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3 **IN THE SUPERIOR COURT**
4 **FOR THE**
5 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

6 **COMMONWEALTH OF THE**
7 **NORTHERN MARIANA ISLANDS,**

8 **Plaintiff,**

9 **v.**

10 **JOHN ROMAN LISUA,**

11 **Defendant.**

12 **CRIMINAL CASE NO. 23-0086**

13 **ORDER FINDING THAT EXPERT**
14 **TESTIMONY ON DELAYED**
15 **REPORTING AS AN ELEMENT OF**
16 **CHILD SEXUAL ABUSE**
17 **ACCOMMODATION SYNDROME FOR**
18 **REBUTTAL OR REHABILITATION IS**
19 **PERMITTED IF THE DELAYED**
20 **REPORTING IS FIRST USED BY THE**
21 **DEFENDANT TO IMPEACH OR CAST**
22 **DOUBT ON THE CREDIBILITY OF**
23 **THE ALLEGED VICTIM AT TRIAL**

24 **I. INTRODUCTION**

25 This matter came before the Court for a *Daubert* hearing on April 2, 2025 at 2:30 p.m. and
26 a Motion hearing June 18, 2025 at 10:00 a.m. in Courtroom 220A on the Commonwealth's
Motion to Allow Commonwealth's Expert to Offer General, Educative Testimony Regarding
Delayed Reporting to Help the Trier of Fact. The Commonwealth was represented by the
Attorney General's Office Chief Prosecutor Chester Hinds ("the Prosecution"). The
Defendant John Roman Lisua ("Defendant" or "Lisua") appeared and was represented by his
counsel, Assistant Public Defender Molly Dennert.

The issue before the Court is whether the Prosecution's expert witness testimony is
permissible under the NMI Rule of Evidence 702 analysis. Only one witness testified at the
Daubert Hearing, Michael Chen, M.D. ("Dr. Chen"). Only one exhibit was admitted, Dr.
Chen's curriculum vitae ("CV").

By order of the Court, Judge Joseph N. Camacho

II. PROCEDURAL HISTORY

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2 1. On July 10, 2023 the Prosecution commenced a criminal case against Lisua by filing
3 an information alleging three criminal counts: (1) Sexual Abuse of a Minor in the
4 Second Degree, (2) Assault and Battery, and (3) Disturbing the Peace.
- 5 2. On December 13, 2023 the Court issued an Order Setting Jury Trial, a pre-trial
6 conference was scheduled for February 14, 2024 and a Jury Trial for March 18, 2024.
- 7 3. On February 9, 2024 the Prosecution filed its witness list. The Prosecution's witness
8 list contained 15 names.
- 9 4. On February 14, 2024 the Court held a pre-trial conference. The Prosecution was
10 represented by Chief Prosecutor Hinds, Defendant appeared and was represented by
11 Chief Public Defender Douglas Hartig. The hearing was continued to February 16,
12 2024.
- 13 5. On February 16, 2024 the Court held the continuation of the pre-trial conference. The
14 Prosecution was represented by Chief Prosecutor Hinds, and the Defendant was
15 represented by Assistant Public Defender Molly Dennert. The hearing was continued
16 to March 6, 2024.
- 17 6. On March 6, 2024 the Court held the continuation of the pre-trial conference. The pre-
18 trial conference was continued to March 7, 2024 to discuss the Prosecution's proposed
19 expert witness during trial.
- 20 7. On March 7, 2024 the Prosecution filed an amended Prosecution's Witness List which
21 included 16 names as Dr. Chen was added.
22 a. The Prosecution also filed a Notice and Summary of Expert Testimony, and
23 Exhibit A, Dr. Chen's CV.
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- 25 8. On March 8, 2024 the Court issued Order After March 7, 2024; Prosecution's Request
26 to Call an Expert Witness Denied.

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9. On March 8, 2024 the Prosecution filed a Motion to Stay Proceedings or in the Alternative Reconsider and Request for Expedited Ruling.

a. The Prosecution requested a stay of proceedings and requested that the Court reconsider the ruling that denied the Prosecution’s Motion to call an expert witness during trial. The Prosecution argued the expert testimony was probative and relevant to the Prosecution’s case.

10. On March 11, 2024 the Defendant filed Opposition to OAG’s Motion for Stay and Reconsideration.

a. Defendant argued that the Court already denied the expert witness which was within its discretion and the motion to endorse the expert witness was untimely.

11. On March 11, 2024 the Court vacated the Jury trial set for March 18, 2024 and set a Motion hearing for May 15, 2024 to more fully brief the issues.

12. On March 28, 2024 the Prosecution filed a Notice of Withdrawal of Commonwealth’s Motion to Reconsider and a Notice of Appeal.

a. The Prosecution appealed the Superior Court’s order denying the Commonwealth’s expert witness to the NMI Supreme Court.

13. On May 15, 2024 the Court issued a minute order vacating the Prosecution’s motion hearing and noted the case was pending in the Supreme Court.

14. On December 31, 2024 the NMI Supreme Court issued an order reversing the trial court’s decision to disallow expert witness testimony and remanded the case to the Superior Court to conduct a NMI Rule of Evidence 702 inquiry as part of the Court’s gatekeeping duties.

15. On February 5, 2025 a status conference was held, the Prosecution appeared and was represented by Chief Prosecutor Chester Hinds, the Defendant failed to appear, and the Court issued a bench warrant for the Defendant.

