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**Executive Summary of Special Report Submitted
to the Honorable Jack Markell Governor, State of
Delaware, May 10, 2010, Independent Review of
the Earl Brian Bradley Case**

Linda L. Ammons

**EXECUTIVE SUMMARY
OF SPECIAL REPORT***

**SUBMITTED TO
THE HONORABLE JACK MARKELL
GOVERNOR, STATE OF DELAWARE**

MAY 10, 2010

INDEPENDENT REVIEW OF THE EARL BRIAN BRADLEY CASE

LINDA L. AMMONS, J.D.**

ORIGIN OF THE INDEPENDENT REVIEW

This is the Final Report to the Governor's Office, the Senate Public Safety Committee, the House Public Safety and Homeland Security Committee, and Members of the General Assembly detailing the findings of the independent review by Linda L. Ammons, Esq.,¹ Associate Provost and Dean of The Widener University School of Law pursuant to Executive Order No. 16.² The genesis of Executive Order No. 16 was the December 16, 2009 arrest of Delaware pediatrician Dr. Earl B. Bradley, who was charged and recently indicted on hundreds of charges alleging that Dr. Bradley had sexually assaulted children in his care. Allegations of sexual abuse and/or misconduct by Dr. Bradley first came to the attention of Delaware law enforcement in 2005 and came to the attention of licensees of the Delaware Board of Medical Practice at least 10 years prior to his arrest. As a result, Executive Order 16 tasked Dean Linda Ammons with conducting an independent review of the State's policies and statutory and administrative procedures governing child sexual abuse and exploitation, and, as a result of the review, make recommendations that will foster a child protection community of collaboration and accountability, to better protect Delaware's children from predators. This is Dean Linda Ammons' final report in accordance with Executive Order No. 16.

* The report that follows was reproduced and formatted according to internal Widener Law Review standards and has been edited for clarity and consistency with the remainder of this edition. Footnotes have been added throughout, in addition to those already appearing in the report, to aid in additional reading. The report, as submitted to Governor Markell, can be found online at <http://governor.delaware.gov/docs/ammonsfinalreport.pdf>.

** Associate Provost and Dean, Widener University School of Law.

1. The Curriculum Vitae of Dean Linda Ammons is attached hereto as Exhibit A.

2. 13:9 Del. Reg. Regs. 1228 (March 1, 2010), *available at* <http://regulations.delaware.gov/documents/march2010c.pdf>.

THE INDEPENDENT REVIEW PROCESS

From the outset, this Independent Review was focused on four core issues. First, was there proper communication and coordination between law enforcement agencies, professional regulators and the medical community? Second, whether current professional licensing and reporting requirements for suspected incidents of misconduct were adhered to, and irrespective of whether those requirements were followed, whether Delaware's current professional licensing and reporting requirements are sufficient? Third, are current medical standards and protocols concerning proper pediatric care and the publication thereof adequate to ensure that doctors, medical staff and parents have clear guidance? And finally, are the services currently available to protect and treat children suspected of being victims of sexual abuse adequate?

In order to properly address these core issues, a review of the facts underlying the allegations against Dr. Bradley, and more particularly any alleged incidents of misconduct while Dr. Bradley was licensed as a pediatrician in Delaware was required. For this portion of the independent review, Dr. Bradley's former colleagues, former employees, alleged victims' parents, members of the Delaware Medical Society, professional regulators in Delaware and Pennsylvania, and government and non-profit agencies in Delaware tasked with child protection were all interviewed and records were sought.

Complicating this portion of the review was first the fact that Dr. Bradley is currently under indictment and the subject of an ongoing criminal investigation and prosecution. The Governor's initial charge made it clear that this review must not jeopardize the criminal investigation and prosecution. As a result, certain detectives, prosecutors and even key witnesses were deemed off limits by the Delaware Attorney General's Office. The Delaware State Police did provide a detailed timeline of facts from police reports filed in the case, and the Milford Police Department's police reports from their 2005 investigation were also provided. Another complicating factor was that, as a result of the allegations against Dr. Bradley, numerous civil lawsuits have been filed against Dr. Bradley, some of his former colleagues and Beebe Hospital. As a result, some individuals declined to be interviewed on the advice of counsel. Finally, it is important to recognize that these events took place over a period of many years and this review was conducted only after the revelations of the intensely publicized alleged atrocities committed by Doctor Bradley. As such, memories fade with the passage of time and it is also likely that some accounts are colored, in part, by after-the-fact revelations that have been the subject of significant local and national media attention.³

3. The purpose of reviewing the underlying facts was not to assess liability or culpability but rather to establish a sufficient context from which recommendations for improving Delaware's child protection capabilities could be made. As such, witnesses were not sworn and interviews were not recorded. To do otherwise would have likely had a chilling effect to the detriment of the underlying purpose of this review.

The second and, the most important part of the Independent Review, was to, with the benefit of this factual context, make meaningful and thoughtful recommendations that would improve the future handling of child abuse and sexual exploitation cases. For this portion of the Review, advocates in the child protection community, recognized experts in the field of child protection and criminal justice, and medical experts outside of Delaware were consulted.⁴

FACTUAL BACKGROUND

I. Earl B. Bradley Background

Earl Brian Bradley received his medical degree from Temple University in 1983. He spent three additional years in residency at Thomas Jefferson University. Bradley's academic reputation, as described by one of his professors, was "he was not at the top of his class, but he worked hard," and he "got by being thorough." Bradley held licenses in Pennsylvania, New Jersey, and Delaware. He became board certified in pediatrics in 1990.

Bradley began his practice at the Frankford Hospital in Philadelphia, and lists on his resume the position of School Physician for the Philadelphia School District. His private practice in Pennsylvania also included an affiliation with a children's pediatric center and a police and fire medical clinic.

II. The Pennsylvania Incident

In June of 1994, shortly before Bradley began practicing medicine at Beebe Hospital in Lewes, Delaware, he was accused by a mother of improperly touching her child at his office in Philadelphia, Pennsylvania after an examination. According to a report from the Pennsylvania Bureau of Professional and Occupational Affairs (the "Pennsylvania Board"), the allegation was similar to ones that were later made here in Delaware, that Bradley would entice children with toys and then fondle them. According to the same report, Bradley claimed to investigators that the mother and her live-in boyfriend were trying to extort him. The complaint was investigated by the Philadelphia Police Department and the Pennsylvania Board. The Pennsylvania Board ultimately dismissed the complaint, and decided prosecution was not warranted based on the police officer's opinion that the mother's statement was not credible.

According to the Delaware Board of Medical Practice's (the "BMP", the "Medical Board," or the "Board") licensing file, the Board was aware of the

4. Special thanks to Mr. Mark Ammons, Professors John Culhane, James Diehm, Jules Epstein, and Dana Harrington Conner, Montgomery County District Attorney Risa Vetri Ferman, The Honorable Leslie Hayashi, The Honorable Lee Solomon, Dr. Sharon Cooper, Dr. Taryn Holman-Taylor, Division Chief Patrick McGrath, Executive Director of the National Children's Advocacy Center Chris Newlin, Research Assistants Michael Follett and Christopher King, Mr. Rick O'Hanlon, Janine Howard O'Rangers, Esq., Ms. Tina Ventresca, Executive Director-Rady Children's Hospital Charles Wilson, Ms. Paula D. Garrison and Mrs. Linda R. Triolo.

Pennsylvania complaint against Dr. Bradley and discussed the complaint with Pennsylvania authorities. Within a month after consulting with them, the Medical Board informed Pennsylvania authorities that no action would be taken against Bradley in Delaware either and the case was closed.

III. Bradley's Early Career in Delaware

When Bradley applied for a license to practice medicine in the State of Delaware, according to Dr. Anthony Poliscastro, former president of the Medical Board, Bradley went through the usual licensure process for that time. This procedure included gathering information about a doctor's training, a criminal background check and a face-to-face interview. Poliscastro reviewed Bradley's initial application, which included an application completed by Bradley, a letter from prior employers, and a credential check. A 1994 letter from his former employer, Frankford Hospital in Philadelphia, indicated that Dr. Bradley was "a member in good standing . . ." on both campuses, with "unrestricted hospital privileges." Once Bradley received his license to practice in Delaware, another credentialing procedure was undertaken by Beebe Hospital to grant him privileges.

IV. Beebe Hospital and Early Complaints

According to records reviewed, the first known complaint against Dr. Bradley in Delaware occurred two years after he was hired by Beebe. On November 15, 1996, Joan Davis, a nurse who worked with Bradley at Beebe, called her supervisor and made an appointment to talk with her about Bradley. On November, 18, 1996, Davis complained to her supervisor about what she thought were too many catheterizations of female patients for urine samples by Bradley in his annexed office next to the hospital. According to records reviewed and an interview with Davis, her allegations regarding Bradley included excessive kissing of patients, inappropriate remarks about females, and a perception that female patients had to remove more clothing than males (an allegation Davis no longer recalls). Davis alleges that she gave the hospital a list of names of complaining parents and that she offered to provide many more names, but the hospital declined to take them. Davis contended that the "children did not have a diagnosis to go with catheterizations. The lab results were all negative." She further stated that Bradley would do this procedure on "all ages, newborns to 10-12 year olds. It was always the older girls that he made get on hands and knees and catheterize them from behind." Davis continued, "We could not keep catheters. I was constantly ordering them. I was also ordering viscous Lidocine all the time. He put viscous Lidocine on the girls, on their urethras, so they would not feel anything." According to Davis, mothers in the community often commented on the routine catheterizations, so much so that at parties when Bradley's name would come up the joke was that "a child could have a hurt finger and she would be catheterized." Finally, in a statement given to the Medical Board Investigator in March 2010, and for this report, Davis stated that in 1996 she also told

Beebe officials that she had concerns about Bradley taking pictures of patients in his office “without guardians’ knowledge . . . going home and putting them on his computer.” Davis said Bradley would leave the patients and their parents in his office while he went home, then returned to give them photos, and “patients asked why the doctor was leaving.”

Davis’ allegations regarding Bradley were shared with the hospital’s President/CEO, Vice President of Operations, and the VP of Human Resources. The CEO charged the Vice President of Professional Services with initiating an investigation immediately. The investigation was conducted by the hospital’s lead physician, Dr. Saliba, pursuant to the state’s peer review statute for evaluating the clinical practice of medicine.⁵

As was indicated in the hospital’s recent official statement to the media about their internal investigation, three independent physicians were contacted to obtain their medical opinion on the catheterizations and determine whether the technique Bradley used for obtaining urine collection was medically appropriate. Those doctors included a physician associated with the Alfred I. du Pont Hospital for Children (who cannot be identified), a local pediatrician practicing at the time in Sussex County with no affiliation with Beebe (now deceased), and a doctor with the American Academy of Pediatrics (also not identified). Dr. Saliba stated he was told that Bradley’s use of catheterizations was not medically improper per se. Hospital officials said they were led to believe that Bradley was introducing a preferred, advanced method of treatment. The hospital’s investigation concluded on January 15, 1997. According to Davis, shortly after the hospital commenced its investigation of Bradley, he abruptly ended the practice of catheterizations. Dr. Saliba stated that no written records of the 1996 investigation exist.

There was no indication that the allegations regarding Bradley’s excessive examinations for labia adhesions or his kissing of patients were ever examined. As to why Beebe did not report any of these incidents to state authorities or to the State Medical Board, officials at the hospital said that they relied on the state-granted secrecy of the peer review statute, the procedures of their accreditation standards, federal statutes, and the fact that they believed once other experts in the field had cleared Bradley’s actions as accepted medical practice, they had no further obligation to report because they had no knowledge or good faith belief that anything was wrong.

On July 14, 1997, Bradley gave the hospital notice of his intent to resign. On October 14 of that year, Bradley and the hospital began to negotiate about his employment and privileges status, and Bradley was no longer an employee as of November, 14, 1997. In May of 1998, Beebe was contacted concerning a suit by Bradley regarding claims of defamation. In September 1998, Bradley’s

5. As a result of this report and the *Bradley* case, Delaware’s statutes have been updated, requiring a more thorough investigation to be done by the Board of Medical Licensure and Discipline. See generally DEL. CODE ANN. tit. 24, §§1710-1715 (2012). For additional discussion on resulting legislation, see James Collins, *Two Years Later: The Condition of Healthcare Regulation Reforms*, appearing at p. 231 of this edition, as well as symposium discussion reproduced at p. 239.

colleagues at Beebe elected him as Chief of Pediatrics at the hospital. Bradley's defamation suit against the hospital was settled in March 2000, for less than \$10,000.

