Exhibit A

Grants

To date, EVAWI has received $8,902,332.00 in grant funding. These grant funds are supplemented with other sources of income, including fees generated by conference registrations and consulting activities, as well as charitable contributions from individuals and participants in the Combined Federal Campaign for workplace giving by federal employees.

For more information on the activities and services provided by EVAWI, please see our most recent Annual Report.

October 1, 2018
Office on Violence Against Women, US Department of Justice
Sexual Assault Medical Forensic Examiner Training Initiative

This cooperative agreement was awarded so EVAWI can work in conjunction with World 2 Systems, LLC, and an expert panel to update the Sexual Assault: Forensic and Clinical Management Virtual Practicum (Virtual Practicum), first issued in 2008. Because technology and best practices have evolved over the past decade, the Virtual Practicum is no longer compatible with most operating systems and portions of its content are obsolete. Therefore, EVAWI will develop an updated Virtual Practicum that reflects current best practices and recommendations for providing medical forensic care to the sexual assault patient. This award supports the first two phases of the project, which are: 1) planning and content development; and 2) production and in-house testing.

October 1, 2018
Office on Violence Against Women, US Department of Justice
Targeted Training and Technical Assistance for Law Enforcement on Sexual Assault

This cooperative agreement allows EVAWI to continue providing training and technical assistance for law enforcement on sexual assault investigation. This includes various strategies such as online resources, the OnLine Training Institute, Training Bulletins, webinars, and conference presentations. Technical assistance is also provided through individual consultations.

October 1, 2017
Office for Victims of Crime, Office of Justice Programs, US Department of Justice
Victim Link: Connecting Victims with Advocacy, Services and Reporting

EVAWI has partnered with technology firm Ten8Tech to expand and enhance a new technology initiative currently being launched on a national scale, to improve responses, services, and access for victims of crime. With a public-facing component titled Seek Then Speak, and an agency-facing service known as Victim Link, this innovative program provides sexual assault survivors and their support people a way to interact directly with a multi-lingual platform to gather information, explore options, and connect directly with local resources. They can even begin the process of reporting the crime directly to law enforcement and requesting community services for longer-term help. In other words, the program helps to close gaps in service delivery and promote justice and healing.

October 1, 2017
Office on Violence Against Women, US Department of Justice
Comprehensive Training and Technical Assistance for Law Enforcement on Sexual Assault

This cooperative agreement allows EVAWI to continue providing training and technical assistance for law enforcement on sexual assault investigation. This includes various strategies such as online resources, the OnLine Training Institute, Training Bulletins, webinars, and conference presentations. Technical assistance is also provided through individual consultations.

October 1, 2017
Office on Violence Against Women, US Department of Justice
Forensic Compliance Technical Assistance Grant

This cooperative agreement was awarded so EVAWI could continue providing various forms of training and technical assistance in the area known as "VAWA forensic compliance." The goals of the project are to increase victims' access to a medical forensic exam, support the implementation of the VAWA forensic compliance provision, and ensure that communities are notified about the availability of medical forensic exams for sexual assault victims, free of charge and regardless of whether they participate in the criminal justice process. This requires providing the public with information about billing and payment, because these are often critical factors in a victim's decision-making process about whether to have a medical forensic exam.

October 1, 2016
Office on Violence Against Women, US Department of Justice
Comprehensive Training and Technical Assistance for Law Enforcement on Sexual Assault to Prevent Gender Bias

This cooperative agreement allows EVAWI to provide comprehensive training and technical assistance for law enforcement on the topic of sexual assault and gender bias. This includes providing individualized technical assistance, conference presentations, developing and disseminating resources such as training and model policy materials, and integrating gender bias guidance into existing training and technical assistance resources. The target audience for this project includes grantees and potential grantees of the Improving Criminal Justice Responses (ICJR) Grant Program, the Rural Grant Program, the STOP Violence Against Women Formula Grants Program, and the Grants to Tribal Governments Program.

October 1, 2015
Office on Violence Against Women, US Department of Justice
Comprehensive Training and Technical Assistance for Law Enforcement on Sexual Assault

This cooperative agreement allows EVAWI to provide comprehensive training and technical assistance for law enforcement on the topic of sexual assault. This includes a variety of strategies such as extensive web resources, the OnLine Training Institute, Training Bulletins, webinars, and conference presentations. Technical assistance is also provided through individual consultations.

July 2, 2015
William H. Donner Foundation
Board Development Grant

Funding was awarded to help EVAWI dedicate resources to build the level of governance, management, and leadership capacity required to support the organization's current size and obligations.

October 1, 2013
Office on Violence Against Women, U.S. Department of Justice
Comprehensive Training and Technical Assistance for Law Enforcement on Sexual Assault

This cooperative agreement was awarded so EVAWI could provide comprehensive training and technical assistance for law enforcement personnel on the topic of sexual assault. Proposed activities include live training provided through regional training conferences, webinars, and a limited number of presentations at conferences hosted by other national organizations. This award was also designed to support EVAWI's continued expansion of the online resources offered, as well as developing and disseminating electronic newsletters and training bulletins.

October 1, 2013
Office on Violence Against Women, U.S. Department of Justice
Forensic Compliance Technical Assistance Grant

This third cooperative agreement was awarded so EVAWI could continue providing various forms of training and technical assistance in the area known as "forensic compliance." The goal is to support criminal justice and community professionals working to design, implement, and evaluate a victim-centered response system that is compliant with the revised forensic medical examination requirements of the STOP Violence Against Women Formula Grant Program (as codified in the Violence Against Women Act, which was reauthorized in both 2005 and 2013).

July 2, 2013
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
Crime Victim/Survivor Scholarships

OVC funded 12 scholarships for crime victims/survivors to attend our *International Conference on Sexual Assault, Domestic Violence, and Stalking*, April 3-5, 2013 in Baltimore, Maryland.

June 20, 2012
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
National Conference Support

Our fifth OVC grant provided support for our *International Conference on Sexual Assault, Domestic Violence, and Stalking*, April 2-4, 2012 in San Diego, California. Once again, ten scholarships were also funded by OVC for professionals to attend the conference.

July 13, 2011
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
National Conference Support

For the fourth year, OVC provided support for our *International Conference on Sexual Assault, Domestic Violence, and Stalking*, April 11-13, 2011 in Chicago, Illinois. Ten scholarships were also funded by OVC for professionals to attend the conference.

July 1, 2011
Office on Violence Against Women, U.S. Department of Justice
Forensic Compliance Technical Assistance Grant

Under this second cooperative agreement in the series, EVAWI continued to provide various forms of training and technical assistance for professionals involved in the criminal justice and community response to sexual assault, on the topic of forensic compliance.

January 1, 2011
Office on Violence Against Women, U.S. Department of Justice
OnLine Training Institute / Technical Assistance Grant

This fourth grant in the series supported EVAWI's effort to expand and enhance the OnLine Training Institute (OLTI). This included: (1) Eliminating the cost of registration, so it is available free for interested professionals; (2) Disseminating information about the OLTI as a free resource; (3) Expanding the training content that is available in the OLTI; (4) Enhancing the features of the OLTI infrastructure; and (5) Providing technical assistance to a wide range of multidisciplinary professionals from across the country.

September 24, 2010
Office on Violence Against Women, U.S. Department of Justice
OnLine Training Institute / Technical Assistance Bridge Grant

With this third grant in the series, EVAWI was able to continue disseminating information about the OnLine Training Institute (OLTI) and providing ongoing technical assistance. The goal for the project was to bring state-of-the-art information and resource materials to a wide range of professionals working in the field, including OVW grantees under the STOP Formula Program.

August 16, 2010
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
National Conference Support

Our third OVC award provided support for EVAWI's *International Conference on Sexual Assault, Domestic Violence, and Stalking*, April 19-21, 2010 in Atlanta, Georgia. Ten scholarships were also funded by OVC for professionals to attend the conference.

January 28, 2010
William H. Donner Foundation
Board Development Grant

The William H. Donner Foundation awarded funding to help EVAWI dedicate resources to build the level of governance, management, and leadership capacity required to support the organization's current size and obligations. This included hosting an in-person meeting for Board Members, which was facilitated by an

expert to provide successful guidance through the process, as well as follow-up as the findings were documented, implemented, and evaluated.

September 9, 2009
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
National Conference Support

This second award from OVC provided support for our *International Conference on Sexual Assault, Domestic Violence, and Stalking*, held May 18-20, 2009 in Anaheim, California. Ten scholarships were also funded by OVC for professionals to attend the conference.

May 1, 2009
Office on Violence Against Women, U.S. Department of Justice
Forensic Compliance Technical Assistance Grant

Under this cooperative agreement, EVAWI provided various forms of training and technical assistance for professionals in the area known as "forensic compliance." The goal of the project was to support criminal justice and community professionals working to design, implement, and evaluate a victim-centered response system that is compliant with the revised forensic medical examination requirements of the STOP Violence Against Women Formula Grant Program (as codified in the 2005 reauthorization of the Violence Against Women Act).

February 6, 2009
William H. Donner Foundation
Making a Difference Project: Research and Reform Summit

The William H. Donner Foundation awarded continuation funding for the Making a Difference (MAD) Project, to bring together a core group of participants for a Research and Reform Summit. The purpose of this meeting was to review the data collection process and preliminary findings, both to assist in the analysis and interpretation of the data, but also to chart a course for reforms guided by the knowledge gained from their participation in the MAD Project.

September 19, 2008
Office on Violence Against Women, U.S. Department of Justice
National Conference Support

This award provided support for our *International Conference on Sexual Assault, Domestic Violence, and Stalking*, held May 18-20, 2009 in Anaheim, California. Grant funds were also used to offer ten scholarships for professionals to attend the conference, with awards based on a competitive selection process.

June 1, 2008
Office on Violence Against Women, U.S. Department of Justice
OnLine Training Institute / Technical Assistance Grant

With this second grant in the series, EVAWI was able to continue disseminating information about the OnLine Training Institute (OLTI), expanding the availability of continuing education units, and providing ongoing technical assistance. The goal for the project was to bring state-of-the-art information and resources to a wide range of professionals working in the field, including OVW grantees under the STOP Formula and Rural Programs.

