



Serving People and Professionals  
in Contested Allegations of Abuse

Dear Reader,

A recent local BBC television programme, *Inside Out*, from the Yorkshire and Lincolnshire region gave an account of how ‘George’ all too easily became a registered hypnotherapist with the British Board of NLP, the United Fellowship of Hypnotherapists, and the Professional Hypnotherapy Practitioner Association. In fact, ‘George’ is the reporter’s cat! It made me wonder if the reporter had ever heard about the revelation in 1996 that comedian, Bernard Manning, managed to gain membership, having paid his £50 registration fee, of the British Association of Counselling, without any *bona fide* qualifications as a counsellor. This begs the question, “Has there been any progress in protecting the public in all these years?”. Awareness of the ease with which anyone could set up and practise as a counsellor or psychotherapist and the negative effect this had on the therapy industry, prompted the larger organisations to set about putting their house in order. This voluntary process is ongoing but has so far failed to be convincing and is currently being thrown into turmoil with the impending initiative for state registration of psychotherapists and counsellors which will see regulation of the industry pass to the Health Professions Council. Resistance by the various therapy factions is building as their dissatisfaction with the plans for registration becomes apparent. The date for the implementation of registration seems to be a moveable feast with the most recent, I have seen, being 2011 – so perhaps there is still time for agreement to be reached.

Where will hypnotherapists fit into the new proposals? In the early 1990s hypnosis was hailed as one of the leading techniques for the creation of false memories. The practice of regression therapy actively encourages the ‘exhumation’ of ‘memories’ which are inevitably a mixture of fantasy, fact and pure fiction. The hypnotherapists realised too, that they could not risk ignoring

the damage ‘false memory’ could bring to their profession. Articles were written and guidelines produced and there followed what seemed to be an improvement in practice for a while. Now with a new generation of practitioners, (in the same way we now have new reporters), they appear not to have taken seriously the wisdom of their elders. The BFMS has seen an increase in reports of the use of regression to facilitate a search for hidden childhood trauma. If hypnotherapists do not fall under the psychotherapy umbrella will they be able to practise outside of any planned Government legislation, thus leaving the public in the unimproved position of protecting themselves from harm? As hypnosis researcher, John Kihlstrom warned, “because the risks of distortion vastly outweigh the chances of obtaining any useful information, forensic investigators and clinical practitioners should avoid hypnosis as a technique for enhancing recollection”. The current voluntary codes of practice within the field of hypnotherapy, within some organisations about which we have been informed, lead to quasi-legal complaints procedures which culminate in adjudication by the organisation’s chairperson. A frequent determination that there is no case to answer, leaves much to be

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desired. No one wins; the aggrieved client is left high and dry and the organisation denies the need for improvements in practice so the risks remain.

Repressed/recovered memories all too frequently find their way into civil and criminal cases, both here in the UK and the USA. The UK courts are being exposed to expert evidence on the occurrence of 'false memory' but on the whole judges remain reluctant to grasp the nettle preferring to consider the understanding of issues around memory to be within the normal capabilities of an average jury member. The British Psychological Society's report, *Memory and the Law* was an attempt to educate lawyers and members of the judiciary to improve that position. To address this problem in America, a group of nearly 100 distinguished scientists (including UK psychologists) have signed a statement for an appeal to be heard in the Massachusetts Supreme Court by the introduction of *amicus curiae*. The brief will be filed with the court to advise on the current state of science which reveals a lack of scientific evidence for repression. (See report page 10)

We understand that in the current climate of real and imagined abuse, the process of informing and educating people about false memory and the damage it causes, remains an uphill climb. As a result, the concepts of repression for childhood trauma and for dissociation as a result of trauma remain embedded in our culture. Readers of this newsletter are informed sceptics but we all need to do whatever we can together to help reduce the blanket acceptance for unproven theories which have the power to wreak so much havoc and pain. (see Education in Practice p. 6)

As I write this we are almost on the eve of an appeal hearing for one of our members who was jailed 18 months ago. At his trial the false memory evidence previously presented during the trial by an expert, appeared to be lost to the jury when they were presented with a précised version which suggested, 'we all know how it is possible to block out trauma from our memory'! This regrettable turn of events coupled with powerful emotions in the courtroom did not help his case. There is no way to describe the strain that the member and his family have suffered over the last two and a half years since the case began. His anguish leading up to this important day is palpable – he might be freed, or, he might be returned

to jail to face many further years of sentence for charges he affirms he is innocent of – and all this on the day of his 26<sup>th</sup> wedding anniversary.