After Bradley left the employment of Beebe, he joined the Bayside Medical Practice. Dr. Vincent Killeen, the principal owner of Bayside, stated that Bradley was "a good pediatrician, but not a huge volume or money-maker." Killeen, an OB-GYN, said, "[Bradley's] patients loved him." There were no complaints about improper touching of any kind made to Killeen. In fact, Killeen maintained that Bradley's reputation was "90% good." Killeen further stated, "[Bradley's] skill level was good; in a crisis I would name Bradley as a pediatrician." Shortly before Bradley left Bayside, a mother, who was the wife of one of Bradley's colleagues in the practice, brought her seven-year-old daughter in for a routine exam. The mother claimed that while her view was obstructed by Bradley's body, Bradley stuck his ungloved fingers into her daughter's vagina. The child was screaming and the mother questioned what Bradley was doing. The mother said Bradley told her that he was checking to see if the child's hymen was intact and this was routine. While this incident was contemporaneously discussed with her husband, the two (now divorced) now have differing versions of the incident. The 2005 Milford Police Department investigation, to be discussed below, supported in part what the mother stated about the doctor visit. Neither parent reported the incident at the time to Bradley's employer or to anyone else.

According to Dr. Killeen, in 2000 Bradley left the Bayside practice and is believed to have worked for a brief time at Lewes Professional Center, and then opened his own private practice, Baybees Pediatrics with offices in Milford and in Lewes. As early as 2004, there appeared to be clear signs of Bradley's professional and ethical deterioration.

V. A Plea for Help for Bradley

Roselynde (Lynda) Barnes is the adopted sister of Earl Bradley. Ms. Barnes worked for her brother for a time as an office manager. During an interview, Barnes noted that at first Bradley started out his practice with a professional appearance and operated his office in a typical way. Then gradually he "stopped wearing white shirt and tie and stayed in scrubs, stopped trimming his beard and didn't care about his personal appearance. I saw this deterioration of this person, never on time, I would have to call him and wake him, something we all tried to address." In 2004, after being totally frustrated with him and because of parents' complaints, brought to her by nurses, Lynda Barnes wrote a letter to the Delaware Medical Society ("Medical Society") seeking help for her brother.

Prior to writing the letter, it appears that Barnes and her brother had a dispute. The following is an account of the incident from Barnes' perspective. Bradley and Barnes argued about his insistence on buying a \$5,000 Sponge Bob Square Pants costume. She and Bradley quarreled over this because she told him that the office needed the money for vaccines and for raises for the staff. Bradley allegedly told his sister, "Nobody gets paid until I get

costumes.” Later, he changed his mind and gave everyone a raise. Barnes also took a raise and then Bradley accused her of stealing \$1,100.00 from him. She left his employment in September of 2004.

From records reviewed, it appears that Barnes called the Medical Society on September 21, 2004. Records from the Medical Society stated as follows: “Needs to speak to someone about a Dr. she works for who is going off the deep end/She does not think he will kill himself/but maybe put himself out of business.” A handwritten note on that same page said, “Left meg to call Dr. Tovani [sic], left office #” dated September 23, 2004. Other notations on the page stated: “on staff Beebe, Sister and office mgr, Earl Bradley Pediatric in Lewis.” In parentheses was “Manic Depressive, Diabet 400 In debt, not treated.”

On October 21, 2004, Barnes wrote a letter and faxed it to the Medical Society about her brother’s behavior. On the cover page to the fax, addressed to Dr. James P. Marvel, were the following notations: “The following is a copy of the fax I sent Dr. Tovani regarding getting help for my brother. We are estranged. Dr. Tovani suggested that you might be able to help persuade Dr. Bradley to voluntarily participate in the Impaired Physician Program or conversely that you may wish to recuse yourself because you know him. He holds you in the highest regard and respect.”

The note on the fax cover page continued: “In either case, I have been advised to notify his lawyer that he should contact Dr. Tovani within the next two weeks for voluntary participation or I will contact the Board of Medical Practice to have his participation required. Dr. Tovani tells me that under Delaware State Law I am required to report him and that his nurse should have reported him as well. His lawyer also has knowledge of his problems and is so required. I look forward to speaking with you.”

There is a handwritten note on the fax cover page, dated October 20, 2004, which provided, “Calling on advice of Dr. Tovani, Linda [sic] Barnes, and [phone number deleted]. Re: concerns in regard to a physician.”

VI. The Letters

Two versions of the October 21, 2004 letter that was faxed to the Medical Society by Barnes were uncovered during this review. They will be referred to as Letter 1 and Letter 2.

A. Letter 1

The legend on the fax shows that on October 21, 2004, a letter from Lynda Barnes was sent to the Medical Society. At the head of the letter is a stated objective by Barnes which was “[t]o obtain psychiatric and medical evaluation and treatment for Dr. Bradley in an attempt to keep him from destroying his practice and his life. The examinations should be done by physicians not acquainted with Dr. Bradley, so that he cannot influence the outcome in any way.” Barnes went on to describe Bradley’s handling of both his practice and his personal hygiene. Letter 1 described Bradley’s financial problems,

troublesome spending habits, angry outbursts, and raised possible issues of neglect related to the home conditions for his children. Barnes' letter mentioned that she was afraid of a "very public collapse or prosecution by parents of the children in his practice."

About two-thirds of the way down the first page in Letter 1, there is a black line which stretches across the page striking through part of a sentence. Then there is three-fourths of an inch of white space before the letter picks up again with the words "mood swings."

Letter 1 is the document the Medical Society maintains is the only letter they received from Barnes.

B. Letter 2

Letter 2, a separate version of the October 21, 2004 Barnes letter, was provided by the Milford Police Department. According to Milford Police Department Detective Kenneth Brown, Letter 2 was printed off Barnes' computer and given to him by her during a police investigation.

Letter 1 and Letter 2 are identical until after the words "angry outbursts." Where Letter 1 has a blank space, Letter 2 contained the following: "at his children, history of beating his son, hitting his sister in the office, accusations by parents of patients that he was handling their daughters with improper touching." In the next paragraph, Letter 2 provided:

He explains all of the above and many other actions as 'stress.' He admits to having ADD and self-medicates from his sample closet with Strattera. He suspects that he is suffering from Meneire's [sic] Disease (actually spent a day writhing on the floor of his office, upsetting staff but insisting he would not go for help; resulting hearing loss in one ear which has not been treated) Multiple Sclerosis (numbness and tingling in joints) and diabetes (tested at 400 plus on office glucose meter but would not go for treatment because he did not want it on his record). He has frequent severe headaches, and wears glasses, but, won't have lenses corrected so that he can actually see, he sometimes wears two pairs of glasses at once. He says he is bipolar; that would account for his extreme

The words that followed are "mood swings." From this point forward, Letter 1 and Letter 2 are identical.

The Medical Society claimed that it only received Letter 1, and has concluded through outside technicians that there was a problem with Lynda Barnes' fax machine that caused the pages to stick together causing the gaps in the letter when it was transmitted.

There is a disclaimer by the technician company, which states in part:

Our findings are based on previous experience of fax transmissions being sent or received incomplete due to service needs and or malfunction paper path assembly unit or other malfunctioning parts. Not knowing or being made aware of the actual brand, make, model or the condition of the original sending fax machine and the original receiving fax machine we base our

findings on our visual inspection of copies of the faxed pages of the Barnes Letter.

The “Dr. Tovani” referenced in Barnes’ communications with the Medical Society is Dr. Carol Tavani, who chairs the Physician’s Health Committee of the Medical Society. According to Dr. Tavani, she recalled receiving Letter 1 the day before the Society’s November 9, 2004 meeting, at which the allegations against Dr. Bradley by Barnes were discussed by the Medical Society. Tavani asserted that the November 9, 2004 Medical Society meeting was the only time the allegations against Dr. Bradley were discussed by the Medical Society. The recorded final minute of the Medical Society’s November 9, 2004 meeting stated as follows:

Dr. Tavani reported on a call from the sister of a physician who formerly worked in the physician’s office informing of mood swings, depression and extensive credit card debt. The physician is very well respected in the medical community. The sister added that the physician has self-medicated for apparent ADHD and that he is ‘addicted’ to spending. The physician’s home is reportedly dirty and cluttered and concern was expressed over the welfare of the children. The physician will likely not be cooperative with any attempt to evaluate him. The family has tried unsuccessfully in the past to counsel him. It is the committee’s feeling that it will not be productive to approach the physician and the matter would best initially be addressed by the BMP.

In draft minutes of the November 9, 2004 Medical Society meeting, there was a reference to possible “legal charges brought forward by the sister for wrongful discharge.” However, this language was struck from the final minutes because according to Tavani, she thought it was not pertinent to the issue and may have been more speculation than fact.

According to Tavani, it was her practice to discuss with the Board of Medical Practice’s Executive Director Gayle MacAfee what occurs at each meeting. Tavani stated that, “Often I will mention any discussion.” Formal cases, defined by Tavani as those where doctors are under contract to get professional help and/or be monitored, are reported to the Board. When asked whether she talked with MacAfee about Bradley and the allegations in the Barnes letter, Tavani stated that she does not remember whether she specifically discussed Bradley because, “It was not a case. [The] letter was not a complaint, just asking for evaluation and treatment.” Tavani further said that Letter 1 “did not go to patient care. [Bradley was] severely, fiscally irresponsible.” According to Tavani, Bradley never came up again in subsequent Medical Society meetings.

When Gayle MacAfee was questioned about her conversation with Tavani concerning the November 9, 2004 meeting of the Medical Society, MacAfee’s recollection was that Bradley was never discussed.

According to Sam Nickerson, Investigator for the Medical Board, the first time a complaint was logged against Bradley with the Board was on December 17, 2009, when investigators read about his arrest in the newspaper.

Dr. Tavani believes that at some point, when she spoke to Lynda Barnes, that she probably told her that if Barnes felt that her brother was impaired that Barnes should report it to the Board. Barnes' recollection of the sequence of events is different. She recalls receiving a call from Tavani after the letter was written, and that Barnes was told that the Medical Society would assign the case to a local doctor who would be in touch. That local doctor was Dr. Marvel. Barnes states that she and Marvel did talk, that Marvel told her that the Medical Society would take the matter seriously, and there was cause for concern. She also believed that Marvel and Bradley talked about the matter and that Bradley framed the issue as being retaliation by his sister for being fired.

In the subsequent 2005 investigation by Milford police, as provided in the Delaware State Police timeline, Dr. Marvel acknowledged that he did not investigate the matter as he felt that it was a family matter and that Dr. Bradley was considered by the nurses at Beebe to be one of the best pediatricians on staff.

VII. 2005 Milford Delaware Police Investigation

The Milford Police Department's investigation of Dr. Bradley began in March 2005, when a parent brought her son and daughter, Victim #2, to Bradley's Milford office to seek treatment for her son. At the conclusion of the son's examination, Bradley asked to give her three-year-old daughter a treat. The mother claimed that Bradley disappeared with her daughter and she quickly became anxious and began to look for them. They were not gone long. On the way home from the office in the car, the daughter asked the mother why did the doctor "kiss her tongue." The parent called the police the same day, and through referrals, Detective Kenneth Brown was contacted and assigned the case.

Victim #2 was taken to the Kent County Children's Advocacy Center ("CAC") and was interviewed by Ms. Diane Klecan. A multi-disciplinary team, including a Deputy Attorney General, a pediatric nurse practitioner, a forensic interviewer, Detective Brown, and a case review specialist, were involved and/or watched the interview. According to Ms. Klecan, the child did not readily divulge the information that she had allegedly given her mother in the car about Dr. Bradley. After her mother came into the room and told the child that it was all right to tell the interviewer what happened, she again repeated the allegation that Bradley had kissed her tongue.

Steve Welch was the head of the Kent County Felony Unit for the Delaware Department of Justice in 2005 and was also the Deputy Attorney General who sat in on the CAC interview with Victim #2. After the CAC interview, Deputy Attorney General Welch contacted his superiors, Steve Wood, the State Prosecutor, and Bobby O'Neill, the Kent County Prosecutor, and advised them that there was insufficient evidence for an arrest, but that Detective Brown would investigate further.

