

DECLARATION OF CHARLES A. SANISLOW, PH.D.

I, Dr. Charles A. Sanislow, declare as follows:

1. I am a clinical psychologist licensed to practice in the State of Connecticut. Prior to earning my doctoral degree in clinical psychology, I had been licensed as a psychological associate in the State of North Carolina. I received my Bachelor of Science degree from Northern Michigan University in 1985, with a major in psychology and minor focuses in mathematics, biology, and chemistry. In 1987, I received a Master of Arts degree in psychology from Ball State University. As part of that program, I completed a clinical practicum at the Marion Indiana Veterans Administration Medical Center in the assessment and treatment of acute psychopathology and the assessment and treatment of veterans suffering from Posttraumatic Stress Disorder. In 1994, I received a Ph.D. from Duke University. My doctoral dissertation examined personality characteristics hypothesized to vulnerability factors for depression and other major affective disorders.
2. From July of 1993 through June of 1995, I completed pre- and post-doctoral fellowships in clinical psychology at Yale University School of Medicine. My pre-doctoral fellowship training concentrated on the assessment and treatment of acute and severe psychopathology, including affective disorders (e.g., depression and manic depression, also known as Bipolar Disorder) and schizophrenia; and on the treatment of dually-diagnosed individuals (e.g., those suffering from a major mental illness in combination with a substance abuse/dependence disorder). During my post-doctoral training, I specialized in the assessment and treatment of severely disturbed adolescents and young adults, developing a treatment program specifically aimed at dually-diagnosed

adolescents. I continued to oversee that program during my first year on the faculty of Yale University School of Medicine.

3. From July of 1995 through June of 1996, I was a Clinical Instructor of the faculty of the Yale University School of Medicine. During that time, I coordinated a partial hospital program for adolescents and began development of a program to assess and triage juvenile offenders suffering mental illness. Since July of 1996, I have been an Assistant Professor of Psychiatry in the Psychology Section of the Department of Psychiatry at Yale University School of Medicine. In that capacity, I train and supervise psychiatric residents, pre- and post-doctoral fellows in clinical psychology, and social work fellows in conjunction with the Clinical Psychology Internship training program.

4. Much of my professional work, both clinical and academic, has been focused on the assessment of personality disorders and their co-morbidity (or co-occurrence) with Axis I major mental illnesses – e.g., depressive disorders, Bipolar Disorder, and Posttraumatic Stress Disorder. The methods that I use are based in clinical assessment and multivariate statistics. I also study these disorders using methods from cognitive neuroscience including neuroimaging techniques. I presently coordinate a study funded by the National Institute of Mental Health [NIMH] to investigate the course and stability of personality psychopathology, on which I hold the title Co-investigator. I am the Director of the Assessment Unit at the Yale Center for the Assessment and Treatment of Borderline Personality Disorder. In my leadership capacity for these research programs, I supervise post-doctoral fellows in conducting semi-structured clinical diagnostic interviews and psychological assessments of persons with severe mental illness.

5. My work has been published in scholarly journals, including *Acta Psychiatrica Scandinavica*, *American Journal of Psychiatry*, *American Journal of Psychotherapy*, *Biological Psychiatry*, *Canadian Journal of Psychology*, *Comprehensive Psychiatry*, *Journal of Abnormal Psychology*, *Journal of Clinical Psychiatry*, *Journal of Comparative Psychology*, *Journal of Consulting and Clinical Psychology*, *Journal of Nervous and Mental Disease*, *Journal of Personality Assessment*, *Journal of Personality Disorders*, *Journal of Psychiatric Practice*, *Journal of Social and Clinical Psychology*, *Personality and Individual Differences*, *Psychiatric Services*, *Psychiatry Research*, *Psychiatry: Interpersonal and Biological Processes*, *Psychological Assessment*, *Psychological Medicine*, *Psychotherapy Research*, and *Small Group Behavior*. My work also includes two editions of a graduate-level textbook chapter on schizophrenia. I regularly present my research findings at national meetings for psychology and psychiatry associations including the American Psychiatric Association and the American Psychological Association. A copy of my *curriculum vitae* is attached to this declaration.

6. At the request of current counsel for Edward Harold Schad, Jr., I have reviewed extensive records and other documents relating to Edward Schad, Jr. and members of his immediate and extended family. The purpose of this review was to compile, assess and synthesize that material in the form of a social history, set forth in this declaration. Specifically, I have been asked to identify those factors – familial, social, developmental, psychological and institutional – that shaped and influenced Edward Schad, Jr.'s cognitive and psychological development and his behavioral functioning as an adult. To reach my opinions, I have relied upon numerous records, documents, historical materials and other data provided by counsel. These include

academic, military and institutional records of Edward Schad, Jr., as well as his prior medical and psychiatric records and evaluations. They also include law enforcement, parole, and custody/correctional records, as well as sentencing transcripts, pre-sentencing files and reports, and other case-related materials from legal proceedings in New York, Wyoming, Utah and Arizona.

7. I have also reviewed records and documents pertaining to Edward Schad, Jr.'s father, Edward Schad, Sr., including his military records, historical documents pertaining to his [Schad Sr.'s] detention as a prisoner-of-war in an Austrian prison camp, and his medical and psychiatric records, most of them from the Veterans Administration following World War II. I have also reviewed medical records of Edward Schad, Jr.'s mother, Mabel Cole Schad [now Hughes], as well as her Social Security Administration documents and numerous vital records regarding Mrs. Schad's extended family. Also provided were medical and psychiatric records of Edward Schad, Jr.'s younger brother Thomas Francis Schad, most of them from his military and VA records. Additional records and data regarding these and other family members, useful in obtaining and corroborating accurate life history information, were also provided. To ensure that my assessment is as thorough and reliable as possible, I have specifically requested that counsel obtain and provide me with all additional documents that become available.

8. I have reviewed the sworn declarations of numerous lay witnesses, including family members who knew Edward Schad, Jr. and his parents at critical points in his development. I have also reviewed the sworn declarations of Drs. Leslie Lebowitz and George W. Woods, previously filed in this case. The findings and observations of Dr. Lebowitz are especially relevant, as she assesses certain critical factors which

contributed to Edward Schad, Jr.'s early development – specifically, the nature and effects of his father's experiences as a prisoner-of-war during World War II (while Ed Jr. was an infant); his [Schad Sr.'s] subsequent medical and psychiatric deterioration (during Ed Jr.'s childhood and adolescence); and Mrs. Schad's psychological disabilities, symptoms of which are apparently evident even today.

9. Finally, I met and interviewed Edward Schad, Jr. for 4 hours on February 18, 2000 and 3½ hours on February 19, 2000. The interviews took place on the Special Management Unit [SMU-II] at Arizona State Prison [ASP] in Florence, Arizona. For purposes of this assessment, the circumstances and constraints of those interviews and the events surrounding them are extremely significant. To conduct a proper clinical interview, I requested confidential contact visits in which Edward Schad, Jr. would be uncuffed and unshackled. I had reviewed his prison records and was aware of no history of violence in the institution. In fact, Edward Schad, Jr. appears to have an exemplary prison record. I was told that contact visits were not the norm for condemned inmates, even for visits with attorneys and their representatives. Counsel informed me that the contact visits I had requested could not take place without a court order. I also learned that these rules had been in effect at SMU-II since 1997¹, such that Edward Schad, Jr. had not had a contact visit, even with his own counsel, for three years before our visit. My subsequent interviews with Edward Schad, Jr. revealed the significance of this history.

10. At my urging, counsel obtained an order for contact visits from Judge Roslyn Silver. The order required that Edward Schad, Jr. be uncuffed during our

¹ Arizona Department of Corrections Regulations, Chapter 900, Department Order 911.04.1.6.1 (contact visits are not permitted at Special Management Units)

interviews, but stated that "Petitioner may remain in leg irons."² Judge Silver's order also detailed the conditions of our meetings, including observation by custodial staff and seating arrangements within the designated interview room. For example:

The room may have windows which allow the Warden, through staff, to observe the meeting. Dr. Sanislow and Mr. Pultz are to sit at chairs closest to the door, and Petitioner is not to go between Dr. Sanislow and Mr. Pultz and the door without permission....³

Pursuant to that order, our interviews took place in the office of a prison administrator. Edward Schad, Jr. was escorted to the room in shackles and handcuffs, which were removed inside the interview room in my presence.

11. We sat, as required on opposite sides of a large desk. Observation by custody staff was accomplished by means of a large window located to my back and extending the full width of the room and several feet high (from approximately waist-height to the ceiling). The window looked onto a large open space. Throughout our interviews, custody staff ranging in number from three to more than six, observed us from that area. In addition to the officers assigned to observe our meetings, other guards and other prison employees passed by the window regularly. Prison guards were in Edward Schad, Jr.'s line of vision whenever he looked at me or counsel. At times during the assessment, Edward Schad, Jr. appeared to be concerned that the staff was watching from outside the window.

I. INTRODUCTION AND OVERVIEW

12. Edward Harold Schad, Jr. was born to a family environment marked with frequent physical abuse, emotional neglect and abandonment, mental illness, chemical dependency, and severe stresses at every stage of his life. These stressors had a profound

² February 9, 2000 Order of Roslyn O. Silver, United States District Judge, ¶4.

impact on him and increased his susceptibility for developmental, psychological and debilitating mental disorders. The chronic trauma and intense grief present in his family produced patterns of psychosis and emotional neglect that took away the ability for Ed Jr. and his family to develop and sustain healthy, responsive relationships critical to developing a healthy psyche. Grief and trauma that is left unresolved not only lead to profound sadness or clinical depression but can also alter the structure and function of the brain and decrease the effectiveness to responding to future stressful events. Ed Jr.'s mother and father created an environment filled with unrelenting and unpredictable chaos and psychosis and stressful events that placed their children at risk for developing clinically significant mental illness and possibly alterations in brain function. Predictably, it appears that Ed Jr. and his siblings have suffered from significant and sometimes chronic mental illnesses and the impaired psychosocial functioning that is part and parcel of these disorders.

13. As is often the case in mental ill and severely dysfunctional families, the legacy of Edward Schad, Jr.'s family is cloaked in denial and silence in the face of profound mental illness and extraordinary trauma. Such avoidance and denial of situations and people who were at times psychotic, clinically depressed, suffered from addictions, or who were capable of untoward acts of violence and abuse, is in part enacted as a survival strategy for both the family unit or of its individual members. In this sense, denial or covering up of these severe problems goes beyond avoiding "embarrassment." Rather, it is a pathological defense mechanism that is brittle in the sense that it provides immediate relief by holding mental distress at bay yet in the long term makes it virtually impossible to take corrective action. Cold, unaffectionate,

³ *Ibid*, ¶5.

distant, and disconnected relationships, in which the caretakers alternated between controlling and violent behaviors and depressed or psychotic and abandoning ones, characterized Ed Jr.'s young life. Trauma, substance abuse, anxiety, psychosis and mood disorders were also evident across these generations. This placed the members of these families at an increased risk for developing similar disorders as well as ensuring that these children would not receive the care-taking relationships necessary for healthy psychological and neural development. It also ensured that the Schad children would not develop healthy coping strategies that might mitigate the effects of mental illness.

14. It is thus not surprising that Ed Jr. did not know how to protect himself in this family. Perpetually, he attempted to get basic needs met and to try to strengthen relationships when it was not possible. This ultimately became his role in life—that of caretaker or peacemaker, grasping at shadows to find some semblance of normal relationships in a very dysfunctional socio-family system wrought with mental illness. The extent to which the disordered family history and damaging family dynamics pervaded the household and scarred its members, was also manifested in the difficulties Ed Jr.'s siblings encountered as they grew up. The lack of any consistent parenting unlocked vulnerabilities for a range of mental illnesses by disrupting important developmental experiences.

15. Due to the constant danger and fear in his family life, Ed Jr. had to be hypervigilant to survive. Signs of hyperarousal, agitation, guardedness, and paranoia became integral to his interpersonal style and have stayed with him, in one form or another, to this day. In the context of his father's alcoholism and the affective disturbance, and interpersonal violence related to and exacerbated by his drinking, the

lack of overall safety and stability experienced among family made these behaviors adaptive in one sense because the family environment was truly unsafe. On the other hand, the impact of these behaviors on Ed Jr.'s psychological development likely opened vulnerability to mental illness, in particular disturbances in affect.

16. Ed Jr. and his siblings were subjected to the same patterns of secrecy, shame, violence, abuse, and neglect that haunted his family [for generations]. Thus, there was no place for Ed Jr. to turn for a healthier alternative. The familial history of mental illness and substance abuse took their toll on Ed Jr.'s parents and he was raised by two people who both became increasingly mentally ill and substance-dependent. They themselves were struggling with their own untoward histories and lacked the capabilities and resources to change course and instead maintained an environment that reinforced destructive and dysfunctional behaviors.

II. BACKGROUND AND FAMILY HISTORY

17. An accurate mental health assessment requires a thorough understanding of the patient's background, including the medical, social, developmental and psychiatric histories of immediate and extended family members, as well as any familial patterns that emerge. One of the most widely recognized texts on psychiatric diagnosis and treatment states that a thorough assessment must include "a complete family history, including the patient's relationships with significant individuals, the role of illness in the family, and a history of mental illness within the extended family."⁴ A detailed family history is

⁴ Kaplan, H.I. & Sadock, B.J. (Eds.) (1995). *Comprehensive Textbook of Psychiatry-Sixth Edition*, p. 526. This edition reiterates the standards articulated in earlier editions. See also Ludwig, A.M. (1986). *Principles of Clinical Psychiatry (Second Edition-Revised)*. New York: The Free Press, at p. 37. The same standard is specifically recognized in forensic settings. See, e.g., Bonnie & Slobogin (1980), "The

essential for several reasons. First, it is generally understood that there is a genetic component to the etiology of many of the major psychiatric disorders, including the serious mood (or "affective") disorders (e.g., Major Depression, the other depressive disorders, and Bipolar Disorder) and anxiety disorders (e.g., Posttraumatic Stress Disorder). The same is true for substance-related disorders (e.g., alcoholism and drug abuse/dependence), as well as childhood learning and behavioral disorders (e.g., Attention-Deficit/Hyperactivity Disorder and learning disabilities). Thus, certain individuals are at risk of developing psychiatric conditions similar to those of biological relatives.⁵

18. Many medical illnesses have enormous implications for the patient's mental state and behavior, and can influence (even disrupt) the entire family's emotional functioning. Furthermore, many medical conditions have associated psychiatric features or consequences. For example, epilepsy and other seizure disorders can cause significant impairments in memory, mood and perception; chronic pain (such as that suffered by Edward Schad, Sr. throughout his adult life) is often accompanied by severe depression or mental confusion; migraine headaches can cause a range of psychiatric symptoms,

Role of Mental Health Professionals in the Criminal Process: The Case for Informed Speculation," 66 *Va. L. Rev.* 427.

⁵ See *Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition-Text Revised [DSM-IV-TR]* (2000). Washington, DC: American Psychiatric Association. The *DSM*, first published by the APA in 1952 and periodically revised, sets forth the diagnostic criteria for all mental disorders. The version is used at the time of Mr. Schad's 1985 trial (the *DSM-III*) and all subsequent revisions have stressed the genetic component of these psychiatric disorders. Each revision of the *DSM* has included some changes in the standard diagnostic nomenclature. Some changes have been semantic (e.g., Major Depressive Disorder, as opposed to Major Depression). In other cases, new diagnoses have been included to recognize conditions which had previously been unnamed or otherwise characterized (e.g., Posttraumatic Stress Disorder, which was added to the *DSM-III* in 1980). In this declaration, I use upper case letters when discussing specific diagnoses, as currently labeled, or to distinguish between psychiatric symptoms (or descriptions) and diagnoses at the relevant time (e.g., depression as a symptom, as opposed to Depression, a *DSM-III* diagnosis).

including depression and anxiety, disorientation, dissociation, even hallucinations.⁶ Many of the medications used in the treatment of medical conditions or injuries – e.g., opioid analgesics – can themselves have profound psychiatric consequences as they are highly addictive.

19. Moreover, an individual's mental state can be caused, exacerbated or complicated by his/her life experiences. It is widely acknowledged that one's environment and early development can have a powerful effect on mental health. Healthy developmental experiences can provide the skills to overcome adversity, be it genetic, biological, or environmental in nature. Thus, traumatic experiences (individual and/or collective), familial attitudes toward children and child-rearing (including the use and manner of discipline, exposure to domestic discord, and physical or psychological maltreatment), the presence of mentally ill or drug-dependent family members in the home, social isolation or disenfranchisement, economic and/or educational deprivations, attitudes toward mental illness and medical treatment, and the presence or absence of support – financial or emotional, from within the family or outside – can shape and influence that individual's emotional development, cognitive functioning, and resilience.

20. Edward Harold Schad, Jr. was born on July 27, 1942 in Syracuse, New York.⁷ He was the first child born to Mabel Jeanne Cole and Edward Harold Schad [Sr.], who had been married in a civil ceremony 7½ months earlier. Ed Jr.'s parents were both born into working class families in upstate, New York. They remained married until Edward Sr.'s death in 1973. Mabel subsequently remarried and is now known as Mabel

⁶ See generally Kaplan & Sadock, *supra*, at pp. 819-820. Other medical conditions with psychiatric symptoms include hypertension, diabetes, thyroid disorders, syphilis, liver failure, Parkinson's disease, blunt head trauma, AIDS, and cardiovascular disease, some of which appear in the records or are observed in lay reports regarding Mr. Schad's first- and second-degree relatives.

Hughes. Most of Ed Jr.'s relatives, from both sides of the family, still live in the Syracuse area. Much of the history of Ed Jr.'s extended family is set forth in the declaration of Dr. Lebowitz. Rather than repeat that information, I incorporate by reference ¶¶ 10-54 of that report. Additional details and discussion are set in forth in the paragraphs below.

Maternal Family

21. Family patterns of trauma including physical abuse and neglect, and abandonment of children, as well as environmental risk factors of poverty and lack of education have been present through numerous generations on the maternal side of Ed Jr.'s maternal family.

22. Mabel Jeanne/Leona Cole⁸ was born in Binghamton, New York on September 2, 1917 (Mabel's birth certificate); she was the youngest of four children born to Nelson Cole who at the time of Mabel's birth was a 29 year-old brakeman for the railroad and Fidela Saynor, a 24 year-old housewife born in Illinois. Mabel's known siblings are Mary Helen, Edward Nelson, and Francis Allen. Nelson Cole was born on December 5, 1887 in Binghamton, New York to James Cole, a 24-year-old laborer, and Nellie Purdy who was also 24-years-old.⁹

23. Ed Jr.'s maternal great-great grandfather, James A. Cole, was born in Nichols, New York in 1863. James Cole spent his life working as a laborer. Ed Jr.'s great-great grandmother, Helen "Nellie" Purdy was also born in 1863 in Athens,

⁷ Birth certificate of Edward Harold Schad, Jr. (7/27/42—Syracuse, New York).

⁸ See Lebowitz Decl., ¶ 40 & fn. 31.

⁹ See Transcript from the Register of Births of Nelson Cole (12/5/1887—Binghamton, New York).

Pennsylvania¹⁰. James Cole and Helen were married and had four children; Nelson E. Cole, Mildred L. Cole, Thelma Cole, and a daughter who nothing is known about except her married name, Mrs. Clint Adams.

24. Mabel moved with her father and 3 siblings to Syracuse, New York when she was still a child. Census records indicate that while the Cole family moved around quite a bit they stayed mostly within the Syracuse area. Mabel's father, Nelson Cole, worked for a trolley car company in Binghamton as a motorman for many years before he became a fireman for the DL & W Railroad Company in Syracuse, New York. He was a member of Lodge 367 and Brotherhood of Locomotive Engineers.¹¹ According to the Syracuse City Directory, Nelson Cole and his companion or possibly his wife, Eva, began living together in 1933.¹² Nelson Cole passed away on March 24, 1953 from stomach cancer; Mrs. Eva Cole, Nelson's wife, was listed as the informant.¹³ Nelson's obituary states that he died at home after suffering from a long illness. He was survived by his spouse, Eva Cole, his four sons; Edward N., Francis A., Michael Cole all from Syracuse and Edward Jennings from Corning, New York and his three daughters; Mrs. Helen Orio, Mrs. Mabel Schad, and Mrs. John Torzon, and his three sisters, Mrs. Mildred Payne, Mrs. Clint Adams, and Mrs. Thelma Failkowski.¹⁴ Mabel's step-mother Eva Cole died of a respiratory arrest on September 5th, 1987; her next of kin was Mike Cole.¹⁵ Her obituary reveals that while she was born in Groton, New York, she spent most of her life in Syracuse. She was employed at the same place Ed Jr.'s mother worked, the Crouse-

¹⁰ See Transcript from the Register of Births of Nelson Cole (12/5/1887—Binghamton, New York).