May 28, 2008
Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice
National Conference Support

This award supported our *International Conference on Sexual Assault, Domestic Violence, and Stalking,* held March 31-April 2, 2008 in New Orleans, LA. Ten scholarships were also funded by OVC for professionals to attend the conference.

February 1, 2007
William H. Donner Foundation
Making a Difference Project (Phase IV)

With 6 months of continuation grant funding in 2007, we accomplished the following objectives: (1) Cleaning and compiling data from the Making a Difference (MAD) Project, and matching a subsample of cases across professional disciplines; (2) Designing a data analysis plan; (3) Consulting with multidisciplinary experts, to assist with interpreting the findings, and exploring the implications for research, policy, and practice; (4) Writing a manuscript draft for publication to disseminate the findings for policymakers and practitioners in the field, and; (5) Presenting the findings at one conference for researchers, practitioners, and policymakers.

October 27, 2006
The Max and Victoria Dreyfus Foundation
OnLine Training Institute / Continuing Education for Law Enforcement

With this second grant from the Max and Victoria Dreyfus Foundation, EVAWI reached out to thousands of law enforcement professionals across the country, to encourage participation in the OnLine Training Institute (OLTI) and improve their investigation of sexual assault cases. Funding also supported our efforts to pursue accreditation in as many states as possible, so law enforcement professionals could earn continuing education units for completing training modules in the OLTI.

September 6, 2006
Horizons Foundation, Seattle, WA
OnLine Training Institute / Continuing Education for Law Enforcement

This second grant from the Horizons Foundation helped EVAWI reach out to thousands of law enforcement professionals across the country, to encourage participation in the OnLine Training Institute (OLTI) and improve their investigation of sexual assault cases. Funding also supported our efforts to pursue accreditation in as many states as possible, so law enforcement professionals could earn continuing education units for completing training modules in the OLTI.

February 14, 2006
William H. Donner Foundation
Making a Difference Project (Phase III)

The 2006 grant award allowed EVAWI to continue to facilitate important reform efforts in the eight participating communities in the Making a Difference (MAD) Project, by coordinating communication and conducting on-going data collection and analysis of criminal justice processing and outcomes. On-site technical

assistance visits were also conducted in three of the communities; a fourth community used the funding to purchase a comprehensive system for multidisciplinary data collection and management.

June 30, 2005
The Max and Victoria Dreyfus Foundation
Conference Scholarships

Funding allowed us to offer scholarships for criminal justice professionals to attend our 2005 *International Conference on Sexual Assault, Domestic Violence, and Stalking* held in Baltimore, Maryland. These professionals returned to their communities with new ideas and strategies for improving the services they provide to victims of gender-based violence.

June 23, 2005
The Harry and Jeanette Weinberg Foundation
Conference Scholarships

This grant was designed to support increased awareness, provide leadership and improve responses to sexual assault and domestic violence. Specifically, funding was used to offer 12 scholarships for advocates working in community-based organizations in Baltimore County, to attend our 2005 *International Conference on Sexual Assault, Domestic Violence and Stalking*.

June 16, 2005
Horizons Foundation, Seattle, WA
Capacity Building Grant

Funding awarded by the Horizons Foundation contributed toward achieving EVAWI's goal of providing training and technical assistance to the professionals who respond to victims of sexual assault, domestic violence, and stalking. The funding helped us to build our capacity to meet the needs of law enforcement professionals, health care providers, victim advocates, and others who contact us every day for information and support.

February 7, 2005
William H. Donner Foundation
Making a Difference Project (Phase II)

This grant allowed EVAWI to continue coordinating communication between the eight participant communities in the Making a Difference (MAD) Project throughout 2005, as well as providing various forms of technical assistance and conducting ongoing data collection on case processing throughout the criminal justice system. Funding also supported on-site training workshops in four of the eight communities during 2005.

October 1, 2004
William H. Donner Foundation
Conference Evaluation / Collaboration Survey

Continued support was provided for EVAWI to evaluate outcomes of the national conference for eight community teams participating in the Making a Difference (MAD) Project. EVAWI consulted with the Institute for Public Health at San Diego State University to evaluate training outcomes using a variety of indicators, such as the knowledge and skills demonstrated in on-line training and a repeated assessment of community collaboration using a survey questionnaire. Specifically, all training participants completed a detailed survey of community collaboration before attending one of the regional training conferences, after attending one of the regional training conferences, and then again after completing the on-line training institute and certification process.

October 1, 2004
Office on Violence Against Women, U.S. Department of Justice
OnLine Training Institute / Technical Assistance Grant

Grant funding allowed EVAWI to host three regional conferences during a two-year period, primarily targeting rural areas. The conferences provided state-of-the-art training in the criminal justice response to sexual assault crimes. Funding also supported development of the OnLine Training Institute (OLTI), to provide a forum for continued learning, opportunities to practice developing skills, and a certification process to document successful performance.

October 1, 2003
William H. Donner Foundation
Making a Difference Project (Phase I)

EVAWI was awarded this grant to sponsor a national conference in order to promote an integrated community response to sexual violence. Conference scholarships were awarded to applicant teams from eight U.S. communities to participate in the Making a Difference (MAD) Project, with each community team including eight professionals who respond to the needs of sexual assault victims. Within each community team, these professionals represented the fields of: law enforcement, prosecution, rape crisis advocacy, and other sexual assault services. The core vision of the conference was to challenge the legal process to more effectively prosecute sex offenders. Participants recognized that this requires redefining the way that sexual assaults are conceptualized within the criminal justice system. The goal of the conference was not only to make a difference in public policy but also to create a movement for social change. The original conference took place on October 26-29, 2004.

Exhibit B

End Violence Against Women International
(EVAWI)

Effective Report Writing: Using the Language of Non-Consensual Sex

Sergeant Joanne Archambault (Ret.)
Kimberly A. Lonsway, PhD

With contributions by Detective Scott Keenan (Ret.)

February 2006
Updated February 2019

This module is part of EVAWI's OnLine Training Institute (OLTI), which is available at no cost, and includes review exercises, practical applications, and an end-of-course test. Participants can download a personalized certificate of completion to use for continuing education or other purposes. For more information, please see the EVAWI website.

This project is supported by Grant No. 2015-TA-AX-K015 awarded by the Office on Violence Against Women, US Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Course Objectives

At the end of this training module, the learner will be able to:

- Recognize the purposes of police reports in sexual assault cases
- Utilize report writing techniques that successfully support the prosecution of sexual assault cases, including:
    - Summarize all of the evidence uncovered during the course of the investigation
    - Recreate the reality of the sexual assault from the victim's perspective
    - Record witness statements, especially those that corroborate the victim's account
    - Document suspect statements, especially those that corroborate the victim's account or provide an implausible or even absurd version of reality
    - Tape interviews with victims, witnesses, and suspects
    - Effectively document other evidence in the case
- Utilize report writing techniques that successfully overcome the three primary strategies used by the defense in sexual assault, including:
    - Impeachment by omission
    - Impeachment by contradiction
    - Motions to suppress

Worse, by recording such a question in the written report (*"why she did it, if he didn't physically force her."*) the investigator has inadvertently conveyed a sense of doubt and blame in the report.

A better response for investigators would therefore be to provide an open-ended prompt for victims to explain the entire context of force, threat, or fear that was used to commit the sexual assault. For example, investigators can ask victims open-ended questions such as the following:

- *What thoughts did you have at that point?*
- *What were you feeling when he demanded that you do that?*
- *What were you feeling when he did that?*

Or, if the victim has already described the context of force, threat, or fear present in the situation, the investigator can respond simply by asking questions such as:

- *How were you feeling then?*
- *Compared to before, were you feeling more or less scared, or about the same?*
- *Were you feeling scared for the same reasons as before?*

These questions will help the victim to articulate the basis for the force, threat, or fear that the suspect used to commit the sexual assault. These details must always be highlighted in the investigator's written report, because they will help to overcome the consent defense that is virtually inevitable in such cases.

As a side note, the investigator in this case also could have asked the victim whether or not she knew what the term "dome me" meant at the time of the sexual assault. If she did know what it meant, this is information to record in the report. If she did not know what it meant, however, this fact is especially critical because it helps to explain her reaction (thereby reconstructing the reality of the sexual assault from her perspective) and may make her appear more "innocent" in the eyes of prosecutors, judges, and jurors.

Other questions can also be specifically used to help articulate the context of force, threat, or fear that was present in the situation – in order to overcome the consent defense that should be expected in cases of non-stranger sexual assault. To illustrate, consider the following statement, in the case scenario:

> *When describing the sodomy, on a scale of 1 to 10 the victim said she placed the pain at a "10", the worst pain possible.*

With this question, the investigator has done an excellent job of helping the victim to articulate what she was experiencing, and it shows the type of detailed information that can be elicited during a successful victim interview. It is therefore a particularly good

- Depending on the context, it is sometimes appropriate to use terminology from the penal code, such as "rape" or "sexual assault."

- Alternatively, the best strategy is often to simply describe the parts of the body and the things the victim was forced to do with those parts of the body.

This is perhaps best illustrated using some practice exercises, so let's turn to the same case, to see a common type of description used by investigators:

> *He ripped her nylons open between her legs and then started going down on her. I asked her if she meant oral sex and she agreed. She then told him no and asked him not to do that. However, he continued to perform oral sex on her.*

At first glance, this seems to be an appropriate summary of the victim's statement. In fact, the investigator applied several of the techniques discussed in the module on Victim Interviewing.

- First, the investigator preserved the victim's exact wording by stating that the suspect "started going down on her."

- Then, the investigator responded to the victim's slang term by clarifying what she meant. When the victim said that he "started going down on her" the investigator sought to clarify what the victim meant by asking if this meant "oral sex."