There is no doubt about the importance of continuing our work.

Our good wishes to you all for good health and peace in 2010.

*Madeline Greenhalgh*

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## With thanks, and a Welcome too

After 10 years, committed to serving the demands of the Administrator's role at the BFMS, Donna Kelly has decided the time is right to move to pastures new. Donna has been a great asset to the team and her cheery demeanour a reassurance to us and to members who met her at family meetings and at the past nine AGMs. We thank her for her tremendous commitment and valuable contribution to the Society. We will miss her very much.

The good news, however, is that we welcome Sue Ryder to the role. Sue comes to the BFMS with an administrative background and specific experience of working for a charity. Donna and Sue spent three weeks working together during October to ensure a smooth handover.

We are fortunate that both Sue and Donna will be present at the 2010 AGM in London on Saturday 27<sup>th</sup> March.

**AGM 2010**

**Diary Date**

The Sixteenth BFMS AGM  
will be held in London on  
Saturday

**27th March 2010**

# NEWS



## Goodbye Paperwork, hello 'Virtual Office'

The False Memory Syndrome Foundation in Philadelphia, run by Dr Pamela Freyd, has announced that it is to close its physical office and transform it into a 21<sup>st</sup> Century 'virtual office'.

The picture gives some idea of the scale of the paperwork handled by the organisation in years past. So much, in fact, that they needed a staff of 13 people to do the work as thousands of families wrote or telephoned seeking help. Pamela says, "It seems ironic that in the space of two decades communication has had such a radical change but still the belief in 'recovered memories' lingers."

Driven by their aim to offer help for as long as it is needed, from 2010 the office will close but the Foundation's work will be managed electronically still enabling calls, emails and letters to be answered and the newsletter to be published, all through the use of the internet. Although they plan to phase out all staff eventually, the Foundation envisages it will continue as a presence on

the internet for at least a decade or longer.

The FSMF has been fortunate to find a safe haven for its archives in the Center for Inquiry Library in Amhurst, New York. Over recent years personal stories of the families have been edited to remove all personal identities so that these accounts, together with professional articles, programme recordings and other items, can be made available to future generations of scholars, researchers and mental health practitioners. All serving as a reminder to prevent a recurrence of the epidemic we have experienced.

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## Delayed but Not Dead - Miscarriage of Memory

BFMS members, particularly those who have contributed articles for the proposed book, *Miscarriage of Memory*, or allowed their case histories to be featured, may be wondering why its publication has been delayed.

The reason is that the BFMS has had to take note of the precedent set by a number of recent legal actions where organisations have sought damages or injunctions when they have been criticised in the media, notably the action against journalist Simon Singh by the British Chiropractic Association, now awaiting appeal, and the action in this country, against Dr Peter Wilmhurst, a British cardiologist, by an American manufacturer of heart implants, for comments he made at a conference in America. These and others have been widely reported in the media. When newspapers and BBC's *Today* programme, (27 November 2009), with their relative wealth and legal resources, have had to "accept severe limits on what we can broadcast or write about litigious men and women, organisations, institutions and business" (Yasmin Alibhai-Brown, *Independent*, 16 November 2009), it is not a development that a small charity, such as the BFMS, can ignore. We have had to tread with particular care. Fortunately we have the support of a number of legal advisors, including an eminent QC, who have agreed to "lawyer" (to use current media jargon) *Miscarriage of Memory* without charge. However, it is hoped to have the book in print in the Spring 2010.

## Norway rewards Canadian thinker for his curiosity

The Norwegian Holberg International Memorial Prize 2009 has been awarded to Ian Hacking, Professor in Philosophy at University of Toronto and Collège de France. The 73-year-old scholar has a breadth of interests that has been internationally celebrated for years as breathtaking. The prize was presented by Crown Princess Mette-Marit



Like a beagle following his nose, Canadian philosopher Ian Hacking has followed his curiosity for 45 years into the intellectual puzzles of physical and social science and Norway's parliament rewarded his work with an academic prize worth \$750,000.