Brown's subsequent investigation included talking with Lynda Barnes, who provided Brown with the letter she had written to the Medical Society.

According to Brown's police reports, Barnes also disclosed that Bradley was self-medicating, writing prescriptions in the name of a relative for himself, that he physically and emotionally abused his son, that he had abused a stepchild in another state, and she mentioned complaints from parents concerning improper touching of their children. Brown's police report also provided that Bradley's son had apparently discussed with Barnes the fact that Bradley "has had problems at Beebe Hospital," and that Bradley had been "upset about something at the hospital for about two months"

On April 7, 2005, Brown obtained from the Attorney General's Office a subpoena for Beebe Hospital records regarding Dr. Bradley. In his review of those records, Brown, found nothing negative regarding Dr. Bradley. Brown spoke with Dr. Marvel at his office and, according to Brown, Dr. Marvel was aware of the Pennsylvania complaint against Bradley that had been considered unfounded.

A note in Detective Brown's police report indicated that Bradley initiated a call to Brown on April 6, 2005, to inquire whether he was being investigated, and Bradley was told "Yes," but was not told the nature of the investigation and that Brown would get back to him. During his investigation Brown also uncovered three other victims and five witnesses, whose statements ranged from calling Bradley a pedophile, because of his "long vaginal exams," to allegations that Bradley took photos of his patients and manipulated them.

The results of Detective Brown's investigation were presented to the Attorney General's Office. On May 23, 2005, after consultation with Steve Wood, the State Prosecutor at that time, Deputy Attorney General Welch decided not to prosecute the case. There was no indication that the discussions between Welch and Wood went any higher in the Attorney General's Office. In an interview with Welch, he indicated that he has a handwritten note on a May 25th e-mail sent to Wood which said that Welch spoke with Detective Brown the day before and Brown would contact the Medical Board. According to the note, Brown agreed that there was not enough evidence to prosecute. Welch also maintained that it was his idea to report the allegations regarding Bradley to the Medical Board. According to Welch, he determined that Deputy Attorney General Michael Tischer represented the Medical Board and he sent Tischer an e-mail asking if Tischer did indeed represent the board. Welch also claimed that he followed up his e-mail with a phone call to Tischer. It does not appear that Welch had any other contact with Tischer, and there was no evidence that anything more was done regarding reporting the allegations regarding Dr. Bradley to the Medical Board.

For his part, Tischer remembered receiving the call from Welch and Bobby O'Neil and remembered an e-mail from Welch. In what he described as a "five minute" conversation, Tischer said he was told by Welch that a doctor was being investigated and was asked if "[Tischer] thought it was unprofessional conduct for a doctor to kiss a patient." Tischer said he told Welch that, "Standing alone the prosecution would have a hard time." Tischer maintained that Bradley's name was never mentioned and that he was not privy to the evidence gathered in Welch's case. Further, Tischer did not want to have

access to the information because of his role representing the Board. Tischer was the Deputy Attorney General who advised the Board with its hearings, and therefore he felt he had an obligation to ensure objectivity by not being involved either in the investigation or the prosecution of cases that might come before the Board. Tischer recalled telling Welch to report the matter to the Board and the Division of Professional Regulation. When Welch was asked why he did not contact the board, he said “We relied on [Brown] to contact the board, and he did.” Welch added, “I didn’t have any doubt that Brown would call. . . . We did take this seriously; I think Brown did a thorough investigation.”

Detective Brown vehemently disputed Welch’s account on who agreed to report the allegations against Dr. Bradley to the Board. Brown maintained that before Welch had decided not to prosecute Bradley, it was Brown who went to the Medical Board to get them to investigate the Bradley allegations and was turned away. Brown further stated that out of his frustration with the way the Board investigator refused to assist him, he relayed the information to Welch, and it was at that point, Welch said he would reach out to the Deputy Attorney General who represented the Board.

The CAC records and the Milford Police Report stated that Steve Welch would contact the Deputy Attorney General who represented the Medical Board and advise that individual of the determination. Welch contended that the note in the CAC file represented what another AG or a social worker told the CAC about the disposition of the case, and that Welch was not present at the final meeting.

The Milford police report indicated that Investigator Bud Mowday of the Medical Board was contacted by Brown. It is Brown’s position that the contact was by phone. Brown maintained that he was told by Mowday that the Board did not take complaints from police. Brown contended that he told Mowday that the board needed to look at the cumulative evidence in order to understand what was really going on. The Milford police report also noted that Mowday told Brown “to have the victim and any other witnesses file a complaint with the Medical Board.” The Milford police report indicates that Brown did instruct victims and witnesses to file a complaint with the Board.

When questioned about the conversations with Brown about Bradley, Mowday said that he does not recall “anything.”

As stated herein, the Board of Medical Practice contends that they never received any complaints regarding Dr. Bradley from anyone.

VIII. Beebe Hospital and the 2005 Investigation

Although the Milford Police Department closed their Bradley investigation in June 2005, based on a note written by Dr. William J. Wenner,⁶ who was Vice President of the Medical Staff at that time, it appears that this decision did not reach Beebe Hospital until October 5, 2005. The October 5, 2005

6. Wenner joined the hospital staff after the investigation had begun. It appears that he heard about it through nonofficial channels.

note indicated, “PC with Det. Kurt [sic] Brown Milford Police. An investigation was conducted and closed with no further action anticipated. Informed Dr. Bradley.”

Previously, Wenner had notified Bradley about the Milford investigation via a letter dated September 16, 2005, which informed Bradley that the hospital knew about reports of an investigation that “is or has occurred regarding your practice of medicine.” Wenner told Bradley that he must inform the hospital in writing as to the status of the investigation. On September 19, 2005, Wenner noted that he met with the CEO of the hospital, Mr. Fried, and Fried informed Wenner about the allegations eight years before concerning Bradley. According to Wenner’s notes, Fried was also aware of a rumor of inappropriate behavior in Pennsylvania, but Fried believed it to be “without substance.” Wenner’s notes suggest that he told Fried that during a discussion between Bradley and Wenner in September 2005, Bradley denied that he knew anything about the Milford investigation. This is contrary to the Milford Police Reports that indicate that Bradley knew of the investigation at least by April 6, 2005, when he called Milford Police to inquire as to whether he was being investigated. Wenner’s notes of his conversation with Fried closed with the following statement: “I will seek the records of the past events. I will contact any leads from those records. If there is any legitimate cause for concern of patient safety, we will require a chaperon [sic] /witness for Dr. Bradley.” Based on Wenner’s notes, it appears Wenner met with Bradley again on September 20, 2005. In that meeting, Wenner’s notes suggest he discussed the Milford Police Department investigation, and again Bradley stated that he knew of no investigation. Wenner noted that he agreed to let Bradley know if his hospital records were subpoenaed. Wenner followed up with Bradley on September 22 by phone to inform him of the subpoena the hospital received in April 2005. Wenner also informed Bradley that “all patient contacts by hand must be in the presence of another witness.” Wenner’s notes indicated that Bradley was “very comfortable with . . . [the] requirement.”

On September 28, 2005, Wenner sent Bradley a second letter sent stating that Beebe hospital was aware of an investigation by the AG’s office and that “this organization must insist that pending completion of the investigation, you are responsible to have a nurse/chaperone with you at all times when you are with a patient [sic] at any facility of Beebe Medical Center. If you have any difficulty finding a nurse/chaperone, please contact the nursing supervisor.”

On October 5, 2005, Wenner had the aforementioned telephone conversation with Detective Brown in which he learned that the Milford Police Department investigation was closed. As a result, the chaperoning of Bradley at Beebe ended. At this time in 2005, there were no ongoing investigations of Bradley by law enforcement, Beebe hospital, regulatory authorities or the Medical Society.

IX. The 2008 Investigation

According to a timeline created by the Delaware State Police based on police reports regarding law enforcement’s investigation of the allegations

against Dr. Bradley from September to December of 2008, Troop 4 of the Major Crimes department received three reports of “inappropriate conduct by Dr. Bradley during exams of patients.” These complaints included that of a twelve-year-old female, who was taken to Bradley for a sore throat and pink eye, and was given a vaginal exam; a six-year-old brought to Bradley for Attention Deficit Disorder and given a “four minute” vaginal exam; and an eight-year-old with an excessive urination problem who was given at least three vaginal exams over a six-week period. A forensic interview was conducted of each child at the Sussex County CAC.

As a result, in December 2008, Deputy Attorney General Stacy Cohee, based on affidavits of probable cause from Delaware State Troopers, with the assistance of the State Police High Tech Crime Unit, applied for a search warrant from the Delaware Superior Court in Georgetown for Bradley’s computers. That warrant application was denied. According to Cohee, the judge indicated that the application was better as an arrest warrant. A former State Police Detective, who has since retired, confirmed that the judge who denied the search warrant stated that he would sign a criminal arrest warrant. The criminal arrest warrant was not obtained. As there is no written decision or transcript of an oral decision, it is not clear as to why the search warrant application was denied, nor is there a contemporaneous documented explanation as to why an arrest warrant was not requested.

However, Deputy Attorney General Cohee stated that she was concerned about making an arrest without more evidence because of the nature of the information the Delaware Department of Justice had at the time. In 2008 there were three complaints, which alleged vaginal exams in the presence of guardians, and a complaint about kissing of one of those persons. Cohee indicates she called the Delaware Department of Justice’s child abuse expert at that time, Dr. Allen DeJong, and asked for an opinion regarding the propriety of Bradley’s exams, and was told that vaginal exams in certain circumstances were acceptable as a routine procedure. As will be discussed *infra*, DeJong considered this an informal consult, but Cohee stated that she talked with him “at great length . . . for at least fifteen minutes” and was specific about the facts concerning the vaginal exams. “When the alarm bells did not go off for DeJong,” Cohee contacted another doctor, Dr. Cindy Christian at Children’s Hospital of Philadelphia. While Cohee did not go into great detail about her discussions with Christian, Dr. Christian allegedly told Cohee that generally vaginal exams are not appropriate. Thus, conflicting opinions from experts led Cohee to conclude that making an arrest under the circumstances was not the best way to proceed at that time.

After deciding not to arrest and prosecute Dr. Bradley in early 2009, the Delaware Department of Justice and the Delaware State Police stated that they continued to investigate Dr. Bradley using other methods. According to Cohee, there was no indication of the magnitude of the alleged offenses until after Bradley was arrested in December 2009.

X. Doctor-Nurse Interviews

During the course of this review, nine doctors were interviewed. Their relationships with Bradley ranged from being peer pediatricians and physicians to those who had regulatory and or supervisory roles regarding Bradley. None of the doctors interviewed admitted to having any knowledge or suspicion of crimes against children by Dr. Bradley, although patients may have come to their practices because of complaints against Bradley. These doctors generally thought Bradley was strange, weird, and could be very disagreeable. One physician, Dr. Jay Ludwicki, who was a contemporary with Bradley at Beebe, did confirm information about Bradley's questionable photographing of children without parental consent. Ludwicki and Bradley had different styles of practice and there may have been professional rivalry and/or friction between the two doctors, because Bradley may have seen Ludwicki as a threat. Ludwicki maintained that he did not know about the seriousness of Bradley's issues until long after Ludwicki left the employment of Beebe Hospital, opened his own practice, and Milford police came to him and revealed that they were investigating complaints against Bradley. Ludwicki felt no need to report what he was being told by the police to anyone else, because the police were in charge of the investigation.

