

In The United States District Court
For The Northern District Of Ohio

Tyrone Noling,)	Case No. 5:04-cv-01232
)	
Petitioner,)	Judge Nugent
)	
vs.)	Magistrate Judge Hemann
)	
Margaret Bradshaw, Warden,)	
)	
Respondent.)	

Affidavit of Richard J. Ofshe

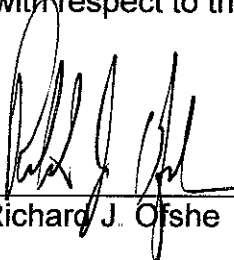
State of California

County of _____

I Richard J. Ofshe, after being duly sworn and cautioned according to law, do state the following to be true:

- 1) I am a Professor Emeritus in the Department of Sociology at the University of California at Berkeley where I teach and do research. I am also a Fellow at the Center On Wrongful Convictions at Northwestern University School of Law. I received my Ph.D. in 1968 from Stanford University.
- 2) I reviewed numerous records in Tyrone Noling's case to determine whether the circumstances of the interrogations and the contents of the statements made by Mr. Wolcott, Mr. Dalesandro and Mr. St. Clair reveal indicia of false confessions and whether the process through which Mr. Wolcott's statements were elicited suggest that the myth of repressed memories was used to facilitate an unreliable statement from Mr. Wolcott.
- 3) Attached to this affidavit is my opinion with respect to these two issues.

Further affiant sayeth naught.



Richard J. Ofshe

Sworn to and subscribed in my presence this ___ day of _____, 2005.

See Notary on following page

Notary Public

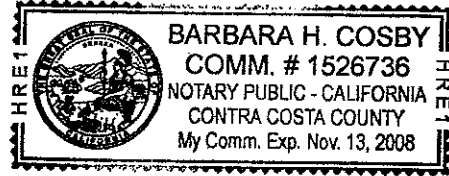
My commission expires on the _____ day of _____, _____

State of California

County of Contra Costa

Subscribed and sworn to (or affirmed) before me
on this 20 day of Aug, 2005 by Richard J. O'Fshe
personally known to me or proved to me on the
basis of satisfactory evidence to be the person(s)
who appeared before me.

Notary Barbara H. Cosby



Richard J. Ofshe, Ph.D.

My name is Richard J. Ofshe. Currently I am a Professor Emeritus in the Department of Sociology at the University of California at Berkeley where I teach and do research. I am also a Fellow at the Center On Wrongful Convictions at Northwestern University School of Law. I received my Ph.D. in 1968 from Stanford University. I have been on the faculty at U.C. Berkeley since 1967.

I have received several honors during my professional career including sharing in the 1979 award to the Point Reyes Light Newspaper of a Pulitzer Prize for Public Service, and an award from the Society for Clinical and Experimental Hypnosis (the Dorcus Award) for the Best Paper on Clinical Hypnosis of 1994. The paper was titled, "Recovered Memory Therapy and Robust Repression: Influence and Pseudomemories."

I have served as a consultant to a number of law enforcement agencies including, the Office of the Attorney General for the States of California and Arizona, the United States Attorney's Offices of Los Angeles and West Virginia, the United States Department of Justice, the Internal Revenue Service, the Office of the Governor of Missouri, and the Commissioner's Office of the Department of Social and Rehabilitation Services for the State of Vermont.

The central focus of my research and writing for more than 15 years has been the topic of influence in police interrogation with particular attention to subjects of influence in police interrogation, coercing confessions and the phenomenon of false confessions. Starting in 1990 I also devoted a great deal of my time to the study of the use of influence to create pseudomemories of events (including reliance on the mythological idea of repression). A pseudomemory is a conclusion or a belief that is mis-identified as a memory.

As my attached curriculum vita indicates, over the course of my professional career I have published extensively both on influence during police interrogation and influence leading to pseudomemories. (Ex A).

My publications on interrogation and false confession are relied upon by courts in the United States and Canada. Most recently the Supreme Judicial Court of Massachusetts relied on my analysis of coercive tactics in police interrogation and the indicia of false confession in deciding *Commonwealth v. Valerio DiGiambattista* (442 Mass. 423, 813 N.E. 2nd 516). The Supreme Court of Canada relied in my writings on interrogation methods in *Regina v. Oickle* (R. v. Oickle 147, C.C.C. (3rd)).

Kelly Culshaw, an attorney with the Ohio Public Defender's Office, contacted me. Ms. Culshaw requested that I review various records and

court testimony with regard to three questions. Were coercive interrogation tactics used to induce confessions from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair in Noling v. Bradshaw. Do the circumstances of the interrogations and the contents of the statements made by Mr. Wolcott, Mr. Dalesandro and Mr. St. Clair reveal indicia of false confessions? Does the process through which Mr. Wolcott's statements were elicited suggest that the myth of repressed memories was used to facilitate an unreliable statement from Mr. Wolcott?

Modern police interrogation is a process of influence through which an interrogator seeks to cause a suspect to change his or her decision to deny responsibility and/or involvement in a crime, to decide to accept responsibility for their role in the crime and offer a confession to the crime (where a confession is defined as a detailed statement of the specifics of the events of the crime and the particularities of the person's role in the crime). For persons who do not carry with them exceptional vulnerabilities (i.e., mental retardation, very young age or certain personality characteristics), interrogations that result in reliable statements and interrogations that produce false confessions are in the main very similar.

Interrogations that yield reliable and unreliable statements both rely on the same set of legally permissible influence tactics and these tactics are used in the same sequence. Interrogation involves manipulating some or all of the following: The place of interrogation, the demeanor of the interrogator, expressions of certainty of the suspect's guilt, overstatement or false claims about evidence, (such as eye witness IDs, witness statements and confessions of alleged accomplices), making claims about not yet done tests relating to a variety of subjects (such as GSR, fingerprints, blood, hair or DNA based identification of biological material), reporting results of supposed scientific tests that do not even exist, false reports about tests that have been completed and the use of polygraph and/or voice stress testing and other tactics.

Interrogations that produce unreliable confessions are distinguished from those that produce reliable confessions by the presence of psychological coercion (defined as introducing into the interrogation a motivator that depends on a threat of harm or severe punishment and/or a promise of lenient treatment or some other substantial benefit) and/or undermining a suspect's confidence in his or her memory and convincing a suspect that they have repressed (i.e. blocked-out, blacked-out or suppressed) the memory of having committed the crime or committed the crime during a period when their memory was defective due to excessive alcohol or drug use.

