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SAN JOSE OFFICE

13 Attorneys for Defendant ELIZABETH A. HOLMES

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,  
16 Plaintiff,  
17 v.  
18 ELIZABETH HOLMES and  
19 RAMESH "SUNNY" BALWANI,  
20 Defendants.

) Case No. CR-18-00258-EJD-SVK

) MOTION FOR SEVERANCE

) FILED UNDER SEAL

) Date: February 10, 2020  
) Time: 10:00 AM  
) CTRM: 4, 5th Floor

) Hon. Edward J. Davila

28 MOTION FOR SEVERANCE  
CR-18-00258 EJD SVK

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MOTION FOR SEVERANCE

PLEASE TAKE NOTICE that on February 10, 2010, at 10:00 a.m., or on such other date and time as the Court may order, in Courtroom 4 of the above-captioned Court, 280 South 1st Street, San Jose, CA 95113, before the Honorable Edward J. Davila, Defendant Elizabeth Holmes will and hereby does respectfully move the Court pursuant to Rules 12(b)(3)(D) and 14 of the Federal Rules of Criminal Procedure to sever her case from that of her co-defendant, Ramesh Balwani, for trial. The Motion is based on the below Memorandum of Points and Authorities, the accompanying Declaration of Dr. Mindy Mechanic, the *ex parte* proffer of proof and accompanying exhibits, the record in this case, and any other matters that the Court deems appropriate.

DATED: December 16, 2019

/s/ Kevin Downey  
\_\_\_\_\_  
KEVIN DOWNEY  
LANCE WADE  
AMY MASON SAHARIA  
KATHERINE TREFZ  
Attorneys for Elizabeth Holmes

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## INTRODUCTION

Mr. Balwani is more than Ms. Holmes' co-defendant. For over a decade, Ms. Holmes and Mr. Balwani had an abusive intimate-partner relationship, in which Mr. Balwani exercised psychological, emotional, and [REDACTED] over Ms. Holmes. As detailed in the accompanying declaration of Dr. Mindy Mechanic, a clinical and forensic psychologist who focuses on intimate partner abuse and sexual trauma, [REDACTED]

According to Dr. Mechanic, [REDACTED]

[REDACTED]. Should that occur, Ms. Holmes may suffer a range of serious physical, psychological, and emotional effects, many of which would visibly affect Ms. Holmes' demeanor in the courtroom and hinder her ability to participate in the trial proceedings or communicate with counsel. Ms. Holmes' potentially debilitating PTSD symptoms would materially prejudice her ability to exercise fundamental trial rights, including her right to testify on her behalf, during the proceedings. They also would affect Ms. Holmes' demeanor in a way likely to compromise the jury's ability reliably to assess her guilt or innocence based on the evidence adduced at trial. The Court should thus grant severance under Rule 14 to safeguard Ms. Holmes' fundamental trial rights and to ensure the fairness and reliability of these proceedings.<sup>1</sup>

## BACKGROUND<sup>2</sup>

<sup>1</sup> Ms. Holmes does not oppose Mr. Balwani's separate motion for severance, which was filed under seal on December 3, 2019.

<sup>2</sup> Ms. Holmes provides a more detailed disclosure of anticipated evidence in a separate proffer of proof, which is being submitted under seal and *ex parte* because it contains sensitive information regarding Ms. Holmes' potential trial strategy. See *United States v. Carona*, No. CR 06-224, 2008 WL 1970221, at \*1, \*3 (C.D. Cal. May 2, 2008) (granting severance after *in camera* review of defendant's "declaration describing the nature of the testimony which she would seek to present in her defense"); *United States v. Blanchard*, No. 05-80355, 2007 WL 1976359, at \*6-7 (E.D. Mich. July 3, 2007) (granting severance based on *in camera* review of document containing defendant's "proposed defense to the charges in the indictment" as well as "substance of [proposed] testimony"); *United States v. Lopez*, 915 F. Supp. 891, 901 (E.D. Mich. 1996) (granting severance based on "an *in camera* review of" affidavit submitted by defendant that "outlin[ed] her proposed defense to the charges in the indictment").

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

1 [REDACTED] *Id.* at 13. This  
 2 pattern of abuse and coercive control continued over the approximately decade-long duration of Ms.  
 3 Holmes and Mr. Balwani's relationship, including during the period of the charged conspiracies.

4 As discussed by Dr. Mechanic, intimate partner abuse affects its victims' agency. Victims may  
 5 "capitulate to [their] abuser[s] in order to increase survival and reduce myriad potential risks of  
 6 continued or escalated abuse or violence." *Id.* at 7. "[I]n cases in which emotional dependency and  
 7 capitulation to the abuser have eroded autonomous expression of self, survival is experienced more as  
 8 emotional survival, and a victim may come to believe that she is unable to function without her partner."  
 9 *Id.* Coercive control "restricts an individual's agency and autonomy because capitulation with the  
 10 demands and expectations of an abuser is emotionally and/or physically safer than challenging those  
 11 demands or expectations which often results in violent escalation." *Id.* at 7-8. The defense identifies  
 12 some of the effects of Mr. Balwani's abuse on Ms. Holmes' agency and state of mind in the *ex parte*  
 13 proffer of proof.

14 [REDACTED]  
 15 [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]  
 24 PTSD and its resulting symptoms are susceptible to triggers, including physical proximity to the  
 25 abuser. *Id.* at 14-15. As Dr. Mechanic explains, abuse victims "learn to be hypervigilant to their  
 26 abuser's demeanor, behavior, and emotions in the service of self-preservation," meaning that "subtle and  
 27 nuanced indicators, such as a glare across the room, . . . can readily function as a potent trigger." *Id.* at  
 28 14. Such a trigger can induce "perceptions of threat, danger, fear, and resulting numbness, heightened



1 anxiety or frozen fright.” *Id.* [REDACTED]

2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED] *Id.*; see also *United States v. Nwoye*, 824 F.3d 1129, 1137 (D.C.  
6 Cir. 2016) (Kavanaugh, J.) (“women in battering relationships are often hypervigilant to cues of  
7 impending danger” (internal quotation marks omitted)). [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 [REDACTED] In summary, should Ms. Holmes be  
19 required to undergo a lengthy trial in the presence of Ms. Balwani, the likely physical, psychological,  
20 and emotional effects on Ms. Holmes would be severe. Such effects not only would be apparent to the  
21 jury, they also would prohibit Ms. Holmes from being fully attentive and responsive to the proceedings  
22 at trial.

### 23 ARGUMENT

24 Federal Rule of Criminal Procedure 8(b) permits the joinder of two or more defendants who are  
25 alleged to have participated in the same criminal offenses. “Although joinder is generally favored  
26 because it promotes efficiency, Rule 14 provides that trials may be severed when it is apparent that a  
27 joint trial would cause prejudice.” *United States v. Mayfield*, 189 F.3d 895, 899 (9th Cir. 1999) (citation  
28 omitted). In *Zafiro v. United States*, 506 U.S. 534 (1993), the Supreme Court identified the two

1 situations in which a district court “should grant a severance under Rule 14” to avoid prejudicing a  
 2 defendant. *Id.* at 539. Specifically, *Zafiro* held that severance is warranted when there is a “serious  
 3 risk” that a joint trial would (i) “compromise a specific trial right of one of the defendants” or (ii)  
 4 “prevent the jury from making a reliable judgment about guilt or innocence.” *Id.*

5 There is no one-size-fits all rule for establishing a defendant’s potential prejudice under *Zafiro*;  
 6 rather, a district court’s inquiry will necessarily “vary with the facts in each case.” *Id.* On the unique  
 7 facts of this case, requiring Ms. Holmes to be tried jointly with her abusive former partner would cause  
 8 her significant prejudice. To start, a joint trial with Mr. Balwani—and the likely physical,  
 9 psychological, and emotional effects it would trigger—would “compromise” Ms. Holmes’ “specific trial  
 10 right[s]” to participate in her own defense, receive effective assistance of counsel, testify on her own  
 11 behalf, and present a defense. On account of those physical, psychological, and emotional effects,  
 12 moreover, a joint trial would present a serious risk of compromising the jury’s ability to judge reliably  
 13 Ms. Holmes’ guilt or innocence. Ms. Holmes is therefore entitled to severance to protect her  
 14 fundamental rights and ensure that she receives a fair trial.

15 **I. There Is a Serious Risk that a Joint Trial Would Compromise Ms. Holmes’ Specific Trial**  
 16 **Rights**

17 **A. Ms. Holmes’ Rights To Participate in Her Defense and Receive Effective Assistance**  
 18 **of Counsel**

19 Ms. Holmes, like all those accused of serious crimes, enjoys the fundamental right to “participate  
 20 in the defense of [her] case” and to receive effective assistance of counsel. *Gonzalez v. Ptiler*, 341 F.3d  
 21 897, 900 (9th Cir. 2003). To exercise those rights fully, an accused must maintain the “ability to  
 22 communicate with [her] lawyer” during the course of the proceedings. *Deck v. Missouri*, 544 U.S. 622,  
 23 631 (2005) (internal quotation marks omitted); *Ptiler*, 341 F.3d at 900 (discussing “Sixth Amendment  
 24 right to confer with counsel”). Relatedly, she also must possess the “ability to follow the proceedings  
 25 and take an active interest in the presentation of [her] case.” *Ptiler*, 341 F.3d at 900 (internal quotation  
 26 marks omitted).

27 Both the Supreme Court and the Ninth Circuit have stressed the importance of minimizing the  
 28 introduction of factors that would “confuse and embarrass defendants’ mental faculties and thereby tend  
 materially to abridge and prejudicially affect his constitutional rights.” *Deck*, 544 U.S. at 631 (internal

quotation marks and alterations omitted) (quoting *California v. Harrington*, 42 Cal. 165, 168 (1871)). Courts have taken particular care to guard against in-trial conditions that “interfere with the accused’s ability to communicate with his lawyer,” *id.* (internal quotation marks omitted), or otherwise hinder a defendant’s “ability to follow the proceedings and take an active interest in the presentation of his case,” *Pliler*, 341 F.3d at 900 (internal quotation marks omitted). Applying that rule, for example, the Ninth Circuit has limited the use of stun belts to restrain defendants, reasoning that stun belts’ tendency to cause “significant psychological consequences” and a “chilling” of “those movements necessary for effective communication with counsel” poses a “substantial risk of interfering with a defendant’s Sixth Amendment right to confer with counsel” and her ability to participate in her own defense. *Id.* (internal quotation marks and alterations omitted); *see also United States v. Durham*, 287 F.3d 1297, 1305-06 (11th Cir. 2002) (stun belts render a defendant “less likely to participate fully in his defense at trial” because “much of a defendant’s focus and attention when wearing one of these devices is occupied by anxiety over the possible triggering of the belt”).

The prospective joint trial in this case presents an analogous threat of prejudice to Ms. Holmes’ trial-level rights – namely, the risk that Mr. Balwani’s presence and/or actions would trigger in Ms. Holmes significant psychological consequences that would materially prejudice her ability to communicate with counsel, follow the proceedings, and pursue a defense in her best interest. *See* Mechanic Decl. at 14-15. [REDACTED]

[REDACTED]. Needless to say, such physical and psychological effects, which would at the least “occup[y]” “much of” Ms. Holmes’ “focus and attention,” pose a substantial risk of interference with Ms. Holmes’ “ability to follow the proceedings and take an active interest in the presentation of h[er] case” and “confer with [her] counsel.” *Durham*, 287 F.3d at 1305-06; *see also Deck*, 544 U.S. at 631; *Pliler*, 341 F.3d at 900.

In addition, given the common behaviors exhibited by victims when in the prolonged presence of their former abusive partners, a joint trial presents the serious risk that Ms. Holmes would revert to a pattern of compliance with Mr. Balwani. [REDACTED]

1 [REDACTED] Mechanic Decl.  
 2 at 15. The risk that Mr. Balwani, by virtue of his prior abusive relationship with Ms. Holmes, gains  
 3 control of her decisionmaking at trial constitutes another risk that a joint trial would present to Ms.  
 4 Holmes' trial rights.

5 **B. Ms. Holmes' Right To Testify on Her Own Behalf and To Present a Defense**

6 "The right to testify on one's own behalf in a criminal trial 'has sources in several provisions in  
 7 the Constitution' and is 'essential to due process of law in a fair adversary process.'" *United States v.*  
 8 *Carona*, No. CR 06-224, 2008 WL 1970221, at \*3 (C.D. Cal. May 2, 2008) (quoting *Rock v. Arkansas*,  
 9 483 U.S. 44, 51 (1987)). In addition, "the Constitution guarantees criminal defendants a meaningful  
 10 opportunity to present a complete defense," including to present the defense of her own choosing.  
 11 *Crane v. Kentucky*, 476 U.S. 683, 690 (1986). For two independent reasons, a joint trial presents a  
 12 serious risk of compromising Ms. Holmes' fundamental right to testify on her own behalf, if she were to  
 13 choose to exercise it (a decision that will depend on the government's proof at trial), and to present a  
 14 defense. The serious risk of prejudice to these rights provides yet another reason to require severance.

15 [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED] Under Ninth Circuit law, Ms. Holmes' testimony about the abuse  
 23 would be unquestionably relevant to Ms. Holmes' state of mind at the time of the charged conspiracy.  
 24 See *United States v. Haischer*, 780 F.3d 1277, 1282 (9th Cir. 2015) (evidence regarding intimate-partner  
 25 abuse of a defendant by her co-conspirator admissible to show that the defendant lacked the requisite  
 26 mens rea to commit wire fraud); accord *United States v. Breinig*, 70 F.3d 850, 852 (6th Cir. 1995);  
 27 *Dunn v. Roberts*, 963 F.2d 308, 311-13 (10th Cir. 1992); cf. *United States v. Lopez*, 913 F.3d 807, 820-  
 28 23 (9th Cir. 2019) (cataloging the ways in which expert testimony on intimate partner abuse may be

1 helpful to a jury's evaluation of the facts and a defendant's credibility); *United States v. Nwoye*, 824  
 2 F.3d 1129, 1140 (D.C. Cir. 2016 ) (Kavanaugh, J.) ("Expert testimony on battered woman syndrome  
 3 could have helped [the defendant] dispel the ordinary lay person's perception that a woman in a  
 4 battering relationship is free to leave at any time." (internal quotation marks omitted)).

5 Should Ms. Holmes choose to testify at trial, she could offer probative evidence—evidence  
 6 including, but not limited to, testimony regarding the abuse she suffered while in an intimate-partner  
 7 relationship with Mr. Balwani. Yet Mr. Balwani's presence, and its likely triggering effect on Ms.  
 8 Holmes' PTSD, could well affect Ms. Holmes' choice about whether to testify and the content and  
 9 presentation of her testimony. By posing a serious risk of harmful physical, psychological, and  
 10 emotional effects, a joint trial thus threatens to "materially impair and prejudicially affect" Ms. Holmes'  
 11 "privilege of becoming a competent witness and testifying in h[er] own behalf." *Pliker*, 341 F.3d at 900-  
 12 01 (internal quotation marks omitted); *see also Gonzalez v. Pliker*, No. 01-cv-300, 2008 WL 11411353,  
 13 at \*8, \*11 (C.D. Cal. Nov. 10, 2008) (defendant's right to testify prejudiced when evidence showed that  
 14 defendant "wanted to get off the witness stand as quickly as possible," "hurried through his testimony,"  
 15 and "offered many brief, one-word answers and did not elaborate because of his anxiety" of triggering  
 16 stun belt). That prejudice, in turn, provides a sufficient basis for granting severance under *Zafiro*.

17 *Second*, were a joint trial to proceed, Mr. Balwani would likely seek to exclude or limit the  
 18 testimony regarding his abuse of Ms. Holmes on the basis that doing so would be necessary to guard  
 19 against any resulting prejudice to his rights.<sup>3</sup> *See* Fed. R. Evid. 403. Under *Zafiro*, however, a joint trial  
 20 presents a risk of prejudice "if essential exculpatory evidence that would be available to a defendant  
 21 tried alone were unavailable in a joint trial." 506 U.S. at 539. It is thus no surprise that, when faced  
 22

23 <sup>3</sup> *Cf. United States v. Blunt*, 930 F.3d 119, 124-27 (3d Cir. 2019) (severance necessary because  
 24 wife's testimony of co-defendant husband's "threatened and actual violence," which would have been  
 25 inadmissible against husband in separate trial, "tend[ed] to elicit an inappropriate emotional response  
 26 from jurors, resulting in unfair prejudice"); *Breinig*, 70 F.3d at 853 (severance necessary where  
 27 defendant's testimony in support of her state-of-mind defense, including statements that her co-  
 28 defendant husband was "adulterous, mentally abusive, and manipulating," allowed the jury "to hear and  
 evaluate . . . impermissible and highly inflammatory evidence of [the husband's] bad character"); *accord*  
*United States v. Lopez*, 915 F. Supp. 891, 901 (E.D. Mich. 1996) (granting severance on similar  
 grounds); *United States v. Rivera-Ruperto*, No. 10-344, 2012 WL 898795, at \*1-2 (D.P.R. Mar. 15,  
 2012) (same); *United States v. Swan*, No. 12-cr-27, 2013 WL 3422022, at \*4-5 (D. Me. July 8, 2013)  
 (same).

1 with situations in which a defendant's testimony in her own defense involves details regarding the  
2 abusive behavior of a co-defendant, circuit and district courts alike have held severance necessary to  
3 safeguard the defendant's rights to testify and to present a defense.

4 *United States v. Blunt*, 930 F.3d 119 (3d Cir. 2019), is illustrative. There, the government jointly  
5 tried a husband and wife as co-conspirators, despite the fact that the wife's "state of mind" defense  
6 involved her testifying that her husband was abusive and coerced her into participating in the charged  
7 crime. *Id.* at 122. On review, the Third Circuit overturned both defendants' convictions, concluding  
8 that each was entitled to severance. With respect to the wife, the Court held that the district court, by  
9 "curtail[ing]" the wife's "probative" testimony about her state of mind "in an attempt to prevent the jury  
10 from hearing prejudicial statements against" her co-defendant husband, had "prevented" the wife "from  
11 exercising fully her right to testify in her own defense." *Id.* at 123, 128. Similarly, the court granted  
12 severance in *United States v. Carona*, No. CR 06-224, 2008 WL 1970221 (C.D. Cal. May 2, 2008), on  
13 the ground that a joint trial would have limited the defendant's ability "to give exculpatory testimony in  
14 her own defense" by allowing her co-defendant husband to invoke the marital communications  
15 privilege. *Id.* at \*3-4; *see also United States v. Blanchard*, No. 05-80355, 2007 WL 1976359, at \*7  
16 (E.D. Mich. July 3, 2007) (granting severance on similar facts to avoid "[f]orcing a defendant into a  
17 'Catch-22'" between asserting the spousal privilege and her right to testify on her own behalf when "the  
18 dilemma" could be "minimized by a severance pursuant to" Rule 14).

19 As the defendants in *Blunt* and *Carona*, Ms. Holmes would be entitled to offer probative  
20 evidence regarding the abuse she suffered while in an intimate-partner relationship with her co-  
21 defendant, Mr. Balwani—both in the form of her own testimony and other competent evidence. Any  
22 effort to exclude or limit that evidence in order to shield Mr. Balwani from prejudice would necessarily  
23 prevent Ms. Holmes from "from exercising fully" her rights to "provid[e] exculpatory testimony on her  
24 own behalf." *Blunt*, 930 F.3d at 128; *see Carona*, 2008 WL 1970221, at \*3. So too, the constitutionally  
25 guaranteed opportunity to present a defense would "be an empty one if the State were permitted to  
26 exclude competent, reliable evidence" that is "is central to the defendant's claim of innocence"—here,  
27 evidence bearing on Ms. Holmes' state of mind. *Crane*, 476 U.S. at 690. For this independent reason, a  
28



1 joint trial presents a serious risk of compromising Ms. Holmes' rights to testify on her behalf and to  
 2 present a defense.

3 **II. There Is a Serious Risk that a Joint Trial Would Compromise the Jury's Ability Reliably**  
 4 **To Judge Ms. Holmes' Guilt or Innocence**

5 Severance is also required for the independent reason that a joint trial would likely "prevent the  
 6 jury from making a reliable judgment about" Ms. Holmes' "guilt or innocence." *Zafiro*, 506 U.S. at  
 7 539.

8 The potential effects of Ms. Holmes' PTSD on her demeanor and behavior during the  
 9 proceedings would threaten the jury's ability reliably to judge Ms. Holmes. As discussed, Ms. Holmes'  
 10 physical proximity to Mr. Balwani poses a serious risk of triggering her PTSD and its attendant physical,  
 11 psychological, and emotional effects. During the course of the proceedings, [REDACTED]

12 [REDACTED]. Mechanic  
 13 Decl. at 14. [REDACTED]

14 [REDACTED]  
 15 [REDACTED]. *Id.* at 14-15. *Cf.*

16 M.A. Dutton, *Validity of "Battered Woman Syndrome" in Criminal Cases Involving Battered Women*, in  
 17 Dep't of Justice et al., *The Validity and Use of Evidence Concerning Battering and Its Effects in*  
 18 *Criminal Trials* pt. I, at 12 (1996) (The "presence of a posttraumatic stress reaction may explain a  
 19 battered woman's apparent lack of, or atypical, emotion when testifying or talking about her experience  
 20 with violence. In some cases, the battered woman may report these events as though she has no feeling  
 21 or emotion related to them, as if on 'automatic pilot.'").

22 When it comes to Ms. Holmes' ability to receive a fair adjudication, any PTSD-attributed  
 23 changes in her demeanor would matter a great deal:

24 It is a fundamental assumption of the adversary system that the trier of fact observes the  
 25 accused throughout the trial, while the accused is either on the stand or sitting at the defense  
 26 table. . . . At all stages of the proceedings, the defendant's behavior, manner, facial  
 27 expressions, and emotional responses, or their absence, combine to make an overall  
 28 impression on the trier of fact, an impression that can have a powerful influence on the  
 outcome of the trial.

1 *Riggins v. Nevada*, 504 U.S. 127, 142 (1992) (Kennedy, J., concurring); cf. 2 J. Wigmore, *Evidence*  
 2 § 274 (J. Chadbourn rev. ed. 1979) (“[T]he attempt to force a jury to become mentally blind to the  
 3 behavior of the accused sitting before them involves both an impossibility in practice and a fiction in  
 4 theory.”). A joint trial with Mr. Balwani, and the PTSD-associated reactions it would be likely to  
 5 produce, thus would present the significant risk that a jury would draw unfair and unreliable conclusions  
 6 from Ms. Holmes’ demeanor; for instance, it might mistake Ms. Holmes’ PTSD-induced anxiety or  
 7 nervousness as evidence of guilt, or her stillness in the presence of Mr. Balwani as emotional  
 8 detachment or callousness. See, e.g., *Pliler*, 2008 WL 11411353, at \*7-10 (stun belt prejudiced  
 9 defendant by causing his “quiet, emotionless, and very subdued” “courtroom demeanor and behavior,”  
 10 which was perceived by jurors as a sign that the defendant “had given up”). The chances that the effects  
 11 of Ms. Holmes’ PTSD would mislead the jury would only increase should the PTSD “impact [Ms.  
 12 Holmes’] demeanor on the stand” and, “in turn, . . . a jury’s perception” of her credibility as a witness.  
 13 *Pliler*, 341 F.3d at 900-01 (internal quotation marks omitted); see O.G. Wellborn, *Demeanor*, 76 Cornell  
 14 L. Rev. 1075, 1076-77 (1991) (noting widespread “assumption that demeanor provides highly useful  
 15 information” when evaluating witness credibility at trial).

16 There is therefore a serious risk that Mr. Balwani’s presence would “adversely affect [Ms.  
 17 Holmes’] demeanor in the presence of the jury,” and thus would prejudice the jury’s ability to assess  
 18 reliably her guilt or innocence based on the evidence adduced at trial. *California v. Mar*, 52 P.3d 95, 97  
 19 (Cal. 2002). Only severance can appropriately guard against that risk and protect Ms. Holmes’ right to a  
 20 fair and reliable proceeding.

### 21 **III. No Other Relief Would Protect Ms. Holmes’ Rights**

22 For the reasons outlined above, a joint trial presents a serious risk of compromising Ms. Holmes’  
 23 specific trial rights and the jury’s ability to assess reliably her guilt or innocence. To be sure, in many  
 24 cases, steps short of severance—such as the administration of limiting instructions—“suffice to cure any  
 25 risk of prejudice” that a joint trial may present to a defendant’s rights. *Zafiro*, 506 U.S. at 539. In this  
 26 case, however, a significant risk of prejudice to Ms. Holmes arises not from evidence or arguments that  
 27 would be adduced at a joint trial, but rather from the necessary presence of Mr. Balwani at a joint trial  
 28 and the attendant physical, psychological, and emotional effects that presence is likely to have on Ms.