Dr. Allen R. DeJong, Medical Director of Children at Risk Evaluation Program at the Alfred I. duPont Hospital for Children–Nemours, was one of Bradley's professors when he was in medical school. Bradley had also consulted with DeJong about vaginal exams of children. DeJong indicated that early in Bradley's practice, Bradley called him for a consult, and he told Bradley "that genital exams are a reasonable practice." DeJong felt it was "Okay" to do vaginal exams as he taught them in medical school. DeJong also stated that "the practice" did call him about Bradley and that he (DeJong) felt it was "older doctors trained in the 50-60s and the new doctor was doing something different." DeJong indicated that a "couple of times in the last five years," there had been "curbside" consults at professional meetings. "People would ask 'Do you know Earl Bradley?'" These people, according to DeJong, "may have been DFS people or lawyers." DeJong stated that he "vaguely remembers a specific conversation with a Deputy Attorney General" about vaginal exams, and that he told the Attorney General that a routine exam would involve a "brief inspection of genital area of child and in cases where a complaint has been made, for example, alleging abuse, one would expect a more detailed exam. If something else, it would depend on the context of what the symptoms are." DeJong cannot recall if he was asked about digital (finger-inserting or other device) exams, which he considers inappropriate. DeJong indicated that when he was asked for his professional opinion regarding Dr. Bradley there were no specific details provided, and therefore, he could only give general guidelines, and that he "never had a formal consultation by anyone." According to DeJong, "After the AG's contact, there was no more about Bradley."

The doctor who is on record in police files and in the media calling Bradley a "pedophile" would not grant an interview. He has been advised by his

attorney not to participate in this investigation. A letter from his attorney is on file.

Brandy Little worked for Earl Bradley from 1997-2004, where she was one of his nurses at Bayside Health. When Bradley left the Bayside practice, he moved to an office park complex near the site where his current office is located on Route 1. Little never worked at the Route 1 office. She described the practice as being somewhat chaotic, and short of staff. "He was bizarre and ran people away." Little also stated that Bradley was "always behind," and that she was always trying to push him along.

When asked about Bradley taking children away from the parents and into other areas of the office, Little said, "There was nowhere to take a child. There were four examining rooms in a square, two side-by-side, and you could see everything." She further commented, "He definitely liked to console them; walk around the office with them to try to stop them from crying. They were allowed to pick out a prize if they got a shot. I don't know how he could have done it [meaning molesting children], unless it was on the weekends." Little would clean the office and did notice cameras, but they were not connected.

According to Little, Bradley's disorganized practice and friction with Lynda Barnes led to Little's resignation. However, she did return to work for Bradley a second time for just a few months. Barnes had indicated that she wrote her letter to the Medical Board, in part, because nurses were complaining to her about her brother's behavior. Little challenged Barnes's statement. She stated, "I am a licensed person, a nurse; I know the proper way to report."

Little's reason for not reporting is that she had "absolutely no idea" that Bradley was sexually involved with the children. She further explained, "During my time, I did not see anything unusual." Little commented that Bradley "was bizarre" and "he was very paranoid and thought people were going to steal his money."

By the time she left the practice, Little concluded that Bradley was "burned out." She insisted that if she had any idea that Bradley should have been reported, she would have done so.

XI. The Role of Governmental and Non-Profit Agencies

State agencies with responsibilities for the health and safety of the public and/or children specifically related to child abuse and/or the regulation of the medical practice in Delaware include: The Department of Services for Children, Youth and Their Families ("DFS"), the Department of Health and Social Services, the Board of Medical Practice ("Board" or "BMP") which is under the Division of Professional Regulation, the Department of Justice (DOJ), and the Delaware State Police. There are also other State entities charged with protecting children including: the Office of the Child Advocate, the Child Death, Near Death and Stillbirth Commission, the Developmental Disabilities Council, and the Child Protection and Accountability Commission ("CPAC"). The private nonprofit entities connected with this case are the Child Advocacy Centers ("CAC") and the Medical Society of Delaware. There is a memorandum of understanding between DFS, CAC, DOJ, and the DSP

which outlines the procedures for investigation and collaboration among these departments relative to child abuse and neglect. Other advocate groups who have either assisted in the aftermath of Bradley or who have raised significant issues related to this case include Sexual Assault Nurse Examiners (“SANE”), Contact Lifeline, and Community Legal Aid.

Discussed below is a brief summary of the extent to which some of the above agencies or groups were involved in the Bradley case prior to his arrest.

A. The Department of Services for Children, Youth, and Their Families (“DFS”)

No record of any involvement. No reports or complaints were received by DFS about Bradley. Eighteen children with connections to DFS were Bradley’s clients. However, recently, a doctor has surfaced who claims that he had informed DFS and other agencies, whom he cannot or will not identify, about potential malpractice by Bradley. This doctor is being investigated by DFS and the Board of Medical Practice, and was under investigation before making these claims. His allegations cannot be substantiated.

B. Office of Child Advocate

No record of any involvement. No reports or complaints were received by the Office of Child Advocate about Bradley.

C. Department of Health and Social Services

No record of any involvement. No reports or complaints were received by the Department of Health and Social Services about Bradley.

D. Child Death, Near Death and Stillbirth Commission

No record of any involvement. No reports or complaints were received by this Commission about Bradley specifically, but two of Bradley’s former patients died of unrelated causes.

E. Developmental Disabilities Council

No record of any involvement. No reports or complaints were received by the Developmental Disabilities Council about Bradley.

F. Child Protection and Accountability Commission (CPAC)

No record of any involvement. No reports or complaints were received by CPAC about Bradley. However, one of the members of CPAC, Dr. Allen DeJong, in his private capacity, had a professional relationship with Bradley and was asked his opinion by both Bradley and the Attorney General’s Office

regarding Bradley's medical practices as it related to vaginal exams of children. According to Tania Culley, the Child Advocate and the Executive Director of CPAC, CPAC knew nothing about Bradley until it was reported in the press in 2009.

G. Board of Medical Practice

As stated herein, the Board had no records of any formal reports or complaints from anyone in Delaware about Bradley.

H. Department of Justice

This agency has been involved with the Bradley case, stretching across two administrations and three Attorneys General. Members of the criminal and civil divisions in the Attorney General's Office were aware of some if not all of the allegations against Dr. Bradley. The 2005 investigation, described earlier, began when then Attorney General Jane Brady was in office. There is no indication that she was aware of the decision not to prosecute. Judge Brady stated she had no knowledge of the case, and it seems reasonable to believe that as fact because Steve Welch, the Deputy Attorney General responsible for the criminal investigation of Bradley in 2005, stated he never discussed it with her.

The 2008 investigation by the Delaware State Police was under way while the current Attorney General Beau Biden was in Iraq and Acting Attorney General Richard Gebelein was at the helm. The Attorney General Office's role in the Bradley investigation is detailed *infra*.

I. Delaware State Police

The first time the Delaware State Police became involved in investigating Bradley was in the fall of 2008. Police conducted a usual computer search on Bradley, and two lead detectives, Larry Corrigan and Thomas Elliott (after Corrigan retired), investigated Bradley. State Police investigated alleged conduct against three victims in 2008 and one in 2009 which led to the arrest of Bradley. When asked why the DSP did not make an arrest in 2008, the response was "In cases like this we do a review with the AG's Office for applicable charges and review of the evidence."

J. Milford Police

The role of the Milford Police and details of their investigation are discussed *infra*.

K. Non-Profit Organizations

1. Beebe Hospital

Beebe's internal investigation and actions taken as a result of that investigation are discussed *infra*.

2. Bayside Medical

One alleged incident occurred at Bayside in the late 1990's, which was only reported to police as a result of the Milford Police Department investigation in 2005. There was no indication that this incident was reported to Bayside earlier.

3. Child Advocacy Centers

There are three CAC centers state-wide, accredited through National Children's Alliance. Statewide CACs had a client census of 1200 or more children last year. CAC became involved in the Bradley matter in 2005 during the Milford Police investigation. Victim #2 (doctor kissing tongue accusation) was the first child to be interviewed in the Bradley investigation. The child was interviewed March 31, 2005. CAC records indicated that the case was closed with no prosecution on June 3, 2005. CAC did not interview or become involved with another alleged Bradley victim until 2008. After Dr. Bradley's arrest in December 2009, the CACs in Kent and Sussex counties were engaged in performing forensic interviews with victims and working with multi-disciplinary teams in an effort to provide evidence for the police and counseling and advice for the parents and the children.

4. Medical Society of Delaware

The Medical Society's internal investigation and actions taken as a result of the Medical Society's awareness of the allegations against Bradley are discussed *infra*.

FINDINGS

I. DELAWARE LAW ON REPORTING PHYSICIANS AND CHILD ABUSE

A. 24 Del. C. § 1733 – Mandatory Reporting to the Board of Medical Practice

Title 24, section 17, of the Delaware Code contains the Medical Practice Act (the "Act"). The preamble to the Act states clearly that the purpose of this law is to promote the health, safety, and welfare of Delaware's citizens and to make sure that "the public is properly protected from the unprofessional,

improper, unauthorized, or unqualified practice of medicine”⁷ The legislature was also clear that a medical license is a privilege and not a right. All licensees have duties and prohibitions which are articulated in this section of the code.⁸ Additionally, rights are given to non-licensees to make the state aware of medical professionals who may not be meeting the acceptable standards for practicing medicine according to state law.

For example, section 1733 of the Act allows “[a]ny member of the public . . . [to] file with the [Medical] Board a complaint concerning any aspect of the practice of medicine against a person to whom a certificate to practice medicine in the State has been issued”⁹ Section 1731A also mandates that various actors report doctors to the medical board who “may be guilty of unprofessional conduct or may be unable to practice medicine with reasonable skill or safety to patients by reason of mental illness or mental incompetence . . . or excessive use or abuse of drugs, including alcohol.”¹⁰ Six categories of persons have an affirmative duty to report in writing within 30 days if they are aware of conditions articulated above. Those persons include:

1. All persons certified to practice medicine under this chapter
2. All certified, registered or licensed healthcare providers
3. The Medical Society of Delaware
4. All healthcare institutions in the State
5. All State agencies
6. All law enforcement agencies in the State.¹¹

The statute’s text does not provide for exceptions for any of the mandatory reporters noted above. Questions have been specifically raised about the impracticality of law enforcement agencies reporting to the Board of Medical Practice while they are involved in an ongoing investigation. The language of the statute is silent as to that issue. A pure textualist approach would not support an interpretation that excludes the duty to report under those circumstances. In fact, it is not unusual to have administrative processes and criminal investigations pursuing the same defendant based on the same set of facts.

It is also a maxim of statutory interpretation that legislatures do not expect absurd results of the laws they enact. In this case, the question at issue is whether the General Assembly contemplated a situation where law enforcement could potentially “tip off” the suspect that he or she is being investigated on criminal charges by reporting to the Board of Medical Practice who, in turn, is mandated by law to initially review every report.¹² Since there is no legislative history on this issue, one could argue that because “[a]ll law

7. DEL. CODE ANN. tit. 24, § 1701 (2009) (amended 2010).

8. DEL. CODE ANN. tit. 24, §§ 1701–1799ec (2009) (amended 2010).

9. DEL. CODE ANN. tit. 24, § 1733 (2009) (amended 2010).

10. DEL. CODE ANN. tit. 24, § 1731A (2009) (amended 2010).

11. *Id.*

12. *See* DEL. CODE ANN. tit. 24, § 1731A(h) (2009) (amended 2010).

enforcement agencies in the State”¹³ are mandatory reporters, the General Assembly could have reasonably foreseen the problem and decided not to provide for investigatory exceptions. On the other hand, it is reasonable to conclude that the General Assembly would not want suspects, with potential important evidence to be tipped off and destroy evidence because a civil process was invoked.

Whether there is an exception to the general rule that law enforcement has a duty to report certain conduct to the Medical Board in the midst of a criminal investigation requires clarity. There are several options: (1) either state clearly within the language of section 1731A that there is no such exemption; (2) make an explicit exception for ongoing criminal and/or civil investigations; or (3) require mandatory reporting to the Board who must stay any investigation until advised by the Office of the Attorney General that it is safe to proceed with an investigation.

B. 24 Del. C. § 1768 – Immunity of Boards of Review – Confidentiality of Review Board Records

Delaware’s peer review statute states (in part) the following:

The Board of Medical Practice and the Medical Society of Delaware, their members, and the members of any committees appointed by the Board or Society; the members of any committee appointed by a certified health maintenance organization; members of hospital and osteopathic medical society committees; members of a professional standards review organization established under federal law; and members of other peer review committees or organizations whose function is the review of medical records, medical care, and physicians’ work, with a view to the quality of care and utilization of hospital or nursing home facilities, home visits, and office visits, are immune from claim, suit, liability, damages, or any other recourse, civil or criminal, arising from any act, omission, proceeding, decision, or determination undertaken or performed, or from any recommendation made, so long as the person acted in good faith and without gross or wanton negligence in carrying out the responsibilities, authority, duties, powers, and privileges of the offices conferred by law upon them, with good faith being presumed until proven otherwise, and gross or wanton negligence required to be shown by the complainant.¹⁴

Part (b) of section 1768 provides for strict confidentiality of the evidentiary record in these proceedings. The investigatory files are not considered public records and cannot be subpoenaed or discovered.¹⁵

As a result, it is my recommendation that section 1768 should be amended to facilitate greater transparency and engender greater confidence in the review of cases that come before the Board of Medical Practice, Medical Society, or

13. tit. 24, § 1731A(a)(6) (2009) (amended 2010).