He has written books on physics, the history and philosophy of the mathematical field of probability and statistical inference, autism, obesity, multiple personality disorder and other psychopathologies, child abuse, memory, the soul, weapons research, free will, determinism and the phenomenon of how people classify each other and are changed by the classifications – what he calls “making up people”.

In his book *Rewriting the Soul: Multiple Personality and the Sciences of Memory*, 1995, Professor Hacking argued that possession of memory is possession of the soul, and the soul is a form of self-consciousness or an awareness of how we have created ourselves, the politicisation of personal memory.

“Child abuse, and repressed memories of child abuse” he has written, “are supposed to have powerful effects on the developing adult. What interests me is less the truth or falsehood of that proposition than the way in which assuming it [to have taken place] leads people to describe their own past anew... Each of us becomes a new

person as we re-describe the past.”

Asked by the Holberg Prize committee about what topics concern him today, he replied: “Too many.”

The prize was given to him at a ceremony in Bergen, Norway on 29<sup>th</sup> November 2009.

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## The Health Professions Council is now the regulator for the following psychologists

### Practitioner psychologists

Psychology is the scientific study of people, the mind and behaviour. Psychologists attempt to understand the role of mental functions in individual and social behaviour.

### Protected titles

Clinical psychologist  
Counselling psychologist  
Educational psychologist  
Forensic psychologist  
Health psychologist  
Occupational psychologist  
Practitioner psychologist  
Registered psychologist  
Sport and exercise psychologist

The profession of psychology is divided into seven areas or ‘domains’ of practice. The domains that will be regulated are:

### Modalities

Clinical psychologists  
Counselling psychologists  
Educational psychologists  
Forensic psychologists  
Health psychologists  
Occupational psychologists  
Sport and exercise psychologists

## All Party Group News

The Chair of the All Party Group into Abuse Investigations (APGAI), Claire Curtis-Thomas MP has announced that it is with great regret that she is to stand down as Member of Parliament for Crosby at the next general election. She has said that she reached the decision after a lot of thought and discussion with her family. Claire has fought long and hard over the years to ensure that the Government was made aware of the concerns about the way in which abuse investigations are handled. Freddie Howe, the opposition spokesman for health in the Lords, is the deputy chair of APGAI.

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## Science and libel laws

Simon Singh's libel case (reported in BFMS July newsletter Vol 17, No. 1, p3) was back at the Court of Appeal where he was granted permission to appeal. The appeal will be heard in February 2010. If you want to support a change in the libel laws for more details go to [www.libelreform.org](http://www.libelreform.org) or [www.senseaboutscience.org.uk](http://www.senseaboutscience.org.uk)

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## Scientific and Professional Advisory Board

The BFMS is delighted to welcome a new member to the Board.

Dr Cara Laney, Lecturer of Forensic Psychology at the University of Leicester. Dr Laney completed her doctorate at the University of California, working closely with the eminent Professor Elizabeth Loftus. Her research interests are in memory and emotion; false memories including their potential consequences and emotional impact; factors that influence and predict the reliability of eyewitness testimony and moral judgment and memory. See an abstract of one of her recent research papers below.

## RESEARCH

### Emotional content of true and false memories

Cara Laney, University of Leicester and Elizabeth F. Loftus, University of California, Irvine.

*Pub Memory, Psychology Press, 2008, 16 (5), 500-516*

#### Abstract

Many people believe that emotional memories (including those that arise in therapy) are particularly likely to represent true events because of their emotional content. But is emotional content a reliable indicator of memory accuracy? The current research assessed the emotional content of participants' pre-existing (true) and manipulated (false) memories for childhood events. False memories for one of three emotional childhood events were planted using a suggestive manipulation and then compared, along several subjective dimensions, with other participants' true memories. On most emotional dimensions (e.g. how emotional was this event for you?), true and false memories were indistinguishable. On a few measures (e.g. intensity of feelings at the time of the event), true memories were more emotional than false memories in the aggregate, yet true and false memories were equally likely to be rated as uniformly emotional. These results suggest that even substantial emotional content may not reliably indicate memory accuracy.

