



Dear Friends,

The world has been much with us since the last issue of the newsletter: a war, the anxiety of a mysterious virus. Yet even these momentous events did not eclipse news about recovered memories. FMS-related events and new research and publications keep chugging along.

The April release of *Remembering Trauma* by Richard McNally ^[1] is a turning point in the availability of research about recovered memories and trauma. It is the most up-to-date, accurate, and comprehensive summary of the relevant psychological research that exists. The author lays out the arguments and studies that are the foundations to both sides of the controversy. In so doing, he exposes the errors in thinking and misinterpretation of research that characterized the focal claims of recovered memory proponents. This is an important book. (See page 3)

Of course, McNally was able to produce his book only because of the outstanding research that so many clinicians and memory scientists have completed in the past decade. And the research goes on: In this issue, there are brief descriptions of four important new studies. A prospective study by Daniel Salter and colleagues, ^[2] for example, exposes the myth of a “cycle of abuse.” This carefully done prospective study found that only 11.6% of sexually abused children went on to abuse others as adults. They also found that neglect and violence in the family of origin were associated with the repetition of sexual abuse. (See page 6)

Another prospective study, tested the notion that memory mechanisms for highly traumatic events are different from normal memory processes. Gail Goodman and colleagues ^[3] conclude that their “findings do not support the existence of special memory mechanisms unique to traumatic events, but instead imply that normal cognitive operations underlie long-term memory for CSA.”(See page 4)

The following comment from a review of a new introductory psychology textbook ^[4] probably is a good measure of thinking within the academic community on the importance of knowing about the recovered memory controversy:

“The authors’ tendency to shy away from controver-

sies and criticisms is evident in their . . . rather brief and abrupt reference to the recovered-memory-syndrome controversy. These controversies and many others are essential features of our discipline and knowing about them is indispensable to the development of a critical thinking orientation, which is a valuable pedagogical goal.”

On the popular front, a new play about recovered memories opened in London to positive reviews: “A Reckoning” by American Wesley Moore. The acclaimed play “Anna Weiss” by Mike Cullen had a well-received run in Chicago in March. Both of these dramas present a skeptical perspective. There was even a reshewing of *Law and Order: SVU* “Repression” in March. Readers may recall the comment in that program from the police psychiatrist: “Technically it’s called ‘false memory syndrome’ but I call it the ‘power of suggestion run amok.’” ^[5]

It’s not time to be complacent, however. Traumatic amnesia and recovered memories continue to be indispensable to story tellers. As a reviewer in the *LA Weekly* ^[6] noted when describing one new movie: “The old amnesia gambit drags itself wearily back into service.” The continuous stream of novels about recovered memories or multiple personality disorder — such as Matt Ruff’s novel *Set This House in Order* ^[7] — perpetuates myths about memory and trauma. Maybe someday, writers will find another plot technique, but until “traumatic amnesia” is replaced, the recovered-memory problem will likely be with us.

Lest anyone think that the hysteria about abuse has ended, the ongoing saga of Paul Ingram is a reminder that it is all too present. The problems faced by Paul Ingram since

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The next issue will be JULY/AUGUST 2003

his release from prison after having served his sentence for “ritual abuse” activities are described on page 10 of this newsletter. The Ingram case was always tragic, but now it seems frightening.

The clergy scandal has resulted in day-in and day-out coverage of claims of recovered memories. On page 6 there is a summary of statistics compiled by the *New York Times* about clergy cases. The fall-out from that situation is having a direct impact on the recovered memory legal situation.

In the heat of anger about the clergy abuse, legislators around the country are proposing extensions for statutes of limitations in sex abuse cases. The comment from Illinois Representative, James Brosnaha, who introduced such a bill, shows the huge gap between what science has shown us about trauma and memory and what some people still believe. The Associated Press reported [8] that Brosnaha stated that child victims often repress memories of the abuse and that it takes years of therapy as adults to identify abuse as the cause of current problems.

The decision of the U.S. Supreme Court in *Stogner v California* will have a significant impact on how the law handles very old cases. (See p. 7) In 1994, the California Legislature retroactively repealed the time limit for filing criminal charges against perpetrators who sexually abused children under 18. If the Court strikes down the California law, defense lawyers may use it to limit cases involving allegations of sex abuse from the past. If the law is upheld, it will mean many more prosecutions from the past. Even though the law was written for child sex-abuse cases, it seems likely that it will be extended to other types of crimes. Justice Ruth Bader Ginsburg pointed out that the case was not limited to just child abuse: “It could be pickpocketing.” A decision is expected before July.

In the broader perspective, the climate that once supported the recovered memory phenomenon steadily erodes as new scientific research exposes the myths upon which it was based. With the publication of *Remembering Trauma*, there is absolutely no excuse for professional organizations to delay in encouraging, or even demanding, that their members practice safe and effective evidence-based therapy.

From the local office perspective, new FMSF contacts continue diminishing, although there is a steady stream of cries for help from people involved with child protection agencies. This week four new families, recently accused on the basis on recovered memories, contacted the Foundation. (One father told us that a therapist he consulted told him

special thanks

We extend a very special “Thank you” to all of the people who help prepare the FMSF Newsletter. *Editorial Support:* Janet Fetkewicz, Howard Fishman, Peter Freyd, Members of the FMSF Scientific Advisory Board and Members who wish to remain anonymous. *Letters and information:* Our Readers.

about the Foundation.) The background of the accusations was the same old story: hypnosis, past-life regressions and *The Courage to Heal*. We can’t help but wonder how this can still be going on.

The Foundation continues to hear from new retractors, and their most pressing problem is almost always trying to find a mental health professional who has an understanding of their experience. It is a reminder of the daunting task faced by those who are trying to rebuild their lives after a disastrous therapy experience.

The office seems quiet most days since almost all activities now revolve around email and the website. In fact, more people now contact us by email than by telephone, and most new contacts have already gained information from the web. We continue to direct resources toward the web. After a long hiatus, the therapy section is up and running. Don’t miss the paper by Martin Orne about multiple personality disorder or Margaret Singer’s advice on finding a therapist. With some hard work by our website administrator Greg Louis, you will also soon be able to access the legal section — possibly by the time you receive the printed version of this newsletter. Starting with the March/April 2003 issue, newsletters will now be available on the website in PDF format and will look like the mailed version if printed. Perhaps some readers will even prefer to get their newsletters that way rather than wait for the postal service. The searchable text format will still be sent to all who ask, however, and it will also be posted. The website is a work in progress as we continue development and obtain permission to post articles.

The papers based on the FMSF reconciliation survey research are close to completion, and in the next newsletter we expect to let you know the next steps in that project.

We thank you all for your wonderful support.

Pamela

1. McNally, R., *Remembering Trauma*, Harvard University Press, 2003.
2. Salter, D. et al. “Development of Sexually Abusive Behaviour in Sexually Victimized Males: A Longitudinal Study” *The Lancet*, 361 (9356), Feb 8, 2003, 471-476.
3. Goodman, G. S., et al., “A Prospective Study of Memory for Child Sexual Abuse: New Findings Relevant to the Repressed-Memory Controversy” *Psychological Science* 14 (2), 2003, 113-118.
4. Bhatt, G., “Review of *The World of Psychology*, 3rd Canadian Edition by Wood, S.E. et al.” *Canadian Psychology*, Nov. 2002, p. 280-282.
5. Law and Order SVU “Repression” NBC, March 15, 2003.
6. Taylor, E., “Film- Till Human Voices Wake Us” *LA Weekly*, Feb 21, 2003 p. 33.
7. Ruff, M., *Set This House in Order*, HarperCollins, 2003.
8. Associated Press, “Abuse Lawsuits” April 4, 2003.