14. DEL. CODE ANN. tit. 24, § 1768(a) (2009) (amended 2010).

15. tit. 24, § 1768(b) (amended 2010).

other peer review process, while at the same time ensure that an appropriate degree of confidentiality can be maintained until deliberations have been concluded. If the recommendation as a result of the investigation is that the matter be dismissed, then the records of the proceeding shall remain confidential unless otherwise ordered by a court. However, if the investigation results in any type of sanction being imposed, then the records of the proceeding shall be public, with appropriate redactions to protect the names of patients and other confidential and protected information.

C. Mandatory Reporting of Child Abuse

In addition to the general requirements of the Medical Practices Act, 24 Del. C. Chapter 17, which requires the reporting of physicians who are either impaired or may be conducting their practices in questionable ways, there is another section of the Delaware Code which deals specifically with the issue of child abuse and mandatory reporting by doctors.

1. 16 Del. C. § 903 – Reports Required

This section of the Code requires the following:

Any physician and any other person in the healing arts, including any person licensed to render services in medicine, osteopathy, dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner or any other person who knows or in good faith suspects child abuse or neglect, shall make a report in accordance with § 904 of this title. In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition.¹⁶

The next section of the code provides guidance as to where reports should be made.

2. 16 Del. C. § 904 - Nature and Content of Report; To Whom Made

Any report required to be made under this chapter shall be made to the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families. An immediate oral report shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, shall be made in accordance with the rules and regulations

16. DEL. CODE ANN. tit. 16, § 903 (2009) (amended 2010).

of the Division of Child Protective Services, or in accordance with the rules and regulations adopted by the Division.¹⁷

A violator can be fined \$1,000.00 or be imprisoned up to 15 days or both.¹⁸

There is no ambiguity in section 903 regarding a physician's duty to report and the doctors interviewed seem to be clear on the first part of section 903. That is, if they know about abuse or neglect, they are to report it. However, some doctors interviewed have questioned whether the "good faith" suspicion requirement is clear. Others expressed confusion as to which agencies they are to report abuse, particularly in this case where the alleged abuser is a doctor colleague.

The American Academy of Pediatrics has published an article by a pediatrician which suggests that "reasonable suspicion" language in mandatory reporting statutes works to deter rather than promote reporting by doctors. In Delaware's statute, the language that triggers the mandatory reporting obligation is "knows or in good faith suspects."¹⁹ "Good faith" is not defined in the statute. This is a subjective standard, left to the expertise, moral and perhaps cultural inclinations of the individual. Even if the Delaware General Assembly wanted to better define or even quantify what the good faith requirement is, by enacting a law that says, for example, that if a person believes that there is a 10%, 20% or greater suspicion that a child has been abused, that the physician must report it, this would still require some subjectivity and would not be a perfect predictor of accuracy. Since reporters are granted limited immunity when their beliefs are incorrect, there should be less concern about erring on the side of reporting, which is the carrot, and the stick should be stiffer penalties for not reporting.

II. BRADLEY'S MEDICAL PRACTICES

Among other things, Bradley is accused of conducting unnecessary, improper, and prolonged vaginal exams on young girls in violation of Delaware law. Delaware's rape statute forbids sexual penetration without the victim's consent, or if the victim has not reached the age of sixteen.²⁰

Section 770(b) exempts medical procedures. It states that the general prohibition against penetration does not:

[A]pply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment or to a law-enforcement officer who is engaged in the lawful performance of his or her duties.²¹

17. DEL. CODE ANN. tit. 16, § 904 (2009) (amended 2010).

18. DEL. CODE ANN. tit. 16, § 914 (2008) (subsequent amendments have eliminated possible imprisonment but have also increased the maximum fine to \$50,000). *Id.* (amended 2010).

19. tit. 16, § 903 (2009) (amended 2010).

20. DEL. CODE ANN. tit. 11, § 770(a)(3) (2009).

21. tit. 11, § 770(b)(2009).

In its definition section on applicable sexual offenses, Delaware defines (in part) “without consent” as follows:

Where the defendant is a health professional, as defined herein, or a minister, priest, rabbi or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested. For purposes of this paragraph, "health professional" includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health services, diagnosis, treatment or counseling and shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists.²²

Bradley conducted all of the vaginal exams noted in the police reports in the presence of the parents or guardians. He may not have specifically asked for their consent, and when questioned about this by parents and others, Bradley is reported to have stated that he did this as part of a routine wellness visit or check-up. As has been mentioned, Bradley consulted with one of the top pediatricians in the state and this doctor did not discourage him from this practice. In fact, a number of pediatricians consulted have indicated that it is good medical practice to examine the entire body of girls and boys, including the genitals. However, no pediatrician interviewed (ranging in experience from twenty or more years to recent graduates) would support a digital (inserting a finger or instrument into the vagina) examination of a child. In their unanimous opinion, a routine genital exam on a young girl would basically involve parting the labia and taking a quick look. A young boy's testicles would be checked to make sure that they are developing properly. Therefore, it is my finding that the alleged digital vaginal exams performed by Dr. Bradley were contrary to acceptable medical practice and appear to be in violation of Delaware law.

As for the catheterizations, according to medical professionals interviewed, pediatricians may choose to use this procedure if the child is very young, typically two to three-years-old or younger, exhibits symptoms that can be confirmed through a urine sample, and the doctor wants to ensure that he/she gets a “clean catch.” It is not clear based on this review whether Dr. Bradley's catheterizations were medically proper.

22. DEL. CODE ANN. tit. 11, § 761(j)(4)(2009) (amended 2010).

III. MANDATORY REPORTERS

It is my finding that no law enforcement agency, health professional or anyone else reported the allegations regarding Dr. Bradley to any administrative or regulatory body in accordance with current Delaware law. The State Solicitor is conducting a separate investigation into whether certain individuals' failure to report allegations regarding Dr. Bradley up to and including the calendar year 2005 was a violation of Delaware law. Whether exceptions exist to the mandatory reporting requirements and whether the substance of a report should prevail over the form with respect to formal complaints to the Board are discussed *infra* and in my recommendations at the end of this report.

IV. DEPARTMENT OF JUSTICE

While hindsight is often 20/20 and is not based on the realities of what information was actually available at the time, given the facts that were known as a result of both the Milford Police investigation in 2005 and the Delaware State Police investigation in 2008-2009, it is difficult to reconcile why it took five years for the Delaware Department of Justice to indict Bradley. Again, with the benefit of hindsight, in reviewing what was known to prosecutors since 2005, some may reasonably conclude that prosecutors should have been more aggressive in pursuing Bradley based on available evidence. In 2005, there were statements of four separate victims alleging essentially the same conduct, and numerous witnesses, including Lynda Barnes, raised questions about not only Bradley's criminality, but also his fitness to practice medicine.

Conversely, it is clear that up until a search warrant for Bradley's computers was granted and executed in December 2009, the case against Bradley was not at all certain to result in a conviction. One search warrant application had been denied, and in consultation with medical experts, there were conflicting opinions regarding whether Bradley's alleged conduct was medically unreasonable. Prosecutors often have to make a tough judgment call on cases where it will be difficult to secure a conviction. Child abuse, particularly child sexual abuse cases, are even more difficult to prosecute because of a variety of factors, including the age of the child, bias of adults, and often lack of physical evidence. Therefore, while I find these judgment calls to have been wrong with the benefit of hindsight, I caution against unfairly criticizing the Delaware Department of Justice's decision not to prosecute Dr. Bradley based on the information known to prosecutors in 2005 and again in January 2009.

However, regardless of how one assesses the prosecutorial judgment of the Deputy Attorneys General involved in this case, it is my finding that the Deputy Attorneys General who were aware of the allegations against Bradley should have communicated directly and in writing with the Medical Board after the decision not to prosecute Dr. Bradley was made in 2005 and again in January 2009. Even if a colorable argument could be made about not reporting the allegations to the Board in 2009, as the criminal investigation was still ongoing, the Milford Police investigation was closed in 2005 and the

Attorney General's office failed to directly refer in writing the very serious allegations against Dr. Bradley to the Medical Board. Making the failure in 2005 even worse is that it appears that several of the other mandatory reporters involved apparently relied on the representation that the Attorney General's office would contact the Board, and, therefore, they did not report. Further, as a result of the 2005 Milford Police investigation, in particular the allegations contained in the Barnes letter, it appears that some of the alleged conduct could have been referred within the Attorney General's Office to other units to investigate possible Medicaid fraud or even Dr. Bradley's illegal use of prescription medicines. Instead, after the decision was made not to prosecute Dr. Bradley in 2005 for sexual misconduct, there is no evidence that the allegations against him were referred to anyone.

V. BOARD OF MEDICAL PRACTICE

With the exception of the credible but disputed claim that the Milford Police Department attempted to refer the allegations about Bradley to the Board in 2005, and the Medical Society's lack of memory as to whether any discussion about the Barnes letter with the Executive Director of the Board took place, no report to the Board of allegations against Bradley can be substantiated.

However, it is my finding that there exist a number of disincentives to mandatory reporters fulfilling their statutory duty. First, the reputation of the Board with the general public and, more specifically with physicians, suggests that many believe reporting will not be taken seriously. National surveys on medical boards place Delaware neither near the top nor at the bottom for reputation. In the last ten years, the Board of Medical Practice has revoked the licenses of twelve medical professionals, eleven of whom were doctors. Furthermore, there is a perception among doctors and others that the Board protects the very individuals they are required to regulate. This view was repeated numerous times during interviews with physicians, not only in connection with the Bradley case, but in other examples given. Finally, it was the view of those who were interviewed that the Board has been rigid in its policies and procedures on receiving complaints and investigating, perhaps to the detriment of the public as well.

VI. MILFORD POLICE

It is my finding based on the records I received and the interviews I conducted that Detective Kenneth Brown of the Milford Police Department, conducted a thorough and professional investigation. He was relentless in trying to gather enough evidence to arrest the suspect. Although Brown did not follow the letter of the statute in sending a written report to the Medical Board, his declarations about contacting the board appear credible.

VII. DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH, AND THEIR FAMILIES (“DFS”)

As mentioned above, there is no credible evidence that DFS was notified of any allegations regarding child abuse against Dr. Bradley. According to DFS officials, there were no calls to its hotline or any other referral. DFS stated that it had a “hands-off” policy regarding extra-familial abuse, meaning they would contact the police without pursuing their own investigation of such abuse. Despite statutory language that gives DFS the authority to “investigate” all claims of child abuse, it is my finding that DFS has historically and in practice declined to do so, primarily because of the agency’s lack of resources required to fulfill that mandate.

VIII. BEEBE HOSPITAL

Because of the various versions of the hospital’s stated role in the Bradley investigations, the lack of records kept, pending lawsuits and the contradictory statements by actors involved either as employees or in other capacities, it is difficult to determine what the hospital actually knew and when they knew it. It is clear they knew that there were issues raised about Bradley in the mid-1990s. While there was an internal investigation conducted, it did not appear to address all of the allegations raised by Davis, a nurse at the hospital. It is believed, at least by Davis, that Bradley was admonished by a hospital official to change his behavior concerning catheterizations, and Bradley did. It is also reasonable to believe that if the hospital concluded, based on the opinions of the experts they consulted with, that Bradley’s procedures were acceptable medical practice, then the hospital had no basis for reporting Bradley’s action to the Medical Board at that time. However, some aspects of Bradley’s alleged conduct was not allegedly presented to these consultants, and, therefore, their advice might have been skewed due to incompleteness.