Typically, confessors who are coerced and admit to a crime they know they did not commit (known as a complaint false confession) recognize that they made the decision to confess falsely because the interrogator had convinced them to view their situation as hopeless, they had to

decide what to do immediately and that they had been coerced. The suspect is led to believe that in light of the hypothecated evidence that supposedly links them to the crime no one will believe their denials; that they must act before the interrogation ends and that if they allow the interrogation to conclude without confessing the harm the interrogator threatened would follow whereas if they confessed using the scenario the interrogator suggested they would receive lenient treatment relative to what would happen if they continued to deny all responsibility for the crime.

Sometimes interrogation tactics can for a brief period actually convince a suspect that he or she committed a crime that they have no memory of having done and, in fact, did not do (known as a persuaded false confession). A person can be persuaded to believe they committed a crime they did not do with or without the introduction of psychological coercion into the interrogation. The distinguishing factor between an ordinary interrogation and one that can produce a persuaded false confession is the addition to the interrogation of an attack on a suspect's confidence in his or her memory.

A person confronted with claims of seemingly incontrovertible evidence of their guilt has only their knowledge that they have no memory of having done the crime to counter the ever increasing flood of evidence against them. The dilemma this creates for the suspect is – *should I accept the conclusion that follows from the evidence or should I continue to have confidence in my knowledge that I did not do this crime?*

A suspect's confidence that an absence of any memory of having committed that crime is a valid indicator of innocence is only as strong as the suspect's confidence in the mechanisms of his or her memory. If an interrogator's tactics destroy the suspect's confidence in his or her memory it leaves the suspect to reason from the overstated or invented evidence offered by the interrogator and reach the obvious conclusion – *I committed this crime*. The tactic that interrogators use to undermine a suspect's confidence in their memory is to offer a reason why the suspect should view his memory as defective. An interrogator might tell a suspect that: *you repressed (or blocked-out or suppressed) your memory of having done the crime because you felt so guilty. This is common and this is why you don't remember having done it*. Or an interrogator might suggest the more commonplace, *you were drunk or so high on drugs when you did it that you were blocked-out and therefore you don't remember*. In both examples the interrogator's message is that the suspect's memory is defective and untrustworthy.

Although convincing someone of the erroneous conclusion that they committed a crime need not involve psychological coercion, if coercion is present it will have the same motivational effect it has when directed at someone who remains certain of their innocence. Psychological coercion

is a powerful contributing factor to the decision that confession at this time is my best course of action.

Ms. Culshaw has provided me with a number of documents associated with Mr. Noling's case. They includes documents specific to each of Noling's codefendants as well as general case related documents. Specific to Gary St. Clair, I reviewed – St. Clair's postconviction affidavit, his April 15, 1993 statement, his plea hearing transcript, his trial testimony, the June 11, 1993 interview with John Trandafir Sr., John Trandafir, Jr., and Robert St. Clair, and affidavits from Robert St. Clair, Beverly Rupp, and John Trandafir. Specific to Butch Wolcott, I reviewed: Wolcott's postconviction affidavit, undated statement and investigative report, June 1, 1992 polygraph report, statements from June 8 and 9, 1992, trial testimony, and affidavits from Harold Wolcott. Sr. and Bruce Brubaker. Specific to Joseph Dalesandro, I reviewed: Dalesandro's postconviction affidavit, statements given on June 12 and July 29, 1992, Dalesandro's handwritten statement, June 8, 1995 hearing transcript, his trial testimony, and interview write-up dated June 20, 2005. General case-related documents include: statements from Dr. Cannone, Tim Myers (dated April 19, 1990), Ray Rose (May 9, 1990), Lewis Lehman (April 28, 1992), Paul Garner (June 10, 1992), Kenneth Garcia (undated), Julie Mellon (undated); BCI report (June 12, 1992); jail incident report (May 3, 1990); police reports from the Murphy and Hughes robberies (dated April 4 and April 5, 1990); police report from the Hartig murders (dated April 7, 1990); Sergeant Trundle's report (February 20, 1993); summary of Noling's case of actual innocence; The Unlikely Triggerman, written by Martin Kuz for Cleveland Scene (September 10, 2003); polygraph report from polygraph administered to Noling.

Ms. Culshaw has informed me of additional records, which are not in her possession. These records include Dr. Alfred Grzegorek's treatment records pertaining to Butch Wolcott: additional tape-recorded statements, and transcripts thereof, given by Wolcott, St. Clair, and Dalesandro: and notes taken by State agents during statements that were not tape-recorded or contemporaneously transcribed. As is always the case, availability of all records would be helpful to my review in this case.

Further, I am informed that there is compelling evidence of Mr. Noling's actual innocence of the Hartig murders. According to the information supplied to me by counsel, no physical evidence links Noling to the Hartig's murders. Nothing was taken from the homes, including the Hartig's rings & wallets. No fingerprints were left at the scene. There was no DNA match to the cigarettes made to Noling or his co-defendants. While St. Clair, Wolcott, (and Dalesandro's early statements) indicate that the murder weapon was the gun taken from the Hughes' robbery, this weapon was recovered and was not used to murder the Hartigs.

According to counsel the crime scene suggests the Hartigs were killed by someone familiar with them. Also, Mr. Hartig's doctor indicates the family was concerned about a loan his insurance agent owed him, and this same

agent owned a .25 caliber handgun, which he sold on an unknown date to an unknown person.

Finally, Mr. Noling passed a polygraph examination regarding the Hartig murders. His responses, indicated that he was truthful in his claim that he did not shoot the Hartigs and that he knew nothing about their murders.

My opinion is further informed by my involvement in two other Portage County, Ohio cases, State v. Resh and State v. Gondor. Ron Craig was involved in these cases, in which psychologically coercive interrogation tactics were used to create a statement that implicated Mr. Resh and Mr. Gondor in a murder that evidence indicates they did not commit.

