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William Pericak

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1. In regards to our conversation on Tuesday May 31, 2005, I am providing you the following information regarding my perception of the flawed FBI documents dated March 15, 2004 titled **Results of Investigation at Albany**. As stated on the phone I found the investigation that the FBI and the VA IG co-conducted at the very minimum lacking in professional standards. It was upsetting to see that the Investigation left out key witness statements, inaccurately recorded those statements taken from witnesses, failed to interview or obtain critical documents that would establish VA official accountability in wrongdoing. This investigative report appears to show that FBI investigators were unable to grasp the scope or direction of what was disclosed on Medical care violations that occurred at the VA Medical Center at Albany or they weren't interested.
2. In February 1999, Dr. Fudin and I first attempted to advise the FBI of the research violations occurring at the Stratton VA. We met with two agents, one of whom was Agent Susan Aiken. I am aware that Agent Aiken prepared a lengthy summary of our discussion and made recommendations for areas, which could be criminal violations to pursue. At this meeting the evidences presented then as it does now shows that Dr. [REDACTED] [REDACTED] had violated research practices. Kornak as you know was hired shortly some time after this.
3. In December 1999 I met briefly with Chris Mulhall who in 10 months had not responded to our request to investigate informed me that the report (Aiken Report) remained on his desk and that he would get to it. He claimed he was only half finished at that time. He asked me if he did not investigate would this come back to bite him? He decided in January 2000 after speaking with VA IG special agent John McDermott not to investigate.
4. After reading the March 2004 FBI report there is a pattern of behavior that emerges between the FBI Special Agent Chris Mulhall and the VA IG that continues to obstruct Dr. Fudin's and my efforts in getting to the truth. This last report from the FBI appears to establish contempt toward Dr. Fudin and myself
5. Requesting documents via the Freedom of Information and Privacy Act (FOIPA) is the only method that Dr. Fudin and I could learn what the FBI does with our claims. In August of 2000, when we received documents under FOIPA, we received a communication relating to our visit, but no report from Agent Aiken was provided to us. In a subsequent conversation with Agent Aiken she advised me that she did indeed write a lengthy report of our

disclosures, gave them to her Supervisor, Chris Mulhall, and did not know whatever happened to her report. This was an early indication that something was wrong in the response we were receiving from the FBI.

6. After much publicity in 2003 - 2004 and a meeting with Congressman McNulty, USA Suddaby, and you, we were asked by the FBI to come to their office and discuss the matters that had recently come to light. This request was unsolicited and it puzzled both Dr. Fudin and me as to why the FBI now wanted to talk to us when they had done nothing before.
7. The documents generated by the FBI of that last visit were disturbing to read as it was apparent that no investigation was conducted but rather an attempt was made to dispel anything Dr. Fudin and I reported on. After this lone visit, neither Dr. Fudin nor myself were contacted for any additional information or questions. You or US Attorney Suddaby never contacted us after that meeting and we never heard anything about what had occurred. The FBI investigation report was dated March 15, 2004. Why did we not hear from you or someone from the US Attorney office. Had your office been apprised of this report earlier?
8. Isn't it rather unusual that we were requested to bring claims of such wrongdoing by government officials, to include possible deaths and we were never brought back for any further information or follow up? Why was Dr. Fudin and I not questioned together? Was keeping us separated another tactic to trip us up in an effort to further discredit us? It was apparent from this report that such tactics employed by either the FBI or the US Attorney's office was to avoid investigating evidences or acknowledge that Dr. [REDACTED]'s was conducting illicit research practices.
9. It is viewed by many as an absolute outrage and a conflict of interest for FBI agent Chris Mulhall and the VA IG to look into Dr. Fudin's and my disclosures in 2004. Prior to this meeting both Dr. Fudin and I had requested in writing to US Attorney Suddaby that the VA IG not be included in any possible investigation of our claims. The VA IG had for years ignored all our disclosures regarding VA criminal activity and patient harm, yet at the meeting you asked me to trust them.
10. Even though it was now publicly known had the FBI and VA IG investigated our earlier claims Paul Kornak would have never been in the position to kill patients and VA Officials ([REDACTED] and Dr. [REDACTED]) would have been held accountable for covering up past research violations and failing to make corrective measures? The testimony and the evidence against these officials are available. Wasn't this the reason the US Attorney Suddaby and/or Justice Department wanted investigated and why the FBI was ordered to look at?
11. My numerous disclosures on gross mismanagement practices that may have caused harm and death to our veterans establishes a pattern of criminal behavior and influences by VA officials and how the VA IG were utilized in their cover-ups.
12. How can anyone expect the VA IG to investigate fairly when charges of their involvement are so clear? Many federal workers do not trust the VA IG to do the right thing and would feel more comfortable with the GAO investigating. Their reputation as an unbiased investigating agency is better than the VA IG.
13. I had to rethink as to what purpose would going back to the FBI and disclosing all over again VA criminal activity that according to US Attorney Suddaby that much of our case had