“A great deal of intelligence can be invested in ignorance when the need for illusion is deep.”

Saul Bellow

Remembering Trauma

Richard J. McNally

Harvard University Press, 2003,
420 pages , ISBN 0-674-01082-5

Remembering Trauma is unquestionably the most up-to-date and comprehensive review of the psychological studies relating to the recovered memory controversy. From “body memories” to “traumatic amnesia and brain damage,” McNally brings an encyclopedic knowledge of the literature supporting both sides of the memory debate. For every topic that has been in contention, the author describes the strengths and weaknesses of the relevant studies making certain that readers understand the basis of his conclusions about the relations between memory and trauma.

Early in the book McNally states a point that is too often forgotten by some who have made claims about the special nature of traumatic memories: “Only when we are confident that we understand everyday memory can we determine whether memory for trauma requires distinct explanatory mechanisms.”(p.27) For this reason some parts of the book are necessarily technical. These parts, however, are so logically and clearly presented that a motivated lay person should have no difficulty. Other chapters, such as the first, are accessible to any reader. Indeed, the author even states his conclusions in the first chapter:

- “First, people remember horrific experiences all too well. Victims are seldom incapable of remembering their trauma.
- “Second, people sometimes do not think about disturbing events for long periods of time, only to be reminded of them later. However, events that are experienced as overwhelmingly traumatic at the time of their occurrence rarely slip from awareness.
- “Third, there is no reason to postulate a special mechanism of repression or dissociation to explain why people may not think about disturbing experi-

ences for long periods. A failure to think about something does not entail an inability (amnesia) to remember it.”

The first chapter sets the context. McNally notes that at the beginning of the 1980s people who were concerned about sex abuse talked about “a reluctance to disclose” abuse, but by the end of that decade the language had changed to an “inability to remember.” That change was tied to the politics of the decade which are the focus of the first chapter. The author makes a very important point at the outset: “the emphasis on recovering repressed memories of abuse emerged from the core of the trauma field, not from its paraprofessional fringe.” (p. 6).

In placing the responsibility where he does, McNally has special credibility. He is a clinician who established a research and treatment clinic for anxiety disorders at the University of Health Sciences/Chicago Medical School before joining the Department of Psychology at Harvard University in 1991. He has been doing research on PTSD since 1985 and has served on the posttraumatic stress disorder committees (PTSD) of both the American Psychiatric Association DSM-IV Task Force and on the National Institute of Mental Health’s consensus panels for the assessment of panic disorder and PTSD. He was and is part of the “core of the trauma field.”

In Chapter 9, Dr. McNally explains how he was drawn to the subject of recovered memories. He writes that he was studying people both with and without PTSD who had been abused in childhood. During the course of interviewing potential subjects for a neuroimaging study, three people told him that they had no memories of having been abused. When he asked them why they had volunteered for the experiment, they explained that they had come to realize that their current problems and symptoms must have been caused by sexual abuse and that

they had repressed the memories of it. The three women did not qualify for the neuroimaging project because they did not have narratives of their abuse experiences needed for the study’s protocol. But the incident did spark a new line of research for McNally that led to a series of research studies comparing the cognitive functions of people who claimed they had (1) recovered memories of abuse, (2) repressed memories of abuse, (3) always knew they were abused, and (4) were not abused. The results of these studies have been described in past FMSF Newsletters.^[1]

Remembering Trauma is a book to which clinicians must pay attention. The author is a clinician from the trauma field. He had no political agenda in becoming involved in the recovered memory phenomenon. It grew naturally from his ongoing work in trauma.

A book with this much information must have the tools to make it accessible for all types of research. Here the book has both strengths and a weakness, although the weakness could easily be remedied. The list of works cited is 1,337, and it is a wonderful bibliography to keep at hand. For finding topics such as “body memories” or “satanic ritual abuse” the index is fine. Unfortunately, the index does not contain names of people. Even though the works of Elizabeth Loftus and Bessel van der Kolk, for example, are both listed in the bibliography, it is impossible to find where in the book their works are discussed. We sincerely hope that the second edition of the book will contain a more comprehensive index.

The book’s chapters are:

1. The Politics of Trauma
2. How We Remember
3. What is Psychological Trauma?
4. Memory for Trauma
5. Mechanisms of Traumatic Memory
6. Theories of Repression and Dissociation
7. Traumatic Amnesia
8. False Memories of Trauma
9. A View from the Laboratory
10. Controversies on the Horizon

In the past, trying to address the claims of proponents of recovered memories has been like pinning jello to a wall. As soon as one claim, such as the accuracy of memories recovered in hypnosis, was exposed, another would pop up. Finally, there is a book in which all the myths are scientifically and comprehensively exposed and debunked. We highly recommend this book.

1. FMSF Newsletters: 9(6), 10(3), 10(5), 10(6), 11(1), 11(3), 11(5), 12(1), 12(2).

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“Events that are terrifying or violent are almost always remembered — often all too well. Events experienced as “uncomfortable,” “shameful,” and “embarrassing” may be forgotten. However, this forgetting is not due to dissociation but rather to voluntary, active, and conscious efforts to suppress distressing memories.

There are no scientific data that trauma victims dissociate and forget their abuse. Proponents of this theory need to spend less time talking to relatively affluent patients seeking explanation for their psychological distress, and more time talking to real victims of childhood sexual abuse — often those without resources to seek therapy.

Experimental data do indicate that dissociation is clearly related to something—a tendency to create false memories.” [1]

Susan A. Clancy, Ph.D.,
Research Fellow

Dept. of Psychology, Harvard U.
Letter in *Washington Post* on Feb. 25, 2003

1. Clancy, S. A., Schacter, D. L., McNally, R. J., & Pitman, R. K. (2000). False recognition in women reporting recovered memories of sexual abuse. *Psychological Science*, 11, 26-31; Winograd, E., Peluso, J. P., & Glover, T. A. (1998). Individual differences in susceptibility to memory illusions. *Applied Cognitive Psychology*, 12, S5-S27; Heaps, C., & Nash, M. (1999). Individual differences in imagination inflation. *Psychonomic Bulletin & Review*, 6, 313-318.

A Prospective Study of Memory for Child Sexual Abuse: New Findings Relevant to the Repressed-Memory Controversy

Goodman, G.S., Ghetti, S., Quas, J.A., Edelstein, R.S., Alexander, K.W., Redlich, A.D., Cordon, I.M., Jones, D.P.H. (2003). *Psychological Science* 14 (2), 113-118

The recovered memory debate has centered on whether there are special memory mechanisms for highly traumatic events that are different from normal memory processes. Memory researchers have argued that both normal and traumatic events are subject to ordinary memory processes. Others have argued that child sexual abuse (CSA) may be so traumatic that the memories become inaccessible for long periods because of special memory mechanisms such as repression or dissociation.

Most of the research supporting the special memory notion has been based on retrospective studies and on abuse that was never verified. There have, however, been two prospective studies that showed a sizable percentage of people who did not report CSA that had been documented in the past (Williams, 1994, and Widom & Morris, 1997).

Goodman et al. wanted to compare the disclosure rate in a population of 186 subjects who had been victims of CSA that resulted in legal actions with the disclosure rate in the two previous prospective studies. They also wanted to identify predictors of disclosure.