Butch Wolcott: Review of the Wolcott records reveals that deceptive and coercive tactics were used by law enforcement to obtain his statement. It is well recognized that these tactics can induce false confessions. Wolcott's account of his interrogation includes the use of psychological coercion as a motivator and deliberate contamination as a method for tailoring the confession to the desires of those conducting Wolcott's interrogation and de-briefing. In these regards his report is consistent with the reports made by Dalesandro and St. Clair.

Wolcott denied involvement in and knowledge of the Hartigs' murders for several years. When Wolcott was approximately 16 years of age, Ron Craig approached him for another interview. Craig separated Wolcott from his father and proceeded to misinform Wolcott about the evidence linking him to the crime (i.e. there was an eye witness to the murders, his DNA was found on a cigarette butt at the crime scene and Wolcott was given a polygraph examination, which Prosecutor Robert Durst informed him he failed). Wolcott was also threatened by being told that he was going to be sent to jail for the rest of his life if he did not co-operate and confess.

The combination of overstatement of the evidence together with psychological coercion convinced Mr. Wolcott to adopt the theory that he had repressed his memory of the crime and accepting the notion of repression facilitated Mr. Wolcott's compliance to the demands of state agents during the process of creating a confession that was built to implicate Mr. Noling and benefit Mr. Wolcott.

Ron Craig also told Bruce Brubaker, an attorney and friend of the Wolcott family, that there were two witnesses to the murders. Craig told him that a cigarette butt matching Mr. Wolcott's brand was found at the crime scene. Mr. Wolcott's father, Harold Wolcott Sr. encouraged Butch to take the immunity deal and to do anything they wanted to get him out of this. Craig co-opted Wolcott's family and friends and used them as influence agents to further his efforts to create an incriminating statement agreed to by Wolcott.

Mr. Craig told Mr. Wolcott that he had blocked his memories of these

crimes. Craig arranged for Wolcott to see Dr. Alfred Grzegorek, who confirmed for Wolcott that he was suppressing his memory. Mr. Wolcott Sr. noted Butch's confusion over why he could never remember the murders, but Butch believed Craig and the doctor. This is not surprising since they were authority figures and they controlled his future.

There is no scientific evidence that there exists any mental mechanism that operates as repression, suppression or blocking-out supposedly functions. Repression and its alters are alleged to remove anxiety provoking material from a person's awareness and prevent them from retrieving information about the event. If this mechanism existed the person would be left genuinely ignorant of the event in which they participated. Further, the repressed information is allegedly retrievable under appropriate circumstances - usually a circumstance that involves psychotherapy. The idea that there exists any mental mechanism with these properties has never been proven, has been utterly discredited and has been relegated to the junk heap of once influential scientific speculations that failed to prove out.

An authority figure who claims that a mechanism such as repression exists vastly increases his or her influence power over a patient or a suspect. The idea of repression was the fundamental error that caused the most significant psychological/psychiatric public health problem of the 20th century – the recovered memory epidemic. Thousands, if not tens of thousands, of middle class patients of psychologists and psychiatrists were led to sincerely believe that they had been sexually abused for as long as decades and/or raised in Satanic cults and/or had murdered and eaten their own children despite the fact that they had no knowledge of these remarkable events until they entered into psychotherapy. Relying on the myth of repression and using a variety of influence techniques incompetent mental health practitioners convinced vulnerable patients to believe that they had recovered memories of these remarkable events.

Despite inculpatory admissions, Mr. Wolcott's confession contains the most important of the indicia of a false confession – it demonstrates an absence of independent knowledge of these crimes and demonstrates significant errors of fact about matters that should have been known to a participant in the crime. Wolcott also reveals that the investigators are the likely sources for whatever accurate information he had about the crime.

Mr. Craig directed and drove Mr. Wolcott to the crime scene because Wolcott was unable to give the "correct route of travel" according to a prosecutor's investigative report. It was Craig who stopped in front of the Hartigs' home, thereby identifying the crime scene for Wolcott. During this taped conversation, Wolcott asked "I wasn't too far off in my details or whatever you want to call it memory was I Ron?"

Mr. Wolcott's June 8, 1992 statement, contains several comments that merit notation because they reveal that Wolcott appears to lack the sort of

actual knowledge of the crime that should have been known to anyone who was there. Mr. Wolcott's comments during this session reveals that the investigators were making deliberate efforts to contaminate Mr. Wolcott – that is, to provide him with information about the crime. In response to one of the prosecutor's questions, Wolcott followed up - "I think that's the way it reads in the question, the way the question was." After Wolcott indicated he was having difficulty with dates the prosecutor stated, "If we need to, we will work on that more another time." In asking Wolcott about the Trandafir home, Wolcott noted "told me the name of it." The prosecutor responded, "I know it, but let's see if you can remember." The transcript then noted that Wolcott asked "Bonnieview?" When the investigators were trying to pin Wolcott down to a date for the first robbery he indicated that he did not know and continued, "You guys said something about the 4th, or something like that." Wolcott also asked, "Am I on your side finally?" "It just seems like for some reasons it's another house and another dream." Wolcott noted it could be some other house "just from what you told me."

It is typical in my experience for a false confession to contain significant errors of fact about a crime. If a suspect has been motivated to confess because he has been psychologically coerced he will want to preserve the deal that he believes will benefit him. A motivated false confessor will seek to please the interrogator and is likely to learn that the investigator is displeased when the confessor says *I don't know* in response to a question. Seeking to create the impression that they are co-operating fully, false confessors often guess at answers to questions on which they have not been deliberately or inadvertently contaminated. In Mr. Wolcott's statement he reported that Noling said "I didn't want to tie them with the phone cord," but this is inconsistent with crime scene evidence because the Hartigs were not tied with anything, including a phone cord. Wolcott's description of a porch with rails is also wrong because the Hartig's home had no such porch. Other surprising and serious errors in Wolcott's statement are his failure to mention a large lawn tractor in the yard and Wolcott's claim that the gun was smoking when Noling returned to the car. The possibility of a smoking gun was disproved by forensic testing. Further, Wolcott stated that Noling used the gun stolen from the 2nd robbery, however, forensic testing proved this was not the weapon used to kill the Hartigs.