The research led the authors to issue the following warning within the section headed 'Implications of this Research':

What do the present results mean for judges and jurors listening to emotional testimony? Broadly, triers of fact should not give testimony more credibility because it is conveyed with emotion. Just as witnesses may convey information with a great deal of confidence, but still be inaccurate, so witnesses may convey information with substantial genuine emotion, but still be inaccurate. Even apart from intentional lies and witness coaching (e.g. Boccaccini, 2002), which may produce false emotion, witnesses may be genuinely emotional about false memories.

## Lasting False Beliefs and Their Behavioural Consequences

Elke Geraerts (University of St Andrews), et al.

Pub *Psychological Science*, August 2008

### Abstract

False beliefs and memories can affect people's attitudes, at least in the short term. But can they produce real changes in behaviour? This study explored whether falsely suggesting to subjects that they had experienced a food-related event in their childhood would lead to a change in their behaviour shortly after the suggestion and up to four months later. We falsely suggested to 180 subjects that, as children, they had gotten ill after eating egg salad. Results showed that, after this manipulation, a significant minority of subjects came to believe they had experienced this childhood event even though they had initially denied having experienced it. This newfound autobiographical belief was accompanied by the intent to avoid egg salad, and also by significantly reduced consumption of egg-salad sandwiches, both immediately and four months after the false suggestion. The false suggestion of a childhood event can lead to persistent false beliefs that have lasting behavioural consequences.

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## Education in Practice - Seminars at Goldsmiths

The 2009-2010 invited speaker series at the Department of Psychology, Goldsmiths, University of London, included two relevant seminars which tackled the fallibility of memory. The information has been reproduced from the Anomalistic Psychology Research Unit website at [www.gold.ac.uk/apru/abstracts-0910](http://www.gold.ac.uk/apru/abstracts-0910). All seminars in the series are open to members of the public. Some previous seminars, including one by Dr James Ost on the Recovered Memory Debate, have been recorded and can be viewed through the Department's website.

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## FEATURE

### Allegations Against School Staff - Summary of the Report of the House of Commons Children, Schools and Families Committee

Over the years, many attempts have been made by teaching unions to highlight the injustice caused when a pupil makes a false allegation of abuse against a teacher. As a result of this pressure, the House of Commons Children, Schools and Families Committee considered this issue and, in 2009, published its report *Allegations Against School Staff*. No doubt this decision was prompted also by concern amongst parents on issues of discipline in schools, low moral amongst teachers and problems in the recruitment of teachers and their retention.

The stories told by accused teachers in evidence to the Committee, and in newspapers and on radio and television are similar to those related by members of the BFMS. But with one significant difference: there has been a shift in public opinion when a teacher is accused. At the time when the number of allegations made by pupils against teachers was at a relatively low level, there was an automatic assumption of guilt. Now it is likely that public and press sympathy would tend to side with the teacher, or at least view the allegations with an open mind, or assume that the allegations were, most probably, driven by a desire for revenge on the part of the pupil or hope of damages on the part of the parent. Unfortunately, the evidence provided to the committee shows that little has changed in the way that the investigating authorities treat allegations. Recent Press reports serve to confirm this view (BBC Radio *File on 4 - Teachers*, Tuesday 3 March; BBC Radio *Today*, 26 October; and NASUWT press notice on its legal action to prevent the retention by police of DNA of a falsely accused member).

So, while the effect is no less traumatic now than it was, say, 25 years ago, an accused teacher is

unlikely to feel as constrained in talking about it as would a falsely accused BFMS member. But there are sufficient similarities - particularly on matters such as anonymity, the assumption of guilt before being proven innocent, and the investigative procedures of the police, that members may be interested in the following summary of the Commons' committee's report. Quotes highlighted in bold are as they appear in the report.

The Report was published on 16 July 2009. The full report runs to 132 pages, including a considerable amount of written evidence in 20 memoranda and oral representations from interested parties. It is available on the Hansard website.