The researchers began with a telephone interview (N=175), then a mailed questionnaire (N=129), and finally conducted an in-person interview (N=107). In all three phases they asked about victimization, legal experiences, and attitudes toward the legal system. This paper reports only data about disclosure of CSA.

In the telephone interview, 26 people did not report abuse that led to legal action, the target case. Of these, 12 reported the target case on the ques-

tionnaire or in the personal interview. The resulting 8% of subjects who did not disclose the target case is much lower than that reported by Williams (38%) or Widom & Morris (37%).

The authors conclude that the results indicate that forgetting CSA may not be a common experience. They found that the greater the severity of the abuse and the older subjects were when they experienced it, the more likely they were to disclose. They observed that people remember salient events, as long as the events take place after the period of childhood amnesia. “Because severe abuse is often a salient experience, it should be recalled,” they note.

Goodman and colleagues conclude that “these findings do not support the existence of special memory mechanisms unique to traumatic events, but instead imply that normal cognitive operations underlie long-term memory for CSA.”

Widom, C.S., & Morris, S. (1997). Accuracy of adult recollections of childhood victimization. Part 2: Childhood sexual abuse. *Psychological Assessment*, 9, 34-46.

Williams, L.M. (1994). Recall of childhood trauma: A prospective study of women's memories of child sexual abuse. *Journal of Consulting and Clinical Psychology*, 62, 1167-1176.

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What is the Value?

“What is the value of the time innocent people spent being coerced and threatened; the time they languished, without cause, in jail or in prison?”

“Does all the world's money make whole people who lost their children even though the kids had not been touched inappropriately and were in no danger?”

Editorial,
Seattle Post-Intelligencer,
March 27, 2000.

A Picture is Worth a Thousand Lies: Using False Photographs to Create False Childhood Memories

Wade, K.A., Garry, M., Read, J.D., & Lindsay, S. (2002), *Psychonomic Bulletin and Review* 9, 597-603.

The researchers set out to see if people would develop false memories from doctored photographs as they have been shown to do when false details have been embedded in narratives. They noted the three conditions that seem to be needed for people to create a false memory: "First, they must accept that the suggested event is plausible. Second, they must create contextual information for the event, such as an image and a narrative. Third, they must commit a source monitoring error: Subjects must wrongly attribute their memory construction to personal experience rather than to an image they have created."

Twenty "confederates" recruited a family member over the age of 18 to participate. The family member had taken neither a hot-air balloon ride nor a psychology class. The confederates provided photos of the subject when he or she was between 4 and 8 years old. The researchers pasted pictures of the subject and family members into photos of a hot-air balloon.

After three sessions including viewing the doctored pictures and guided imagery exercises, 50% of the subjects created false childhood memories. Most of the false details that the subjects reported were not in the photos but seemed to originate from the guided imagery exercises, imagination, and real-life events.

The authors observed that some therapists specializing in recovering memories of trauma have encouraged clients to study family pictures as a way of triggering memories. They commented:

"Viewing authentic childhood photographs while trying to recover traumatic memories may promote vivid visual images. While some of

these images are undoubtedly fragments of genuine experiences, others may be wholly fictional. Might these images—both true and false—subsequently be incorporated, along with products of suggestion and imagination, into illusory memories?"

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Imagination Can Create False Autobiographical Memories

Mazzoni, G., & Memon, A. (2003), *Psychological Science* 14 (2), 186-188.

Previous research has shown that just imagining an event can increase the belief that the event actually happened. An increase in belief that an event happened, however, does not necessarily mean that a person has a memory of the event. People regularly believe in some events that they do not actually remember, such as being born in a particular place. The goal of this study was to see if imagination altered biographical memory as well as beliefs.

Mazzoni and Memon administered the "Life Events Inventory" (LEI) to 82 British students. The nonoccurring item in the inventory was one that does not take place in the United Kingdom: "Having a nurse remove a skin sample from my little finger."

In the first session, subjects filled out the LEI. A week later, participants were randomly assigned to two groups. One group imagined an event about having a baby tooth extracted, a frequent event. The other group imagined the skin event. Both groups also completed various tests and completed the LEI. At the last meeting the following week, subjects again filled out the LEI.

The results showed that memories of skin removal were 4 times more likely to occur after imagination than after simple exposure to misinformation. "People can develop both a belief in and a memory of an event that definitely did not happen to them by simply imagining its occurrence. Imagination alone, without any additional suggestive procedure, (a)

increased participants' convictions that an event had occurred in their childhood, and (b) also produced false memories of the event."

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Seeking the Middle Ground in the "Memory Wars" **Essay Book Review**

James Ost, (2003, Feb.), *British Journal of Psychology*, 27 (2), 125-139.

The author reviews 6 books that claim to be "defining some kind of middle ground." It was his impression that most of the books "juxtapose 'stand-alone' contributions from specific authors, rather than attempt to get both 'sides' together." He noted that none of the books provides a clear picture of what a 'middle ground' should look like. Dr. Ost believes that to the extent there is a middle ground it will be found in studies that examine the context in which people remember and forget.

Books Reviewed

• Davies, G.M & Dalgleish, T. (Eds.) *Recovered Memories: Seeking the Middle Ground*, Wiley, 2001. • Williams, L.M. & Banyard, V. L. (Eds.), *Trauma and Memory*, Sage, 1999. • Lynn, S. J. & McConkey, K.M. (Eds.) *Truth in Memory*, Guilford, 1998. • Read, J.D. & Lindsay, D. S. (Eds.) *Recollections of Trauma: Scientific Evidence and Clinical Practice*, Plenum, 1997. • Conway, M.A. (Ed.) *Recovered Memories and False Memories*, Oxford, 1997 • Pezdek, K. & Banks, W. P. (Eds.) *The Recovered Memory/False Memory Debate*, Academic Press, 1996.

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"Truth about recovered memory may lie at either end of the continuum: nothing requires us to assume that it must constitute a compromise between two sharply divergent views. Analogously, one person may believe that the earth is round, whereas another may believe it is flat, but a 'balanced' view of the matter does not compel us to conclude that the earth is therefore oblong."

McNally, R. J. *Journal of Clinical and Experimental Hypnosis*, 47, Oct. 1999, p. 374.

Clergy Sex Abuse Scandal and Repressed Memory Cases

In January, 2003, the *New York Times* published the results of its own study on the scope of the priest sex-abuse scandal. ^[1] The study's authors wondered if lawyers and the news media had exaggerated the problem or if it was a growing malignancy in church culture.

The *Times* created a database and collected information from newspaper clippings, court records, church documents and checked the names with the victim advocacy public lists of accused priests. They also contacted dioceses across the country. They included only ordained priests who were identified by name and accused by a minor.

In January, they had identified 1,200 priests who had been accused of sexual abuse, about 1.8 percent of priests ordained since 1950. The *Times* noted that in places where courts have ordered the Church to provide complete lists, the percentages are far higher. The *Times* wrote that in Baltimore it is estimated that 6.2 percent of priests were implicated in the abuse of minors in the past 50 years. The abuse seemed to have peaked in the 1970s and 1980s and touched every diocese. Half of the priests were accused of molesting more than one minor and 80 percent were accused of molesting boys.

The Foundation has not actively tracked the priest cases, but it has collected newspaper articles on the topic. Responding to requests from several sources, the FMSF reviewed the articles published since January 2002 to see how many legal suits had been brought against priests based on claims of recovered repressed memories. Given the major limitations of newspaper articles as a source of data, the FMSF review found that there appear to be at least 100 such cases brought in 25 states since January 2002.