On June 9th Mr. Wolcott added several facts that were more likely based on a poorly done attempt to contaminate him than on repressed memories rising to the top of his mind. Although Wolcott now supposedly recalled a lawn tractor he was wrong about its location since he put it inside the garage. Wolcott now recalled Tyrone having a cigarette before they went in and flipping it out the window. Previously Tyrone was reported to have bummed a cigarette when they were through. Wolcott supposedly now recalled St. Clair having flipped a cigarette out the window. While these new revelations are generally consistent with the fact that cigarette butts

were found on the Hartig's property, Noling, St. Clair, Dalesandro and Wolcott were all excluded via DNA testing from having smoked the cigarettes found at the scene. Wolcott also added that Noling placed his gun in the glove compartment. Wolcott revealed that what was being classified as memory was nothing more than inferences from suggestions made by the interrogators. He said, "Like I said, I'm not totally certain but the way the facts are pointing now that that's what it is. As far as you helped my memory."

It is my conclusion that Mr. Wolcott's statement was motivated by the use of psychological coercion through an offer of immunity for compliance to the prosecution's demand for a statement implicating himself and Mr. Noling. Mr. Wolcott was further manipulated through the use of psychological coercion to gain compliance during the process of creating the statement supposedly based on his recovered memories. During the process Mr. Wolcott was threatened with loss of immunity if he did not perform satisfactorily.

That Mr. Wolcott's statement was in part accurate does not mean that he possessed fact witness knowledge of the crime. His accurate knowledge is easily accounted for by defense attorneys having fully apprized him of the facts of the crime and information given to him during sessions with Mr. Craig. In these sessions Wolcott was given information when he could not answer questions. These unrecorded sessions lasted for as long as 6 hours.

Oddly, in an interrogation where sources of contamination are abundant and clearly active what is important to the determination of whether or not a confession is reliable or unreliable is not what the confessor gets right but rather what he gets wrong. Mr. Wolcott's confession includes errors that it is not reasonable for a truthful confessor to have made. Since repression and the recovery of repressed memories can be dismissed as impossible, his errors cannot be due to his having repressed and recovered awareness of involvement in the crime. The only reasonable explanation for Mr. Wolcott having made the errors contained in his statement is that he guessed incorrectly in response to questions on which he had not been adequately coached by the law enforcement officials who prepared him to give his statement.

Joseph Dalesandro: Review of the Dalesandro records reveals that coercive tactics were used by law enforcement to obtain his statement. It is well recognized that these tactics can induce false confessions. Dalesandro's account of his interrogation includes the use of psychological coercion as a motivator and deliberate contamination as a method for tailoring the confession to the desires of those conducting Dalesandro's interrogation and de-briefing. In these regards his report is consistent with the reports made by Wolcott and St. Clair.

Dalesandro denied all involvement in and knowledge of the Hartigs' murders for nearly two years. In order to set the stage for compliance from Mr. Dalesandro, Ron Craig used tactics intended to lead a suspect to believe that his situation was hopeless. Craig used threatening and overbearing behavior to cow Dalesandro. Craig played a tape recording from a friend telling Dalesandro to cooperate with the police and implicating him in the murders. Dalesandro was also shown Wolcott's statement.

Craig introduced psychological coercion into the interrogation to motivate Dalesandro to confess. Craig claimed he was "playing God" and threatened Dalesandro with the death penalty if he did not confess. As Craig put it, Dalesandro would get the "hot seat."

Craig deliberately contaminated Dalesandro by showing him materials relating to the Hartig murders and told him facts about those crimes. Just as he had done with Mr. Wolcott, Craig thereby compromised everything that was in Dalesandro's statement that was provably correct.

Dalesandro's statements of denial and confession are, however, wrong about facts of the crime and at odds with the statements of other possible false confessors. In Dalesandro's June 12, 1992 statement, he misstated the name of the town where the Hartigs were killed referring to it as "Atworth" rather than "Atwater." Craig told Dalesandro that he stayed in the car. Then Craig tells Dalesandro that someone has said that he was inside the house when the murders occurred. Craig then accused Dalesandro of shooting the Hartigs. During this interview, Dalesandro maintained his innocence and agreed to take a polygraph.

July 2, 1992. Dalesandro gave an inculpatory statement, where he indicated that he and Wolcott were sitting in the front seat. This is inconsistent with Wolcott's testimony. Dalesandro indicated that he did not see anyone outside of the home. Finally, Dalesandro stated that Noling sold both guns, the sawed off shotgun and the small pistol to Chico after the robbery.

During his July 29, 1992 statement, Dalesandro did not recall where the murders occurred, the name of the road, and he could not describe the house. Dalesandro did not recall anything in or around the garage. Dalesandro claimed that Noling and St. Clair were inside 40 minutes to an hour, which is inconsistent with Wolcott's statements. Dalesandro claimed to have turned a few times off of Moff Road before getting to 224, but Kaley, a police officer, informed him there are no turns. Initially, Dalesandro did not recall anything about a 5 in, 5 out rule, but after several questions about this, Dalesandro added these facts to his story. Dalesandro indicated Noling kept the guns at Johnny's and then sold them in a day or two. Finally Dalesandro claimed not to have seen any

blood on Noling or St. Clair. Later Dalesandro added a third gun to his statement. The third gun was important to the State.

At the June 8, 1995 hearing in Dalesandro's case, Dalesandro told the court the State was yelling and screaming at him and threatening not to give him a letter for the parole board. Dalesandro told the court they wanted to throw words in his mouth and that they wanted him to say stuff that was not true.

Moreover, Dalesandro's statements became more detailed and damaging as time and meetings with law enforcement proceeded. Dalesandro never mentioned seeing an old man outside of the Hartig's home, he never mentioned seeing blood on Noling's clothes, he never mentioned seeing smoke come from Noling's gun, and he never mentioned Chico prior to losing his deal. Dalesandro asserted at trial that he kept this information from the State because he did not want to get Noling into too much trouble.

The State's threat to punish Dalesandro if he failed to comply was real. When Dalesandro refused to say what the prosecution wanted, his plea bargain was revoked and a maximum consecutive sentence was imposed, effectively doubling his sentence from 15 to 30 years. Dalesandro said that the threats continued immediately prior to trial to ensure his testimony remained in place.

Psychological coercion in the form of a death penalty threat and/or severe punishment in the form of a very lengthy prison sentence is sufficient to elicit a false confession from some persons. Contamination of the sort Dalesandro reports is sufficient to explain why Dalesandro's statements included some crime facts that are accurate. The only reasonable explanation for Dalesandro's errors is that he guessed his answers to questions about which he had not been adequately coached. This explains why he was provably wrong about some crime scene facts and inconsistent with Wolcott's guesses.