¹¹ See Obituary of Nelson Cole *Syracuse Herald-Journal* (3/24/53).

¹² See *Polk's Directory—Syracuse, New York*.

¹³ Death certificate of Nelson Cole (3/24/53 – Syracuse, New York).

¹⁴ Obituary of Nelson Cole *Syracuse Herald-Journal* (3/24/53).

¹⁵ See Cemetery records of Eva S. Cole.

Hinds Company; she worked there for 20 years. She was survived by a daughter, Charlotte Torson of Syracuse, a son, Michael of Liverpool, seven grandchildren, and three great-grandchildren.¹⁶

25. What happened to Mabel's mother is still a mystery; her mother either died or left the family when Mabel just was an infant. There are large gaps in our understanding of Mrs. Schad's family history, which is shrouded in silence, secrecy, and isolation. Dr. Lebowitz reports that Mrs. Schad was "unwilling or unable to disclose much information – a pattern instilled in her children as well." (Lebowitz Decl., ¶ 42.) It will become clear in later aspects of this declaration that Ed Jr., like his mother, is frequently reluctant [or is unable] to disclose information about him and the psychological stressors that he has endured throughout his life; instead he attempts to hide his pain by painting a picture perfect exterior. This likely stems from his years upholding this role in his family as well as effortful control to ward off his own shame and psychological distress.

26. That pattern of pervasive secrecy, mystery, and shame regarding family information (or misinformation), played a prominent role in the emotional and social development of Ed Schad, Jr. and his siblings. Shame attacks a person's perception of not only their actions but for individuals with mental illness, their entire self. The effects of shame can be quite debilitating as a person interprets everything about themselves in a negative light.¹⁷ Information regarding Mabel Schad's mother (Ed Jr.'s grandmother) is an excellent example. Although Mabel's birth certificate identifies her mother as Fidela

¹⁶ See Obituary of Eva S. Cole, *Syracuse Herald-Journal*.

¹⁷ Lewis, H.B. (1971). *Shame and guilt in neurosis*. New York: International University Press.

Saynor,¹⁸ the birth certificates of Ms. Saynor's other children identify her as Adella Saynor,¹⁹ Delia Saynor,²⁰ and Della Fidelia Saynor.²¹ While this might be attributed to poor record keeping, conflicting information of this sort is not seen in the records of other family members from that time period.²² It is also interesting that similar inconsistencies later appear in the records regarding Mabel herself, who gives different middle names and ages on her marriage certificates and the birth certificates of her own children.²³

27. Regarding her mother, Mrs. Schad (now Mrs. Hughes) reports:

I did not know my mother, Della Cole. I was told that she drowned when I was about three months old. For most of my childhood, my sister and brothers and I lived with our father, Nelson Cole, and an aunt. (Hughes Decl., ¶ 2.)

28. Dorothy Cole Johnson, Mabel's sister-in-law, gives a very different account of Della Cole, one which reportedly came from Mary Helen Cole, the eldest of Mabel's siblings:

Helen told me that one day when she was a young girl and Mabel was a baby, their father, Nelson Cole, brought home a young woman, and told his wife – Della – to leave the bedroom so that he and his girlfriend could use it. At the time, Della was pregnant with twins. Helen said that a few days after this incident, her mother left and never returned. Helen later learned that her mother had moved to Philadelphia where she gave birth to twin girls. Helen also learned, or believed, that her father's parents had helped her mother escape from her father. They also helped her settle in Philadelphia.

Helen told me that none of the children ever saw their mother again. From my conversations with Mabel, I knew that she knew that her mother had left her father, but she always denied knowing the reasons she left him. (Johnson Decl., ¶¶ 4-5.)

¹⁸ Birth certificate of Mabel Leona Cole (9/2/17 – Binghamton, New York).

¹⁹ Birth certificate of Mary Helen Cole (7/7/12—Madison County, New York).

²⁰ Birth certificate of Edward Nelson Cole (7/4/14—Madison County, New York).

²¹ Birth certificate of Francis Allen Cole (8/15/16—Binghamton, New York).

²² While vital records are generally only as accurate as the individual providing the information, the "reporter" of information on birth certificates is more likely to be the mother herself – in this case, Ms. Saynor.

²³ See Lebowitz Decl., ¶ 40 & fn. 31.

29. Dorothy Johnson's account is striking in several respects. The level of detail suggests either credibility or an unusually elaborate family myth. The source of Ms. Johnson's information, Mabel's elder sister, was presumably in a position to know what actually happened. If this account is accurate, Mabel Schad had two full sisters that she does not acknowledge. Perhaps more important, Ms. Johnson describes an atmosphere of open hostility and betrayal between Mabel's parents, one which resulted in abandonment at a very young age and a sense of shame which continues to this day.

30. The report that Nelson Cole's parents, James A. Cole and Helen ("Nellie") Purdy, assisted their daughter-in-law (Della) in leaving their own son and their grandchildren, if true, is subject to several interpretations. It might suggest that Nelson Cole's behavior was so obviously unacceptable that even his own parents sought to protect his wife from their son. On the other hand, it might indicate their hostility toward Della Saynor Cole. Either interpretation suggests that the domestic discord of Mabel's youth was chronic and extended beyond the immediate household. Finally, while recognizing that Mabel does not acknowledge the reasons for her mother's absence, Ms. Johnson reports that Mabel had been informed that her mother left the family, as opposed to "drowning."

31. It is probably impossible to determine what actually became of Della Saynor Cole. Regardless of the details, the result was what Dr. Lebowitz describes as "a childhood marred by loss and deprivation." (Lebowitz Decl., ¶ 43.) While Mrs. Schad apparently discussed very few details of that childhood, those she provided were significant, especially regarding her relationship to her sister, Mary Helen Cole, whom

she refers to as Marian: "My sister Marian was so much older than me that for much of my childhood, I believed she was my mother." (Hughes Decl., ¶ 2.)

32. Dr. Lebowitz discusses the strength of the "family lore" suggested by this assertion:

If the birth certificates of Mabel's siblings are accurate, the age difference between Mabel and her eldest sister was just over five years. Even accepting the birthdate she [Mabel] used in later years..., stretching the age difference to seven years, the gap does not seem sufficient to elevate this sister to the status of mother, especially with two other siblings closer in age to both of them. What is striking and consistent with the telling of other family "facts" is that the family lore has apparently gone unquestioned. Mrs. Hughes related this account with confidence and evident respect for its place in her history. Further, if Mrs. Hughes was primarily mothered by a child only 5-7 years her senior, one would assume that the quality of the mothering she received was inadequate. (Lebowitz Decl., ¶ 44.)

Mabel's report that she was raised by her father is confirmed by other accounts. Again, Dorothy Cole Johnson provides details:

Nelson [Cole] later lived with a woman named Eva, who had one or two children from a former marriage. It was always my understanding that Nelson never married Eva, but they lived as 'common-law' husband and wife. (Johnson Decl., ¶ 5.)

Whether or not Ms. Johnson's reports are accurate, they are relevant in that they reveal the perceptions of other family members.

33. We know that Mabel's father and siblings lived very close to her and her children, including Ed Jr., for most of their lives. Mabel's father lived in Syracuse until his death in 1953.²⁴ According to Census data, Nelson Cole and his four children lived with Nelson's mother, father, and his sister Mildred in 1920; Mabel's mother is not listed

²⁴ See Obituary of Nelson Cole, *Syracuse Herald-Journal* (3/24/53); Lebowitz Decl., fn. 33.)

as a resident in the house.²⁵ For the next ten years Nelson lived with his sister Mildred at various addresses in Syracuse.²⁶

34. Mabel's sister (or surrogate mother) Mary Helen lived in Syracuse, until her death in 1981, literally blocks away from Mabel Schad and her family.²⁷ It appears, however, that following her marriage to Edward Schad, Sr., Mabel had virtually no contact with anyone in her family other than her brother Francis, who died in 1974. She acknowledges the lack of contact, but has been vague (or perhaps withholding) about the causes of their estrangement:

During our interview, Mrs. Hughes spoke as though she had no family in the area (greater Syracuse), and she identified this lack of biological ties as a source of sadness for her, especially during the early years of her marriage... (Lebowitz Decl., ¶ 45.)

35. Mabel Schad's isolation of herself and her family from the potential support from her own extended family can be seen as a family that is cloaked in shame and secrecy; the very act of uncloaking the trauma can cause psychological distress and exacerbate symptomatic behavior. It is as if one's sense of self is under attack and the only way to deny the presence of any underlying psychiatric disorder is to defend against it and to distort by denying, minimizing, or failing to recognize what an impartial observer would see as a severe situation.

36. Ed Jr. reports that he never met his maternal aunt, Mary Helen Cole. Mary Helen passed away on October 1, 1981 in Syracuse, New York from respiratory failure due to breast cancer. She was employed as a laundress at the Coyne Laundry

²⁵ See 1920 Federal Census Listing from the Broome County Public Library, Binghamton, New York.

²⁶ See *Polk's Directory—Syracuse, New York 1920-1929*.

²⁷ See Obituary of Mary H. Ashley, *Syracuse Herald-Journal* (10/2/81); Lebowitz Decl., ¶ 45 & fn. 33.)

located in Syracuse, New York.²⁸ His only contact with his mother's family (and apparently Mabel's only contact as well) was with his uncle Francis Cole and his wife, Dorothy.²⁹ Contacts with his father's family, on the other hand, were a major part of Ed Jr.'s childhood and adolescence.

37. Francis Allen Cole died on February 7, 1974 in Pensacola, Florida. At the time of his death he was retired from the civil service.³⁰ His widow, Dorothy remarried in 1989 to a man named Gustave Johnson.³¹ Francis and Dorothy stayed with Mabel's brother Edward Cole the night after they were married. They desperately needed a place to stay and Dorothy helped Ed's wife, who was also named Dorothy, take care of her baby. Violent behavior at the hands of Mabel's brother became evident almost immediately:

...The morning after the second night in their small apartment, after my new husband Francis had left for work, and after Dorothy had left her baby with me to watch while she ran errands, Ed Cole tried to rape me. He grabbed me and threw me to the floor. He said he was going to "take me." I got away from him, ran down the stairs and hid in a nearby park in the rain, until my husband came home from work. I told Francis what Ed had done. Francis went into the duplex, threw his brother down the stairs, then took him outside and beat him up. We then found an apartment to live in that night. I never saw Ed again, until right before his father, Nelson, died. My husband Francis told me that his brother Ed was a "bad person." [Johnson Decl., ¶ 6.]

Paternal Family

38. Edward Harold Schad [Sr.] was born in Syracuse, New York on August 24, 1920. He was the ninth of nine children born to Katherine Elizabeth Hauser, then 40

²⁸ Death certificate of Mary H. Ashley (10/1/81 – Syracuse, New York).

²⁹ Mabel Cole Schad's ongoing contact with Dorothy Cole [Johnson] lends credibility to Ms. Johnson's reports of their discussions regarding Mabel's mother.

³⁰ Death certificate of Francis Cole (2/7/74 – Pensacola, Florida).

years old, and John Baden Schad, a 44-year-old ironworker.³² Those children were, in order of birth: Zelma, Edna May, Lillian, Joseph R., John A., Katherine M., Howard A., Marion, Edward Harold [Sr.], and William C.³³ The age range between Zelma and William, almost 25 years, was wide enough that "Zelma had two children of her own before Marion and Ed [Sr.] were born." (Deptula Decl., ¶ 9.) All of Ed Jr.'s paternal aunts and uncles were reportedly born in Syracuse.³⁴ With the exception of Marion Schad Whelan, all are now deceased. Ms. Whelan, who still lives in Syracuse, provided much of the information contained in this section of my report.³⁵

39. Both of Ed Jr.'s paternal grandparents were apparently born in New York.³⁶ Edward Sr.'s father, John Baden Schad, was born on October 12, 1876 in Syracuse, New York.³⁷ Here, again, Mabel gives a conflicting report, at least with respect to her mother-in-law: "I believe she [Ed Jr.'s grandmother] spoke German, but I'm not sure." (Hughes Decl., ¶ 14.)³⁸ What seems more likely is that Ed Jr.'s great-grandparents, John Sr. and Josephine Schad, emigrated from Germany.³⁹ Edward Sr.'s father John died on December 23rd, 1926 of pneumonia in Syracuse, New York when Edward Sr. was just six years old.⁴⁰ This early and unexpected death of his father may have been a traumatic event for Edward Sr. and had repercussions for the entire family.

³¹ Marriage certificate of Marriage of Dorothy Cole and Gustave Johnson (4/10/76 - Syracuse, New York).

³² Birth certificate of Birth of Edward H. Schad (8/24/20—Syracuse, New York).

³³ See Death certificates of Katherine M. McDonald (5/18/84—Syracuse, New York) and Joseph R. Schad (9/15/86—Syracuse, New York); newspaper report re Zelma Schad Hardenburgh, *Syracuse Herald-Journal*; baptism certificate of Robert George Schad (1/18/31—Syracuse, New York); Deptula Decl., ¶ 9.

³⁴ See 1920 U.S. census records—Syracuse, New York.

³⁵ See Deptula Decl., ¶¶ 9-14

³⁶ See Birth certificate of Edward H. Schad (8/24/40—Syracuse, New York); death certificates of John B. Schad (10/23/26—Syracuse, New York) and Edward H. Schad, Sr. (11/7/73—Syracuse, New York).

³⁷ Death certificate of John Schad (10/23/26—Syracuse, New York).

³⁸ See also Lebowitz Decl., ¶ 14 & 47.

³⁹ See Lebowitz Decl., ¶ 14.

⁴⁰ Death certificate of John B. Schad (10/23/26—Syracuse, New York).

40. Edward Sr.'s mother Katherine Elizabeth Hauser was born in 1881 in Erieville, New York and died in June of 1960 in Syracuse, New York. Katherine Hauser had five known siblings; Gertie, Emma, Ida, Edward, and Roswell.⁴¹ Edward Sr.'s mother, Katherine remarried a man named Oliver Roache, sometime after his father passed away.⁴² Edward Sr.'s sister, Katherine M. Schad, was named as Ed Jr.'s godmother; she passed away in May 1984 in Syracuse, New York.⁴³ Ed Jr.'s paternal grandmother Katherine's relationship to Ed Jr. and his parents is discussed later in this declaration.

41. Edward Schad, Sr. and his siblings were reportedly divided into two groups, with a seven-year gap between the youngest of the first group and the eldest of the second. According to family members, the second group was raised somewhat differently from the first. While this is not unusual in large families, the issue which purportedly set them apart was unusual:

Marion Whelan [Ed Schad, Sr.'s youngest sibling] remarked that it sometimes seemed as though there were two distinct sets of children within the one household. Given the range in ages, as well as the 7-year gap between the births..., that did not strike me as surprising. However, what distinguished one group of siblings from the other was not so much age as religion....According to Ms. Whelan, the first 7 children were baptized and raised in the Roman Catholic faith; the youngest three (including both Marion and Ed Sr.) were raised as Protestants. (Deptula Decl., ¶ 10.)

This is confirmed by Mabel herself:

Both [Marion and Mabel] have reported that on Sunday mornings, the Schad children left the house in two groups to attend (separately) their respective churches. Neither Marion nor Mabel found this fact at all unusual... (Lebowitz Decl., ¶ 16.)

⁴¹ See LDS genealogy ancestry file on Schad family.

⁴² See LDS genealogy ancestry file on Schad family.

⁴³ See Death Certificate of Katherine M. McDonald. (5/18/84 - Syracuse, New York)

42. Unlike his wife's family, Edward Schad, Sr.'s family played a much more active role in his children's lives. Ed Jr. and his mother lived with his paternal uncle William Schad for more than a year as an infant then with another uncle for several months while he was in high school; his paternal grandmother, Katherine Schad, babysat for Ed Jr. and his siblings throughout their childhood. Nonetheless, Ed Jr.'s paternal relatives, like his mother, have expressed a reluctance to disclose or discuss family matters:

Ms. [Marion Schad] Whelan stated very early in our conversation that she "doesn't believe in the family tree, because then all the dirt comes out." (Deptula Decl., ¶ 9.)

Immediate Family

43. Edward Harold Schad, Jr. was born on July 27, 1942 in Syracuse, New York. He was the first child born to Mabel Jeanne Cole, a 22-year-old housewife for her brother-in-law, and Edward Harold Schad [Sr.], a 22-year-old clerk at the A&P Tea Company.⁴⁴ Edward Schad, Sr. and Mabel Cole were married in a civil ceremony in Syracuse, New York on December 13, 1941, seven and a half months before the birth of Ed Jr., suggesting the union was one borne out of "necessity." At the time of their marriage, both Edward and Mabel worked as clerks.⁴⁵ It is important to realize that this was a Protestant/Catholic marriage that may have carried some serious repercussions. In the 1940's this would be considered pretty scandalous especially in upstate New York – it was truly a mixed marriage – implicating both religion and social status which most likely affected the way in which Mabel's in-law's viewed her. Most likely Mabel did not

⁴⁴ Birth certificate of Edward Harold Schad, Jr. (7/27/42—Syracuse, New York).

⁴⁵ Marriage certificate of Mabel Cole and Edward Schad (12/9/41 – Syracuse, New York).

get any support from the Catholic Church and this kind of ensuing isolation, ostracism, and hostility from the community would make it more difficult for Mabel to find social supports to halt or otherwise curb the abuse that traumatized the Schad family.

44. In the six years following Ed Jr.'s birth, Mabel had four more children, Thomas Francis Schad, Susan May Schad, and a set of twins, Jerry William and Sherry Jeanne Schad, born when Ed Jr. was 18 months old. All of the Schad children were born in various regions of upstate New York. Apart from a brief stay in California when Ed Jr. was in high school, their childhoods were spent in and around Syracuse, close to the families of both parents.

45. The Schad family moved around quite a bit and appeared to have difficulty finding a stable living situation. This is a likely outcome of Edward Sr.'s severe alcoholism and mental illness that prohibited him from maintaining steady employment. Edward Sr.'s erratic behavior due to his underlying psychosis often led to impulsive decisions that did not benefit the family in any way. As such, Mabel was the only one who maintained a steady albeit low-paying job. The extreme poverty of Schad family may have caused them to move from place to place within the same area. From 1942 until 1948, the Schad family resided at 811 Main Street in Auburn, New York. From 1948 until 1956 they resided at 611 Plymouth Avenue in Mattydale, New York. The family moved to California but returned to New York after just a few months. 1956 they moved to 200 Melrose Drive in North Syracuse, New York and remained there for about two years. In 1958 they family moved again to a run down farm in Bridgeport, New York.⁴⁶

⁴⁶ Military records of Edward Schad Jr., statement of personal history (11/6/66).

46. The relationship between Mabel Cole and Edward Schad, Sr. was off and on for several years before they married in 1941:

I met...[Ed Schad, Sr.]...at a skating rink when I was a young girl. Edward lived in my neighborhood on the West side of Syracuse, near St. Lucy's Church. When I was fifteen, I began to date Edward off and on...I also knew Edward's younger brother, Bill, and got along well with him.

When I was 18, I got a job at Grant's Department store...At this time, I began dating Edward again. I was living with my aunt at this time and I remember that my aunt did not like Edward at all. She warned me to stay away from him, mostly because Edward and I had dated earlier, Edward had broken up with me to date other girls. (Hughes Decl., ¶¶ 3-4.)