exceeded the statute of limitations for prosecution. It certainly was not our fault that we tried year after year after year to get someone to listen to us. The result of our disclosures to the VA IG and the FBI did not prevent Kornak from killing more patients nor did it hold responsible VA Officials accountable.

14. A Congressional Committee staffer in Washington DC called me and gave me encouragement. He informed me that Dr. Fudin and I only needed to establish that VA officials were aware of past research violations. I believe we have evidences and testimonies that more than exceed this. Dr. Fudin and I can not do this without your assistance.

Below are my specific comments regarding the FBI Christopher Mulhall report. This investigative report failed to establish the following key facts in our submission of evidences and testimonies of those witnesses we provided. I will only highlight those flaws that are viewed as significant omissions of support to our disclosures.

1. Disclosures on Research violations:

- a. FBI / VA IG appeared to have selected for interview only those VA employees they wanted to interview and reported only what would appear to be of a discreditable information. Those witnesses listed with the FBI and not interviewed can be provided upon request.
- b. The Mulhall Report did not include statements from Dr. Thomas Ferro and Dr. [REDACTED] who Dr. Fudin named as witnesses that would provide critical support to our claims that VA Officials were aware of research violations and did little or nothing to correct them.
- c. The FBI investigation failed to report that Dr. Thomas Ferro and Dr. [REDACTED] had been requested by VA Officials on two separate occasions to conduct an Administrative Board of Investigation (ABI) on purported research violations charged against VA researcher Dr. [REDACTED].
- d. The FBI investigation failed to report that Dr. [REDACTED] was hired by VA officials knowing that Dr. [REDACTED] was being removed from his position from the Albany Medical Center for research and patient care violations. Dr. [REDACTED] who was given a second chance at employment by VA Officials may have decided to extend that same courtesy to Paul Kornak.
- e. The FBI investigation failed to establish any interview with Dr. [REDACTED] whose investigational documents still in his possession shows that Dr. [REDACTED] falsified research data. Allegedly Dr. [REDACTED] responded to this ABI findings in writing admitting to the charge.
- f. The investigation failed to utilize an unbiased practicing specialist in Oncology that would support Dr. Fudin's' claims of unauthorized and unapproved treatments to patients. The investigation team never once got back to him to question patient records or provide clarification as necessary regarding the complexity of illegal treatments.
- g. The FBI/VA IG never contacted Fudin for more specific patient chart information for which his input and documentation was essential for validating illicit treatments.
- h. The FBI investigation failed to report or ignored evidences and testimony that would establish those VA Officials ([REDACTED] and Dr. [REDACTED], Dr. [REDACTED]).

Min Fu Tsan, [REDACTED] et al) where aware of Dr. [REDACTED] [REDACTED]'s past research violations?