Gary St. Clair: Review of the St. Clair records reveals that coercive tactics were used by law enforcement to obtain his statement. It is well recognized that these tactics can induce false confessions. St. Clair's account of his interrogation includes the use of psychological coercion as a motivator and deliberate contamination as a method for tailoring the confession to the desires of those conducting the interrogation and debriefing. In these regards his report is consistent with the reports made by Wolcott and Dalesandro.

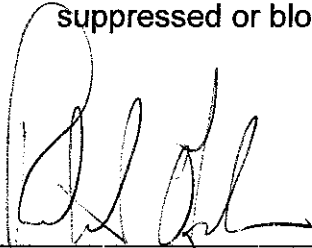
St. Clair reports that he pled guilty out of fear of the electric chair. He reports that before he gave his March 19, 1993 statement, he was shown videotape and pictures of the crime scene and statements and reports. St. Clair talked to Craig numerous times before giving his statement. His

parents pressured him as well, telling him to go along with whatever Craig told him.

In addition to the specifics identified above with respect to each co-defendant's statement, my overall opinion is that psychologically coercive interrogation tactics were used to induce statements from Mr. Noling's co-defendants and the contents of their statements were in all likelihood the result of deliberate contamination and not based on actual knowledge of the events of the crime.

The records of the interrogations and the statements of Mr. Wolcott, Mr. Dalesandro and Mr. St. Clair include the tactical elements of interrogations that can lead to false confessions and the statements contain the indicia of false confessions.

Based upon all of the materials I have reviewed, it is my opinion to a reasonable degree of scientific certainty that coercive interrogation tactics were used to induce confessions from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair and these confessions should for this reason be classified as untrustworthy. It is my opinion that the confessions elicited from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair possess the indicia of false confessions and for this reason together with the circumstances under which they were elicited should be classified as unreliable. It is also my opinion, to a reasonable degree of scientific certainty, that Butch Wolcott's belief that he had repressed his memory of being present at the crime about which he confessed was produced through influence and was not the result of his having repressed, suppressed or blocked-out any memory of the crime.



Richard J. Ofshe

Date

8/20/05

RICHARD J. OFSHE, Ph.D.

Curriculum Vitae

January 2005

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PERSONAL:

Birthdate: February 27, 1941

EDUCATION:

Stanford University	Ph.D. -- 1968, Sociology
Queens College, C.U.N.Y.	M.A. -- 1964, Sociology
Queens College, C.U.N.Y.	B.A. -- 1963, Psychology

Doctoral Dissertation. "A Theory of Behavior Under Conditions of Reference Conflict." Stanford University, 1968.

M.A. Thesis. "Effects of Interaction in Interpersonal Communication."
Queens College, C.U.N.Y., 1964.

POSITIONS:

Current:

Professor Emeritus (recalled to service), Department of Sociology, University of California, Berkeley, California, 2003 - present.

Fellow, Center On Wrongful Convictions, Northwestern University
School of Law, Chicago, Illinois, 2002 - present.

Former:

Professor, Department of Sociology, University of California,
Berkeley, 1981-2002.

Associate Professor, Department of Sociology, University of
California. Berkeley, California, 1971-82.

Assistant Professor, Department of Sociology, University
California. Berkeley, California, 1967-71.

Visiting Associate Professor, Department of Sociology, Stanford
University. Stanford, California, Summer 1971.

HONORS:

John Simon Guggenheim Memorial Foundation Fellow, 1973-74.
Pulitzer Prize -- For Public Service, 1979.

Member of the three-person reporting and research group whose work won the award in the name of the Point Reyes Light newspaper.

California Newspaper Association Awards, 1980. Awarded to the Point Reyes Light based in part on my work.

Community Service Award -- for editorials and news stories about state government's failure to regulate Synanon.
Best Editorial Series -- for editorials about state government's failure to regulate Synanon.
Best News Series -- for news coverage of Synanon and state government.

Visiting Scholar. University Center of Georgia, Atlanta, 1982.

Recipient of Roy Dorcus Award for the Best Paper on Clinical Hypnosis of 1994. Awarded by the Society for Clinical and Experimental Hypnosis for "Recovered Memory Therapy and Robust Repression: Influence and Pseudomemories."

PROFESSIONAL MEMBERSHIPS:

American Sociological Association
American Psychological Association
American Psychological Society
Sociological Practice Association
Pacific Sociological Association

PROFESSIONAL ACTIVITIES:

Editorial Board of Administrative Science Quarterly, 1970-71.
Editorial Board of Sociometry, 1970-73.
Editorial Board of The American Journal of Sociology, 1972-74.
Committee on the Certification of Social Psychologists of the American Sociological Association, 1968-72.
Chairman, Publications Committee, Social Psychology Section, American Sociological Association, 1975-76.
Faculty Council of the Center for Research in Management Science, University of California, Berkeley, 1975-83.
Chairman, Cooley-Mead Award Selection Committee, American Sociological Association, 1984-85

PROFESSIONAL ACTIVITIES (continued):

Member, Editorial Board of Journal of Cultic Studies, 1984-1993.

Director, American Family Foundation, 1989-1993.
 Executive Board of the California Chapter of the Sociological Practice
 Association, 1991-93.
 Advisory Board, False Memory Syndrome Foundation, 1992-

CONSULTANT TO:

Marin County Sheriff's Department, 1979-80.
 Office of Attorney General, State of California, 1980-81.
 U.S. Attorney's Office, Los Angeles, 1982.
 U.S. Attorney's Office, Los Angeles, 1982 (re:DeLorean)
 Office of Attorney General, State of Arizona, 1982-84.
 U.S. Department of Justice:
 Tax Division, 1982-84.
 Criminal Division, 1984-90.
 Prosecuting Attorney, Jefferson County, West Virginia, 1984.
 Los Angeles District Attorney's Office, 1984-85.
 Commissioner's Office of the Department of Social and
 Rehabilitation Services, State of Vermont, 1984.
 Internal Revenue Service, 1986-88.
 U.S. Attorney's Office, West Virginia, 1987-91.
 Thurston County Prosecutor's Office, Washington, 1990.
 State's Attorney's Office, Fort Lauderdale, Florida 1992-94.
 Office of the Governor of Missouri, 1995 (re: the pardon of Johnny Wilson)
 Office of the District Attorney, Los Angeles, 1995 (Menendez)
 Illinois State Legislature - task force on recording of interrogations, 2000
 Prosecuting Attorney's Office - Franklin County, Indiana, 2002
 Office of the Attorney General, State of California, San Diego, 2003-04

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Books and Monographs:

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_____, with Kenneth Christman and Robert Saltz. 1981. "Obedience to Authority: Re-analysis and Explanation." American Sociological Association meetings, Toronto, Canada, August.