1. Goodstein, L. "Trail of pain in church crisis leads to nearly every diocese." *The New York Times*, Jan. 12, 2003, p.1.



Development of Sexually Abusive Behaviour in Sexually Victimized

Males: A Longitudinal Study

Salter, D., McMillan, D., Richards, M., Talbot, T., Hodges, J. Bentovim, A. Hastings, R. Stevenson, J., Skuse, D. *The Lancet*, 361 (9356), Feb 8, 2003, 471-476.

Salter and colleagues observed that many professionals who work with sexually abused children believe that perpetrators of sexual abuse were often themselves abused as children. It is important to know if this is, in fact, the case because then intervention programs could be designed that would be more effective than they are now.

Most studies of the "cycle of abuse" have been based on retrospective recall, presenting serious limitations. Salter et al. report on a longitudinal study following 224 male child sexual abuse victims up to the age of 18 to 32 years. They asked police and social services across Britain whether they knew if the victims had themselves committed sexual crimes.

The authors found that most of the abused children did not grow up to be sexual abusers. The overall rate of victims who became perpetrators was 11.6%. Salter and colleagues found that those who became abusers began in adolescence. They also found an influence of both genetic and social factors. Child neglect and intrafamilial violence were associated with repetition of sexual abuse. Being abused by a female was a risk factor, but being a victim of more serious abuse or of multiple abusers did not make a boy more likely to become an abuser.

A commentary appearing with the article suggested that a study of the factors that contributed to the resilience of many individuals who have developed "a meaningful life in spite of a terrible history" would also be valuable in the development of prevention programs.



Would You Believe?

A prison in Texas refused to allow *No Crueler Tyrannies: Accusations, False Witness and Terrors of Our Times* by Dorothy Rabinowitz to be sent to inmate Bruce Perkins. Officials wrote:

"The specific factual determination has been made that the publication is detrimental to prisoner's rehabilitation because it would encourage deviate criminal sexual behavior."

Mr. Perkins appealed the decision explaining that large parts of the book had already appeared in columns in the *Wall Street Journal*. The prison allowed Perkins to have the book after they removed pages that they found inappropriate.

Rabinowitz is in good company. In 1999, the same prison refused "*Jeopardy in the Courtroom*" written by Stephen Ceci and Maggie Bruck and published by the American Psychological Association for the same reason. In that case, they destroyed the book.

(Bruce Perkins has been in prison since 1993, convicted on charges tainted with recovered memories and suggestion. Officials recently denied him parole, commenting that they thought he needed more time in prison. That is the price that is paid by prisoners who, like Gerald Amirault and Bruce Perkins, refuse to confess.)

Two Websites with Information about Memory

www.exploratorium.edu/memory/

The webpages based on a memory exhibit contain a wealth of information—from the dissection of a sheep's brain to information about repressed memories.

www.ctnow.com/memory

The *Hartford Courant* ran a series of articles about memory from September 2 - 11, 2002. Don't miss reporter Steve Grant's September 8 interview with Daniel Schacter.

U.S. Supreme Court Hears Important Statute of Limitations Case

Stogner v. California, No. 01-1757, U.S. Supreme Court

In early April, the U.S. Supreme Court heard a case with far-reaching implications. The Court's decision in Stogner v. California could determine when states can erase statutes of limitations and begin prosecutions. Seattle attorney Jeffrey Fisher, who filed a brief on behalf of the National Association of Criminal Defense Lawyers, noted that the Court's decision "could be a watershed in the law."^[1]

In 1998, 70-year-old retired paper-plant worker Marion Stogner was charged with molesting one daughter from 1955 to 1964 and another daughter from 1967 to 1973. The allegations against Stogner arose in the course of an investigation of one of Stogner's sons who was eventually convicted of molesting his two stepdaughters. Stogner's other son was convicted of molesting children in a daycare center. Police say that Stogner created such a dysfunctional home life that his two sons became sexual molesters. Stogner's two daughters, who have not spoken to each other for 20 years, both say their father abused them when they were children. Marion Stogner denied abusing his children and argued that the charges were an after-the-fact punishment.

In 1994, the California Legislature retroactively repealed the time limit for filing criminal charges against perpetrators who sexually abused children under 18.^[2] The time limit had run out for charges against Stogner long before the 1994 law was passed. Stogner's lawyer, Elisa Steward, said that the charges against her client are so old, she cannot mount a defense: "You can't change the rules in the middle of the game."^[3]

California has no time limit for bringing charges of murder, embezzlement of public funds, and a few other crimes that carry a life prison term. Most felonies however, have a three-year limit in which to bring charges.

The Supreme Court justices must consider whether California violated Stogner's constitutional rights by prosecuting him on charges of molesting his daughters almost 50 years ago. Until now, most legal experts have assumed the Constitution's ex post facto clause bars the government from reopening a case after the time limit for prosecution has expired. "Statutes of limitations are a bedrock principle of American law. . . They protect the accused from the consequences of charges grown stale with age, conceived from unreliable memories or based on lost or dead witnesses."^[4]

The specific questions before the Court are: 1) Does a California statute that retroactively changes the statute of

limitations, so as to revive a previously expired cause of action in a criminal case, on its face, violate the ex post facto clause? 2) Does a California statute that retroactively changes the statute of limitations, so as to revive a previously expired cause of action in a criminal case, on its face, violate the due process clause?

The United States Constitution, Article I, section 10, clause 1, provides: "No State shall . . . pass any . . . Ex Post Facto Law . . ." A law is considered ex post facto if it criminalizes an act that was not a crime when it was committed; "aggravates" a crime, making it more serious than it was when committed; makes the punishment greater than it was when the crime was committed; or alters the legal rules of evidence to make it easier for the government to obtain a conviction.^[3]

The State of California, the Association of Criminal Defense Lawyers, the American Psychological Association, and the Bush Administration were among the groups that weighed in on this case.

The California law was specific about cases involving crimes of child sex abuse, but the California brief argued that the government could reopen past criminal cases of all sorts without violating the ex post facto ban.

The brief from the defense attorneys supported overturning the 1994 law. The defense lawyers argued that the statute of limitations protects the presumption of innocence by preventing surprises through revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared. Defense attorneys noted that it is very difficult to defend yourself after a certain amount of time. They worry that people might not be able to find needed witnesses or documents.

The American Psychological Association argued for maintaining the 1994 law but did not address the issues of constitutionality. They submitted evidence about reasons why victims of childhood sexual abuse may wait years before reporting the abuse to the law.

A lawyer for the Bush Administration argued that the California law should be upheld. In the administration *amicus* brief, it was argued that a ruling for Stogner would weaken parts of the USA Patriot Act in which statutes of limitations had been withdrawn retroactively in terrorism cases involving hijackings, kidnappings, bombings, and biological weapons.

Many cases are on hold until the Supreme Court makes its decision. If it strikes down the California law, defense lawyers may use it to limit cases involving allegations of sex abuse from the past. If the law is upheld, it will mean many more prosecutions from the past. Justice Ruth Bader Ginsburg pointed out that the case was not limited to just child abuse. "It could be pickpocketing."^[3] The decision is expected before July.

1. Savage, D.G. "The nation; Justices weigh how the law is enforced; High court debates 2 California cases," *Los Angeles Times*, April 1, 2003, Main News, p. 20.
2. The 1994 California law was upheld by the California Supreme Court in *People v. Frazer*, No. S067443, 1999 Cal. LEXIS 5535. A point of the 1994 law that is relevant to recovered memory cases is that prosecutors must have "independent evidence that clearly and convincingly corroborates the victim's allegations" and that such evidence cannot consist of the opinion of a mental health professional.
3. Greenhouse, L. "Justices hear debate on extending a statute of Limitations." *New York Times*, April 1, 2003.
2. Kravets, D. In abuse case, justices to weigh bedrock principle: Time limits." *Philadelphia Inquirer*, March 20, 2003, A5.

