

## SYLLABUS

Psychology and the Law  
PSY 2024  
Section 1  
Spring 2000  
Mon/Thu 10:45 – Noon  
Room: Brownson wing 15

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### INTRODUCTION

This course is intended for the Psychology major and any student with a *motivated* interest in the subject of psychology and the law. It is not intended for the casual student with some vague interest in the field. Fundamentals of Psychology (PSY 1004) is a prerequisite.

The heart of this course is the readings. These selections have been harvested painstakingly from seminal texts, specialized professional journals, and in active collaboration with prominent attorneys and psychologists in the field, who practice in and teach at recognized centers around the country.

This course is a state-of-the-art survey of central topics at the interface of psychology and the law. It is a demanding course requiring a heavy reading load as well as a commitment to attending and actively participating in (nearly) every class.

### GRADING

Grades will be based on: class attendance and in-class participation (20%); scores on a midterm and final examination (60%); and the quality of a research paper (20%).

### RESEARCH PAPER

This paper is due April 20, 2000. It is to be about ten to twelve double-spaced, typewritten pages (excluding the required bibliography). By March 20, 2000, you will register with me your selected research topic. It should center on one of the course topics listed in this syllabus, and include all related readings, required and suggested. You may see me for additional resources. [If you have some other interest, we can customize an arrangement.]

This paper should take a stand on some issue (e.g., some side in a debate; an in-depth exploration of a pertinent case or issue; a current events exposure, etc.) review the literature both legal and psychological, and synthesize your thoughts in a way that goes beyond our classroom treatment. I do not expect a sophisticated thesis so much as I expect evidence of thoughtfulness, interest and research skills.

Do not wait for the last minute to begin this. Feel free to see me at any and all stages of its preparation (I can be most helpful in the planning stages).

### **REQUIRED TEXTS**

Roesch, R., Hart, S.D., and Ogloff, J.R.P., Psychology and law: the state of the discipline. New York: Kluwer Academic/Plenum Publishers, 1999.

Wrightsmann, L.S., Nietzel, M.T., and Fortune, W.H., Psychology and the legal system (4<sup>th</sup> ed.). Pacific Grove, CA: Brooks/Cole Publishing Co., 1998

### **LECTURE TOPICS**

#### **CRIMINAL ISSUES**

- Competency
  - ...to stand trial
  - ...to be executed
- Insanity
  - Not guilty by reason of...
  - Criminal responsibility
- Dangerousness
  - ...to self and others
  - prediction of...

#### **CIVIL ISSUES**

- Competencies
  - ...to manage one's affairs
  - ...to make a will
- Tort/Psychic harm
  - Post-traumatic stress disorder
  - Proximate cause
- Malpractice/Standard practice
  - ...and suicide
  - ...and sex with a client
  - ...and dual relationships
- Right to refuse treatment
- Civil/Involuntary commitment
- Discrimination/Employment

#### **FAMILY COURT ISSUES**

- Custody
  - In the best interests of the child

#### **GENERAL ISSUES**

- Forensic assessment/Psychological testing
- Eyewitness competence
- Malingering
- Ethics
- Expert testimony
- Juries
- The classic case law
- Psychodiagnosis and the courts
- Accessing the legal literature

**READING ASSIGNMENTS**

<u>DUE WEEK OF :</u>	<u>PAGES (Wrightsmen text) Tw: (Roesch text) Tr</u>	<u>TOPIC</u>
Jan. 20 (class begins)	None	Get acquainted; Course outline
Jan. 24 to 27 (D/A deadline 1/26)	Tw 3-27, 29-49,56-71; Tr 2-18; Hess*3-48 (p. 4); Brigham* (p. 4) 273-298	Introduction
Jan 31 to Feb. 3	Tw 161-192; Tr 54-80, 90-116; Hess 218-273	Eyewitness competence
Feb. 7 to 10	Tw 277-293, 315-335; Tr 122-166; Hess 104-127	Forensic assessment: civil and criminal
Feb. 14 to 17	Tr 176-228; Hess 171-218	Dangerousness
Feb. 21 to 24	Tw 359-380, 383-412; Tr 25-45	Juries
Feb. 28	[In-class review for midterm examination]	
Mar. 2	[Midterm examination]	
Mar. 6 to 9	(T.B.A.)	<i>DAUBERT / KUMHO</i> (T.B.A.)
Mar. 13 to 16	[SPRING BREAK]	
Mar. 20 to 23 (Rsch. paper topic selection due)	Gardner* 1-10 Tr 341-368	Family court; custody
Mar. 27 to 30 (Course W/D deadline 3/28)	Tr 279-329	Employment; discrimination
Apr. 3 to 6	Tr 405-435; Hess 673-700	Ethics
Apr. 10 to 13	Hess 48-59	Accessing legal literature
Apr. 17 to 20 (Research paper due)	Hess 151-167	Civil competencies
Apr. 24 to 27	Hess 327-350, 350-409 Tw 293-313	Competency to stand trial; Diminished capacity; criminal responsibility
May 1	[In-class review for final examination]	
May 4	[Final examination]	