47. As this quote indicates, Mabel Cole had known both Edward Schad, Sr. and his brothers when they were teenagers. At the time of her marriage, Mabel Cole was apparently employed as a "housekeeper" in the home of Edward Sr.'s brother William.⁴⁷ Less than a year later, when Ed Jr. was about five months old, Mabel moved in with another brother, Joseph Schad, who had recently been widowed.⁴⁸ According to Marion Schad Whelan, Edward Sr.'s youngest sibling, Joseph's wife Mary M. Schad suffered a convulsion during childbirth which killed both mother and child.⁴⁹

48. Less than a year after Mabel and Edward Sr. were married, Edward Sr. enlisted in the Army Air Corps. Five days later, Edward Sr. entered active service and two weeks later Ed Jr. was born.⁵⁰

49. Mabel Schad gave birth to the twins Jerry and Sherry on January 31, 1944. It is noted that their father, Edward Sr. was a 23-year-old prisoner in Germany.⁵¹

⁴⁷ See *Polk's Directory—Syracuse, New York (1941-1944)*.

⁴⁸ See Death certificate of Mary M. Schad (11/12/41—Syracuse, New York); Hughes Decl., ¶ 6.

⁴⁹ See Deptula Decl., ¶ 13

⁵⁰ VA Records of Edward Schad Sr.

III. EMOTIONAL/ SOCIAL/PSYCHOLOGICAL DEVELOPMENT

Low Social and Occupational Functioning:

50. In late 1945, about a year after Edward Sr.'s return home, he and his brother, Raymond, opened the Schad Brothers Tire Service in Auburn, New York. They continued running this business until 1950 when Edward Sr. started to work for Holcumb Steel as a shipping clerk. In 1951, the combined annual income for Edward Sr. and Mabel was \$3,600.⁵² In 1952, Mabel started working outside of the home at a low-paying factory job; she was a paint-sprayer on an assembly line for Crouse-Hinds.⁵³ She brought home \$2583.14 for the year and Edward Sr. earned \$3294.37 making the total income for the year, \$5877.51.⁵⁴ Ed Jr. stopped working after 1963 and from 1964 on Mabel was the sole breadwinner of the family.

51. According to Susan Schad, her family lived in poverty so visible that the Schad children felt ashamed and embarrassed:

The children almost never got new clothes, nor did they have the toys or other things that other children had. She recalls that the Schad children's old clothes and lack of possessions made their poverty visible and humiliating. This was especially hard on them around Christmas when they sometimes received no presents at all... (Deptuala Decl., ¶ 4).

Hence, the children were isolated from others who could have had healthy influences on their psychological development.

⁵¹ See Certificate of Birth of Jerry Schad (1/31/44 - Syracuse, New York); Certificate of Birth of Sherry Schad (1/31/44 - Syracuse, New York).

⁵² Social Security Administration records of Edward Schad Sr. Detailed FICA Earnings.

⁵³ Employment Records of Mabel Schad, Crouse-Hind records (1/8/52 - 12/31/81).

⁵⁴ Social Security Administration Records of Edward Schad Sr. and Mabel Schad, FICA earnings.

Infancy and Childhood

52. In 1985, the Yavapai County Probation Department submitted a pre-sentence report to the Superior Court in Prescott, Arizona, including a section entitled "Social History," which began as follows:

The defendant is the eldest of five children born to Mabel and Edward Schad, Sr., in Syracuse, New York. The defendant reported a very stormy childhood, with his father being an alcoholic and abusing the defendant on a regular basis. The defendant stated that his father would beat him with his fist as discipline. The defendant reported that he tried to protect the family from his father's abuse by allowing his father to inflict beatings on him for anger towards other members of the family. The defendant always kept his problems to himself and to this day has not dealt with the feelings he has regarding his life.⁵⁵

My review of the records and my interviews with Ed Jr. reveal that this statement, while accurate, fails to describe fully the chaos and isolation which typified Ed Jr.'s early years.

53. During childhood, the brain is in accelerated development. When trauma is experienced and sustained in early childhood it can have drastic effects on developmental processes. When trauma is perpetuated by someone close to the child, such as a parent or caregiver, prognosis is worse for that child, and this is especially true when the trauma is chronic. Thus, for Ed Jr., the damaging effects of further, ongoing trauma, especially at the hands of parents, would be even more detrimental.

54. Moreover, repeated trauma in childhood forms and alters the personality. A child raised in an abusive environment must find a way to develop trust in caretakers who are untrustworthy, control in a chaotic situation, power in a helpless situation, and safety in an unsafe world, while struggling to create a sense of self where every force is operating to annihilate such internal stability. In other words, such a child is faced with impossible tasks and necessary psychosocial development is precluded in such an

environment. Unable to protect himself and his siblings, Ed Jr. attempted to compensate for the failures of adult caretakers with the only tools at his disposal, an undeveloped system of psychological defenses. Ed Jr.'s mother was not capable of protecting him from his father's abuse.

55. Neglect has been found to have some of the longest term and most pernicious effects of all childhood traumas. The brain is not completely developed when a child is born. The psyche, or the self, is also not completely developed when a child is born. A child's interpersonal experiences and exposure to stress determine the path the development for both neural structures and the development of personality. The absence of care taking or attachment experiences necessary for normal development can alter both the structure and function of the child's brain and exacerbate genetic vulnerabilities. Neglectful families typically do not have any routines for a child to rely on; sleeping, eating, bathing, schoolwork, are not monitored which can affect a child's psychological and physical well being. This lack of structure and routine is another facet of the unpredictable nature of an insecure environment that encourages chronic hypervigilance. It also does not allow normal development of the stress response system and may cause difficulties in the ability to modulate affect and mood.

56. In many cases, the devastating inability of a child to obtain the nurturing he needs through his caretakers may be ameliorated by access to other, alternative caretakers and environments that can provide the safety and stability necessary for cognitive and emotional development to proceed in a near normal fashion. Unfortunately, for Ed Jr., none of these existed when he was young and the damage done

⁵⁵ Presentence Report by Sharon M. Hull, County of Yavapai (Arizona) Adult Probation Department, No. 8752 (8/29/85 sentencing date), p. 3.

early in life was profound and shaped his entire life. It was also unfortunate that the family environment obviated reaching out to sources that might help or buffer the hardships and stressors that the Schad family faced.

Mentally Ill Parents

57. Dr. Lebowitz, in her recent declaration submitted in this case, made the following observations:

Edward Schad, Jr.'s parents were so burdened by psychological and substance abuse problems that neither could parent effectively. Mr. Schad suffered from florid posttraumatic symptoms, as well as severe alcoholism and a psychotic disorder that left him completely disabled, both as an individual and as a [parent]. Further, he tended to act out his illnesses, thereby inflicting his disordered and violent world upon his children in frightening and traumatizing ways.... (Lebowitz Decl., ¶ 51.)

58. I concur with Dr. Lebowitz's findings; Ed Jr.'s parents were substance dependent and extremely mentally ill. The environment in which Ed Jr. was raised included many factors that placed him at high risk. Among these are: a physically disabled and psychologically damaged father by horrific war experiences; an uneducated, unskilled, fairly young mother burdened with full responsibility for several children, some of them quite ill, facing an uncertain future with a husband in a POW camp; isolation in a semi-rural area, with mother and children totally dependent on a mentally ill father for transportation; both parents with substance abuse problems which worsened over time; no medical care for the first five to nine years of the children's lives; economic poverty in a depressed area with obligations of assistance to extremely large extended families. All of these problems were made worse by the family's tendency toward isolation and denial.

59. Edward Schad, Sr. enlisted in the Army Air Corps two weeks before Ed Jr. was born. He entered active service days after his birth and was almost immediately sent into combat in Europe. Except for a brief furlough in 1943, he remained in Europe until 1945. Edward Schad, Sr. served in the United States Air Force as a ball turret gunner on a B-17 bomber. After a year in combat, his plane was shot down at an altitude of 28,000 feet over Schweinfurt, Germany.

60. Years later, he described the experience and his subsequent detention for 18 months in an Austrian prisoner-of-war [POW] camp:

...[O]n August 17, 1943, while on duty on a combat mission in a B-17...I was shot down by flak fighters. I was captured by the civilian police and turned over to the luffwaffe and gestapo. I was taken to a school house and held...while other airmen were captured. About four of us were taken...to a gestapo jail where we were held...and interrogated. At that time we were taken to the Frankfort Interrogation Camp...about 30 miles by automobile. During this period we were given bread and water and a British Red Cross parcel.

About August 25th 90 of us were loaded into boxcars and sent to Mooseburg, a trip of about five days. We traveled at night and were not allowed out of the car during the day. We were fed only bread and water during this trip. I stayed at Mooseburg about three months...We were loaded...once again into boxcars and transferred to Stalag [sic] 17B, at Krems outside Vienna. I was imprisoned here 18 months. During this 18 months I was fed a bowl of soup and bread once a day and issued a water ration. Occasionally I was given potato, carrot or turnips....⁵⁶

Edward Schad, Sr.'s ordeal – physical and psychological – as a POW is discussed in detail by Dr. Lebowitz:

Stalag 17-B held almost 30,000 POW's from several nations. According to recently de-classified military records, conditions at Stalag 17-B were "never good, at times even brutal." In the months after Mr. Schad's arrival, he had his comrades had virtually no food and no eating utensils. The Red Cross provided blankets (so thin that they were known as "tablecloths") for less than of the American prisoners in Stalag 17-B. Mail was routinely delayed for up to four months; writing privileges were suspended indefinitely, compounding the prisoners' sense of isolation. Physical violence by guards was common. Post-war investigations documented severe beatings, numerous killings, no medical care.

⁵⁶ Sworn statement, Veterans Administration records of Edward H. Schad (8/28/47).

American POW" were beaten with rifles, attacked by guard dogs, and literally starved. The Red Cross documented hundreds of Geneva Convention violations, many resulting in death or permanent injury to American prisoners. Military records show that Mr. Schad was held at Stalag 17-B for 18 months. He had the remaining members of his unit had begun the "death march" from Stalag 17-B when they were liberated by Russian troops. (Lebowitz Decl., ¶ 20).⁵⁷

61. Ed Jr. was more than three years old when his father was officially discharged from the service; his brother Jerry (the surviving twin) was almost two and his sister Susan still an infant.⁵⁸ Edward Sr. was 24 years old when he returned home; he had been severely damaged, both physically and emotionally, by his wartime experiences. His wife and sister stated that he returned from World War II "a completely different person," "a changed man." In the years following his return to civilian life, Edward Schad [Sr.] suffered from several conditions which, taken cumulatively, had a profound impact on the development and well-being of Ed Jr.

62. Edward Schad, Sr.'s post-war disabilities include physical injuries and disfigurements, combat-related post-traumatic symptoms, chronic alcoholism, and a severe underlying psychiatric disorder. (Lebowitz Decl., ¶¶ 21-30). Among his physical ailments were a large, unhealed facial wound and an injury to his left foot which was

⁵⁷ As Dr. Lebowitz notes, the conditions of Stalag 17-B and the experiences of the thousands of American POW's detained there are well documented in investigative reports by the International Red Cross, as well as the Department of State, the War Department's Military Intelligence Service, and the liberating armies of both the United States and the Soviet Union. (See Lebowitz Decl. ¶ 20 & fn. 5.) Among those reports are the following: "American Prisoners of War in Germany: Stalag 17B [restricted classification] (7/15/44 & 11/1/45); "Summary Descriptions of Prisoner of War and Civilian Internee Camps in Europe" (6/21/44; 7/28/44; 8/29/44; 8/31/44); Department of State's reports on "Stalag XVII B-Gneixendorf" (1/12/44; 3/15/44; 5/2/44; 5/31/44; 6/16/44; 8/10/44; 10/24/44; 1/17-19/44); "Report of Brutalities of German Guards Against American Prisoners (6/20/44); "Camp Conditions" (War Department—10/27/44); "Violations of the Geneva Convention (Stalag 17-B)"; "War violations" reports (1945-1946); and "Stalag XVII B (American Section)" (International Red Cross—12/14/44).

⁵⁸ See Birth certificate of Susan May Schad (5/8/45—Syracuse, New York).

apparently caused when he landed on concrete after parachuting into Nazi Germany.⁵⁹

Reports with respect to the facial wound are inconsistent. A 1952 report states:

He gives the history that when he parachuted at an altitude of about 28,000 feet, he was using a small chest pack. The descent was very rapid and the shrouds ripped across the right side of his face, laying open the skin...⁶⁰

Family members, on the other hand, believe the wound was caused by Nazi attack dogs:

[Marian Schad Whelan] described a severe scar on his face almost an inch long, which never fully healed. Every year the scar "leaked." The scar, she said, was caused by dog claws. He [Ed Schad, Sr.] had told her that in the German POW camp where Ed Schad Sr. was held, the guards "sicked the dogs" on Ed and other American prisoners. (Deptula Decl., ¶ 12.)

63. Marian Whelan also described her brother as "all crippled up with arthritis" in the years following his return. (Deptula Decl., ¶ 12.) He sought frequent medical attention for these conditions as well as chronic headaches, stomach ailments, and a range of other conditions which he attributed to the deprivations and hardships of his years as a POW:

While I was imprisoned I lost approximately 30 pounds, suffered dysentery and scabies. Since my discharge I have suffered from insomnia, loss of appetite and have become irritable and nervous.⁶¹

Evaluations from 1945 consistently note these symptoms, as well as tension, restlessness, chronic anxiety and "anxiety attacks," tremors and "shakiness," "desperation,"

⁵⁹ See Evaluation by William L. Schiffman, M.D. (6/13/52), Veterans Administration records of Edward Schad, Sr. All of the medical reports and evaluations discussed in this section are contained in the Veterans Administration [VA] records of Edward H. Schad, Sr.

⁶⁰ Evaluation by William L. Schiffman, M.D. (6/13/52). VA records refer to his facial wound as a "trauma to the right cheek" and, later, simply a "disfiguring scar." See Schiffman evaluation; Rating Decision, Syracuse Veterans Administration Hospital (4/24/70).

⁶¹ Sworn statement of Edward H. Schad (4/28/47).

nightmares and other sleep disturbances, physical fatigue, anorexia, weight loss, nausea and vomiting.⁶²

64. These are physiological manifestations of psychological distress, classic symptoms of post-traumatic stress. His military and VA records confirm that Edward Schad, Sr. did indeed suffer a severe stress-related condition rooted in his wartime experiences:

...POW 22 months...Upon return to US learned that baby died and wife ill. Began to experience persistent morning nausea and vomiting along with episodes of 'shakiness.' Delayed reaction from prolonged stress, aggravated by acute familial situation.⁶³

...22 months as a POW; physical privations were great...On being released, he began to notice symptoms of anxiety. He became very irritable and now wants to 'forget.'⁶⁴

His psychiatric diagnoses upon discharge were:

- (a) Anxiety reaction, chronic, mild, manifested by tension, restlessness, insomnia
- (b) Stress, severe, bailout, POW 22 months.⁶⁵

In the year following his discharge, his diagnoses included "Combat stress-severe," "Anxiety state, chronic, severe, with conversion symptoms...due to combat and prisoner status" and "Psychoneurosis, anxiety state, caused by experiences in combat."⁶⁶ He was found eligible for disability benefits based on "Anxiety Neurosis...incurred in service."⁶⁷

65. Soon after Edward Sr.'s return from the war, Mabel realized that he was a different person:

⁶² See Personality Estimate by A.J. Kaplan, Major, MC, Psychiatrist (8/4/45); Examination by Philip Briscoe, M.D. (9/5/45); Report of Physical Examination Of Enlisted Personnel Prior to Discharge (10/3/45).

⁶³ Kaplan Personality Estimate, *supra*.

⁶⁴ Examination by Philip Briscoe, M.D. (9/5/45).

⁶⁵ Report of Physical Examination Of Enlisted Personnel Prior to Discharge (10/3/45).

⁶⁶ See Kaplan Personality Estimate, *supra*; Physical Examination for Flying (8/6/45); Letter from J. David Hammond, M.D. (4/28/47).

⁶⁷ Rating Sheet (4/29/46).

He was no longer the man I married...He has lost a lot of weight and looked very unhealthy. He screamed in his sleep all the time. He was in a lot of pain and full of terrible memories which he couldn't seem to escape. I know that he was tormented because of the nightmares and the screaming, but I know very little about what actually happened to him in Stalag 17-B. He did not share those details and I did not ask for them. (Hughes Decl., ¶ 11.)

66. By all accounts, Edward Schad, Sr.'s combat-related condition was severe and debilitating. The effects of that condition were exacerbated by alcoholism and an underlying psychiatric disorder, both of which were evident while Ed Jr. was still a young boy. His alcohol problem quickly became so severe that he was unable to hold a job or support his family. Mabel Schad [Hughes] attributes her husband's drinking to his wartime experiences:

Edward was not a drinker before he went into the service but when he returned, he drank a lot and often lost his temper and became mean...Edward tried painting houses to earn some money but that didn't work out wither. He often went to work drunk and had trouble completing the jobs he had...Usually, after Edward finished a painting job, he stayed home for weeks just getting drunk....

67. The extent of his drinking is described by both Mabel and Susan Schad, Ed's younger sister:

Finally, Edward gave up on holding a job and drank...[He] drank almost every day. His drinking often lasted for weeks at a time. Eventually, he would get too sick to keep drinking, or at least to get to the pub, and for a few weeks after that he would stay in the house. (Hughes Decl., ¶¶ 12; 17-20.)

[Susan] stated that he stayed shut up in his bedroom for days at a time, drinking until he became physically sick. (Deptula Decl., ¶ 5.)

By 1970, his records documented a "20 year history of heavy drinking" and diagnoses of "excessive alcoholism" and "Alcohol paranoid state."⁶⁸

68. During the same period, coinciding with Ed Jr.'s childhood and adolescence, Edward Sr. became increasingly paranoid and delusional. Although family

members suffered the consequences of his thought disturbance – most notably his paranoia, social withdrawal and unpredictable violence – for many years, it went largely untreated until 1970, when Edward Sr. was institutionalized and treated with high doses of Thorazine, an antipsychotic.⁶⁹ By that time, he suffered from active auditory hallucinations, bizarre thought distortions, and persecutory delusions. In the last years of his life, he was diagnosed with Paranoid Psychosis, Organic Brain Syndrome, Chronic Undifferentiated Schizophrenia, and “Psychosis with organic brain syndrome of unknown etiology.”⁷⁰ Complicating this mental illness, Edward Sr. also suffered substance use disorders and was alcohol dependent. By his own admission, he drank up to a case of beer a day. Mental health professionals have for some time recognized that adequate treatment of co-occurring mental illness and substance use disorders requires that both be treated concomitantly, especially in the cases where mental illness is clearly apparent. Substance abuse can be an attempt to “medicate” the mental illness—albeit feeble and ineffective. It also can worsen or prolong the mental illness. It is clear from his medical records that Edward Sr. needed help for both problems. Unfortunately, he did not get the help that he needed.

69. Edward Sr. had other medical problems. On his Veterans Administration claims form he reports that he suffered a head trauma when he was three years old that resulted in lacerated occiput. He had a tonsillectomy and adenoidectomy in 1928 and at eight years of age he suffered from some kind of blood poisoning.⁷¹

⁶⁸ See VA Hospital Summary by John J. Danchy, M.D. (3/2/70); VA report by Wildred L. Pilette, M.D. (3/24/70); VA Hospital Summary by Thomas M. Walsh, Ph.D. and G.B. Ewing, M.D. (4/15/70).

⁶⁹ See Pilette evaluation, *supra*.

⁷⁰ See Pilette evaluation, *supra*; Danchy Summary, *supra*; VA Exchange of Beneficiary Information (4/3/70); Walsh & Ewing Summary, *supra*; Clinical Record by W.F. Knoff, M.D. (6/24/71).

⁷¹ VA Medical Claims File of Edward Schad Sr., Syracuse VA Hospital Summary, medical history (2/10/70 – 3/20/70).

70. Edward Sr. was limited in his education; he attended only one year of high school. His limited education may have made it more difficult for him to provide a stable environment for his family, and also for seeking adequate help from outside resources.

71. On the employment section of his VA claims forms, Edward Sr. stated that he was unable to work currently because of his nerves but that he had worked in the past. He worked as a truck driver for two years; a shipping clerk for a furniture company for six months; a window washer for one year; a grocery clerk for A&P for three years; a shipping clerk at Holcumb Steele. Edward Sr.'s mental illness and his severe alcoholism kept him from maintaining a steady job.

