding and controlling the institutions of business, education and govern-

ment, so too has our criminal justice system been hijacked by a legion of attorneys who have lupine-like poured out of the nation's law schools in the past fifty years, staffing huge law firms, government law offices, courts, commissions, and legislative staffs. Legal rules, arcane procedures and experts have sprouted like clover as the "litigation explosion" has reverberated from shore to shore. "Legal loopholes," through which the guilty escape justice, are believed to abound, and in the only direct role in the criminal justice system, the citizen-juror is treated like either a laboratory animal or a mushroom. Ironically, the concept of jury service we inherited from our English forebears was premised on the notion that the jury, "drawn from the venire" (the local area where the crime occurred) would be familiar both with the circumstances of the crime and the reputation and character of the accused. While our large, mobile society would make this goal difficult to achieve, the criminal justice system actively roots out potential jurors with any such knowledge. (Imagine that Lapointe had been judged by people who knew him.)

Active citizen involvement, beginning with the laborious talk of "courtwatching" or "witnessing" justice is crucial. In this regard, Connery's book proves that ordinary citizens can make a difference. Connery might have offered the reader some insight into how the Friends of Richard Lapointe organized and incited the writers and experts to his cause. Such a blueprint for action in other such cases would have been worthwhile and welcome.

The most riveting aspect of Connery's book is his own speech before the forum in which he declares: "This case is about abuse of power and arrogance of power, and I take it personally."

As a prosecutor of 20 years experience, this struck a nerve. Ignorance is one thing, arrogance is quite another. But Connery has a point. Why would law enforcement—police and prosecutors—have any interest in convicting the "wrong man"? Aside from the moral reprehensibility of this, convicting the wrong person means that the right guy, a vicious murderer or sexual predator, is still out there. And worse, why are police and prosecutors, in particular, so adamant in defending convictions once obtained in the face of recantations,

impeachment and revelations of misconduct, to say nothing of proof of innocence.

Lapointe's prosecutors appear unmoved by Connery and his brief. But so is Massachusetts Attorney General Scott Harshbarger who continues to defend the highly questionable Amirault convictions. They are not alone in the prosecutorial community. Perhaps it says something about today's state of affairs that in 1924 Homer Cummings, a Connecticut State's Attorney, threw out a confession-backed case against Harold Israel, a mentally retarded vagrant charged with murdering a priest, and went on to become FDR's Attorney General. More recently, the current Attorney General conjured a confession from Ileana Fuster to nail her husband Frank for satanic ritual child sexual abuse in the Country Walk case while she was District Attorney of Dade County, Florida.

In their defense, it may be offered that the arrogance of these prosecutors is a product of the conceit of a system which in all but the rare case in fact produces proper convictions within the strictures of constitutional due process, including, but certainly not limited to, the right against self-incrimination and to the assistance of counsel. Indeed, it could be that the Miranda requirement and the rights it protects contributes to the veneer of propriety which infects these convictions and justifies their defenders.

Will Lapointe and cases like it repeat themselves? Let us see: This most recent New Year's Day, William Beason was stabbed to death in his Rochester, N.Y. home in the course of an apparent robbery, a capital murder. On January 6, ex-convict Douglas Warney was arrested and subsequently signed a confession to the crime. Warney has an IQ of 68 and is delusional and suicidal as a result of AIDS-related dementia. His confession does not square with many of the facts known to investigators. A

January 29 editorial by Bob Herbert for the *New York Times* reports that Monroe County prosecutors have yet to charge Warney, although he remains in a hospital under police guard. Perhaps Mr. Connery should forward a copy of his book to Howard Relin, District Attorney of Monroe County. Better yet, I will send him my copy.