Both of these are good techniques, but they fail to describe an act that is nonconsensual by describing it as "oral sex." In our society, "oral sex" is typically used to refer to consensual sexual activity, and it therefore conveys a "word picture" of positive, reciprocal sexuality. A better strategy is to use the language of non-consensual sex to describe the parts of the body, and what the victim was forced to do with those parts of the body.

To see what this looks like, let's use a better version of the previous example:

> *He ripped her nylons open between her legs and then she said that he "started going down on me." I asked her to describe what he did, and she said he "kept pushing his tongue inside of me." I asked her if she meant inside her vagina, and she said "yes." She then said that she begged the suspect to stop, repeatedly saying "no," "stop," and "I don't want to do this," but he kept forcing his tongue inside her vagina anyway.*

Doesn't this create a different "word picture?" Rather than describing the act as "oral sex," the investigator has clearly described the parts of the body and what the victim was forced to do with those parts of the body. That is, the suspect "forced his mouth on her vagina." If we think of the investigator's report as creating "word pictures" for prosecutors and jurors, it is important to make sure that they do not look like a

consensual sexual experience. To recreate the reality of the sexual assault from the victim's perspective, "word pictures" in a written report must rely on the language of non-consensual sex.

Research also suggests that that language focused on the perpetrator of a sexual assault, rather than the victim, can decrease the perception of victim responsibility and blame. This shift in language use additionally increase the recognition of force used to commit the sexual assault (Niemi & Young, 2016). Another recommendation is therefore to use such language focused on the suspect, not the victim.

Now, let's look at another example, and demonstrate how to revise the statement to clarify what happened by using the language of non-consensual sex to convey a more appropriate "word picture." For these examples, it may require "filling in" some missing information. Here is another sample from the same investigator's report:

> *She then said, "He got on top of me and tried to fuck me." She told him "no," but he continued. She thought he was going to do it anyway, so she asked him to use a condom.*
>
> *He performed oral sex on her again. He then got on top of her and had sexual intercourse with her.*

While there are many ways to improve this statement, one possibility would be the following:

> *The victim explained that the suspect got on top of her and tried to "fuck" her. I asked her if she was saying that he was trying to force his penis into her vagina. She agreed that this is what happened. She then said that she begged the suspect to "please don't do it" and "stop," but when she realized he was going to rape her, she asked him to use a condom because she was afraid that he would give her a disease or get her pregnant. The suspect forced his penis in the victim's mouth again and then he raped her, forcing his penis into her vagina. He did not use a condom, despite her pleading that he do so. The victim then said that she was "terrified" during the sexual assault, and responded by "totally shutting down, just praying it would all be over soon and she could go home." The victim cried during the interview and said that "this is the worst thing that has ever happened to me. It has totally ruined my life, and I don't know what to do now."*

While the revision will look different, based on the "missing information" that is filled into the report, it is still quite striking to see how changes in the details and language can create such an entirely different "word picture." Just imagine how powerful report writing can be to recreate the reality of the sexual assault for prosecutors, judges, jurors, and others.

Avoid Writing a Detailed Report for any Witness Already Providing a Detailed Report

Finally, investigators can minimize the risk of contradiction by not writing a detailed report for any victim or witness who has already provided a detailed, written summary of events. This situation is perhaps most frequently encountered with medical witnesses. An investigator may interview a nurse or physician about the results of a forensic examination and then write a report summarizing the information provided. However, the forensic examiner (nurse or physician) will also write a detailed report, and any differences between the two may be used by the defense attorney to impeach the testimony of the forensic examiner, police investigator, or both.

In this type of situation, we have already discussed how investigators should include a summary of the findings from other professionals, as well as summarize the findings and conclusions from these other professionals (such as forensic examiners) in their own written report. However, this does not mean that the investigator's summary should be long and detailed, thereby duplicating the report prepared by the other professional. This also does not mean that the summary should be based on the investigator's discussion with the other professional. Rather, the summary should be based on the written report prepared by the other professional.

In this type of situation, it is best for the investigator to obtain a copy of the written statement provided by the witness (such as the forensic examiner) and include it in the case file. Then the investigator can summarize this report, by highlighting the significant findings and conclusions of the witness (in this case, a forensic examiner). While this situation may arise most frequently with medical professionals such as forensic examiners, it is also relevant for reports submitted by toxicologists, crime scene technicians, forensic scientists, etc.

Defense Strategy #3: Motions to Suppress

Besides impeachment strategies, another way that defense attorneys use police reports is to support various motions to suppress. Therefore, effective reports must be written to anticipate countering such motions. As many experienced investigators know, motion hearings set the stage for trial and many cases are lost because an arrest or a confession was suppressed. Therefore, it is important that case documentation be prepared by investigators in preparation for potential motion hearings. While motion procedures differ from state to state, the motions themselves are fundamentally the same. This section will therefore discuss the two most common motions heard: motions to suppress an arrest and motions to suppress a confession.

Motions to Suppress an Arrest

To win a motion to suppress an arrest, investigators must show that there was probable cause to make the arrest and that the defendant's constitutional rights were not violated in the process.

Exhibit C

United States Air Force

Report to Congressional Committees

Report on the Use of the Forensic Experiential Trauma Interview (FETI) Technique within the Department of the Air Force

October 2015

The estimated cost of this report or study for the Department of Defense is approximately $12,000 for the 2015 Fiscal Year. This includes $4,510 in expenses and $7,240 in DoD labor.

Introduction

This report is provided to the congressional defense committees as directed on page 132 of Senate Report 114–49, accompanying the National Defense Authorization Act for 2016.

Forensic Experiential Trauma Interview

The U.S. Army Military Police School is training the next generation of Army criminal investigators and judge advocates in the Forensic Experiential Trauma Interview (FETI), a technique that utilizes the latest information about the parts of the brain that experience trauma, including sexual assault trauma. Because stress and trauma routinely interrupt the memory process, FETI techniques are an important investigatory tool that reduces the inaccuracy of the information obtained from trauma victims, increases the confidence of assault survivors to participate in the criminal justice system, and increases the likelihood of successful criminal convictions without re-victimizing survivors in the way that traditional interviews can. The FETI technique also enhances the questioning of suspects, who frequently provide more useful information than would be obtained using traditional interrogation techniques. Bringing the latest science to the fight against sexual assault provides criminal investigators a better way to relate to the survivors' experience, to identify sex offenders, and to hold them accountable.

In light of the demonstrated value of FETI, the committee directs the service secretaries to submit a report to the Committees on Armed Services of the Senate and the House of Representatives not later than August 31, 2015, that describes how widely FETI training has been provided to criminal investigators and judge advocates of that Service and plans for future training. If any service is not utilizing FETI training, the report should include an explanation of the Service's decision to not employ FETI and a description of the alternative training and techniques used by that Service.

The committee believes that the U.S. Army is a leader in effective interviewing techniques of sexual assault survivors and recommends that the U.S. Army Military Police School, upon the request of other federal agencies, facilitate FETI training of members of that agency whenever possible.

Finally, the Department of Defense's Sexual Assault Prevention and Response Office (SAPRO) has demonstrated sustained effort to eliminate sexual assault in the Armed Forces. The committee encourages SAPRO to incorporate FETI best practices on how to deal appropriately with sexual assault survivors into all levels of SAPRO's sexual assault prevention and response training.

Executive Summary

The following report is respectfully submitted to the Senate and House Committees on Armed Services, as directed on page 132 of Senate Report 114-49, accompanying the 2016 National Defense Authorization Act. The objectives of this report are: (1) to describe how widely the "Forensic Experiential Trauma Interview" (FETI) method has been trained and used by Air Force criminal investigators and judge advocates, including plans for future training and utilization; (2) if not utilizing FETI, provide an explanation of the Air Force's decision not to employ FETI; and (3) if not utilizing FETI, provide a description of the alternative training and techniques used by the Air Force. This report includes five important attachments, written by Subject Matter Experts, which are integral to this document and thus should not be separated from this report.

U.S. Air Force sexual assault investigators and Air Force judge advocates are trained to use the Cognitive Interview technique for interviewing victims of sexual assault. The Air Force does not train or utilize the Forensic Experiential Trauma Interview (FETI) technique, and has no plans for training or utilizing FETI in the future. The decision to select the Cognitive Interview, and to eliminate FETI as an option, was the result of exhaustive research conducted by the Air Force Office of Special Investigations (AFOSI) subject matter experts, including AFOSI's cadre of investigative psychologists, and consultation with some of the world's leading experts in the areas of law enforcement interviewing and sexual assault matters.

Air Force judge advocates attend AFOSI's Sex Crimes Investigations Training Program, where they are taught the Cognitive Interview. Since 2013, approximately 113 Air Force judge advocates have also attended the U.S. Army Military Police School's Special Victim's Unit Investigations Course, where they are exposed to FETI as part of the curriculum. Their participation in the Army course, however, is to expand their exposure and experience on various sexual assault topics, not specifically to endorse, learn or use FETI.

Given the lack of empirical evidence on FETI's effectiveness, and the large number of investigative, professional and scientific concerns regarding FETI and FETI training, the Air Force does not consider FETI as a viable option for investigative interviewing. We believe it would be inappropriate and irresponsible to discontinue the use of a robust, well-studied, effective, and empirically-validated interviewing method that is supported by the latest scientific research (the Cognitive Interview), in favor of an interviewing method that is loosely-constructed, is based on flawed science, makes unfounded claims about its effectiveness, and has never once been tested, studied, researched or validated (FETI). Many of the unsupported claims about the effectiveness and "demonstrated value" of FETI are reflected in the language of Senate Report 114-49, page 132, in spite of the fact that there is no demonstrated evidence of its effectiveness.