\*These books on reserve in library

**SUGGESTED READINGS per TOPIC**

**All on library reserve: This is my personal, valuable collection. Please treat these materials respectfully.**

**GENERAL USE**

Brigham, J.C., What is forensic psychology, anyway? Law and human behavior, vol.23, (#3)  
1999, 273-298.

Arrigo, B.A., Introduction to forensic psychology: issues and controversies in crime and justice,  
New York: Academic Press, 2000.

Bersoff, D.N., Ethical conflicts in psychology (2<sup>nd</sup> ed.), Washington, D.C.:  
American Psychological Association, 1999.

Hess, A.K., & Weiner, I.B. (Eds.), The handbook of forensic psychology (2<sup>nd</sup> ed.), New York:  
John Wiley & Sons, Inc., 1999

Melton, G.B., Petrila, J., Poythress, N.G., & Slobogin, C., Psychological evaluations for the courts:  
a handbook for mental health professionals and lawyers (2<sup>nd</sup> ed.), New York:  
The Guilford Press, 1997.

Shapiro, D.L., Forensic psychological assessment: an integrative approach, Boston:  
Allyn & Bacon, 1991.

**DANGEROUSNESS**

Arrigo, B.A., *[ibid]* p. 132-136.

Ewing, C.P., (Ed.) Threat assessment (special issue), Behavioral sciences and the law, vol. 17, (#3)  
1999, p.251-406.

Menzies, R., Webster, C.D., McMain, S., Staley, S., & Scaglione, R., The dimension of dangerousness  
revisited. Law and human behavior, vol. 18, (#1) 1994, 1-28.

**COMPETENCY TO STAND TRIAL**

Arrigo, B.A., *[ibid]* p. 121-124.

Grisso, T., Competency to stand trial evaluations: a manual for practice. Sarasota, FL:  
Professional Resource Exchange, 1988.

Melton, G.B., *et al, [ibid]*, p. 119-155.

Rosenfeld, B., & Ritchie, K., Competence to stand trial: clinical reliability and the role of  
offense severity, Journal of forensic sciences, vol. 43, (#1) 1998, 151-157.

Shapiro, D.L., *[ibid]*, p. 1-59.

(continued)

Winick, B.J. (Ed.), A critical examination of the MacArthur Treatment Competence Study: methodological issues, legal implications and future directions (special issue), Psychology, public policy and law, vol. 2, (#1) 1996, 3-181.

#### SANITY AND CRIMINAL RESPONSIBILITY

Arrigo, B.A., [*ibid*] p. 136-140.

Borum, R., & Fulero, S.M., Empirical research on the insanity defense and attempted reforms: evidence toward informed policy. Law and human behavior, vol. 23, (#1), 1999, 117-135.

Callahan, L., & Silver, E., Factors associated with the conditional release of persons acquitted by reason of insanity: a decision tree approach. Law and human behavior, vol. 22, (#2), 1998, 147-163.

Cirincione, C., & Jacobs, C., Identifying insanity acquittals: is it any easier? Law and human behavior, Vol. 23, (#4), 1999, 487-497.

Felthous, A.R. (Ed.), Mental illness and criminal responsibility (special issue). Behavioral sciences and the law, vol. 17, (#2), 1999, 143-248.

Melton, G.B., *et al*, [*ibid*] p. 186-246.

Shapiro, D.L., [*ibid*] p. 59-107.

Shapiro, D.L., Criminal responsibility evaluations: a manual for practice. Sarasota, FL: Professional Resource Press, 1999.