_____. 1981. "The Construction of Behavior Through Out-of-Awareness Influence: An Alternative to Brainwashing Theories." American Psychological Association, Los Angeles, August.

_____. 1981. "Thought Reform and the Appearance of Mental Illness." American Psychological Association, Los Angeles, September.

_____. 1982. "Group Pressure Tactics in Conversion to Terrorism," American Psychiatric Association, Toronto, Canada, May.

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_____. 1988. "Coerced Confessions: Case Studies in The Tactics of Persuasion." American Sociological Association, Atlanta, August.

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_____. 1989. "Police Brainwashing in America," Pacific Sociological Association, Las Vegas, April.
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_____, 1991. "The Dynamics of Violence Generating Cults," The Society for Cross Cultural Research, San Juan, Puerto Rico, February.

_____, 1991. "Thought Reform - Lurid Fantasy versus Interesting Reality," Western Psychological Association, San Francisco, April.

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_____. 1993. "Analyzing The Social Structure of Cults and Crisis Decision Making." American Psychiatric Association, San Francisco, May.

_____. 1993. "Making Monsters: The Coming Crisis in Psychiatry." American Psychiatric Association, San Francisco, May.

_____. 1993. "Making Monsters: The Recovered Memory Therapy Crisis," International Academy of Sex Research, Pacific Grove, California, June.

_____. 1994. "The Creation of Illusory Belief," Claremont Conference on Applied Cognitive Psychology: Suggestibility and the Veracity of Memory, Claremont, March.

_____. 1994. "Psychology's Phlogiston -- Robust Repression and Misused Influence: The Recovered Memory Crisis." Invited keynote address, Wisconsin State Psychological Association, Milwaukee, April.

_____. 1994. "The Social Psychology of the Substitution of Belief for Memory, 1994 CSICOP Conference, The Psychology of Belief, Seattle, June.

_____. 1994. "The Social Psychology of the Creation of Pseudomemories." Conference on "Psychological Issues in Child Sexual Abuse Investigations," Tromso University, Tromso, Norway, August.

_____. 1994. "Influence in Psychotherapy: The Big Picture." Johns Hopkins Medical Institution conference on Memory and Reality: Reconciliation. Scientific and Legal Issues of False Memory Syndrome. Baltimore, Maryland. December.

Presented at Meetings of Scientific Associations: (continued)

_____. 1997. "Investigating and Analyzing Cult Cases," presentation to the Third Annual National Legal Seminar on Cult Litigation, Pittsburgh, September.

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_____. 1999. "Mental Illness, Interrogation and False Confession," American Academy of Forensic Sciences, Orlando, Florida, February.

_____. 2000. "The Decision to Confess Falsely: Measuring Coercive Threats in Interrogation." American Psychological Association, Division 41, Law and Human Behavior Conference, New Orleans, March.

_____ with Richard Leo. 2004 "Psychological Coercion and Unreliable Confessions." American Society of Criminology, Nashville, Tenn. November.

Presented at Judicial Conferences

_____. 1994. "Valid Memories or Pseudomemories." Florida State Supreme Court, Judicial Conference, mini-course for trial and appellate judges, Tampa, Florida, May.

_____. 1994. "False Confessions." Florida State Supreme Court, Judicial Conference, mini-course for trial and appellate judges, Tampa, Florida, May.

_____. 1999. "The Interrogation of Juveniles and False Confessions." National Council of Juvenile and Family Court Judges -- Centennial of the Juvenile Court, Northwestern University School of Law, Chicago, July.

_____. 2000. "The Interrogation of Juveniles Using Modern Methods of Psychological Interrogation." Conference on Juvenile Justice at Northwestern University School of Law, Chicago, March.

False
National
Confession." _____, 2003. "The Psychology of Police Interrogation and Confession." Frailties in the Criminal Justice Process: The Judges Role,"
Judicial Institute of Canada, Banff, Alberta, Canada, December.

_____, 2004. "Interrogation and Coerced and False
Annual General Meeting of the Ontario Court of Justice, Ottawa, Canada,
May

School, _____, 2004. "Interrogation and Confession – True and False,"
Science for Judges, A Program for Federal Judges at Brooklyn Law
New York, November

Presented at Meetings of Other Associations and Organizations:

_____. 1987. "Cultic Organizations: An Overview," First International Congress on Sects and Society, Barcelona, Spain, November.

_____. 1988. "Synanon: An Example of America's Struggle to Control Cult Violence," keynote address, Cult Awareness Network Annual Conference, Portland, September.

_____. 1988. "Cults, Psychics and Other Psychological Nominators," California Trial Lawyers Association, Los Angeles, November.

_____. 1989. "Tort Liability for Brainwashing - a Debate," American Bar Association, National Institute - Tort and Religion, San Francisco, May.

_____. 1989. "Beyond Civil Liberties: The Real Issues," Interfaith Coalition of Concern about Cults, New York, May.

_____. 1991. "Coercive Persuasion of the Mind in Police Obtained Confessions," Second Annual Conference - Criminal Defense Litigation Along the Rim and the River. Public Defender's Office, Coconino County, Flagstaff, June.

_____. 1991. "Professional Workshop. Sociologists as Expert Witnesses." American Sociological Association, Cincinnati, August.

_____. 1991. "The Use of Psychological, Social and Medical Evidence in Clarifying Cult Issues in Court." Grand Rounds, Walnut Creek Hospital, Walnut Creek, November.

_____. 1993. "Pseudomemories and Real Malpractice." Association for Behavioral and Cognitive Therapy. San Francisco, September.