"The Crucible is a play about the seductive nature of power and that seductiveness is perhaps not unconnected with a confused sexuality. The judges were people who chose not to inquire into their own motives. They submitted to the irrational with a kind of perverse pleasure, a pleasure not entirely drained of sexual content. They dealt, after all, with exposure, with stripping souls bare, with provoking and hearing confessions of an erotic forthrightness that no other occasion or circumstances would permit. They saw young women cry out in a kind of orgasmic ecstasy. They witnessed men and women of position, intelligence, and property rendered into their power by the confessions of those who recalled abuses and assaults, revealed to them only in a religiously and therapeutically charged atmosphere. These were the "recovered memories" of Puritan New England, and the irrational nature of the accusations, their sexual frisson, the lack of any proof beyond "spectral evidence" (the dreams and visions of the accusers) were a part of their lubricious attraction. When Mary Warren accused a woman, she says, "I never knew it before...and all at once I remembered everything she done to me!" In our own time we are not so remote from this phenomenon as to render it wholly strange. Men and women with no previous memory of assaults, which were apparently barbaric and even demonic, suddenly recall such abuse, more especially when assisted to do so by therapists, social workers, or religionists who offer themselves as experts in the spectral world of suppressed memories. Such abuse, recalled in later life, is impossible to verify, but the accusations alone have sufficed to destroy entire families. To deny reality to such abuse is itself seen as a dangerous perversion, just as to deny witchcraft was seen as diabolic in Puritan New England."

Christopher Bigsby, Introduction to
The Crucible by Arthur Miller, Penguin Books, 1995

When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.

Edmund Burke

Thoughts on the Cause of the Present Discontent Vol. i. p. 526.

MAKE A DIFFERENCE

This is a column that will let you know what people are doing to counteract the harm done by FMS. Remember that five years ago, FMSF didn't exist. A group of 50 or so people found each other and today more than 17,000 have reported similar experiences. Together we have made a difference. How did this happen?

I was elated to receive a note from one of my home state senators in response to my entreaty to amend that state's current childhood sexual abuse statute to include evidentiary and procedural safeguards in the language of the statute.

My letter to the senator included a brief description of my personal situation, i.e., that my sister was a victim of the cult-like recovered memory movement which has wreaked havoc on thousands of American families. I also gave a brief historical account, including the fact that since the 1980's hundreds of civil lawsuits have been brought based upon recovered repressed memories of childhood sexual abuse. And, that, due to intense lobbying efforts by "victims" organizations, more than 24 state legislatures have extended their statute of limitations or implemented a statute of repose or delayed discovery rule which permits repressed memory lawsuits to be brought decades after the alleged injury.

In my opinion, if the courts and legislatures in this country have the facts and do their homework—they will do the right thing (see, e.g., Texas Supreme Court decision, *S.V. v. R.V.*, FMSF Newsletter, April 1, 1996, pp. 8-10). To that end, enclosed with my letter were various articles (e.g., FMSF Publication #431), case law involving the scientific status of repressed memories (see *FMSF Newsletter*, April, 1996, p. 13) and FMSF Rhode Island Amicus Curiae brief (FMSF Publication #803) to help educate the senators on the breadth of the problem and current scientific understanding of repressed memory theory. Also included in the package was an article written in the *Connecticut Magazine*, April 1996 Vol. 59, No.4, entitled, "Satan's Theatre." This piece is particularly relevant because it describes a typical repressed memory civil suit and also points out the inaccuracies and misstatements made by "victims" organizations on which the Connecticut legislature relied to amend their statute of limitations for childhood sexual abuse from ages two to seventeen years in 1992.

As I told the senators, "[A]ssuming, for the sake of argument, that an actual repressed memory case exists, the pain and suffering that many wrongfully accused individuals undergo in trying to defend an action brought

decades after the alleged event outweighs, in public policy terms, any relief which might be granted a legitimate plaintiff. To allow claims of such serious consequences to be brought without assurance of independent, objective, verifiable evidence, vitiates common sense and the legal principles underlying the statute of limitations and compromises the judicial integrity of our courts and legislatures."