Silver, E., Cirincione, C., & Steadman, H., Demythologizing inaccurate perceptions of the insanity defense. Law and human behavior, vol. 18, (#1), 1994, 63-70.

Slovenko, R., Psychiatry and criminal culpability. New York: John Wiley & Sons, Inc., 1995, chapters 1, 3 and 6.

Wrightsman, L.S., *et al*, [*ibid*] p. 99-129.

#### EMPLOYMENT DISCRIMINATION AND TORT

Blanck, P.D., & Tomkins, A. (Eds.) Employment discrimination (special issue). Behavioral sciences and the law, vol. 17, (#1), 1999, 1-139.

Melton, G.B., *et al*, [*ibid*] p. 363-381; 383-412.

#### MALPRACTICE

Shapiro, D.L., [*ibid*] p. 241-294.

(continued)

### CIVIL COMPETENCY

Arrigo, B.A., & Tasca, J.J., Right to refuse treatment, competency to be executed, and therapeutic jurisprudence: toward a systematic analysis. Law and psychology review, vol. 23, 1999, 1-47.

Melton, G.B., *et al*, [*ibid*] chapters 7 and 11.

Spar, J.E., & Garb, A.S., Assessing competency to make a will. American journal of psychiatry, Vol. 149, (#2), 1992, 169-174.

### CIVIL COMMITMENT AND RIGHT TO REFUSE TREATMENT

Arrigo, B.A., & Tasca, J.J., [*ibid*].

Melton, G.B., *et al*, [*ibid*] p. 297-335.

Winick, B. J., The right to refuse mental health treatment. Washington, D.C.: American Psychological Association, 1997.

### FAMILY AND DOMESTIC LAW

Arrigo, B.A., [*ibid*] p. 195-228.

Gardner, R.A., Family evaluation in child custody litigation. Cresskill, NJ: Creative Therapeutics, 1982.

Hess, A.K., *et al*, [*ibid*] p. 63-104.

Melton, G.B., *et al*, [*ibid*] chapter 16.

### EYEWITNESS TESTIMONY

Kassin, S.M., Eyewitness identification procedures: the fifth rule. Law and human behavior, vol. 22, (#6), 1998, 649-653.

Loftus, E.F., Leading questions and the eyewitness report. Cognitive psychology, vol. 7, 560-572. In R.R. Hock (Ed.), Forty studies that changed psychology, (3<sup>rd</sup> ed.), Upper Saddle River, NJ: Prentice Hall, 1999, 115-123.

Wells, G.L., Small, M., Penrod, S., Malpass, R.S., Fulero, S.M., & Brimacombe, C.A.E., Eyewitness identification procedures: recommendations for lineups and photospreads. Law and human behavior, vol. 22, (#6), 1998, 603-647.

### FORENSIC ASSESSMENT

Boccaccini, M.T., & Brodsky, S.M., Diagnostic test usage by forensic psychologists in emotional injury cases. Professional psychology: research and practice, vol. 30, (#3), 1999, 253-259.

(continued)

Goodman-Delahaunty, J., Forensic psychological expertise in the wake of *Daubert*. Law and human behavior, vol. 21, (#2), 1997, 121-140.

Melton, G.B., *et al*, [*ibid*] p. 41-63.

### ETHICS

Bersoff, D.N., Ethical conflicts in psychology (2<sup>nd</sup> ed.). Washington, D.C.: American Psychological Association, 1999, *entire book!*

### EXPERT TESTIMONY

Baute, P.B., Psychology: the role of the psychologist in witnessing: falsifiability. The forensic Examiner, May/June 1999, 25-27.

Hess, A.K., *et al*, [*ibid*] p. 501-553.

Melton, G.B., *et al*, [*ibid*] p. 519-546.

Shapiro, D.L., [*ibid*] p. 205-294.

### MALINGERING

Edwards, C.N., Behavior and the law reconsidered: psychological syndromes and profiles. Journal of forensic sciences, vol. 43, (#1), 1998, 141-150.

Rogers, R., Sewell, K.W., & Goldstein, A.M., Explanatory models of malingering: a prototypical analysis. Law and human behavior, vol. 18, (#5), 1994, 543-552.