## I. Innocent Until Proven Guilty

The Report (Summary page 3, paragraphs 5, 6 and 67, and recommendation 1) states, **"We believe that school staff subject to allegations should be treated according to acknowledged principles of justice and that a person accused of wrongdoing should be innocent until proven guilty. The aim should always be to deal with allegations speedily, effectively and justly, to minimise the cost and impact upon those accused."**

## II. Anonymity

The report comments, "Those wrongly accused are likely to go through a period of intense distress and may have their lives and careers ruined" (Summary page 4), yet in the Conclusions and Recommendations (12) and elsewhere (paras 59-63) it is disappointingly ambivalent on this issue, preferring to refer the matter for further consideration. **"We are not sure that a right to anonymity up until the point of court decision would deliver a significant benefit to those subject to allegations...The argument that anonymity up to the point of court decision could remove the potential for more witnesses or fellow sufferers to become aware of charges and to come forward is a strong one. On the other hand, exposure of an allegation under investigation will almost invariably tarnish the reputation of the member of staff concerned, and the principle of 'innocent until proven guilty' will be undermined. We recommend that there should be further consideration by**

**the Department of the case for statutory anonymity for school staff subject to allegations."**

## III: Collection of Data

After calling for further data from the Department of Children, Schools and Families (DCSF) to assess the size of the problem of allegations against school staff, the cost in personal and financial terms and whether the response by authorities was "handled expeditiously", the Report states, "The first steps in dealing with an allegation are crucial. There is too much pressure on head teachers to refer cases to local authorities. Once this happens, there is a distinct risk of a prolonged and exhaustive investigation, even when there is no real foundation to the allegations." (Summary p3).

## IV: Investigative Procedures

Perhaps the strongest language in the Report was reserved for the restrictions placed on accused staff (Summary, p.3) "We were shocked that the Department condones attempts by employers to bar suspended staff from social contact with colleagues. Deliberate and authorised isolation of staff who may be entirely innocent and who may be disadvantaged by that isolation in gathering evidence in any disciplinary hearing seems inhumane and unjust. No such bar should apply outside school premises." Recommendation 10 (and para 56) states, "Guidance to head teachers and to governors should specify that any bar on contact between an accused teacher and other school staff should apply on school premises only."

The union "Voice" expressed the view of other organisations and individuals (para 17), "The lives and careers of innocent people have been ruined by false allegations of abuse...Being falsely accused and suspended can cause severe personal distress and long-term damage to the accused's career. A large number of our members have left the profession and suffered damage to their health" and (para 18), "In some cases, a teacher's family may become involved in the investigation and restrictions may have been placed upon the activities of the accused. The NUT told us of a case in which a teacher was obliged to certify that he would have no sole contact with his baby daughter for a year. In

another case, raised in the House, a member of staff was forbidden to watch his son play rugby for his school, even at away matches.”

In offering advice on the response by the police, the Report states (pages 3 to 4), “School staff who are subject to an allegation and who present themselves willingly at a police station for interview are sometimes arrested. We believe that this is justified only in very rare cases, and we recommend that police forces should review all such arrests over a twelve month period. Chief constables should ensure that officers use their power of arrest sensitively and judiciously.”

Para 34 reported evidence of the way that local authorities and their departments of social services responded to allegations with some becoming heavily involved in the investigations themselves with “some authorities ‘going after’ school staff if an allegation is made”. The questionable actions of local authorities were further highlighted in paras 35 and 36, “The NUT recorded cases of head teachers coming under considerable pressure from local authority social services to suspend staff, with one authority allegedly threatening to remove the governing body if it did not comply with the authority’s wishes. A submission from a head teacher cited ‘intense pressure from the local authority for me to resign’, apparently before the outcome of the investigation”. A chair of governors described an investigation as proceeding “with the local authority as ‘investigator, prosecutor, judge, clerk and jury’”.

A chair of governors described an investigation as proceeding “with the local authority as ‘investigator, prosecutor, judge, clerk and jury’”.