72. Another example of Mabel's inability to deal with what was going on at home was her denial to VA doctors that Edward Sr. exhibited abnormal behavior before his hospitalization in 1970. As discussed above, this was part of the pathology of the family system that obviated intervention to anyone member who was suffering mental illness. In fact, Edward Sr. exhibited severe symptoms of mental illness. He was admitted when he began to display bizarre and delusional thoughts; he believed the vacuum cleaner was bugged and took it apart to show the family the microphone. He developed illusions of persecution, accompanied by fear; he piled trash on the floor, ripped the phone off the wall, threatened violence to the family and threatened to burn the house down.⁷² The clinical psychologist who spoke with Mabel stated that "in spite of the Schad family members' insistence that he was okay until recently, there is evidence to the contrary."⁷³ This denial of Edward Sr.'s long-standing history of mental illness

⁷² VA Medical Claims File of Edward Schad Sr., Syracuse VA Hospital Summary, John J. Danchey, M.D. (3/20/70).

⁷³ VA Medical Claims File of Edward Schad Sr., Syracuse VA Hospital Summary, Thomas M. Walsh, Ph.D., Clinical Psychologist (4/21/70)

provides a clear example of the motivation that no one outside the family could know what was really going on within the Schad household.

73. Given Edward Schad, Sr.'s traumatic history coupled with his severe substance use disorders and mental illness, the poor level of functioning within the Schad home life is not surprising given this pathological environment. The family environment derailed normal developmental processes and Ed Jr.'s upbringing gave no room for him to develop an individual identity. As in many families of parents who have lived with the effects of abuse and alcoholism, emotions were pathologically expressed (e.g., extreme and erratic) and responses to minimize and deny were encouraged and shared among the family members. Affection—critical for providing a sense of safety and security needed for normal development—was absent. In its place, control through physical and verbal abuse dominated. The effects of their abusive and alcoholic family took their toll on the Schad children in visible and penetratingly deep ways. Their mentally ill functioning debilitated Edward Sr. and Mabel from responding to their children in caring and supportive ways.

74. Mabel Schad also suffered from marked emotional problems, albeit of a different nature. Depression, despondency, and substance abuse were part of the picture. Dr. Lebowitz, who interviewed Mrs. Schad [now Hughes], found the following:

Whereas Mr. Schad's impairments are readily recognizable and clinically well documented, Mrs. Hughes's impairments, though equally important, are somewhat more subtle, at least in terms of the record. Mrs. Hughes suffered from a level of emotional and psychological detachment that is clinically significant and sufficiently extreme as to endanger her children physically, as well as psychologically. (Lebowitz Decl., ¶ 37.)

When she discussed Mabel Hughes's "profound detachment," as well as her secrecy with respect to her own history, Dr. Lebowitz noted the following:

Asked about her own health while her children were young, Mrs. Hughes specifically denied any illnesses or medical conditions, except for one injury at work. That...is belied by documentary evidence. Her employment records show that between 1959 and 1982, Mabel Schad sought medical attention almost monthly, during which time she was repeatedly prescribed Darvon, Percodan and Emagrim for pain⁷⁴ caused by numerous serious (and in some cases, somewhat suspicious) physical injuries... (Lebowitz Decl., ¶ 49.)

75. As the above quote suggests, Mrs. Schad's emotional disabilities were apparently coupled with, and likely exacerbated by, frequent use of prescription medications:

When she felt "nervous" or experienced "family problems," her doctor prescribed Phenobarbital. Chronic narcotics use likely fostered and exacerbated Mrs. Hughes's inability to focus on her family in a normal way. (Lebowitz Decl., ¶ 50).

76. Dr. Lebowitz concluded that Mabel Schad's emotional disturbances left her significantly compromised:

The combination of narcotics use and psychological problems seems to have left her unable to attend to their emotional or, at times, even basic physical needs. (Lebowitz Decl., ¶ 50.)

77. By her own admission, Mrs. Schad/Hughes sometimes turned to alcohol as a means of escape from overwhelmingly difficult realities. For example when Ed Jr. brings Wilma and her kids to visit his mother after his first incarceration in Utah:

...I was shocked to see him with a girlfriend like Wilma. Wilma was just filthy. She looked like she had never washed her hair. Her children were also very dirty...Although we were planning to go to a relative's house the next day for dinner, I decided that I could not stand it and started drinking. I got very drunk and then went into my bedroom and called for Bill. When Bill came in, I told him to get rid of all of them, just get them out of the house. I then went to bed. I don't know what Bill said to them, but Ed Wilma and the children left. I don't know where they went. I never saw Ed again. (Hughes Decl., ¶¶ 34-35.)

⁷⁴ The medications mentioned by Dr. Lebowitz are narcotic (or "opioid") analgesics with a strong potential for addiction.

These conclusions are consistent not only with the records I reviewed,⁷⁵ but also with reports by other family members. (See Johnson Decl., ¶ 10; Deptula Decl., ¶ 6.) They were also confirmed during my interviews with Ed Jr.

Medical and Emotional Neglect

78. In January of 1944, while Edward Schad, Sr. was still a POW in Nazi-occupied Austria, Mabel Cole Schad delivered twins, Jerry and Sherry Schad.⁷⁶ Ed Jr. was 18 months old when Mabel became (effectively) a single mother of three. Her daughter Sherry was reportedly the elder and healthier of the twins. Mabel believed at the time, and reports today, that both infants were developing normally. She saw no cause for alarm:

While Edward was in the Nazi prison camp, I gave birth to twins, Jerry and Sherry Schad. They were born on January 30, 1944. From the moment they were born, I believed Sherry was the stronger of the two babies. (Hughes Decl., ¶ 9.)

Mabel's sister-in-law also reports that Sherry was the larger of the twins, but she was apparently quite ill. She was less than one month old when she died.⁷⁷

79. Mabel's account of her daughter's death is as follows:

[S]hortly after I returned from the hospital, a visiting nurse from the Red Cross came to check on my babies. Examining Sherry, the nurse told me to take Sherry to the hospital right away because Sherry was dying. I couldn't believe it because she seemed fine to me, but my brother-in-law, Joe, and his sister took her to the hospital. Sherry died the very next day. I don't know exactly why she died but I believe that the hospital was to blame for Sherry's death because Sherry had a little purple circle on her heel where it had rubbed against the hospital sheets. I heard later that the hospital sheets were not washed well and that caused an infection in Sherry which caused her death. (Hughes Decl., ¶ 9.)

⁷⁵ See Medical records of Mabel Schad, Crouse-Hinds (1952-1981).

⁷⁶ Birth certificates of Jerry William Schad and Sherry Jeanne Schad (1/31/44—Syracuse, New York).

⁷⁷ Death certificate of Sherry Schadd [sic] (2/27/44—Syracuse, New York).

80. Here again, her account differs somewhat from other reports: "It was Marion [Ed Sr.'s sister] who recognized that Sherry was ill and who took her to the hospital where she died a few days later." (Deptula Decl., ¶ 13.) The cause of death listed on Sherry Jeanne Schad's death certificate is "Dehydration, Diarrhea Due to Malnutrition." Sherry suffered from dehydration for the last five days, and from diarrhea and malnutrition for the last ten days of her life.⁷⁸ Mabel's poor level of functioning is evidenced by the disjuncture between the death report of Sherry Schad and her own account of her daughter's death which is indicative of her inability to accurately assess the severity of the situation and the role that she may have played in her daughter's death.

81. Sherry Schad's death is a tragic example of the neglect suffered by the Schad children throughout childhood and adolescence. Dr. Lebowitz notes that:

Mrs. Hughes's profound detachment was evident with respect to many... significant facts concerning both herself, her husband and her own family. Mrs. Hughes reports knowing nearly nothing about her children's day-to-day lives and their major developmental experiences.... There is evidence that at times her disengagement had dire consequences for her children. (Lebowitz Decl., ¶¶ 48-49).

The circumstances surrounding Sherry's death are the first of nearly a dozen examples cited by Dr. Lebowitz to illustrate Mabel Schad's detachment from her children:

Mrs. Hughes told me quite frankly that her children did not receive regular medical attention. She felt that there was no need for them to see a doctor, as they were never really sick. As noted above, her children were indeed very ill. Sherry Schad... was hospitalized after a visiting nurse recognized that the child's death was imminent. Mabel had not noticed her condition. (Lebowitz Decl., ¶ 49).

82. Another example of both Mabel's detachment and serious medical neglect was the family's failure to identify one of their son's serious eye defect: "Jerry Schad was, from the time of his birth, almost totally blind in one eye." (Lebowitz Decl., ¶ 49.)

⁷⁸ Death certificate of Sherry Schadd [sic] (2/27/44—Syracuse, New York).

Despite the severity of his condition, it went unnoticed and untreated until discovered by a school nurse when Jerry was seven or eight years old. The family reports this tragedy, and the family's ignorance of their son's disability, seemingly without thought to their own failure, as seen in Marian Schad Whelan's report:

The remaining twin, Jerry, was "born with one bad eye," but the family did not know it until he began school. Marion was told that his eye was "never fully formed." (Deptula Decl., ¶ 14.)

The eye was surgically removed before Jerry reached adulthood.

83. Failure to notice Sherry's life-threatening illness and Jerry's near-blindness are both part of a pattern of neglect that extended to the area of not recognizing abnormal development and mental illness. Mabel and Edward Sr. showed a level of disinterest in their children coupled with a striking lack of affection that seriously thwarted the emotional development of the children. For Ed Jr.'s sister Susan, that lack of affection was so great as to define her children:

When asked about her childhood, two factors seemed extremely vivid to her. The first was her father's drinking... The other aspect was that both parents (Mabel and Ed Sr.) were extremely emotionally distant toward each other as well as their children. She reported that neither parent showed affection of any kind to her, Ed or the other boys. As a child, she neither witnessed nor experienced physical contact or comfort. Only as an adult, when she became a mother, did she become aware of a child's need for basic comfort and nurturing. (Deptula Decl., ¶¶ 5-6.)

Their emotional deprivation was so great that Ed Jr. and his siblings grew to adulthood unaware that, for other children, childhood included basic physical comfort and reassurance:

Susan Schad... stated that when her first child was born, she knew how to feed her and change her diapers but was totally unaware of an infant's basic emotional needs. Her mother-in-law had to instruct her on how to hold her baby, rock her and soothe her. Prior to this instruction, Susan said that the only time she thought the baby needed to be touched was during diaper changes and feedings. (Deptula Decl., ¶ 6.)

Response to Stress and Mental Illness: Abandonment/Rejection/Scapegoating

84. The lack of affection described by Susan Schad was particularly severe with respect to Ed Jr., and particularly in the case of his father.

I always felt very sorry for Ed Jr. It was clear that he so desperately wanted his father's love, but for some reason, Ed Sr. never gave him that. I never knew why, but I saw Ed Sr. treat Ed Jr. differently from the other children. (Johnson Decl., ¶ 10.)

As the above quote indicates, Ed Jr. was singled out by his father for particularly harsh treatment. His aunt states, quite bluntly: "It was obvious to me that Ed Sr. did not like Ed Jr." (Johnson Decl., ¶ 10.)

85. Ed Jr.'s early years of childhood trauma left him scarred and vulnerable to chronic mental illness. Life at home was chaotic, unpredictable, and damaging, involving constant struggle and disharmony between his parents. His father, Edward Sr., was so psychotic that he psychologically, physically, and emotionally abused Ed Jr., his mother, and his three siblings. The physical and psychological assaults on Ed Jr. were relentless and this chronic abuse of him and his siblings eventually and tragically changed all areas of development for Ed Jr. Because of Edward Sr.'s own traumatic experiences from the war, his mental illness, paranoia, and alcoholism he became sadistic, and used vicious methods of control and dominance to bring havoc on Ed Jr.'s cognitive and emotional functioning. Edward Sr. persistently assaulted Ed Jr.'s psyche, stunting his ability to regulate his affect and his ability to respond to stressful situations which increased his developing mental illness. This ultimately left Ed Jr. incapable of understanding, processing, or developing healthy relationships with peers and family members. The

continuous abuse and threats often resulted in severe physical injuries as well as psychological damage.

86. Ed Jr. witnessing the extreme assaults from his father upon his mother only exacerbated his internalized belief that he was the cause of the conflicts between his parents and further evoked symptoms of significant psychological dysregulation, including PTSD and mood disorders. The internalization of false guilt is clinically predictable in victims of ongoing abuse and results in alterations in their interpretation of the world, relationships, and themselves. In an attempt to master their environment, individuals like Ed Jr. often come to believe that their actions cause not only the abuse directed at them but also the abuse directed at others. Thus, it is not unusual for them to take responsibility for those acts and circumstances are far beyond their control. Such psychological adaptations, especially when coupled, as it is here, with the belief that appeasing adults will stop the abuse, put Ed Jr. at extraordinary risk for assenting to things that were not his responsibility and feeling further diminished and guilty in the face of this process. For Ed Jr., his need to master his world in the face of daily stress and anxiety often placed him inappropriately in the caretaker role – a role for which he was very ill equipped to handle.

87. Very early on, Mabel Cole's relationships with her future husband's brothers had raised questions regarding Ed Jr.'s paternity. When I asked him about his parents, Ed Jr. disclosed that, while growing up, he "always" believed that one of his paternal uncles was his biological father. When asked to explain, he reluctantly described himself as "illegitimate" (his word). He reported that "I've tried to figure out who I am," but his relatives were evasive when confronted. For example, his aunt

Marian Whelan refused to answer him specifically, telling him only that he “didn’t look like Ed [Sr.]” This report is consistent with that contained in his 1985 PSR:

At the early age of seven the defendant’s father told him he wasn’t his son but the defendant just pushed the comment aside by rationalizing that it was just “beer talk.”⁷⁹

The author of that report correctly notes that Ed Jr.’s response was a psychological defense to his father’s cruel announcement. Although he may have “pushed the comment aside” for the moment, his father’s words, whether true or not, constituted a rejection from which Ed Jr. has never recovered.

Extreme Family Stress: Domestic Violence and Physical Abuse

88. The 1985 PSR, quote above, describes a violent and unpredictable household. That mirrored a similar report in 1979, which indicated that “his father was an alcoholic and he when the father was intoxicated he would physically abuse his children and wife.”⁸⁰ Ed Jr.’s mother confirms these reports and provides details:

During our marriage, Edward used to hit me in the face and head. He accused me of seeing other men. I often went to work with visible injuries, like a fat lip and black eyes. I told my girlfriends and my boss about the beatings. My boss advised me to leave Edward, but I just couldn’t do it. I had four children and I didn’t want to break up the family.

We had many bad fights, sometimes in front of the children, but one night in particular stands out in my memory. One of my girlfriends was over at the house and I had made a spaghetti dinner for Edward and the children. Edward was drunk and began accusing me again of seeing other men. He got furious and totally irrational, then kicked over the table filled with food and dishes. The food and dishes went everywhere. The kids and I were terrified. (Hughes Decl., ¶¶ 21-22.)

⁷⁹ 1985 PSR, *supra*, p. 3.

⁸⁰ Presentence Report by Jay R. Bradshaw, County of Yavapai Adult Probation Department, Case #8752 (11/2/79 sentencing hearing), p. 11.

89. Mabel Schad's reference to "visible injuries" is supported by her medical records, which include treatment for a series of suspicious injuries. In almost every case, Mrs. Schad reported the cause of her injury as work-related, including the following:

Muscle strain attributed to "using the spray gun on the conveyor";
First- and second-degree burns when a "gas stove blew up in my face";
Lacerations after a "rivet machine struck my thumb";
Contusions when she "fell backwards over skid [an industrial container]";
Second-degree burns on her breast when a "hot stone fell down my blouse"; and
Emergency Room treatment for lacerations after falling down a flight of stairs.⁸¹

90. As noted above, Ed Jr. often assumed responsibility and took the punishment (or abuse) intended for others – specifically his mother and younger siblings – even as his father scapegoated him:

I never knew why, but I saw Ed Sr. treat Ed Jr. differently from the other children. I saw him strike Ed Jr. one time during an incident I still remember vividly. The incident still haunts me. Ed Sr. was attempting to take a picture of his children sitting on a fence. Ed Sr. walked over to Ed Jr., who was about 8 to 10 years old. Ed Sr. said something to Ed Jr., and then Ed Sr. raised his arm high and slapped Ed Jr. hard across the face. It was awful. Ed Jr. jumped off the fence and ran away crying. It was obvious to me that Ed Sr. did not like Ed Jr. I was so upset by Ed Sr.'s actions, and Mabel's lack of reaction, I immediately went and sat in the car and waited for Francis outside. I no longer wanted to see Ed Jr. cry.
(Johnson Decl., ¶ 10.)

91. Ms. Johnson's account is striking in several respects. It confirms the reports by Ed Jr. and other family members not only that Edward Sr. was physically abusive, but also that Ed Jr. was singled out for particularly harsh treatment. It also underscores Mabel Schad's "lack of reaction" and is suggestive of a helpless or depressive state.

I never saw Mabel do anything to protect Ed Jr. from Ed Sr.'s cruelty. When Ed Sr. hit Ed Jr. that one time, I recall seeing Mabel turn away and go inside, as if embarrassed or ashamed. But she did nothing to protect her son...Mabel never said a thing. She always seemed very detached from her children. (Johnson Decl., ¶ 11.)

⁸¹ Employment records of Mabel Schad [Hughes], Crouse-Hinds (1952-1981).

92. In addition to dealing with the wrath of his father's alcohol binges, Ed Jr. learned to hide his father's drinking from others. Ed Jr. often finished jobs for his father when he was too inebriated or too psychotic to finish himself. Ed Jr. also became responsible for getting his father home after one of his many drinking binges. In hiding his father's alcoholism Ed Jr. was coached to not only hide the pathology but actually to collude in the pathology which in turn made him feel even more responsible for abuse and his feeling that his abuse was somehow deserved. This collusion likely added a layer of guilt to the shame that Ed Jr. felt and further precluded him from crying out for help that he so desperately needed.

93. For Ed Jr., his mother's indifference to the abuse from his father was particularly painful. Mabel's decision to stay with a man in spite of the horrendous physical abuse inflicted upon her and her children gives grave testament to her psychological imbalance. Mabel's choice of her abusive husband over her children evidenced her own maladaptive upbringing as she signaled to her children, and especially Ed Jr. who received the brunt of the abuse, that not only were their needs were unimportant— a message that profoundly affects the development of a child's psyche — but also that the abuse they suffered was somehow deserved. In Ed Jr.'s case, this latter message was acutely felt because he became the central target and the one blamed for the family's dysfunction.

94. Ed Jr. internalized this message and it governed his responses and choices throughout his life; he believed himself to be responsible or tried to take responsibility and blame for things over which he had no control. His mother's failure to protect him, or even to acknowledge the abuse, conveyed the message that Ed Jr. was not worth

protecting and was responsible for the terrifying abuse that befell upon him and his family. As a result, his sense of self and any feeling of self worth or agency were irreparably damaged.

95. Ed Jr. experienced high levels of stress growing up in his chaotic and disorganized family. The chronic stressful events endured as a child shatter one's basic belief that the world is a safe place. Stressors develop into trauma when they turn into an overwhelming threat that jeopardizes one's belief that the world is a safe and secure place and that one can trust and predict the behaviors of loved ones.⁸² Ed Jr. lived in an environment that disallowed him to make sense of his traumatic experiences.

96. Ms. Johnson has suggested that Mabel was too frightened to intervene on Ed Jr.'s behalf: "Ed Sr. was very domineering. He probably threatened Mabel not to disobey him or stand in his way." (Johnson Decl., ¶ 11.) For many complicated reasons, Mabel Schad failed to protect her young son from the onslaught of ongoing violence by his father and did not intervene in Ed Jr.'s psychological and developmental problems.

97. The beatings Ed Jr. received from his father continued throughout his childhood and adolescence, culminating in what he described as "the worst beating of his life." This statement makes eminently clear the profoundly negative response to reaching out for help in an appropriate manner:

The defendant stated that at age seventeen he tried to commit his father to the V.A. Hospital for treatment. He stated that his father was out of control due to alcoholism. When the officials came to pick up his father, the defendant's mother changed her mind and took sides with her husband. The defendant stated that when the officials left he experienced the worst beating of his life. The defendant described his decision to commit his father as the hardest thing he ever did in his life.⁸³

⁸² Mash and Barkeley (2003). *Child Psychopathology*. New York: The Guilford Press. 330-371.