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Amirault Update:

This past February, Gerald Amirault requested that his sentence be commuted. Recall that last year the Massachusetts Parole Board had unanimously recommended his release noting that continued incarceration would constitute "gross unfairness" and that there was "real and substantial doubt" about his guilt. Acting Governor Jane Swift, however, rejected that recommendation.

In March, 2003, the Advisory Board of Pardons unanimously recommended that Mr. Amirault's commutation petition be denied. The board determined that because he is eligible for parole later this year, Amirault has an available remedy. The Governor accepted the Board's recommendation and denied the petition.

Many people believe that Gerald Amirault, who has been in prison for 17 years, is innocent and was unfairly convicted of sexually abusing children at Fells Acre Day School in the mid-1980s. His mother and sister were released from prison 8 years ago.

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For more about the compelling Amirault story, read D. Rabinowitz's new book *No Crueler Tyrannies: Accusation, False Witness, and Other Terrors of Our Times*.

"There is no crueler tyranny than that which is perpetrated under the shield of law and in the name of justice."

Baron de Montesquieu, 1742.

Jane Doe Sues Elizabeth Loftus *Taus v Loftus*, No FCS 021557, Sup. Ct. of Cal., Solano County

The young woman who was the focus of "Who Abused Jane Doe?" (*Skeptical Inquirer*, May/June, 2002) has filed a lawsuit against authors Elizabeth Loftus, Ph.D. and Melvin Guyer, Ph.D., commentator Carol Tavris, Ph.D., Shapiro Investigations, the *Skeptical Inquirer*, and the University of Washington. [1] The suit claims that Loftus and others invaded her privacy, defamed her, and caused negligent and intentional infliction of emotional distress. The complaints appear to be the same as those brought to the attention of the University of Washington several years ago. After a one-year and nine-month investigation, the University of Washington cleared Loftus of the charges.

Loftus and Guyer did not reveal the real name of "Jane Doe" in the article or in any other place. Nicole Taus revealed it herself by filing the suit. In addition, someone sent an anonymous, defamatory letter to the University of California Irvine newspaper with her name in it. The paper printed the name and it is now public. [2]

1. See box on this page for a description of article reprinted from July/August FMSF newsletter.
2. Claridad, J. "Controversial psychologist is accused of libel and invasion of privacy by alleged abuse victim." *New University* (UC Irvine student paper). 25 (12), April 10, 2003. Article available at: faculty.washington.edu/eloftus/Articles/JaneDoe.htm

□

Who Abused Jane Doe? The Hazards of the Single Case History

Loftus, E.F. & Guyer, M. J.

Skeptical Inquirer, Part 1 - May/June 2002, 24-32, Part 2 - July/August, 2002, 37-40.

Although all research involves sleuthing, this important article by Elizabeth Loftus and Mel Guyer reads as much like a detective story as a psychological study. In it the authors describe what they learned when they set out to check the facts presented in the 1997 case study written by David Corwin and Erna Olafson. [1]

The case study had been presented as proof that repression/dissociation exists and that traumatic memories can eventually be reliably recovered.

The case study began in 1984 when Dr. Corwin was asked to interview 6-year-old "Jane Doe" in the context of a custody dispute in which the father claimed that the mother had sexually and physically abused Jane. Before Corwin's first interview, Jane told of abuse in interviews with a police investigator and with Jane's therapist. Corwin's initial interview supported Jane's sexual abuse allegation. Interviewed again at age 17 in 1995, Jane was renewing a relationship with her mother and appeared to have forgotten her earlier claims of abuse. When shown a videotape of her earlier interview and asked directly about the accusations, Jane then did remember.

That the article was taken very seriously in the profession was evidenced in the comments that were published with the article. For example, Paul Ekman, Ph.D. who is the leading psychological expert in detecting deception from facial expressions of emotion, believed Jane's early reports of abuse. Psychiatrist Frank Putnam, M.D. was impressed by Corwin's awareness of the risks of leading questions. Psychologist Jonathan Schooler, Ph.D. wrote that he hoped skeptics would be persuaded by this case that individuals really can have repressed memories of real abuse.

Loftus and Guyer note that the article has also been taken very seriously in legal circles: "Lawyers presented the case at conferences, assuming it was authentic Expert witnesses began presenting the case in court as concrete proof of the validity of repressed memories...."

We will not spoil the mystery by commenting on what Loftus and Guyer found beyond repeating the authors' general comment: "Our investigation produced much valuable information that should assist scholars in making their own decisions about whether Jane was abused, and if so, by whom."

We believe that this is a particularly important paper, not only for what it says about the recovered memory phenomenon in particular, but also for what it says about the use of case studies in general.

1. Corwin, D. & Olafson, E. "Videotaped Discovery of a Reportedly Unrecalable Memory of Child Sexual Abuse: Comparison With a Childhood Interview Videotaped 11 Years Before," *Child Maltreatment*, Vol 2 (2) May 1997, 91-112.

Paul Ingram Released

Having completed his prison term, Paul Ingram, former Washington State law officer, was released from jail on April 8, 2003, 14 years after confessing to being part of a satanic cult. His case ignited a firestorm in the recovered-memory/satanic ritual abuse controversy, and for several years people cited it as proof of the extent to which satanic cults had infiltrated American society. Before it was over, police had dug up Ingram's yard looking for bodies they thought had been killed in satanic ritual activities. Nothing was ever found and the case fell apart when Richard Ofshe, Ph.D. demonstrated that the deeply religious and highly suggestible Ingram would confess to activities suggested to him, even if impossible. Ingram was convicted based on his confession, but cases against two others similarly accused were dropped. The Ingram case is a striking example of the difficulty in reversing a conviction, even when the case is a national example of suggestibility and false memories.

According to an article in *The Olympian*,^[1] Paul Ingram has been initially classified as a Level 3 offender, the highest risk to re-offend. According to a risk management specialist for the Washington State Department of Corrections, Ingram had 24 hours to register as a sex offender. He will be on supervised community placement, meaning that the Department of Corrections must approve his living arrangement. He cannot travel without permission, and he must be supervised by someone from the sex offender unit who will meet with him from five to ten times a month. Ingram will also have to enroll in a sex offender treatment program.

On April 16, Dan Brailey, founder of the Ingram Organization, attended a community meeting with people concerned about the fact that Paul Ingram was a convicted sex offender. Brailey reported that he was "floored by peo-

ple and their emotions." He said that one woman was worried because Ingram had been a law enforcement officer. She asked the group what would prevent Ingram from putting on a McGruff outfit^[2] and luring children into his house.

Another person has accused Ingram of "driving by slow" when children are playing in front of her house. But in fact it is Ingram's sister who drives, and there is a stop sign where the neighbor lives, says Brailey.

For more information about this case: www.thelocalplanet.com/Current_Issue/Current_Story/Article.asp?ArticleID=3659

and
members.aol.com/ingramorg

1. Shannon, B., "Man in notorious sex case finishes term." *The Olympian*, April 8, 2003, p. 1.
2. McGruff outfit refers to a huge costume sometimes worn by police when they do programs with children. McGruff the crime dog – Take a bite out of crime.