When Beebe was served with a subpoena in 2005 in connection with the Milford investigation, it is my finding that certain records were not turned over to police. If the hospital was asserting its peer review privilege at that time, rather than expressly saying so, the hospital did not mention it to authorities at the time of the request for information.²³

IX. CHILD ADVOCACY CENTERS (“CACs”)

The CAC’s multidisciplinary team approach to investigating child abuse is, in my view, state of the art across the country. However, when Victim #2 became hesitant to disclose to investigators the details she told her mother about what happened at Bradley’s office, there may have been other options. For example, the child could have been brought back at a later date for a more

23. Hospital officials maintain that there were two files kept on Bradley. One file was his personnel file, which Lt. Brown asked for and discovered it was empty. The second file was the peer review file, which had information about Davis’s complaint. That file was not given to Brown in 2005.

extended forensic examination. According to experts in the field, this is commonly done with young children who have difficulty with the context of a single forensic interview.

It is also my finding that the record-keeping of the CAC interviews with alleged victims of Dr. Bradley should have been more thorough. There is no detail on the CAC forms I reviewed regarding the disposition of the case and what discussions, if any, took place among the multi-disciplinary team reviews and why prosecution was declined. It was not even clear to a team member I interviewed why there was no prosecution. This type of information is important for subsequent reviews of these cases, and to provide some insight as to what to look for in future investigations, either concerning the same suspect or as an educational component in other unrelated cases.

The second alleged victim interviewed by the CAC in September 2008 was older than most of the other alleged victims, and complained Dr. Bradley performed a vaginal exam even though she was at his office for a sore throat and stuffy nose. The rationale for conducting this vaginal exam is wholly unclear, and it would be beneficial to know if the multi-disciplinary team medical member was consulted. Also, this case was at least the second serious allegation of misconduct by Bradley, and yet the CAC investigation remained open for eight months without any decisions made by the police or Attorney General's Office.

Three alleged victims from the Delaware State Police investigation were all interviewed at the CAC within nine days of each other in December 2008. At this point, there were at least five cases involving the same alleged perpetrator, which in my view was a significant cause for concern, especially since the only apparent nexus between these alleged victims was that Dr. Bradley was their pediatrician. One alleged victim had a vaginal examination conducted by Dr. Bradley, but the available notes from the forensic interview indicate no rationale for this examination. This case was closed very quickly without documented rationale. The other two children were referred to CAC after allegedly having vaginal exams by Dr. Bradley. The records only reflected "pending further investigation," but there was no specificity provided, even though the cases remained open for six months. Further, given the "medical care" context for the alleged abuse, consultation with a medical professional and/or referral for an Extended Forensic Evaluation seemed to be warranted. If such an evaluation took place, it was not indicated in the records I was provided.

It is my finding that despite the above concerns, the CAC is vital to the prosecution of this case and other like cases. The staff members are dedicated professionals who have tirelessly sought to serve the children and their families during this prolonged tragedy.

X. MEDICAL SOCIETY

As has been articulated earlier, it is my finding that the Medical Society should have made a referral to the Medical Board about the allegations it received regarding Bradley. Further, it is my finding that Dr. Marvel should

not have been asked by the Medical Society to conduct the follow-up with Dr. Bradley given his previous relationship and possible conflict of interest with Bradley.

RECOMMENDATIONS

As a result of the nearly four months spent conducting this review, it is clear that on at least several occasions, state and non-state agencies and entities missed opportunities to communicate and/or share vital information that, in combination, could have lead to the successful prosecution of Dr. Bradley, or at the very least, lead to the revocation of his license to practice medicine. All of the entities charged with child protection must not only follow the letter of the law, but also must better coordinate their efforts and communicate intra- and inter-agency.

As a means of trying to foster this communication, as well as create additional accountability, below are broad recommendations regarding ways to improve the administrative and judicial handling of child sex abuse cases that are based on the facts uncovered in this review as well as my findings. These recommendations are designed to be a starting point, and the Governor and General Assembly should consult with particular individuals in the child protection community to ensure that each recommendation which is adopted is designed and implemented appropriately.

I. STATE AGENCIES

1. Establish one hot-line for all child abuse calls.
2. Mandatory training regarding the statutory reporting obligations for all mandatory reporters, especially for Licensees under the Medical Practices Act.
3. Require multidisciplinary training for all child protection professionals regarding how to investigate child sexual abuse cases.
4. For agencies with the responsibility to either report or respond to reporters, establish clear internal administrative disciplinary sanctions for failure to meet that obligation.
5. Consider amending the law to provide for suspensions or revocation of licenses for intentional withholding of information concerning child sexual assault.
6. Create one confidential central repository for the reports of all accusations of child sexual assault listed by alleged victim and alleged perpetrator's names so that historical tracking can be accomplished, by name. This database should be accessible to all law enforcement, medical

and child welfare agencies or organizations. Expansion of the Child Protection Registry database may be one option.

7. Increase unannounced visits at all licensed facilities and foster homes to communicate with children in residence and review client records.

8. The Child Protection Registry should be expanded to include the names of persons who are not family members who offend against children. Children with disabilities are often cared for by non-family members.

9. All extra-familial persons who have responsibilities regarding children, for example, care-givers, school personnel, volunteers in child-related programs, should be checked against the Child Protective Registry, the Adult Abuse Registry, and the Sex Offender Registry. Under most circumstances, a criminal background check ought to be done as well.

10. Agencies, Boards, and Commissions charged with child protection should be cross-educated on what each respective entity does as a matter of course, relative to child welfare, professional licensing, and any disciplinary or investigatory procedures.

II. BOARD OF MEDICAL PRACTICE

1. Work to improve its reputation among practitioners and the general public. Survey both groups to determine awareness of the Board's role and reputation.

2. Improve outreach to its constituents (medical licensees) and to the community by making its processes more accessible and user-friendly. Everyone should be able to understand the investigatory process. Persons with questions about complaints should be able to easily obtain understandable information from the web, and should also be able to speak directly to an investigator.

3. Amend the Medical Practices Act so that the standard for discipline of licensees is not so difficult for the board to overcome. Currently, the gross negligence standard is too high.

4. The Board must accept anonymous complaints. Remove the "in writing" requirement from its procedures.

5. All complaints to the Board should be reviewed, and allegations of sexual abuse and exploitation should be given highest priority.

6. Greater transparency is needed regarding the Board's hearing processes. The communication of adverse outcomes should be easily accessible public records.

7. The composition of the Board should be changed. While it is important to have experts on the Board, there is not enough representation from either the public and/or from other professionals to ensure objectivity. At the very least, the Secretary of Health and Social Services or her designee should be a member of the Board. Other states have either not permitted licensees to serve on the Board or have limited their participation.
8. There should be a regular rotation of Board members, but not to the extent that continuity of policies or expertise is sacrificed or lost.
9. The Board's hearing process should be professionalized by hiring legally trained Administrative Law Judges or Hearing Officers to conduct the hearings and provide findings of fact to the Board.
10. Employ investigators who also have medical backgrounds.
11. The Board should be a constituent member of a Memoranda of Understanding between various agencies, including law enforcement and the Delaware Department of Justice, that clearly outline protocols for taking action when there are potential conflicts regarding on-going investigations.
12. Provide for emergency license suspension powers, which do not require a regular quorum of the Board when there is a threat of imminent danger to the public.
13. Regular audits by an outside vendor or body should be conducted to determine how well the Board is performing its duties.
14. Require criminal background checks each time a licensee is subject to renewal.
15. Consider requiring chaperones for medical personnel as a standard of appropriate care when children are being examined.
16. Revoked licenses should be immediately suspended at the conclusion of a hearing. Currently licensees hold their licenses until a Board order is signed.
17. Require that the Division of Professional Regulation make the final determination of whether to close the case or forward a complaint to the Department of Justice. Currently, this decision is left to the Board. No other licensed board under the control of the Division of Professional Regulation makes its own referral.

18. Draw a clearer distinction between the role of the Medical Society and the Medical Board. Changing the Board's name to include language that expressly indicates discipline may be a remedy. The Board's structure should be similar to the Office of Disciplinary Council, which is the body that handles complaints and problems regarding lawyers.

III. DEPARTMENT OF JUSTICE

1. Require mandatory specialized training regarding child sexual assault cases for Deputy Attorney General's when they join the criminal division, or for those who are currently assigned child sexual exploitation cases.
2. Establish an internal protocol for making sure that Deputy Attorney General's and persons working with them report to the requisite state agencies and regulators vital information about suspected abusers, especially if the criminal prosecution does not go forward.
3. Articulate and implement written "best practices" policies for investigating, charging, and handling child abuse cases.
4. To the extent practicable, assign the same Deputy Attorney Generals to the Medical Board and other agencies charged with child protection so that there is continuity and institutional memory.
5. As far as practicable, the same Deputy Attorney General should attend the victim interviews, case reviews, and disposition reviews at the CAC.
6. Invest in a comprehensive case management system, accessible to all Deputy Attorneys General to track every civil and criminal case.
7. Continually refine inter- and intra-agency strategies for bringing pedophiles to justice.
8. Evaluate whether Deputy Attorneys General are too risk-averse in taking hard cases, and provide meaningful support from superiors in order to make charging decisions.

IV. POLICE

1. Require annual training on mandatory reporting requirements.
2. Require annual training on technology-facilitated crimes, especially as it relates to child sexual exploitation.

V. GENERAL ASSEMBLY

1. The General Assembly should study and consider whether a victim compensation fund in lieu of lawsuits would be appropriate.
2. Any laws which protect whistleblowers should be reviewed to ensure that civil penalties for retaliation are sufficient to discourage retaliatory acts.
3. The immunity sections for mandatory and other reporters of child abuse should be reviewed for consistency.
4. The legislature should review the penalties in the various code sections including Title 16, Chapter 11, Title 29, chapter 79, sections 7970 and 7971, Title 11, Chapter 94 and Title 11 to determine whether they are sufficient to deter illegal activity.
5. Consider whether a sexually violent and/or dangerous predatory statute, which requires the civil commitment of those who are a threat to the public but cannot be successfully prosecuted, should be adopted. Twenty states have such a provision.
6. Amend 11 Del. C. § 761(e)(2)²⁴ to include physicians as persons of trust.
7. Increase penalties for violating the mandatory reporting requirements in the Medical Practices Act.
8. Amend 24 Del. C. § 1731²⁵ to make clear if and when law enforcement agencies are exempt from reporting to the medical board.
9. Consider whether the “good faith” requirement of 16 Del. C. § 904²⁶ needs further definition.
10. Amend the DFS enabling statute and remove the “may investigate” language if it is not the General Assembly’s intent that the agency be involved in investigating extra-familial child abuse incidents.
11. Amend statutes of limitations and adopt legislation that will provide for a “meaningful” look-back time period for victims who either may not be able to make decisions about litigation because of their age, or because the current statute of limitations would preclude them from redress because of already expired time frames.

24. DEL. CODE ANN. tit. 11, § 761(e)(2) (2009) (amended 2010).

25. DEL. CODE ANN. tit. 24, § 1731A (2009) (amended 2011).

26. DEL. CODE ANN. tit. 16, §§ 903, 904 (2009) (amended 2010).

12. Review the gross negligence standard of the peer review²⁷ statute to determine whether it raises the bar too high in reviewing the conduct of physicians.

13. Ensure that licensing boards have access to any criminal report it requires.

VI. COURTS

1. Judges that handle cases such as these should attend periodic training in areas of child sexual exploitation and technology-facilitated crimes.

VII. HOSPITALS

1. Hospitals must take greater responsibility to ensure that their employees are educated on the importance of reporting suspicious incidents.

2. Hospitals should have consistent protocol guidelines as to how they will investigate, and keep records concerning all medical personnel when allegations of potential sexual exploitation are raised.

3. Hospitals that are designated as sexual assault centers should ensure that medical personnel who will be involved in these cases are trained and certified.

4. Hospitals must take pro-active efforts to screen employees for possible pedophiles.

5. Hospitals and other care facilities should adopt policies which erect barriers so that even if an employee has an attraction to children, the workplace makes the potential act more difficult.

VIII. CHILDREN'S ADVOCACY CENTER

1. Every child sexual abuse victim in Delaware should be routed through the CAC for evaluation, which may require the dedication of additional resources.

2. Require multidisciplinary case reviews to track the acceptance or declination to prosecute, outcomes of prosecution, civil remedies/protections, etc.