Holmes. Because no limiting instruction can account for Ms. Holmes' abusive history with Mr. Balwani or her resulting PTSD, severance is the proper remedy under *Zafiro*. See, e.g., *Blunt*, 930 F.3d at 125 n.1 ("probable effectiveness or lack of effectiveness of a limiting instruction" is relevant to evaluating whether a joint trial will prejudice a defendant (internal quotation marks omitted)); *Lopez*, 915 F. Supp. at 901 (granting severance when "less drastic measures, such as limiting instructions," would "not suffice to cure th[e] substantial risk of prejudice" presented by a joint trial).

Ms. Holmes does not seek severance lightly and acknowledges the administrative costs associated with severance. "[B]ut where the basic fairness of the trial is at issue," a defendant's rights "must trump the extra" "expense, time and trouble" of separate trials. *Swan*, 2013 WL 3422022, at \*5; see also *Blanchard*, 2007 WL 1976359, at \*6 ("[A] single joint trial, however desirable from the point of view of efficient and expeditious criminal adjudication, may not be had at the expense of a defendant's right to a fundamentally fair trial." (internal quotation marks omitted)). So too here: Because the proposed joint trial presents a serious risk of prejudice to Ms. Holmes, severance, even if inconvenient, is nonetheless necessary to safeguard her fundamental trial rights and entitlement to a fair and reliable adjudication.

### CONCLUSION

For the foregoing reasons, the Court should sever Ms. Holmes' case from Mr. Balwani's for trial.

DATED: December 16, 2019

Respectfully submitted,

/s/ Kevin Downey  
 KEVIN DOWNEY  
 LANCE WADE  
 AMY MASON SAHARIA  
 KATHERINE TREFZ  
 Attorneys for Elizabeth Holmes

**CERTIFICATE OF SERVICE**

Pursuant to 18 U.S.C. § 1746, I hereby certify that copies of this Motion for Severance and its supporting documents, along with the related Administrative Motion For Leave to File Documents Under Seal, were served via email to the attorneys at the following addresses on the same day it was filed with the Court under Local Civil Rule 7-11.

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**DECLARATION OF MINDY B. MECHANIC, Ph.D. IN SUPPORT OF SEVERANCE**  
**05 December 2019**

**I, Dr. Mindy B. Mechanic, hereby declare the following:**

- I. **INTRODUCTION:** I am over the age of eighteen and am competent to testify. The facts enumerated in this Declaration are true and are based on my own personal knowledge or on information provided to me, and I believe them to be true.
- II. **QUALIFICATIONS:** I am a clinical/forensic psychologist, specializing in trauma/victimization, with a focus on interpersonal violence, i.e., intimate partner abuse (IPA), sexual trauma, and stalking. My work on these topics has spanned nearly three decades, and is comprised of research, teaching, professional training, as well as the provision of direct services to victims/survivors of trauma. By "direct services," I am referring to conducting clinical and forensic assessment, providing empirically supported therapy to trauma survivors and conducting supervision of graduate students (master's and doctoral level) to conduct trauma research, trauma-based therapy, and assessment. I have also provided more informal supervision on forensic evaluation in trauma cases to experienced colleagues branching out from research and clinical work to provide trauma-based forensic evaluations. A current copy of my CV is attached as *EXHIBIT A*.
  - a. **EMPLOYMENT:**
    - i. As of 11/01/19, I am presently retired from my position, Professor of Psychology at California State University-Fullerton (CSUF), where I was a tenured professor since August 2002. While at CSUF, I regularly taught upper division undergraduate courses on abnormal psychology and personality theory, as well as graduate level courses on the following topics: a) legal, ethical, and professional issues in clinical psychology; b) psychological assessment; and c) a seminar on trauma, violence, and victimization. Additional duties included conducting independent research and providing research supervision to graduate and undergraduate students working on research and thesis projects. In 2013, I was awarded a grant for just under one million dollars from the National Institute of Justice (the research arm of the Department of Justice) to study the impact of culture and ethnicity on women's experiences of intimate partner abuse. I have provided numerous (about 100) professional trainings on intimate partner/sexual violence to varied audiences including attorneys (military and civilian), family court personnel, mental health providers, and medical staff. I have about 25 peer-reviewed publications and about 100 peer-reviewed conference presentations. I have also served as a peer reviewer for journals, conferences, and grants.

- ii. Prior to joining the faculty of CSUF, I was employed at the Center for Trauma Recovery at the University of Missouri-St. Louis (the Center) for ten years, initially as a Research Associate (1992-1996) and Post-Doctoral Fellow(1996-1998) and then as an Assistant Research Professor (1998-2002). The Center is a specialized center focused on conducting research, teaching and training and providing specialized clinical services to traumatized and victimized individuals. Victims of intimate partner abuse and sexual assault survivors were the most frequently treated populations at the Center's clinic. As part of my duties at the Center, I conducted research on sexual assault and intimate partner abuse, for which I wrote or co-wrote federal grants. I also provided direct clinical services to sexually assaulted and victimized or traumatized individuals and supervised Ph.D. students in trauma research, assessment and treatment. During my ten years at the Center, I taught courses on the psychological consequences of violence and victimization and conducted numerous professional trainings for varied groups including, local mental health professionals, the Missouri Bar Association and the American College of Legal Medicine.

**b. CLINICAL/FORENSIC PRACTICE:** I received my first license to practice psychology in 1998, in the state of Missouri, and my second in 2000 in the state of Illinois. I kept both licenses current until receiving licensure in California in 2004. I have been continuously licensed in California (#19660) since that time. I have worked directly with victims of crime and survivors of trauma in various contexts, including clinical and diagnostic interviews for research; clinical assessments for treatment, clinical assessments for forensic purposes, and provision of psychotherapy. I've had face to face contact with 100's if not 1000's of survivors of trauma at this point in my career.

- i. I have worked independently as a forensic psychologist since obtaining my first license to practice psychology in 1998. I regularly conduct forensic evaluations in criminal (civilian and military), civil, juvenile, and family law cases involving trauma and victimization, with about 85-90% of my cases focusing on intimate partner abuse and sexual assault. Some of these evaluations result in my service as an expert witness to the court, however, most of the cases result in plea agreements or settlements. I have specialized forensic expertise and experience in cases involving victims of intimate partner abuse, usually (but not always) women who were charged with crimes committed in the context of their abuse.
- ii. Apart from my role as forensic evaluator, I also regularly provide general educational testimony to military and civilian criminal courts in cases involving the prosecution of intimate partner, sexual assault, and stalking cases, and I serve as an expert consultant to attorneys litigating these cases.
- iii. Over the course of time, I have been retained approximately equally for the defense and prosecution. I have also been retained and have testified in

criminal cases, involving men charged with crimes involving sexual assault and intimate partner abuse.

- iv. To date, I have been qualified to testify in criminal courts (military and civilian), juvenile courts, family courts, and civil courts. I've also testified in some administrative hearings and in many evidentiary hearings in criminal courts. In total, I have testified on somewhere between 70-80 occasions. I have never failed to qualify as an expert in a case in which I was called as an expert witness.

III. **CONTEXT OF REFERRAL:** On June 13, 2019, I was contacted via email, by Ms. Amy Saharia and Ms. Katherine Trefz, attorneys at Williams & Connolly, LLC about the possibility of conducting an evaluation of their client, Ms. Elizabeth Holmes ("Ms. EH"). After a conference call on June 17, 2019, I was formally retained on June 20, 2019. The referral question focused on evaluating whether Ms. EH was the victim of intimate partner abuse at the hands of her intimate and business partner, Mr. Ramesh "Sunny" Balwani ("Mr. SB"), and if so, what was the nature and extent of such abuse, and in what ways did that abuse affect her functioning during the course of their relationship, and continue to affect her functioning after its dissolution, and in present time.

I am being compensated at my regular hourly rate of \$350/hour, in addition to reimbursement for any professional expenses incurred related to my work on this case.

This declaration is provided for the limited purpose of supporting Ms. Holmes's Motion for Severance. It does not capture all of my opinions regarding intimate partner abuse, the abuse suffered by Ms. EH, how rape and intimate partner abuse affect their victims, or other research or analysis that may be relevant to this matter.

IV. **METHODOLOGY OF EVALUATION:** Ms. EH was evaluated face to face on 8/27/19 and 8/28/19 for a total of approximately 14 face-to-face hours at the office of Williams & Connolly, LLP in Washington, DC. Evaluation methods included a semi-structured interview, structured interviews, and psychological testing. Relevant, available court and legal documents and other materials were also reviewed. Collateral interviews were conducted with Ms. EH's parents, Noel Holmes ("NH") and Christopher (Chris) Holmes ("CH"). These interviews were conducted on 8/29/30 in at the law offices of Williams & Connolly. NH and CH were interviewed individually, with each interview lasting between 1-2 hours. Ms. EH's brother, Christian Holmes, was interviewed in San Francisco on 11/4/19 for approximately 90 minutes.

A list of documents reviewed is provided in *EXHIBIT B*.

- a. **FORENSIC EVALUATIONS:** Forensic evaluations differ from all other forms of clinical practice, including clinical assessment, in that forensic evaluations are NOT conducted to advocate for the evaluatee, help them with their problems, assist

them in accessing resources or services or to view their statements uncritically through the lens of support or advocacy (Greenberg & Shuman, 1997; 2007). Instead, the purpose of a forensic evaluation is to provide an objective legally relevant opinion based on critical analysis of multiple sources of data, to include documentary evidence, evaluatee interview data, psychological test data, and reports from collateral sources who have relevant observational, first-hand knowledge of the evaluatee's functioning, history, etc. Forensic evaluations proceed like social science experiments in which pertinent data is collected and is then considered as to whether that data supports or refutes various theories or hypotheses about the evaluatee's history and functioning. For example, in the case of allegations of intimate partner abuse, it is important to evaluate evidence (from multiple sources) that might support a history of intimate partner abuse, as well as refute it. Such an approach reduces the risk of confirmation bias (i.e., a cognitive bias in which individuals search for data that supports their theory/hypotheses, while failing to consider, or otherwise ignoring data that refutes or fails to support that theory) or other forms of bias based on the desire to help or otherwise advocate for the evaluatee (Heilbrun & LaDuke; Melton et al., 2017; Wygant & Lareau, 2015). Finally, forensic assessment protocols include assessment of an individual's response to the tests in order to measure response bias, such as over-reporting, under-reporting, or malingering of symptoms in an effort to appear worse off or better off than a person is (Bush, Heilbrunner, & Ruff, 2014; Rogers, Sewell, & Salekin, 1994). Assessment of response validity that are routinely included in forensic evaluations are often unnecessary to assess in general clinical contexts when the goal is simply to assess a client for purposes of psychological treatment.

- b. Forensic evaluations involving women with histories of intimate partner abuse charged with crimes are unique compared to most other forensic evaluations because in addition to the usual assessment of mental health conditions affecting functioning, it is also necessary to evaluate the nature and extent of abuse exposure, the variety of ways in which an abused individual responds to various dimensions of abuse, and the multiplicity of ways in which abuse can impact psychological, emotional, physical, health and occupational functioning (Dutton, 1993; 1998; 1996; Ferraro, 2002; Osthoff, & Maguigan, 2005) above and beyond mental health conditions. Thus, such evaluations require supplemental tools and contours that are not required in a standard mental health-focused forensic evaluation.

*EXHIBIT C* contains a list of cited references for the scholarly material cited below.

- V. **RESEARCH ON THE DYNAMICS OF IPA:** The conundrum of IPA is that love and loyalty coexist with an array of abusive tactics that are deployed in the service of achieving control over an intimate partner. While most people, even trained professionals, conceptualize intimate partner abuse as consisting primarily or exclusively of physical violence and resultant injuries, physical violence occurs significantly less often in abusive partnerships compared to other forms of abuse, notably emotional/psychological abuse (Sullivan, McPartland, Armeli, Jaquier, & Tennen, 2012). Research documents that in the context of abusive relationships,

women experience an array of topographically distinct forms of abuse, i.e., physical violence, emotional/psychological abuse, sexual violence/coercion and stalking/harassment (Logan, Walker & Cole, 2015; Mechanic, Weaver, & Resick, 2008; Ullman, 2007). Each of these four dimensions of abuse are NOT present in all abusive relationships, nor do they remain static over the course of time. Instead, the nature, type, and frequency of abusive tactics shift or evolve over time, in response to a variety of factors, including how the victim responds to her partner's abusive tactics, and in turn how the offender responds to the victim's responses in a transactional fashion. For example, if a victim challenges her partner's control, attempts to fight him back or otherwise assert her autonomy, and she's met with rage, a verbal barrage, or other forms of abuse, the lesson is clear – resistance or challenge is met with an escalation of abuse. Hence, his reactions shape her behavior such that she no longer deploys those forms of responses because they resulted in increased risk of harm rather than cessation or de-escalation of abuse or violence.

Because physical violence is not always present, a relationship can be quite abusive, yet consist of relatively little physical violence and/or injuries.

The following are the specific types of abusive tactics that have been enumerated in the literature on intimate partner abuse:

- a. **Physical Violence** can range from minor acts of aggression such as pushing, shoving, or slapping, all the way to injurious, or even potentially lethal acts of violence including strangulation or being beaten with multiple blows and may or may not result in visible injuries, based on the nature, type and severity of the violence.
- b. **Emotional/Psychological Abuse** can include a range of acts that undermine a victim's sense of worth, value, agency, and freedom. Common examples include degradation; name-calling, humiliation; jealous accusations; denial/minimization of the abuse; blaming the victim for the abuse meted out to him/her; control over access to resources; isolation from friends, family or anyone that might assist the victim in exiting the abusive relationship; gaslighting.
- c. **Sexual Coercion/Aggression** can include the use of pressure, threats, force, or other manipulative tactics in an effort to manipulate a partner into engaging in sexual activities that are unwanted. It can also include other aspects of sexual coercion, like insisting a woman watch porn, dress provocatively, or engage in other unusual sexual practices for which she has signaled her lack of interest. Withholding sex or affection from a partner unless a victim capitulates to his demands is considered a form of emotional abuse transacted in a sexual context.
- d. **Stalking/Harassment** includes various form of surveillance and other unwanted intrusive conduct, whether taking place during the course of an ongoing abusive relationship, or in the post-separation phase of a former abusive relationship. Stalking and harassment are control tactics that are designed demonstrate to the victim that her abusive partner will always maintain control over her, and she will



never be free, even once separated or divorced. Unwanted calls, email/mail, visits, gifts, are common. In the virtual era, new forms of virtual stalking include installing GPS tracking devices and spyware on a victim's computer or smart phone. Harassment of friends, family and new partners are included in this category.

- e. **Emotional/Psychological Abuse Occurs Most Frequently.** Despite the typical focus on physical violence and injuries, research finds that even in abusive relationships, the majority of days in a relationship tend to be abuse and violence free. Sullivan et al., (2012) conducted a micro-analysis of the daily occurrence of physical, psychological and sexual IPV over a 90-day study period. One notable finding was that on the majority of days (62%) no IPA was reported. Psychological IPA was most commonly reported (37% of days), followed by physical (9% of days) and sexual IPA (4% of days). Sexual and physical IPA tended to occur on days with co-occurring psychological IPV, whereas psychological IPA was more apt to exist as a stand-alone form of abuse. These data underscore the notion that even in abusive relationships, most periods of time are violence-free, and that physical violence is the anomaly, not the norm. Periods of time without abuse are reinforcing and foster hope that it is possible for the relationship to be transformed into a healthy, violence and abuse-free partnership.

- VI. **INTIMATE PARTNER SEXUAL ASSAULT (IPSA) IS UNIQUE.** The dynamics of IPSA are unique compared to other forms of sexual assault. While IPSA is shockingly common, it is the least talked about form of sexual assault, the least frequently labeled as sexual assault, and the least frequently reported to law enforcement (Logan, Walker, & Cole, 2015). Only about 50% of sexually victimized women label their experience of forced sex as a sexual assault, and that rate drops significantly when the perpetrator is an intimate partner (Kahn, Jackson, Kully, Badger, & Halvorsen, 2003; Littleton, Radecki, Breithopf, Berenson, 2008). Moreover, women's own endorsement of rape myths and scripts, such as stranger danger hinder their ability to accurately identify and label incidents of sexual assault as such (Peterson & Muehlenhard, 2004). Because of the shame and stigma associated with IPSA, many women tell no one. In fact, Logan & Cole (2011) found that 85% of women in their study who experienced IPSA, told NO ONE about it, including friends or family. Women who experience IPSA report intense feelings of shame and humiliation, and confusion about the difference between forced or coerced sex and their 'wifely duties' (Logan, Cole, & Shannon, 2007; Logan, Walker, & Cole, 2015).

When incidents of IPSA are not labeled as such, there is not possibility of a formal report to law enforcement. Labelling an act of nonconsensual sex as crime is a prerequisite for reporting it as a crime to law enforcement. Of the various configurations of victim-offender relationships sexual assaults committed by intimate partners are among the least frequently reported to law enforcement.

- VII. **STEREOTYPES OF ABUSED WOMEN:** Research documents that laypersons and professionals alike are unfamiliar with the nature and dynamics of IPA, adhering to numerous stereotypes and misperceptions about abused women (Peters, 2008; Nayak, Byrne, Martin, &



Abraham, 2003; Westbrook, 2009). Stereotypes include the notion that only poor, uneducated, ethnic minority women who lack educational and/or financial resources are victims of IPA. In contrast, IPA crosses gender, ethnic, racial, sexual orientation, and socioeconomic boundaries. Individuals who accept myths about IPA are more likely to blame the victim, holding her rather than her abusive partner responsible for the victimization (Flood & Pease, 2009; Hockett, Saucier, Hoffman, Smith & Craig, 2009; Policastro & Payne, 2013). While women with education, financial resources, and sources of personal support might seem less vulnerable to abuse, they face unique obstacles, such as fears that no one will believe them, or the loss of a certain lifestyle to which they have become accustomed. Moreover, a woman can be trapped in an abusive relationship, yet still be able to function successfully in other domains, such as in occupational or educational roles. In fact, for some women, excelling in their professional careers becomes a way of coping with the abuse by compartmentalizing it instead of dealing with it directly, and focusing their effort and energies on their professional or educational pursuits.

- VIII. **ABUSED WOMENS' AGENCY:** Victim behavior that might superficially appear as passive, may actually reflect agentic decisions to capitulate to her abuser in order to increase survival and reduce myriad potential risks of continued or escalated abuse or violence. Actions that might seem passive, instead can reflect volitional decisions to defer, appease, relent, and capitulate to stated and unstated demands in order to (emotionally and/or physically) survive relationships when extrication from the relationship appears unsafe or inviable to them, for whatever reason (Dutton, 1993; Dutton & Goodman, 2005). While in many instances survival means physical survival, in cases in which emotional dependency and capitulation to the abuser have eroded autonomous expression of self, survival is experienced more as emotional survival, and a victim may come to believe that she is unable to function without her partner. This process results directly and indirectly through words communicated by the abuser to the victim, about her lack of self-worth, her incompetence, or her inability of function without him, which ultimately are internalized as negative core beliefs about self-worth, self-efficacy, and ability to function or survive without the abuser.
- IX. **COERCIVE CONTROL:** While the seemingly disparate forms of abuse (i.e., physical violence, sexual abuse, emotional/psychological abuse, stalking/harassment) may appear distinct, the tie that binds them is coercive control. By causing harm, threatening to cause harm (to the woman herself, her family, her property/pets, or self-harm), instilling fear, or otherwise making it known that negative, unwanted consequences attach for resistance or non-compliance with demands and expectations, an abuser can effectively control his abused partner (Crossman & Hardesty, 2017; Stark, 2007). A recent review of coercive control by Hamberger, Larsen, & Lehrner (2017) identified three essential elements of coercive control: 1) intentional or goal orientation in the abuser; 2) negative perception of the controlling behavior by the victim, and 3) the ability of the abuser to maintain control through the use of a threat to which the victim will likely capitulate. Control exists on a continuum (Johnson, 2008), and is effectuated by creating a climate of fear (Crossman & Hardesty, 2017).

Given its goal to influence and restrict choice, coercive control is essentially a form of oppression that restricts an individual's agency and autonomy because capitulation with the

demands and expectations of an abuser is emotionally and/or physically safer than challenging those demands or expectations which often results in violence escalation.

Thus, IPA is fundamentally about control, not physical violence, which is only one of its many tactics (Dutton & Goodman, 2005; Follingstad & Rogers, 2014; Logan, Cole, & Shannon, 2007; Mechanic, Weaver, & Resick, 2008; Stark, 2009; Stansfield & Williams, 2018). Physical violence therefore does not need to be present for a relationship to be characterized as coercively controlling (Crossman, Hardesty, & Rafaelli, 2016).

Coercively controlling behaviors can include financial control; intimidation; isolating the woman from her social support network; controlling her access or resources; restricting her clothing options, makeup, jewelry, or style of dress; restricting her consumption of food or drink; adherence to traditional masculine-feminine gender roles; physical or sexual violence or other threats for failed compliance with her partner's wishes. Threats by an abuser may take on various complexions and include threats to harm the victim, her family, her pets, her property, or otherwise instill unwanted, social or emotional costs for failed compliance (Dichter, Thomas, Crits-Christoph, Ogden, & Rhodes, 2018; Mechanic, Weaver, & Resick, 2000; Stark, 2007). The essence of coercive control hinges on the costs and consequences for failed compliance, and the subsequent behavioral change it induces in the victim, who learns to comply in the situation or in advance, in order to avoid the abusive consequences of failed compliance they have learned, from experience, are on the horizon.

Once there has been a history of abuse in a relationship, an abuser can effectively control his partner through more nuanced and subtle forms of abuse, such as threats, intimidation, degradation, or instillation of fear, even without any additional acts of overt violence because his victim already knows that he is capable of, and willing to resort to violence against her to achieve his aims (Dutton & Goodman, 2005; Follingstad & Rogers, 2014). At that point, even simple, subtle acts, such as a look or glance can signal impending harm, effectively keeping a woman controlled without anyone in the immediate social environment becoming aware of the controlling dance taking place before them. Fischer, Vidmar, & Ellis (1993) refers to these nuanced forms of effectively controlling communication in abusive relationships as a "culture of battering," and further go on to argue that because of tacit, unobservable (to outsiders) signs of control, divorce/custody mediation inherently disadvantages abused women who can be successfully manipulated to capitulate, even in the presence of a trained divorce/custody mediator.

Coercive control also continues post-relationship termination (Ornstein & Rickne, 2013), as the abuser's motive is to maintain control over his partner, often even after she has successfully exited the relationship. As described above, the goal of coercive control is instilling fear, such that the victim complies with or capitulates to her abuser, in order to avoid unwanted, painful, negative or otherwise abusive consequences, thus resulting in loss of autonomy and agency.

- X. **DECISIONS TO STAY/LEAVE:** The ubiquitous question posed of abused women is often, "WHY DIDN'T SHE JUST LEAVE," when the question is really, "why does he keep abusing her, even after she has?" (Mahoney, 1991). There are many reasons why abused women stay, including but not limited to: emotional ties, relationship investment, love, fear, loyalty,

emotional dependency, including concerns that she won't be able to make it without him, and more (Anderson & Saunders, 2003; Barnett, 2000; Dutton, 1993). While many of these beliefs, referred to as cognitive distortions, might not appear realistic to outsiders, because of the way in which abuse erodes one sense of self, self-worth, and competence, a victim can become convinced that her survival is predicated on remaining with her seemingly more capable partner.

When victims of IPA perceive leaving their abusive partner as not safe or viable (even if based on distorted perceptions or beliefs), they also must deny, distort or minimize the abuse perpetrated against them, because to do otherwise would create unmanageable levels of cognitive dissonance (Nicholson & Lutz, 2017). Once cannot simultaneously acknowledge being the victim of IPA and at the same time make disclosures about said abuse UNLESS and UNTIL that victim is ready and able to leave the relationship. For example, it would be impossible to report your spouse to the police for sexual assault or even to disclose this abuse to friends or family, while continuing to stay partnered with him. This means that not infrequently, victims are only label to acknowledge or label nonconsensual sexual experiences as sexual abuse/assault within an intimate relationship once they've left the abusive partner.

To the extent that a victim of IPA engages in denial, minimization, or distortion as a survival-based coping mechanism, she may also fail to accurately perceive the risks of harm to herself (Matlow & DePrince, 2012). Accordingly, sometimes it takes a sufficiently violent or otherwise noteworthy incident of violence or abuse for a victim to recognize, label it as such, and take appropriate protective action, such as leaving the abuser, or making a report to law enforcement. Living with abuse and trauma results in an array of distorted cognitions and perceptions about oneself and the abuser that affect judgement and decision-making.