Comment from Howard Fishman: Some of the reactions to Paul Ingram's release underscore the ignorance that typifies child abuse hysteria. This particular variant was elegantly discussed by Jeffrey Victor in *Satanic Panic*, a book that describes the phenomena known to sociologists as "social panics."

Kenneth Lanning, a staff member of the F.B.I.'s Behavioral Science Laboratory, initially supported a local police training initiative to assure that law enforcement officers were able to identify, assess and intervene in Satanic Ritual Abuse cases. After eleven years of tracking such reports, Lanning acknowledged that these cases were more suited to psychiatric intervention than to law enforcement activities.

A massive study of ritualistic child abuse was completed in the fall of 1994. It was funded by the US Federal Government's National Center on Child Abuse and Neglect.

Responses were obtained from more than 6,900 clinicians (psychiatrists, clinical psychologists, and social workers); and from more than 4,600 agencies (county District Attorneys, Departments of Social Services and municipal Law Enforcement agencies). The major findings:

- Only 1 of 12,264 suspected cases was accepted as real abuse. This involved a 16-year-old male whose parents were Satanists. He took part in rituals which sometimes involved sexual activity. He was an observer, victim and perpetrator. None of the usual factors associated with the public's perception of Satanic Ritual Abuse was present in this case; no infant killing, animal torturing, blood drinking, flesh eating, etc.

- In these reported cases, child victims' stories do not agree with adult survivor memories: child victims report scary activities (e.g. being put in a coffin and lowered into a grave); adult survivors talk of child memories of horrendous activities (e.g. including the killing of infants, cannibalism, drinking blood, the most extreme torture and mutilation, etc).

- Little or no physical evidence was found. The most common evidence: scars that could have been self-inflicted.

- No child pornography involving Satanic themes—a commonly reported phenomenon—has been discovered in the U.S.

- No evidence exists of bizarre and horrible Satanic ritual abuse scenarios which were regularly reported in many repressed memory cases among adults.

- No unequivocal evidence of large scale, well-organized Satanic cults exists.

Dr. Gail Goodman, a psychologist at the University of California at Davis led the study. She said: "After scouring the country, we found no evidence for large-scale cults that sexually abuse children." She also observed: "While you would not expect to find corroborating evidence in many sexual abuse cases, you would expect it when people claim the rituals involved murders, and the reported cases come from district attorneys or police...If there is anyone out there with solid evidence of satanic cult abuse of children, we would like to know about it."

Goodman, G.S. et al., *Characteristics and Sources of Allegations of Ritualistic Child Abuse*. Washington, DC: National Center on Child Abuse and Neglect, 1994.

Lanning, K.V. *Investigator's Guide to Allegations of "Ritual" Child Abuse*. Jan. 1992, FBI Academy, Quantico, VA 22135.

Victor, J.S. *Satanic Panic: The Creation of a Contemporary Legend*. Chicago: Open Court, 1993.

Really Abused

I remember my first FMS Foundation meeting and the feelings I had. When False Memory Syndrome was discussed, I began feeling more and more upset. I recall standing up and saying very emotionally: "That is not the way sexual abuse is at all." But I wasn't able to explain.

Several years ago someone wrote in the newsletter that she would like to hear from someone who could tell what it was like to have been really abused. I wanted so much to reply, but I did not know how.

The answer for me was the January/February FMSF newsletter report about a new article "Sexual Contact Between Children and Adults: A Life Course Perspective." Authors Browning and Laumann put in words what I had been unable to explain. I don't know how to tell you how much that research meant to me.

When I was a child, I thought I was the only little girl in the world who had this happen to her. I was a frightened child. I never told anyone I had been abused until I was in my thirties. No one knew. But I knew every single day. You do not forget, ever. My father invaded my life mentally and emotionally. I don't even know when the abuse began. As far back as I can remember, it was ongoing and daily. I did not want my children going through that.

I credit my survival to my mother's side of the family. My grandmother, in particular, was a strong, strict little lady, and I loved her and my mother's sisters. My grandmother had a wonderful sense of humor and I wanted to be just like her when I grew up.

Now I suffer again because I lost my girls. The pain is almost unbearable to have my daughters believe the things they do. I married their father because he was the opposite of my

father – and that was very important to me. I was very watchful of my children. Even now, after 13 years, I feel strong anger about my daughters' gullibility and lack of understanding.

The Browning and Laumann article speaks clearly on the subject and confirms that response to real abuse is totally different than that suggested by recovered memory therapists and literature. The recovered memory model predicts that the abuse will inevitably have negative consequences throughout the child's life. The Browning and Laumann model predicts that because of the early sexualization, a child may engage in potentially harmful sexual behavior in adolescence or early adulthood that, in turn, creates adverse long-term consequences. However, their model leaves open the possibility for helpful interventions such as I received from my grandmother.

It is a lonely feeling to be abused as I was and to remain silent, not wanting people to know the "real me." Thank you for the information that put in words the experience of real abuse. Abuse is an awful thing but it does not condemn a person to a life of misery.

A Mom

□

Son Returns As A Stranger

Our son returned to the family after September 11, 2001, realizing how important family is. He also had two friends who were very ill. Nothing has been discussed regarding his estrangement for so many years. Sadly, he hardly knows the nephews and nieces who were born during his absence. They are like strangers.

A Mom

□

Like It Is

Many years ago when our daughter was in her mid-thirties (she is now 46), we were puzzled by the strained relations that began to surface. She lived about 120 miles north of us. She was married and had two small boys at

the time. She started sending back all correspondence unopened, and on the phone she seemed distant. Then she stopped communicating altogether.

It was only then that our other two adult children, one younger and one older than her, decided to tell us about the letters that they had received from her. In these letters, she claimed that she remembered unspeakable sexual abuse (from one month of age) by her father and me. She was in therapy at the time that she was recovering these "memories." I am not sure why she was in therapy, but I thought it might have been because her sister had been killed in a car accident. She was 16 and her sister 14 when that happened.

Subsequently, we lost all personal contact with her. We only knew where she was and what she was doing through some other relatives who had limited contact with her. My other daughter, who is two years her senior, tried to tell her that none of these terrible things that she "remembered" had really happened. The accusing daughter told her sister that both she and her brother were "in denial," and she cut off contact with her sister as well.

Over the years, she has come up with more outlandish claims. For example, she claimed that when she was 13 she was gang raped at a holiday get-together with the whole family. She believed that her father, grandfather, uncle, cousin and 12-year-old brother all participated. There are many, many other outrageous claims.

We learned that years ago she divorced her husband and moved to Florida with her two boys. My husband passed away in 1997, dying with this terrible hurt on his heart. We have had no contact with our two grandsons in all these years. I am sure that they were brought up to think that their grandparents are some kind of monsters. What a great loss for those boys as well as for us!

A Mom

□

Truth Is Slippery

Sometimes yes, sometimes no. We know our own truth, even when we have to find a meeting of minds with others, don't we? The worst part for me is that I can't begin to find a meeting of minds in my daughter's situation, since she will not talk to me. This casts her "truth" into a compromised light. I wonder how a life can have any real internal integrity when it relies on such compartmentalizing? What will be the consequences of a lack of integrity when the story relies on isolation from dialogue in order to continue holding together? Why doesn't she love me anymore?

A Dad

□

"Finally, I have to note the query often raised in the course of interviews about these cases. Did I recognize that child sex abuse existed and was a serious problem, reporters would ask. A strange question, that. The discussion of no other crime would require such a disclaimer. Journalists who have written about false murder charges are seldom asked to provide reassurances that they know murder is a bad thing, and it really happens.