Exhibit D

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

DEBBIE MOAK
DIRECTOR

November 16, 2016

Guidance: *Start By Believing*
Governor's Commission to Prevent Violence Against Women

Sexual assault is a violent crime with devastating safety and health implications for every person in Arizona, be they a victim, a survivor or family member, loved one, friend, neighbor, or co-worker. One in five women and one in 71 men will be raped at some point in their lives.[1] Among undergraduate college students the statistics are even more abhorrent; nearly one out of every four women and one out of 20 men have experienced rape or sexual assault through physical force, violence, or incapacitation.[2] Offenders often target victims whom they perceive will not be believed; and unfortunately, law enforcement, friends, and family often focus on the victim's character, behavior, or credibility rather than the offender's actions. This attitude has permeated society, and as a result victims fear that they will not be believed and do not come forward after an assault. It is estimated that *at least* 65% of rape or sexual assault victimizations go unreported to law enforcement.[3]

In November of 2014, the Governor's Commission to Prevent Violence Against Women adopted the *Start By Believing* campaign offered by End Violence Against Women International and began encouraging communities and organizations around the State of Arizona to participate. *Start By Believing* is a public awareness campaign focused on cultivating an orientation of belief when responding to sexual assault. This approach encourages friends, loved ones, or law enforcement to treat victims with compassion and respect and communicate a message of belief and understanding. This approach creates an atmosphere in which victims feel more comfortable and willing to report an assault and provide law enforcement the information necessary to investigate the case. Appropriate response to sexual assault is critical; a negative response can worsen the trauma and foster an environment where perpetrators face zero consequences for their crimes.[4]

Recently, several serious concerns have surfaced regarding the *Start By Believing* campaign and whether it is appropriate for criminal justice agencies and others involved in the criminal justice

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[1] Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (2011).
[2] David Cantor, Bonnie Fisher, Susan Chibnall, Reanna Townsend, et. al. Association of American Universities (AAU), Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct (September 21, 2015).
[3] Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2010-2014 (2015).
[4] Start by Believing, http://www.startbybelieving.org/TheMessage.aspx (June, 2016).

process to participate. The concern is that the interjection of "belief" into the law enforcement investigation creates the possibility of real or perceived confirmation bias. Confirmation bias is the tendency to search for, interpret, favor, and recall information in a way that confirms one's preexisting beliefs or hypotheses, while giving disproportionately less consideration to alternative possibilities. In cases that proceed to trial, defense counsel likely could impugn investigators and claim that alternative versions of the crime were ignored and/or errors were made during the investigation as a result of confirmation bias created by the "belief" element of the *Start By Believing* campaign. Additionally, many detectives have not been adequately trained to effectively defend the *Start By Believing* campaign on the witness stand. During a recent case in Iowa, a detective testified that the campaign required him to believe the victim, "no matter what". The prosecutor in the case explained, "...the [*Start By Believing*] verbiage is what's killing everybody in court".

Recognizing the veracity of these concerns, the Governor's Office of Youth, Faith and Family and the Governor's Commission to Prevent Violence Against Women convened a *Start By Believing* Workgroup (Workgroup) to examine these differing viewpoints and work collaboratively to develop overarching guidance for the State. The Workgroup was comprised of a broad array of stakeholders that included county attorneys, prosecutors, law enforcement, forensic nurses, a defense attorney, advocacy centers, policy makers, and advocates. Based on a series of meetings, the Workgroup recommends the following:

- The *Start By Believing* campaign is most appropriate for non-criminal justice agencies and others not involved in the criminal justice system. While investigations and interviews with victims should always be done in a respectful and trauma-informed manner, law enforcement agencies, and other agencies co-located in advocacy centers, are strongly cautioned <u>against</u> adopting *Start By Believing*. Should a law enforcement agency have interest in adopting *Start By Believing*, we strongly encourage that agency to consult and work in close collaboration with their county attorney. The discussions should include weighing the high possibility of challenges during criminal legal proceedings based on actual or perceived confirmation bias. If the county attorney has even the slightest concern with the potential legal challenges associated with the *Start By Believing* campaign, it should <u>not</u> be adopted by law enforcement within that jurisdiction.

The Governor's Office of Youth, Faith and Family and the Governor's Commission to Prevent Violence Against Women is committed to addressing sexual assault and the devastating impact on Arizona's citizens. We look forward to continued collaboration with agencies, organizations, and citizens to end sexual violence in Arizona.

Debbie Moak

Debbie Moak
Director, Governor's Office of Youth,
Faith and Family

[1] Rebecca Campbell, Tracy Sefl, Holly Barnes, Courtney Ahrens, Sharon Wasco and Yolanda Zaragoza-Diesfeld, "Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma," Journal of Consulting and Clinical Psychology Vol 67, No 6, (1999).

Exhibit E

Open Letter Regarding
Inequitable Victim-Centered Practices[1]

> "*The great enemy of the truth is very often not the lie— deliberate, contrived and dishonest— but the myth— persistent, persuasive, and unrealistic.*" -- John F. Kennedy[2]

The undersigned professors and legal experts write regarding the use of investigative "victim-centered" practices that threaten to subvert the objective collection and presentation of evidence in administrative, civil, and criminal sexual assault proceedings. These guilt-presuming methods include "victim-centered" investigations, "trauma-informed" theories, and the admonition to always "believe the victim."

Supreme Court Justice Felix Frankfurter once wrote that "*the history of American freedom is, in no small measure, the history of procedure.*"[3] That "procedure" is the constitutional guarantee of due process, rooted in the Fifth and Fourteenth Amendments. "Without due process for those we hate and fear — even those whose guilt is obvious — we will all lose our freedoms."[4]

To enforce this guarantee of due process, our criminal justice system has been refined over the years to strike a delicate balance between the interests of the government and its citizens. To ensure the thorough and unbiased discovery and production of evidence, law enforcement ethics codes have required diligence, integrity, and impartiality in the conduct of investigations. "Investigators do not determine the suspects to be guilty; they remain objective in their investigation."[5]

Over the last decade, however, policies that direct investigators to "believe the victim" have come to the fore. These policies undermine neutrality in campus Title IX disciplinary processes as well as in the criminal justice system. This trend is disturbingly reminiscent of the 1980s and 90s satanic daycare child abuse "witch hunt" during which investigators were instructed to "believe the children" without scrutiny.[6]

Ideological Origins of Victim-Centered Practices

The movement to prioritize belief over truth can be traced back to the early 1990s when advocates began to call for "swift and unquestioning judgments about the facts of [sexual] harassment without standard

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[1] This Open Letter, dated February 7, 2018, is sponsored by Stop Abusive and Violent Environments: http://www.saveservices.org/sexual-assault/investigations/ For more information, contact Christopher Perry, Esq. at cperry@saveservices.org .

[2] Kennedy Library & Museum Rededication Film (1993): Source of Quotation, *We Enjoy the Comfort of Opinion*, Address by President John F. Kennedy Yale University Commencement, June 11, 1962 https://www.jfklibrary.org/Research/Research-Aids/Ready-Reference/Kennedy-Library-Fast-Facts/Yale-University-Commencement-Address.aspx

[3] *Malinski v. New York*, 324 U.S. 401, 414 (1945) (Assoc. Justice Felix Frankfurter, concurring opinion.)

[4] Andrew Napolitano, *Why Due Process is Vital to Freedom*," The Washington Times, (Sept. 21, 2016) https://www.washingtontimes.com/news/2016/sep/21/why-due-process-is-vital-to-freedom/

[5] Karen M. Hess, Christine Hess Orthmann & Henry Lim Cho, *Introduction to Law Enforcement and Criminal Justice*, 12th Ed., Chapter 7: Specialized Roles of Police, p. 255, Cengage Learning (2016).

[6] Maureen Casey, *How the daycare child abuse hysteria of the 1980s became a witch hunt*, The Washington Post, (July 31, 2015) https://www.washingtonpost.com/opinions/a-modern-witch-hunt/2015/07/31/057effd8-2f1a-11e5-8353-1215475949f4_story.html?utm_term=.34045a13ae52

evidentiary procedures with the chant 'always believe the victim.'"[7] Within the realm of psychological treatment and care, the need for the therapist to believe the victim is necessary and appropriate. But in the investigative or adjudicative contexts, it is decidedly not.

The central "believe the victim" concepts are recited in a 2006 End Violence Against Women International (EVAWI) manual titled *Effective Report Writing*.[8] The manual is expressly designed to train investigators to prepare an investigative report that "support[s] the charges filed"[9] and undermines "potential defense strategies,"[10] with the explicit goal of achieving a "successful prosecution."[11] Investigators are cautioned to focus on "suspect" and witness statements that "corroborate the victim's account"[12] and highlight only inconsistencies in witness or "suspect" statements that support the allegations.[13]

Conspicuously absent from *Effective Report Writing* is any discussion about how to reconcile misleading or implausible statements. Instead, the manual ascribes inconsistencies in witness statements to investigator errors in documentation.[14] Moreover, the manual advocates "making sure" the incident does "not look like a consensual sexual experience"[15] by making the complainant "appear more innocent."[16]

Effective Report Writing meticulously avoids use of the words "complainant" or "accuser." Instead, it refers to complainants as "victims," even though District Court Judge F. Dennis Saylor wrote it was presumptuous to assume someone is a "victim" in the investigative context because "[w]hether someone is a 'victim' is a conclusion to be reached at the end of a fair process, not an assumption to be made at the beginning."[17]

Ideological biases in favor of alleged sexual assault victims are particularly ubiquitous in the campus setting. Harvard Law professor Jeannie Suk Gersen describes the "believe the victim" mantra as attaining the status of a "near-religious teaching."[18] Writers KC Johnson and Stuart Taylor further explain, "[T]he ideological regimes used on many campuses are designed more to stack the deck against accused students than to ensure a fair inquiry."[19]

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[7] Patricia Sharpe and Frances E. Mascia-Lees Source, *"Always Believe the Victim," "Innocent Until Proven Guilty," "There Is No Truth": The Competing Claims of Feminism, Humanism, and Postmodernism in Interpreting Charges of Harassment in the Academy,* Anthropological Quarterly, Vol. 66, No. 2, p. 88, Part 1 (1993).