XI. **LEAVING IS A PROCESS, not an EVENT:** Abused women's decisions to leave abusive partnerships are complex and multifaceted (Rhatigan, Street & Axsom, 2006). Most victims of IPA eventually leave abusive partnerships, although they may leave and return many times before ultimately extricating themselves from the relationship permanently. Thus, leaving is a process, rather than a single event (Anderson & Saunders, 2003; Koepsell & Kernic, & Holt, 2006). Various factors have predicted decisions to leave abusive partners in research, including previous attempts to leave the relationship, escalation of abuse, decreased investment in the relationship, perceived support, physical violence, emotional/psychological abuse, concern for the welfare of children or other valued interests, as well as women's vulnerability. Once a woman has decided to depart from an abusive relationship, she may no longer be willing to protect him or his interests, and at that point, she may be more willing to disclose the abuse to friends, family, law enforcement or other helping professionals.

XII. **REPORTING TO LAW ENFORCEMENT:** Most episodes of IPA are not reported to the police. Data from the National Violence Against Women Survey (NVAWS) indicate that approximately 20% of all rapes, 25% of all physical assaults, and 50% of all stalking incidents perpetrated against female respondents by intimates were reported to the police (Tjaden & Thoennes, 2000). There are many barriers to reporting, including that once a woman reports IPA to the police, she must be prepared to leave the relationship. Unless and until a woman is prepared to leave, reporting is often not perceived to be a safe and viable option.

- XIII. VULNERABILITY TO INTIMATE PARTNER AND SEXUAL VIOLENCE:** Survivors of childhood and/or adolescent sexual assault are significantly more likely to be sexually revictimized in adulthood (Black et al., 2011; Casey, & Nurius, 2005; Classen, Palesh, & Aggarwal, 2005; Cloitre, 2006). Moreover, Kilpatrick et al (1987) document that once an individual has experienced a single high magnitude trauma, such as a sexual assault, they are at increased risk of experiencing subsequent traumatic events over the course of their lifetime.

Research also documents that not only does childhood or adolescent sexual assault increase the odds of subsequent adult sexual revictimization, but also that prior sexual trauma incrementally adds to the risk of developing PTSD, such that sexually revictimized women are significantly more likely to be diagnosed with PTSD following revictimization, compared to singly sexually victimized women (Nishith, Mechanic, & Resick, 2000; Walsh et al., 2012). In a large nationally representative sample of adolescents Ellwood et al., (2001) found that both prior sexual assault and PTSD were predictors of subsequent sexual assault. Finally, sexual trauma in adolescence/young adulthood had been identified as a predictor of becoming involved in an abusive romantic partnership (Halpern, Spriggs, Martin, & Kupper, 2009).

- XIV. MENTAL HEALTH CONSEQUENCES OF IPA:** The mental health consequences of intimate partner abuse have been well-documented, with posttraumatic stress disorder (PTSD), depression (including suicidality) and anxiety, the most commonly identified mental health outcomes of IPA (Afifi et al., 2008; Coker, Weston, Creson, Justice & Blakeney, 2005; Gleason, 1993; Golding, 1999; Mechanic et al., 2008; Taft, Resick, Watkins, & Panuzio, 2009; Wilson, West, Messing, Brown, Patchell, & Campbell, 2011). PTSD is a diagnosable psychiatric condition listed in the Diagnostic and Statistical Manual (DSM-V). In order to receive a PTSD diagnosis, an individual is required to meet multiple criteria comprised of a specified number of clinical symptoms of PTSD, alongside documented clinical distress and/or functional impairment in one or more areas (American Psychiatric Association, 2013). Moreover, unlike other psychiatric diagnoses, such as major depressive disorder or panic disorder, PTSD is unique in that it requires exposure to a traumatic event that results in an array of clinical and functional impairment symptoms. The DSM-V articulates specific criteria as to what constitutes a 'trauma,' for purposes of a PTSD diagnosis. Specifically, the definition of a traumatic event requires "exposure to actual or threatened death, serious injury, or sexual violence," that may be experienced directly, witnessed, or learning of a trauma experienced by a loved one. IPA is considered a traumatic event qualifying for a PTSD diagnosis, as long as other symptom and impairment/distress criteria are met.

Rates of PTSD in battered women range from 31% to 84%, with a weighted mean prevalence estimate of 64% (Golding, 1999). These rates are considerably higher than the rates of PTSD found among general community samples of women, which range from 1% to 12%, and are also considerably higher than the PTSD rates found among community samples of women with histories of non-IPA forms of criminal victimization (Golding, 1999). Moreover, non-physical forms of IPA, such as psychological abuse also contribute to PTSD symptoms, above and beyond the contributions of physical violence (Basile, Arias, Desai & Thompson, 2004; Jones et al., 2001; Mechanic, Weaver, & Resick, 2008). Finally, subjective perceptions of fear, rather than objective indicators of actual violence predicts PTSD symptoms among IPA exposed

women (Jaquier & Sullivan, 2014; Wilson et al., 2011), with a linear relationship observed such that increased levels of fear are associated with increased symptoms of PTSD. Specifically, the greater a woman's perceptions that her partner would be likely to harm her, the higher her levels of PTSD symptoms (Wilson et al., 2011). These findings applied not only to current abusive relationships (Wilson et al., 2011), but also to fear of past abusive partners committing harm against the survivor (Jaquier & Sullivan, 2014).

The weighted mean prevalence of major depression among battered women is estimated to be 48% (Golding, 1999), a rate also considerably higher than those obtained in epidemiological samples of women. A more recent meta-analysis (Beydoun et al., 2012) found a two to three-fold increase in diagnoses of major depressive disorder associated with IPA. Like with PTSD, major depressive disorder a diagnosable clinical condition with specified criteria that must be met in order to receive a diagnosis. Fleeting feelings of sadness that are normatively experienced by most individuals that do not reach clinically specified thresholds for symptom severity, distress and impairment are not diagnosable conditions. Other mental health consequences of IPA include anxiety, somatic and physical health complaints (Afifi et al., 2008; Bonomi, Anderson, Rivara, Thompson, 2007; Campbell, 2002; Carbone-Lopez, Kruttschnitt, & MacMillan, 2006).

- XV. **FEAR:** Fear is commonly reported among abused women (Sackett & Saunders, 1999) – this includes both fear-based on prior acts of abuse in the partnership, as well as fear of the unknown, i.e., what an abusive partner might do, based on his threats or other perceptions of harm. Thus, fear, in the context of IPA, results from both the perceived risk of violence and the uncontrollability of that risk (Jaquier & Sullivan, 2014). Abused women's fear has manifold sources, including fear of physical harm or injury, or fear of other consequences based on the unique contextual factors of that relationship (Jaquier & Sullivan, 2014). Feeling unsafe, as well as other perceived risks of potential harm are predictors of PTSD among abused women (West et al., 2011).

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<sup>2</sup> Research on adolescence documents that the brain is not fully formed until approximately age 25, thus the period of time from late adolescence until age 25 is one rife with substantial cognitive, emotional, interpersonal development that solidify the developmental tasks of adolescence launching into young adulthood. Even though young adults (18-25) are classified as 'adults' for many purposes, they have not yet attained the developmental maturity of adults.

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Please do not hesitate to contact me if you have additional questions or concerns.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "Mindy B. Mechanic".

Mindy B. Mechanic, Ph.D.  
Licensed Psychology (#19960-CA).

**MECHANIC DECLARATION: EXHIBIT A**

**NOVEMBER, 2019**

*Curriculum Vitae*

**Mindy B. Mechanic**

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**Education**

**Ph.D.**

**University of Illinois at Urbana-Champaign, 1996**

Major: Clinical Psychology; Minor: Law

Dissertation: Battered Woman Syndrome: Juror Common Understanding and Expert Testimony

Clinical Internship, **University of Virginia Health Sciences Center, 1990-1991**  
(APA-Accredited Pre-doctoral Internship)

Rotations: Adult Psychiatric Clinic (major),  
Western State Hospital, Acute Admissions Unit (major),  
Forensic Psychiatry Clinic (extended minor)  
Family Stress Clinic (minor)  
Pain Management Center (minor)

**M.A.**

**University of Illinois at Urbana-Champaign, 1987**

Major: Clinical Psychology

Thesis: Assessment and Differentiation of Chronic Depression in a Non-Patient Sample

**B.A.**

**University of California, Los Angeles (Psychology), 1981**

**Professional Licenses**

March, 2019	Interjurisdictional Practice Certificate (IPC # 4712)
May, 2004	Licensed Psychologist, California (PSY 19660)
June, 1998	Licensed Psychologist, State of Missouri (PY 01885 -inactive)
July, 2000	Licensed Clinical Psychologist, State of Illinois (071-006086 -inactive)

**Certificates and Specialized Training:**

December, 2018	Basic FETI (Forensic Experiential Trauma Interview) Certification
August, 2017	APSAC Child Forensic Interviewing Certification
July, 2015	Certificate in Disaster Mental Health Fundamentals, American Red Cross
August, 2015	APA Training in Disasters and the Media

**Forensic Expertise:**

Interpersonal victimization (sexual assault, child maltreatment/adversity, intimate partner abuse, stalking, domestic homicide, infanticide, trauma and alcohol-related memory impairment);

impact of non-crime trauma (e.g., combat, accidents, disaster) on potentially criminal or harm-inducing behaviors towards others; risk assessment; workplace violence. Experienced working in criminal (military and civilian), civil, family, and juvenile courts.

#### Positions Held

6/2010- Current on	<u>President, Forensic Psychological Consulting, Inc.</u> Provides forensic evaluation, expert testimony, expert consultation and training trauma-related forensic psychology.
6/2013- 10/2019	<u>Professor of Psychology (RETIRED)</u> California State University, Fullerton Department of Psychology
8/2008- 7/2009	<u>Visiting Scholar</u> Whittier Law School
8/2006- 8/2013	<u>Associate Professor of Psychology</u> California State University, Fullerton Department of Psychology
2002- 7/2006	<u>Assistant Professor of Psychology</u> California State University, Fullerton Department of Psychology
1998- 2002	<u>Assistant Research Professor</u> Center for Trauma Recovery/Department of Psychology University of Missouri-St. Louis
1996- 1998	<u>Post-doctoral Fellow</u> Center for Trauma Recovery/Department of Psychology University of Missouri-St. Louis Supervised Post-Doctoral Clinical Training Program. Includes individual and couples therapy, clinical and forensic assessment with trauma and non-trauma populations. Conducted clinical assessments for the determination of disability.
October, 1992- July, 1996	<u>Project Director, NIMH Grant PTSD: Etiology and Treatment</u> Patricia A. Resick, Principal Investigator Department of Psychology University of Missouri-St. Louis Trained and supervised graduate student interviewers conducting structured diagnostic interviews for DSM-IV disorder. Responsible for participant recruitment from community agencies and all aspects of data collection.
July, 1991- September, 1992	<u>Research Assistant: Coercion Project,</u> The John D. and Catherine T. MacArthur Foundation Research Network on Mental Health and the Law.

Supervisors: S. K Hoge, M.D. and John Monahan, Ph.D.

Responsibilities: Participated in the design and implementation of research protocols. Assisted in the collection and analysis of statistical data. Cultivated and maintained relationships among the primary and satellite research sites.

## **Grants**

### **Federal Grants**

Principal Investigator, *Ethnocultural Influences on Women's Experiences of, and Responses to Intimate Partner Abuse*. (National Institute of Justice). \$925,100) Funded as of January, 2014.

Co-Investigator, *Translational Approaches to Understanding Sex-dependent Responses to Unpredictable Threat*. (National Institute of Health-NIMH), \$412,243.000 (under review).

Research Co-Leader, *Disparities in social support, isolation, and coping among cervical cancer survivors*. Joint pilot project proposed as part of the CSUF-UCI-CFCCC Partnership for Health Disparities Research (National Cancer Institute, funded, 2012), \$50,000.

Consultant, *Intimate Partner Violence in Mandatory Divorce Mediation: Longitudinal Outcomes from a Multi-Cultural Study* (2008), National Institute of Justice, \$226,031.

Principal Investigator, *Intimate Partner Abuse: Effects on Parenting*. Maternal and Child Health Bureau, HRSA (2003, not funded), \$1,199,159.

Principal Investigator, *Intimate Partner Abuse: Effects on Parenting*. Maternal and Child Health Bureau, HRSA (2002, approved for funding – not funded), \$750,000.

Co-Investigator. *Violence Against Women National Prevention Research Center*. Centers for Disease Control and Prevention (CDC, 1998), \$470,815.

Co-Principal Investigator, *Cognitive Processes in PTSD: Focus on Domestic Violence*. National Institute of Mental Health (NIMH, 1997), \$ 1,374,843.

Co-Principal Investigator, *Marital Violence in the Wake of the Great Flood of 1993*. National Institute of Mental Health (NIMH, 1993). NIMH Grant # 1 R03MH52513-01, \$71,266.

### **Internal and Foundation Grants**

Principal Investigator, *Universal Screening for Intimate Partner Violence in Routine Clinical Care* (May, 2015), California Wellness Foundation, \$20,000.

Principal Investigator, *Battering, Parenting and Culture Among Latina Mothers*. (July, 2012) CSUF College of Humanities and Social Sciences, Summer Stipend.

Principal Investigator, *PTSD and Intimate Partner Violence among Hispanic and Non-Hispanic women* (2011, funded). California State University, Grant Incentive Fund, \$10,000.

Principal Investigator, *Adaptation to Intimate Partner Violence Among Ethnic Minority Women*, (2011, funded, release time, \$1500). CSUF Health Promotion Research Mini-Grant.

Principal Investigator, *Intimate Partner Violence Against Latinas: Exploring Ethnic Differences in Psychological and Strategic Outcomes* (2008). State Fullerton State Special Fund For Research, Scholarship And Creative Activity Grants, \$4,950.

Principal Investigator, *Intimate partner violence and PTSD among Latinas* (2006). California State Fullerton State Special Fund for Research, Scholarship And Creative Activity Grants, \$4950.

Principal Investigator, *Partner violence and parenting among Latinas* (2004-2005). California State Fullerton State Special Fund For Research, Scholarship And Creative Activity Grants, \$4855.

Principal Investigator, *Domestic violence and workplace issues* (2004). California State University, Faculty Development Center Intramural Grants (release time).

Principal Investigator, *Domestic violence and workplace issues* (2004). California State University, Department of Psychology, IRR release award.

Principal Investigator, *The impact of intimate partner abuse on battered women's parenting* (2003). California State University, Intramural grant, State of California (summer salary)

Principal Investigator, *The impact of intimate partner abuse on battered women's parenting* (2002). California State University, Faculty Development Center Intramural Grants (release time).

Principal Investigator, *The impact of intimate partner abuse on battered women's parenting* (2002). California State University, Department of Psychology, IRR release award.

#### **Grant Consultation**

Consultant/Local Research Partner, *St. Louis County Domestic Violence and Child Maltreatment Demonstration Initiative* (HHS/DOJ) (April, 2001, funded).

Consultant, *Community-based curriculum for training nursing students in the health care needs of incarcerated women*, Helene Fuld Health Trust (2000, funded).

#### **Publications**

##### **Books**

Mechanic, M.B. (in progress). *Explaining victim behavior: Using expert psychological evidence to prosecute sexual assault, stalking and intimate partner violence cases.*

Mechanic, M.B. (in progress). *Criminal Cases Involving Battered Women Defendants*

*and Witnesses: Expert Evidence on Intimate Partner Battering and Its Effects*. Oxford University Press.

### **Journal Articles**

*(under review)*

Valdovinos, M., & Mechanic, M.B. (2019, under review). "Where mama duck goes, little ducklings follow": Exploring the Parenting Experiences of Latina Intimate Partner Violence Survivors.

Dardis, C.M., Ahrens, C., Howard, R.L., & Mechanic, M.B. 2019, (under review).  
Experiences of Stalking Among a Diverse Sample of Intimate Partner Abuse Survivors

*(published)*

Valdovinos, M. G., & Mechanic, M. B. (2017). Sexual coercion in marriage: Narrative accounts of abused Mexican-American women. *Journal of Ethnic & Cultural Diversity in Social Work*. 1-20, Published online: 09 May 2017

Segal, N.L., Cortez, F.A., Zettel-Watson., L.E., Mechanic, M.B., Munson, J.E., Velázquez, J.M.A., & Reed, B. (2015). Genetic and experiential influences on behavior: Twins reunited at 78 years. *Personality and Individual Differences*, 73, 110-117.

Pfaendler, K., Wenzel, L., Mechanic, M.B., & Penner, K.R. (2015). Cervical cancer survivorship: Long-term quality of life and social support. *Clinical Therapeutics*, 37, 39-48.

Shepherd-McMullen, C., Stokes, J., Mearns, J., & Mechanic, M.B. (2015)  
Negative Mood Regulation Expectancies Moderate the Relationship  
between Psychological Abuse and Avoidant Coping. *Journal of Interpersonal Violence*. 30, 1553-1556

Daftary-Kapur, T., O'Connor, M., & Mechanic, M.B. (2014). Gender  
intrusive questioning: A survey of expert witnesses. *Behavioral Sciences and the Law*, 32, 180-194.

Mechanic, M.B., & Pole, N. (2013). Methodological Considerations in Conducting  
Ethnoculturally Sensitive Research on Intimate Partner Abuse and its Multidimensional  
Consequences, *Sex Roles*. 69, 205–225

Beck, C.J.A., Walsh, M.E., Mechanic, M.B. & Taylor, C.S. (2010). Intimate partner violence  
screening and accommodations provided in mandatory divorce mediation. *Law and  
Human Behavior*, 34 (3), 227-241.

Mechanic, M.B., Weaver, T.L., & Resick, P.A. (2008a). Mental health consequences of  
intimate partner abuse: A multidimensional assessment of four different forms of abuse.  
*Violence Against Women*, 14 (6), 634-654.

- Mechanic, M.B., Weaver, T.L., & Resick, P.A. (2008b). Risk factors for physical injury among help-seeking battered women: An examination of abuse dimensions. *Violence Against Women*, 14 (10), 1148-1165.
- Marellich, W.D., Lundquist, J., Painter, K., & Mechanic, M. B (2008). Sexual Deception as a Social-Exchange Process: Development of a Behavior-Based Sexual Deception Scale. *The Journal of Sex Research*, 45 (1), 27-35.
- Taft, C. T., Resick, P. A., Panuzio, J., Vogt, D. S., & Mechanic, M. B. (2007). Coping among Victims of Relationship Abuse: A Longitudinal Examination. *Violence and Victims*, 408-418.
- Taft, C. T., Vogt, D. S., Resick, P. A., & Mechanic, M. B. (2007). Posttraumatic stress disorder and physical health symptoms among help seeking battered women. *Journal of Family Psychology*, 354-362.
- Taft, C. T., Resick, P. A., Panuzio, J., Vogt, D. S., & Mechanic, M. B. (2007). Examining the correlates of engagement and disengagement coping among help seeking battered women. *Violence and Victims*. 22 (1), 3-17.
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- Griffin, M.G., Uhlmansiek, M.H., Resick, P.A., & Mechanic, M.B. (2004). Assessment of posttraumatic stress disorder in domestic violence survivors: Comparison of an interviewer-based versus a self-report measure, *Journal of Traumatic Stress*, 17 (6), 497-503.
- Mechanic, M.B. (2004). Beyond PTSD: Mental health consequences of violence against women: A response to Briere and Jordan. *Journal of Interpersonal Violence*. 18, 1-7.
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- Griffin, M.G., Resick, P.A., Waldrop, A., & Mechanic, M.B. (2003). Reactions to participation in trauma research: Is there evidence of harm? *Journal of Traumatic Stress* 16, 221-227.
- Bennice, J.A., Resick, P.A., Mechanic, M.B., & Astin, M. (2003). The relative effects of intimate partner physical and sexual violence on posttraumatic stress disorder symptomatology. *Violence and Victims*, 18 (1), 87-94.
- Lee, R.K., Sanders-Thompson, V.L., & Mechanic, M.B. (2002). Intimate partner violence and



- women of color: A call for innovation. *American Journal of Public Health*, 92 (4), 530-534.
- Rose, S., & Mechanic, M. (2002). Homophobic bias crimes: An examination of crime features, psychological distress and help-seeking behavior. *American Behavioral Scientist*, 46(1), 14-26.
- Mechanic, M.B., Weaver, T.L., & Resick, P.A. (2000). Intimate partner violence and stalking behavior: Exploration of patterns and correlates in a sample of acutely battered women. *Violence and Victims*, 15 (1), 55-72.
- Reprinted in: K.E. Davis, I.H. Frieze, & R.E. Maiuro (Eds.) *Stalking and obsessive behavior: Perspectives on victims and perpetrators*. Springer Publications (2002), pp. 62-88.
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- Reprinted in: K.E. Davis, I.H. Frieze, & R.E. Maiuro (Eds.) *Stalking and obsessive behavior: Perspectives on victims and perpetrators*. Springer Publications (2002), pp. 89-111.
- Lurigio, A.J., & Mechanic, M.B. (2000,). The importance of being sensitive and responsive to crime victims. *Police*, 24 (1), 22-28.
- Nishith, P., Mechanic, M.B. & Resick, P.A. (2000). Prior interpersonal trauma: The contribution to current PTSD symptoms in female rape victims. *Journal of Abnormal Psychology*, 109 (1), 20-25.
- Mechanic, M.B., Resick, P.A. & Griffin, M.G. (1998). A Comparison of Normal Forgetting, Psychopathology, and Information Processing Models of Reported Amnesia for Recent Sexual Trauma. *Journal of Consulting and Clinical Psychology*, 66 (6), 948-957.
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- Abramson, P.R., & Mechanic, M.B. (1983). Sex and the media: Three decades of best-selling

novels and major motion pictures. *Archives of Sexual Behavior*, 12, 185-206.

#### **Contributing Author**

Moriarty, J.C. (1996). Psychological and scientific evidence in criminal trial. Thomson/West Publishers. [Contributed to Chapters 5 & 6, 2005/2006 Supplement].

#### **Co-Editor**

Mechanic, M.B. (2015). *Encyclopedia of Mental Health*. Oxford, England: Elsevier Press.

#### **Chapters in Edited Volumes**

Mechanic, M.B. (2011). Research on Intimate Partner Violence: Methodological and Ethical Considerations. In B. Rosenfeld and S. Penrod (Eds.) *Research Methods in Forensic Psychology*. New York: John Wiley Press (Chapter 26).

Davis, K.E., & Mechanic, M.B. (2009). Stalking victimization: The management of consequences. In C. Mitchell (Ed.) *Intimate Partner Violence: A Health-Based Perspective*. NY: Oxford University Press (Chapter 31).

Lyon, T., & Mechanic, M.B. (2006). Battered women and parenting. In N. Dowd, D.G. Singer & R.F. Wilson (Eds.) *Handbook on children, culture and violence*. Newbury Park, CA: Sage Publications.

Mechanic, M.B. (2004). Stalking victimization and intimate partner violence. In T. Jackson & L. VandeCreek (Eds.) *Innovations in Clinical Practice: A sourcebook*. Sarasota, FL: Professional Resource Press, pp. 21-34.

Mechanic, M.B. (2003). Responding to the psychological impact of stalking. In M. Brewster (Ed.) *Stalkers and their Victims: Psychology, law, risk factors and interventions*. Kingston, N.J.: Civic Research Institute, Chapter 11, pp. 11\_1-11\_22.

Mechanic, M.B. (2001). Stalking Victimization: Clinical implications for assessment and intervention. in K.E. Davis, I.H. Frieze & R.E. Maiuro (Eds.) *Stalking and obsessive behavior: Perspectives on victims and perpetrators*. Springer Publications. pp. 31-61.

Mechanic, M.B. (1996). Battered women, homicide and the legal system. In A.R. Roberts (Ed.) *Helping battered women: New perspectives and remedies*. New York: Oxford University Press, pp. 132-156.

Resick, P.A., & Mechanic, M.B. (1995). Brief cognitive therapies for rape victims. In A.R. Roberts (Ed.) *Crisis Intervention and Time limited Treatment*. Newbury Park, CA: Sage Publications. pp. 91-126.

#### **Other Publications**

Mechanic, M.B. (2018, in press). *Risk Management Strategies for Dealing with Sexual Misconduct in the Workplace*. *The National Psychologist*.