### THE COURTS

Applebaum, P.S., The role of the mental health professional in court. In P.S. Applebaum, Law and Psychiatry: collected articles from Hospital and Community Psychiatry, Washington, D.C.: American Psychiatric Association, 1989, 21-22.

Melton, G.B., *et al*, [*ibid*] p. 26-40.

### GUEST LECTURES

(By prominent attorneys and psychologists)

- Forensic assessment/psychological testing/expert testimony
- Discovery and mental health in civil and criminal litigation
- The insanity defense
- Jury selection/*voir dire*
- Civil competency
- Witness competency
- Sex offenders/treatment
- Malingering

## VIDEOS

- Insanity acquittal—Mickey Sherman, Esq. (NBC-TV, Dateline)
- Inside the Jury—(CBS-TV)
- Child endangerment—(PBS, Frontline)
- Expert testimony—(CBS-TV, 48 Hours)
- Eyewitness testimony—(CBS-TV, 48 Hours)
- Psychological profiling—“Mind of a serial killer” (PBS, NOVA)
- Forensic issues in famous cases:
  - Rodney King (Court-TV)
  - Jeffrey Dahmer (Court-TV)
  - Menendez Brothers (Court-TV)
  - Manson parole hearing (Court-TV)
  - TX v. Dial* (failed insanity case; Court-TV)

## SEMINAL COURT CASES

### RE: Evidence

- Daubert v. Merrell Dow Chemical*, 509 U.S. 579 (1993).
- Frye v. U.S.*, 293 Fed 1013 (DC Cir 1923).

### RE: Competence

- Dusky v. U.S.*, 362 U.S. 402 (1960).

### RE: Duty to warn

- Tarasoff v. Regents of Univ. of CA*, 592 P. 2<sup>nd</sup>, 553 (Cal 1974) and reheard as  
17 Cal 3<sup>rd</sup>, 425, 551 P 2<sup>nd</sup> 334, 131 Cal Rptr 14 (1976).

### RE: Insanity

- Durham v. U.S.*, 214 F 2<sup>nd</sup> 862 (DC Cir 1954).
- McNaughton...* McNaughton’s case, 10 Clark & Fin 200, 8 Eng. Rep.

### RE: Psychological assessment

- Jenkins v. U.S.*, 307 F 2<sup>nd</sup> 637 (DC Cir 1962 *en banc*).

### RE: Juvenile law

- Kent v. U.S.*, 383 US 541 (1966).

## IMPORTANT JOURNALS

Law and human behavior (published by Division 41[American Psychology-Law Society] of the American Psychological Association [APA])

Psychology, public policy and law (published by APA with the law schools of the University of Arizona and University of Miami)

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Syllabus  
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Professional psychology: research and practice (APA)

Law and psychology review (APA with the University of Alabama Law School)

Behavioral sciences and the law (John Wiley & Sons, Inc.)

Journal of forensic sciences (American Academy of Forensic Sciences)

### **FILMS**

12 angry men (1957)  
Inherit the wind (1960)  
To kill a mockingbird (1962)  
The verdict (1982)  
Primal fear (1996)  
A civil action (1999)

### **WEBSITES**

[See also: Charters, M., Kinkus, J., Nowak, D., Peyton, G., & Rafferty, R., Internet resources for law and psychology: a select list. Law and psychology review, vol. 20, (Spring 1996) 11-26.]

American Psychology and Law Society  
[www.unl.edu/ap-ls](http://www.unl.edu/ap-ls)  
[www.unl.edu/psylaw](http://www.unl.edu/psylaw)

#### Legal searches

Lexus/nexus (libraries subscribe to this)  
[www.ljx.com/](http://www.ljx.com/) (legal libraries)  
[www.findlaw.com](http://www.findlaw.com)  
[www.law.cornell.edu/supct/supct.table.html](http://www.law.cornell.edu/supct/supct.table.html) (supreme court decisions)  
[www.ualvm.ua.edu/~jhooper/tableofc.html](http://www.ualvm.ua.edu/~jhooper/tableofc.html) (psychiatry and law issues)