27. DEL. CODE ANN. tit. 24, § 1731(b)(11) (2009) (amended 2010).

IX. MEDICAL SOCIETY

1. Design a program and assist in the mandatory annual education of members on the duty to report child abuse.
2. Take a less myopic approach to ascertaining when a doctor needs help or should be reported to the Board of Medical Practice. The general public may not understand the difference between a “request for help” and a “formal complaint.”
3. Keep more thorough records of what is actually discussed with the Board of Medical Practice.
4. Work with the Medical Society’s membership to design guidelines and best practices for the presence of chaperones during the medical examination of a child.

X. FOR THE PUBLIC

1. Devise a comprehensive Public Awareness/PSA Media Campaign alerting the general public of everyone’s duty to report child abuse and neglect, as well as alerting parents and loved ones that a possible danger to their children are the adults their children are around every day.
2. Strongly recommend that children are taught in school annually about personal safety.
3. Tools should be made available to other organizations, community groups, parent groups, etc., who want to teach children how to speak up for themselves and be heard.
4. Parents need a resource on the web and/or to talk with when they have questions about what should be expected in routine exams for their children.
5. Ongoing counseling (as appropriate) should be made available, not only for the children victims but also for their parents or guardians as well.

CONCLUSION

No one can fairly predict whether the purported crimes of Dr. Bradley could have been prevented. However, a tragedy of this magnitude may have been pre-empted if the individuals directly involved had been more focused and alert, less willing to give Bradley the benefit of the doubt, and if they had scrupulously followed the law. Systems were in place to catch a perpetrator, but, they were either not properly accessed, or when called upon, human and mechanical error prevented the appropriate actions from being taken. To be

fair, Bradley was extremely cunning. He was a master manipulator, and he had perfected his craft. Based on the allegations, he groomed the parents and the patients to make the children his prey. When the criminal justice system could not stop him sooner because of the methods he used, or the inability of the victims to communicate and protect themselves, or because of the standards of proof required in a criminal case, the civil process should have been employed to protect the public. An over-reliance on the criminal justice system alone prolonged the abuse and terror experienced by innocent children.

Pedophilia is not a new crime, and it is not one that has been easily detected. Further, persons committing these crimes continue to find new ways to hide and gain the trust of children and their parents. In 2007, the National Conference of State Legislatures identified sexual offenders and predators as number five on its top ten policy issues for states.²⁸ While individuals may consider child sexual exploitation an unusual phenomenon, experts contend that one out of four girls and one out of six boys are “predicted to become victims of child abuse.”²⁹ These incidents may be underreported. Further, researchers estimate that between three and seven percent of adult males have some interest in children.³⁰ For too long we have focused primarily on stranger pedophiles that lure children away from safe havens to harm them. The reality is more likely than not a child will be violated by someone he or she knows. There are other pedophiles among us. Sexual abuse and exploitation of children by licensees of the state is a very serious breach of the public trust. The revelations of pedophilia by persons who, through their status, have gained the trust of entire communities are often difficult to accept. We suspend belief that persons who have taken oaths of various kinds, including “to do no harm,” could possibly betray their professions and the very persons they have been given the privilege to serve.

Further, the persons who are given the responsibility to protect the citizenry must redouble their efforts to be more vigilant and use every possible tool available to prevent, detect, and bring to justice anyone who would harm our children.

28. CENTER FOR SEX OFFENDER MANAGEMENT, UNITED STATES DEP'T OF JUSTICE, LEGISLATIVE TRENDS IN SEX OFFENDER MANAGEMENT 1 (2008).

29. *Statistics: How Prevalent is Child Sexual Abuse?*, DARKNESS TO LIGHT, http://www.d2l.org/site/c.4dICIJOkgcISE/b.6143427/k.38C5/Child_Sexual_Abuse_Statistics.htm (last visited May 7, 2010).

30. John Briere & Marsha Runtz, *University Males' Sexual Interest In Children: Predicting Potential Indices of "Pedophilia" in a Nonforensic Sample*, 13 CHILD ABUSE & NEGLECT 65 (1989).

EXHIBIT A**BIOGRAPHY****LINDA L. AMMONS, ESQUIRE
ASSOCIATE PROVOST AND DEAN
WIDENER UNIVERSITY SCHOOL OF LAW**

Dean Ammons is the first woman and the first African American to lead Widener University School of Law, and one of only six African American females in the nation serving as dean of a law school. Dean Ammons came to Widener in 2006 from Cleveland-Marshall College of Law in Cleveland, Ohio, where she was associate dean and professor of law. During her 15 years at Cleveland-Marshall, she chaired and served on a number of university committees and taught Administrative Law, Legislation, Mass Communications Law, and Women and the Law. In 2006, the Cleveland-Marshall Alumni Association chose her as their Stapleton Award recipient. In addition, Dean Ammons has been on the faculty of the National Judicial College in Reno, Nevada, since 1993. She is serving as the Chair of the Curriculum Committee of the American Bar Association's Section of Legal Education & Admissions to the Bar and is serving a three-year term on the Government Relations Committee of the Association of American Law Schools. She is also a member of the Advisory Boards of the Women Deans' Databank and the Minority Deans' Databank.

In January 2010, Dean Ammons was appointed by Governor Jack Markell of Delaware to be the special investigator in the case of the alleged child molestations by pediatrician Earl Bradley. In August 2009, she was named among the 14 Most Influential People in Delaware by "Delaware Today" magazine. In May 2009, she was named a Fellow of the American Bar Foundation. In 2008, Dean Ammons was named to and currently serves on the Board of Directors of the Delaware State Chamber of Commerce. She was honored by the American Council on Education, Office of Women in Higher Education, with the Delaware Leadership Award. In 2007, she was named a Senior Scholar in the Department of Health Policy at Jefferson Medical College in Philadelphia, PA. Also in 2007, Dean Ammons was appointed by Pennsylvania State Treasurer Robin Weissmann to the e-Treasury Blue Ribbon Advisory Commission on Productivity Management. At that time, she was named and continues to serve as a Trustee of the Christiana Care Health System of Wilmington, Delaware.

Prior to joining the faculty at Cleveland-Marshall, Dean Ammons served as executive assistant to former Ohio Governor Richard F. Celeste, from 1988 to 1991, advising him on legal and policy matters in the criminal justice, regulatory and administrative areas. She was a TV anchor-person in Huntsville, Alabama, and worked for several media outlets in Columbus, Ohio.

An Ohio State University Moritz College of Law alumna, she was selected out of 8,000 of her peers to be the recipient of the 2004-05 Moritz Alumni

Society's Community Service Award. She also serves on the Moritz National Advisory Council.

LINDA L. AMMONS, Esquire
Widener University School of Law
4601 Concord Pike
Wilmington, DE 19803
(302) 477-2278

CAREER:

Associate Provost & Dean, Widener University School of Law, Wilmington Delaware, Harrisburg, Pennsylvania, July 2006-Present.

Associate Dean, Cleveland-Marshall College of Law, Cleveland, Ohio, August 2003-June 2006. Cleveland Marshall is the largest law school in the state of Ohio

University Committees:

Chair, President's Commission on Conduct of Searches, Rules & Procedures
Subcommittee
University Assessment Council
University Research Council

Professor of Law, Cleveland-Marshall College of Law, Cleveland, Ohio, July 2002-June 2006.

Associate Professor of Law, Cleveland-Marshall College of Law, August 1996-July 2002.

Subjects Taught:

Administrative Law
Legislation (Elections, Legislative Process, Statutory Interpretation)
Women and Law
Mass Communications Law (Newsgathering, Broadcasting, Cyberspace)

Assistant Professor of Law, Cleveland-Marshall College of Law, August, 1991-1995.

Faculty, National Judicial College, Reno, Nevada, June 1994-Present.

Commissioner, Ohio Public Defenders Commission, January 1991-January 1999.

Executive Assistant to the Governor, January 1988-January 1991.
Office of the Governor, State of Ohio.

Special Assistant to the Director, August 1987-January 1988.
Department of Administrative Services, State of Ohio. 50

Public Relations Consultant, October 1981-August 1984.

Director of Public Affairs, August 1980-March 1981.

American Federation of State, County, and Municipal Employees
Ohio Council.
8741 East Broad Street
Columbus, Ohio 43205

Continuity Programmer, October 1979-June 1980.

WOSU-TV
2400 Olentangy River Drive
Columbus, Ohio 43210

News and Publications Specialist, July 1977-July 1979.

Alabama A&M University
Huntsville, Alabama 35762

Anchorperson/Field Reporter/Talk Show Producer/ Host, April 1972-July 1977

WAAY TV
1000 Monte Sano Boulevard
Huntsville, Alabama 35801

Talk Show Host, October 1976-July 1977.

Alabama Public Television Network via Alabama A&M University
Huntsville, Alabama

**APPOINTMENTS, ORGANIZATION AFFILIATIONS AND
AWARDS:**

- Named a Fellow of the American Bar Foundation; May 2009.
- Named to the Board of Directors of the Delaware State Chamber of Commerce; 2008.
- American Council on Education, Office of Women in Higher Education, Delaware Leadership Award; April 2008.
- Senior Scholar, Department of Health Policy, Jefferson Medical College, Philadelphia, PA; 2007.
- Member of the Advisory Boards of the Women Dean's Databank and the Minority Deans' Databank.
- Appointed by Pennsylvania State Treasurer Robin Weissmann to the e-Treasury Blue Ribbon Advisory Commission on Productivity Management; 2007.
- Named a Trustee of the Christiana Care Health System; 2007.

- Stapleton Award, Cleveland-Marshall College of Law, Alumni Association, 2006.
- Administrative Faculty Merit Recognition Award, Cleveland State University, 2005.
- Moritz College of Law, The Ohio State University, “Community Service Award-2004-2005.” Cleveland State University, “Women Who Make A Difference”-April, 2002.
- Commissioner, Ohio Supreme Court Futures Commission, May 1997-May 1999.
- Woman of the Year – Professional Life, Association of Adventist Women, October 1995.
- National Council, Moritz College of Law, The Ohio State University, June 1995-Present.
- Ohio State Bar Association, Ohio Supreme Court Joint Task Force on Gender Fairness, June 1991.
- American Association of Law Schools.
 - Government Relations Committee - presently serving a three-year term.
 - Member, Standing Committee on Bar Admission and Lawyer Performance.
 - Section Member: Administrative Law, Legislation, Women in Legal Education.
- American Bar Association
 - Chair, Curriculum Committee - 2007 to present.
 - Vice Chair, Curriculum Committee - 2006-07.
 - Vice Chair, ABA Administrative Law Section, Membership Committee-2005.
 - Member, Section of Legal Education and Admissions to the Bar- Curriculum Committee-2004.
 - Site Visit Team Member, University of Tennessee-Knoxville, March, 2005.
 - Site Visit Team Member, Georgetown University, March, 2004.
 - Constitutional Workshop Assessment Team, Zimbabwe, November, 2000.
 - Member, Section on Legal Education, Administrative Law, Communications Law Forum.
- Ohio State Bar Association, Member, Legal Needs Advisory Committee, 1990.
- Columbus Bar Association, Chair, Media Committee, 1989-1990.
- Member, Case Flow Management Task Force, 1989-1990.
- Board of Directors – American Women in Radio and Television, Tennessee Valley Chapter, 1977.

Board of Directors – Huntsville Beautification Board, 1977.

Board of Directors – Harris Home for Children, Huntsville, Alabama, 1976.

Media Award – American Heart Association, 1977.

LEGAL EDUCATION:

J.D., May 1987 The Ohio State University College of Law

Admitted to Ohio Bar, November 1987

Admitted to U.S. District Court, Southern District of Ohio,

July 1988.