The senator wrote that although it would not be possible to repeal the law, to please send specific suggestions on procedural safeguards to include in the statute. To that end, I forwarded copies of examples of two states' childhood sexual abuse statutes, California and Oklahoma, which contain language that, while not alleviating potential problems entirely, attempt to protect innocent persons from defending themselves against false allegations by requiring a higher standard of proof and establishes procedural safeguards for bringing such suits. For example, Oklahoma Statutes Annotated (1994), Title 12, Section 95(a) requires, "objective verifiable evidence that should include both the proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that the [injury] actually occurred" and California Code of Civil Procedure Section 340.1, was amended in 1994, to include compliance requirements, e.g., filing certificates of merit, for potential plaintiffs. Also, enclosed in my letter was a recent law review article entitled, "Requiring clear and convincing proof in tort claims involving recently recovered repressed memories," 174 *Southwestern University Law Review* 25 (1995), which reviews the legal history of cases involving repressed memories, examines the reliability of repressed memories and argues that California should require plaintiffs to prove the elements of tort claims involving recovered repressed memories of childhood sexual abuse by clear and convincing evidence (this law review article notes that most repressed memory cases are brought in civil court because of the difficulty in establishing guilt beyond a reasonable doubt in criminal cases).

It's amazing that one letter could produce a dialogue between this senator and me and, hopefully, bring about this most needed change in the law. Like it or not, it's our duty to educate the courts and legislatures of this country to understand what FMSF families know all too well. This issue continues to threaten the integrity of our judicial system and the country as a whole. I would especially like to urge FMSF siblings, the sons and daughters of elderly, falsely accused parents, to join me in writing your governor, senator, state senator, representative, congressman and the President TODAY and help right this terrible wrong. The FMSF bibliography has listings of the most relevant and important scientific and legal research to enclose or you may choose to simply tell your story.

A Sibling and Concerned Citizen
Send your ideas to Katie Spanuello c/o FMSF.

FREE LIBRARY DISPLAYS are now available through SIRS Publishers. Call 1-800-232-7477. This is an attractive and positive way to inform people about the many new books that are now available about false memories and the devastating effects this is having on families.

FROM OUR READERS

TIME WEARS AWAY "IMPOSTER PARENTS"

I watched my parents go through hell and it's difficult to even try to make it up to my Dad. I pray everyday that if a person like me can break away from that craziness so can others. The only thing I can give you is hope. If anyone had told me when I was in therapy that I was wrong and the therapist was wrong, I would have defended the "truth" as I saw it as fiercely as I'd defend my own children. There's no rationale when you're there, no sense of reality outside the therapist's belief and support, nothing to fill up the longings you feel except to immerse yourself completely in the falsehoods you so truly believe. There feels like there is no escape once you're in it, nowhere to go.

My Dad, even knowing what I believed about him, never cut me off even when I wasn't speaking to him and was so afraid of him. Somewhere in my mind I knew he was still my Dad no matter how much I hated him for what I believed he had done to me. He was there if I ever wanted to talk to him and he never condemned me. He was devastated, of course, but he simply waited for 6 years for me to come back to him and I finally did.

I hope the parents out there going through this tragedy can get a little glimmer of hope from people like me who were so certain of the abuse that never existed. The question I had the most difficulty with was: "Did I in all honesty ever stop loving my parents?" I finally realized I never stopped loving the parents I knew, because in this therapy you believe you've not only been horribly abused, you feel such rage at being lied to about the parents you know were there everyday of your life---they lied about the very basis of who they were and are; not loving parents like you remember them being but deceitful, selfish, liars who never loved you. The sad fact is that parents you "remember" in therapy are the lies and the parents you remember before therapy are, in fact, the loving parents you've loved all your life.

So, no, I never stopped loving my "real" parents. The ones I hated were only fakes made up in therapy sessions by a therapist who used all the wrong techniques. Time will wear away the "imposter parents" and you find the real parents still there just like you truly remember them--and still loving them despite all the therapist's attempts to destroy that love. I hope I'm not overstepping here, but it's so hard for me to see how much pain this therapy has and is causing. I will be sending you any interesting articles I find. Thanks again and God Bless.

A Retractor

PARENTAL CRIME

December, 1995

Dear Mr. & Mrs. "T"

We are writing to demand that you cease and desist from making any contact with our client, whether direct or indirect, through any means whatsoever including written,

oral, or in-person communication, or communication through any other person. We also demand that you cease and desist from contacting others in an effort to influence, interfere with, or in any other way affect our client.