#### On-line discussion groups

Psychology and law: [LISTSERV@UTEPVM.EP.UTEXAS.EDU](mailto:LISTSERV@UTEPVM.EP.UTEXAS.EDU)  
Law and society: [LISTSERV@POLECAT.LAW.INDIANA.EDU](mailto:LISTSERV@POLECAT.LAW.INDIANA.EDU)  
Credibility assessment and witness psychology: [LISTSERV@IDBSU.IDBSU.EDU](mailto:LISTSERV@IDBSU.IDBSU.EDU)  
Evidence: [LISTSERV@CHICAGOKENT.KENTLAW.EDU](mailto:LISTSERV@CHICAGOKENT.KENTLAW.EDU)  
Family law: [LISTSERV@ACC.FAU.EDU](mailto:LISTSERV@ACC.FAU.EDU)  
Forensic medicine and sciences: [MAILSERV@ACC.FAU.EDU](mailto:MAILSERV@ACC.FAU.EDU)  
Forensic psychiatry: [MAILBASE@MAILBASE.AC.UK](mailto:MAILBASE@MAILBASE.AC.UK)  
Forensic psychology: [LISTSERV@SIJVM.STJOHNS.EDU](mailto:LISTSERV@SIJVM.STJOHNS.EDU)

## ADDENDUM

### MORE SUGGESTED READINGS

#### *ALL ON RESERVE AT LIBRARY*

\* [ All from: Law and psychology review]

#### EXPERT WITNESS/TESTIMONY

Camper, P.M., & Loftus, E.F., The role of psychologists as expert witnesses in the courtroom: no more Daniels in the lions den, [sic] vol. 9, (Spring 1985) 1-13.

Fishman, D.B., & Loftus, E.F., Expert psychological testimony on eyewitness identification. Vol. 4, (Fall 1978) 87-103.

Lower, J.S., Psychologists as expert witnesses. Vol. 4, (Fall 1978) 127-139.

Pipkin, W.E., Expert opinion testimony: experts, where did they come from and why are they here? Vol. 13, (Spring 1989) 103-118.

Baute, P., Expert witnessing and *Daubert*, The forensic examiner, vol. 9, (# 3, 4) 2000, 15-20.

#### JURY SELECTION

Arrigo, B.A., [*ibid*] p.124-127.

Pierce, J.C.S., Selecting the perfect jury: use of jury consultants in *voir dire*. Vol. 14, (Spring 1990) 167-184.

#### CHILD CUSTODY

Lyman, R.D., & Roberts, M.C., Mental health testimony in child custody litigation. vol. 9, (Spring 1985) 15-34.

#### PREDICTING DANGEROUSNESS

Otto, R.K., The ability of mental health professionals to "predict dangerousness": a commentary on interpretations of the "dangerousness" literature. vol. 18, (Spring 1994) 43-68.

#### ...AND TARASOFF

Perlin, M.L., Tarasoff and the dilemma of the dangerous patient: new directions for The 1990's. vol. 16, (Spring 1992) 29-64.

**ADDENDUM (CONTINUED)**

\* (AVAIL FROM MY PVA LIBRARY, EXCEPT WHEN NOTED)

(MORE) WEBSITES

Charters, M., Kinkus, J., Nowak, D., Peyton, G., & Rafferty, R., Internet resources for law and psychology: a select list. Vol.20, (Spring 1992) 29-64. (*excellent resource!*).

EYEWITNESS TESTIMONY (not on reserve, this section only)

Cutler, B.L., & Penrod, S.D., Mistaken identification: the eyewitness, psychology and the law. New York: Cambridge University Press, 1995.

Loftus, E., & Ketchum, Witness for the defense. New York: St. Martin Press, 1991.

Penrod, S., Fulero, S., & Cutler, B., Eyewitness expert testimony before and after *Daubert*. Behavioral sciences and the law, vol. 13, 1995, 229-257.

Wells, G.L. (Ed.), Witness, memory and law, Psychology, public policy, and law, vol. 1, (#4) (entire volume) Dec. 1995.

EVIDENCE/EXPERT TESTIMONY (not on reserve, this section only)

Faigman, D.L., The evidentiary status of social science under *Daubert*. Is it "scientific," "technical," or "other" knowledge? Psychology, public policy, and law, vol. 1, 1995, 960-979.