[8] End Violence Against Women International, *Effective Report Writing: Using the Language of Non-Consensual Sex* (2006). http://olti.evawintl.org/images/docs/REPORT%20WRITING%205-15-12.pdf

[9] *Id.* at 4.

[10] *Id.* at 4, 26.

[11] *Id.* at 3.

[12] *Id.* at 3, 19.

[13] *Id.* at 20.

[14] *Id.* at 23.

[15] *Id.* at 14.

[16] *Id.* at 11.

[17] *John Doe v. Brandeis University*, Memorandum and Order on Defendant's Motion to Dismiss, J. Saylor (March 31, 2016).

[18] Jeannie Suk Gersen, *Shutting Down Conversations About Rape at Harvard Law*, The New Yorker (Dec. 11, 2015) https://www.newyorker.com/news/news-desk/argument-sexual-assault-race-harvard-law-school

[19] KC Johnson and Stuart Taylor, *Why Campus Rape Tribunals Hand Down So Many 'Guilty' Verdicts*, The Weekly Standard (Nov. 9, 2017) http://www.weeklystandard.com/why-campus-rape-tribunals-hand-down-so-many-guilty-verdicts/article/2010401

Victim-Centered Investigations

On college campuses, "believe the victim" ideology is evidenced by the widespread use of "victim-centered" investigations. According to a Human Rights Watch report, a "victim-centered" approach means the investigator assumes "all sexual assault cases are valid unless established otherwise by investigative findings."[20]

The University of Texas School of Social Work's *Blueprint for Campus Police* takes the "victim-centered" concept a step further. The manual instructs investigators to anticipate legal defense strategies[21] and urges that inconsistencies be downplayed by not recording "a detailed account of prior interview statements."[22]

The utilization of victim-centered investigations on campus has given rise to numerous lawsuits by accused students alleging incomplete or faulty collection of evidence.[23] Eric Rosenberg, who has represented many accused students, notes that "systemic bias" in training materials essentially "mandat[es] adjudicators shield accusers from exculpatory evidence" because such evidence may "re-victimize the victim."[24]

Understandably, the use of victim-centered investigations in university settings has been roundly criticized:

- The Federalist Society: "Many of the professors and campus officials who adjudicate campus sexual assault claims are 'trained' to believe accusers and disbelieve accused students, and barely feign impartiality."[25]
- The Heritage Foundation: "Extreme care must be taken to avoid having either investigators or members of a tribunal with preconceived biases or conflicts of interest."[26]
- The Association of Title IX Administrators: recognized that certain Title IX investigators have taken victim-centered investigations too far, thereby placing their "thumb on the scale" on the side of guilt.[27]

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[20] Human Rights Watch, *Improving Police Response to Sexual Assault,* p. 23 (2013). https://www.hrw.org/sites/default/files/reports/improvingSAInvest_0.pdf

[21] Noel Busch-Armendariz, Caitlin Sulley, & Kathleen Hill, *Blueprint for campus police: Responding to sexual assault,* Institute on Domestic Violence & Sexual Assault, University of Texas at Austin, p. 68, Table 7.3 (2016) https://utexas.app.box.com/v/blueprintforcampuspolice

[22] *Id.* at 68, Table 7.4.

[23] SAVE, *Victim-Centered Investigations: New Liability Risk for Colleges and Universities* (2016) http://www.saveservices.org/wp-content/uploads/Victim-Centered-Investigations-and-Liability-Risk.pdf

[24] KC Johnson and Stuart Taylor, *supra* note 19.

[25] Hans Bader, et al., *A Review of Department of Education Programs: Transgender Issues, Racial Quotas in School Discipline, and Campus Sexual Assault Mandates*, Regulatory Transparency Project of the Federalist Society, (Sept. 12, 2017) https://regproject.org/wp-content/uploads/RTP-Race-Sex-Working-Group-Paper.pdf).

[26] Hans von Spakovsky, *Campus Sexual Assault: Understanding the Problem and How to Fix It*, Heritage Foundation (July 25, 2017) http://www.heritage.org/crime-and-justice/report/campus-sexual-assault-understanding-the-problem-and-how-fix-it

[27] ATIXA, *The ATIXA Playbook*, p. 56 (2017) https://atixa.org/wordpress/wp-content/uploads/2017/04/The-ATIXA-Playbook-Final-Electronic-Version.pdf

Trauma-Informed Theories

While "victim-centered" investigations rest upon an easily discernible ideological foundation, "trauma-informed" theories represent an attempt to impute a veneer of scientific respectability to the broader "believe the victim" movement.

Trauma-informed behavioral theories originated with anecdotal reports of how victims of forcible rape responded to their experiences. The concept of "rape trauma syndrome" (RTS) stemmed from a 1974 survey of 92 forcible rape victims' self-reported symptoms.[28] Authors of the survey classified the symptoms into two stages: "fear or terror," followed by efforts to "reorganize" their lives.[29]

The 1974 survey has been the focus of sharp criticism, highlighting "definitional problems, biased research samples," and unreliability because "the inherent complexity of the phenomenon vitiate all attempts to establish empirically the causal relationship implicit in the concept of a rape trauma syndrome."[30] The survey's credibility is also compromised by its "failure to distinguish between victims of rapes, attempted rapes, and molestation."[31] One legal expert concluded rape trauma syndrome is not "generally accepted by experts."[32] Another found it "troubling" that theories of traumatic memory "continue to thrive as tenacious cultural memes" despite "very minimal" scientific support.[33]

But these criticisms have not deterred the accretion of even more symptoms putatively encompassed by "rape trauma syndrome," creating a veritable chicken soup of quasi-diagnoses like "tonic immobility," "fragmentation of memories,"[34] and "factual inconsistencies."[35] One author predicted, "[i]f virtually any victim behavior is described as consistent with RTS, the term soon will have little meaning."[36]

Despite research concluding that extreme stress may actually *enhance* the subsequent recall of stressful incidents,[37] rape trauma theories have spawned an industry to teach investigators "trauma-informed" approaches. Rebecca Campbell, PhD, long-time victims' advocate and psychology professor at Michigan State University, has popularized the "trauma-informed" approach through numerous publications[38] and presentations to professional audiences across the country.

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[28] Ann Wolbert Burgess & Lynda Lytle Holmstrom, *Rape Trauma Syndrome*, 131 Am. J. Psychiatry 98 (1974).
[29] Julian D. Ford, Christine A. Courtois, *Rape Trauma Syndrome, Prevention of PTSD, Posttraumatic Stress Disorder* (2015) http://www.sciencedirect.com/topics/medicine-and-dentistry/rape-trauma-syndrome
[30] Giannelli, Paul C., *Rape Trauma Syndrome,* Faculty Publications, Paper 346, p. 271 (1997). http://scholarlycommons.law.case.edu/faculty_publications/346
[31] Robert R. Lawrence, *Checking the Allure of Increased Conviction Rates: The Admissibility of Expert Testimony on Rape Trauma Syndrome in Criminal Proceedings*, 70 Va. L. Rev. 1657, 1678-1680 (1984)
[32] William O'Donohue, Gwendolyn C. Carlson, Lorraine T. Benuto & Natalie M. Bennett, *Examining the Scientific Validity of Rape Trauma Syndrome*, University of Nevada, Reno, Psychiatry, 21 Psych. & Law, Issue 6, 858-876, 860 (2014).
[33] Robert A. Nash and James Ost, ed., *Concluding Remarks; Malleable knowledge about malleable memories*, False and Distorted Memories, p. 159, Psychology Press (2016).
[34] Stephen Porter and Angela R. Birt, *Is Traumatic Memory Special?* Appl. Cognit. Psychol. 15 S101-S117, S101 (2001).
[35] Joanne Archambault (Ret.), *Understanding the Neurobiology of Trauma and Implications for Interviewing Victims,* p. 25 (2016) https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=842.
[36] Frazier and Borgida, *Rape Trauma Syndrome: A Review of Case Law and Psychological Research*, 16 Law & Hum. Behav. 293, 304-305 (1992).
[37] Richard McNally, Pres. and Fellows Harvard Col., *Remembering Trauma*, Harvard University Press, p. 180 (2005).
[38] See, for example, Campbell, R., Shaw, J., & Fehler-Cabral, G., *Evaluation of a victim-centered, trauma-informed victim notification protocol for untested sexual assault kits (SAKs)*, Violence Against Women (April 24, 2017).

Campus investigators stand at the epicenter of trauma-informed concepts. Guidance from the Department of Education's Office for Civil Rights directed Title IX training to include "the effects of trauma, including neurobiological change"[39] — a phrase pregnant with hidden meaning. Although this guidance has been rescinded, many college Title IX programs continue to follow its admonitions.

The illusory evidence for trauma-informed theory is found in various training regimes, including a program on trauma-informed sexual assault investigation offered by the National Center for Campus Public Safety (NCCPS).[40] NCCPS's *Why Campuses Should Conduct Trauma-Informed Sexual Assault Investigations* webinar repeats the same unsupported "trauma-informed" theories on memory fragmentation, and suggests it is normal for victims to engage in counterintuitive victim behavior such as communicating and "consensual sexual or social activities" with the alleged perpetrator.[41]

Journalist Emily Yoffe has characterized trauma-informed approaches as emblematic of "junk science:"

> The result is not only a system in which some men are wrongly accused and wrongly punished. It is a system vulnerable to substantial backlash. University professors and administrators should understand this. And they, of all people, should identify and call out junk science.[42]

Harvard law professor Janet Halley has ridiculed the trauma-informed training employed by her university, noting the materials provide a "sixth grade level summary of selected neurobiological research" and are "100% aimed to convince them to believe complainants, precisely when they seem unreliable and incoherent."[43]

In sum, under the umbrella of "trauma-informed" theories, victims' advocates not only recommend disregarding complainants' inconsistencies or behavioral anomalies; they also insist such inconsistencies should be viewed as probative evidence of trauma. Illogically, this interpretation precludes any consideration of a complainant's incongruous statements or inconsistent behavior as evidence, resulting in an irrefutable argument that the victim's fragmented or lost memories are certain evidence of trauma, with the implication that therefore the allegations are true.