⁸³ 1985 PSR, *supra*, p. 4.

This incident includes many of the themes which were consistent throughout his development: his father's alcoholism and unpredictable violence, his mother's apathy towards him and her implicit role in his abuse, and Ed Jr.'s internal torment as he tried to reconcile his loyalty to his father with his need to protect both himself and his family. Most importantly, it shows how collusion and denying the extent of the severe problems were reinforced.

98. The story of Ed Jr.'s attempt to have his father committed for treatment is striking, not only for the reasons stated above, but also because it foretold a similar event which occurred in 1970, when Edward Sr. had become so violent and psychotic that his wife and son (in this instance, Jerry) did in fact have him committed:

At times, Edward just went out of his mind. I remember one night when I was sitting in a chair, just watching TV, with Edward behind me. Suddenly all the lights went out. When I turned to see what was happening, I saw Edward standing with one hand on the light switch and a large butcher knife in the other. He started flicking the lights off and on, and laughing in a really bizarre and frightening way. I was very worried and remember wondering, "Is he going looney again?" I asked him what was going on, but he just laughed. I felt totally helpless so I started saying "Hail Marys" and "Our Fathers." Just then the telephone rang and I picked it up. It was Edward's sister, Kate. By this time, Edward's family knew that he had these strange episodes, and Kate could tell by my voice that Edward was acting up again. Kate called our son Jerry and told him to get to our house right away. Jerry was a stocky young man and could really handle himself physically. In fact, Edward was afraid of Jerry. Jerry came over and (Hughes Decl., ¶ 24.)

99. The VA records of Edward Schad, Sr. confirm that in January of 1970, and again in March and April, he was committed to VA hospitals after his alcoholism and psychosis made him far too violent to remain at home:

In late January 1970, he developed illusions [sic] of persecution. These were accompanied by fear and his reaction to this was a toxic one; that is, he piled trash on the floor, ripped the phone off the wall, threatened violence to his family and threatened to burn the house down. When he was admitted to the hospital the most notable thing about him apparently was his irritability and insistence on

leaving. He went home a couple of times and was with difficulty returned to the hospital, finally leaving on 3-2-70 and refusing to return at all....⁸⁴

He began complaining that the telephone was tapped, that people were watching him through the windows, and that people were following him...He became bizarre and inappropriate, thumbing his nose and his wife, picking up buttons constantly. He became loud and threatened violence to his family. He threatened to burn the house down...He was treated with Thorazine 50 mg. b.i.d. which was increased to 50 mg. q.i.d....⁸⁵

Edward Schad, Sr. was diagnosed with Organic Brain Syndrome, "Alcohol paranoid state," and Schizophrenia.

100. It is probably impossible to determine, at this late date, the precise nature of Edward Schad, Sr.'s illness(s), but the specific diagnoses are not particularly significant. What is significant, however, is that Edward Sr. was considered to suffer from a mental disorder characterized by grossly disturbed thought processes, as well as irrational, unpredictable, and potentially violent behavior. If indeed his psychiatric condition was compounded by alcohol abuse, the risk of violent, terrifying acting-out would likely be substantially increased and less easily controlled. Edward Sr.'s VA treatment records suggest that his condition was longstanding:

In spite of Mr. Schad's family members' insistence that he was okay until recently, there is evidence to the contrary. He was given a 10% SC [service-connected] rating for nerves when discharged from the service and admits to a long history of excessive alcoholism.⁸⁶

101. Upon incarceration in Utah State Prison, Ed Jr. commented on his relationship with his father:

He was never able to get along with his father. They would always argue. He describes his father as a very heavy drinker who would get drunk and lay around the house for two or three weeks at a time.⁸⁷

⁸⁴ Hospital Summary by John J. Danehy, M.D. (3/2/70).

⁸⁵ Evaluation by Wilfred L. Pilette, M.D. (3/24/70).

⁸⁶ Hospital Summary by Thomas M. Walsh, Ph.D. & G.B. Ewing, M.D. (4/15/70).

⁸⁷ Edward Schad Jr. Prison Records, Utah State Prison Admission Summary, page 2 (date??)

102. It is not uncommon for families to recognize the substance abuse problems and ignore the co-existing mental illness. To acknowledge Edward Sr.'s severe and debilitating mental illness would have been more frightening and stigmatizing than the alcoholism. Clearly, Edward Sr. was suffering from both a mental illness and a substance abuse problem; the comorbidity of the two is extremely common as one tries to self-medicate to escape the pain of the ensuing mental illness.

103. Edward Sr.'s continued mistreatment of his son had the ongoing effect of depriving Ed Jr. of the developmentally necessary attachment and care needed for optimal psychological and neurological development. His attacks were not only physical but mental in nature which proved to deny Ed Jr. a sense of self, self esteem or self worth, and also have dire consequences later on as their denial, their own dysfunction, and the systemic demonization of Ed Jr. would lead to their abandonment of him throughout his life. This was evident at times when he desperately needed his caregivers to come to his aid and provide him protection including at the time of his arrests.

Social Isolation

104. From a very early age, one of the most damaging aspects of Ed Jr.'s childhood was the degree of social isolation he experienced. The isolation was both social and emotional imposed – both directly and indirectly – by both parents. Edward Sr. and Mabel Schad were not only secretive and paranoid individuals, but were also emotionally disabled and withholding parents. Ed Jr. was painfully aware of this dynamic, as was revealed in his 1985 reports to an investigating probation officer:

The defendant [Ed Jr.] stated that in addition to the abuse his father would never allow him to socialize with others; consequently, the defendant was a very shy, withdrawn adolescent.⁸⁸

In the same report, he referred to his life-long sense of isolation when discussing his friends:

“[H]is friends, Frank and Janet Bramwell, are the family he never had. They accept him and he feels comfortable talking with them and discussing problems. Mr. Schad felt as if he were standing alone most of his life and finally feels comfortable with friends of his own age group.”⁸⁹

105. Sadly, it is inconceivable that the alienation and utter lack of companionship that characterized those early years – the deeply ingrained sense of being unwanted and alone – could be remedied by more healthy, stable relationships decades later. His sense of himself as useless and inconsequential, and his role vis-à-vis other individuals and/or a larger community, had been so deeply etched into his perceptions and his behaviors that his ability to develop real trust or belief in himself had likely been crushed many traumatic years before he even reached adulthood.

106. Ed Jr.’s impairment was evidenced by the inability of Edward Sr. and Mabel to participate in familial relationships in a mutual or constructive fashion. Both of them appeared to lack problem solving skills and abilities to build a financially secure and interpersonally stable family. Their deficits in psychosocial resources would be predicted from their own childhoods, their mood disorders, and generally their poor level of functioning.

Middle Childhood

⁸⁸ 1985 PSR, *supra*, p. 4.

⁸⁹ 1985 PSR, *supra*, pp. 7-8.

107. Ed Jr. attended Mattydale Elementary School from Kindergarten until he graduated in 8th grade in 1956.⁹⁰

108. Ed Jr. was neglected throughout his entire childhood as no competent adult ever attended to Ed Jr.'s basic needs. Ed Jr. reported that he never brought any friends over to his house and his mother Mabel confirmed this.⁹¹ This form of isolation is commonly seen among individuals who are raised in disordered and chaotic families who extend their inability to trust and develop relationships outside of the family.

Adolescence: Disruption and Instability

109. In 1956, Edward Sr. impulsively decided to sell the family home in Mattydale and move his family clear across country to Fullerton, California, apparently to be close to his brother Bill. According to family history, this decision came about after Edward Sr. got fired from the steel mill because of his excessive drinking. While out in Fullerton, Ed Jr. attended 9th grade at Fullerton Union High School; he entered school on September 12, 1956, only to withdraw on November 26, 1956 when the family moved back to Syracuse.⁹² Edward Sr. worked as a laborer in California but did not last for more than a few months before the Schad family returned to the Syracuse area. From 1956 until 1958 they resided at 200 Melrose Drive, North Syracuse, New York.⁹³

110. In December of the same year, 1956, Ed Jr. enrolled in 9th grade at North Syracuse Central High School. During his next school year, Ed Jr. was absent from

⁹⁰ Military records of Edward Schad Jr., statement of personal history, (11/16/66).

⁹¹ See Mabel Hughes declaration ¶ 29.

⁹² School Records of Edward Schad Jr., Fullerton Union High School District (9/65 - Fullerton, California).

⁹³ Military Records of Edward Schad Jr., statement of personal history, (11/16/66).

school 37 times.⁹⁴ His school grades also took a dive, he failed biology and math and had to repeat math during summer school. During Ed Jr.'s junior year in high school, he failed English II, Intro to Algebra, and Mechanical Drawing.⁹⁵ On October 9, 1959, just after he started his senior year at North Syracuse Central High, the Schad family moved again and Ed Jr. was enrolled in yet another high school; Chittenango Central High. According the Mabel Hughes, Edward Sr.'s moved the family out to his mother's farm in Bridgeport, New York:⁹⁶

...Edward's mother died and Edward decided that we should move into her old farmhouse in Bridgeport, which is also just outside of Syracuse. I did not want to move there because the house was really old and in terrible shape but Edward put in some floors and a bathroom. (Hughes Decl., ¶ 16.)

111. The fact that Ed Jr. was enrolled in three different high schools during a four year span speaks volumes to the disruptive and chaotic environment in which he grew up. The constant moves could easily be tied in with Edward Sr.'s alcoholism, psychosis, and their financial straits. Ed Jr. graduated from Chittenango Central High in 1960. According to high school records, Edward Sr. was self-employed as a painter in 1959.⁹⁷

112. On May 18, 1959 Ed Jr. was arrested for grand auto larceny; he was 17 years old.⁹⁸ He was arrested again two months later and again charged with grand auto larceny. He was sentenced to three years probation⁹⁹ but was released from all forms of civil restraint on September 25, 1961.¹⁰⁰ Both of these juvenile offenses could be

⁹⁴ School Records of Edward Schad Jr., North Syracuse Central High School (1956-69).

⁹⁵ School Records of Edward Schad Jr., North Syracuse Central High School (1956-59).

⁹⁶ School Records of Edward Schad Jr. Chittenango Central High School (10/59-6/60).

⁹⁷ School Records of Edward Schad Jr. Chittenango Central High School (10/59-6/60).

⁹⁸ Prison Records of Edward Schad Jr., Utah State Prison, Admission Summary (6/29/70).

⁹⁹ Military Records of Edward Schad Jr., enlistment record, (11/29/61).

¹⁰⁰ Military Records of Edward Schad Jr., inclosure [sic] to DA form 3072-1, (11/18/66)

symptomatic of Ed Jr.'s desperate attempt to escape his abusive household and the impulsive behavior that follows Ed Jr. throughout his life; impulses that are only self-defeating and cannot have any good consequences.

113. After high school, Ed Jr. worked for Williams Food Store for a few months. In April of 1961 he worked for Cooper Decoration Company in the decoration installation department and remained employed there until he enlisted in the Army.¹⁰¹ A letter of recommendation from his boss at Cooper Decoration Company stated that Ed Jr. was advanced to a foreman position during the last three months of his employment and that he was a "conscientious, hard working employee, quick to learn and to assume responsibility."¹⁰²

Sibling Trauma: Edward Jr.'s Brother Thomas's Mental Illness:

114. Often children who are raised in chaotic, abusive, traumatic households attempt to get out as soon as they can. Ed Jr.'s sibling Thomas Schad escaped the family violence by enlisting with the army at the age of 18. For reasons that are unknown Thomas did not graduate from high school and only completed 3 years.¹⁰³ Thomas served in the Army from May 1, 1967 until May 8, 1970; he fought in Vietnam from November 16, 1967 until June, 26, 1968 when he was wounded. While in the army Thomas obtained his high school equivalency degree, his GED in 1969.¹⁰⁴ In May of 1970, Thomas was transferred to USAAC in St. Louis, Missouri to begin his career as a

¹⁰¹ Military Records of Edward Schad Jr., employment record section 6 of enlistment record, (11/21/61).

¹⁰² Military Records of Edward Schad Jr. letter of recommendation to the military by Henry N. Cooper, Vice President of Cooper Decoration Company, (11/20/61).

¹⁰³ Military Records of Thomas Schad, enlistment record (5/1/67).

¹⁰⁴ Military Records of Thomas Schad, form DD 214 (date unclear).

US Reservist as his three year term is expired.¹⁰⁵ In June of 1971, Thomas was officially discharged from the reserves because the army was unable to locate him.¹⁰⁶ What happened to Thomas or where he went during this time is not known.

115. Trauma can breed extensive and permanent psychophysiological changes. Thomas appeared to exhibit a cluster of generalized anxiety symptoms and specific fears. Corroborating Ed Jr.'s compromising environment, Thomas Schad's military records reveal a long-standing history of alcoholism and mental illness similar to his fathers which also supports a genetic loading in the Schad family for mental illness. Thomas described sleep problems, nightmares, intrusive thoughts, hyper arousal, and displayed signs of psychic numbing.¹⁰⁷ Hyper arousal means that the person startles easily, reacts irritably to small provocations, sleeps poorly and is indicative of someone who has been traumatized. He was admitted numerous times to local VA hospitals for alcohol and mental health related problems.¹⁰⁸

116. Thomas Schad was severely impaired. Thomas continued to be seen by counselors but he was non-responsive to treatment. Thomas Schad was hospitalized from November 7, 1990 until November 16, 1990 at the Syracuse VA Medical Center. Upon admittance he was diagnosed with Upper GI bleeding and delirium tremens; he was a 41 year-old white male with a long history of alcoholism. He stated that he had been drinking two cases of beer a day since the age of 20. Past medical history reports significant alcohol history; injury to right ankle; and exposure to malaria during his tour

¹⁰⁵ Military Records of Thomas Schad, form DD214 (date unclear).

¹⁰⁶ Military Records of Thomas Schad, letter orders, (6/3/71).

¹⁰⁷ VA Records of Thomas Schad, (12/20/90—Buffalo VAMC).

¹⁰⁸ VA Records of Thomas Schad (11/7/90 – 7/29/99).

in Vietnam.¹⁰⁹ After an evaluation Thomas was deemed a suitable candidate for rehab at Canandaigua VA Hospital. He was admitted to the alcohol dependency treatment program on November 16th:

alcoholism resulting in multiple problems, including black-outs, vomiting blood, shakes, loss of weight, marital problems....

He had his first drink at age 14. The patient started drinking alcoholically at 21...

117. A mental status exam revealed that Thomas was unkempt, had no teeth, exhibited poor insight, and judgment.¹¹⁰ Thomas had been charged six times for driving under the influence.¹¹¹ Records indicate that Thomas appeared to be suffering from some PTSD issues. Specific observations noted that Thomas first entered treatment because all his friends were dying from alcoholism. He was able to work with the PTSD staff, where he revealed some unresolved issues to be followed up at the Buffalo Combat Stress Unit at the Buffalo VAMC.¹¹²

118. Thomas was admitted to the Buffalo VAMC on December 17th, 1990 and remained there for three days. He was diagnosed with 1) PTSD, chronic; 2) Dysthymic D/O; 3). Alcoholism in remission at the Buffalo Combat Stress Unit. Thomas was discharged without any medication and to be followed as an outpatient. Just a few months after he was discharged, Thomas was admitted again as an inpatient to the Buffalo VAMC with sleep disturbances, nightmares, intrusive thoughts, psychic

¹⁰⁹ VA Records of Thomas Schad, Martin Noonan, M.D. (11/15/90—Syracuse VAMC).

¹¹⁰ VA Records of Thomas Schad, Carolyn Fallahi, Ph.D., and D. Alankar, M.D. (12/8/90—Canandaigua VAMC).

¹¹¹ VA Records of Thomas Schad, Carolyn Fallahi, Ph.D., and D. Alankar, M.D. (12/8/90—Canandaigua VAMC).

¹¹² VA Records of Thomas Schad, Carolyn Fallahi, Ph.D., and D. Alankar, M.D. (12/8/90—Canandaigua VAMC).

numbing, and survival guilt.¹¹³ Veterans who are preoccupied with survival guilt often experience an intense fear that they will be abandoned once they develop a meaningful relationship.¹¹⁴ This paranoia leaves a person feeling alone and afraid. Thomas remained at the Buffalo VAMC from February 27, 1991 until he was discharged on April 16, 1991. During this time his PTSD symptoms were treated with "individual and group psychotherapy, grief experience group, stress management group, and vocational group." It is noted that his feelings of guilt and grief will require more work and his affect was only slightly less restricted at the time of his release.¹¹⁵

119. Thomas continued to be seen by counselors at the VA throughout the entire year and the rest of his life. He was hospitalized on March 4th until April 20, 1991 at the Syracuse VAMC and again on September 12, through October 10, 1991. Thomas displayed symptoms of depression and suicidal ideation upon his admittance; he was admitted intoxicated. He stated that his family and friends have abandoned him; he was confused and desperate. An ex-counselor at the Buffalo VA recommended his hospitalization. During his stay, he was maintained on Doxepin 150 mg PO (by mouth) HS (at bedtime) and Ibuprofen p.r.n (as needed). Thomas was discharged four days earlier because he abused alcohol while on the ward.¹¹⁶

120. Late in 1997, Thomas Schad once again was admitted to the Syracuse VA medical center:

This is an unfortunate 50-year-old white male who presented to the emergency room on 12/15/97 with complaints of fever, chest pain, shortness of breath,

¹¹³ VA Records of Thomas Schad, J. Ferraro, Ph.D. and M. Sorroche, M.D. (12/20/90—Buffalo VAMC).

¹¹⁴ Gover, H. (1984). Survival guilt and the Vietnam veteran. *Journal of Nervous and Mental Disease*, 172, 393-397.

¹¹⁵ VA Records of Thomas Schad, discharge summary, J. Ferraro, Ph.D. and M. Sorroche, M.D. (4/16/91—Buffalo VAMC.).

¹¹⁶ VA Records of Thomas Schad, discharge summary, Timothy Hayes, M.D. (10/10/91—Syracuse VAMC).

lethargy, change in mental status. He did have a past medical history significant for depression, post-traumatic stress disorder...also heavy alcohol abuse, chronic low back pain, and peptic ulcer disease... Thomas' health deteriorated in the hospital until radiation oncology was called and it was determined that "the cancer was deemed to be incurable."¹¹⁷

During his two-month stay in the hospital, Thomas exhibited signs of psychosis and feared that one of the male nurses followed him home at night. In addition to being in a psychotic state, he stated he was addicted to Valium and morphine.

121. After a long battle with mental illness, alcoholism, and health problems, Thomas Schad died on March 28, 1998, at his home in Salina, New York. The cause of death was metastatic lung cancer due to post-obstructive pneumonia and severe chronic obstructive pulmonary disease. His mother, Mabel Schad was the informant on his death certificate.¹¹⁸

IV. YOUNG ADULTHOOD/ INSTITUTIONALIZATION

Edward Jr.'s Military Service: Two Failed Attempts to make it on his Own:

Army (Round #1) [Edward Schad Jr. is 19 years old]

122. Despite the fact that Ed Jr. had a good job where he was well-liked and advancing within the company, Ed Jr. was still unwelcome at home and he needed an escape from the extremely volatile Schad household.

123. On 11/29/61, Ed Jr. enlisted in the United States Army for the first time;¹¹⁹ he signed up for a period of three years.¹²⁰ Military records indicate that he adjusted well and showed promise of advancement. He completed basic training, as well as "advanced,

¹¹⁷ Medical Records of Thomas Schad (12/15/97-2/10/98 - Syracuse VAMC)

¹¹⁸ Certificate of Death of Thomas Schad (3/28/98 - Salina, New York).

