

RE: Recent Probe of Former Virginia Governor Douglas Wilder Reveals Serious Due Process Shortcomings with Trauma-Informed and Start By Believing Investigations

August 1, 2019

Attorney General William Barr
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Barr:

The *Washington Post* recently published an article about former Virginia governor Douglas Wilder, who is contesting the finding of an external investigator, Jody Shipper. Shipper had been hired by Virginia Commonwealth University to investigate the claim that Wilder had engaged in a non-consensual kiss.¹

A review of Mr. Wilder's 15-page statement² reveals the investigation was guided not by notions of fairness and impartiality, but rather by the precepts of Trauma-Informed and Start By Believing methods:

- *Trauma-Informed* philosophy posits that inconsistencies in the complainant's statements are caused by the trauma of an alleged incident, and that such contradictions should be taken as proof that the alleged incident actually took place.³ In his statement, Mr. Wilder documents numerous irregularities in the complainant's allegations, concluding "the inconsistencies call into question the Complainant's credibility and veracity."
- *Start By Believing* programs instruct investigators to begin with an "initial presumption" of guilt,⁴ and to focus on witness statements that serve to "corroborate the victim's account."⁵ During the Wilder investigation, Shipper omitted key exculpatory evidence from the investigative report, leading Wilder to charge her with the "deliberate and calculated omission of this evidence, [which] is indicative of bias and constitutes a gross violation of due process."

The former governor's statement concludes, "This glaring inconsistency in the External Investigator's findings is beyond explanation, [and] demonstrates a blatant bias against Wilder."

Mr. Wilder's allegations should be of particular interest and concern to the Department of Justice, because over the past several years, the DOJ has been engaged in efforts that aggressively promote the use of Trauma-Informed and Start By Believing methodologies. This active promotion has been accomplished by means of a series of DOJ-sponsored webinars and grant awards.

Of particular concern was the May 29, 2019 webinar sponsored by the DOJ Office for Victims of Crime titled, "Law Enforcement Response: Approaching Your Work with a Trauma-Informed Lens." The program instructed attendees to take a "conviction-oriented approach," which is at odds with the dictum

¹ https://www.washingtonpost.com/local/virginia-politics/former-va-governor-doug-wilder-contests-finding-of-sexual-harassment-investigation/2019/07/23/9bd87cb2-ad5f-11e9-bc5c-e73b603e7f38_story.html?utm_term=.612efe40ce56

² <http://wildervisions.com/wp-content/uploads/2019/07/L-Douglas-Wilder-Statement-Contesting-EAS-Finding-WV.pdf>

³ <http://www.prosecutorintegrity.org/sa/trauma-informed/>

⁴ <https://www.startbybelieving.org/wp-content/uploads/2018/08/Military-Action-Kit.pdf>

⁵ <https://www.evawintl.org/library/Detail.aspx?ItemID=43> , pages 5 and 7.

that above all, investigations need to be impartial, fair, and free of bias.⁶ The presenter went so far as to insist that the main focus of courtroom testimony should be on eliciting the feelings of the “victim” – not to elucidate the evidence and facts pertaining to the incident -- in order to provide the jury with “an opportunity to experience a traumatic event with understanding and without blaming the victim.”⁷

Likewise, the DOJ has awarded millions of dollars in grants to a group known as End Violence Against Women International,⁸ which has trained many thousands of criminal justice detectives and campus investigators in guilt-presuming Start By Believing ideology.¹⁰

Alarmed by the due process threats posed by Trauma-Informed methods, Families Advocating for Campus Equality (FACE) recently issued a report titled, "Trauma-Informed Theories Disguised as Evidence." The report documents five logical fallacies and scientific flaws in the use of trauma-informed concepts in the investigative context:

- Is used to explain an ever-expanding range of symptoms and behaviors, some of which are not based on research.
- Illogically applies concepts like “tonic immobility” to situations that are not life-threatening.
- Presumes that failure to remember incidents is caused by trauma, not alcohol-induced blackouts or other factors.
- Asserts that stressful events impair memory, when research shows such events actually enhance recall.
- Ignores complainants’ vulnerability to post-event suggestions by investigators, friends and advocates.

As a result, investigators become susceptible to “tunnel vision,” decision-makers disregard exculpatory evidence, and the presumption of innocence is lost. I am attaching a copy of the FACE report to this letter.

Echoing similar concerns, members of the House of Representatives sent you a letter on June 28, 2019 that highlighted how Trauma-Informed programs have “led to wrongful convictions across the country,” and urged your Department to “stop funding organizations that don’t recognize the presumption of innocence.” The Center for Prosecutor Integrity assisted in the development of this letter, which is attached to the present letter.

The Center for Prosecutor Integrity, along with members of Congress, look forward to receiving your substantive and timely response to these concerns, which pertain to assuring the very integrity of our nation’s legal system.

Sincerely,

E. Everett Bartlett, PhD

President

Attachments:

1. Trauma-Informed Theories Disguised as Evidence
2. Letter from members of the House of Representatives dated June 28, 2019

⁶ <http://www.prosecutorintegrity.org/sa/ethics-codes/>

⁷ http://ifeminists.com/e107_plugins/content/content.php?content.1456

⁸ <https://www.evawintl.org/grants.aspx>

¹⁰ <http://www.prosecutorintegrity.org/sa/doj-complaint/>