"The question attests to the political fear attached to the subject of child abuse, particularly the proposition that children's accusations are not invariably truthful. Governor Jane Swift would know something about political fear—or more precisely, expediency—of that kind. So, too, would prisoner of the Commonwealth of Massachusetts Gerald Amirault."

Rabinowitz, D., Epilogue to a hysteria: Did prosecutors really believe their phony child-abuse charges? *Wall Street Journal*. March 23, 2003.

□

Excerpt from Presentation of Carol Marks at FMS Meeting in Glenview, IL October 5, 2002

"I believe your involvement in FMS was actually the most invaluable therapy for you. You were educated, inspired, joined by others with similar stories and similar losses, and learned that you could work together to try to make a difference. Many of you "took the bull by the horns" and charged forward to inform the public, talk to the media, write to your legislators, attend conferences and speak up, contact judges and other officials, lobby associations and boards, and bring some of the most egregious acts to light. Some of you sued or tried to sue. You became experts and you did what you could to make it better for others who would come after you. Then there are those of you who retracted, who spoke out, rallied others to do the same and worked and are still working to put an end to this FMS nightmare. Each and every one of you have brought us to where we are today, looking for the rest of the solutions and the way to clean up the road kill."

□

"Far more difficult is the burden of living with a false memory, a memory that is stranger than fiction and more capricious than a mountain goat.

It troubles me that I should make so conspicuous a blunder. It is understandable that odd lines of verse, or the names of characters in novels, should become muddled. The explanation for such average transgression is that the item was misrecorded before it was deposited in the memory bank.

But how to explain when not just single words or names but whole chunks of errant dialogue have been ingested, memorized and set in stone?"

Davies, C. "Betrayed by shifting sands of memory," *Yorkshire Post*, Jan. 4, 2002.

10 Rules for Proponents of Recovered Memory

[Elizabeth Loftus's evidence of memory fallibility is remarkable, but] I find even more remarkable the utter lack of evidence for memory repression: the pathological inability to remember something that otherwise could not be forgotten. I am open to the possibility of its existence, but I urge its proponents to follow the following 10 rules - four "do's" and six "don'ts."

DO

- Do prove the event occurred.
- Do prove the subject witnessed the event.
- Do prove the subject lost memory of the event.
- Do prove that only repression could explain the forgetting.

DON'T

- Don't claim that truth does not matter.
- Don't rely on fiction as scientific evidence.
- Don't accept evidence as proof of repression unless other explanations are ruled out.
- Don't vilify skeptics.
- Don't distort clinical reports.
- Don't omit material details.

Robert Timothy Reagan
Senior Research Associate
Federal Judicial Center, Washington, D.C.

□

"Memory believes before knowing remembers. Believes longer than recollects, longer than knowing even wonders."

William Faulkner,
Light In August, 1932.

"Patients and families may seek out medical diagnoses to legitimize experiences that might otherwise taint their reputations and threaten their social status."

Kleinman, A. "Psychiatry on the couch," *American Scientist*, 90, November-December, 569-570.

Hungry for Monsters

A documentary film by
George Paul Csicsery

When 15-year-old Nicole Althaus told a teacher that her father was molesting her, the quiet affluent Pittsburgh suburb of Mt. Lebanon, Pennsylvania, was turned inside out. Nicole's father, Rick, was arrested and charged with sexually abusing Nicole amidst bizarre satanic rituals. With the support of her favorite teacher, police, therapists, social workers, and officers of the court, all of whom believed her stories, Nicole began to embellish her initial accusations. As she recovered more memories of wild orgies, sacrificed babies, and murder, more people were arrested, including her mother and a pair of strangers.

A year later, all charges were dropped, and Nicole admitted that her accusations were false. After Nicole and her parents reconciled, they sued the authorities. This time, Nicole claimed she was the victim of sexual abuse perpetrated by the very people who had supported her allegations of abuse against her parents.

Hungry for Monsters is a step-by-step account of one family's ordeal with recovered memory therapy, the implantation of memories, and accusations of sexual abuse. A case study from the "memory wars," *Hungry for Monsters* shows how the lethal cocktail of sexual politics, New Age therapeutic techniques, feminist and Christian fundamentalist beliefs, well-intentioned social workers and police officers, and sensation-starved media produced a nightmare of persecution and injustice.

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More about the Althaus Case

For the full background to the Althaus case see FMSF Newsletter Vol. 1 #5, May 21, 1992. For important legal ramifications, see FMSF Newsletters Vol. 4(1), Vol. 5(4), Vol. 5(8), Vol. 6(9), Vol. 9(5). Article from Vol. 7(4) is reprinted below.

Pennsylvania Appeals Court Upholds Psychiatrist's Liability to Accused Parents

Althaus v. Cohen, 1998 Pa. Super. LEXIS 631, 4/13/98.^[4]

A psychiatrist who negligently misdiagnosed and treated a patient for alleged parental sexual abuse, and who participated in criminal proceedings against the parents, owed a duty of care to the parents under the facts of the case, a Pennsylvania appeals court decided, because it was reasonably foreseeable that the parents would be harmed by the psychiatrist's negligence. In finding a duty owed to the parents as well as the daughter, the court cited the fact that the psychiatrist specifically treated the daughter for parental sexual abuse, that the parents were directly affected by the psychiatrist's negligent misdiagnosis and treatment, that the psychiatrist was aware of and actively participated in the criminal proceedings, and that it was foreseeable that the parents would be harmed by the negligence.

In a case of first impression, a divided (5-4) Pennsylvania appellate court affirmed that a psychiatrist owes the parents of a patient a duty of care when the doctor's actions "extend well beyond the psychiatric treatment of the child." The court upheld a 1994 Pennsylvania jury award of \$272,232 in favor of Richard and Cheryl Althaus and their daughter as entered against psychiatrist Judith Cohen and the Western Psychiatric Institute.

As a result of Nicole's allegations of sexual molestation and ritual abuse, her parents were arrested on more than one occasion and criminally charged. Psychiatrist Cohen repeatedly stated that she was not required to make any determinations about the credibility of Nicole's allegations, though Cohen testified at a preliminary hearing in the criminal case against the Althaus parents that she believed that Nicole had been abused. According to the court, Cohen knew at least some of Nicole's allegations were not

true, but she "essentially validated...unwittingly false testimony." The charges were finally withdrawn after Nicole underwent an independent psychiatric examination. The court-appointed psychiatrist testified that the girl suffered from borderline personality disorder and that he did not believe that she had ever been abused. The court-appointed psychiatrist further testified that the abuse allegations were the product of the disorder, which rendered Nicole unable to distinguish fact from fantasy.

The majority concluded that Cohen owed a duty of care not only to Nicole, but to her parents, who were directly affected by Cohen's failure to properly diagnose and treat Nicole. "Dr. Cohen became deeply enmeshed in the legal proceedings against the Althauses and, in doing so, placed herself in a role that extended well beyond the therapeutic treatment context," the majority wrote. "However, because she chose to take this active role, the Althauses, as alleged child abusers, had a reasonable expectation that Dr. Cohen's diagnosis of Nicole, affecting them as it did, would be carefully made and would not be reached in a negligent manner."

The court applied traditional negligence principles of foreseeability^[5] in defining the group of persons who might be affected by the therapist's actions. The majority wrote that courts must weigh policy considerations and "limit liability to those instances where the harmful consequences of the physician's actions could reasonably have been foreseen and prevented by the exercise of reasonable care."