- Mechanic, M.B. (2006). Needs of marginalized battered women. *Domestic Violence Report*, 11 (5), 65-66; 79-80.
- Mechanic, M.B. & Valdovinos, M. (2006). Multicultural perspectives on Intimate partner violence. *Domestic Violence Report*, 11 (3), 39-40.
- Mechanic, M.B. & Valdovinos, M. (2005). More effects of intimate partner abuse on Hispanic Victims. *Domestic Violence Report*, 10 (6), 87-88.
- Mechanic, M.B., & Valdovinos, M (June/July, 2005). The cultural context of abuse of Latinas. *Domestic Violence Report*, 10 (5), 65-67.
- Mechanic, M.B., & Valdovinos, M. (February/March, 2005). Intimate partner abuse in same-sex relationships. *Domestic Violence Report*, 10 (3), 38,41.
- Mechanic, M.B., & Valdovinos, M. (October/November, 2004). Intimate partner abuse experienced by Latinas: Part III. *Domestic Violence Report*, 10 (1), 16.
- Mechanic, M.B., & Valdovinos, M. (June/July, 2004). Intimate partner abuse experienced by Latinas: Part II. *Domestic Violence Report*, 9 (5), 69,73-76.
- Tang-Martinez, Z., Mechanic, M. B. (2001). A Natural History of Rape: Biological Bases of Sexual Coercion, *American Anthropologist*, 103, (4) 1222-1223. (book review).
- Mechanic, M.B. (2001). Autonomous Intimacy: Oxymoron or Necessary Precondition? *Psychology of Women Quarterly*, 25 (2), 169-170. Review of *The Search for Autonomous Intimacy: Sexual Abuse and Young Women's Identity Development*, M. Sue Crowley. NY: Peter Lang Publishing, 2000. 256 pp. (book review)
- Tang-Martinez, Z., & Mechanic, M.B. (May/June 2000). Response to Thornhill and Palmer on Rape. The Sciences: NY Academy of Sciences, page 3 (letter).
- Technical Reports
- Beck, C.J.A, Walsh, M.E., Mechanic, M.B. Figuerido, A.J., & Mui-Kang, C. (2011). *Intimate partner abuse in mandatory custody mediation: Outcomes from a long-term multicultural study*. Final report, submitted to the National Institute of Justice, grant number 2007-WG-BX-0028.
- Mechanic, M.B., Sanders-Thompson, V., Shields, N., & Lee, R. (2003). *Violence against women prevention programming: A national survey of programs in use*. St Louis, MO: National Violence Against Women Prevention Research Center, University of Missouri-St. Louis.
- Mouradian, V.E., Mechanic, M.B., & Williams, L.M. (2001). *Recommendations for establishing and maintaining successful researcher-practitioner collaborations*. Wellesley, MA: National Violence Against Women Prevention Research Center, Wellesley College.

National Violence Against Women Prevention Research Center (May, 2001). *Fostering collaborations to prevent violence against women: Integrating findings from practitioner and researcher focus groups*. Charleston, SC. (Co-Author).

Resick, P. A., Mechanic, M. B., & Griffin, M. G. (1997). *Marital violence in the wake of the great flood of 1993*. Final report submitted to the National Institute of Mental Health, Grant #1 R03MH52513-01.

#### **Manuscripts In Preparation**

Mechanic, M.B., Weaver, T.L., & Resick, P.A. (in preparation). Subtypes of stalking among women exposed to intimate partner violence: A cluster analytic approach.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (in preparation). The roles of partner abuse, cognitive schemas, and emotional disengagement as contributors to PTSD and depression among battered women. Poster submitted to the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR

#### **Unpublished Instruments**

Mechanic, M.B. (unpublished measure) Cognitive Distortion Index.

Klein, D.N., Mechanic, M.B., & Miller, G.A. (unpublished instrument) A modified structured diagnostic interview.

#### **Professional Presentations (peer-reviewed)**

Lemon, N., Flanagan, T., & Mechanic, M.B. (2019, February). *Current developments in domestic violence law: Cases, statutes, threat assessment/management and the psychology behind it all*. Association of Family and Conciliation Courts Annual CA Conference, Costa Mesa, CA.

Hart, A., Escobar, M., Altamranio, V., Ahrens, C., & Mechanic, M.B. (2018, September). *Reasons why women of Mexican Heritage stay in abusive relationships*. Poster presented at the Institute on Violence and Trauma Conference, San Diego, CA.

Kim, M., Yoo, D., Lee, S., Aherns, C., & Mechanic, M.B. (2018, September). *Reasons why women of Mexican Heritage stay in abusive relationships*. Poster presented at the Institute on Violence and Trauma Conference, San Diego, CA.

Nguyen, J., Salazar, C., Prideaux, J., Gearhart, C., Ahrens, C., & Mechanic, M.B. (2018, September). *Reasons why women of Vietnamese heritage stay in their abusive relationships*. Poster presented at the Institute on Violence and Trauma Conference, San Diego, CA.

Vieira, J., Pattison, J., Stanger, A., Aherens, C., & Mechanic, M.B. (2018, September). *Reasons why European heritage women stay in abusive relationships*. Poster

presented at the Institute on Violence and Trauma Conference, San Diego, CA.

- Hart, A., Rodriguez, P., Gamez, E., Nunez-Jimenez, A., Mendoza, V., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, August). *Mexican-American survivors' recommendations for service providers*. Poster presented at the 126<sup>th</sup> Annual Convention of the American Psychological Association, San Francisco, CA.
- Yoo, D., Kong, E., Salazar, C., Lopez, J., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, August). *Korean-American survivors' recommendations for service providers*. Poster presented at the 126<sup>th</sup> Annual Convention of the American Psychological Association, San Francisco, CA.
- Nguyen, P., Mechanic, M., & Ahrens, C. (2018, August). *Vietnamese-American students' judgment of dating and marital violence: A pilot study*. Poster presented at the Annual Convention of the American Psychological Association, San Francisco, CA.
- Nguyen, P., Phan, S., Escobar, M., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, August). *Vietnamese-American survivors' recommendations for service providers*. Poster presented to the 126<sup>th</sup> Annual Convention of the American Psychological Association, San Francisco, CA.
- Russo, L., Liner, L., Freiborg, N., Pattison, J., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, August). *Intimate partner violence survivors' recommendations for service providers*. Poster presented at the 126<sup>th</sup> Annual Convention of the American Psychological Association, San Francisco, CA.
- Mechanic, M.B., Richards, K., & Rosenfeld, B. (2018, June). *Litigating sexual misconduct claims in the post-Weinstein #Me Too era*. Round Table Discussion presented at the International Forensic Mental Health Services Conference, Antwerp, Belgium.
- Ahrens, C., Gearhart, C., & Mechanic, C. (2018, May). *Barriers to accessing services among Vietnamese survivors of intimate partner violence*. In C. Ahrens (Chair), Designing research and services for underserved populations: Challenges and recommendations. Symposium presented at the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR.
- Hart, A., Escobar, M., Pattison, J., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, May). *'El Silencio': Understanding the influence of culture on the Mexican – American Woman's experience of abuse disclosure*. Poster presented at the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR.
- Mendoza, V., Lopez, J., Nguyen, A., Ruiz, R., Phan, S., Gearhart, C., Ahrens, C., & Mechanic, M. (2018, May). *Social responses from friends and family upon intimate partner violence disclosure for Vietnamese American women*. Poster presented at the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR.
- Russo, L., Nguyen, P., Salazar, C., Liner, L., Gearhart, C., Ahrens, C., & Mechanic, M. (2018,

May). *Social responses toward Korean American survivors of intimate partner violence*. Poster presented at the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR.

Nguyen, P., Mechanic, M.B., & Ahrens, C.A. (2018, April). *The influence of acculturation, patriarchal beliefs, and attitudes towards women on Vietnamese-American students' perceptions of intimate partner violence*. Poster presented at the 98<sup>th</sup> Annual Convention of the Western Psychological Association, Portland, OR.

Mechanic, M.B. *Expert evidence on counterintuitive victim behavior in cases involving intimate partner and sexual violence: Conceptualizing victim responses through an interpersonal rather than a criminological lens* (2017, October). Paper presented at "Safer Communities, Safer Relationships," Conference, Prato, Italy.

Gearhart, C., Light, L., Ahrens, C., & Mechanic, M. (2016, October). *Working with diverse survivors of intimate partner violence*. Poster presented at the Orange County Women's Health Conference, Fullerton, CA.

Mechanic, M.B. (March, 2017). *Research, teaching, and forensic practice on violence against women: A translational science example* In M.B. Mechanic (Chair), *From the Laboratory to the Courtroom: An Exploration of Translational Psychology in the Field of Psychology and Law*. Symposium presented at American Psychology Law Society. Seattle, WA.

Mechanic, M.B., *intimate partner violence in child custody and visitation cases*. Annual Meeting of the California Association of Family and Conciliation Courts. Costa Mesa, CA, February, 2017.

Ari, S., Altamirano, V., Rodriguez, P., & Ahrens, C. (2017, January). *Mexican migrant survivors' reasons for staying in or leaving abusive relationships*. Poster presented at the 2017 National Multicultural Conference and Summit, Portland, OR.

Gearhart, C., Light, L., Ahrens, C., & Mechanic, M. (2016, October). *Working with diverse survivors of intimate partner violence*. Poster presented at the Orange County Women's Health Conference, Fullerton, CA.

Mechanic, M.B. (August, 2016). Discussant. In C. Beck (Chair), *Researcher-community partnerships: making complex relationships work*. Symposium presented at the Annual Meeting of the American Psychological Association, Denver, CO

Gomez, A., Morales, M., Gearhart, C., & Ahrens, C. (2016, March). *Measuring intimate partner violence among Mexican immigrant women: A mixed method pilot study*. Poster presented at the 5<sup>th</sup> Annual Latino Health Equity Conference.

Mechanic, M.B. (April, 2016). *Using research on violence against women in legal cases involving victims of sexual assault, stalking, and intimate partner abuse*. In C. Ahrens (chair), *Translational research to address violence against women*. Paper presented at the

Annual Meeting of the Western Psychological Association, Long Beach, CA.

Mechanic, M. B. (March, 2016). *Social framework testimony on counterintuitive victim behaviors in trials for sexual assault*. In M. Mechanic (Chair) Social framework evidence in court: Contributions and controversies from five Areas of psycholegal research. Paper presented at the American Psychology Law Society Conference, Atlanta, GA.

Ahrens, C., Mechanic, M.B., & Fehler-Cabral, G., (August, 2015). *Researching intimate partner violence in the Vietnamese and Korean-American community*. In M. Mechanic (Chair). Trauma and Resilience Among Diverse Survivors of Violence Against Women and Girls. Paper presented at the Annual Meeting of the American Psychological Association, Toronto, Canada.

Mechanic, M.B. (March, 2015). Discussant. (March, 2015). In R. Davidson (Chair), *Researcher-Community Agency Partnerships: Practical for Making Complex Relationships Work*. Symposium presented at the Annual Meeting of the American-Psychology Law Society, San Diego, CA.

Teutscher, J.M., Mechanic, M.B., Goetz, A.T., & Preston, K.S.J. (2014, November). *Victimization history and its effect on women's use of rape avoidance behaviors*. Poster presented at the International Society for Traumatic Stress Studies, Miami, FL

Mechanic, M.B. (2014, June). *Expert Testimony in Cases involving Trauma, Violence, or Victimization*. In M. O'Connor (Chair), Panel Discussion, Achieving Effective Advocacy through Training Lawyers in Relevant Psychological. Society for the Psychological Study of Social Issues (SPSSI) Biennial Conference (Portland, OR).

Mechanic, M.B. (2014, April). *Examining the cultural context of Intimate Partner Violence*. Paper presented at the Annual Meeting of the Western Psychological Association (Portland, OR)

Mechanic, M.B., Griffin, M.G., Newton, T., Gahn, R., & Resick, P.A. (2013, November). *The Impact of Intimate Partner Stalking on PTSD and Psychophysiological Reactivity in Survivors of Intimate Partner Violence*. Paper presented at Annual Meeting of the International Society for Traumatic Stress Studies, Philadelphia, PA.

Osann, K., Mechanic, M.B., Hsieh, S., Nelson, E., & Wenzel, L (2013, October). *Social Support and Coping among Hispanic and non-Hispanic Women participating in a Randomized Counseling Trial for Cervical Cancer Survivors*. Paper presented at Annual Meeting of the International Society for Quality of Life Research (Miami, FL).

Mechanic, M.B., & Pole, N. (2013, March). *Conducting Ethnoculturally Sensitive research on Psycholegal Topics: Intimate Partner Violence as an Exemplar*. In C. Beck (Chair).



Conceptual/methodological Issues in Culturally Responsive Psycholegal Research: Four Empirical Illustrations of Intimate Partner Violence Research. Paper presented at the American Psychology-Law Society, Portland, OR.

- Beck, C., Mechanic, M.B., & Davidson, R.D. (2013, March). *Ethnic differences in couple-level patterns of intimate partner violence in divorcing parents mediating custody and parenting time disputes*. In C. Beck (Chair). Conceptual/methodological Issues in Culturally Responsive Psycholegal Research: Four Empirical Illustrations of Intimate Partner Violence Research. Paper presented at the American Psychology-Law Society, Portland, OR.
- Mechanic, M.B., Valdovinos, M.G., & Pedroza, V. (2012, November). *Discriminating service utilization patterns among severely battered women*. Paper presented at the Association for Behavior and Cognitive Therapy, Baltimore, MD.
- Shepherd-McMullin, C.E., Mearns, J., Stokes, J., & Mechanic, M.B. (2012, April). *Negative mood regulation expectancies moderate psychological abuse on avoidant coping*. Poster presented at the annual Meeting of the Western Psychological Association, San Francisco, CA.
- McIndoo, C.C., Scher, C.D., Mechanic, M.B., & Gerkens, D.R. (2011, November). *An investigation of cognitive interference: Intrusive words recalled by individuals with and without a history of physical assault following an emotional Stroop task*. Poster presented at the annual meeting of the Association for Behavioral and Cognitive Therapies, Toronto, ON Canada.
- Gravel, K. L., Scher, C. D., Miller, S., & Mechanic, M. B. (2009, April). *The effects of looming vulnerability on test anxiety and performance*. Poster presented at the annual meeting of the Western Psychological Association.
- Mechanic, M.B. (April, 2008). *The use of experiential learning approaches in teaching about trauma*. In M.B. Mechanic (Chair), Teaching Trauma: Experiential Methods, Pedagogy and Pitfalls, Symposium presented at the annual meeting of the Western Psychological Association Conference, Irvine, CA.
- Beck, C.J.A., & Mechanic, M.B. (March, 2008). *Intimate partner violence screening and accommodations provided in mandatory divorce mediation*. Paper presented at the American Psychology Law Society Meeting, Jacksonville, FL.
- Daferty, T., O'Connor, M., & Mechanic, M.B. (2007, August). *Gender intrusive questioning of expert witnesses*. Poster presented at the Annual Meeting of the American Psychological Association Convention, San Francisco, CA.
- Kloeppel, E., Mechanic, M.B., Marelich, W., & Blackman, M. (2007, March). *Workplace disclosure of intimate partner abuse: An examination of supervisor and coworker support*. In C. Ahrens (Chair), Silenced: non-disclosure among survivors of interpersonal



violence. Symposium presented at the 32nd Annual meeting of the Association of Women in Psychology, San Francisco, CA.

Segal, N.L., Seghers, J.P., Marelich, W.D., Chavarria, K., & and Mechanic, M. (May, 2007) A twin-family study of social closeness: Aunts, uncles, nieces and nephews. Human Behavior and Evolution Society, Williamsburg, VA. (research symposium)

Mechanic, M.B. (2006, October). *Teaching trauma: The use of student documentaries as an experiential tool*. In T.L. Weaver (Chair). Experiential learning: Ways of engaging undergraduate and graduate students in trauma education. Panel presented at the 22<sup>nd</sup> Annual meeting of the International Society for Traumatic Stress Studies, Hollywood, CA.

Segal, N.L., Seghers, J.P., Chavarria, K., Marelich, W., Mechanic, M. B. & Castillo, R. (2006, May). *Social closeness between twin parents and their nieces and nephews*. American Psychological Society, New York City, NY.

Segal, N.L., Seghers, J.P., Chavarria, K., Marelich, W. & Mechanic, M.(2006, June). *Social closeness and gift-giving to nieces and nephews: A twin-family study*. Human Behavior and Evolution Society, Philadelphia, PA.

Valdovinos, M. G., & Mechanic, M.B. (2006, April). *Parenting among abused Latinas: Results from a qualitative study*. In M.B. Mechanic (Chair) Intimate Partner Violence Among Latinos: The Role of Cultural Context. Symposium presented to the 86<sup>th</sup> Annual Meeting of the Western Psychological Association.

Mechanic, M.B., Seghers, J., Marelich, W., & Resick, P. A. (2006, March). *Stalking and intimate partner violence; Identification of homogenous subgroups*. In C. Sinclair (Chair) Advances in research on stalking. Symposium presented at the American Psychology Law Society, St. Petersburg, FL.

Panuzio, J., Taft, C. T., Resick, P. A., Vogt, D. S., & Mechanic, M. B. (2005, November). *Coping and mental health among battered women*. Poster presented at the annual meeting of the Association for Behavioral and Cognitive Therapies, Washington, DC.

Panuzio, J., Taft, C. T., Resick, P. A., Vogt, D. S., & Mechanic, M. B. (2005, November). *Examining correlates of engagement and disengagement coping among battered women*. Poster presented at the annual meeting of the Association for Behavioral and Cognitive Therapies, Washington, DC.

Seghers, J., Mechanic, M., Marelich, W., & Resick, P.A. (2005, November). *Identification of homogenous sub-groups of battered women*. Poster presented at the International Society of Traumatic Stress Studies, Toronto, Canada

- Mechanic, M.B., Weaver, T.L., & Resick, P.A. (2005, November). *Stalking as a contributor to PTSD and depression among battered women*. Poster presented at the International Society of Traumatic Stress Studies, Toronto, Canada.
- Valdovinos, M., & Mechanic, M.B. (2005, July). *An exploration of marital sexual coercion and machismo among Latina women*. Paper presented at the 9<sup>th</sup> International New Family Violence Research Conference, Durham, New Hampshire.
- Valdovinos, M., Pedroza, V., Mechanic, M.B., & Resick, P.A. (2005, April). *Sheltered vs. nonsheltered battered women: An examination of cluste-based subtypes*. Poster presented at the Annual Meeting of the Western Psychological Association, Portland, OR.
- Mechanic, M.B., Weaver, T.L., & Resick, P.A. (2005, March) *The unique role of stalking as a predictor of physical injuries, PTSD, and depression among battered women*. In M.B. Mechanic (Chair), *Stalking: New directions in Research on Definitions, Victim Response and Offender Treatment*, Symposium presented at the Annual Meeting of the American Psychology-Law Society, San Diego, CA.
- Shaked, N., & Mechanic, M.B. (2005, March). *Juror bias in capital trials: Reducing racial bias by means of instruction modification*. Poster presented at the Annual Meeting of the American Psychology-Law Society, San Diego, CA.
- Valdovinos, M. & Mechanic, M.B. (October, 2004). *An exploration of marital sexual coercion and machismo among Latina women*, Poster presented at the 12<sup>th</sup> Annual Mental Health and Cultural Competency Summit, Anaheim, CA.
- Taft, C.T., Resick, P.A., Mechanic, M.B., & Vogt, D.S. (November, 2004). *PTSD and Physical Health Among Help-Seeking Battered Women*. Paper presented at the International Society of Traumatic Stress Studies, New Orleans, LA.
- Valdovinos, M., Harris, D., Mechanic, M.B., Marelich, W., & Resick, P.A. (April, 2004,). *Patterns of stalking in battered women*. Poster presented at Western Psychological Association, Phoenix, AZ.
- Beck, C. J. A., Walsh, M., Taylor, C., & Mechanic, M. (April, 2004). *Domestic Violence in Couples Mandated to Attend Divorce Mediation*. Presented at Arizona Governor Janet Napolitano's "Ending Domestic Violence State-wide Training Conference", Scottsdale, AZ.
- Harris, D., Valdovinos, M., Mechanic, M.B., Marelich, W.D., & Resick, P.A. (April, 2004). *Mental health effects of stalking and intimate partner violence*. Poster presented at Western Psychological Association, Phoenix, AZ.
- Mechanic, M.B., Castillo, R. Marelich, W., & Resick, P.A. (March, 2004). *The functional role of*

*cognitive distortions among battered women.* In. T. Nichols (Chair), *Exiting Abusive Intimate Relationships: Assessment of Challenges and Outcomes.* Symposium presented to American Psychology Law Society, Scottsdale, AZ.

Beck, C., Walsh, M., Mechanic, M.B. & Taylor C. (March, 2004). *Domestic Violence in Couples Court-Mandated to Attend Divorce Mediation.* In. T. Nichols (Chair), *Exiting Abusive Intimate Relationships: Assessment of Challenges and Outcomes.* Symposium presented to American Psychology Law Society, Scottsdale, AZ.

Mechanic, M.B., Marelich, W., & Resick, P.A. (March, 2004). *Assessment of stalking as a risk factor for escalated violence among battered women.* In M. O'Connor (Chair), *Research on risk factors associated with stalking: Victim and offender perspectives.* Symposium presented at the American Psychology Law Society, Scottsdale, AZ.

Mechanic, M.B., Castillo, R., Marelich, W., & Resick, P.A. (October, 2003). *Cognitive distortion index: A measure of survival-based alterations in cognitions among battered women.* Toward a national research agenda on violence against women: A national research conference. University of Kentucky Center for Research on Violence Against Women, Lexington, KY.

Mechanic, M.B. (October, 2003). *Mental health effects of victimization: Current Research Directions.* Toward a national research agenda on violence against women: A national research conference. University of Kentucky Center for Research on Violence Against Women, Lexington, KY.

Lee, R., Shields, N., Sanders, V., & Mechanic, M.B. (April, 2003). *Violence against women prevention programming: Who we are and what we use.* Paper presented at the Annual meeting of the Midwest Sociological Society, Chicago, IL.

Mechanic, M.B., & Resick, P.A. (November, 2002). *Coping and chronic violence exposure: The relationship between spontaneous and effortful avoidant strategies.* In S. Lewis (Chair). *Coping and service utilization for victims of chronic domestic assault.* Symposium presented at the 18<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies, Baltimore, MD.

Waldrop, A., Resick, P., & Mechanic, M. B. (November, 2002). *Coping with violence: Battered women's perspectives on helping sources.* In S. Lewis (Chair). *Coping and service utilization for victims of chronic domestic assault.* Symposium presented at the 18<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies, Baltimore, MD.

Griffin, M.G., Resick, P.A., & Mechanic, M.B. (November, 2002). *Psychophysiological reactivity in domestic violence victims.* In J. Hopper (Chair). *Biology research on PTSD: Addressing complexity and clinical issues.* Symposium presented at the 18<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies, Baltimore, MD.

- Mechanic, M.B., Kaysen, D.L., & Resick, P.A. (March, 2002). *Stalking, perceptions of lethality, and posttraumatic responding among recently battered women*. In M.B. Mechanic (Chair) "I'll be watching you:" Legal, clinical and social policy implications of recent stalking research. Symposium presented at the American-Psychology Law Society (APLS) Association Biennial Meeting, Austin, TX.
- Mechanic, M.B., & Resick, P.A. (December, 2001). *Mental health consequences of multiple forms of partner abuse*. In M.B. Mechanic (Chair) Multiple dimensions of partner abuse: Physical and mental health outcomes. Symposium presented at the 17<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies (New Orleans, LA).
- Mechanic, M.B., & Rose, S. (December, 2001). *Hate crime victimization: Help-seeking, disclosure, and symptom status*. Poster presented at the 17<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies (New Orleans, LA).
- Mechanic, M.B., & Resick, P.A. (December, 2001). *Violence against women researcher-practitioner collaboration: Findings from practitioner focus groups*. In D.G. Kilpatrick (Chair) How the National Violence Against Women Prevention Research Center helps researcher-community collaboration. Workshop presented at the 17<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies (New Orleans, LA).
- Mechanic, M.B., & Resick, P.A. (August, 2001). *Fostering collaborations to prevent violence against women: Findings from practitioner focus groups*. In D.G. Kilpatrick (Chair) Can violence against women researchers and practitioner—advocates just get along? Paper presented at the annual American Psychological Association Convention (San Francisco, CA).
- Resick, P.A., & Mechanic, M. B. (2001, July). *Types of abuse, cognitive schemas and dissociation among battered women*. In C.R. Brewin (Chair) Dissociative processes in psychopathology: Clinical Applications. Paper presented at the World Congress of Behavioral and Cognitive Therapies, Vancouver, British Columbia.
- Mechanic, M.B., & Resick, P.A. (2000, November). *Cognitive distortion index: Assessment of abuse-related cognitions among battered women*. Poster presented at the 16<sup>th</sup> Annual Meeting of the International Society for Traumatic Stress Studies, San Antonio, TX.
- O'Connor, M. & Mechanic, M.B. (2000, June). *A Broader exploration of the role of gender in expert testimony*. In M. O'Connor (Chair) Sex of the expert: An empirical and experiential view. Paper presented at the Society for the Psychological Study of Social Issues, Minneapolis.
- Resick, P.A., Nishith, P., Griffin, M., Mechanic, M., & Weaver, T.L. (2000, March,). *PTSD and depression comorbidity: Prospective study and treatment outcome results*. Paper presented at the 3rd World Congress for the International Society for Traumatic Stress Studies, Melbourne, Australia.