As you know, our client has advised you on numerous occasions since at least March, 1994 that she wishes to cease all contact with you permanently. Notwithstanding our client's position, you have persistently engaged in repeated communications, both direct and indirect, you have followed her from place to place, you have attempted to interfere with her ability to obtain medical care and you have generally engaged in repeated incidents of harassment against our client. Your attempts to contact our client are offensive, abusive, vexatious, and threatening to the point that they cause our client to fear for her safety.

Your conduct is unwelcome, to say the least. This should have been abundantly clear to you given our client's communication with you directly, and with other family members who you have caused to make similar attempts to interfere with our client's well being.

This letter puts you on notice that if you do not cease and desist immediately all attempts to contact our client, either directly or indirectly, we have instructions to take

appropriate legal action.

Yours very truly,
"Lawyer"

January, 1996

Dear "Lawyer,"

In April 1994, we received a letter in which our daughter expressed, without any explanation, her wish to cease all contacts with us. We respected her wish. We did not talk to her and did not write her any letters or cards. The only exception was her mother's attempt to see her in December 1995. The allegations contained in your letter are absolutely unfounded. Our daughter has not advised us on numerous occasions that she wishes to cease all contacts with us permanently. We were not in touch whatsoever. We have not persistently engaged in repeated communications. We have not followed her from place to place. We have not attempted to interfere with her ability to obtain medical care and we have not engaged in repeated incidents of harassment against your client. These allegations are false and absurd.

As far as family members, friends or concerned professionals are concerned, we have neither the power nor the right to stop them from contacting our daughter if they wish to do so.

In December 1995, we tried to meet with our daughter to give her a Christmas gift. We hoped that when our daughter saw our faces, she might be willing to sit down and talk. In December, we met your client in the lobby of the YWCA. Once our daughter made it clear that she did not want to talk, we respected her wish and left.

We hope that sometime in the future, the lines of communication will reopen because we love our daughter and we deeply care for her well-being.

Mr. & Mrs. "T"

WHAT EFFORTS TO DISCREDIT FMSF SHOW

I can think of no greater evidence to substantiate the contention of a deliberate effort to defraud the public than the criticism your organization has received from within therapeutic circles, and the attempts to defame and discredit the members of your organization. If the opponents of FMSF had any remotely genuine interest in the serious treatment of psychological maladjustment, they would demonstrate a will to openly discuss and debate the efficacy and propriety of the practices which are presently being employed in treatment. "M.S."

OUR GRANDCHILDREN KNOW US

"Our daughter made her accusations against us in the spring of 1989 and we had not seen or heard from her or her husband and our two granddaughters in all that time. Our youngest granddaughter turned three in 1989, and because I had already bought gifts for her and her sister who was six, I decided to mail them. I didn't hear whether they received them or not. Since they were not returned, I decided to send them Christmas presents and then presents for the older child's birthday. We did this three times a year for all these years, hearing nothing.

Last Christmas we received a letter from each of our grandchildren! What a surprise. They are now nine and twelve years old. The letters were lovely and told us what they had been doing and thinking. They thanked us for always sending the gifts. Nothing was mentioned about their mother or father. We have since received two more letters after the birthdays. We are so glad now that we continued sending the gifts. I guess it doesn't work in all families, but it has in ours. My family doctor told me when the accusations first happened that if we didn't write to the granddaughters that they would forget us. They do know who we are and I guess that is what is so encouraging.

A Mom

FORGIVE BUT NOT FORGET

Our daughter appealed the decision in our favor to our state Supreme Court. They passed it back to the Court of Appeals. This has been dragging on since 1992. We are weary of the whole trying mess, and needless to say, have spent thousands of dollars just to protect ourselves from these false allegations. She injected more accusations in the appeal. The allegations have grown worse with time and she seems more intent on money than on the allegations.

We have not tried to reconcile with her. We feel she initiated this whole mess after 50 years of being close to the family. If this is what she thinks of us, we really do not want her back. It could never be the same. Yes, we could say that we could "forgive," which is essential to reconciliation, but we could never forget.

A Mom and Dad

If one feels inefficacious in the therapy session, that's the time to use your numerology charts, tarot cards, astrology charts and Ouija boards, or talk about past lives, alien abduction or satanic ritual abuse. That will fill up the hour.