¹¹⁹ Mr. Schad's Service No. was RA12625903. See 1979 PSR, p. 15. Mr. Schad re-enlisted in the Army in 1966, as is discussed in a separate section, below.

individual training” at Fort Leonard Wood, Missouri. Ed Jr. did quite well in his advanced individual training and in May of 1962, a letter of commendation was sent to him congratulating him on scoring 99% on his end of Cycle Proficiency Test. The letter states that his, “near perfect score will be an inspiration for all future Engineer trainees to try and equal. To surpass your score would require a perfect score which is indeed a rarity, even among more experienced troops.¹²¹” At the time of his transfer to Fort Benning, Georgia in 1962, “he held the rank of Private First Class (E-3).”¹²² Ed Jr.’s main civilian occupation was Decorating Specialist.¹²³

Institutionalization (adjustment and damaging experiences):

124. It was while stationed in Fort Benning that Ed Jr. first got into trouble with the law as an adult cutting short what might have been a promising future in the service and an escape from his past. On June 18, 1962, shortly after his arrival at Fort Benning, Ed Jr. was deemed Absent Without Leave [AWOL].¹²⁴ Shortly thereafter, he was arrested and charged with Auto Theft, a misdemeanor under Georgia law.¹²⁵ In subsequent (unrelated) court proceedings, Ed Jr. testified about the circumstances of the 1962 Fort Benning incident:

About the second week we got to Fort Benning, and we got in our regular outfit, we went out on the town one night, a buddy and I, and we started drinking, met

¹²⁰ Military Records of Edward Schad Jr., statement of understanding of enlistment promises (11/29/61).

¹²¹ Military Records of Edward Schad Jr.’s, headquarters 1st Battalion, Wallie S. Perez, Captain of Commanding, (5/16/62).

¹²² See 1979 PSR, pp. 14-15.

¹²³ Military Records of Edward Schad Jr., Enlistment record (11/29/61).

¹²⁴ Military Records of Edward Schad Jr., service record (11/29/61-9/10/62).

¹²⁵ Mr. Schad’s 1985 PSR lists the “Date” of his Georgia “Auto Theft” as 6-30-62. It is unclear whether that was the date of his arrest or the date of sentencing.

these other two boys from the outfit below us at Fort Riley. We didn't get four or five blocks, they picked us up. They told us the care was stolen. ...¹²⁶

125. Ed Jr.'s explanation of the joyriding incident, coupled with his sudden, unexplained AWOL suggest impulsivity, restlessness, poor judgment and, perhaps most notable, extremely self-defeating behavior – a pattern of symptoms and behaviors which was pervasive throughout the decades which followed. Despite this quite obvious pattern, and the fact that he repeatedly suffered serious (often predictable consequences of his actions – legal, financial and interpersonal – he was apparently unable to control or protect himself from his own impulsive, self-destructive, and wholly unrewarding impulses. His behavior during this period also reveals a young man easily led, easily influenced, with little (if any) direction, or even knowledge of his own status or abilities.

126. Ed Jr. was convicted of the misdemeanor and sentenced to six months on a chain-gang and six months' suspension.¹²⁷ He served his sentence at the Muscogee County Public Work Camp in rural Leedsburg, Georgia.

Muscogee County Public Work Camp – Leedsburg, Georgia

127. Ed Jr. remained captive on a Georgia chain gang until sometime in December of 1962. In addition to criminal sentence, he was also expelled from the Army. On September 10, 1962, while still serving hard labor, Ed Jr. was formally discharged from the Army "under other than honorable conditions," the consequence of his civilian conviction. When Ed Jr. emerged from his sentence on the Georgia chain

¹²⁶ Arraignment transcript, *State of Wyoming vs. Edward Schad, Jr.*, Co. of Big Horn, 5th Jud. Dist. Ct., Crim. #1597 (8/22/63).

¹²⁷ No record of the specific Georgia charges are in the record – Ed later reported being sentenced "for accessory after the fact of being with a stolen automobile." (Big Horn arraignment testimony (8/22/63).)

gang, he had only a vague understanding of his status vis-à-vis the service and found himself facing a very uncertain future:

128. While stationed at Fort Benning Ed Jr. was charged with joyriding in civilian court. After serving his jail sentence he was told by civilian authorities to go home, so he did.¹²⁸ He does not know of any discharge at this time.¹²⁹

129. Descriptions of Ed Jr., then 20 years old, are of a young man who appears either oblivious to his surroundings, apathetic to his own well-being, or perhaps both.

130. I am told by counsel that there are almost no records available which describe Ed Jr.'s labor on the chain gang, the conditions he endured, his personal experiences, or the state of his health during his six months of convict labor. There is some evidence, however, indicating that Ed Jr. and his fellow inmates were subjected to brutal conditions and suffered some form of extreme distress or misfortune -- very possibly a collective trauma -- which may have resulted in severe, long-term damage.

131. Eight months after Ed Jr.'s release from the chain gang and eviction from the service, he was charged and tried in a Wyoming court after passing a bad check to his landlady for \$52.00. Ed Jr. was arraigned in Big Horn County, where he was questioned by both his counsel and the presiding judge about the physical treatment he endured on the Georgia chain gang and its subsequent effect on his behavior and mental state:

...

A [Schad]: ... I spent six months in the chain gang in Georgia.
Q [DA]: Six months on the chain gang and six months suspension?
A [Schad]: Yes, sir.

BY THE COURT:
Q: What institution?
A: That was Leedsburg, Georgia.

¹²⁸ "I met one of the boys from the chain gang there and got in this car and kept on going home. I went home. The first place I went was home...." (8/22/63 Big Horn arraignment hearing testimony.)

¹²⁹ 1979 PSR, p. 15.

Q: State penitentiary or what?
A: It wasn't a state penitentiary. It was a chain gang place. They have quite a few around the state. They have one in Montezuma.

...

BY MR. DAVIS [defense counsel]:

Q: You were 20 at that time?
A: I spent my 20th birthday there, yes, sir.
Q: Were you mistreated during your assignment to the chain gang?
A: Well, according to my opinion, when I was in the chain gang, I wasn't the only one, but we were—
Q: Do you think that has had an effect on your subsequent demeanor and behaviour [sic]?
A: Yes, sir. I know it has. It just turned me completely inside out.
Q: After the Georgia Episode where did you go?
A: [Writing obliterated...]

BY THE COURT:

Q: What?
A: I say hot under the collar, blowing off a lot of steam, getting out or over my bruises. I met one of the boys from the chain gang there and got in this car and kept on going home. I went home. The first place I went was home to Bridgeport, New York. Then my father turned me off because of the incident. He didn't want me around. My mother was on his side, which I feel myself. They had two children home. I could see where it hurt the family. The next town is Syracuse. I got a bus and went to California to my uncle's place. Spent three weeks there. My uncle told [sic] me down. He wouldn't help me. ... They shipped me back to New York and found I was wanted on the other car [sic] from Georgia to Syracuse. ...¹³⁰

132. This testimony is frustrating in its failure to specify the nature of his maltreatment, but it certainly suggests a traumatic experience or series of events, apparently suffered by others, which "just turned me completely inside out." What was "the Georgia Incident"? We still do not know. It is unfortunate that both counsel and the court found this information sufficiently compelling to probe deeper, trying to explore the effects of this "incident" on Ed Jr.'s subsequent demeanor and mental state. The state of the record suggests that Ed Jr. was reluctant to disclose that information. Ed Jr. did offer

¹³⁰ 8/22/63 Big Horn testimony.

that, upon returning home after his release, knowledge of "the incident" caused his father to literally disown him. It is hard to imagine such a harsh response to a clerical error of any kind, so it seems fair to assume that Ed Jr.'s experience in Georgia carried a considerable stigma of some kind. Whatever the nature of the "Georgia Episode," it was perceived by Ed Jr. as serious, threatening, and humiliating.

133. When I asked Ed Jr. about his experiences in Georgia, he replied: "no problem in Georgia. In fact, I don't even remember it." I attempted to ask more specifically whether or not Ed Jr. had been victimized in Georgia, he replied, "it's not that I can't handle myself. Games here; handball – didn't hit the ball against the wall...hit against me." Thus, this appears to be a case where, in an attempt to defend against psychological distress, Ed Jr. closely guards against what his prior testimony suggests are traumatic experiences.

Panic-driven manic episodes:

Columbus, GA – Transporting stolen vehicle

134. Immediately upon his release from the chain gang, Ed Jr. repeats the same pattern of impulsivity, agitation, restlessness, anxiety, manic behavior, disorganized thought processes, and inevitably self-defeating acts and decisions. In his words:

I say hot under the collar, blowing off a lot of steam, getting out or over my bruises. I met one of the boys from the chain gang there and got in this car and kept on going home. I went home. The first place I went was home to Bridgeport, New York.¹³¹

135. Ed Jr.'s report is clinically quite salient in at least two respects. First is his language – he states that he "got in this car and kept on going home." He doesn't see himself as having "taken" or "stolen a car" – indeed, nothing in his language suggests

that the car was his primary objective. Agitated and traumatized, he was apparently overwhelmed by a compelling impulse to escape the "Georgia Episode" and keep on going. Second is his manic, irrational, and seemingly uncontrollable impulse to return "home," to "family – another recurring theme throughout Ed Jr.'s life. Even the language he uses is pressured, obsessive, agitated:

I...got in this car and kept on going home. I went home. The first place I went was home to Bridgeport, New York. Then my father turned me off because of the incident. He didn't want me around. My mother was on his side...The next town is Syracuse. I got a bus and went to California to my uncle's place. Spent three weeks there. My uncle told [sic] me down....¹³²

136. In April of 1963, Ed Jr. was indicted by a federal grand jury in Utica, New York and charged with Transporting a Stolen Vehicle from Columbus, Georgia to Syracuse, New York, a violation of 18 USCA §2312.¹³³ At his arraignment the following month, unrepresented by counsel, he pled guilty. On June 10, 1963, he received a suspended sentence and three years probation.¹³⁴ Ed Jr. later testified that he was released June 20, 1963 after three months in a federal prison:

They shipped me back to New York and found out I was wanted on this other car [sic] ffrom Georgia to Syracuse. I stayed there three months until June 20th of this year until I was released on federal probation, turned me on the street and room at the Y.M.C.A. No other help. ...¹³⁵

California/Las Vegas, NV – Car theft (12/62-1/63)

137. Having driven directly from Columbus, Georgia to his "home" in Syracuse, Ed Jr. found that, once again, he was unwelcome with both his father and mother, who turned him away. Still seeking "family," he turned around and headed for

¹³¹ 8/22/63 Big Horn testimony.

¹³² 8/22/63 Big Horn testimony.

¹³³ Indictment, *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271 (N.D.N.Y. 4/63).

¹³⁴ Judgment, *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271 (6/10/63).

an alternative "home" with his uncle in California. At that time, he had not yet been charged in connection with transporting the stolen car from Georgia to New York:

The first place I went was home to Bridgeport, New York. Then my father turned me off because of the incident. He didn't want me around. My mother was on his side... The next town is Syracuse. I got a bus and went to California to my uncle's place. Spent three weeks there. My uncle told [sic] me down. He wouldn't help me.¹³⁶

When his uncle, too, rejected him, Ed Jr. headed for Las Vegas, Nevada, where he faced several new criminal charges, including a federal indictment alleging that during his brief stay in California, he had stolen a 1959 Renault.¹³⁷

They picked me up in Vegas as I went through a court deal there. A federal court over stolen car. I was found not guilty. I was in California at the time. I happened to look like the person that did it. ...¹³⁸

In fact, Ed Jr. was found not guilty.

Las Vegas, NV¹³⁹ -- Impersonating an Officer¹⁴⁰ (1/63)

138. On January 25th, 1963, Ed Jr. is charged with impersonating an officer a misdemeanor, and sentenced to ten days in jail.

Las Vegas, NV -- "Military Fugitive from CA" (1/63)

1/25/63	"Misd., 10 days jail"		
1-25-63	Las Vegas, NV ¹⁴¹	Impersonating an officer	#M 44248 ¹⁴²
1-25-63	Las Vegas, NV	"Military fugitive from CA"	#M 44248 ¹⁴³

¹³⁵ 8/22/63 Big Horn testimony, p. 10.

¹³⁶ 8/22/63 Big Horn testimony, p. 10.

¹³⁷ USDC #CR 765 (Las Vegas).

¹³⁸ 8/22/63 Big Horn arraignment testimony, p. 10.

¹³⁹ 1985 PSR lists both charges together under the same date (1-25-63); gives only one disposition -- unclear whether it applies to one or both.

¹⁴⁰ 1985 PSR lists this charge separately from the Utica charges, but it's unclear whether or not they stem from the same incidents at the subsequent Utica charge (#33271). The 1979 PSR discusses them as separate actions. (See 1979 PSR, pp. 8-9.)

¹⁴¹ The available paperwork doesn't indicate where the violation was alleged to have occurred. This may stem from the same incident(s) underlying #33271, filed in Utica three months later.

¹⁴² 6/29/70 USP Admission Summary.

¹⁴³ *Ibid.*

1. Utica, NY -- Illegal wearing U.S. Army uniform: (12/27/62-1/6/63)

From on or about [12/27/62] to on or about [1/6/63], at or near Syracuse and at or near Bridgeport...[ES] possessed and wore the duly prescribed uniform of a member of the United States Army, to wit, as a Second Lieutenant thereof...¹⁴⁴

4/23/63 -- indicted by grand jury...18 USCA §702
5/14/63 -- arraigned; pled guilty; unrepresented by counsel
6/10/63 -- suspended sentence...2 yrs probation¹⁴⁵

12-27-62 1-16-63 Syracuse/Bridgeport Utica Illegal wearing Army uniform (18 USC §702) #33271¹⁴⁶ (N.D.N.Y.)

2. Utica, NY -- Probation violation (8/63)

8/16/63 -- arrest warrant issued -- failure to report; leaving district w/o P.O.'s permission:¹⁴⁷

ED:

They came to my door day in and day out, come to where I was working. I got in trouble with the boss over that. I was working on a machine, tie down four or five men. I got up and took off. I took this car from New York and brought it here. I needed money and I wrote a check in Basin. I couldn't take the pushing any longer before I do something. I am not used to being that way. I have had so much treatment I can't take any more.

BY MR. DAVIS:

Q: In other words, the spiritual guidance these people were trying to give you made you revolt?

A: Not so much spiritual. What I should do and can't do. If I want to go to church on Sunday, it's my business. I don't tell anybody to go to church. They tell me every night I couldn't do that. I had to have glasses. The first thing I bought was glasses. One started getting up over that. I have to have glasses. They put [sic] it too far. I took off....

Q: Were you planning on staying in Wyoming, or were you going on?

¹⁴⁴ Indictment, *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271 (N.D.N.Y. 4/63).

¹⁴⁵ Judgment, *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271 (6/10/63).

¹⁴⁶ Indictment, *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271 (N.D.N.Y. 4/63).

¹⁴⁷ Petition (8/14/63) and Order (8/16/63), *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271.

A: No. I was just moving on. I didn't know where I was headed. I figured back up towards Yellowstone Park, a place to be by myself. I had no particular place to go.

...

9/18/65 – warrant withdrawn:

Information received from the Wyoming State Penitentiary attitude and work in the Mechanics School was above average. He has had no record of any rule infractions and he is reported to be a good and conscientious worker. ...¹⁴⁸

8-16-63
#33271¹⁴⁹

Syracuse, NY

Utica, NY (USDC) Probation violation

Mental state prior to violating probation: Another unplanned drive across the country:

139. Ed Jr. behaviors are often erratic and impulsive; they are extreme both as an action and in its consequences. The only foreseeable results to his actions are imprisonment, isolation, and total dependence on others that were absolutely practicable and virtually inevitable. Ed Jr. had no money, had no thought out plan or real destination, and he could not have possibly had any true hope of achieving anything from this but more trouble, chaos, and misery. Legally, this is a completely self-defeating act as there was no possible benefit to be gained from this erratic driving spree. It is possible that Ed Jr. was fleeing from what he perceived as demons and pressures, it could also be a response to rejection and abandonment that is parallel to the trauma he experienced as a child and continues to haunt him. In these periods, Ed Jr.'s behavior appeared "manic." Other times, he was down and depressed, feeling overwhelmed and distressed.

140. Ed Jr.'s testimony in Big Horn, Wyoming suggests that he was suffering from feelings of terror, confusion, paranoia, intrusions, mania alternating with periods of

¹⁴⁸ Petition (9/3/65) and Order (9/18/65), *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271.

depression and hopelessness. This driving spree is symptomatic of someone who is exemplifying manic, irrational, and seeming uncontrollable behavior that again has no possible benefit. This bizarre behavior is part of a life-long pattern for Ed Jr. and is an extreme example of his childhood solution to severe distress.

Big Horn County/Wyoming State Penitentiary (1963)

1. Basin, WY – Forgery (8/63) [21yo]
2. Basin, WY – Auto theft (1963) [21yo]

8/21/63 – 1970 FBI rap sheet shows charges of forgery and auto theft (#2819)
8/22/63 – discussed at Ed's WY arraignment hearing:

ED: ...They sent these church goers to me. I am a Protestant. They came to my door day in and day out, come to where I was working. I got in trouble with the boss over that. ... I got up and took off. I took this car from New York and brought it here. ...

DA: And the car that you brought to Wyoming you had stolen in New York, isn't that right?

ED: Yes, sir.

DA: That was the car that you were picked up in?

ED: Yes, sir.

CT: What kind of a car was it that you stole and drove out here?

ED: A 1960 Ford station wagon, Your Honor.

CT: Do you know who it belongs to?

ED: No, sir. I just know by the name.

CT: You didn't know the person?

ED: No, sir.¹⁵⁰

8-63 Syracuse, NY Basin, WY Auto theft (1960 station wagon)
#2819¹⁵¹

¹⁴⁹ Petition (8/14/63) and Order (8/16/63), *U.S.A. vs. Edward Harold Schad, Jr.*, USDC #33271. A bench warrant issued for failure to appear as required and for leaving the "district". It was quashed 9/10/63 as Ed was already in custody in Wyoming.

¹⁵⁰ 8/22/63 Big Horn arraignment testimony, pp. 10, 14, 16.

¹⁵¹ Auto theft appears under this case # on Ed's 1970 FBI rap sheet, and Ed talks about it during his Big Horn arraignment testimony, but I've never seen a record of charges being filed.

8-63 Casper, WY Bad checks (\$30 & \$42)¹⁵²
8-21-63 Basin, WY Big Horn Co., WY Forgery (\$52 bad check)
#1597

Army (Round #2) [Edward Jr. is twenty-four years old]

141. On November 29, 1966, Ed Jr. enlisted in the Army for the second time. Why Ed Jr. choose to go back to the army where he did not do so well the first time around displays the many erratic and illogical patterns of his life; it is also very likely that Ed Jr. did not have anywhere else to turn. Once again his parents did not welcome him and turned him away; Ed Jr. was left without any place that could provide him the emotional support he so desperately needed. When asked about the army, Ed Jr. explained that he enjoyed the Army and stated simply that, "the Army was nice to me."¹⁵³

142. Ed Jr. filled out a personal history statement for the military. His permanent address was RD #1, Kirkville, New York. Three years after graduating high school, he attended Shaw Vocational School of Auto mechanics and civil defense. He graduated in March of 1966 with a degree as an instructor.¹⁵⁴ Ed Jr. attended this vocational school while he was incarcerated in Wyoming.

143. Ed Jr. enlisted in the Army for a period of three years; his initial assignment was ACGP #12 Combat Engineer.¹⁵⁵ In November of 1966, Ed Jr. was selected to attend class at the US Army Artillery OCS School in Fort Dix.¹⁵⁶

¹⁵² No record of charges ever being filed, but the prosecutor brought it out through Ed's testimony at his Big Horn arraignment.

¹⁵³ Interview of Edward Schad Jr. by Dr. Charles Sanislow and Jay Pultz (2/19/00 – SMU-II ASP).

¹⁵⁴ Military Records of Edward Schad Jr., statement of personal history (11/16/66).

¹⁵⁵ Military Records of Edward Schad Jr., enlistment record, (11/29/66).

¹⁵⁶ Military Records of Edward Schad Jr., selection for OCS, Frank R. Monetta, Asst. AG (11/66).