- Mechanic, M.B., Weaver, T.L., & Resick, P.A. (1999, November). *Intimate partner violence and stalking behavior: Exploration of patterns and correlates in a sample of acutely battered women*. Paper presented at the 15th Annual Meeting of the International Society for Traumatic Stress Studies, Miami.
- Griffin, M.G., Resick, P.A., & Mechanic, M.B. (1999, November). *Psychophysiological alterations related to peritraumatic dissociation in domestic violence victims*. Paper presented at the 15th Annual Meeting of the International Society for Traumatic Stress Studies, Miami.
- Grubaugh, A., Waldrop, A., Mechanic, M.B., & Resick, P.A. (1999, November). *Alternative and investment as predictors of domestic violence victims self-schemas*. Poster presented at the 15th Annual Meeting of the International Society for Traumatic Stress Studies, Miami.
- Rose, S., & Mechanic, M. (1999, October). *Homophobic bias crimes: An examination of crime features, psychological distress and helpseeking behavior*. Hate Crimes Conference sponsored by UCLA and the Society for the Psychological Study of Social Issues (SPISSI), Los Angeles, CA.
- Williams, A.M., & Mechanic, M.B. (1998, November). *The disruption of meaning: An analysis of schema change in sexual assault survivors with PTSD*. Poster presented at the 32nd Annual Convention of the Advancement for Behavior Therapy, Washington, D.C.
- Feuer, C., Mechanic, M.B. & Resick, P.A. (1998, November). *ASD and PTSD in sexual and physical assault survivors*. Paper presented at the Fourteenth Annual Meeting of the International Society for Traumatic Stress Studies, Washington, D.C.
- Evans, T.W., Uhlmansiek, M.H., Resick, P.A., Griffin, M.G., & Mechanic, M.B. (1998, November). *The effects of disaster-related damage, social support, coping and PTSD on distressed and nondistressed dyads following the great flood of 1993*. Poster presented at the Fourteenth Annual Meeting of the International Society for Traumatic Stress Studies, Washington, D.C.
- Mechanic, M.B., Resick, P.A., Griffin, M.G., & Astin, M.C. (1997, November). *Development of a measure to assess cognitive distortions in battered women*. Paper presented at the 31st. Annual Convention of the Advancement of Behavior Therapy, Miami, Fla.
- Resick, P.A., Mechanic, M.B., & Griffin, M.G. (1997, November). *Cognitions and recovery in rape and assault victims: A prospective study*. Paper presented at the 31st. Annual Convention of the Advancement of Behavior Therapy, Miami, Fla.
- Nishith, P., Mechanic, M.B., & Resick, P.A. (1997, November). *Childhood sexual and physical abuse as predictors of adult sexual and physical revictimization in a sample of female crime victims*. In M. Cloitre (Chair) Sexual revictimization of women: risk factors and

prevention strategies. Symposium presented at the 31st. Annual Convention of the Advancement of Behavior Therapy, Miami, Fla.

Astin, M.C., Resick, P.A. & Mechanic, M.B. *Battered women: An information processing model of predicting PTSD and depression* (1997, November). Paper presented at the 13th Annual Meeting of International Society of Traumatic Stress Studies, Montreal, Canada.

Mechanic, M.B., Maguire, M., Resick, P.A., & Griffin, M.G. (1996, November). *Rape trauma narratives: Coherence and recovery from trauma*. In S. Orsillo (Chair). Narrative accounts of traumatic experience, Symposium presented at the 30th Annual Convention of the Association for the Advancement of Behavior Therapy, New York, New York.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1996, November). *Traumatic memory in recent victims of sexual assault*. In R.J. McNally (Chair). Memory in survivors of sexual violence. Symposium presented at the 30th Annual Convention of the Association for the Advancement of Behavior Therapy, New York, New York.

Mechanic, M.B., Griffin, M.G. & Resick, P.A. (1995, November). *Traumatic stress reactions following disaster: The mediating impact of marital conflict, marital satisfaction and coping*. In D.S. Riggs (Chair) The impact of relationship factors on post-traumatic stress responses. Symposium presented at the 29th Annual Convention of the Association for the Advancement of Behavior Therapy, Washington, D.C.

Mechanic, M.B., Griffin, M.G., & Resick, P.A. (1995, November). *Narrative accounts of rape Assessing naturalistic changes as evidence of information processing*. Paper presented at the 29th Annual Convention of the Association for the Advancement of Behavior Therapy, Washington, D.C.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1995, November). *Narrative accounts of rape: Is there evidence of information processing?* Paper presented at the 11th Annual Meeting of the International Society for Traumatic Stress Studies, Boston, MA.

Nishith, P., Mechanic, M.B., Griffin, M.G., & Resick, P.A. (November, 1995). *Peritraumatic dissociation and chronic PTSD in rape victims*. Paper presented at the 11th Annual Meeting of the International Society for Traumatic Stress Studies, Boston, MA.

Resick, P.A., Griffin, M.G., Mechanic, M.B. & Trusty, M.L. (1995, November). *Marital abuse in the wake of disaster: Testing a model*. Paper presented at the 29th Annual Convention of the Association for the Advancement of Behavior Therapy, Washington, D.C.

Mechanic, M.B. (1995, June). *Battered Woman Syndrome: The impact of expert testimony on juror decision making*. Paper presented at the Annual Meeting of the Law and Society Association, Toronto, Canada.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1994, November). *The role of cognitive*



*schemata in persistent PTSD following sexual assault.* In M.B. Mechanic and D.S. Riggs (Co-Chairs) Cognitive schemata in female victims of sexual assault. Symposium presented at the 28th Annual Convention of the Association for the Advancement of Behavior Therapy, San Diego, CA.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1994, November). *Post-rape reactions: Does knowing the rapist make a difference?* In M.B. Mechanic and D.S. Riggs (Co-Chairs) PTSD: a search for subtypes. Symposium presented at the 28th Annual Convention of the Association for the Advancement of Behavior Therapy, San Diego, CA.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1994, November). *Acute stress disorder following sexual assault: A first glance.* In D.E. Hearst-Ikeda and M.B. Mechanic (Co-Chairs) Dissociation and trauma. Symposium presented at the 10th Annual Meeting of the International Society for Traumatic Stress Studies, Chicago, IL.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1994, November). *Cognitive schemata and coping strategies in persistent PTSD following sexual assault.* In M.B. Mechanic and D.S. Riggs (Co Chairs) Cognitive schemata in post-traumatic stress disorder. Symposium the 10th Annual Meeting of the International Society for Traumatic Stress Studies, Chicago, IL.

Griffin, M.G., Resick, P.A., & Mechanic, M.B. (1994, November). *Are there subtypes of PTSD?: Physiological and non-verbal evidence.* In M.B. Mechanic and D.S. Riggs (Co-Chairs) PTSD: a search for subtypes. Symposium presented at the 28th Annual Convention of the Association for the Advancement of Behavior Therapy, San Diego, CA.

Griffin, M.G., Resick, P.A., Mechanic, M.B. (1994, November). *Psychophysiological and nonverbal assessment of peritraumatic dissociation in rape victims.* In M.G. Griffin (Chair) Objective indicators of dissociation in Post-Traumatic Stress Disorder. Symposium presented at the 10th Annual Meeting of the International Society for Traumatic Stress Studies, Chicago, IL.

Resick, P.A., Mechanic, M.B., Griffin, M.G., & Spengel, L (1994, November). Marital adjustment and violence in the wake of the great flood of 1993. In P.A. Resick (Chair) *Coping with disaster: Symptoms and interpersonal effects.* Symposium presented at the 10th Annual Meeting of the International Society for Traumatic Stress Studies, Chicago, IL.

Mechanic, M.B., & Resick, P.A. (1994, July). *An approach to treating post-traumatic stress disorder and depression.* In J.D. Maser (Chair), Research based treatments. Symposium presented at the 20th Annual Meeting of the National Association for Rural Mental Health, Des Moines, IA.

Mechanic, M.B. & Resick, P.A. (1994, June). *Participation in the legal process following sexual*

*assault: Implications for recovery.* In K.A. Fischer (Chair), Gender, voice, and legal consciousness. Symposium presented at the Annual Meeting of the Law and Society Association, Phoenix, AZ.

Mechanic, M.B. & Resick, P.A. (1993, October). *The personal beliefs and reactions scale: Assessing rape-related cognitive schemata.* In P.A. Resick (Chair), The role of cognition in PTSD. Symposium conducted at the 9th Annual Meeting of the International Society for Traumatic Stress Studies, San Antonio, TX.

Mechanic, M.B., Resick, P.A., Schnicke, M.K., & Griffin, M.G. (1993, November). *The impact of guilt and self-blame on recovery from PTSD in rape victims.* In E.S. Kubany (Chair), Assessment and treatment of trauma related guilt. Symposium conducted at the 27th Annual Convention of the Association for the Advancement of Behavior Therapy, Atlanta, GA.

Mechanic, M.B., Resick, P.A., & Griffin, M.G. (1993, November). *Rape-related PTSD: Comorbidity of DSM-III-R Axis I disorders and associated symptoms.* In D.E. Hearst (Chair), Collateral symptoms in women with PTSD: Depression, physical health, sexual, and interpersonal adjustment. Symposium conducted at the 27th Annual Convention of the Association for the Advancement of Behavior Therapy, Atlanta, GA.

Mechanic, M.B. & Aber, M. (1992, March) *Battered woman syndrome: Development of a measure to assess juror common knowledge.* Poster presented at the Biennial Meeting of the American Psychology Law Society (APLS), San Diego, California.

Hoge, S.K., Oberlander, L., Mechanic, M.B., & Monahan, J. (1992, August). *Coercion in the hospitalization process: Clinical variables and perceptions of coercion.* Paper presented at the 10th Annual Meeting of the American Psychological Association, Washington, D.C.

Mechanic, M.B., Miller, G.M., & Klein, D.N. (1986, August). *Assessment and differentiation of chronic depression in a non-patient sample.* Paper presented at the 94th Annual Meeting of the American Psychological Association, Washington, D.C.

Mechanic, M.B., & Abramson, P.R. (1981). *Sexuality and the media: Three decades of best selling novels and top rated films from 1959-1979.* Paper presented at the Western Psychology Conference for Undergraduate Research, Santa Clara, California.

#### **Invited Professional Presentations and Workshops**

Mechanic, M.B. (January, 2019). *Intimate Partner Violence and Sexual Assault: Understanding victim responses.* Training presented for the Marines Special Victim Legal Counsel Training.

Mechanic, M.B. (December, 2018). *Sexual assault: Understanding the complexities of victim*



*behaviors and reactions*. Training presented for the Los Angeles County District Attorney's Association, Los Angeles, CA.

Mechanic, M.B. (September, 2018). *Sexual assault: Understanding the complexities of victim behaviors and reactions*. Presentation to the California Medical Board Sexual Assault Investigators. Diamond Bar, CA.

Mechanic, M.B. (October, 2018). *Sexual assault: Understanding the complexities of victim behaviors and reactions*. Presentation to the California Medical Board Sexual Assault Investigators. Sacramento, CA.

Mechanic, M.B. (January, 2018). *Sexual assault: Understanding the complexities of victim behaviors and reactions*. Presentation to the U.S. Military 9<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.

Mechanic, M.B. (January, 2018). *Promoting resilience when working with sexual trauma survivors*. Presentation to U.S. Military 9<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.

Mechanic, M.B. (February, 2017). *Trauma-informed legal advocacy: Fostering resilience when working with victims*. Presentation to U.S. Marine Corps Special Legal Counsel Training. Camp Pendleton, CA.

Mechanic, M.B. (February, 2017). *Risk assessment for Attorneys: Assessing harm to self and others for special victims legal counsel*. Presentation to Marine Corps Special Legal Counsel Training. Camp Pendleton, CA.

Mechanic, M.B. (2016, August). *Sexual assault victim dynamics*. Presentation to the Washington and Multnomah County, OR Prosecutor, Law Enforcement, and Victim Advocate Training. Hillsboro, OR.

Mechanic, M.B. (2016, August). *Fostering resilience and avoiding vicarious trauma when working with victims*. Presentation to the Washington and Multnomah Counties Prosecutor, Law Enforcement, and Victim Advocate Training. Hillsboro, OR.

Mechanic, M.B. (2016, August). *Sexual assault victim dynamics*. Presentation to U.S. Military 7<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.

Mechanic, M.B. (2016, August). *Trauma-informed legal advocacy: Fostering resilience when working with victims*. Presentation to U.S. Military 7<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.

Mechanic, M.B. (2016, July). *Sexual assault cases: Counterintuitive victim behavior, offender dynamic, and effective communication with victims*. Plenary address for the U.S. Army Special Victim Prosecutor Training. Ft. Belvoir, VA.

- Mechanic, M.B. (2016, July). *Trauma informed legal advocacy and promoting personal resilience among special victim prosecutors*. Presentation for the U.S. Army Special Victim Prosecutor Training. Ft. Belvoir, VA.
- Mechanic, M.B. (2016, January). *Sexual assault victim and offender behavior*. U.S. Military 6<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.
- Mechanic, M.B. (2016, January). *Trauma-informed legal advocacy: Fostering resilience when working with victims*. U.S. Military 6<sup>th</sup> Special Victim Counsel Certification Course. Charlottesville, VA.
- Mechanic, M.B. (2015, September). *Counterintuitive Victim Behavior: Use of expert testimony in sexual assault prosecution*. Presentation for the Sex Crimes Division, LA County District Attorney's Office Sex Crimes Division.
- Mechanic, M.B. (2015, July). *Counterintuitive Victim Behavior: Use of expert testimony in sexual assault prosecution*. Continuing Legal Education (CLE) program for the Ventura County District Attorney's Office.
- Mechanic, M.B. (2014, June). *Counterintuitive Victim Behavior Testimony in Rape and Sexual Assault Cases*. Invited presentation for the Los Angeles County District Attorney's Office Training Division.
- Mechanic, M.B. (2013, December). *Use of expert testimony to explain counterintuitive victim behaviors in sexual assault cases*. Invited presentation for the Los Angeles County Sex
- Mechanic, M.B. (2013, September). *Intimate Partner Battering and its Effects in Cases of Battered Women Charged with Crimes*. Invited presentation for the San Bernardino Public Defender's Office.
- Mechanic, M.B. (February, 2012). *Battered woman syndrome meets intimate partner battering and its effects: When social science concepts outpace legal Rubric*. Invited presentation for St. Louis University Law School Symposium on Battered Women Who Kill.
- Mechanic, M.B. (2011, April). *Forensic Psychology: What is it?* Presentation to CSUF student members of the American Psychology-Law Society.
- Mechanic, M.B. (2008, November). *Intimate Partner Violence and Battered Women Charged with Crimes*. Los Angeles County Bar Association Continuing Legal Education Seminar.
- Mechanic, M.B. (2008 July). *Children Exposed to Domestic Violence*. Invited presentation for the Alameda County Courts, Domestic Violence and Juvenile Court Training, Oakland, CA.

- Mechanic, M.B. (2007, October). *Child maltreatment and trauma: Considerations for capital defense work*. Paper presented at the Los Angeles County Public Defender Capital Defense Conference, Los Angeles, CA.
- Mechanic, M.B. (2007, February). *The challenges and advantages of collaborative research*. Paper presented at Research: Making science come to life in the hands of advocates. University of Kentucky, Center for Research on Violence Against Women.
- Mechanic, M.B. (2006, February). *Stalking and violence against women*. Paper presented for the Arizona Chapter of the Association of Family and Conciliation Courts, Sedona Arizona.
- Mechanic, M.B. (2005, May). *Intimate partner violence, stalking, and PTSD*. Paper presented at the VA Maryland Healthcare System conference on Women and PTSD, Baltimore, MD.
- Beck, C. J. A., Walsh, M., Taylor, C., & Mechanic, M. (2004, October). *Domestic Violence in Couples Mandated to Attend Divorce Mediation*. Presented at the Udall Center for Policy Studies, Tucson, AZ.
- Mechanic, M.B. (April, 2004). *Researcher-Practitioner Collaboration to Improve Research on Violence Against Women.: Findings from the NVAWPRC focus groups*. University of Kentucky, Violence Against Women Research Center.
- Mechanic, M.B. (March, 2004). *Expert testimony on the effects of battering*. Invited presentation for the Missouri Coalition Against Domestic Violence Conference on Expert Testimony. St. Louis, Missouri.
- Mechanic, M.B. (November, 2003). *Anxiety Disorders and Women*. Anxiety Disorders of Association of America. Chantilly, Virginia.
- Mechanic, M.B. (October, 2003). *Mental Health Consequences of Violence Against Women*. Toward a national research agenda on violence against women: A national research conference. University of Kentucky Center for Research on Violence Against Women, Lexington, KY.
- Mechanic, M.B. (2003, April). *Expert testimony on the effects of battering*. Invited presentation for the Missouri Coalition Against Domestic Violence Conference on Expert Testimony. St. Louis, Missouri.
- Mechanic, M.B. (2002, March). *Nature and dynamics of domestic violence: Relevance for the practice of law*. Workshop presented for the Missouri Bar Association. Lake of the Ozarks, MO.
- O'Brien, S., & Mechanic, M.B. (2002, March). *Defending battered women charged with crimes*. Workshop presented for the Missouri Bar Association. Lake of the Ozarks, MO.

- Mechanic, M.B. (2002, March). *Child maltreatment and intimate partner violence*. Invited address presented for the Jefferson County, Missouri Family Court Conference.
- Mechanic, M.B. (2001, December). Expert witness commentator in: *The relevance of domestic violence in the courtroom: Expert testimony in a duress case-Mock Trial*. Co-sponsored by the American Bar Association Commission on Domestic Violence and Criminal Justice Section and the International Society for Traumatic Stress Studies. New Orleans, LA.
- Mechanic, M.B. (2001, May). *The intersection of stalking and intimate partner abuse*. The first research conference on stalking. Rutgers University, New Brunswick, NJ.
- Mechanic, M.B. (2001, January). *Expert witness testimony: Consideration of domestic violence in child custody determinations*. Legal services training sponsored by the Missouri Coalition Against Domestic Violence.
- Mechanic, M.B. (2001, January). *Domestic violence and Child maltreatment: Legal and Psychological Intersection*. Presentation for the St. Louis Family Court Guardian Ad Litem Training.
- Mechanic, M.B. (2000, October). *Preliminary findings from an NIMH study of 350 Battered Women*. Colloquium presented at the Center for Trauma Recovery, University of Missouri-St. Louis.
- Mechanic, M.B. (2000, May). *The intersection between child maltreatment and domestic violence*. Presentation for the Annual Jefferson County Family Violence Council Training.
- Mechanic, M.B. (2000, May). *Working effectively with expert witnesses in domestic violence cases*. Workshop presented at the Illinois Coalition Against Domestic Violence Annual Legal Conference.
- Mechanic, M.B. (2000, April). *Secondary trauma associated with representing battered women*. Workshop presented at Legal Services of Eastern Missouri.
- Mechanic, M.B., & Weaver, T.W. (2000, January). *Domestic violence: The relationship to child abuse and neglect*. Presentation for the 22nd Judicial Circuit (City of St. Louis) Court Improvement Project.
- Mechanic, M.B. (1999, January). *Vicarious traumatization: Impact of trauma work on trauma workers: Part 2*. Workshop presented for the staff at the Kathy J. Weinman Shelter for Battered Women, St. Louis, MO.
- Mechanic, M.B. (1998, December). *Vicarious traumatization: Impact of trauma work on trauma*

*workers: Part I.* Workshop presented for the staff at the Kathy J. Weinman Shelter for Battered Women, St.. Louis, MO.

Mechanic, M.B. (1998,October). *Spousal abuse and workplace violence*. Invited presentation for the mid-year educational conference of the American College of Legal Medicine. St. Louis, MO.

Mechanic, M.B. (1997, November). *Acquaintance rape: Developing awareness and decreasing risk*. Invited presentation for COPS series sponsored by the University of Missouri Police Department.

Mechanic, M.B. (1997, November). *Criminal forensic assessment*. Colloquium presented for the University of Missouri-St. Louis Clerkship Seminar Series.

Mechanic, M.B. (1997, November). *Forensic psychological assessment: On being a psychological skeptic*. Colloquium presented at the University of Missouri-St. Louis, Department of Psychology Colloquium Series.

Mechanic, M.B. (1997, November). *Psychological sequelae of traumatic events: Part I. Overview and conceptual frameworks*. Invited workshop presented for Provident Counseling Center.

Mechanic, M.B. (1997 November). *Psychological sequelae of traumatic events: Part II: Using structured diagnostic interviews to assess trauma history and posttraumatic symptoms*. Invited Workshop presented for Provident Counseling Center.

Mechanic, M.B. (1997, November). *Sexual trauma: Conceptualization and intervention strategies*. Invited workshop at the University of Missouri-St. Louis Counseling Services Center.

Mechanic, M.B. (1997, May). *Sexual trauma and posttraumatic stress disorder*. Invited workshop presented for the Family Court of St. Louis County.

Mechanic, M.B., & Weaver, T.L. (1997, April ). *Battered women: Sequelae of trauma*. Continuing Medical Education Workshop, St. Joseph's Medical Center.

Mechanic, M.B. (1997, February). *Violence, trauma and PTSD*. Invited workshop for the Mental Health Association of Greater St. Louis.

Mechanic, M.B. (1997, January). *Memory for sexual trauma*. Invited presentation for the ProWomen Therapists Group.

Mechanic, M.B. (1996, April). *Women and trauma*: Invited presentation for the ProWomen Therapists Group.

Mechanic, M.B. (1994, March). *Rape: Fact vs. Fiction*. Presentation for the University of

Missouri Noon Cultural Series.

Mechanic, M.B. (1994, April). *Date Rape: Myths and Realities*. Presentation for the University of Missouri Women's Center.

Cornell, D., Hawk, G.L. & Mechanic, M.B. (1992, February). *Family homicide: Forensic assessment issues*. Paper presented at the Advanced Forensic Evaluation Training Program, Institute of Law, Psychiatry and Public Policy, University of Virginia.

Mechanic, M.B., Hawk, G., & Lombardo, P.A. (1991, May). *Battered woman syndrome*. Workshop presented at the 20th Semi-Annual Forensic Symposium, University of Virginia, Charlottesville.

Mechanic, M.B. (1990, February). Battered women and the criminal law. Paper presented at the Advanced Forensic Training Program, Institute of Law, Psychiatry & Public Policy, University of Virginia.

#### Awards

Nominated for Best Paper of 2008, in the Journal, Violence Against Women

#### Selected Teaching Experience

Fall, 2011	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality (ONLINE)</b> Psychology 341: <b>Abnormal Psychology</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)
Spring, 2010	<u>California State University, Fullerton, Instructor</u> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course) Psychology 331: <b>Psychology of Personality (ONLINE)</b>
Fall, 2009	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality (ONLINE)</b> Psychology 341: <b>Abnormal Psychology</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)
Spring, 2008	<u>California State University, Fullerton, Instructor</u> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course) Psychology 520T: <b>Trauma, Violence, &amp; Victimization</b> (Graduate Level Course) Psychology 341: <b>Abnormal Psychology</b>
Fall, 2007	<u>California State University, Fullerton, Instructor</u>

	<p>Psychology 331: <b>Psychology of Personality</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)</p>
Fall, 2007	<p><u>Florida International University, Adjunct Instructor</u> Psychology of Personality (ONLINE COURSE)</p>
Summer, 2007	<p><u>Florida International University, Adjunct Instructor</u> Psychology of Personality (ONLINE COURSE) Abnormal Psychology (ONLINE COURSE)</p>
Spring, 2007	<p><u>California State University, Fullerton, Instructor</u> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course) Psychology 341: <b>Abnormal Psychology</b></p> <p><u>Florida International University, Adjunct Instructor</u> Psychology of Personality (ONLINE COURSE)</p>
Fall, 2006	<p><u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)</p>
Spring, 2006	<p><u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course)</p>
Fall, 2005	<p><u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course) Psychology 520T: <b>Trauma, Violence, &amp; Victimization</b> (Graduate Level Course)</p>
Spring, 2005	<p><u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course)</p>
Fall, 2004	<p><u>California State University, Fullerton, Instructor</u> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course) Psychology 331: <b>Psychology of Personality</b></p>



Spring, 2004	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course)
Fall, 2003	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)
Spring, 2003	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 561: <b>Psychological Assessment</b> (Graduate Level Course)
Fall, 2002	<u>California State University, Fullerton, Instructor</u> Psychology 331: <b>Psychology of Personality</b> Psychology 501: <b>Legal, Ethical and Professional Issues in Clinical</b> (Graduate Level Course)
Winter, 1999	<u>University of Missouri-St. Louis, Instructor</u> Psychology 292: <b>Psychology of Victimization</b>
Fall, 1997	<u>University of Missouri-St. Louis, Instructor</u> Psychology 410: <b>Women and Mental Health</b> (Graduate Level Course)
Spring, 1995	<u>Southwest Missouri State University, Instructor</u> Office of Continuing Education Victimology Basic Certification Program Course: <b>Sexual Assault and the Rapist</b>
Winter, 1995	<u>University Of Missouri-St. Louis, Instructor</u> Psychology 292: <b>Psychology of Victimization</b>
Fall, 1993	<u>University of Missouri-St. Louis, Instructor</u> Psychology 392: Special topics in Psychology: <b>Psychology and the Legal System.</b>
Spring, 1988	<u>University of Illinois, Instructor</u> (graduate and undergraduate course) Psychology 368: <b>Psychology and the law:</b> Exploring the application of psychological knowledge to the study of psycholegal issues
Fall, 1987	<u>University of Illinois, Instructor</u> Psychology 368: <b>Psychology and the law:</b> Exploring the application of psychological knowledge to the study of psycholegal issues.