SPECIAL PUBLICATION ON EVIDENCE/EXPERT TESTIMONY

Parry, J.W. (Ed.) National benchbook on psychiatric and psychological evidence and testimony. Washington, D.C.: American Bar Association (commission on mental and physical disability law), 1998. (*judges rely on these standards—a basic resource for them!*)

BOOK REVIEWS

Roesch, R., Golding, S.L., Competency to stand trial. Chicago: University of Illinois Press, 1980, Reviewed by Gary Powell in Law and psychology review, Vol. 7, (Spring, 1982) 89-95.

Loftus, E., Eyewitness testimony. Cambridge, MA: Harvard University Press, 1979, Reviewed by Charles H. Durham, III, in Law and psychology review, Vol. 7, (Spring 1982) 99-107.

(addendum continued)

### THERAPEUTIC JURISPRUDENCE

Tomkins, A.J., & Carson, D. (Eds.) "International perspectives on therapeutic jurisprudence," In Behavioral sciences and the law, Vol. 17, (#5) 1999. (entire volume: special topic)

Wexler, D.B., & Winick, B.J., Law in a therapeutic key: developments in therapeutic jurisprudence. Durham, NC: Carolina Academic Press, 1996

### FORENSIC ASSESSMENT/TREATMENT

Borum, R., & Otto, R., Advances in forensic assessment and treatment of forensic populations (Special Issue) Law and human behavior, vol 24 (#1) Feb. 2000 (entire volume).

### SPECIAL PUBLICATION ON DAUBERT

Shuman, D.W. & Sales, B.D. (Guest Eds.) "Special Theme: *Daubert's* meanings for the admissibility of behavioral and social science evidence." Psychology, public policy and law, vol.5 (#1) March 1999 (entire volume).

### LAW TEXTS

Elias, S., & Levinkind, S. [& Portman, S. Ed] Legal research: how to find and understand the law (7<sup>th</sup> ed.). Berkeley, CA: Nolo.com, Inc. 1999.

Feinman, J.M., Law 101: everything you need to know about the American legal system. New York: Oxford University Press, 2000.

Garner, B.A., (Ed.) Black's law dictionary (7<sup>th</sup> ed.) St. Paul, MN: WestGroup, 1999.

### TEXTS

[Not on reserve]

Hermann, D.H.J., The insanity defense: philosophical, historical and legal perspectives. Springfield, Ill.: Chas. C. Thomas, Publishers, 1983.


Loftus, E.  Eyewitness testimony. Cambridge, MA: Harvard University Press, 1979.

Reznek, L., Evil or ill?: justifying the insanity defense. New York: Routledge Pub., 1998.

Roesch, R., & Goldberg, S.L., Competency to stand trial. Chicago: University of Illinois Press, 1980.

Rogers, R. (Ed.) Clinical assessment of malingering and deception (2<sup>nd</sup> ed.) New York: The Guilford Press, 1997.

Rogers, R. & Shulman, D.W., Conducting insanity evaluations (2<sup>nd</sup> ed.) New York: The Guilford Press, 2000.

 LIFSON, L. E. + SIMON, R. I. (Eds.) <sup>(continued)</sup> The mental health practitioners and the law: a comprehensive handbook, Cambridge, MA: HARVARD UNIVERSITY PRESS, 1998.

DANGEROUSNESS

American Psychiatric Association, Dangerous sex offenders: a task force report of the American Psychiatric Association, Washington, D.C.: American Psychiatric Association, 1999.

Steadman, H., Silver, E., Monahan, J., Applebaum, P., Robbins, P., Mulvey, E., Grisso, T., Roth, L., and Banks, S. A classification tree approach to the development of actuarial violence risk assessment tools. Law and human behavior, vol. 24, Feb. 2000, p. 83-100. (H.S., J.M., P.A., T.G., & L.R. are pioneers and giants in Forensic Psychology!)

**This syllabus was developed in collaboration with:**

**Dr. Lisa Callahan, Russell Sage College**  
**Dr. Lawrence Wrightsman, University of Kansas**  
**Dr. Ronald Roesch, Simon Fraser University**  
**Dr. Edith Greene, University of Colorado**  
**Dr. Solomon Fulero, Sinclair Community College**  
**Dr. Thomas Litwack, John Jay College of Criminal Justice**  
**Dr. Thomas Guthel, Harvard Medical School.**

**I am deeply grateful for their time and guidance.**

Rev. 6/29/2K

~~Rev 6/29/2K~~