Concerned

An Ode on the Insanity of Repressed Memory Therapy

If our daughter had died an untimely death,
We would be granted the privilege of grief.
There would be calls on the phone
And knocks on the door.
There would be ceremony and cards,
And sympathy, and empathy, and caring.
Flowers would arrive,
Which we might gently place upon her
grave.

Our family would gather 'round
With staunch support upholding
To lift us when we fell
And talk of the time which heals.
We would hear, "We are so sorry,"
"What can we do for you?"
"Shall we bring some food,
Some fruit, or bake a cake?"

Friends would remind us
Of the grace of her presence,
Of her laughter and her love,
Her giving inner spirit...
Old photographs might help
To see how she grew and prospered.
We'd say, "She had a wonderful life
Though it was cruelly taken."

But to be gone and not gone,
To be stolen from us
And her mind transformed
Toward hatred and revenge
For crimes never committed
By us? Her Parents?
Who anguished, dreamed, and loved,
Who gave her years of our lives.

We cannot speak, we cannot tell
Family, friends, and others.
We fear that phone call,
More accusations, the hatred,
The fingers which might point
And call us "horrid," "wretched."
That unwelcome knock...
The police? Will they take us away?

And so we live in terror and in fear,
Anguishing daily for her,
for siblings, for us,
For a family ripped apart
By madness and conceit,
by insanity of precept and of purpose.
Knowing she is gone—unreachable.
Delusional and as dead to us but living.

EGF, M.A. © 1994

MAY 1996**FMSF MEETINGS**FAMILIES, RETRACTORS & PROFESSIONALS
WORKING TOGETHERkey: (MO)=monthly; (bi-MO)=bi-monthly;
(*)=see State Meetings list**CALL PERSONS LISTED FOR INFO &
REGISTRATION*****STATE MEETINGS*****NEW MEXICO**

Saturday, May 11 @1pm

Speaker: Donald Tashjian, MD, PAPA
Maggie (505) 662-7521 (after 6:30pm)**PA, NJ & DE**Saturday, May 18- Guest Quarters Hotel
Chesterbrook Blvd. Wayne, PAGuest speakers/Panel discussion
Jim & Jo (610) 783-0396 or
Lee & Sally (609) 967-7812**S. NEW ENGLAND/NEW YORK**

Sunday, May 19 @ 1:15pm

Unitarian Church, Westport, CT

Speaker: Mark Pendergrast
Paul (203) 458-9173**ONTARIO, CANADA**

Saturday, May 25

Speakers: Dr. E. Loftus & A. Gold, Esq.
call Ontario State Contact for Info**CALIFORNIA**

Saturday, June 8 @ 1-3:30 pm

Seminar: How We Helped Our Daughter
Return-Elly & Paul Ovrebo
JoAnne (916) 933-3655**UNITED STATES****ARIZONA** - (bi-MO)

Barbara (602) 924-0975; 854-0404(fax)

ARKANSAS - LITTLE ROCK

Al & Lela (501) 363-4368

CALIFORNIA**NORTHERN CALIFORNIA****SACRAMENTO**-(quarterly)Joanne & Gerald (916) 933-3655 or
Rudy (916)443-4041**SAN FRANCISCO & NORTH BAY** (bi-MO)

Gideon (415) 389-0254 or

Charles 984-6626(am);435-9618(pm)

EAST BAY AREA (bi-MO)

Judy (510) 254-2605

SOUTH BAY AREA Last Sat. (bi-MO)

Jack & Pat (408) 425-1430

CENTRAL COAST - Carole (805) 967-8058**SOUTHERN CALIFORNIA****CENT. ORANGE CNTY.** 1st Fri. (MO) @ 7pm

Chris & Alan (714) 733-2925

ORANGE COUNTY -3rd Sun. (MO) @6pm

Jerry & Eileen (714) 494-9704

COVINA AREA -1st Mon. (MO) @7:30pm

Floyd & Libby (818) 330-2321

SOUTH BAY AREA -3rd Sat. (bi-MO) @10am

Cecilia (310) 545-6064

COLORADO -DENVER-4th Sat. (MO) @1pm

Ruth (303) 757-3622

CONNECTICUT - S. NEW ENGLAND

AREA CODE 203 (bi-MO)Sept-May

Earl 329-8365 or Paul 458-9173

FLORIDA**DADE/BROWARD** Madeline (305) 966-4FMS**BOCA/DELRAY** 2nd&4th Thurs(MO) @1pm