Spring, 1986      University of Illinois, Co-Instructor  
 Psychology 368: **Psychology and the law:** Exploring the application of psychological knowledge to the study of psycholegal issues.

**Clinical Experience and Supervision of Clinical Training**

1998-2002      **Clinical Supervisor, Community Psychological Services Center, University of Missouri-St. Louis**

--Supervise psychology graduate students conducting psychological evaluations and individual therapy.

1992-2002      **Clinical Staff Member, Center for Trauma Recovery, University of Missouri-St. Louis.**

--Provided individual and group therapy for rape survivors using cognitive processing approach. Perform clinical assessments of physical and sexual assault survivors. Conduct crisis debriefing sessions in the community following traumatic, violent events, such as airline crashes and bank robberies. Supervise graduate students and post-doctoral fellows who provide individual and group therapy (since 1998).

1996-1997      **Post-Doctoral Fellow, Center for Trauma Recovery and Community Psychological Services Center, University of Missouri-St. Louis.**

--Supervised Post-Doctoral Clinical Training Program. Included individual and couples therapy, clinical and forensic assessment with trauma and non-trauma populations. Conducted assessments for the determination of disability.

1988-1990      **Correctional Center Clinician, Champaign County Correctional Center (on contract with the Mental Health Center of Champaign County, Illinois).**

--Provided evaluation, assessment, crisis intervention and brief psychotherapy to male and female jail residents. Co-facilitated a bi-weekly support group for female residents. Participated in training jail staff in mental health issues.

1982-1988      **Clinical Psychology Intern, Psychological Services Center, University of Illinois.**

Practica:      Adult Individual Psychotherapy  
                  Forensic Evaluation  
                  Family and Marital Therapy  
                  Advanced Adult Individual Psychotherapy

1979-1980      **Rape Crisis Counselor, Cedars-Sinai Medical Center, Los Angeles, California.**

**Selected Professional Activities**

2015-current	Advisory Board, Family Violence Appellate Project
2014-current	Advisory Board Mind-Experts International
2012	Consultant, Office of Victims of Crime Technical and Training Assistance (OVC-TTA)
2012 (Feb.)	Grant Reviewer, United States Department of Defense (DOD), Congressionally Directed Medical Research Programs on PTSD.
2009	Nominated <b>Distinguished Reviewer</b> , <i>Psychology of Women Quarterly</i> .
2008 (Feb.)	American Psychological Association Legislative Advocacy Training. Selected to serve as Division 41 (psychology and law) representative. Will brief local congressional representative on violence against women issues.
2007 (Dec.)	Grant Reviewer, United States Department of Defense (DOD), Congressionally Directed Medical Research Programs on PTSD.
2002-2007	<b>Editorial Board</b> , Journal of Traumatic Stress
2003-2007	<b>Associate Editor</b> , Domestic Violence Reports.
July, 2004	<b>Consultant</b> to the Bureau of Justice Statistics on the development of a supplement to the National Crime Victimization Survey
2004-2006	<b>Public Education Committee</b> , International Society for Traumatic Stress Studies
2003-2006	<b>Editorial Board</b> , Psychology of Women Quarterly.
2003-2006	<b>Editorial Board</b> , Journal of Aggression, Maltreatment and Trauma.
Fall, 2002-current	Advisory Board, Women's Center: California State University, Fullerton
2000-2003	Board of Directors, Aid for Victims of Crime, St. Louis, Missouri
May-October 1999	Member of Missouri Governor Carnahan's Task Force for the Development of a Model School Crisis Response Plan.
April, 1999	Completed National Organization for Victim Assistance (NOVA) Advanced Training for Community Crisis Response
February 18-19, 1996	Participated in SCID training for the DSM-IV with Lynn Gladdis, Ph.D., trainer.

1995-1999	Conducted victim advocate training three times per year for the St. Louis City Prosecutor's Victim Advocate Program
1995-1997	Volunteer, St. Louis Anti-Violence Project. --Conducted volunteer and community education training, fundraising, and served as media spokesperson.
June, 1995	Invited Chair/Discussant for a panel at Law and Society Association Meeting, Toronto.
September 9, 1994	Completed the Sex Offender Evaluation Training Program, Institute of Law, Psychiatry and Public Policy, University of Virginia.
July, 1994 Program	Member of the Planning Committee for the Victimology Certification  Basic Training Program Southwestern Missouri State University
June 14-15, 1994	Participated in the Law and Society Association's Graduate Student Workshop on the theme of "Representation." [Participants are selected by application]
July 13-17, 1994	Participated in the Law and Society Association's Summer Institute. Theme: "Every Day Practice and Trouble Cases." [Participants selected by application]
1993-1998	Coordinator, Center for Trauma Recovery Colloquium Series.
1993-1995	Member of Community-Based Jail Planning Task Force
February 22-24, 1993	Completed National Organization of Victim Assistance (NOVA) Community Crisis Response Team (CRT) Training Institute. Active Member of St. Louis CRT.
September-Oct, 1990	Completed the 54-hour clinical hypnosis training course conducted by the Virginia Hypnosis Society.
August, 1990	Completed the 48-hour Forensic Training Course at the Institute for Law, Psychiatry & Public Policy, University of Virginia.
1983-1985	Graduate Student Representative, Department of Psychology, University of Illinois
<b><u>Memberships:</u></b>	American Psychological Association International Society for Traumatic Stress Studies (ISTSS) American Psychological Association (Division 56 Trauma Psychology)

American Psychology Law Society (Division 41, APA)  
The Psychology of Women (Division 35, APA)  
Division of Media Psychology (APA)  
APSAC (American Professional Society of Child Abuse)  
Association of Threat Assessment Professionals  
Los Angeles County Psychological Association

### **Ad Hoc Reviewer**

**Journals:** Psychological Bulletin  
Trauma, Violence, and Aggression  
Law and Human Behavior  
Journal of Interpersonal Violence  
International Journal of Forensic Mental Health  
Justice Quarterly  
Psychological Assessment  
Violence & Victims  
Journal of Abnormal Psychology  
Journal of Consulting and Clinical Psychology  
Violence Against Women: An Interdisciplinary Journal  
Journal of Aggression, Maltreatment and Trauma

**Grants:** United States Department of Defense, Congressionally Directed Medical  
Research Grants, PTSD and Trauma.  
City University of New York Intramural Research Grants  
United States Government, Department of Justice/OJP, Violence Against  
Women Office.  
United States Government, Department of Veterans Affairs, Merit Review  
Grants.  
The Ontario Mental Health Foundation  
Research Board, University of Missouri-St. Louis.

**Conferences:** Program Specialty Chair: American Psychology Law Society, 2007.  
Reviewer, American Psychological Association Conference, Division of  
Psychology and Law, 2008.  
Program Specialty Chair: American Psychology Law Society, 2007.  
Reviewer, Program Committee: American Psychology Law Society, 2005  
Program Specialty Chair: American Psychology Law Society, 2005.  
Reviewer, Program Committee: American Psychology Law Society, 2005.  
Reviewer, Program Committee: Association for the Advancement of  
Behavior Therapy, 1997.

Reviewer, Program Committee: American Psychology Law Society (APLS-Division 41) 1995 , 2002 Biennial Conferences.  
 Reviewer, Program Committee: American Psychology Law Society (APLS-Division 41) Program for at the 2003 APA.  
 Reviewer, Program Committee: American Psychology Law Society (APLS-Division 41) 2004 Biennial Conference Program.

**Professional**

**Standards:** National Victim Assistance Standards Consortium, invited reviewer for the development of professional standards of practice (2000).

**Media Interviews**

February, 1996	TV 30 (St. Louis) : Men who kill intimate female partners
March, 1996	St. Louis Post-Dispatch: Acquaintance rape
May, 1996	St. Louis Post-Dispatch: Domestic violence
July, 1996	St. Louis Post-Dispatch: Floods/domestic abuse
July, 1996	TV30 (St. Louis): 1993 Floods and domestic abuse
July, 1996	Radio News Service: domestic abuse/1993 Floods
July, 1996	TV 5 (St. Louis): Rohypnol and Date Rape
September, 1996	KWMU radio (St. Louis): Violence against women
November, 1996	TV 4 (St. Louis): Date rape drugs
December, 1996	Alpha Phi Quarterly: Date Rape
March, 1997	Riverfront Times (St. Louis): Domestic violence
September, 1997	TV 4 (St. Louis): Acquaintance Rape
February, 1998	Radio Interview-Metro News Wire Service: Domestic violence
February, 1998	Radio Interview-KWMU St. Louis on the Air: Domestic violence
March, 1998	Radio Interview-WILL: Domestic violence and child abuse
March, 1998	Radio Interview- KMOX: Domestic violence
March, 1998	Radio Interview-Newsbytes wire service: Domestic violence
April, 1998	Radio Interview-Missouri Net news wire service.
June, 1998	TV4 (St. Louis): Legislative Changes in Rape laws
July, 1998	TV 11 (St. Louis): Recovery from rape
October, 1998	TV 5 (St. Louis): Intimate Partner violence
October 1998	Newsbytes wire service (radio): Intimate partner violence.
October, 1998	TCI Cable TV: Intimate partner violence
October, 1998	UMSL Current: Intimate partner violence
February, 1999	TV 4: Stalking and domestic violence
February, 1999	Radio Interview-WILL: Stalking and domestic violence
February, 1999	Radio Interview-Missouri Net news wire service: Stalking and domestic violence
February, 1999	Radio Interview-Newsbytes wire service: Domestic violence and stalking
March, 1999	Radio Interview- KMOX: Rape and recovery
March, 1999	San Jose Star: Domestic violence
March, 1999	Newsbytes wire service (radio): Domestic violence
April, 1999	NYU-Date rape
April, 1999	Newsbytes wire service (radio): Littleton, CO School shooting

April, 1999	Radio Interview--KTRS : Littleton, CO School shooting
April, 1999	TV 2: Media and School violence
April, 1999	TV 30: Littleton, CO School shooting
April, 1999	KMOX : Littleton, CO School shooting/crime victims
April, 1999	TV 4 Eye on St. Louis: School violence/Crime Victim Rights
April, 1999	TV 5: School violence October, 1999
	Salon Magazine: Familial homicide
January, 2000	KMOX Radio: Rape
January, 2000	St. Louis Post-Dispatch: Relationship harmony & blood pressure
February, 2000	GHB: Date rape drug
February, 2000	AP Wire Service-Why men rape.
July, 2000	Mademoiselle Magazine: Dating violence
January, 2001	WILL Radio: Missouri Domestic Violence Legislation
April, 2001	Court TV: Stalking
July, 2001	St. Louis Post-Dispatch: Domestic homicide
July, 2001	St. Louis Post-Dispatch: Domestic violence and family murders.
September, 2001	NBC, North Carolina Affiliate: Domestic violence, stalking, and homicide.
September, 2001	KWMU Radio: Same-sex partner abuse.
September 2001	FOX 2 news: Impact of WTC tragedy.
September 2002	Chronicle of Higher Education: Human Research Participants and IRB's.
November, 2002	Independent Journalist: Ethical Issues in the Provision of Mandated Treatment of Offenders
October, 2005	CSUF Communication Studies Cable Access Show: Hurricane Katrina Effects
October, 2005	Pittsburgh Tribune Review: Stalking
June, 2006	Health Behavior News Service: Stalking
June, 2006	ABC News Radio, New York: Stalking
June, 2006	Associated Press: Celebrity Stalking
July, 2006	Stalking in the Bob Uecker case: LA Times/Lubbock Avalanche Journal
February, 2006	Daily Titan: School Violence
February, 2007	USA Today: Relationship Stalking
February, 2008	Family Homicide: KDOC TV
February, 2008	Family Homicide: Daily Titan
February 2007	USA Today: Stalking in the female astronaut case
November, 2009	Fort Hood Shootings, CNN
August, 2012	CNN Reporter Interview- Korean music fans and the "saesang" mind.
March, 2013	Orange County Register – Community Perceptions of Risk and Safety
November, 2015	Good Housekeeping Magazine – Emotionally Abusive Relationships
January, 2016	MTV News-Traumatic Impact of Violent Media Exposure
January, 2016	San Diego Reader, Battered Women Charged with Crimes
February, 2016	Washington Post, Stalking and Partner Homicide
October, 2016	Fox News Health.com: Sexual Assault: What Hinders Reporting?
February, 2017	Daily Titan: Sexual Assault
April, 2017	Daily Titan: Suicide and College students
June, 2017	Vice: Stalking and Gun Violence

October, 2017	Yahoo News: Sexual assault and harassment –Why victims come forward in cases of offenders with power and status.
October, 2017	Arizona State University, The State Press, Dating and Sexual Violence Among College Women
March, 2018	Secondary Traumatic Stress and Media Coverage of Mass Violence, The Trace
April, 2018	Therapies for Sexual Trauma, Good Morning America (digital edition)
November, 2018	PTSD and Violence, Los Angeles Times.
November, 2018	Emotional and Psychological Abuse in Relationships, Prevention.com
December, 2018	Sexual Assault, Daily Titan

#### **Academic Honors and Awards**

Violence Against Women (journal) nominated, Best Research Paper of the year (2008)  
American Association of Trial Consultants Paper Competition Award (2000)  
American Psychology Law Society Dissertation Award (1996)  
American Psychology Law Society (APLS-Division 41)  
(Grant-In-Aid to support dissertation)  
Society for the Psychological Study of Social Issues (SPSSI)  
(Grant-In-Aid to support dissertation)  
Graduate College Dissertation Fellowship, University of Illinois  
Department of Psychology Dissertation Grant, University of Illinois  
Graduate College Thesis Grant, University of Illinois  
Graduate College Travel Grant, University of Illinois  
National Institute of Mental Health Clinical Traineeship  
President's Undergraduate Fellowship  
B.A., Magna Cum Laude  
Psychology honor's program/award of honor's on undergraduate thesis  
Pi Gamma Mu, social science honor society

**MECHANIC DECLARATION: EXHIBIT B**  
**List of Documents Reviewed**

- U.S. District Court Superseding Indictment, US v. Elizabeth Holmes and Ramesh, “Sunny” Balwani, CR-18-00258-EJD, 9/06/18;
- Iphone Notes from Elizabeth Holmes’s phone;
- Email exchanges between Elizabeth Holmes and Sunny Balwani;
- Santa Clara Police Department Records, 10/05/03, rape;
- First Class American Airlines ticket receipt for trip to NY;
- Ticketmaster receipt for Rent in NYC;
- Skype transcripts of conversations between Elizabeth Holmes and Sunny Balwani;
- SMS and iMessages between Elizabeth Holmes and Sunny Balwani;
- Handwritten notes by Sunny Balwani to Elizabeth Holmes, with sections entitled, “Non-Negotiables (people), “Pursuit of Success in Business;”
- Photograph of Elizabeth Holmes and Sunny Balwani;
- Family photograph of Elizabeth Holmes;
- College photograph of Elizabeth Holmes;
- Photograph of Elizabeth Holmes wearing a Stanford shirt, Sunny Balwani and unknown male;
- Photography of Elizabeth Holmes packing a suitcase;
- Card from Sunny Balwani to Elizabeth Holmes;
- Email from Christian Holmes to Sunny Balwani, forwarded to Elizabeth Holmes;
- Medical records from Keck School of Medicine-USC, Elizabeth Holmes, 8/02/09;
- Undated handwritten note from Sunny Balwani to Elizabeth Holmes;



**MECHANIC DECLARATION: EXHIBIT C**  
**List of Citations**

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# HP LaserJet P4010 and P4510 Series Printers



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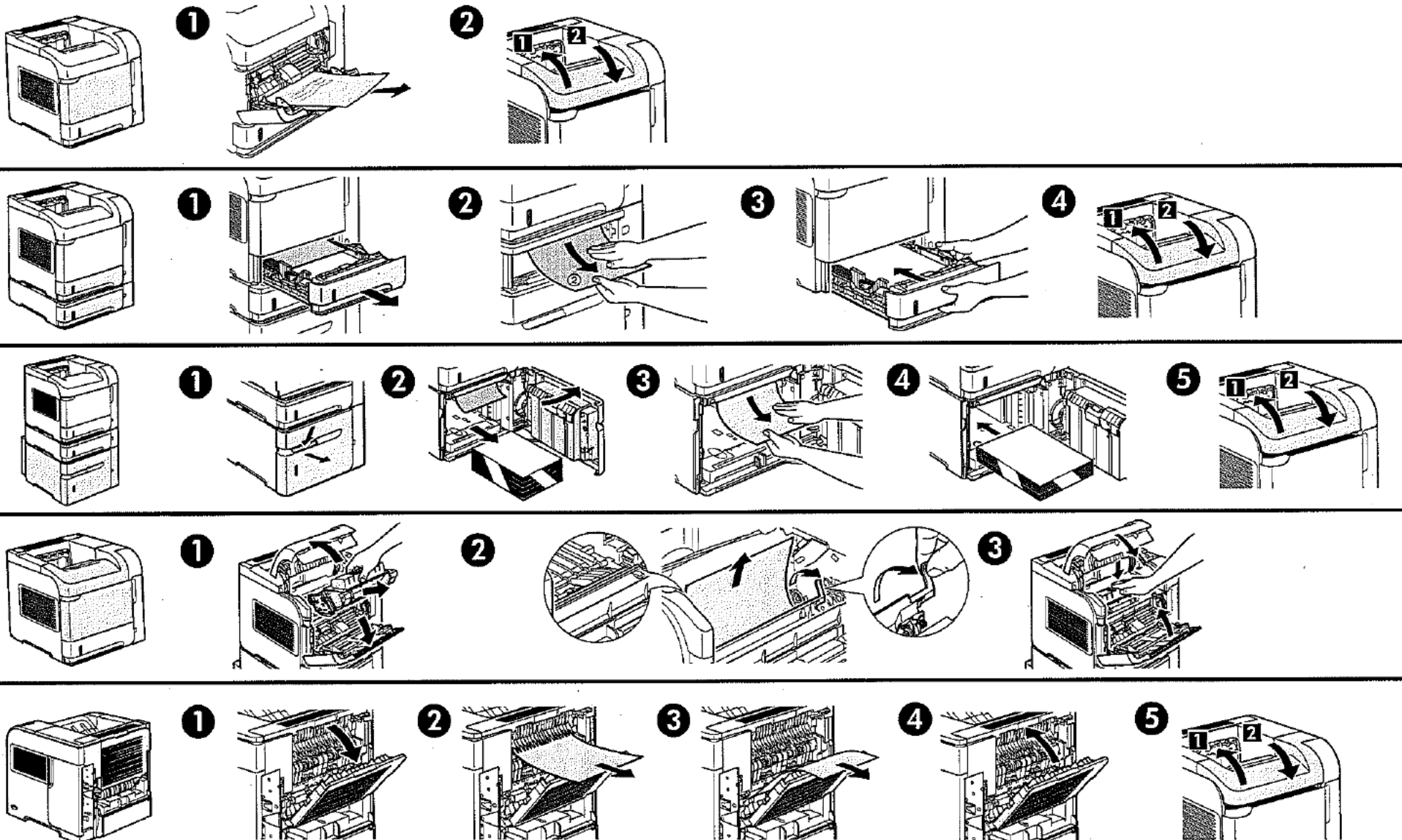
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**FILED**

**FEB 06 2020**

Susan Y. Soong  
Clerk, U.S. District Court  
Northern District of California  
San Jose

**ECF Dkt. No. 324**

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10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 ELIZABETH HOLMES and  
18 RAMESH "SUNNY" BALWANI,

19 Defendants.

) Case No. CR-18-00258-EJD-SVK

) ELIZABETH HOLMES' REPLY TO  
) GOVERNMENT'S OPPOSITION TO MR.  
) BALWANI'S MOTION TO SEVER

) FILED UNDER SEAL

) Hon. Edward J. Davila

1 The government's Opposition to Mr. Balwani's Motion to Sever erroneously argues that  
2 evidence of Mr. Balwani's intimate partner abuse will be excluded at trial. Alternatively, it contends  
3 that such evidence can be limited in meaningful ways. Either result would preclude a significant portion  
4 of Ms. Holmes' likely defense, including important aspects of her own likely testimony, in clear  
5 violation of her Fifth and Sixth Amendment rights. Ms. Holmes therefore submits this brief in response  
6 to address a handful of issues.

7 First, evidence about intimate partner abuse is highly likely to be introduced into evidence in a  
8 trial involving Ms. Holmes, in the form of both fact and expert testimony. The government has alleged  
9 in the Superseding Indictment that Ms. Holmes acted with *mens rea* in making certain representations,  
10 but it has not identified the specific evidence upon which it will rely to prove this element. Based on  
11 Ms. Holmes' current (but limited) understanding of the government's case—as informed by the  
12 government's broad (yet vague) Indictment—there is a high likelihood that evidence regarding the  
13 nature of Ms. Holmes' and Mr. Balwani's relationship will be relevant at trial. The Indictment charges  
14 both defendants with the same conspiracies and acts. Ms. Holmes was the company's CEO and Chair  
15 and Mr. Balwani its Vice Chair, COO, and President during the period covered by the alleged  
16 conspiracies. The government presumably will argue that Ms. Holmes was aware of, approved of,  
17 turned a blind eye to, and/or directed alleged wrongdoing related to aspects of the company's operations  
18 over which Mr. Balwani exercised control. The Indictment alleges that Ms. Holmes made categories of  
19 misstatements related to company operations for which Mr. Balwani had primary responsibility. For  
20 example, the government presumably will argue that Ms. Holmes was aware of alleged falsity of  
21 statements related to Theranos' financial models, *see* Indictment ¶ 12(3), even if Mr. Balwani created  
22 and presented those models to investors. Ms. Holmes' relationship with Mr. Balwani at a time when she  
23 was suffering intimate partner abuse, and the reasons why she believed representations about those  
24 financial models, are relevant to the question whether she knew that such models were false or  
25 misleading. The government presumably will also argue that Ms. Holmes was aware of the alleged  
26 falsity of statements related to the state of the Walgreens partnership. *See* Indictment ¶ 12(D). Mr.  
27 Balwani was primarily leading that partnership. Ms. Holmes' relationship with Mr. Balwani, and the  
28 reasons why she believed representations that she transmitted about that partnership, are relevant to the

1 question whether she believed that any statements about the Walgreens relationship were false or  
 2 misleading, including to rebut any claim that she was “deliberately ignorant” of certain alleged facts.  
 3 *United States v. Haischer*, 780 F.3d 1277, 1282 (9th Cir. 2015). Discovery suggests that the government  
 4 has asked witnesses in its investigation about Ms. Holmes and Mr. Balwani’s relationship, showing that  
 5 the government understands the relevance of the relationship to the Superseding Indictment’s  
 6 allegations.

7 Second, the government ignores the profound constitutional implications of the restrictions it  
 8 proposes to place on Ms. Holmes’ defense by either excluding or limiting such evidence. The  
 9 Constitution guarantees Ms. Holmes a “meaningful opportunity to present a complete defense,” *Holmes*  
 10 *v. South Carolina*, 547 U.S. 319, 324 (2006) (internal quotation marks omitted), including the  
 11 “fundamental” right to present witnesses, *Chambers v. Mississippi*, 410 U.S. 284, 302 (1973), and the  
 12 “right to take the witness stand and to testify in [her] own defense,” *Rock v. Arkansas*, 483 U.S. 44, 49  
 13 (1987). As the Ninth Circuit has observed, “[t]hese rules reflect the fact that individuals accused of  
 14 criminal behavior should be permitted to present, within reason, the strongest case they are able to  
 15 marshal in their defense.” *United States v. Thomas*, 32 F.3d 418, 421 (9th Cir. 1994).

16 The Court would err if it precluded Ms. Holmes from presenting evidence in her defense—  
 17 including her own likely testimony—regarding what she knew and believed and why. *See Haischer*,  
 18 780 F.3d at 1284 (reversing conviction where court excluded evidence of intimate partner abuse that was  
 19 relevant to the defendant’s *mens rea* to commit wire fraud). As noted, that evidence is highly likely to  
 20 include a description of her relationship with Mr. Balwani, which will require a detailed understanding  
 21 of the nature of the relationship both in and out of the workplace. Witnesses interviewed by the  
 22 government have indicated that Mr. Balwani was controlling with Ms. Holmes, that Ms. Holmes was  
 23 isolated by Mr. Balwani, that Mr. Balwani was combative with Ms. Holmes, and that Mr. Balwani was  
 24 often physically present in Ms. Holmes’ office, all factors that Dr. Mechanic has indicated are abuse  
 25 tactics used by abusers. *See Mechanic Decl. 5*.