144. Mr. Arvin Hardenburgh filled out a personal reference for Ed Jr. Mr. Hardenburgh stated that he has known Ed Jr. since he was born. He wrote that Ed Jr. has a "fine knowledge of auto mech (sic) and very active in the civil defense program. He checked "average" for the following categories: general intelligence, judgment, home environment, and emotional stability.¹⁵⁷ Ed Jr.'s neighbor, Mrs. Theresa Fox, returned a personal reference form for Ed Jr.; she stated that she has known Edward Jr. since October of 1957. She wrote the following about Ed Jr.'s skills, "Edward has the ability to learn fast and to do any task to the best of his ability. After high school he went on to vocational school to study civil defense and auto mechanics when he came out first in both of his classes. I am very proud of Edward in his ambition to keep learning". She checked the average box for the following categories: general intelligence, initiative, self-confidence, and home environment.¹⁵⁸ Reverend Robert Mudge, who also resided at RD #1 Kirckville, filled out a personal reference for Ed Jr. His relationship to Ed Jr. was "church official". He stated he has known Ed Jr. since May of 1958. Reverend Mudge wrote the: "[Edward Jr.] has been a very faithfull [sic] and understanding individual. His skills which I have listed may not be the ones you may be looking for, but to me the first two I mentioned are his most important and with these two he will go along ways." Under the section "known skills possessed", Reverend Mudge wrote "the skill to grasp any subject, the skill to achieve any goal...the skill to paint, the skill to use common sense."¹⁵⁹

145. A medical history report filled out by Ed Jr. stated that his sister, Sherry Schad was dead at birth. It is possible that Ed Jr. never knew the true cause of his sister's

¹⁵⁷ Military Records of Edward Schad Jr., personal references, Mr. Arvin Hardenburgh, (11/17/66)

¹⁵⁸ Military Records of Edward Schad Jr., personal reference of Mrs. Theresa Fox (11/17/66).

death and that this was what the siblings were told about the death of their sister.¹⁶⁰ Ed Jr. noted that he has worked with radioactive substances and writes "During training for civil defense I used CO 60 and I have received a total of 18 m/r".¹⁶¹ The radioactive substance Ed Jr. referred to is Cobalt-60, the most common radioactive form of Cobalt. While it is unclear what the uses of this substance in Civil Defense training were and how Ed Jr. may have come into contact with the substance, external exposure to gamma radiation of Cobalt-60 is of a major concern. The Environmental Protection Agency states that exposure to low levels of gamma radiation over an extended period of time can produce many adverse health effects. Currently, the EPA has established a minimum contamination level of 4 millirem per year of Cobalt-60.¹⁶² It appears that Edward Jr. was exposed to 18 millirem.¹⁶³

146. On December 7, 1966 Ed Jr. was in basic training. In May of 1967, Ed Jr.'s brother, Thomas voluntarily enlisted in the service for 3 years and went to Vietnam in November.¹⁶⁴ He remained in Vietnam until he was wounded in June of 1968. The nature of Thomas' wounds is unclear except that he suffered "MFW" on the right hand and both legs on June 13, 1968.¹⁶⁵ Ed Jr. requested a Vietnam tour but was rejected because he already had one brother fighting in Vietnam.

147. As it happened, everyone in Ed Jr.'s unit was shipped to Vietnam except him and another soldier who was sent to Japan. After being turned down for a Vietnam

¹⁵⁹ Military Records of Edward Schad Jr., personal reference of Reverend Robert Mudge (11/17/66).

¹⁶⁰ Military Records of Edward Schad Jr., Report of medical history (11/17/66).

¹⁶¹ Military Records of Edward Schad Jr., Report of medical history, (11/17/66).

¹⁶² Environmental Protection Agency, Facts about Cobalt-60 (7/02).

¹⁶³ Military Records of Edward Schad Jr., Report of medical history, (11/17/66).

¹⁶⁴ Military Records of Thomas Schad, enlistment records (5/1/67).

¹⁶⁵ Military Records of Thomas Schad, DA Form 20, (9/7/69).

tour of duty Ed Jr. called home to see if his father can help him. Ed Sr. refused to help and in fact, disowned him during this same phone call.¹⁶⁶

148. Ed Jr. was advanced to Private E-2 on February 17, 1967 and applied for officer candidate school. Just a few weeks later, Ed Jr. withdrew his application stating that he lacked the desire and determination to complete the training and meet the standards set forth by OCS. He was counseled by his commanding officer in an attempt to get Ed Jr. to accept the responsibilities of an officer but he was unsuccessful. Ed Jr. felt that he could not meet the high standards of the OCS Prep or the OCS.¹⁶⁷ Ed Jr. feelings of inadequacy appear to be unfounded. This may stem from a fear of failure or fear of not being good or even both. This example is especially bizarre for someone like Ed Jr. who typically displays feelings of grandiosity even to the point of being delusional. His lack of desire to achieve something that will ultimately benefit him and his career with the military is symptomatic of someone who is experiencing feelings of depression. Ed Jr.'s longstanding pattern of masking depression with his highly energized state and denial of severe problems and stress parallels his parent's solution to stress—depression masked with substance abuse.

149. Ed Jr. was sent overseas on April 27, 1967¹⁶⁸ until June 6, 1968; he was stationed in the military Foreign Service in Germany. While stationed in Germany Ed Jr. met the Hein family. According to Stephan Hein, the family met Ed Jr., at a fairground in Hanau whereupon they invited him to come to their flat. Ed Jr. made frequent trips to the Hein house and soon became part of their family. This was the family that Ed Jr. longed for, a family that accepted him as one of their own. He even called Mr. and Mrs.

¹⁶⁶ Interview of Edward Schad Jr. by Dr. Charles Sanislow and Jay Pultz (2/19/00 – SMU-II, ASP).

¹⁶⁷ Military Records of Edward Schad Jr., Statement of Edward Schad Jr., (2/27/67).

Hein, "mum" and "dad". In a desperate need to be liked and to please others, Ed Jr. often helped around the house with chores. He spent holidays with the family and at Christmas, Ed Jr. received the same kind of presents that the brothers in the family received.¹⁶⁹

150. Ed Jr.'s service in the foreign military ended and he was taken away from the only family he ever had; the Hein family. He was shipped back to the States and just a few days later, on July 1, 1968, Ed Jr. was AWOL from station in Ft. Lewis, Washington. Once again Ed Jr. engages in self-defeating behavior that cannot have any good outcome, he left the army without any real plan or destination and wound up at a café in Salt Lake City where he met Clay Mortensen.¹⁷⁰

Salt Lake City, Utah Arrest

151. According to the Police Department, Salt Lake City, Utah an officer found Clay Mortensen dead on July 5, 1968. Ed Jr. was arrested for the murder of Mortenson in Hanau by the Hanau City Police at the Hein's apartment.

152. In 1968, Edward Schad, Jr. was convicted of second degree murder in the state of Utah for:

the accidental death of Clare Mortenson arising out of a consensual sex act involving autoerotic asphyxiation. State v. Schad, 470 P.2d 246 (Utah 1970). Mr. Mortenson was a known homosexual who had participated in this type of activity on a "rather regular basis." R.T. 8-22-85 at 31. Dr. James T. Weston, the state medical examiner who performed the autopsy on Mr. Mortenson, concluded that the manner of death was "accidental." Id., at 30. The physical evidence supported this conclusion. Id., Exs. 4 and 5.

¹⁶⁸ Military Records of Edward Schad Jr., National Agency Check Request (10/19/67).

¹⁶⁹ Investigation Report from Jorg Julius (3/24/99)

¹⁷⁰ Supreme Court of State of Utah opinion filed 5/21/70.

Notwithstanding Dr. Weston's opinion, Petitioner was tried for first degree murder for Mr. Mortenson's death. Id., Ex. 3. at 2. The jury convicted Petitioner of the lesser offense of second degree felony murder. State v. Schad supra, at 247, 249-250. The underlying felony was sodomy. Id.¹⁷¹

153. On May 29, 1970, Ed Jr. was transferred from Salt Lake City County Jail to Utah State Prison where he began serving a 10 to life sentence. Ed Jr. described his family background to his caseworker at Utah State Prison upon his admission. He stated:

...he was never able to get along with his father. They would always argue. He describes his father as a very heavy drinker who would get drunk and lay around the house for two or three weeks at a time... claims he has had very little contact with his family since 1961 when he entered the military service. At the present time they do not communicate with him at all¹⁷².

154. Ed Jr. was officially discharged from the army on September 23, 1970.¹⁷³ While incarcerated in Utah State Prison, Ed Jr. wrote letters to commanders in the army requesting legal help, copies of military codes, and federal statutes. The army stated that they could not help him as he was charged in a civilian court.¹⁷⁴

155. Military history revealed that Ed Jr. joined the Army November 29, 1961 and was discharged September 10, 1962, under other than honorable conditions when he was sentenced to the Wyoming State Prison. He was permitted to re-enlist in the army after serving his sentence. Ed Jr. reported that he worked at a display show house in New York while he attended high school. Ed Jr. was Methodist and a Sunday school teacher. He wears glasses and there is a notation that his teeth need some attention. The summary found that Ed Jr. was serving a prison sentence that stemmed from a homosexual activity:

Problems: 1.) Homosexual tendencies.

¹⁷¹ State v. Schad supra, at 247, 249-250.

¹⁷² Prison Records of Edward Schad Jr., Admission summary, family background (6/29/70 - USP).

¹⁷³ Prison Records of Edward Schad Jr., State of AZ, County of Yavapai, Adult Probation Department (11/27/79).

¹⁷⁴ Military Records of Edward Schad Jr. L.A. Maiki, (7/24/69)

- 2.) Lacks openness.
 - 3.) Family ties and backing.
- Strengths:
- 1.) Ability to verbalize
 - 2.) Education and ability to learn.
- Recommendations:
- 1.) Medium Custody.
 - 2.) Clerical Work.
 - 3.) College Courses.
 - 4.) Psychiatric help.¹⁷⁵

156. While Ed Jr. was incarcerated in Utah there were numerous intentional fires set in his jail and prison cells by different inmates. He was "burned out three times the day after he went to A-Block." There were repeated threats against his life as Ed Jr. was perceived by other inmates as a snitch. Ed. Jr. had an exemplary prison record. His rigid rule-following and his naivety made him the perfect scapegoat for other inmates. This was a role that Ed Jr. adopted early on and it was a role that continued to follow him throughout his entire life. Ed Jr. perceived he was in great danger and when he requested protective custody he was moved to the Maximum Facility¹⁷⁶ for the first three years of his incarceration. He was approved for Protective Custody on October 27, 1972.¹⁷⁷ Ed Jr. did not request to be moved from Maximum Security until April of 1975 and he was transferred to Medium Security on May 5, 1975.

157. Not only was living on a maximum security unit psychologically damaging for Ed Jr., it also precluded him from earlier parole and/or reclassification consideration. Isolation forces a person to rely on their psychological resources that are all too often inadequate. Prolonged sensory deprivation, with virtually no human contact, and the unrelenting perception of danger drives a person further into themselves which

¹⁷⁵ Prison Records of Edward Schad Jr., Admission Summary, (6/29/70—USP).

¹⁷⁶ Prison Records of Edward Schad Jr., Chronology Notes (9/22/70).

often leads to an increase in anxiety and fears that sometimes result in psychosis.¹⁷⁸ A 9th circuit court decision found that the prison conditions that exist at Arizona State Prison in the SMU—II “can adversely affect a person’s mental health.”¹⁷⁹ This kind of isolation can produce a great deal of defensiveness in an individual making the person less likely to report psychopathology and instead normalize his behavior and circumstances. This degree of denial prohibits real disclosure and often leads to a person painting himself in the best possible light so as to try to keep themselves together. Providing any hint of what is really going on has the potential of realizing the unresolved trauma and unraveling oneself to the point of decompensation.

158. Whether Ed Jr.’s fear that others were trying to harm him in prison was real or whether his fear of others was a symptom of his increasing paranoia, it still had the effect of debilitating him to the point where he remained incarcerated despite the fact that he was aware that changing units would lessen his sentence.

159. On August 8, 1975, Ed Jr. requested protection from one of the lieutenants:

...He stated had been harassed and called a snitch ever since he came back from Maximum...He was encouraged to consider moving back to D Block as the Board had promised him a date if he could[sic] get to Minimum Security and be there at the time he appeared before the board. He was extremely paranoid and nervous, and talked about a transfer to another prison. He feels he just cannot survive in the population...¹⁸⁰

But just a few weeks later, August 14, 1975, Ed Jr. stated the following:

¹⁷⁷ Prison Records of Edward Schad Jr., Chronology Notes (10/27/72--USP).

¹⁷⁸ S. Grassian (1983). Psychological Effects of Solitary Confinement, *American Journal of Psychiatry*.

¹⁷⁹ See *Comer v. Stewart*, 215 F.3d 910, 916 (9th Cir. 2000)

¹⁸⁰ Prison Records of Edward Schad Jr., chronological notes, Adele Peck (8/7/75 - USP).

...He feels that the problem which made him feel he needed protection was in his own mind and a result of build up over several years...He seemed to be calm and in touch with reality...¹⁸¹

Ed Jr. was eventually transferred to Minimum Security on October 20, 1975.¹⁸²

Edward Jr.'s Mental Health Symptoms:

160. During our interviews, Ed Jr. frequently made statements that bordered on euphoria or hypomania. For example, Ed Jr. stated, "My mom writes me every week. That just blows my mind. It's just so terrific!" In fact, I have been assured by counsel that Ed Jr.'s mother seldom wrote to her son and when she did it was generally a brief note stating her displeasure for his lawyers and the ongoing legal process. These statements, especially given the underlying circumstances, appear delusional and grandiose. In another seemingly inappropriate statement, Ed Jr. reflected that, "Germany was a good time. But I didn't have a life there. As a matter of fact, I've had more of a life since coming to ASP [Arizona State Prison] than any other time." This statement is especially bizarre; Ed Jr. feels that he has more of a life locked up in a maximum security unit on death row than he had as a free man in Germany. In the context of Ed Jr.'s manic defenses and denial, it is less surprising.

161. At times, Ed Jr. appeared irritated and agitated over seemingly diminutive events. This was extremely evident when he feared that our action's or requests (counsels and my own) would be seen as disrespectful or even inconvenient to the custodial staff. Throughout the interview, Ed Jr. was very concerned with not upsetting or inconveniencing the staff.

¹⁸¹ Prison Records of Edward Schad Jr., chronological notes, Peck (8/14/75 - USP).
¹⁸² Prison Records of Edward Schad Jr., chronological notes, (10/20/75 - USP).

162. Ed Jr. exhibited a vulnerability rooted in underlying grandiosity. He was anxious, paranoid, and suspicious and expressed a genuine fear that our having arranged a contact visit would upset an impressive balance that he himself had established.

163. Ed Jr. insisted and appeared to truly believe that he and the prison guards have a meaningful, mutual relationship; one outside of their roles as inmate and guard. He also insisted that he is the one person who really put the facility, which he referred to as "his prison" in order. This display of inflated self-esteem, grandiosity, and an inflated sense of one's own significance is especially bizarre given his circumstance. Another example of his inflated sense of self is his assertion that he is the only one who has taken all the courses that one might conceivably take while incarcerated in Arizona State Prison. Again, Ed Jr. continues his overly optimistic approach combined with denial and grandiose self efficacy as a solution to a terribly stressful circumstance.

164. Ed Jr. often stated that he has "gotta keep moving"; "I never dream, isn't that wild?" He drove from Chicago to Albany with literally no sleep. "I can go a long time without sleeping. I once drove for 4 days with just one ½ hour catnap." These statements reveal a real or perceived decreased need for sleep that is consistent with mania. During his 1978 several-week driving spree he exhibited an appetite dysregulation by his failure to eat an unusual inattention to his own appearance and hygiene.

165. During our interviews, Ed Jr. spoke in an inappropriately loud, pressured, and rapid speech that is associated with mania. His statements were often a flood of traumatic-associations where he could not contain or control his internal process and where one memory led automatically to the next. This "flooding" of memories is often

associated with posttraumatic stress disorder. He was also unable to produce a fluid, consolidated autobiographical memory and was often very difficult to redirect – throughout our interviews his affect was frequently inappropriate and he often, inexplicably, displayed glee and a sense of pleasure with his own sense of humor. Throughout our interviews Ed Jr. was unable to limit his responses appropriately and he continued to provide excessive and irrelevant details (almost uncontrollably). While performing fairly simple copying tasks at my request Ed Jr. talked to himself almost continually, and quite often encouraged himself with statements like, “come on Edward, get yourself together.”

166. Throughout our interviews, Ed Jr. displayed racing thoughts. At one point, during our interview Ed Jr. offered out of the blue that his sister “blames me for my father’s death.” When I asked why she would do that, he circuitously, yet very quickly, said it was because he had left the family unprotected when he joined the service. This display of racing thoughts is remarkable and his rationalization borders on delusional.

167. At one point during the interview Ed Jr. was given a piece of paper divided into four squares and was asked to fill each with a different aspect of his life. Ed Jr., displayed great difficulty when trying to do this and ultimately he could not remain focused on any one of them long enough to make any progress. As more time went by, Ed Jr. became increasingly frustrated and soon began to confuse them. His inability to concentrate, to think, and his distractibility is debilitating in that it keeps him from completing a task. When I asked him specifically about this he stated that he had “Always been like that – just can’t sit still!”

168. Ed Jr. often appeared restless and exhibited psychomotor agitation for extended periods of time. This is indicative in his impulsive, disorganized travel, sudden change of plans, and routines. For example, Ed Jr. went AWOL from the Army in Ft. Lewis in 1968, he went on a 5-week driving spree in 1978; and his statement, "I was living with Wilma in Florida, and one day I came home after work, and I just took off. Left everything and drove for days...I don't even know how many." This is also evident in his statement, "I used to always find myself in places I shouldn't have been...couldn't quite figure out how I'd got there."

169. During his 1978 driving spree, Ed Jr. picked up a couple of French hitchhikers. While they were in the car with him he insisted that they sit in the front seat of the car with him and keep him company as if they were close friends. Ed Jr. did not have insight into how socially inappropriate his behavior was.

170. Ed Jr.'s inappropriate and high risk behavior demonstrates extremely poor judgment which frequently results in adverse consequences including legal and financial difficulties. Examples of this behavior are his auto theft charges in 1959, 1960, and 1968; his AWOL charges in 1967 and 1968; his attempt to fly to Germany without a passport.¹⁸³ These incidents are indicative of reckless and impulsive behavior that cannot and do not benefit Ed Jr. in any possible way.

171. Other symptoms include Ed Jr.'s overwhelming fear, impeccably poor judgment, and self-defeating behavior that may be attributed to his early maltreatment followed by numerous re-victimizations that probably occurred at Leedsburg, Fort Lewis, Big Horn County, and Salt Lake City.

¹⁸³ Interviews of Edward Schad Jr. by Dr. Charles Sanislow and Jay Pultz (2/18/00 & 2/19/00 – SMU-II, ASP).

Utah State Prison Mental Health Records (1970 -1977):

172. Ed Jr. displayed a need for "psychiatric help" and it was recommended as part of his first psychological evaluation upon entering USP. Ed Jr. exhibited significant, long-standing symptoms from additional sources in a broad range of contexts which have repeatedly reported additional symptoms and patterns which, considered in context, suggest a chronic underlying mental disorder that has affected every domain of Ed Jr.'s life from adolescence through the present.

173. While incarcerated in Utah State Prison a number of mental health assessments, diagnoses, and proposed interventions were given to Ed Jr. The available mental health records consist of two reports by Dr. Allan Roe, two by Dr. Jean Ann Walters, and a fifth which is unsigned. All of them are entitled, "Psychological Evaluations." The evaluations by Dr. Roe, prison psychologist, are dated June 11, 1970 and January 7, 1975.

174. A psychological evaluation by Dr. Jean Ann Walters, a prison psychologist was done at the request of Ed Jr.'s caseworker. Assessment procedures include the following: Bender-Gestalt, Bipolar Psychological Inventory¹⁸⁴, Draw-A-Person, Minnesota Multi-phasic Personality Inventory (MMPI), Sentence Completion Test, Shipley I.Q. Scale, Thematic Apperception Test and a Diagnostic Interview. A personality assessment provided the following:

"....Where Mr. Schad does have some problems is in the difficulty which he experiences in handling stress and disappointment. He is easily discouraged getting moderately depressed when things don't work out they way he wants them to. These affective manifestations do not

¹⁸⁴ According to Walters, this was a measure designed by Robert Howell and L. Reid Payne at BYU, with Allan Roe at USP. She stated it was no longer in used because Roe has since developed another test.

precipitate irrational behavior but they are illustrative of basic difficulty in handling the exigencies of life without sufficient support of others.