The Althaus family was represented by Martha Bailor of Pittsburgh. Larry Silverman, attorney for Cohen and the clinic, said an appeal is likely.

4 See FMSF Newsletters Jan. 1994, Sept. 1996, Sept. 1997 and FMSF Brief Bank #2.

5 The court found support for its decision in the line of cases allowing claims by third parties against physicians who failed to fully warn their patients to protect others from communicable diseases.

In 2000, the Pennsylvania Supreme Court ruled that a psychiatrist had no obligation to Richard and Cheryl Althaus. The parents had to forfeit \$213,000 they won in December 1994. Lawyers for the Althaus couple saw no realistic way of appealing the Pennsylvania Supreme Court decision.

□

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The Jaundiced Eye has been shown on the Sundance Channel. It chronicles the decade-long child abuse trials of a gay Michigan man, Stephen Matthews, and his straight father, Melvin Matthews.

Stephen's ex-girlfriend and her husband accused both men of abusing Stephen's son. Stephen and Melvin were sentenced to 35 years in jail even though there was never any evidence for claims such as torturing the child with a machete.

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**The Rutherford Family
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**No Crueler Tyrannies:
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Dorothy Rabinowitz
Wall Street Journal/Simon & Schuster
(288 pp.) \$25.00 Mar. 27, 2003

Wall Street Journal editorial board member and Pulitzer-winner Rabinowitz revisits some of the most spectacular sexual-abuse trials of the 1980s — and concludes the guilty verdicts were egregious miscarriages of justice.

from Kirkus Review, Feb. 1, 2003

**Psychology Astray:
Fallacies in Studies of "Repressed
Memory" and Childhood Trauma**

by Harrison G. Pope, Jr., M.D.
Upton Books

This is an indispensable guide for any person who wants or needs to understand the research claims about recovered memories. A review by Stuart Sutherland in the prestigious *Nature* magazine (July 17, 1997) says that the book is a "model of clear thinking and clear exposition." The book is an outgrowth of the "Focus on Science" columns that have appeared in this newsletter.

To Order: 800-232-7477

**"Ask an Expert,"
This American Life
June 14, 2002**

About people who turned to experts and got horrible advice. Features the Rutherfords and a retracting therapist.

www.thislife.org
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Tapes: "Ask an Expert," # 215,
6/14/02, \$12

Producer: Elyse Spiegel

**"Recovered Memories:
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FREE. Call or write FMSF for
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phlets you need.**

Web Sites of Interest

ccomp.uark.edu/~lampinen/read.html

The Lampinen Lab False Memory Reading Group, University of Arkansas

www.tmdArchives.org

The Memory Debate Archives

www.francefms.com

French language website

www.StopBadTherapy.com

Contains phone numbers of professional regulatory boards in all 50 states

www.IllinoisFMS.org

Illinois-Wisconsin FMS Society

www.ltech.net/OHIOarmhp

Ohio Group

www.afma.asn.au

Australian False Memory Association.

www.bfms.org.uk

British False Memory Society

www.geocities.com/retractor

This site is run by Laura Pasley (retractor)

www.geocities.com/therapyletters

This site is run by Deb David (retractor)

www.sirs.com/uptonbooks/index.htm

Upton Books

www.angelfire.com/tx/recoveredmemories/

Having trouble locating books about the recovered memory phenomenon?

Recovered Memory Bookstore

www.religioustolerance.org/sra.htm

Information about Satanic Ritual Abuse

www.angryparents.net

Parents Against Cruel Therapy

www.geocities.com/newcosanz

New Zealand FMS Group

www.werkgroepwfh.nl

Netherlands FMS Group

www.falseallegation.org

National Child Abuse Defense & Resource Center

Legal Websites of Interest

- www.caseassist.com
- www.findlaw.com
- www.legalengine.com
- www.accused.com
- www.abuse-excuse.com

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Bryant & Lynn 309-674-2767

INDIANA
Indiana Assn. for Responsible Mental
Health Practices
Pat 260-489-9987
Helen 574-753-2779

KANSAS
Wichita - Meeting as called
Pat 785-738-4840

KENTUCKY
Louisville- Last Sun. (MO) @ 2pm
Bob 502-367-1838

MAINE
Rumford -
Carolyn 207-364-8891
Portland - 4th Sun. (MO)
Wally & Bobby 207-878-9812

MASSACHUSETTS/NEW ENGLAND
Andover - 2nd Sun. (MO) @ 1pm
Frank 978-263-9795

MICHIGAN
Grand Rapids Area - 1st Mon. (MO)
Bill & Marge 616-383-0382
Greater Detroit Area -
Nancy 248-642-8077
Ann Arbor
Martha 734-439-4055

MINNESOTA
Terry & Collette 507-642-3630
Dan & Joan 651-631-2247

MISSOURI
Kansas City - Meeting as called
Pat 785-738-4840
St. Louis Area - call for meeting time
Karen 314-432-8789
Springfield - 4th Sat. Jan, Apr, Jul, Oct
@12:30pm
Tom 417-753-4878
Roxie 417-781-2058

MONTANA
Lee & Avone 406-443-3189

NEW HAMPSHIRE
Mark 802-872-0847

NEW JERSEY
Sally 609-927-5343 (Southern)
Nancy 973-729-1433 (Northern)

NEW MEXICO
Albuquerque - 2nd Sat. (BI-MO) @1 pm
Southwest Room -Presbyterian Hospital
Maggie 505-662-7521(after 6:30pm) or
Sy 505-758-0726

NEW YORK
Manhattan
Michael 212-481-6655
Westchester, Rockland, etc.
Barbara 914-761-3627
Upstate/Albany Area
Elaine 518-399-5749

NORTH CAROLINA
Susan 704-538-7202

OHIO
Cincinnati
Bob 513-541-0816 or 513-541-5272
Cleveland
Bob & Carole 440-356-4544

OKLAHOMA
Oklahoma City
Dee 405-942-0531 or
Tulsa
Jim 918-582-7363

OREGON
Portland area
Kathy 503-557-7118

PENNSYLVANIA
Harrisburg
Paul & Betty 717-691-7660
Pittsburgh
Rick & Renee 412-563-5509
Montrose

John 570-278-2040
Wayne (includes S. NJ)
Jim & Jo 610-783-0396

TENNESSEE
Nashville
Kate 615-665-1160

TEXAS
Houston
Jo or Beverly 713-464-8970
El Paso
Mary Lou 915-591-0271

UTAH
Keith 801-467-0669

VERMONT
Mark 802-872-0847

VIRGINIA
Sue 703-273-2343

WASHINGTON
See Oregon

WISCONSIN
Katie & Leo 414-476-0285 or
Susanne & John 608-427-3686

WYOMING
Alan & Lorinda 307-322-4170

CONTACTS & MEETINGS - INTERNATIONAL

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Vancouver & Mainland
Lloyd 250-741-8941
Victoria & Vancouver Island -
John 250-721-3219

MANITOBA CANADA
Roma 204-275-5723

ONTARIO, CANADA
London
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Eileen 613-836-3294
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Ethel 705-924-2546
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Task Force FMS of Werkgroep Fictieve
Herinneringen
Jan 31-184-413-085

NEW ZEALAND
Colleen 09-416-7443

SWEDEN
Ake Moller FAX 48-431-217-90

UNITED KINGDOM
The British False Memory Society
Madeline 44-1225 868-682

Deadline for the July/August
Newsletter is JUNE 15. Meeting
notices MUST be in writing and
should be sent no later than two
months before meeting.

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