26 Third, expert testimony likely will play an important role in Ms. Holmes’ defense. Expert  
 27 testimony will be helpful and appropriate in educating the jury as to the reasons for Ms. Holmes’ belief  
 28 in, deference to, and reliance on Mr. Balwani. The government continues to misunderstand the nature of

1 the potential expert opinions that Ms. Holmes noticed pursuant to Rule 12.2(b). [REDACTED]

2 [REDACTED]

3 [REDACTED] With respect to the substantive case, the

4 potential expert testimony for which notice was given pursuant to Rule 12.2(b) relates to whether and

5 how Ms. Holmes' psychological responses during and after the relationship were and are consistent with

6 typical reactions of victims of an abusive relationship, as well as additional context to help the jury

7 understand the nature and features of abusive relationships, including dispelling common

8 misconceptions about them. See Notice of Submission in Response to Jan. 13, 2020 Sealed Hr'g 1-2

9 (Jan. 17, 2020); Ltr. from Trefz to Baehr-Jones (Jan. 17, 2020) (attached as Ex. 2 to Baehr-Jones Decl.

10 in support of Government's Opp'n); Def. Elizabeth A. Holmes' Notice Pursuant to Fed. R. Crim. P.

11 12.2(b).<sup>1</sup>

12 Ms. Holmes is likely to testify herself to the reasons why she believed, relied on, and deferred to

13 Mr. Balwani. But expert evidence on intimate partner abuse is important to contextualize and address

14 common misconceptions about abusive relationships, including addressing stereotypes about the types

15 of individuals who are victims of abuse (such as the suggestion implicit in the government's Opposition

16 that Ms. Holmes could not be an abuse victim because she presented in public as a successful

17 businesswoman), and is regularly introduced for that purpose. See *United States v. Lopez*, 913 F.3d 807,

18 820-23 (9th Cir. 2019) (cataloging the ways in which expert testimony on intimate partner abuse may be

19 helpful to a jury's evaluation of the facts and a defendant's credibility); *United States v. Nwoye*, 824

20 F.3d 1129, 1140 (D.C. Cir. 2016) (Kavanaugh, J.) ("Expert testimony on battered woman syndrome

21 could have helped [the defendant] dispel the ordinary lay person's perception that a woman in a

22 battering relationship is free to leave at any time." (internal quotation marks omitted)); M.A. Dutton,

23 *Validity of "Battered Woman Syndrome" in Criminal Cases Involving Battered Women*, in Dep't of

24

25

26 <sup>1</sup> The Court was careful not to order the premature disclosure of Ms. Holmes' defense. While

27 Ms. Holmes sought to provide some information that may be helpful to the Court in addressing Mr.

28 Balwani's motion in light of the Court's comments at the January 13, 2020 hearing, Dr. Mechanic's

Declaration is not intended to contain all of her opinions with respect to the substantive issues in the

case, nor was it intended to be an expert disclosure pursuant to Rule 16(b)(1)(C) or a report of

examination pursuant to Rule 16(b)(1)(B).



1 Justice et al., *The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials*  
 2 pt. I, at 3-4 (1996).

3 Fourth, the government's lengthy discussion of the Insanity Defense and Reform Act (IDRA)  
 4 and the cases applying that Act is irrelevant. The IDRA addresses a defendant's use of a "severe mental  
 5 disease or defect" to establish, as an affirmative defense, that the defendant "was unable to appreciate  
 6 the nature and quality or the wrongfulness of his acts." 18 U.S.C. § 17(a). Ms. Holmes does not intend  
 7 to present an affirmative defense such as insanity under the IDRA. The Act is therefore inapposite. For  
 8 decades, courts have distinguished between an affirmative defense under the IDRA and evidence  
 9 negating the element of specific intent, and have held that the IDRA does not prohibit the latter.<sup>2</sup> The  
 10 government's suggestion that a defendant's ability to introduce psychological evidence in her defense  
 11 flows from the IDRA is simply incorrect.

12 The Act operates only to limit the circumstances in which a defendant may "excuse guilt with  
 13 mental defect evidence." *United States v. Brown*, 880 F.2d 1012, 1017 (9th Cir. 1989) (internal  
 14 quotation marks omitted). It does not exclude evidence of mental condition where, as here, such  
 15 evidence is offered to "negat[e] an element of the offense" such as *mens rea*. *Id.*; see also, e.g., *United*  
 16 *States v. Childress*, 58 F.3d 693, 726-30 (D.C. Cir. 1995). Ms. Holmes' anticipated use of expert  
 17 evidence does not run afoul of the rules. Ms. Holmes is not seeking to excuse alleged guilt through an  
 18 affirmative defense; she seeks to introduce, for example, evidence tending to prove that she lacked the  
 19 intent to deceive because, as a result of her deference to Mr. Balwani, she believed that various  
 20 representations were true.

21 Finally, at trial the government may seek to rebut Ms. Holmes' evidence related to intimate  
 22 partner abuse. The government might attempt to introduce evidence questioning whether the  
 23 relationship was abusive and whether, even if it was abusive, it affected Ms. Holmes' state of mind.  
 24 This kind of rebuttal appears to be what the government's new expert, Dr. Binder, has previewed [REDACTED]

25 [REDACTED] But the fact that the government

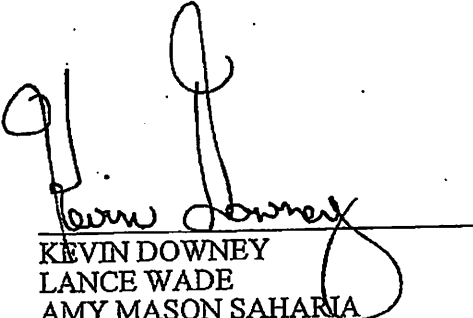
26  
 27 <sup>2</sup> See *United States v. Brown*, 880 F.2d 1012, 1017 (9th Cir. 1989); see also, e.g., *United States v.*  
 28 *Childress*, 58 F.3d 693, 729-31 (D.C. Cir. 1995); *United States v. Cameron*, 907 F.2d 1051, 1063-66  
 (11th Cir. 1990); *United States v. Newman*, 889 F.2d 88, 91-92 & n.1 (6th Cir. 1989); *United States v.*  
*Newman*, 849 F.2d 156, 165 (5th Cir. 1988).

1 may present rebuttal evidence at trial does not make Ms. Holmes' potential evidence irrelevant or  
2 inadmissible. Under the Sixth Amendment jury trial guarantee, it is for the jury, not the court, to make  
3 credibility determinations.

4 **CONCLUSION**

5 For these reasons, the Court should decline the government's invitation to preclude significant  
6 aspects of Ms. Holmes' defense.

7  
8 DATED: February 6, 2020

9  
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CERTIFICATE OF SERVICE

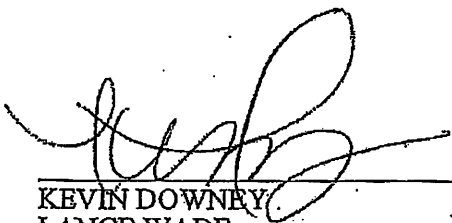
Pursuant to 18 U.S.C. § 1746, I hereby certify that copies of this Reply were served via email to the attorneys at the following addresses on the same day it was filed with the Court under Local Civil Rule 7-11.

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13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION  
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16 UNITED STATES OF AMERICA,  
17  
18 Plaintiff,  
19  
20 v.  
HOLMES, et al.,  
21 Defendants.

Case No. 18-CR-00258-EJD

**DEFENDANT RAMESH "SUNNY"  
BALWANI'S ~~PROPOSED~~ SURREPLY  
IN SUPPORT OF MOTION TO SEVER**

Judge: Honorable Edward J. Davila

22  
23 **PROVISIONALLY FILED UNDER SEAL**  
24 **PURSUANT TO COURT ORDER OF JANUARY 13,**  
25 **2020**  
26  
27  
28

DEFENDANT BALWANI'S ~~PROPOSED~~ SURREPLY  
IN SUPPORT OF MOTION TO SEVER,  
CASE NO. 18-CR-00258-EJD

351

1 **I. INTRODUCTION**

2 Defendant Ramesh “Sunny” Balwani files this surreply in support of his motion for  
3 severance to address additional arguments in the government’s February 18, 2020 brief. The  
4 government made these new arguments despite the Court’s direction to address only the  
5 admissibility of lay testimony underlying Ms. Holmes’ purported abuse defense. Those new  
6 arguments are flawed and misstate the record, and as a result Mr. Balwani is compelled to  
7 respond.

8 The government dramatically underplays the prejudicial scope of the factual allegations  
9 supporting Ms. Holmes’ “abuse” defense. And oddly, the government devotes an entire section  
10 of its supplemental brief to suggesting that the *government’s* cross-examination of Ms. Holmes’  
11 witnesses will cure any prejudice to Mr. Balwani from her salacious and inflammatory  
12 accusations, and indeed even benefit Mr. Balwani. The government cites no authority for the  
13 bizarre contention that a defendant benefits from being accused of sexual abuse in the middle of  
14 an unrelated fraud trial, and that he should rest assured that the government will have his back  
15 during cross-examination.

16 Further, the government’s authorities for empaneling dual juries deal with drastically  
17 different circumstances than those the Court faces here. None suggest that using dual juries for a  
18 complex fraud trial of three months or longer with potentially hundreds of witnesses is a viable  
19 path. The government’s criticism of Mr. Balwani for not conducting community surveys to show  
20 that his jury in a dual-jury trial would have to be burdened with sequestration is based on the  
21 illogical premise that jury sequestration is to guard against prejudicial publicity before trial as  
22 opposed to during trial.

23 All the government’s new arguments fail, and its points are not aided by once again  
24 claiming without evidence that Ms. Holmes’ “abuse” defense is part of a joint strategy of the  
25 defendants. The only way to avoid obvious undue prejudice and to secure Mr. Balwani’s  
26 constitutional right to a fair trial is to grant his motion to sever.

1 **II. ARGUMENT**

2 **A. The government misunderstands the prejudice from Ms. Holmes' prospective**  
 3 **defense.**

4 [REDACTED]  
 5 [REDACTED] Gov. Feb. 18 Br. at 3. But the government overlooks  
 6 the entire scope of extremely serious and unfairly prejudicial accusations that Ms. Holmes wishes  
 7 to level against Mr. Balwani at a joint trial.

8 The impermissible prejudice goes far beyond any specific accusations [REDACTED]  
 9 [REDACTED] For instance, Ms. Holmes plans to introduce  
 10 evidence that Mr. Balwani verbally disparaged her and withdrew "affection if she displeased  
 11 him"; controlled what she ate, how she dressed, how much money she could spend, who she  
 12 could interact with—essentially dominating her and erasing her capacity to make decisions. *See*  
 13 Holmes Mot. to Sever at 2-3. Ms. Holmes' other filings and statements at the January 13 and  
 14 February 10 hearings underscore the depth of the unfair prejudice. *See, e.g.,* Amended  
 15 Declaration of Mindy Mechanic at 13 (alleging that Mr. Balwani's control included monitoring  
 16 her calls, text messages, and emails; physical violence, such as throwing hard, sharp objects at  
 17 her; restricting her sleep; monitoring her movements; and insisting that any success she achieved  
 18 was because of him). In short, even setting aside the claims of sexual abuse, Ms. Holmes alleges  
 19 a decade-long campaign of psychological abuse contemporaneous with the events in the  
 20 indictment—evidence of which would *never* be admissible against Mr. Balwani were he tried  
 21 alone.

22 The government's abject failure to grapple with the actual serious and inflammatory  
 23 allegations that Ms. Holmes plans to make fatally undermines its argument that hers are the types  
 24 of factual claims that can be addressed with mere limiting instructions at trial.

25 **B. Mr. Balwani did not cook up the offensive suggestion that he sexually and**  
 26 **psychologically abused Ms. Holmes.**

27 The government continues to baselessly accuse Mr. Balwani of orchestrating the "abuse"  
 28 defense with Ms. Holmes, resulting in Mr. Balwani's severance motion. *See, e.g.,* Gov. Feb. 18

Br. at 1 (referring to Defendants’ “theory for obtaining severance”); *id.* at 2 (referring to Defendants’ “failed Rule 12.2(b) defense”); *id.* at 11 n.9 (arguing that severance motions were part of “joint defense strategy” because Ms. Holmes informed Mr. Balwani of her planned defense and because her counsel contested the government’s claim that her defense would be inadmissible). In truth, Ms. Holmes’ allegations are deeply offensive to Mr. Balwani, devastating personally to him, and highly and unfairly prejudicial to his defense of this case. *See* Balwani Reply at 1 n.1.<sup>1</sup> Mr. Balwani knew nothing about Ms. Holmes’ defense until September 17, 2019, when counsel for Ms. Holmes contacted undersigned counsel as a courtesy with the permission of the Court before sending a letter the next day. *See* Dec. 3, 2019 Declaration of Jeffrey B. Coopersmith in Support of Motion to Sever at ¶ 3 & Ex. A.

**C. Nothing suggests that Mr. Balwani would benefit from the outrageous abuse accusations.**

In one of the stranger passages of its supplemental brief, the government suggests that its own cross-examination of Ms. Holmes and her witnesses could benefit Mr. Balwani by making her appear dishonest. *See* Gov. Feb. 18 Br. at 16. According to the government, its efforts to prove the dishonesty of Mr. Balwani’s co-defendant in a fraud conspiracy trial will somehow benefit Mr. Balwani’s defense. This naïve suggestion is wholly unsupported. The government cites no authority endorsing the idea that a defendant outsource his defense to the government in the hopes that being accused of engaging in a long-term pattern of sexual, psychological, and emotional abuse will somehow help him.

The government also ignores that its interests and Mr. Balwani’s are not perfectly aligned on the issue of impeachment. The government is likely indifferent to Mr. Balwani’s alleged misdeeds, focusing only on rebutting Ms. Holmes’ arguments that the alleged abuse prevented her from forming intent to defraud. Mr. Balwani would have to be concerned with completely rebutting the allegations in every particular, lest the testimony interfere with the jury’s reaching a fair decision on the fraud charges.

<sup>1</sup> Indeed, if the Court ultimately indicates that it will admit expert testimony on this defense at a joint trial, Mr. Balwani would likely have to retain an expert and move for the expert’s examination of Ms. Holmes. At a joint trial, Mr. Balwani would also vigorously contest the admissibility of the “abuse” defense.

**D. Empaneling dual juries would be inadequate and unworkable.**

The government cites no case in which a court endorsed or allowed dual juries in a lengthy fraud trial of several months, and none in which dual juries were empaneled in a case this complex. Also, its comments on sequestration are illogical and misunderstand the purpose of sequestering a jury.

The government cites the bribery prosecution in *United States v. Lewis*, 716 F.2d 16 (D.C. Cir. 1983), for the proposition that dual juries have been used in white collar cases. Yet it ignores both the facts of *Lewis* and that court's comments. The trial in *Lewis* lasted only eight days. The court cautioned that dual juries should be used only in "relatively uncomplicated situations" because the procedure can involve "substantial risks of prejudice to a defendant's right to a fair trial." *Id.* at 19 (internal quotation marks omitted) (citing cases). The government also ignores that in *Lewis* the jury for the defendant prejudiced by the testimony had to be sequestered to avoid having that jury learn of the *Bruton* statements presented to the other jury. *Id.* at 20.

As for *United States v. Rimar*, 558 F.2d 1271 (6th Cir. 1977), the defendants were charged with stealing and possession of stolen property, rather than a massively complex regulatory and investor fraud. *Id.* at 1271. The Sixth Circuit explained that while appellants had raised several issues, the "primary concern of [the] court ... was whether the unusual procedure ... created an atmosphere so confusing as to deprive these appellants of a fair trial." *Id.* at 1273. Ruling that the use of dual juries was not unconstitutional is hardly a ringing endorsement.

The government also dramatically understates the disruption that two juries would cause. The government speculates that neither jury would need to be dismissed from any portion of the government's case, but offers no mechanism for ensuring that its guess that "Holmes would [not] be able to establish a foundation for asking questions that could raise these allegations of abuse on cross-examination" is correct. *See* Gov. Feb. 18 Br. at 18. Moreover, Mr. Balwani would have to guess whether to seek to establish facts contrary to Ms. Holmes' anticipated defense and characterization of Mr. Balwani as an abuser during the government's case-in-chief through witnesses who interacted and observed the defendants during the relevant time period. Would the government object to such evidence as irrelevant at the time, only to become relevant later in the

1 trial when Ms. Holmes and her expert testify? Further, the government's ill-thought-out  
 2 procedure for each defendant's jury to be excused for the entirety of the other's defendant's case  
 3 presupposes no overlap among witnesses who may not be able to testify more than once, no need  
 4 for taking witnesses out of order, no problem that the Court may have with the wholesale  
 5 replication of overlapping aspects of the defendants' respective cases. These issues are likely  
 6 only the tip of a glacier of logistical and constitutional problems.


7 The government also misapprehends and sidesteps the prejudice from negative publicity  
 8 *during trial*. If Ms. Holmes tells her story in her opening statement and during her defense case,  
 9 it will be endlessly publicized throughout trial. Voir dire will not solve the problem because that  
 10 process obviously occurs before opening statements and presentation of evidence, and thus cannot  
 11 address the likelihood that jurors will learn of an inflammatory defense blaring in the press and on  
 12 social media. The government criticizes Mr. Balwani for not presenting polling data to show that  
 13 his jury would have to be burdened with sequestration (like the jury in *Lewis*), but does not  
 14 explain how community polling now would assist in determining the impact of incendiary  
 15 evidence that has not yet been made public on a jury during trial. Contrary to the government's  
 16 claims, sequestration relates not to pretrial publicity but to prejudicial coverage during trial. In  
 17 our era of smartphones and news alerts—where a push notification with a headline is enough to  
 18 catastrophically affect Mr. Balwani—it is next to impossible to imagine that the Balwani jury  
 19 would not learn of Ms. Holmes' allegations.

### 20 **III. CONCLUSION**

21 Mr. Balwani asks the Court to sever his case from Ms. Holmes' and order that he proceed  
 22 to trial first.

23 Dated: February 24, 2020

24 Respectfully submitted,  
 25 ORRICK, HERRINGTON & SUTCLIFFE LLP

26   
 27 JEFFREY B. COOPERSMITH

28 Attorney for Defendant  
 RAMESH "SUNNY" BALWANI

**FILED**

Mar 30 2020

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

v.

ELIZABETH A. HOLMES, and RAMESH  
“SUNNY” BALWANI,  
Defendants.

**SEALED BY ORDER OF THE COURT**

Case No. [5:18-cr-00258-EJD](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT  
BALWANI’S MOTION TO SEVER;  
FINDING MOOT HOLMES’S MOTION  
TO SEVER**

**FILED UNDER SEAL**

Re: Dkt. Nos. 189, 238

Defendants Elizabeth Holmes and Ramesh “Sunny” Balwani are charged with wire fraud in violation of 18 U.S.C. § 1343 and conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349. The charges stem from Defendants’ allegedly deceptive representations about their company, Theranos, and its technology. Pending before the Court are the Defendants’ separate motions to sever. Having had the benefit of oral argument and having considered the parties’ papers<sup>1</sup>, the Court grants in part and denies in part Mr. Balwani’s motion to sever. Mr. Balwani will be tried separately from Ms. Holmes. His request to be tried first, however, will be denied. The ruling on Mr. Balwani’s motion to sever renders Ms. Holmes’s motion to sever moot.

**I. BACKGROUND**

**A. Factual Background**

Ms. Holmes founded Theranos, a health care and life sciences company, in 2003.

<sup>1</sup> The briefing (Dkt. Nos. 189, 238, 299, 313, 325, 342, 345, 346, 351) and other filings pertaining to the motions were sealed by the Court. Those documents contain personal matters of the parties and confidential material that if publicly disclosed at this time would impair the ability of the parties to receive a fair trial. The hearing was closed to the public for the same reasons and was conducted telephonically to avoid travel for participants in light of the COVID-19 health crisis.

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ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT BALWANI’S  
MOTION TO SEVER; FINDING MOOT HOLMES’S MOTION TO SEVER



Superseding Indictment ¶ 1, Dkt. 39. Ms. Holmes served as the Chief Executive Officer of the company. *Id.* Mr. Balwani served as a board member, the President, and the Chief Operating Officer of Theranos. *Id.* ¶ 2.

The stated mission of Theranos was to revolutionize medical laboratory testing through its allegedly innovative methods of drawing blood, testing blood, and diagnosing patients. *Id.* ¶ 5. During the company's first ten years, it pursued the development of proprietary technology that could run clinical tests using only tiny drops of blood. *Id.* Theranos also worked to develop a method for drawing only a few drops of capillary blood from a patient's finger using a small lancet. *Id.* That blood was then stored in a "nanotainer." *Id.* Theranos sought to develop a second device, termed the "TSPU" (Theranos Sample Processing Unit), "Edison," or "miniLab," that could quickly and accurately analyze blood samples collected in the nanotainer. *Id.* The Government contends that the promises of these devices was never realized and that the devices produced inaccurate and unreliable results. *Id.*

Defendants are charged with conspiring to commit and committing two fraudulent schemes: a scheme to defraud investors and a scheme to defraud doctors and patients. As to the fraudulent scheme to defraud investors, Defendants allegedly (1) claimed that Theranos's proprietary analyzer—the TSPU, Edison, or miniLab—was presently capable of accomplishing certain tasks, with more precision than other blood tests, and at a faster rate, when, in fact, Defendants knew these statements were false (*id.* ¶ 12(A)); (2) told investors the company was financially strong and stable and would make huge profits in 2014 and 2015 when, in fact, Defendants knew Theranos would only generate modest revenue (*id.* ¶ 12(B)); (3) made misleading technology demonstrations where Defendants intended to cause potential investors to believe that blood tests were being conducted on Theranos's proprietary analyzer when, in fact, Defendants knew the analyzer was operating in "null protocol" (*id.* ¶ 12(C)); (4) told investors Theranos had an expanding partnership with Walgreens when, in fact, the Walgreens rollout had stalled due to concerns with Theranos's performance (*id.* ¶ 12(D)); (5) told investors the company

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ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT BALWANI'S  
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had a profitable and revenue-generating business relationship with the U.S. Department of Defense and that Theranos technology was deployed on the battlefield, when in fact, Defendants knew that Theranos had limited revenue from military contracts and that its technology was not used in the battlefield (*id.* ¶ 12(E)); (6) told investors Food and Drug Administration (“FDA”) approval was not needed for the proprietary analyzer and tests when, in fact, Defendants knew by late 2013 and throughout 2014 that the FDA was requiring Theranos to apply for clearance or approval for its analyzer and tests (*id.* ¶ 12(F)); (7) told investors that patient tests were conducted using Theranos manufactured analyzers, when in fact, Defendants knew that Theranos used third-party, commercially available analyzers (*id.* ¶ 12(G)); (8) told investors Theranos technology had been examined, used, and validated by several national or multinational pharmaceutical companies and research institutions, when in fact, Defendants knew this was false (*id.* ¶ 12(H)); and (9) made the false and misleading statements described above to reporters and then shared the resulting articles directly with potential investors and via the Theranos website (*id.* ¶ 12(I)).

As to the fraudulent scheme to defraud doctors and patients, the Government alleges that from 2013 to 2016, Defendants advertised and marketed Theranos technology to doctors and patients, presented misleading and false claims about the accuracy and reliability of its blood tests, and omitted the problems and limits of Theranos technologies. *Id.* ¶¶ 15–16. Defendants allegedly used materially false and misleading marketing materials and advertisements and transmitted Theranos blood results that Defendants knew contained, or likely contained, inaccurate information. *Id.* ¶ 17.

### **B. Procedural Background**

On September 18, 2019, the parties informed the Court that Ms. Holmes had advised Mr. Balwani by letter that she intended to “introduce expert evidence at trial related to a mental condition bearing on guilt.” Balwani’s Mtn. to Sever (Dkt. No. 189) at 2. Ms. Holmes informed Mr. Balwani that she would have an expert testify about, among other things, “intimate partner violence/abuse (including at least psychological, emotional and sexual abuse) suffered by Ms.

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ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT BALWANI’S  
MOTION TO SEVER; FINDING MOOT HOLMES’S MOTION TO SEVER

Holmes at the hands of Mr. Balwani,” “the abusive tactics used by Mr. Balwani that allowed him to exert control over [Ms. Holmes],” and “the psychological impact of the relationship on Ms. Holmes during the time period of the relationship and in connection with the charged conspiracy” between Ms. Holmes and Mr. Balwani. *Id.* Mr. Balwani adamantly denies these allegations.