“The issue which most exercised witnesses about police investigations was police officers’ use of their powers of arrest”, the Report said (para 38), “Placing a person under arrest entitles police officers to keep him or her in custody (probably in a police cell) for up to 24 hours initially, and to take photographs, fingerprints and a DNA sample. The Association of School and College Leaders said that there should be no need to arrest a member of staff who is willing to co-operate with the police, yet arrests are made even of people who have presented themselves at a police station to make a statement.” The NUT made a similar point. Mr Kaufman commented (para 40),

“the common complaint of teachers was that investigations take too long....we would expect an arrest under criterion (f) (of the Police and Criminal Evidence Act 1984) to be justified only in very rare cases...he also believed (para 41) that there were teachers who were arrested simply because the police took the view that the allegation was serious and/or that the evidence of an offence being committed was credible.”

## **V: Independent Investigations - Inequity**

Referring to the way that “so called independent investigations” (Summary, p6) are handled, the report says (Summary p4 and recommendation 13) that they are “not always as objective as they should be. In particular, they should not be an exercise purely to assemble a case against the accused.

Those who undertake such investigations should not be sourced from organisations which might have a particular viewpoint.”

While the Department’s guidance to investigating officers handling allegations “should approach the investigation on the basis of an objective fact find exercise...the process must be robust, well informed and ensure the most rigorous standards for safeguarding children are observed, whilst at the same time ensuring the balance of justice and fairness for the employee” (para 65), the reality was presented in “many submissions” which “argued that the investigatory process treated the accuser and the accused unequally” (para 66).

These submissions claimed:

1. “The accused is not always informed of exact charges - one submission suggested that this was to ‘limit opportunities for tampering with potential evidence’.
2. “The accused is interviewed last, and the investigator remains unaware of innocent explanations of events until the end of the process.
3. “Whereas the investigator is free to seek

evidence from all quarters, suspended staff do not have access to the same range of information and are commonly banned from all contact with colleagues, thereby isolating them and disadvantaging them in mounting a defence.

4. “The accused has no access to the findings of the investigation.”

In its response to the above, the Report stated (para 67), “There was a common thread running through submissions from teachers who had been subject to investigation, that the investigation seemed to be conducted on the basis that the person being investigated was guilty and the onus was upon them to prove themselves innocent. For those who maintained their innocence throughout, the strong impression was of an erosion of the principle of ‘innocent until proven guilty.’ **We believe that an investigation must not be an exercise purely to assemble a case against the staff member concerned.**”

## VI: Handling Records of Allegations

Perhaps the most far reaching recommendation relates to the role of the Independent Safeguarding Authority (Summary 4, recommendations 19, 23 and 24 and 26, paras 23, 81, 96, 98, 99, 108 and 109) which should have the responsibility of deciding when details of unfounded allegations should be deleted from personal records. It further states that the Authority should “assess all proposed disclosures of ‘soft’ non-conviction information prepared by police officers in response to an enhanced disclosure Criminal Records Bureau check. We heard that employers often rejected applicants for posts on the basis of unproven and possibly unfounded ‘soft’ information. The Government should examine this practice and either justify permitting it or take steps to prevent it.”

“For most teachers this was the biggest issue (para 60). In para 87 the Report further states, “In effect, it (records of allegations) can have a direct impact on a person’s potential to secure appointment to other posts involving work with children. In effect it can determine their career mobility; and so the treatment of records of allegations is a fundamental issue for teacher unions.” (see also VII: Police Records, below). Opposing views on the retention of records were expressed by the NSPCC and by the National

Governors’ Association (paras 89 and 90). The comments of the former Lord Chancellor, Lord Falconer of Thoroton, QC, were noted, “where it’s demonstrably the case that the allegation is false, there should be greater discretion as to whether it’s recorded.” (para 90)

In considering the terminology used in investigations (paras 92 to 94 and Recommendation 22), the Report notes the definitions of allegations provided by the Department - unsubstantiated, unfounded and malicious - and comments that the term, unsubstantiated, “**carries with it a whiff of guilt**” and “**should be used with particular care and only when no other term will suffice**”. It further (para 95) noted that the DCSF proposes to revise guidance “to make it clear that allegations which have been demonstrated to be ‘completely untrue’ do not need to be included in teachers’ references.”

Later (para 110) under “Protecting the subject of Disclosure”, the NASUWT stated, “the climate in schools at the moment is such that if your enhanced disclosure does not come back completely clear, people won’t take the risk of appointing you.”