Helen (407) 498-8684

TAMPA BAY AREA

Bob & Janet (813) 856-7091

ILLINOIS - 3rd Sun. (MO)

Eileen (708)980-7693

INDIANA -INDIANA FRIENDS OF FMS

Nickie (317)471-0922(ph);334-9839(fax)

Pat (219) 482-2847 (*)

IOWA -DES MOINES

Betty & Gayle (515) 270-6976

2nd Sat. (MO) @11:30am Lunch

KANSAS -KANSAS CITY

Leslie (913) 235-0602 or Pat 738-4840

Jan (816) 931-1340

KENTUCKY**COVINGTON**- Dixie (606) 356-9309**LOUISVILLE**- Last Sun. (MO) @ 2pm

Bob (502) 957-2378

LOUISIANA- Francine (318) 457-2022**MAINE** -Area Code 207**BANGOR** -Irvine & Ariene 942-8473**FREEMPORT** -4rd Sun. (MO) Wally 865-4044**MARYLAND** -ELLCOT CITY AREA

Margie (410) 750-8694

MASSACHUSETTS/NEW ENGLAND**CHELMSFORD**- Ron (508) 250-9756**MICHIGAN**-GRAND RAPIDS AREA-**JENISON** -1st Mon. (MO)

Catherine (616) 363-1354

MINNESOTA (*)

Terry & Collette (507) 642-3630

Dan & Joan (612) 631-2247

MISSOURI**KANSAS CITY** 2nd Sun. (MO)

Leslie (913) 235-0602 or Pat 738-4840

Jan (816) 931-1340

ST. LOUIS AREA-3rd Sun. (MO)- AREA CODE 314

Karen 432-8789 or Mae 837-1976

SPRINGFIELD - 4th Sat. (MO) @12:30pm

Dorothy & Pete (417) 882-1821

Howard (417) 865-6097

NEW JERSEY(So.) SEE WAYNE, PA**NEW MEXICO**- AREA CODE 505

Maggie 662-7521(after 6:30pm) or

Martha 624-0225

NEW YORK**DOWNSTATE NY**-WESTCHESTER, ROCKLAND, ETC.

Barbara (914) 761-3627 (bi-MO)

UPSTATE/ALBANY AREA (bi-MO)

Elaine (518) 399-5749

WESTERN/ROCHESTER AREA (bi-MO)

George & Eileen (716) 586-7942

OKLAHOMA -OKLAHOMA CITY

AREA CODE 405

Len 364-4063 Dee 942-0531

HJ 755-3816 Rosemary 439-2459

PENNSYLVANIA**HARRISBURG** -Paul & Betty (717) 691-7660**PITTSBURGH** -Rick & Renee (412) 563-5616**WAYNE** (INCLUDES S. NJ)

Jim & Jo (610) 783-0396

June 8 @ 1pm/July & Aug -no mtg

TENNESSEE - Wed. (MO) @1pm

Kate (615) 665-1160

TEXAS**CENTRAL TEXAS**

Nancy & Jim (512) 478-8395

HOUSTON Jo or Beverly (713) 464-8970**UTAH** -April 27-Keith (801) 467-0669**VERMONT** (bi-MO)Judith (802) 229-5154**VIRGINIA** Sue (703) 273-2343**WEST VIRGINIA** Pat (304) 269-5871(*)**WISCONSIN**

Katie & Leo (414) 476-0285

INTERNATIONAL**BRITISH COLUMBIA, CANADA****VANCOUVER & MAINLAND**

Ruth (604) 925-1539

Last Sat. (MO) @1-4pm

VICTORIA & VANCOUVER ISLAND

John (604) 721-3219

3rd Tues. (MO) @7:30pm

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