

RE: Why is the DOJ Continuing to Promote ‘Trauma-Informed’ Theories That Have Been Repeatedly Refuted as Junk Science?

November 4, 2019

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

Dear Attorney General Barr:

The Center for Prosecutor Integrity is a 501(c)(3) organization dedicated to the strengthening of prosecutorial ethics, restoration of the presumption of innocence, and an end to wrongful convictions.

As you know, a growing number of persons are expressing concerns about the general degradation of our nation’s criminal justice system, in particular, the erosion of the presumption of innocence and a failure to respect fundamental due process protections. These changes have contributed to the continuing epidemic of wrongful convictions. According to the National Registry of Exonerations, there have been over 2,500 exonerations from 1989 to the present.¹

Some of these developments can be tied to the Department of Justice’s support for programs referred to as “trauma-informed.” Advocates of victim-centered methods theorize that victims are so traumatized that they are unable to recall key details of the incident, and may even give conflicting accounts of the event. Such claims have been repeatedly refuted:

- **Center for Prosecutor Integrity:** Review of ‘Understanding the Neurobiology of Trauma and Implications for Interviewing Victims’⁷
 - “The impacts of trauma on memories and recall are widely variable. The stress accompanying and resulting from trauma may produce strong memories, impair memories, have no effect on memories, or increase the possibility of false memories.”
- **Association of Title IX Administrators:** Trauma-Informed Training and the Neurobiology of Trauma
 - “The truth is that we understand perhaps 1/100th of 1% of which we need to know and may someday understand about how the brain responds to trauma.”⁸

¹ <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>

⁷ <http://www.prosecutorintegrity.org/wp-content/uploads/2019/09/Review-of-Neurobiology-of-Trauma-9.1.2019.docx>

⁸ <https://cdn.atixa.org/website-media/atixa.org/wp-content/uploads/2019/08/20123741/2019-ATIXA-Trauma-Position-Statement-Final-Version.pdf>

- **United States Air Force:** Report on the Use of the Forensic Experiential Trauma Interview (FETI) Technique⁹
 - “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.”

- **Christian Meissner and Adrienne Lyles:** Training for Title IX Investigators Lacks Tested, Effective Techniques¹⁰
 - “A search of the available research literature yielded no published, peer-reviewed studies on the efficacy or effectiveness of FETI....We know of no scientific studies that support this contention of neurobiological response differences between perpetrators and victims.”

- **Emily Yoffee:** The Bad Science Behind Campus Response to Sexual Assault¹¹
 - “The spread of an inaccurate science of trauma is an object lesson in how good intentions can overtake critical thinking, to potentially harmful effect....University professors and administrators should understand this. And they, of all people, should identify and call out junk science.”

Trauma-informed investigations are not only based on flawed science, they also compromise due process protections:

- Presume the guilt of the defendant.
- Attribute inconsistencies in the complainant’s statements to life-threatening trauma.
- “Cherry-pick” the evidence in order to increase the likelihood of a finding of guilt.
- Avoid asking detailed questions in order to not “retraumatize the victim.”
- Write the investigative report in order to portray the sexual contact as non-consensual

These practices hinder the conduct of impartial and fair investigations, and undermine Constitutional due process protections.

A number of DOJ offices have been promoting such flawed concepts:

1. **Community-Oriented Policing Services:** Publication of the report, “Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence,” which repeatedly endorses trauma-informed methods.¹⁵

⁹ <http://www.prosecutorintegrity.org/wp-content/uploads/2019/03/AIR-FORCE-FETI-STUDY.pdf>

¹⁰ <https://www.sciencedaily.com/releases/2019/10/191028093945.htm>

¹¹ <https://www.theatlantic.com/education/archive/2017/09/the-bad-science-behind-campus-response-to-sexual-assault/539211/>

¹⁵ <https://www.justice.gov/opa/file/799366/download> , pages 12, 14, 17, and 18.

2. **Office for Victims of Crime:** Sponsorship of an online training session, “Law Enforcement Response: Approaching Your Work with a Trauma–Informed Lens” in which law enforcement personnel were instructed to take a “conviction-oriented” approach to their investigations.¹⁶
3. **Office for Violence Against Women:** Funding to End Violence Against Women, International to publish the report, “Understanding the Neurobiology of Trauma and Implications for Interviewing Victims.”¹⁷

The Center for Prosecutor Integrity hereby requests that you investigate the scientific basis of trauma-informed investigations, and take appropriate measures to assure the DOJ no longer promotes these discredited concepts.

I am attaching a copy of CPI’s recent report,” Review of ‘Understanding the Neurobiology of Trauma and Implications for Interviewing Victims:’ Are We Trading One Prejudice for Another?”

We look forward to receiving your substantive and timely response to these concerns, which pertain to safeguarding the very integrity of our nation’s legal system.

Sincerely,

E. Everett Bartlett, PhD

President

Enclosure

¹⁶ http://ifeminists.com/e107_plugins/content/content.php?content.1456

¹⁷ <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=842>