In many ways Mr. Shad's propensity for discouragement creates a situation in which he becomes dependent upon other people for their emotional support and guidance. As previously stated this is sometimes effective as a mature component of problem solving behavior. However it can become exaggerated when one had difficulty coping with stress. The problems which arise from this situation would be excessive dependency. Mr. Schad is swayable. Peer pressure, and in addition to peer pressure, pressure placed upon him by those in authority whose opinion he respects are factors which weigh greatly with him and which are quite significant in determining his behavior. The presence of a strong authority figure or group in Mr. Schad's life through which he may order his life and definite standards set for him is a significant factor in his life...¹⁸⁵

These statements may explain why Ed Jr. has an exemplary prison record. His desperate need of structure and consistent rules that he can understand and follow was something he never had while growing up. It also suggests why Ed Jr. views this environment favorably.

175. On June 29, 1970, the results of the CATB, a vocational test, found that Ed Jr. "could work well in such occupations as accountant, teacher, bookkeeper, automotive mechanic, electrician, counselor, general maintenance man, millwright, machinist, welder, and carpenter..." Vocational testing indicated that he was well suited for 35 of the possible 36 occupations considered, including a career as a millwright.¹⁸⁶

176. It appeared that none of the testing completed on Ed Jr. by Walters and Roe was conducted for classification screening rather than diagnostic or therapeutic purposes. Ideally, a mental health assessment would have more appropriately addressed the psychiatric symptoms expressed, the bizarre patterns of behavior, and the many risk factors evident throughout Ed Jr.'s entire life. Thus, the resulting report would have

¹⁸⁵ Psychological Evaluation completed by Jean Ann Walters, USP Prison Psychologist (1/23/76).

ideally addressed the signs and symptoms of mental illness that were evident in order to confirm or adequately rule out major mental illness.

No affirmative diagnostic impressions or analyses despite documented substantial psychiatric symptoms and conditions:

177. Dr. Allan Roe documented Ed Jr.'s emotional and psychiatric symptoms and conditions of distress in a 1975 report. He stated that Ed Jr. was "Quite rigid and negativistic at time" and that he suffered from a "Passive-aggressive personality". Dr. Roe alluded that Ed Jr. was a homosexual in his statements that Ed Jr. had a "Weak masculine identity", that he displayed "Some indication...of a sexual conflict" and that he was "Threatened by females". He also mentioned that Ed Jr. "Takes a superficial look at the world problems..."¹⁸⁷ It appears that Ed Jr. did not receive standard of care treatment while incarcerated at Utah State Prison. Despite all of his symptoms, Dr. Roe only offers brief ambiguous statements regarding Ed Jr. mental illness that are limited in scope to interpersonal and intrapsychic dynamics rather than addressing real patterns of psychiatric symptoms of mental illness. He also does not note that he used Ed Jr. as a pilot subject for his tests.

178. A psychological report completed by Dr. Peck found that Ed Jr. exhibited behaviors of paranoia that were "...due to his past history, past harassment and his own fears". Ed Jr. told Dr. Peck that he "feels that he just cannot survive in the general population."¹⁸⁸ Again, even though there is some question as to whether this fear is real

¹⁸⁶ Prison Records of Edward Schad Jr., chronological notes, Leon Hatch, Director of Education (6/29/70- USP).

¹⁸⁷ 1/75 Report from Dr. Roe

¹⁸⁸ 8/7/75 Report from Dr. Peck

or just a manifestation of his paranoia Dr. Peck does not try to find a definitive answer nor does he recommend any psychological treatment.

179. An unsigned psychological report found that Ed Jr. has an impaired ability to get along with others and exhibited symptoms consistent with "Possible depressive conditions". The report does not discuss the details of this behavior that is symptomatic of a depressive condition. The report also stated that Ed Jr. was "suspicious and paranoid". Again, no detail on how this conclusion was arrived. His homosexuality is again alluded to in this report, "He...has little masculine identity and is threatened by females". The examiner stated that Ed Jr. displayed "Hostile, rigid, negative and sometimes passive-aggressive" behaviors, yet there is not information describing these behaviors. This report also found that Ed Jr. "uses intellectualizing defenses" but no explanation is given. Finally, the examiner stated that Ed Jr.'s, "Greatest weakness being inadequate judgment and obsessive-compulsive tendencies..."¹⁸⁹ Ed Jr. definitely displays inadequate or poor judgment and does so throughout his life. His tendencies, however, are more consistent with mania than they are with obsessive-compulsive disorder.

180. In January of 1976, Dr. Walters found that Edward Jr. was "Easily discouraged, getting moderately depressed..." He displayed "Excessive dependency" on others and "Fundamentally disliked hostility and feelings of subjective discomfort..." Further, Dr. Walters stated that Ed Jr. sets "Rigorous standards of behavior" for himself. His attempts to follow these standards allow him to view himself in an "ideal light." Her conclusion was a "Passive dependent personality with passive-aggressive tendencies."¹⁹⁰

¹⁸⁹ 12/11/75 Psychological Report (unsigned).

¹⁹⁰ Prison Records of Edward Schad Jr., psychological evaluation (Jean Ann Walters, 1/23/76 - USP).

181. The symptoms, behaviors, and conditions listed above are only those documented by overworked custodial staff and many of these could be consistent with several major mental disorders, apparently none of which were ever considered. Among them: Bipolar Disorder; Major Depression or other depressive disorders; Obsessive-Compulsive Disorder; Schizoaffective Disorder; Several of the anxiety disorders; Dissociative disorders; Adjustment disorders.

182. While nowhere in the records was there an affirmative diagnosis of "Homosexuality", Ed Jr. was described as such in documents from Utah State Prison and in some instances, the only clinical interventions recommended by evaluators were unambiguously addressed to that issue. For example the admission summary completed on June 25th 1970 stated under problems that Ed Jr. exhibited, "Homosexual tendencies".

¹⁹¹ An unsigned psychological evaluation recommended that Edward Jr. receive "aversive therapy for his homosexual behavior..."¹⁹² Ed Jr.'s discharge summary stated that he might be attracted to other males and that he has a "weak masculine identity".¹⁹³ Again, interpersonal and intrapsychic dynamics were emphasized at the cost of overlooking psychiatric symptoms of mental illness.

Interviews with the Utah Evaluators:

183. Jay Pultz, an attorney who reviewed Ed Jr.'s Utah Mental Health Records contacted Dr. Roe and Dr. Walters by telephone. Dr. Walters currently goes by her married name Nohava. Dr. Nohava recalled the following:

¹⁹¹ Prison records of Edward Schad Jr., Admission summary, Utah State Prison (6/25/70).

¹⁹² Prison records of Edward Schad Jr., Psychological evaluation, Utah State Prison unsigned (12/11/75).

¹⁹³ Prison records of Edward Schad Jr., Discharge summary, Utah State Prison, Ernest J. Pedler, (7/18/77).

She remembered Edward Schad and confirmed that she had written the 1976 evaluation and addendum. She said she may have evaluated or met with Mr. Schad on other occasions, but inmates were rarely seen by mental health staff on a regular basis. At the time of Mr. Schad's incarceration, the prison was severely understaffed, such that most inmates were seen by mental health staff only upon intake and in conjunction with classification or parole decisions.

Dr. Nohava remembered Mr. Schad because his job assignment was in the Psychology and Research Department. She recalled that Mr. Schad worked closely with Dr. Roe, administering and scoring many of the psychological tests given to other inmates, (This is corroborated by Ed Schad's inmate evaluations from 1976 in which [s]coring various psychological tests" is the first job listed as his "actual work." (See 7/6/76; 8/4/76; 9/9/76; 10/5/76 work reports, USP records) a practice which she feels was improper. She stated that Mr. Schad may have also participated in Dr. Roe's research projects (this statement includes the following footnote: This, too, is corroborated by Mr. Schad's work evaluations. See 9/9/76 work report, USP records.). Dr. Nohava stated that inmates participation in these projects was voluntary, but she believed that many inmates did not feel free to refuse. (Jay Pultz Decl. ¶ 9).

184. Jay Pultz, also spoke with Dr. Allan Roe, a clinical psychologist who worked at Utah State Prison while Ed Jr. was incarcerated there. He provided the following information:

Dr. Roe had left the prison and entered private practice, citing the lack of adequate resources and chronic understaffing at the prison. He was also disappointed by a lack of support for his research. When I asked specifically whether Dr. Roe's research involved plethysmographs [a penile device that measures blood flow to successfully measure the arousal of men in a variety of experiments (Davison & Neale, *supra*, 348.)], "aversive therapy", or other controversial techniques aimed at overcoming (or "curing") homosexuality, he confirmed that it did. He stated his belief that aversive techniques could be effective in treating a broader range of maladaptive behaviors as well. He reported that aversive therapy had been successful in treating compulsive bad-check writers. Dr. Roe also confirmed that, given the prison's financial difficulties, many of the tools and instruments used in the process were produced by inmates in the prison shop.

I mentioned that I heard of psychological tests being administered and scored by inmates as part of his program. He confirmed that this had been the practice for quite some time. He remembered that Mr. Schad enjoyed the process and, for scoring purposes, was quite good with numbers. I noted that his records reflect at least three I.Q. tests while in prison in Utah, with Full-Scale IQ's ranging between

106 and 112. I also stated that I would expect him to perform somewhat higher than that. Dr. Roe agreed, adding that this was especially surprising in Ed's case because: "After all, he's the one who gave himself the test." (Pultz Decl., ¶10).

Ambiguous/vulnerable/undetermined role of Edward Schad Jr. vis-à-vis Dr. Roe:

185. In an effort to better understand Ed Jr.'s relationship with Dr. Allan Roe at the Utah State Prison, I asked him about the context of their relationship. Ed Jr. contended that in addition to the basic tasks identified as his work assignment, he quickly came to work quite closely (i.e. collegially) with Dr. Roe, including participating in several of the doctor's less public research projects. He discussed their relationship as almost a partnership, based on intellectual curiosity and mutual respect. Although he was reluctant to give the details of specific projects in which he was a subject, he suggested that the area being researched was of a fairly intimate nature. When asked directly if their relationship involved sexuality, he neither confirmed nor denied it.

186. Ed Jr. stated that he often spent nights with Dr. Roe in his office. "Roe tested me; I tested Roe." He said they once did a 300 foot drop in Provo together, they went rappelling together, and spent a great deal of time outdoors alone together. Ed Jr. described Roe as a "fabulous man...to me he was really neat." Several minutes later when asked about an unrelated issue, Ed Jr. smiled learned back and responded: "Outstanding man, that Roe. Fabulous. I did all his back-up work for him." It is of course not possible to retrospectively conclude to what extent Ed Jr.'s report reflects Ed Jr.'s own symptomatic grandiosity or inappropriate boundaries on the part of Dr. Roe. The truth probably lies somewhere in the middle.

187. During our interviews, we took infrequent breaks, during the course of which Ed Jr. frequently turned our conversation back to Dr. Roe. Taking his cue, I asked

him about the very first time he met with Dr. Roe. His response was reluctant and somewhat cryptic: "The first project worked on, well, that's a hard one." It took him a while to continue. The project was intended to study "what stressors affected certain tendencies." I asked him to describe the testing that Roe had done on him and he replied: "oh, same thing." I asked if Dr. Roe ever gave him a diagnosis but Ed Jr. did not respond. When asked what he could recall about the psychiatric testing or evaluations he stated that "they kept trying to distinguish me from this category...or narrow the instructions." Ed Jr. claimed to know of no diagnosis assigned to him or even of the job description of any work he had been assigned to perform with Dr. Roe.¹⁹⁴

Edward Schad Jr.'s erratic behavior after his release from Utah State Prison:

188. On July 12, 1977 Ed Jr. was paroled; he moved in with Wilma Erhardt, whom he met in prison, and her two children. From July until December of 1977 Ed Jr. worked for Grand Central Store in Salt Lake City, Utah. A social worker, Mr. Powers, at Utah State Prison who had quite a bit of contact with Ed Jr. during his incarceration noticed a change in Ed Jr. just before his release from prison. According to Mr. Power's testimony, Wilma Ehrhardt had a lot to do with this change:

"her psychological make up was about the worse person that [Petitioner] could become involved with."¹⁹⁵ When the relationship ended between Petitioner and Ehrhardt, Petitioner "was relieved," but then Ehrhardt "made contact with Ed and things were patched up and they resumed their relationship." But once Petitioner was released, he "had a hard time finding any type of occupation," and "ended up working in a rest home." The "cultural shock from living in the prison" and going back to the community with this "very unstable" person gave Petitioner "more additional problems" and was "overbearing."¹⁹⁶

¹⁹⁴ Interview with Edward Schad Jr. by Dr. Charles Sanislow and Jay Pultz, SMU-II, ASP (2/19/2000)

¹⁹⁵ *State v. Schad*, Transcript of Proceedings, p. 63 (Aug. 22, 1985) p. 63

¹⁹⁶ *Id.*, p. 64

After his release from prison, Petitioner contacted Mr. Powers in late 1977. Petitioner was very despondent. He asked Mr. Powers if he could see him for counseling. Mr. Powers explained that he could not help Petitioner now that he was no longer incarcerated.¹⁹⁷

189. In December of 1977, Ed Jr. rented a car in Sandy, Utah, absconded from parole, and drove with Wilma and her kids to Tempe, Arizona. In January of 1978, Ed Jr., Wilma and kids arrived in Syracuse, New York to visit his mother Mabel who still wanted nothing to do with her son. They spent two days at his mother's house then left for Florida where they remained until July. Ed Jr. was only in Salt Lake for a few days before he left again for Arizona.

Edward Schad Jr.'s deterioration and driving spree across the country

190. On August 2, 1978, Ed Jr. began his long period of sheer panic-driven flight in Lorrimar Grove's car that lasted until September 7, 1978, and takes him to and from 28 states.

191. Days that followed the crime of which Ed. Jr. is currently incarcerated for are of particular interest. Ed Jr. picked up a French couple hitchhiking around Chicago, Illinois. According to the French couple, Ed Jr. told them that he came from Arizona where he had seen his father. He left a few days earlier after he and his father got into a fight and had been driving ever since. He told them that he planned to send the Cadillac he was driving to a friend in Germany. Ed Jr.'s behavior with his passengers was extremely odd; he refused to let anyone sit in the back seat and so the three of them squeezed into the front seat the entire time and he often drove through the night without stopping. Out of the blue, Ed Jr. decided that they should see Niagara Falls and so they

¹⁹⁷ *Id.*, p.77-78.

drove there. They then traveled to Syracuse where the French couple believed Ed Jr. had a sister. After Syracuse, Ed Jr. impulsively decided to take them to Lake Placid after hearing one of the French hitchhikers talk about the Olympic Games being held there. They passed through Lake Placid at night, did not stop, and therefore saw nothing of Lake Placid. Upon the hitchhikers insistence Ed Jr. drove toward New York. It was around midnight when they finally stopped in a parking lot because Ed Jr. was tired. The couple asked if they could lie down in the backseat but Ed Jr. refused. The French couple started to worry as they realized that something was wrong with Ed Jr. At around 5 am they started driving again; Ed Jr. stated that he would not set foot in New York City so he dropped them off at a bus station in Albany, New York.¹⁹⁸

192. Ed Jr. was arrested in Salt Lake City, Utah on September 8, 1978 for a violation of his parole. He was later charged with the murder of Lorrimar Grove and was transferred to Yavapai County, Arizona.

Arrest for Arizona Crime

193. On December 14, 1978 a felony grand jury indicted Edward Schad, Jr. for the murder of Lorrimar Grove on or about August 1, 1978.¹⁹⁹ According to the Yavapai County Sheriff's Office on August 9, 1978 learned of an unidentified decomposed male body found near Prescott, Arizona. On October 11, 1978 the body was identified as Lorimer [sic] Leroy Grove, a 74 year-old man from Bisbee, Arizona. An autopsy revealed that the cause of death was asphyxiation by ligature strangulation. According to the state, Grove left Bisbee on August 1, 1978 on his way to Everett, Washington in a

¹⁹⁸ Letter from B. Dupety sent March 23, 1985, translated by Anne-Marie Engels-Brooks (1/9/99).

¹⁹⁹ Probation Records of Edward Schad Jr., Yavapai County, Adult Probation Department (11/2/79).

1978 Cadillac and pulling a travel trailer. The travel trailer was never found.²⁰⁰ In a statement given by Ed Jr. his speech is of particular interest:

...In today's system, power and money are the only two things that count. By power I mean job wise. The hard and sad part of it is that once your caught up in this system of ours, and you don't have the power or money, then there is no way to fight back. It's truly a one way broadway road...²⁰¹

The social history section of Ed Jr.'s probation report revealed that his father was an alcoholic who physically beat his children and his wife.²⁰² In 1968, Ed Jr. stated that he had an ulcer, wears glasses, and has full upper dentures.²⁰³ Ed Jr. also stated that he is a very depressed person and that he visited a psychologist regularly while incarcerated in the Utah State Prison.²⁰⁴ In 1985, a probation report revealed that Ed Jr. was a "shy, withdrawn adolescent."²⁰⁵

Conclusion:

194. Ed Jr. exhibited many symptoms indicative of a severe and chronic mental illness. His history of abuse, neglect, and abandonment cannot be ruled out as playing a significant factor in Ed Jr.'s psychiatric and behavioral functioning as an adult.

195. Throughout his entire life, Ed Jr. has a pattern of repeating lifelong, astonishingly self-defeating behaviors: He repeatedly attempted to return home to his mother in North Syracuse despite her clear refusal to see him and consistent rejection (he

²⁰⁰ Probation Records of Edward Schad Jr., Yavapai County, Adult Probation Department (11/2/79).

²⁰¹ Probation Records of Edward Schad Jr., Yavapai County, Defendant's statement, Adult Probation Department (11/2/79).

²⁰² Probation Records of Edward Schad Jr., Yavapai County, Social History, Adult Probation Department (11/2/79).

²⁰³ Probation Records of Edward Schad Jr., Yavapai County, Physical Health, Adult Probation Department (11/2/79).

²⁰⁴ 1979 PSR

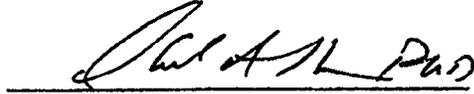
²⁰⁵ 1985 PSR

returns to her five to six times during his five week driving just before he was arrested for Mr. Grove's murder). He antagonized the few relatives who will see him at all; his uncle in California and his great-aunt in Mattydale all agree to see him and he forged checks against their accounts, stealing money from them to pay for his "spending sprees."

196. His behavior is consistent with mental illness in the affective spectrum, specifically some type of bipolar affective illness. Throughout his life, he has often exhibited symptoms of paranoia, anxiety, and mania, and his presentation is complicated by his history of trauma. Signs of a thought disturbance are at times present in his speech patterns; he perseverates, displays impoverished speech, and has a limited range of affect. The passive-dependent traits that Dr. Walter described in her psychological evaluation are likely accompaniments to chronic mental illness but do not capture the complete diagnostic picture. In addition to manic symptoms, he displays classic signs of chronic depression including, a foreshortened sense of future. When not defending against depression with an energized, overly optimistic or manic state, hopelessness and helplessness are evident and appear to overwhelm him by disorganizing his thoughts and speech patterns.

197. Ed Jr.'s tendency to deny any psychological distress and conceal his psychopathology, just as he learned that he had to as a child, is understandable and recognized as adaptive. In fact this behavior is termed "smiling depression." It is tragic that there was no one able or available to intervene in Ed Jr.'s stressful, traumatic, and disordered family situation during his life. It is equally tragic that his symptoms of mental illness and clear patterns of disturbed behavior were not better recognized during the many institutional contacts that he endured throughout his life.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct and was executed on August 12, 2004 in the county of New Haven, Connecticut.

A handwritten signature in black ink, appearing to read "Charles A. Sanislow, Ph.D.", is written above a horizontal line.

Charles A. Sanislow, Ph.D.