For more than three decades, I have conducted research on memory. My research shows that memory is malleable – and that it is a flimsy curtain indeed that separates memory from imagination.

I’ve seen how false memories can destroy lives, especially when such mistakes in recollection work their way into the legal system. As a result of eyewitness accounts of imagined events, I’ve seen more than a few innocent people sent to prison.

Doing research that has practical implications, and being willing to speak out about those implications, can be risky. Giving expert testimony in the adversarial setting of a court case – as I have done – is not simply moving from the laboratory into the field. It’s moving into a battlefield.

As a result of publishing findings that have cast doubt on cases of supposed repressed memory, I have become accustomed to receiving harsh criticism, and even personal threats. But nothing had quite prepared me for the Orwellian nightmare I currently confront.

This nightmare began with my reading of a paper coauthored by a psychiatrist named David Corwin. In an article published in 1997 in the journal *Child Maltreatment*, Corwin purported to offer new proof that repressed memory was a genuine phenomenon, by recounting the story of “Jane Doe.” Corwin had videotaped Jane on several occasions. The first was in 1984, as part of a custody dispute between her divorcing parents; in this video, the six-year-old Jane described how her mother had sexually abused her. On the basis of Jane’s testimony, the mother lost custody of her daughter, and also lost the right to visit her.

Eleven years later, at Jane’s request, Corwin videotaped another interview. Now seventeen, Jane was bothered that she could not now recall being sexually abused by her mother. But under further questioning by Corwin, Jane suddenly did recall, recounting an instance when her mother had sexually abused her in the bathtub – thus, to Corwin’s satisfaction, confirming the phenomenon of traumatic amnesia.

After publishing his paper about Jane Doe in *Child Maltreatment*, Corwin traveled around the country giving lectures and showing videotapes of Jane. Therapists began to use the case as proof of repressed memory. Psychologists began
to teach the case in their classes. Lawyers began to cite the case in court during the prosecution of other individuals charged with sexually abusing their children.

Despite its currency in courts and classrooms, the story of Jane Doe sounded fishy to me. I became interested in learning more. But studies like this are shrouded in secrecy.

Still, using public records and newspaper clips, I eventually tracked down Jane Doe’s mother. I teamed up with Mel Guyer, a psychologist and lawyer from the University of Michigan, and we poured over every page of the divorce file. We immersed ourselves in the public evidence, and we gathered new evidence from new witnesses around the country. We even tracked down Jane’s stepmother, who was working in a grocery store. She recounted the battle to wrest custody of Jane from her biological mother. Referring to Jane’s alleged memories of sexual abuse, she boasted, “That’s how we finally got her – the sexual angle.”

To our bewilderment, though, before we had even published a word on the case, Jane Doe complained that her privacy was being violated.

Responding to her complaint, officials from the University of Washington, where I then taught, called to say that they were seizing my files. Within fifteen minutes, my files had been impounded – and an inquiry launched to investigate potential scientific misconduct.

In spite of the university’s own statute of limitations – one hundred twenty days – its investigation lasted more than twenty-one months. As long as the investigation was ongoing, I could not publicly discuss the case of Jane Doe, or publish anything about what Guyer and I had discovered.

In June of 2001, while still under investigation, I received the William James Award at the annual convention of the American Psychological Society. Most of my colleagues at the convention had no idea what was going on. Those who had heard about the case history had no idea what was going on. But I could not discuss either the case history or the subsequent inquiry.

Instead, in my speech accepting the William James Award, I raised some questions: “Who benefits from my silence? … Who benefits from keeping such investigations in the dark? … Those of us who value the First Amendment and open scientific inquiry must bring these efforts to suppress freedom of speech into the light.”

Shortly afterward, I was exonerated by the university’s investigation. Finally, Guyer and I were able to publish our exposé of the case study. And I could take some satisfaction out of thinking that we had disproved Corwin’s claims.

But the cost was tremendous. The university’s actions left me feeling betrayed. Instead of offering a real apology, university officials would say only that they were sorry that the investigation had taken so long.

And so a year later I left my friends, my lovely old house, and the place where I had worked for twenty-nine years, in order to move to the University of California, Irvine.

And that was the end of the matter, it seemed – until early this year when Jane Doe filed a lawsuit.

She sued Guyer, me, and our colleague Carol Tavris for defamation and invasion of privacy, even though we had never revealed her name. (It was Jane Doe herself who revealed her name – in her lawsuit.)

The three of us have thus become part of a new and disturbing trend: throughout America, scientists are being sued simply for exercising their constitutional
right to speak out on matters of grave public concern.

This is not simply a problem for psychologists. In 1997, in an article published in *The New England Journal of Medicine*, R. A. Deyo, B. M. Psaty, G. Simon, E. H. Wagner, and G. S. Omenn recounted a number of instances in which efforts had been made to intimidate medical researchers. An expert on spinal-fusion surgery who raised doubts about its benefits was faced with efforts to block publication of his work, and forced to spend endless hours responding to subpoenas from companies with a vested interest in the procedure. Another scholar who had raised doubts, in this case about the value of certain tests used to support disability claims for chemical sensitivity, had to fend off charges of scientific misconduct and fight to keep his medical license. The conclusion of Deyo et al: “investigators should be aware that applied research is not for the naive or faint of heart.”

The possibility of being sued into silence delivers an ominous message for all scientists. Baseless litigation not only affects the defendants—it also discourages scientists from speaking out on controversial topics, for fear that they will be next.

We need better ways to investigate allegations of scientific misconduct. We need stronger judicial sanctions, such as awarding attorneys fees and court costs, to deter people from filing baseless lawsuits. And as my own case demonstrates, we need our universities to offer stronger support to researchers who come under attack. The members of the American Academy of Arts and Sciences have a special role to play in these circumstances. This organization was founded in order “to cultivate every art and science which may tend to advance the interest, honour, dignity, and happiness of a free, independent, and virtuous people.” Now, more than ever, that goal is at risk, unless we step up our efforts to defend the right of scientists in a free society to speak out— even when their findings are controversial.