_____. 1993. "Recovered Memories -- Issues in Criminal and Civil Litigation." State Judicial Conference. Breckenridge, Colorado, September.

_____. 1993. "Coerced False Confessions: The Social Psychology of Extreme Influence." Alameda County Criminal Defense Bar, Oakland, October.

_____. 1993. "Police Interrogation and the Coercion of False Confessions." Criminal Defense Seminar, St. Petersburg, Florida, October.

_____. 1993. "Memories are Made of This." Conference on Human Memory and Sex Abuse Cases: The Misuse and Abuse of Science. Criminal Lawyers Association, Toronto, Canada, November.

_____. 1993. "Influence and the Creation of Believed False Memories." San Francisco Academy of Hypnosis, San Francisco, December.

Presented at Meetings of Other Associations and Organizations: (continued)

Criminal

_____. 1994. "Coerced False Confessions." Advanced Law Seminars, Aspen, Colorado, January.

_____. 1994. "False Memories and True Malpractice." Grand Rounds, Walnut Creek Hospital, Walnut Creek, March.

_____. 1994. Town Meeting on "False Memory or Recovered Memory." At the San Francisco Press sponsored by Media Alliance, March.

_____. 1994. "Police Interrogation and False Confession." Death Penalty Resource Center National Training Conference, Charleston, South Carolina, June.

_____. 1994. "The Social Psychology of False Confession." Alaska Academy of Trial Lawyers, Anchorage, Alaska, September.

_____. 1994. "The Psychology of Interrogation: Unearthing False Confessions." The North Carolina Academy of Trial Lawyers. Greensboro, North Carolina, September.

_____. 1994. "Beware American's Bearing Gifts: The Spreading Satanic Cult Hysteria." First Annual Fair Lecture, Fair, London England, October.

_____. 1994. "The American Origins of the Recovered Memory Quackery." Public Lecture for the British False Memory Syndrome Foundation, London, England, October.

_____. 1994. "The Recovered Memory Epidemic: Needless Mal-Practice." 1994 Western Regional Symposium on Child Abuse and Sexual Assault. Eugene, Oregon, November.

_____. 1994. "Recovered Memories: Monstrous Misuse of Influence." Grand Rounds, Alta Bates Hospital, Berkeley, California, October.

_____. 1994. "Influence and Creation of Pseudomemories." Current Topics in the law and Mental Health. Seattle, Washington, November.

_____. 1994. "Making Monsters: Dangerous Influences on Psychotherapy." Continuing Medical Education Conference on Recovered Memories, Trauma and Clinician's Liability: The Impact on Psychotherapy." San Diego, California. December.

Mal- _____, 1995. "The Recovered Memory Error: Social Worker Practice." National Association of Social Workers - Northern California Division, Oakland, California, January.

Presented at Meetings of Other Associations and Organizations: (continued)

_____. 1995. "Recovered Memories: The Coming Mal-Practice Crisis for Psychiatrists and Psychotherapists." Grand Rounds, California Pacific Medical Center, San Francisco, California. February.

_____. 1995. "Police Interrogation and Confession." Capital Case Defense Seminar, California Attorneys for Criminal Justice and California Public Defenders Association, Monterey, California, February.

_____. 1995. "False Confession: Decision and Analysis." Florida Association of Criminal Defense Lawyers, 8th Annual Meeting. St. Petersburg, Florida, June.

_____. 1995. "Abdication of Professional Responsibility and Sexual Abuse Hysteria." Child Protectors and Clients: First International Forum, The Netherlands, June.

_____. 1995. "Analysis of Coerced and False Confessions," National Association of Criminal Defense Lawyers, Annual Meeting, Snowmass, Colorado, August.

_____. 1995. "The Case for Recordation of Interrogation." Principal speaker at a day-long Forum on Convicting the Innocent, Hartford, Connecticut, September.

_____. 1995. "Police Interrogation and False Confession." International Conference on Allegations of Child Abuse: The Law, The Science, The Myths, The Reality, Chicago, October.

_____. 1996. "False Confessions by Criminal Suspects." Seattle Forensic Institute of Washington. February.

_____. 1996. "Analyzing Coerced Statements and False Confessions." Capital Case Defense Seminar, California Attorneys for Criminal Justice and California Public Defenders Association, Monterey, California, February.

_____. 1996. "Coerced Confessions." 15th Annual Juvenile Delinquency Training Seminar, The Los Angeles County Public Defender's Office, Los Angeles, California, April.

_____. 1996. "Analyzing Coerced Confessions and Witness Statements." Oregon Criminal Defense Lawyers Association, Sun River, Oregon, May.

_____. 1996. "Recording Interrogations and Miscarriages of Justice." American Bar Association, Presidential Special Session -- "Miranda at 30: Still Good After All These Years?" Orlando, Florida, August.

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_____. 1996. "Interrogation and Confessions - True and False." New York State Defenders Association, Annual Conference, Lake Placid, N.Y., August.

_____. 1996. "Police Interrogation and False Confessions," International Conference on Allegations of Child Abuse, Las Vegas, Nevada, September.

_____. 1996. "Social Change and The False Memory Epidemic." False Memory Syndrome Foundation Conference, Chicago, Illinois, September.

_____. 1996. "Analyzing Coerced and False Confessions." Chicago, Seminar for the Office of the Public Defender, Chicago, Illinois, September.

_____. 1996. "The Scope of the Recovered Memory Public Health Problem," Council on Licensure, Enforcement and Regulation, 16th Annual Conference, Anchorage, Alaska, October.

_____. 1997. "The Decision to Confess." Denver University College of Law Symposium on Coercion, Denver, Colorado, March.

_____. 1997. "Analyzing Interrogations and Explaining False Confessions." Conference of the New Hampshire State Public Defender Organization, Manchester, May.

_____. 1997. "The Dangers of False Confessions." The Texas State Police Officer Association, Amarillo, Texas, June.

_____. 1997. "Workshop on Detecting and Avoiding Taking and Relying on False Confessions." The Texas State Police Officer

Association, Amarillo, Texas, June.

_____. 1997. "Police Interrogation and False Confessions." International Conference on Allegations of Child Abuse, Las Vegas, Nevada, September.

_____. 1997. "Why it is Economically and Morally Dangerous to Practice Recovered Memory Therapy." University Center, University of Northern Colorado, Greeley, Colorado, October.