- i. The FBI failed to investigate or interview the actions taken by [REDACTED] as past QA Manager whose office was responsible for keeping on file all internal investigations and for destroying them. This also included the FBI's failure to investigate the abrupt removal of patient records by her office during an active peer review committee meeting that was to determine if patient death occurred from Dr. [REDACTED] experimental treatment practices.
- j. The FBI investigation failed to comment one way or another regarding evidences showing that Dr. [REDACTED]'s experimental treatment plans given to unsuspecting veterans were not approved nor authorized by anyone at the facility.
- k. The FBI failed to investigate evidences that Dr. [REDACTED]'s provided experimental treatments on VA patients that were not supported by any reputable clinical journal for off label use, not approved under a formal IRB protocol, nor approved under procedures for humanitarian use. VA IG special agent Jeffrey Hughes asserts that according to VA Officials Dr. [REDACTED] did nothing wrong and what he did do was for medical science. What science is Mr. Hughes referring to too and by whose standards?
- l. The FBI failed to investigate or comment on the Medical Staff committee on Pharmacy and Therapeutics that declared his practice as unauthorized and experimental. Dr. [REDACTED] was ordered to cease and desist from further practices.
- m. The FBI failed to investigate why the Chief of Research who was aware of Dr. [REDACTED]'s research violations supported an IRB sponsored retrospective cohort study that looks back at his unauthorized experimental treatments. Dr. [REDACTED] knew that IRB would not approve his treatment plans as a research prospective study so he conducted them without anyone knowing. Then when he attained a specific number of patients in the study group he figured it was safe risk to go back get permission to study it, which he did.

To limit my comments on a lengthy complex issue I wish to conclude this letter on another misleading investigative issue.

Disclosures on gross mismanagement practices involving 10 veteran patients who died while on anticoagulation therapy as a result of VA officials willfully and intentionally not providing appropriate blood level monitoring.

- a. The FBI report stipulates that the contact name I gave them knew nothing about the patient deaths. The witness I spoke with informed me that he provided full supported statements that validated my disclosures that VA Officials refused to address provisions for veterans who were placed on the drug coumadin and denied enrollment in the VA anticoagulation clinic.
- b. The FBI report failed to investigate or report that my contact has in his possession the names of the ten patients whom died while on anticoagulation. The same ten patients I had informed the VA IG to investigate.
- c. The FBI failed to report that VA officials refused to provide appropriate staffing in an effort to resolve an immediate danger to hundreds of veterans at risk of harm. VA Officials simply

without justification would deny the transfer of staff to the anticoagulation program in an effort meet the growing danger.

- d. I went to Congressman McNulty for his assistance in this matter. He forwarded my concerns to VA management and like the previous two meetings on disclosures of wrongdoing the Congressman never received written responses from the VA. At that time the number of patients not being monitored or assigned to the anticoagulation clinic numbered in the hundreds. Approximately 8 months later after meeting with the Congressman the number of veterans placed at risk of stroke or death grew to over 1000 patients.
- e. The FBI failed to identify that fact that I notified the VA Officials and that I had filed my complaint against them for gross mismanagement practices and requested the VA IG to investigate the 10 patient deaths. These VA remedies to resolve the problem occurred after my abrupt and permanent banishment from the VA.
- f. The FBI to my knowledge failed to interview Congressman McNulty or request for any information that he personally was privy too in this matter.
- g. The FBI failed to investigate that my banishment occurred precisely 6 hours after VA Officials opened my disclosures (via E-mail) that held VA Officials accountable for the 10 patient deaths. Shutting down my computer VA Officials in violation of the federal whistleblowing laws prevented me from accessing critical documents and my e-mail of that day.
- h. The FBI investigation failed to determine if VA officials or the VA IG had submitted the medical records of the 10 veterans to a medical peer review in an effort to determine the cause of death.

In conclusion:

I feel FBI agent Christopher Mulhall made several professional mistakes that placed veterans in harms way. The public criticism that followed may have caused agent Mulhall to take issues with Dr. Fudin and I.

I believe this call for the FBI investigation resulted from Congressman McNulty's inability to get VA Officials to cooperate fully in getting to the truth. I believe frustrated he went to the Justice Department who may have ordered the FBI to look into the matter. This action may have aggravated agent Mulhall further resulting in a report that lacks the basic tenet of professional standards in an effort to discredit Dr. Fudin and I.

I have not addressed the report fully and upon request I would be willing to meet with you to address deficiencies of the investigation as necessary.

Sincerely,

Tony Mariano

CC: Congressman Michael McNulty
Dr. Jeffrey Fudin