## VII: Police Records

In considering the disclosure of “non-conviction or soft” information about a job applicant by the Criminal Records Bureau (CRB), several submissions expressed concerns, with “unproven allegations appearing as fact” and in one case debated in the House, “the soft information disclosed by the police force contained no fewer than 14 factual errors”. (paras 101 to 102 and Recommendations 25 to 27). Mr Kaufman stated (para 103), “solicitors’ files or court transcripts were not kept indefinitely and that an applicant would, after perhaps ten years, lose access to information which might help them prove that an allegation which had appeared on a CRB enhanced disclosure check had in fact been unfounded.”

Further concerns were expressed in the Report about terminology (paras 104 to 105), “there is no uniformity in the type of manner in which a local police force records details of an allegation,” later noting the NASUWT’s evidence of, “an apparent reluctance by police officers investigating

allegations to record as an outcome that there was ‘no case to answer’, even when the allegation was fabricated, preferring instead to say that there was ‘not enough evidence to proceed’ or that ‘no charges (were) brought but that the matter was referred to the employees (sic) to deal with internally’”. In its response, the Report stated, (para 111) **“we question whether an employer should have the right to reject an applicant or appointee simply on the basis of unproven and quite possibly unfounded ‘soft’ information supplied by chief officers for Enhanced Disclosure CRB checks. The Government should examine this practice and either justify permitting it or take steps to prevent it.”**

William Burgoyne

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## LEGAL

### *Amicus Curiae* signed by 100 Scientists

Internationally acclaimed scientists and practitioners, including some in the UK, have joined together to form The International Committee of Social, Psychiatric, Psychological, Cognitive Science, Neuroscience, and Neurological Scientists to inform the court with regard to scientific and policy issues they feel are essential to the integrity of the legal and scientific systems and the interests of justice.

Their aim is to provide detailed technical, scientific and historical information through *amici curiae* which document the position of the relevant scientific community regarding the misleading, controversial, and unreliable notions of “repressed-recovered memories”, “dissociative amnesia” and related concepts.

These misleading notions threaten the integrity of the legal system and expose legal, religious, educational, mental health, scientific and other societal systems to grave errors of process and a loss of public trust.

The *amicus curiae* (Latin term meaning "friend of the court" - the name for a brief filed with the court by someone who is not a party to the case.)

was filed this summer in the Massachusetts Supreme Judicial Court in Appeal of Former Priest Paul R. Shanley. In September, the court heard arguments in the case and is expected to decide within six months whether Shanley should face another trial.

The document quotes a recent, competent review of the ‘memory wars’ published in the American Psychological Association’s journal, *Psychology, Public Policy and Law*, 2008:

“Some courts in recent years have tarnished their credibility by willingly and blindly adopting the theory of repressed memory. Such acceptance can destroy the reputations of falsely accused individuals, and by failing to pay due attention to reliable scientific evidence, gives credence to junk science and demeans the scientific method. This paper was written to inform judges and attorneys about the relevant evidence, which shows that:

- a) the concepts of repressed and recovered memory are not generally accepted in the psychological and psychiatric community;
- b) the studies cited to support these concepts reveal significant flaws;
- c) much empirical evidence has been accumulated against the theory of repression;
- d) the studies using the best methodology offer the least support for the repression hypothesis; and
- e) there is no evidence that recovered memories accurately reveal the specifics of long-ago events.

Repressed–recovered memory theory is not supported by science.”

(See, Piper, A. et al, What’s Wrong with Believing in Repression? A Review for Legal Professionals)

“Decades of research show that traumatic events –those experienced as overwhelmingly terrifying and life threatening – are remembered all too well. More specifically, informed clinicians and scientists realise that emotional arousal enhances memory for trauma; it does not result in blocked memory for trauma.” (See, McNally, R. in *Remembering Trauma* 2003, Belknap Press)