Start by Believing Campaign

The *Start by Believing* campaign, launched in 2011 by End Violence Against Women International, has been touted as a "global campaign transforming the way we respond to sexual assault."[44] Funded by

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[39] Department of Education Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence,* p. 40 (2014), withdrawn by 2017 *Dear Colleague Letter*, https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf; see archived 2014 *Questions and Answers*, https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf

[40] National Center for Campus Public Safety, *Not Alone Report*, https://www.nccpsafety.org/resources/library/not-alone-report/.

[41] Jeffrey J. Nolan, J.D., *Why Campuses Should Conduct Trauma-Informed Sexual Assault Investigations* (webinar) Trauma-Informed Sexual Assault Investigation and Adjudication Institute, Slides 23, 24 (2016). https://www.nccpsafety.org/training-technical-assistance/webinars/why-campuses-should-conduct-trauma-informed-sexual-assault-investigations#embeds

[42] Emily Yoffe, *The Bad Science Behind Campus Response to Sexual Assault*, The Atlantic, (Sept. 8, 2017) https://www.theatlantic.com/education/archive/2017/09/the-bad-science-behind-campus-response-to-sexual-assault/539211/

[43] Janet Halley, *Trading the Megaphone for the Gavel in Title IX Enforcement*, Harvard Law Review 128 Harv. L. Rev. F. 103 (Feb. 18, 2015) https://harvardlawreview.org/2015/02/trading-the-megaphone-for-the-gavel-in-title-ix-enforcement-2/

[44] End Violence Against Women International, *Start by Believing*, http://www.startbybelieving.org/home

numerous federal grants,[45] the *Start by Believing* philosophy has been disseminated to law enforcement and other professionals throughout the country, including detectives, criminal investigators, and college administrators.

According to Stuart Taylor and KC Johnson, "campus-training materials are permeated by highly debatable psychological theories, spawned in part by the Obama administration's directive that Title IX training incorporate information on 'neurobiological change."[46] Taylor and Johnson report, for example, that Middlebury College's training urges adjudicators to 'start by believing' the accuser:

> The training further suggests that in order to be "objective," investigation reports must not use the word "alleged" before "victim" or "sexual assault" and must avoid concluding a victim's account is inconsistent, "not believable or credible," based on "her actions during and after the encounter with the suspect.[47]

An expert panel consisting of investigators, attorneys, and others analyzed investigative methods such as those endorsed by *Start by Believing*, and concluded these approaches "violate ethical requirements for impartial and honest investigations, are inconsistent with basic notions of fairness and justice, and give rise to wrongful convictions and determinations of guilt."[48]

In 2016, the Arizona Governor's *Commission to Prevent Violence Against Women* issued a letter advising Arizona's criminal justice agencies to reject the investigative methods proposed by *Start by Believing* because their use "creates the possibility of real or perceived confirmation bias."[49] The Commission's letter highlighted the distinction between respecting the victim versus allowing a presumption of guilt to taint the overall criminal justice system:

> While investigations and interviews with victims should always be done in a respectful and trauma-informed manner, law enforcement agencies, and other agencies co-located in advocacy centers, are strongly cautioned against adopting *Start By Believing*.[50]

Citing an Iowa case in which a detective testified the *Start by Believing* campaign required him to believe the victim, "no matter what," the governor's commission reminded Arizona law enforcement agencies that they must conduct an "un-biased investigation of allegations of sexual assault."[51]

While interviews of complainants should always proceed in a respectful and nonjudgmental manner, investigators must be instructed to refrain from adopting policies like those advocated by the *Start By Believing* campaign.

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[45] EVAWI has received over $7.5 million in grant funding, mostly from the Department of Justice. http://www.evawintl.org/grants.aspx

[46] KC Johnson and Stuart Taylor, *supra* note 19.

[47] *Id.*

[48] Center for Prosecutor Integrity, *Victim-Centered Investigations Undermine the Presumption of Innocence and Victimize the Innocent: Report of an Expert Panel* (2016) http://www.prosecutorintegrity.org/wrongful-conviction-day/victim-centered-investigations-undermine-the-presumption-of-innocence-and-victimize-the-innocent-report-of-an-expert-panel/

[49] Ray Stern, *Ducey's Faith Office Assails 'Start by Believing' Advocacy Program for Rape Victims*, Phoenix New Times (Dec. 15, 2016). http://www.phoenixnewtimes.com/news/duceys-faith-office-assails-start-by-believing-advocacy-program-for-rape-victims-8896373

[50] *Id.* The Commission's letter is embedded in the article.

[51] *Id.*

Call to Restore Due Process and Fundamental Fairness

By their very name, their ideology, and the methods they foster, "believe the victim" concepts presume the guilt of an accused. This is the antithesis of the most rudimentary notions of justice. In directing investigators to corroborate allegations, ignore reporting inconsistencies, and undermine defenses, the "believe the victim" movement threatens to subvert constitutionally-rooted due process protections.

Canadian Justice Anne Molloy recently recognized the subversive impact of "believe the victim" policies:

> Although the slogan "Believe the victim" has become popularized of late, it has no place in a criminal trial. To approach a trial with the assumption that the complainant is telling the truth is the equivalent of imposing a presumption of guilt on the person accused of sexual assault and then placing a burden on him to prove his innocence. That is antithetical to the fundamental principles of justice enshrined in our Constitution and the values underlying our free and democratic society.[52]

The undersigned professors and criminal justice experts hereby call upon lawmakers, federal agencies, criminal justice officials, and college administrators to promptly discontinue the use of victim-centered, trauma-informed, and believe the victim practices that threaten to subvert the objective collection and presentation of evidence in administrative, civil, and criminal sexual assault proceedings.

Signed:[53]

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[52] *R v. Nyznik, et.al*, Superior Court of Justice, Ontario (Aug. 9, 2017). https://www.thestar.com/news/gta/2017/08/09/the-acquittal-of-three-cops-accused-of-sexually-assaulting-another-is-a-victory-for-victims-dimanno.html

[53] Persons signed this Open Letter in their individual capacities. Organizations are listed for identification purposes only.

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Exhibit F

STATEMENT IN SUPPORT OF DUE PROCESS IN CAMPUS DISCIPLINARY PROCEEDINGS[1]

Whereas fair and non-biased disciplinary proceedings are essential for the investigation and adjudication of sexual misconduct allegations on college campuses;[2]

Whereas investigations that are balanced, objective, and fair are an essential element of due process;[3]

Whereas both complainants and the accused benefit from an even-handed and transparent process that guarantees procedural due process;

Whereas Supreme Court Justice Ruth Bader Ginsburg has spoken in favor of enhancing campus processes by noting, "The person who is accused has a right to defend herself or himself…everyone deserves a fair hearing;"[4]

Whereas law professors from Harvard University, Penn Law, Cornell University, and other institutions have issued Open Statements in support of campus due process;[5]

Whereas a 2017 YouGov poll found strong bipartisan public support for due process in Title IX cases on college campuses:[6]

- 81% of respondents believed the accused should have the right to be informed of the charges against him.
- 61% said accused students should have the right to cross-examine their accusers.
- 67% agreed that students accused of crimes on campus should enjoy the same legal protections that they would receive in a court of law.

Whereas false allegations of sexual assault dissipate scarce resources and undermine the credibility of victims;

Whereas over 25 editorials published in both liberal and conservative venues have expressed support for the recently announced plan of the U.S. Department of Education to enhance campus due process protections;[7]

Therefore, the undersigned law professors, other legal experts, and scholars urge members of Congress to speak out in support of Constitutionally rooted due process rights on campus.

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[1] This Due Process Statement was coordinated by SAVE: www.saveservices.org . For more information, contact: info@saveservices.org

[2] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2857153

[3] http://www.prosecutorintegrity.org/pr/investigations/

[4] https://www.theatlantic.com/politics/archive/2018/02/ruth-bader-ginsburg-opens-up-about-metoo-voting-rights-and-millenials/553409/

[5] http://www.saveservices.org/sexual-assault/ocr/

[6] http://bipp.blogs.bucknell.edu/files/2017/09/BIPP-Higher-Ed-Toplines.pdf

[7] http://www.saveservices.org/2018/09/media-reports-call-to-restore-due-process-on-campus/

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Exhibit G

Editorials and Articles Expressing Concerns with 'Start By Believing' and Other Victim-Centered Methods, 2016-2018

- SOS: *EVERY MALE Should Fear the One Sided, Female Favored 'Start By Believing' Campaign*
- Wendy McElroy: *This Campaign Against Sexual Violence Strongly Favors Female Victims, Strips Men of Due Process*
- E. Everett Bartlett: *As Sexual Assault Investigation Scandal Engulfs England, US Law Enforcement Stages Lovefest With #StartByBelieving*
- Maarten van Swaay: *"Trauma Informed" and Its Orwellian Perversion*
- Greg Piper: *'Start by believing' backfired on rape victims in the U.K. Some senators want to impose it here.*
- Scott Greenfield: *No Reason To Investigate If You "Believe The Victim"*
- College Fix: *How 'junk science' got an innocent father jailed on invented child-molestation claims*
- Madeleine Ngo and Sophie Xi: *Two Penn profs sign letter denouncing 'believe the victim' policies for sexual assault*
- Scott Greenfield: *Believe The Victims (of the SPLC)*
- Rachel Frommer: *Legal Scholars Call on Universities to Reform 'Victim-Centered' Sexual Misconduct Policies*
- Nikita Vladirimov: *Scholars denounce 'victim-centered' approach to sexual assault*
- Greg Piper: *Professors warn 'believe the victim' in Title IX is bringing back 'satanic daycare' panic*
- Toni Airaksinen: *Professors Condemn 'Victim-Centered' Title IX Investigations in Open Letter*
- Scott Greenfield: *Rape And The Neuroscience Apologist*
- Christopher Perry: *'Start-By-Believing' Investigations Are A Multimillion Dollar Threat To Justice*
- Amy Swearer: *This Junk-Science Approach to Sexual Assault Cases Would Trample on Rights of the Accused*
- SAVE: *The 'Junk Science' Behind Trauma-Informed Theories*
- Nikita Vladirimov: *Report: 'Believe the victim' mentality undermines justice*
- Harry Power: *'Believe the Victim'? The Biological Reason Why Accusers Aren't Always Telling the Truth*
- Michael Conzachi: *'Believe the Victim' Investigations Reveal a Callous Disregard for the Truth*
- Emily Yoffe: *The Bad Science Behind Campus Response to Sexual Assault*
- Eugene Volokh: *Don't 'start by believing'*
- Josh Girsky: *Lawsuit Alleges Bias in University Sexual Assault Investigation*
- Amber Athey: *REPORT: 'Victim-centered' view of sex assault erodes due process*