Relying on this letter, Mr. Balwani filed a motion to sever on December 3, 2019. Mr. Balwani seeks severance because regardless of the merits of Ms. Holmes’s representations, “the prejudice [he] will suffer if Ms. Holmes presents or even publicly discloses this defense, particularly in a case as high profile as this one, is so extreme that severance is essential to preserve [his] right to a fair trial.” *Id.* Mr. Balwani also asserts that once his case is severed from Ms. Holmes’s case, it is essential for his case to proceed first so that the jury pool for his case will not be incurably tainted. *Id.*

On December 16, 2019, Ms. Holmes filed her severance motion. Although the merits of Ms. Holmes’s motion to sever is not addressed herein, the substance of motion is important to give context to Mr. Balwani’s motion. Ms. Holmes’s motion for severance is based on the matters indicated in the letter but for different reasons. Ms. Holmes argues that as a result of Mr. Balwani’s abusive treatment of her she suffers from Intimate Partner Abuse syndrome (“IPA”) and concurrent posttraumatic stress disorder (“PTSD”) such that she cannot be near him without suffering physical distress. She argues that if she is tried together with Mr. Balwani, she will likely suffer stress and physical ailments that will manifest visually such that she will not appear to the jury in her true sense. She also asserts that there is a risk she will be unable to concentrate in her case and will thus be unable to assist and participate in her defense. Ms. Holmes filed as an exhibit a document prepared by Dr. Mechanic, a retained psychologist who examined her, reviewed documents, and interviewed members of her family. [REDACTED]

[REDACTED] Ms. Holmes also filed notice under Federal Rule of Criminal Procedure 12.2(b), stating that she may introduce expert evidence at trial related to a mental condition bearing on guilt. The document

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ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT BALWANI’S MOTION TO SEVER; FINDING MOOT HOLMES’S MOTION TO SEVER

1 prepared by Dr. Mechanic did not address the basis for Ms. Holmes's potential Rule 12.2(b)  
2 defense, [REDACTED]

3 [REDACTED]  
4 On January 17, 2020, at the direction of the Court, Ms. Holmes provided an amended and  
5 sworn declaration of Dr. Mechanic (hereinafter "Declaration"). Ms. Holmes also informed the  
6 Government that she had engaged Dr. Mechanic as an expert for purposes of her Rule 12.2(b)  
7 notice. Like the original filing, Dr. Mechanic's amended Declaration focused on the basis for Ms.  
8 Holmes's motion to sever and provided only meager information relevant to Ms. Holmes's Rule  
9 12.2(b) defense.

10 The Government retained Dr. Binder to opine on Ms. Holmes's noticed Rule 12.2(b)  
11 defense. Dr. Binder reviewed the same documents relied upon by Dr. Mechanic [REDACTED]

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 **II. STANDARDS**

17 Federal Rule of Criminal Procedure 8, Joinder of Offenses or Defendants, "evinces a  
18 strong federal policy favoring joint trials of defendants who are indicted together." *United States*  
19 *v. Lopez*, 915 F. Supp. 891, 894-95 (E.D. Mich. 1996). "Co-defendants jointly charged are, *prima*  
20 *facie*, to be jointly tried." *United States v. Doe*, 655 F.2d 920, 926 (9th Cir. 1980). This rule  
21 applies particularly in criminal conspiracy cases. *United States v. Escalante*, 637 F.2d 1197, 1201  
22 (9th Cir. 1980); *see also United States v. Fernandez*, 388 F.3d 1199, 1242 (9th Cir. 2004) ("a joint  
23 trial is particularly appropriate where the co-defendants are charged with conspiracy"). Joint trials  
24 "play a vital role in the criminal justice system." *Zafiro v. United States*, 506 U.S. 534, 537  
25 (1993)) (quoting *Richardson v. Marsh*, 481 U.S. 200, 209 (1987)). Joint trials are favored because  
26 they "promote efficiency and 'serve the interests of justice by avoiding the scandal and inequity of

27 CASE NO.: [5:18-CR-00258-EJD](#)

28 ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT BALWANI'S  
MOTION TO SEVER; FINDING MOOT HOLMES'S MOTION TO SEVER

inconsistent verdicts.” *Id.* (quoting *Richardson*, 481 U.S. at 210).

Federal Rule of Criminal Procedure 14, Relief from Prejudicial Joinder, provides that a district court may order separate trials if a joint trial of defendants “appears to prejudice” one of them. Fed. R. Crim. Proc. 14(a). “[A] district court should grant a severance under Rule 14” only if (1) “there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants,” or (2) a joint trial would “prevent the jury from making a reliable judgment about guilt or innocence.” *Zafiro*, 506 U.S. at 539; *see also Reay v. Scribner*, 369 F. App’x 847, 848-49 (9th Cir. 2010) (quoting). “Such a risk might occur when evidence that the jury should not consider against a defendant and that would not be admissible if a defendant were tried alone is admitted against a codefendant.” *Zafiro*, 506 U.S. at 539.

## II. DISCUSSION

### A. Balwani’s Motion to Sever

The Court finds it appropriate to sever Mr. Balwani’s trial from Ms. Holmes’s trial for the reasons discussed below.

#### 1. Prejudice

Mr. Balwani argues that a severance under Rule 14(a) is necessary because the defense Ms. Holmes advances undermines his constitutional rights, in particular his right to due process under the Fifth Amendment of the United States Constitution. Specifically, Mr. Balwani asserts that in a joint trial, Ms. Holmes’s inflammatory allegations would expose the jury to character evidence that would otherwise be inadmissible against him if he were tried alone. Mr. Balwani argues that severance is required on this basis alone.

Mr. Balwani’s core argument is that if Ms. Holmes presents the evidence outlined in the letter during a joint trial, he will be unfairly prejudiced and his rights to a fair trial will be compromised, citing *Zafiro*. He argues that Ms. Holmes’s evidence seeking to establish her innocence would require him to defend against not only the Government’s case, but to defend against her allegations as well because her allegations are so inflammatory that they cannot be left

CASE NO.: [5:18-CR-00258-EJD](#)

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unrebutted before the jury. He argues that the allegations are so pernicious that in the current climate of Me Too and public awareness of abusive sexual behavior of certain men against women, it will be impossible for him to receive a fair trial if this evidence is admitted in a joint trial. Mr. Balwani also argues that his rights under the Fifth and Sixth Amendments to the United States Constitution will be violated with a joint trial because he will be forced to testify to respond to and deny the allegations of abuse, even though these allegations are not alleged by the Government. He argues the allegations alone are so damning in the current climate that it will be impossible for a fair joint trial and that no special instruction of the Court can separate the jury from the alleged uncharged conduct and the Government's proof and evidence.

Mr. Balwani's arguments are well supported by the handful of federal courts that have faced similar circumstances. In *United States v. Breinig*, 70 F.3d 850 (6<sup>th</sup> Cir. 1995), Breinig and his former wife, Joan Moore ("Moore"), were charged with tax evasion. Breinig moved for severance in anticipation of antagonistic defenses, and Moore joined in the motion. *Id.* at 851-52. The trial court denied the motion. At trial, Moore presented a defense of diminished capacity to negate *mens rea*. Moore claimed that she lacked the capacity to have evaded taxes "wilfully" because she was dominated and controlled by Breinig. *Id.* at 852. For his part, Breinig claimed that because Moore kept all the books and an accounting firm prepared their taxes, he had no knowledge of the underreporting. *Id.* Moore's defense was based largely on the testimony of a psychiatrist and a psychologist who had treated her a few years after the alleged tax evasion. Over Breinig's objection, these expert witnesses testified to "Moore's mental instability, to her extreme insecurities, to her suicidal tendencies; to Breinig's infidelities; and to Moore's low self-esteem." *Id.* There was also evidence that Breinig alienated the couple's children, which caused Moore to feel abandoned by them; that Breinig also abandoned Moore; and that Breinig "manipulated" her throughout the course of their twenty-four-year marriage, resulting in Moore's extreme dependence on him. *Id.* Although the court admitted all of this evidence only in support of Moore's defense, the evidence amounted to "dramatic evidence of Breinig's bad character." *Id.*

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The Sixth Circuit concluded that Breinig's claim of prejudice met the *Zafiro* standard for severance and accordingly reversed Breinig's conviction. *Id.* at 853-54. The Sixth Circuit reasoned:

The unfairness in Breinig's trial resulted not from a mutually antagonistic defense, but from evidence the jury was permitted to hear and evaluate and which was, as to Breinig, impermissible and highly inflammatory evidence of his bad character. The jury was told, by well-credentialed experts, that Breinig was an adulterous, mentally abusive, and manipulating spouse. Such testimony, of course, would have been inadmissible against him under any theory of the Federal Rules of Evidence on a trial for tax evasion. Because Breinig's credibility was in issue, the jury's consideration of categorically inadmissible evidence was manifestly prejudicial, and unfairly so. It provided the government with an unfair windfall that the rules of evidence and elemental notions of fairness would otherwise not allow, and that Rule 8(b) does not envision.

*Id.* at 853. In so holding, the Sixth Circuit noted that it was presented with an "exceptional case" with "unique facts," and that the district court could not have foreseen much of the testimony that was ultimately introduced at trial. *Id.*

In *United States v. Lopez*, 915 F. Supp. 891 (E.D. Mich. 1996), Rene Cardona ("Cardona") and Sandra Lopez ("Lopez") were jointly indicted on drug charges, including conspiracy to distribute cocaine. Cardona moved for severance because Lopez "intend[ed] to offer evidence in her defense that Cardona beat and/or coerced her into committing criminal activity." *Id.* at 900. Cardona argued that he would be "severely prejudiced in the eyes of a jury" by Lopez's defense, and further, that this prejudice would be "magnified because Lopez may not testify, depriving Cardona of an opportunity to cross examine her on this element of her defense." *Id.* The *Lopez* court conducted an *in camera* review of Lopez's affidavit outlining her proposed defense and was satisfied that the evidence she intended to introduce would expose Cardona "to the same degree of prejudice which justified the reversal in *Breinig*." *Id.* at 901. The *Lopez* court also held that the "proposed evidence of physical abuse and coercion would be inadmissible against Cardona if he were tried independently. *Id.* Finally, the *Lopez* court noted that "less drastic measures, such as limiting instructions, would not suffice to cure this substantial risk of prejudice." *Id.* For this

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reason, the *Lopez* court granted Lopez’s motion to sever.

In *United States v. Swan*, No. 12-CR-27 JAW, 2013 WL 3422022 (D. Me. July 8, 2013), a married couple was indicted on multiple counts, including fraud and extortion. Mr. Swan moved to sever after Ms. Swan’s trial brief revealed allegations of spousal abuse. *Id.* at \*2. More specifically, Ms. Swan disclosed that she would present evidence of her state of mind, including her “fear and lack of control resulting from actions by her husband.” *Id.* Ms. Swan alleged that Mr. Swan was a “controlling and physically abusive husband” and described his behavior as “chilling.” *Id.* The *Swan* court concluded that the potential prejudice against Mr. Swan was so severe that his motion to sever must be granted:

If his case were tried separately, his wife’s allegations of spousal abuse would be inadmissible and the jury would focus on whether the Government had proven its criminal charges against him beyond a reasonable doubt. However, if his case is tried with his wife, the jury will likely hear her contention that Marshall Swan emotionally and physically abused her and Marshall Swan will therefore be compelled to defend himself not only against the prosecutor’s case against him but also his wife’s case against him. Furthermore, Carole Swan’s allegations . . . are dramatic, including “black eyes, bruised ribs, and clumps of hair being pulled from her head as she was dragged from room to room” and a “paranoid regime aimed at tracking Carole’s slightest movements.” [citation] If the jury were to hear this evidence against Marshall Swan, there is the risk that they would convict him not because he committed the charged crimes of federal criminal fraud but because they believe he committed uncharged crimes of spousal abuse, or at least that their ability to judge him fairly on the merits would be compromised.

*Id.* at \*4. Further, the *Swan* court was not convinced that a jury instruction limiting the jury’s use of the evidence of abuse would be successful. *Id.* at \*5.

Here, the information outlined in Dr. Mechanic’s Declaration, if admitted into evidence in a joint trial, would be highly prejudicial and unfair to Mr. Balwani for the very reasons stated in *Breinig*, *Lopez*, and *Swan*. Because Dr. Mechanic’s Declaration was offered only as support for Ms. Holmes’s severance motion and not as a formal report directed to a 12.2(b) defense, however, it was unclear to what extent Ms. Holmes would seek to admit as evidence at trial any of the information contained in the Declaration. The Declaration recites both factual matters and expert

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United States District Court  
Northern District of California

1 opinion. [REDACTED]  
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26 [REDACTED]

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1 [REDACTED]  
2 [REDACTED]  
3 The Court discussed the Declaration with the parties at hearings trying to determine the  
4 nature of the testimonial evidence Ms. Holmes intended to offer at trial and whether that testimony  
5 will relate to her 12.2(b) defense. The Court was initially concerned with whether Ms. Holmes  
6 would be advancing a duress defense. The Court was careful, and indicated as much to counsel,  
7 that it was not asking Ms. Holmes what her defense would be or asking her to reveal her defense at  
8 this stage in the proceedings. In response, counsel indicated that they would not be advancing a  
9 duress defense for Ms. Holmes, and further represented that Ms. Holmes's defense would be a  
10 lack of *mens rea* to commit the offenses charged.

11 The Court asked whether a *Daubert*<sup>2</sup> hearing as to Dr. Mechanic's qualifications or  
12 opinions should be advanced to an earlier stage of the schedule. The Government favored having  
13 the *Daubert* hearing so the parties would have an early determination on the admissibility issue.  
14 The Government argued that Dr. Mechanic's anticipated trial testimony, as reflected in her  
15 Declaration, would be inadmissible at trial. The Government reasoned that Dr. Mechanic's  
16 Declaration does not describe how Ms. Holmes's purported mental conditions undermined her  
17 ability to form the requisite intent to deceive at the time she committed the crimes alleged, and  
18 therefore there is no basis to admit Dr. Mechanic's testimony in support of a Rule 12.2(b) defense.  
19 And because Dr. Mechanic's Declaration does not support a Rule 12.2(b) defense in the  
20 Government's view, the allegations against Mr. Balwani are irrelevant and inadmissible. Ms.  
21 Holmes objected to an early *Daubert* hearing.

22 The Court acknowledged that if Dr. Mechanic was found not qualified as an expert, the  
23 [REDACTED] outlined in her Declaration might lack relevance and be inadmissible. *See e.g.*  
24 *United States v. Scholl*, 166 F.3d 964, 970 (9th Cir. 1999) (holding that district court did not err in  
25

26 <sup>2</sup> *See Daubert v. Merrell Dow Pharm.*, 43 F.3d 1311 (9th Cir. 1995) (on remand, holding that  
27 proponent of expert testimony must show that evidence is admissible under standards set forth in  
the Supreme Court's decision).

1 limiting the testimony of defendant's compulsive gambling psychological expert where "there  
 2 [was] no 'fit' between his testimony and the issue of willfulness" for charges for filing false tax  
 3 returns); *United States v. Baxt*, 74 F. Supp. 2d 436, 440-41 (D.N.J. 1999) (for expert testimony to  
 4 be admissible, "it must negate Baxt's *mens rea* by tending to prove that Baxt did not submit false  
 5 financial statements knowingly or with the intent to influence [the lender]"); *United States v.*  
 6 *Richards*, 9 F.Supp. 2d 455, 459 (D.N.J. 1998) (holding that expert testimony as to defendant's  
 7 "major depressive order" was inadmissible to negate *mens rea* element of charges for  
 8 embezzlement). After having been informed that Ms. Holmes would not advance a duress  
 9 defense, the Court solicited more information on how the *mens rea* defense might be presented,  
 10 again without asking defense counsel to reveal specifics. That discussion led to the Court's  
 11 inquiry as to whether, as Ms. Holmes's counsel said, she could testify as a lay witness to  
 12 conduct/treatment she received from Mr. Balwani during their relationship, including salacious  
 13 conduct of a sexual intimate nature to support her *mens rea* defense. During this discussion Ms.  
 14 Holmes's counsel represented that it "was highly likely Holmes would testify" about the conduct.  
 15 Ms. Holmes's counsel emphasized that it was unusual for a defense attorney to so reveal a client's  
 16 intention to testify in a criminal case, but he felt confident in doing so in this case. This statement  
 17 was quite profound and meaningful to the Court. The Court then asked Ms. Holmes to prepare a  
 18 proffer of proposed lay witness testimony and evidence that the Court would review *in camera*  
 19 and invited further briefing from the parties as to the admissibility of lay witness testimony on the  
 20 issue of *mens rea* and the basis for its admissibility.

21 The Court has thoroughly reviewed this additional briefing and proffer. Having done so,  
 22 the Court finds that Ms. Holmes might testify at trial as a lay witness to certain conduct of Mr.  
 23 Balwani as to her, and that based on the proffer, briefing, representations and comments of  
 24 counsel,<sup>3</sup> such testimony would be unfairly prejudicial to codefendant Mr. Balwani such that he

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26 <sup>3</sup> See Notice of Submission at 1-2, Dkt. No. 299 ("[C]ounsel can state, as officers of the court that  
 27 there is a significant likelihood that Ms. Holmes will (1) testify at trial that she suffered from  
 28 intimate partner abuse and (2) explain the impact of the abuse on her state of mind during the  
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will be denied a fair trial unless his trial is severed from Ms. Holmes’s trial. *United States v. Haischer*, 780 F.3d 1277, 1282 (9th Cir. 2015). In *Haischer*, the defendant, Haischer, was convicted of committing and conspiring to commit wire fraud. The indictment alleged that Haischer, a loan officer at a brokerage firm, participated in a scheme to secure mortgages using false information in loan applications and supporting documents. Haischer testified that she did not submit the information, and that Nunes, an alleged co-conspirator, had filled out the applications. *Id.* at 1280. Haischer testified that she deferred to Nunes’s judgment because he was a senior loan officer at the brokerage firm and her then-boyfriend. *Id.* Haischer also alleged that Nunes had abused her, but the jury was not permitted to consider evidence of abuse, however. *Id.* The trial court reasoned that the evidence of abuse possessed no probative value as to Haischer’s *mens rea* defense and was highly prejudicial. *Id.* at 1281. The jury convicted Haischer. On appeal, the Ninth Circuit vacated the conviction. The Ninth Circuit held that the trial court committed error by excluding evidence of Haischer’s alleged abuse, reasoning that “[a]lthough the evidence of abuse was less probative of Haischer’s lack of knowledge or intent than it was of Haischer’s potential duress defense, the evidence was not so minimally probative that it was proper to exclude it entirely.” *Id.* at 1282. Moreover, the Ninth Circuit held that the error rose to the level of a constitutional error:

The evidence of abuse would have been central evidence in support of Haischer’s *mens rea* defense, particularly in light of the deliberate ignorance theory as reflected in the *Jewell* instruction. Because Haischer’s knowledge and intent were necessary elements of wire fraud, the evidence related to a critical element of the government’s case. We conclude that the exclusion of the evidence violated Haischer’s due process rights.

*Id.* at 1284.

Here, based upon the representations of counsel, Ms. Holmes is likely to testify as a lay witness to conduct by Mr. Balwani to substantiate her *mens rea* defense, just as the defendant in

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relevant period. . . . Finally, there is a significant likelihood that Ms. Holmes will call other witnesses and offer other evidence on these issues.”)

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1 *Haischer* sought to introduce evidence of abuse through a lay witness. The Government argues  
 2 that *Haischer* is distinguishable because in that case, the alleged abuse was connected directly and  
 3 factually to the fraud. Haischer's sister testified that she heard Nunes yelling at Haischer to sign  
 4 papers, which Haischer testified were papers for the alleged fraudulent loan application. The  
 5 Government's argument has merit, but it is premature. At trial, Ms. Holmes will eventually have  
 6 to connect the alleged abuse to the charged conduct for the abuse to be relevant and admissible.  
 7 *See e.g. United States v. Gonzalez*, 599 F. App'x 727 (9th Cir. 2015) (holding that trial court did  
 8 not abuse its discretion in excluding evidence of abusive childhood because the evidence was  
 9 highly prejudicial and had "very little, if any, relevance or probative value absent some expert  
 10 testimony connecting the past abuse Appellant suffered to her mental state at the time of the  
 11 crime"); *United States v. Boykoff*, 186 F. Supp. 2d 347, 349 (S.D.N.Y. 2002) (recognizing that  
 12 courts have "refused to admit mental disease evidence where no direct link could be established  
 13 between it and the issue of *mens rea*"); *United States v. Pirro*, 76 F. Supp. 2d 478, 485 (S.D.N.Y.  
 14 1990) ("Mental disease evidence is generally excluded where no link is demonstrated between the  
 15 evidence and the defendant's *mens rea* or where the defendant could not demonstrate that he  
 16 actually lacked *mens rea* at the time of the offense because of any psychological defect."). The  
 17 Court is not and has not ruled on the admissibility of any of Ms. Holmes's anticipated evidence at  
 18 this time. The Court's ruling is that even without expert testimony, Ms. Holmes might testify as a  
 19 lay witness to conduct by Mr. Balwani that is the foundation of her *mens rea* defense. *Haischer*,  
 20 780 F.3d at 1282-84; *see also Swan*, 2013 WL 3422022, at \*2 (severing trials because even  
 21 without an expert, the jury's "ability to judge [Mr. Swan] fairly on the merits would be  
 22 compromised" in light of "[Mrs.] Swan's allegations" of abuse). Mr. Balwani would then be put  
 23 in the position of having to "defend himself not only against the prosecutor's case against him but  
 24 also [Ms. Holmes's] case against him." *Swan*, 2013 WL 3422022, at \*4. The jury in a joint trial  
 25 could use the proffered evidence, spanning a decade of alleged abuse, in a manner that is unfair  
 26 and prejudicial to Mr. Balwani. The jury might "convict [Mr. Balwani] not because he committed

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the charged crimes of federal criminal fraud but because they believe he committed uncharged crimes of [intimate partner] abuse, or at least that their ability to judge him fairly on the merits would be compromised.” *Id.* Under the circumstances of this case, a joint trial might “prevent the jury from making a reliable judgment about guilt or innocence.” *Zafiro*, 506 U.S. at 539.

The Court further finds that a less drastic measure than severance, such as a special or limiting instruction, would not be an effective remedy or mitigation for the potential prejudice to Mr. Balwani. *Lopez*, 915 F. Supp. at 901 (holding that less drastic measures, such as limiting instructions, would not suffice to cure the substantial risk of prejudice). The Government proposes that the Court empanel dual juries instead of ordering severance. The Government envisions a “Holmes Jury” and a separate “Balwani Jury” present for the Government’s opening statement, but only the “Holmes Jury” would be present for her opening statement, and only the “Balwani Jury” would be present for his. Thereafter, only the “Holmes Jury” would hear Holmes’s affirmative defense, the Government’s rebuttal to her defense, and closing arguments pertaining only to Holmes. The “Balwani Jury” would proceed in a similar manner. Although there is precedent for the use of dual juries in the Ninth Circuit,<sup>4</sup> the Court finds that proceeding with dual juries in a single trial would be too cumbersome and unwieldy for a case of this complexity and is not a viable remedy or solution. The Court is mindful of the need to adjudicate cases to provide a just determination of every proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay. Fed. R. Crim. P. 2. The Court finds that the use of dual juries in this case would be inefficient and impractical in our courthouse and that separate trials, although burdensome to the Government, defense and the court, is appropriate and fair to all parties.

## 2. Other Factors

Mr. Balwani contends that the following additional considerations weigh in favor of

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<sup>4</sup> See *Lambright v. Stewart*, 191 F.3d 1181, 1185 (9th Cir. 1999) (“[D]ual juries are in wide use and . . . they have worked out just fine.”).



severance. First, without a ruling on severance at the earliest possible time, Mr. Balwani would be forced to launch a massive, expensive, distracting, and time-consuming investigation to be prepared to counter Ms. Holmes's allegations at a joint trial, and that the investigation might draw publicity that would incurably taint the jury pool. Second, Ms. Holmes's defense may prove to be irreconcilably antagonistic to Mr. Balwani's defense. Third, there is a risk that Mr. Balwani's confrontation rights under the Sixth Amendment may be violated if late into the trial and after jeopardy attaches, Ms. Holmes elects to present her defense through an expert witness.

Because the Court finds that the potential for unfair prejudice warrants a severance in accordance with *Zafiro*, it is largely unnecessary for the Court to address Mr. Balwani's alternative bases for severance. The Court notes only that the defenses as currently presented are somewhat antagonistic. Nevertheless, that is not the critical factor in the Court's decision; the prejudice factor predominates and outweighs other considerations in this case.

#### **B. Defendant Holmes's Motion to Sever**

Because the Court has granted Balwani's motion, Ms. Holmes's motion to sever is deemed moot.

### **III. CONCLUSION**

Mr. Balwani's motion to sever is granted, and he will be tried separately from Ms. Holmes. Mr. Balwani's request to be tried first is denied. Severance "does not create a right to a particular trial sequence." *Mack v. Peters*, 80 F.3d 230, 235 (7th Cir. 1996). Ms. Holmes's trial will remain as scheduled with all previous scheduling deadlines remaining undisturbed. Ms. Holmes's motion to sever is deemed moot.

#### **IT IS SO ORDERED.**

Dated: March 30, 2020



EDWARD J. DAVILA  
United States District Judge

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