Awards:

- Who's Who Among American Law Students, 1987
- Commendation, Ohio General Assembly, 1987
- Dean's Special Award, May 1987
- Black Student Leadership Award, May 1987
- Ohio State University Distinguished Affirmative Action Award, May 1987
- Leadership and Service Award, Office of Minority Affairs, May 1987
- John R. Moats Memorial Award for Student Leadership, May 1986
- University Scholarship, Student Funded Fellowship

Honors: Honorable Mention, Moot Court Competition

Activities: President, Black Student Law Association, 1986-1987

Student Bar Association Senator, 1984-1987

Officer, Women's Law Caucus

Participant, International and Comparative Law Institute, Paris, 1985

Clerking Experience:

- Stewart Jaffy, Livorno, Kaufmann & Arnett Co., L.P.A., Columbus, Ohio
- The Reporters Committee for Freedom of the Press, Washington, DC
- International Trade Division, Department of Development, State of Ohio

NONLEGAL EDUCATION:

M.A. Degree – Communications, March 1980

The Ohio State University, Columbus, Ohio

B.A. Degree – English, June 1974

Oakwood College, Huntsville, Alabama

OTHER EDUCATIONAL AWARDS:

National Endowment for the Humanities Fellow, August 1978,
University of California-Berkeley.

TEACHING, RESEARCH, AND PROJECT MANAGEMENT EXPERIENCES:

Co-Chair, American Bar Association National Institute on
Defending Battered Women in Criminal Cases, September 1992-
October 1993.

Project Manager, Civil Rights and Affirmative Action Conference,
April 1987, The Ohio State University.

Project Manager, Civil Rights and Affirmative Action Conference,
April 1986, The Ohio State University.

Adjunct Professor, Stockton State College, Pomona, New Jersey,
1984.

Research Project Director, Department of Labor Study, June 1981-
October 1981, Columbus Urban League, Columbus, Ohio.

Employment Consultant, August 1979-October 1979, City of
Columbus, Ohio, CETA Program.

Graduate Teaching Assistant, The Ohio State University, 1979.

PUBLICATIONS:

- “The Art and Science of Deaning: Lessons from my Garden.”
Leadership in Legal Education Symposium VIII, 39 U. TOL. L. REV.
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- Commentary, Session 1: “Deciding to Become a Dean,” 31
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the Review of Cases of Battered Incarcerated Women—A Ten Year
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OHIO CORRECTIONS RESEARCH COMPENDIUM 172 (2004).
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the Review of Battered Incarcerated Women: A Tenth-Year
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- “Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome,” 1995 WIS. L.J. 1003-1081 (1994) *reprinted in* CRITICAL RACE FEMINISM 2nd edition (A. Wing, ed. NYU Press, 2003).
- “Why Do You Do the Things You Do? Clemency for Battered Incarcerated Women, A Decade’s Review.” 11 American University Journal of Gender, Social Policy & the Law, no.2, 533-565 (2003).
- “What’s God Got to Do With It? Church and State Collaboration in the Subordination of Women and Domestic Violence,” 51 Rutgers L. Rev. 1207-1288 (1999).
- “Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome,” 1995 WIS. L.J. 1003-1081 (1994) *reprinted in* CRITICAL WHITE STUDIES, LOOKING BEHND THE MIRROR (R. Delgado and J. Stefancic eds, Temple Univ. Press, 1997).
- “Pregnant Men, Practice, Theory and the Law” (Book Review), 22 Religious Stud. Rev. (Vol. 4), Oct. 1996.
- “Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome,” 1995 WIS. L.J. 1003-1081 (1994).
- “Discretionary Justice: A Legal and Policy Analysis of a Governor’s Use of the Clemency Power in the Cases of Incarcerated Battered Women,” 3 J.L. & Pub. Pol’y 1(1994), pp. 1-79.
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- “Clemency: Post Conviction Relief for Battered Women Who Kill Their Abusers,” ABA Section on Criminal Justice and the Division for Professional Education National Institute (September 1993), pp. F1-11.
- “King Libel Suit Dismissed,” The News Media and the Law, Vol. 10, No. 2 (Summer 1986), pp. 16-17.
- “Privacy.” First Amendment Handbook, edited by Jane E. Kirtley. (Washington, DC, The Reporters Committee for Freedom of the Press, 1986), pp. 45-50.

- “Crime in a Black Newspaper, A Cultural Consideration,” Journalism Quarterly, (August 1982), pp. 310-313.
- “Business on the Banks of the Ohio,” Black Enterprise, (February 1980), pp. 32-34.
- “A Talk with Critic Donald Bogle,” Encore American & Worldwide News, (August 1980), pp. 38-39.
- “Court Orders a Complexion Change in Ohio Town,” Encore American & Worldwide News, (September 1980), p. 20.
- Unequal Justice, Cleveland’s Other Default,” Encore American & Worldwide News, (February 1979), p. 19.
- “Ohio Busing Suit, Getting Desegregation Out of Limbo,” Encore American & Worldwide News, (May 1979), pp. 48-49.
- “Will Black Studies Survive?” Encore American & Worldwide News, (March 1979), pp. 16-17.
- “A Psychiatrist Looks at His Profession,” Encore American & Worldwide News, (November 1979), pp. 48-49.
- “Full Partnership for Black Land Grant Colleges,” Encore American & Worldwide News, (February 1978), pp. 36-37.
- “Mt. Vernon Plaza Blight to Might,” Black Enterprise, (December 1978), p. 24.
- “The Birmingham Bombing Case: Round One,” Encore American & Worldwide News, (December 1977), pp. 8-9.

PROFESSIONAL PRESENTATIONS:

- *Women of Color and Domestic Violence*, State of New Jersey, Office of the Attorney General, Criminal Justice Division, PROGRESS: Stopping Violence Against Women Conference, Eatontown, New Jersey, December, 2003.
- *Religion and Domestic Violence*. New Jersey Coalition for Battered Women, Cherry Hill, NJ. November, 2002.
- *Legal and Ethical Responsibilities for Clergy*. , Pacific Union Ministerial Conference, Ontario, CA. August, 2002.
- *Why Do You Do the Things You Do?* Law and Society Annual Conference, Vancouver, Canada, May, 2002.

- *Myths and Miles to Go, Domestic Violence in the United States*: President's Lecture Series, Ohio State University, Columbus, Ohio, February, 2002.
- Predatory Lending Panel, Discussant, Law and Society Annual Conference, Budapest, Hungary, July 4, 2001.
- *Clemency for Battered Women: A Tenth-Year Reflection*: Law and Society Annual Conference, Budapest, Hungary, July 4, 2001.
- *The 2000 Presidential Election*, Big Ten Conference, The Ohio State University, Columbus, OH. May 3, 2001.
- *Domestic Violence and Clemency for Battered Women*: Stockton State College, Pomona, NJ. February 6, 2001.
- *The Facts About Domestic Violence*: Oakwood College, Huntsville, AL. October 31, 2000.
- *Clemency for Battered Women: A Tenth-Year Reflection*: Ohio State Medical Assoc. Fall Forum Focus, Newark, OH. October 25, 2000.
- Moderator, Big Ten Conference: The Ohio State University, Columbus, OH. May 2, 2000.
- *Battered, Bruised, Black and Bound: What's Race Got To Do With It?* The Thirty-Third Race Relations Institute (Panelist) Fisk University-Nashville, TN. July 14, 2000.
- *Domestic Violence Research and Clemency for Battered Women*: Action, Ohio, Annual Conference, Capital University, Columbus, OH. May 1, 2000.
- *Strategies for the Future of the Midwestern People of Color Scholarship Conference*: (Panelist) Midwestern People of Color Scholarship Conference, Sedona, AZ. March 26, 2000.
- *Before Amistad*, Albany Law School, Albany, NY. February 28, 1998.
- *The Facts and Myths about Domestic Violence*, Federal Executive Board, Cleveland, Ohio, January 27, 1998.
- *Church and State Collaboration in Domestic Violence*, American Academy of Religion, Annual Conference, San Francisco, California, November 23, 1997.
- *Family Values That Matter*, Methodist Health Systems Annual Church and Health Symposium, Memphis, Tennessee, September 11, 1996.
- *African-American Women and the Battered Woman Syndrome*, Law and Society Association Conference, Glasgow, Scotland, July 12, 1996.

- Women, Religion and the Law, Emmanuel SDA Church, Brinklow, Maryland, May 1996.
- *Family Values That Matter*, United Methodist Association 56th Annual Convention, Cleveland, Ohio, April 12, 1996.
- *African-American Women and the Battered Woman Syndrome*, Masquerade and Gender Identity Conference, Venice, Italy, February 1996.
- *Women of Color and the Battered Woman Syndrome*, First World Conference on New Trends in Criminal Investigation and Evidence, The Hague, The Netherlands, December 1995.
- *A House Is Not A Home: Family Values That Matter*, Keynote Address, Fourth Annual Family Violence Conference, YMCA, Cleveland, Ohio, September 1995.
- *The Use of Battered Woman Syndrome Testimony in Defending African-American Women*, Midwestern People of Color Scholarship Conference, Topeka, Kansas, March 1995.
- *Feminist Jurisprudence, A Method of Analysis*, Midwestern People of Color Scholarship Conference, Topeka, Kansas, March 1995.
- *Using Practical Experiences to Further Research*, Cleveland State University, Department of Education Research Colloquium, Cleveland, Ohio, November 1994.
- *Abuse and Domestic Violence: What We Should Know*, Panelist, Womenspace and The Plain Dealer Options Conference, Cleveland, Ohio, October 21, 1994.
- Moderator, *Panel on State of Justice*, Alliance for Justice Conference, Cleveland-Marshall College of Law, Cleveland, Ohio, October 1994.
- *Rescuers in the Gap*, Keynote Address, Lake County Committee on Family Violence, Annual Awards Recognition Dinner, Lake County, Ohio, April 1994.
- *The Governor's Discretionary Power of Clemency in the Cases of Incarcerated Battered Women*, Midwestern People of Color Scholarship Conference, Columbia, Missouri, March 1994.
- *Organizing a Clemency Campaign for Incarcerated Battered Women: Legal Implications*, U.S. Department of Health and Human Services National Conference on Family Violence, Pittsburgh, Pennsylvania, November 1993.

- *Parole: Post Conviction Remedies for Women Who Kill Their Abusers*, American Bar Association, National Institute on Defending Battered Women in Criminal Cases, San Francisco, California, October 1, 1993.
- *Using the Clemency Process for Incarcerated Battered Women*, American Bar Association, National Institute on Defending Battered Women in Criminal Cases, San Francisco, California, September 30, 1993.
- *Private Terror, Public Denial, No Shelter in the Time of Storm*, Keynote Address, Andrews University Forum, Andrews University Theological Seminary, Berrien Springs, Michigan, March 1993.
- *Female Circumcision, Protected Cultural Practice or Human Rights Violation*, Midwestern People of Color Scholarship Conference, Cleveland, Ohio, March 1993.
- *Domestic Violence and the Law*, Lecture, National Association of Social and Behavioral Sciences, Annual Meeting, Cleveland, Ohio, March 1993.
- *Status of Domestic Violence and Law Enforcement in Ohio*, Center for Prevention of Domestic Violence Conference on Justice Making on Behalf of Battered Women, Cleveland, Ohio, October 23, 1992.
- *Battered Women in Prison*, Ohio Council of Churches Issues Summit, Columbus, Ohio, October 1992.
- *Parole: Post Conviction Remedies for Women Who Kill Their Abusers*, American Bar Association, National Institute on Defending Battered Women in Criminal Cases, Baltimore, Maryland, September 24, 1992.
- *Arbitration and Sexual Harassment Cases*, National Academy of Arbitrators, Cleveland, Ohio, April 1992.
- *Sexual Harassment on College Campuses*, Women, Law and Public Policy Lecture, Anna Howard Shaw Week, Albion College, Albion, Michigan, February 13, 1992.
- Legislative Testimony, *The Battered Woman Syndrome and the Governor's Use of Clemency for Incarcerated Battered Women*. Hearings by the Public Safety and Women's Legislative Caucus, California General Assembly, Fronteria, California, September 19, 1991.

RADIO AND TELEVISION INTERVIEWS, (Edited):

- *Congressional Proposal for Reporters' Federal Shield Law*-WEWS TV, September 2005.
- *The Glass Ceiling*, WCPN-FM, Cleveland, Ohio, March, 2005.

- *Battered Women: Predicting Abuse*, CSU Forum, Cleveland, Ohio, Spring 1995.
- *The Clemency for Battered Incarcerated Women Movement*, WNDU TV, Indianapolis, Indiana, March 1993.
- *Women and the 1992 Elections*, CSU Forum, WNCX-AM, Cleveland, Ohio, November 1992.
- *The Battered Woman on Trial*, CSU Forum, WWWE-AM, Cleveland, Ohio, January 1992.