_____. 1997. "Why it is Economically and Morally Dangerous to Practice Recovered Memory Therapy." Mountain Crest Hospital, Fort Collins, Colorado, October.

_____. 1997. "False Confessions: Exploring the Last Frontier." Ohio Association of Criminal Defense Lawyers, Annual Seminar, Columbus, October.

Presented at Other Associations and Groups: (continued)

_____. 1997. "Police Interrogation and False Confession." Missouri State Public Defender System, December.

_____. 1998. "Interrogation and Confession." University of Alabama Law School, February.

_____. 1998. "False Confessions." Alaska Academy of Trial Lawyers, Anchorage, May.

_____. 1998. "Police Interrogation Techniques." "Consequences of False Confession" and "Preparing the Confession Case," Hamilton county Public Defender's Office, Cincinnati, May.

_____. 1998. "Winning False Confession Cases," Arizona Attorneys for Criminal Justice, Tucson, September.

_____. 1998. "Analyzing False Confessions." International Conference on Allegations of Child Abuse, Las Vegas, October.

_____. 1998. "Teaching Juries How to Analyze Interrogations and False Confessions." National Conference on Wrongful Convictions and the Death Penalty, Northwestern University Law School, Chicago, November.

_____. 1999. "False Confessions: The Research." Washington Association of Criminal Defense Lawyers, Seattle, April.

_____. 1999. "Analyzing Coerced and False Confessions." Chicago, Seminar for the Office of the Public Defender and Milwaukee criminal defense bar, Milwaukee, Wisconsin, August.

_____. 1999. "Analyzing Interrogations." Federal Public

Defender Training Group," Portland, Oregon, August.

_____. 1999. "Analyzing Interrogations and Defending the Innocent in False Confession Cases." California Attorneys for Criminal Justice, Trial Practice Seminar, Asilomar Conference Center, August.

_____. 1999. "Analyzing Interrogations and Defending the Innocent in False Confession Cases." Life Over Death - Florida Public Defenders Organization, Haines City, Florida, October.

_____. 1999. "Analyzing Interrogations and Litigating False Confession Cases." International Conference on Allegations of Child Abuse, Las Vegas, October.

_____. 1999. "The Interrogation of Juveniles and False Confessions." Juvenile Defender Leadership Summit, Washington, D.C. October.

Presented at Other Associations and Groups: (continued)

_____. 2000. Seminar on "Expert Witnesses: Recovered Memory/False Memory: Valid or Voodoo." Telephone Seminar sponsored by the State Bar Association of Texas, February.

_____. 2000. "Interrogation Techniques Used by Police on Youths." Statewide Conference Sponsored by the Juvenile Division of the Los Angeles County Public Defenders Office, Los Angeles, April.

_____. 2000. "Police Interrogations, False Confessions and the Impact on Children and the Courts." Indigent Defense 2000, Redefining Leadership for Equal Justice, United States Department of Justice, Office of Justice Programs, Washington, D.C., June.

_____. 2000. "Analyzing Interrogations and Litigating False Confession Cases." International Conference on Allegations of Child Abuse, Kansas City, Missouri, September.

_____. 2000. "Police Interrogation and Confession." U.S. Army Trial Defense Service, Tri-Regional Workshop. Las Vegas, Nevada, October.

_____. 2000. "Investigating Confession Cases." Office of the Public Defender, San Francisco, California, October.

_____. 2001. "Why Recording Saves Lives." California Attorneys For Criminal Justice, Capital Defense Seminar. Monterey, California. February.

_____. 2001. "Coercion and False Confessions." National Association of Criminal Defense Lawyers. Las Vegas, Nevada, February.

_____. 2001. "Why People Confess to Things They Didn't Do."

Nebraska Criminal Defense Attorneys Association. Lincoln, Nebraska, March.

Legal

_____, 2001. "Interrogation and False Confession." National Aid Defenders Association. Albuquerque, New Mexico, March.

_____, 2001. "Coerced Confessions: The Decision to Confess Falsely." New York State Defenders Association. New York, New York, March.

_____, 2001. "Coerced Confessions." Texas Criminal Defense Lawyers Association. Dallas, Texas, April.

_____, 2001. "Coerced Confessions." Virginia Bar Association, Richmond, Virginia, November.

_____, 2002. "Coerced Confessions." Montana Association of Criminal Defense Lawyers, Chico Hot Springs, Montana, February.

Presented at Other Associations and Groups: (continued)

_____, 2002. "Coerced Confessions and Chicago Police." Conference on the Heirens Case, Center on Wrongful Convictions, Northwestern University Law School, Chicago, March.

_____, 2002. "Interrogation Reform." Wrongful Convictions: A Call to Action, Harvard Law School, Boston, Mass. April.

Practice

_____, 2003. "Coerced Confessions." Inns of Court, Federal Southern District of New York, New York City, January.

_____, 2003. "Interrogation and Coerced Confession." Washington Defender Association, Sun Mountain Lodge, Washington, April.

Post-

_____, 2003. "Interrogation and Coerced Confession." Capital Conviction Project of Louisiana, New Orleans, Louisiana, April.

Capital

_____, 2003. "Interrogation, Coerced and False Confession." Case Defense Seminar, Washington Defender Association, Gonzaga University, Spokane, Washington, August

Confession."

_____, 2004. Symposium - "The Anatomy of a Murder American Academy of Forensic Sciences, Dallas, Texas, February.

_____, 2004. "Dealing with the Nightmare Confession Case."
 Life in
 the Balance," National Legal Aid Defender Association, Memphis,
 Tennessee,
 March.

_____, 2004. Plenary Session "Interrogation and Confession."
 Life in
 the Balance," National Legal Aid Defender Association, Memphis,
 Tennessee,
 March.

_____, 2004. Featured speaker, New York City Bar
 Association
 Annual Meeting – "Interrogation and False Confession," New York City,
 April.

Training for Attorneys and Investigators

_____, 2004. Training - "False Confessions: How to Challenge
 Coercive Interrogations." Washington Defender Association and the
 Washington
 State Criminal Justice Training Commission. Seattle, Washington, March

_____, 2004. "Confessions - What Defense Investigators
 Can Effectively Do to Assist Attorneys." Defense Investigator Training,
 Kent
 Washington, May