- Jane Greenspan (Ret.) and Henry M. Sias: *Title IX Investigations in Need of Reform*
- Michael Bryant: *Penn student accused of rape sues university, citing gender, racial discrimination*
- Robby Soave: *Nate Parker's Campus Rape Acquittal: 'Believe the victims' mantra is incompatible with the principles of justice and forgiveness*
- Ashe Schow: *Evidence should be most important in sexual assault investigations* –
- Robby Soave: *CU-Boulder Suspended Student for Rape, Before Interviewing Alleged Victims*
- Jack Hunter: *No Harassment, No Victim, No Investigation. Expelled Anyway.*
- KC Johnson: *USC and Investigatory Bias*
- Ashe Schow: *'Listen and believe' actually hurts rape victims in the long run*
- E. Bartlett: *This is What Happens When a University Prosecutes an Alleged Rape*
- Ashe Schow: *Yet another example of why colleges shouldn't adjudicate campus sexual assault*
- Victor Zheng: *I Was Falsely Accused of Rape: 'Victim-Centered Investigations' are a Travesty of Justice*
- Barbara Hewson: *The feminising of justice that makes it hard for men charged with rape to get a fair trial, writes human rights lawyer*
- Michael Conzachi: *College Sexual Assault Investigative Process Now Compromised by University Police and May be in Violation of Federal Law*
- Joseph Roberts: *Vindication for a Student Suspended from Savannah State University*
- Ashe Schow: *'Victim-centered' sex assault investigations designed to railroad accused*
- College Fix: *University of Texas tells its police to hide evidence that favors students accused of rape*
- Samantha Harris: *University of Texas 'Blueprint' for Campus Police Raises Fairness Concerns*
- Christine Damon: *US needs to restore impartiality in dealing with sexual assault allegations*
- Anonymous: *Reexamining our Sexual Assault Investigative Process*
- Eugene Volokh: *Court: George Mason University violated due process when expelling student for alleged BDSM-related sex assault*
- Ashe Schow: *University accused of racism in campus sexual assault lawsuit*

Source: http://www.saveservices.org/sexual-assault/investigations/

Exhibit H

CPI CENTER FOR PROSECUTOR INTEGRITY

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www.prosecutorintegrity.org

SENT BY FAX AND ONLINE SUBMISSION FORM

Fax: (202) 305-8447

February 1, 2018

U.S. Department of Justice
Office of the Inspector General
Attention: Grantee Reporting
1425 New York Avenue, NW, Suite 7100
Washington, DC 20530

RE: **Abusive Use of Grant Monies by End Violence Against Women International**

The Center for Prosecutor Integrity (CPI) is a non-profit, 501(c)(3) organization that seeks to strengthen prosecutorial ethics, promote due process, and end wrongful convictions.

The right to due process is a constitutionally guaranteed right afforded to American citizens. Investigations that are neutral, fair, and honest are one of the hallmarks of due process. Professional ethical codes call on investigators to approach their work in an impartial,[1] unbiased,[2] and honest[3] manner, demonstrating respect and avoiding a judgmental or blaming attitude towards the complainant.

But the notion of accurate and truthful investigations is being challenged. Much of the pressure comes from a recipient of numerous grants from the Department of Justice. Over the years, End Violence Against Women International (EVAWI) has received at least 18 grants from the Department of Justice totalling millions of dollars.[4]

By means of its DOJ-supported publications, conferences, and online training, EVAWI is promoting the following concepts and investigative methods that undermine investigative neutrality:

1. Effective Report Writing: Using the Language of Non-Consensual Sex

EVAWI has published a manual titled *Effective Report Writing: Using the Language of Non-Consensual Sex*. Development of this manual was supported by DOJ grants #2004-WT-AX-K066 and #2008-TA-AX-K040. This manual is a featured component of EVAWI's OnLine Training Institute, which was supported by a Department of Justice grant awarded to EVAWI on June 1, 2011.

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[1] International Association of Chiefs of Police, *Article 10 of the Canons of Police Ethics* (1957) http://ethics.iit.edu/ecodes/node/3352.
[2] World Association of Detectives, *Code of Ethics* http://www.wad.net/code-of-ethics.
[3] Council of International Investigators, *Code of Ethics* http://www.cii2.org/code-of-ethics.
[4] EVAWI, http://www.evawintl.org/grants.aspx.

The *Effective Report Writing* document endorses five controversial concepts:

1. *The investigator is not an independent fact-finder, but rather is an agent of the prosecutor.*

The stated purpose of *Effective Report Writing* is to achieve the goal of a "successful prosecution"[5] – "successful" is understood to mean a conviction is reached. The manual openly instructs investigators that the findings of the investigative report needs to "support the charges filed."[6] In addition, the investigative report should also include "the information necessary to undermine" "potential defense strategies."[7]

2. *All allegations are assumed to be true and the complainant should be regarded as a "victim."*

The pro-conviction bias of *Effective Report Writing* is evident in EVAWI's choice of terminology: the words "alleged," "complainant," or "accuser" never appear in the document. In contrast, "victim" appears literally *hundreds* of times in its 34-page manual.

3. *The investigator should discount the possibility of a false allegation.*

The *Effective Report Writing* manual instructs investigators to focus on witness statements "that corroborate the victim's account."[8] The investigator is urged to document statements from the accused that "corroborate the victim's account or provide an implausible or even absurd version of reality."[9] The DOJ-supported document includes no mention of the possibility of misleading, exaggerated, or false statements made by a complainant or other witnesses.

4. *Inconsistencies in the complainant's statements occur rarely, and when they do, they should not be interpreted as evidence of a false claim.*

Effective Report Writing advises that "investigators can minimize the risk of contradiction by not writing a detailed report for any victim or witness who has already provided a detailed, written summary of events."[10] Should there be inconsistencies in witness or defendant statements, investigators should highlight only those that "corroborate the victim's statement."[11]

5. *Exculpatory statements provided by the suspect should have little bearing on the findings of the investigative report.*

Effective Report Writing focuses on methods by which a suspect's defenses may be undermined. For example, much attention is devoted to counteracting any evidence that supports the defendant's "virtually inevitable" consent defense,[12] prejudicially claiming that a suspect's descriptions of how a complainant may have manifested consent are "clearly

[5] *Id.* at 3.
[6] *Id.* at 4.
[7] *Id.* at 4, 26.
[8] *Id.* at 3, 19.
[9] *Id.* at 3.
[10] *Id.* at 30.
[11] *Id.* at 20.
[12] *Id.* at 11,19.

based only on their own self-serving ideas and not a realistic understanding of how people really behave."[13] The manual even suggests "making sure" the incident does "not look like a consensual sexual experience,"[14] by making the complainant "appear more innocent," or by including details about the complainant's feelings during the incident, as though the complainant's innocent appearance or subjective feelings should be relevant to the existence of consent.[15]

2. Start by Believing Law Enforcement Action Kit

In 2011, EVAWI launched a campaign dubbed *Start by Believing*, describing itself as a "global campaign transforming the way we respond to sexual assault."[16] This campaign was supported under DOJ Grant No. 2013-TA-AX-K045.[17] The *Start by Believing* campaign has developed a six-page Law Enforcement Action Kit.[18] The Kit makes these guilt-presuming recommendations to criminal investigators and other law enforcement personnel:

- "I am a criminal investigator…When someone tells me they were raped or sexually assaulted, I Start by Believing" (page 1)
- "This is why the message of Start by Believing is so vital – outcomes will only change when sexual assault reports are investigated from an initial presumption of merit." (page 2)
- "Start by Believing…is the starting point for a fair and thorough investigation." (page 2)
- "I pledge to Start by Believing when someone tell me about their sexual assault." (page 2)

Relying on Department of Justice Grant No. 2016-TA-AX-K010, the *Start by Believing* concepts currently are being disseminated to law enforcement professionals throughout the country by means of publications such as *Start by Believing to Improve Responses to Sexual Assault and Prevent Gender Bias.*[19]

3. Training Bulletin: Start by Believing

The above-cited Law Enforcement Action Kit links to a 13-page Training Bulletin: Start by Believing.[20] The Training Bulletin openly endorses investigator bias, utilizes guilt-presuming terminology, and contains false claims.