The document warns the legal system to be wary of the plethora of flawed and misleading research in the field. In addition, it raises concerns that much of the support for ‘repressed-recovered memories’ is based upon the reports of psychotherapists. The way in which some mental health experts make predictive judgments on the basis of years of clinical experience is also shown, in a consistent body of research, to have significant limitations. (See, Dawes, R.M., et al, Clinical versus actuarial judgment, *Science*, 243, 1989; Garb, H.N., Clinical judgment, clinical training, and professional experience, *Psychological Bulletin*, 105, 1989)

Although we have no system of *amicus curiae* in the U.K. this important document highlights the risk to the British criminal justice system where judges’ frequent determination to claim that the issue of ‘memory’ is a matter for the jury alone, endangers the integrity of the legal system. Understanding the concept of false memory is not an easy one for the lay person and should not be considered to be a matter of mere ‘common sense’. Ref: Barden, R.C., (2009, August) See: <http://ncrj.org/Shanley/Document.php>

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## Seminars

Continued from page 6

Speaker: Dr Cara Laney

Title: True vs. False Memories: Is There a Definitive Difference?

Abstract: If there were a way to reliably distinguish between true and false memory reports, eyewitness testimony could be made more trustworthy. Three studies will be discussed. In the first, participants were given false memories for a positive event to see whether these memories, like true memories, might have repercussions. The second study was designed to assess whether demand characteristics could explain the results of false memory studies. In the final study, some participants were given false memories for three different emotional childhood events. Other participants had pre-existing (presumably true) memories for the same three events. The emotionality of the true and false memories was then compared, to see whether emotional content might be a reliable signal of memory accuracy.

Biography: Dr Cara Laney is a lecturer of forensic psychology at the University of Leicester. For further details please see reference to Cara’s biography on page 5 of this newsletter.

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Speaker: Anonymous

Title: The Good Daughter: When an Adult Recovers “Memories” of Parental Child Sexual Abuse: How can the Rest of the Family Assess the Charge?

Abstract: Sex, rape, innocence, betrayal, childhood and fear of mortality – an objective response to allegations of childhood sexual abuse in the context of recovered ‘memory’ by adults is arguably impossible, stirring up, as it does, so many fears, vested interests and conflicting conscious and unconscious emotions. The speaker will describe how being the sibling of an accuser affected her sense of identity and wider family relationships. She will explore the psychological impact of trying to apply objectivity to a personal crisis and describe the fall-out of an unresolved accusation.

The speaker proposes that people recoil from explanations of false memory where the recovered ‘memory’ is of child sex abuse. Various factors shape this response. These include: widespread confusion over the functioning of memory; fascination with multiple personality disorder played out literally via works of fiction; natural horror at the thought of the alleged crime; a projected identification with the ‘recovered’ child; terror of being on the wrong side if the allegation turns out to be true, and societal guilt for down-playing rape as a crime. These factors and many more play a part in building a landscape which victimifies [sic] the accuser and criminalises the accused regardless of context and outcome. Even when an accuser later retracts an allegation, case reports show even trained healthcare professionals becoming aggressive and accuse the retractor of lying.

Biography: The speaker is a member of a research ethics committee, volunteers with a carers’ association and works professionally as a freelance writer. In the healthcare field, she has written patient information leaflets for an NHS Trust, edited papers and presentations as well as facilitating numerous educational meetings for GPs and specialists.

## Overseas False Memory Societies

Please feel free to write or phone if you have relatives in these countries who would like to receive local information. The American, Australian and New Zealand groups all produce newsletters.

### AUSTRALIA

Australian False Memory Association Inc., PO Box 694, Epping NSW 2121, Australia  
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### NETHERLANDS

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### NEW ZEALAND

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Tel: 00 64 3 388 2173 · Email: cosanz@clear.net.nz · www.geocities.com/newcosanz

### NORDIC COUNTRIES

Åke Möller – Fax: 00 46 431 21096 · Email: jim351d@tninet.se

### USA

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Tel: 00 1 215 940-1040 · www.fmsfonline.org

The Scientific and Professional Advisory Board provides BFMS with guidance and advice concerning future scientific, legal and professional enquiry into all aspects of false accusations of abuse. Whilst the members of the board support the purposes of BFMS as set out in its brochure, the views expressed in this newsletter might not necessarily be held by some or all of the board members. Equally, BFMS may not always agree with the views expressed by members of the board.

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