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[13] *Id.* at 21.
[14] *Id.* at 14.
[15] *Id.* at 11.
[16] EVAWI, http://www.startbybelieving.org/home.
[17] EVAWI, http://www.evawintl.org/PAGEID27/Forensic-Compliance/Resources/Start-by-Believing.
[18] EVAWI, *Law Enforcement Action Kit* https://cdn2.hubspot.net/hubfs/2783343/Action%20Kits/Law%20Enforcement%20Action%20Kit.pdf?__hssc=208957901.1.1515281138132&__hstc=208957901.2f8e67d4ca94ec3c1160b77087500628.1513640607524.1514864114156.1515281138132.4&__hsfp=3618093011&hsCtaTracking=5209b095-d328-4252-b9ad-24ccbabe61e5%7Ccfb2bd7b-ae66-460a-9a76-9aef9212a5fd.
[19] EVAWI, https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=919.
[20] *Id.*

Investigator Bias

The Training Bulletin repeatedly instructs the investigator to "Start by Believing," meaning the investigator should "operate from a starting presumption that the report has merit."[21] The Bulletin goes so far as to reject the foundational notion of investigator neutrality: "Even a 'neutral' stance will be insufficient to establish the trust and rapport victims need to share memories that are confusing, painful, or humiliating."[22]

Guilt-Presuming Terminology

In sexual assault cases, questions of innocence or guilt often revolve around complex determinations of consent, which can only be reached during the adjudication process. But the Training Bulletin never uses the words "complainant" or "accuser" – only "victim." Referring to the complainant as a "victim" before the investigation is completed serves to presume the guilt of the accused. In one notable decision, District Court Judge F. Dennis Saylor scolded an investigating party for its careless use of the word "victim:" "Whether someone is a 'victim' is a conclusion to be reached at the end of a fair process, not an assumption to be made at the beginning."[23]

False Claims

The Training Bulletin makes the claim that "confirmation bias has long influenced the response of criminal justice professionals in the opposite direction," i.e., in such a manner to disbelieve the claimant.[24] This unsupported claim is not accurate. Many of wrongful convictions of sexual assault and other crimes have been traced to detective bias favoring the complainant.[25] Directly contradicting the claim of the Training Bulletin, one law review concluded that police investigators typically "focus on the suspect, select and filter the evidence that will 'build a case' for conviction, while ignoring or suppressing evidence that points away from guilt."[26]

The Training Bulletin also makes numerous claims about "gender bias" and "implicit bias." The Bulletin does not cite any specific research that demonstrates such "bias;" it only references a 2015 publication, *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*. But a careful review of this publication does not reveal any scientific research supporting the claim of sex bias against women.

Indeed, any claim of police bias against women is repudiated by the *National Intimate Partner and Sexual Violence Survey,*[27] which found that male victims of partner violence, sexual assault,

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[21] EVAWI *supra* note 19, Page 7.
[22] EVAWI *supra* note 19, Page 6.
[23] John Doe v. Brandeis University, *Memorandum and Order on Defendant's Motion to Dismiss* (March 31, 2016).
[24] EVAWI *supra* note 19, Page 2.
[25] M. Zalman, *The Detective and Wrongful Convictions*. In Zalman and Carrano, *Wrongful Conviction and Criminal Justice Reform* (2014).
[26] Findley KA and Scott MS, *The multiple dimensions of tunnel vision in criminal cases*, Wisconsin Law Review (2006).
[27] National Intimate Partner and Sexual Violence Survey, https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

or stalking are substantially *less* likely to have positive experiences in their dealings with police, compared to female victims:

Table 7.2

Degree of Helpfulness of Various Sources among those Who Disclosed Lifetime Rape, Physical Violence, or Stalking by an Intimate Partner — NISVS 2010

	Very (%)	Somewhat (%)	A little (%)	Not at all (%)
Women				
Police	36.5	22.2	14.2	33.7
Men				
Police	21.0	17.8	13.1	52.8

Criticisms by Others

The *Start by Believing* philosophy has faced strong criticism from individuals and groups, both in the United States and elsewhere.

Professors and leading commentators have expressed concerns about Start by Believing:

- UCLA law professor Eugene Volokh: "In cases that proceed to trial, defense counsel likely could impugn investigators and claim that alternative versions of the crime were ignored and/or errors were made during the investigation as a result of confirmation bias created by the "belief" element of the *Start By Believing* campaign."[28]

- Scott Greenfield, Simple Justice blog: "Cops have no business believing or disbelieving. Crimes aren't a matter of what one believes, but what the facts reveal."[29]
- KC Johnson and Stuart Taylor: "Middlebury College's training, for instance, urges adjudicators to "start by believing" the accuser…The college further orders that in order to be "objective," investigation reports must not use the word "alleged" before "victim" or "sexual assault" and must avoid passages such as "the victim's account of the incident is not believable or credible to officers given her actions during and after the encounter with the suspect" or the "victim has inconsistencies with her story."[30]

Three groups have come out in opposition to Start by Believing, as well:

An expert panel consisting of investigators, attorneys, and others analyzed investigative methods such as those endorsed by Start by Believing, and concluded these approaches "violate ethical

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[28] Eugene Volokh, *Don't 'start by believing'* (Dec. 2016). https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/12/15/dont-start-by-believing/?utm_term=.0b2517d7b160.

[29] Scott Greenfield, *Believe Victims Or Evidence: When You Can't Do Both* https://blog.simplejustice.us/2016/12/17/believe-victims-or-evidence-when-you-cant-do-both/.

[30] K.C Johnson and Stuart Taylor, *Why Campus Rape Tribunals Hand Down So Many 'Guilty' Verdicts* http://www.weeklystandard.com/why-campus-rape-tribunals-hand-down-so-many-guilty-verdicts/article/2010401.

requirements for impartial and honest investigations, are inconsistent with basic notions of fairness and justice, and give rise to wrongful convictions and determinations of guilt."[31]

Prison Legal News recently noted, "However, one must question whether it is appropriate to adopt a requirement that law enforcement officials "believe" any person reporting any particular crime, rather than accepting allegations with an open mind in order to determine the truth."[32]

The strongest criticism of Start by Believing has come from the Arizona Governor's Commission to Prevent Violence Against Women, which issued a letter highlighting how *Start by Believing* "creates the possibility of real or perceived confirmation bias."[33] The governor's letter cited a case in Iowa where a detective testified the *Start by Believing* campaign required him to believe the victim, "no matter what."[34] The prosecutor in the case later explained that the *Start by Believing* verbiage "is what's killing everybody in court."[35] The Commission concluded:

> While investigations and interviews with victims should always be done in a respectful and trauma-informed manner, law enforcement agencies, and other agencies co-located in advocacy centers, are strongly cautioned against adopting *Start By Believing*.[36]

Criticisms have been voiced in the international arena:

In England, Ex-High Court judge, Sir Richard Henrique ordered police to cease the practice of believing complainants automatically: "The obligation to believe all complainants at the start, and automatically treat them as victims, handicaps police disclosure officers in their duty to disclose evidence that assists defendants or undermines the prosecution case."[37]

In Canada, following the acquittal of three police officers, Justice Anne Molloy wrote in her 45-page ruling, "Although the slogan 'Believe the victim' has become popularized of late, it has no place in a criminal trial."[38]

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[31] Center for Prosecutor Integrity, Victim-Centered Investigations Undermine the Presumption of Innocence and Victimize the Innocent: Report of an Expert Panel (2016). http://www.prosecutorintegrity.org/wrongful-conviction-day/victim-centered-investigations-undermine-the-presumption-of-innocence-and-victimize-the-innocent-report-of-an-expert-panel/

[32] Matte Clarke, *"Start by Believing" Initiative Creates Controversy* (Jan. 2018) https://www.prisonlegalnews.org/news/2018/jan/8/start-believing-initiative-creates-controversy/.

[33] Ray Stern, *Ducey's Faith Office Assails 'Start by Believing' Advocacy Program for Rape Victims*, Phoenix New Times (Dec. 15, 2016) http://www.phoenixnewtimes.com/news/duceys-faith-office-assails-start-by-believing-advocacy-program-for-rape-victims-8896373.

[34] *Id.*

[35] *Id.*

[36] *Id.* The Commission's letter is embedded in the article.

[37] *Police must stop training officers to believe rape complainants automatically says ex-High Court judge,* http://www.dailymail.co.uk/news/article-5209897/Police-stop-believing-rape-complainants-automatically.html#ixzz54DAwInhD.

[38] *'Believe the victim' has no place in courts, judge says in sexual assault ruling,* https://www.theglobeandmail.com/news/toronto/decision-expected-in-trial-of-three-toronto-officers-accused-of-sexual-assault/article35918734/.

Abusive Use of Federal Grant Monies

Three decades ago, a veritable hysteria engulfed the United States, driven by claims of satanic child abuse practices in child care centers.[39] Investigators were instructed to "believe the children" without scrutiny, engendering investigative methods that have been described as suggestive, coercive, and even harmful. Eventually, about 190 child care workers and parents were formally charged with sex crimes, and more than 80 were eventually convicted.[40] Among these, 58 have now been exonerated, according to the National Registry of Exonerations.[41]

Ironically, we are now witnessing a revival of the same investigative dogma, this time in the name of *Start by Believing.* The investigative concepts and methods espoused by End Violence Against Women International vitiate fundamental ethical principles of investigators, undermine citizens' right to a fair and neutral investigation, threaten the integrity of judicial determinations, and make wrongful convictions more likely.

These concepts and investigative methods abuse the mission of the Department of Justice, which states in part, "...to ensure fair and impartial administration of justice for all Americans." Termed a "multimillion dollar threat to justice,"[42] they abuse the purpose and intent of Congressional appropriations. And they abuse the public trust, which is critical to the effective functioning of our criminal justice system.

The Center for Prosecutor Integrity is requesting the Office of the Inspector General to conduct a prompt and thorough investigation into the abusive use of federal grant monies by End Violence Against Women International.

Feel free to contact me with any questions at nconway@prosecutorintegrity.org.

Sincerely,

Nasheia Conway

Nasheia Conway, Esq.
Program Director for Civil Rights

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[39] Maureen Casey, *How the daycare child abuse hysteria of the 1980s became a witch hunt*, The Washington Post, (July 31, 2015) https://www.washingtonpost.com/opinions/a-modern-witch-hunt/2015/07/31/057effd8-2f1a-11e5-8353-1215475949f4_story.html?utm_term=.34045a13ae52

[40] Richard Beck, *We Believe the Children* (2015). Page 53.

[41] *As of January 1, 2018. http://www.law.umich.edu/special/exoneration/Pages/detaillist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=Group&FilterValue1=CSH*

[42] Christopher Perry, *'Start-By-Believing' Investigations Are A Multimillion Dollar Threat To Justice.* (Jan. 13, 2018). http://dailycaller.com/2018/01/13/start-by-believing-investigations-are-a-multimillion-dollar-threat-to-justice/