- 1 16. On February 7, 2025 the Court issued an order setting a Jury Trial for May 5, 2025.
2 The Court also set a pre-trial conference for April 2, 2025 and directed parties on pre-
3 trial procedure.
- 4 17. On February 8, 2025 the bench warrant for Defendant was quashed and Defendant was
5 notified of the next hearing date.
- 6 18. On February 10, 2025 the Prosecution filed a Notice and Summary of Expert
7 Testimony.
- 8 19. On February 24, 2025 the Defendant Motioned for a *Daubert* hearing.
- 9 20. On February 25, 2025 the Court issued an order setting a *Daubert* hearing for April 2,
10 2025.
- 11 a. On February 26, 2025 the Prosecution filed a witness summons for the April
12 2, 2025 *Daubert* hearing for Dr. Chen, the proposed expert witness.
- 13 b. On March 17, 2025 the Prosecution file a Non-Opposition to Motion for
14 Pretrial *Daubert* Hearing. The Prosecution argued that Dr. Chen is a qualified
15 expert witness under NMI Rules of Evidence 702.
- 16 21. On April 2, 2025, the Court issued a minute order after the *Daubert* Hearing and
17 Briefing schedule directing parties to file briefs and setting a subsequent Motion
18 Hearing for June 18, 2025.
- 19 a. At the April 2, 2025 hearing Dr. Chen testified, and one Exhibit A.1, Dr.
20 Chen's CV was admitted into evidence.
- 21 b. The Court received Dr. Chen as an expert in delayed reporting as an element
22 of child sexual abuse accommodation syndrome ("CSAAS").
- 23 c. Dr. Chen testified that he is the Chief of Psychiatry at Commonwealth
24 Healthcare Corporation ("CHCC") for the last five years, where he sees
25 patients in the emergency room, and in inpatient and outpatient settings for
26

1 medication management. Dr. Chen's patients include children, adolescents,
2 and adults. (Exhibit A.1). Dr. Chen has a medical doctorate degree, M.D., from
3 New York Medical College, after which he continued specialized training for
4 four years in psychiatry through a residency, after which Dr. Chen received
5 additional training in child psychiatry at a two-year program at University of
6 Connecticut Health Center. Dr. Chen's testimony and CV demonstrate many
7 years of training and experience in both educational and hospital setting in
8 psychiatry and specialized training in child psychiatry. Dr. Chen testified he
9 has reviewed literature regarding delayed reporting, and delayed reporting can
10 be a trait of CSAAS.
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12 d. Dr. Chen testified that some of his patients reported they had experienced
13 childhood sexual abuse.
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15 22. On May 5, 2025 the Prosecution filed Commonwealth's Motion to Allow Expert to
16 Offer General, Educative Testimony Regarding Delayed Reporting to Help the Trier
17 of Fact.

18 a. The Prosecution argues that their proposed expert, Dr. Chen is qualified
19 through his education, work experience, and specialization in child
20 psychology. The Prosecution argues that expert testimony on CSAAS, has
21 been permitted in other courts, and is not being used in this case to show that
22 any sexual abuse took place but instead aid the jury in understanding why some
23 children react the way they do when possibly encountering an instance of
24 abuse. The Prosecution adds that Dr. Chen testimony is reliable and relevant.

25 23. On May 19, 2025 Lisua filed Defendant's Opposition to Commonwealth's Motion to
26 Allow Expert to Offer General, Educative Testimony Regarding Delayed Reporting
to Help the Trier of Fact.

1 a. The Defendant argues that the factfinder or jury does not need expert
2 testimony to understand why a child would delay reporting of an instance of
3 sexual abuse and thus no expert testimony is required. The Defendant also
4 questioned the scientific legitimacy of CSAAS and argued that the expert
5 testimony would bolster the witness and in turn unfairly prejudice the
6 defendant.

7 24. On June 18, 2025 the Motion hearing was held, the Court took the matter under
8 advisement.

9 25. On September 3, 2025 Assistant Public Defender Molly Dennert filed a Motion to
10 withdraw as Counsel Due to Conflict.

11 a. On September 4, 2025 the Court issued an order finding Defendant indigent
12 and appointed Catherine Cachero as his Counsel.

13 26. On September 15, 2025 Cachero filed a Motion for Substitution of Counsel and
14 requested that Attorney Keith Chambers II act as Counsel for Defendant. The Court
15 granted the Motion to Substitute.
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17 III. LEGAL STANDARD

18 The NMI Rule of Evidence 702 (“Rule 702”) is the controlling authority on whether
19 expert testimony is admissible at trial:
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21 A witness who is qualified as an expert by knowledge, skill, experience,
22 training, or education may testify in the form of an opinion or otherwise if: (a)
23 the expert’s scientific, technical, or other specialized knowledge will help the
24 trier of fact to understand the evidence or to determine a fact in issue; (b) the
25 testimony is based on sufficient facts or data; (c) the testimony is the product
26 of reliable principles and methods; and (d) the expert has reliably applied the
principles and methods to the facts of the case. NMI R. EVID. 702

25 The above elements are proven by the preponderance of evidence. *Commonwealth v.*
26 *Crisostomo*, 2018 MP 5 ¶ 15. The NMI Supreme Court has held that “trial court must make

1 findings on all four Rule 702 requirements so as to avoid unnecessary expense and delay.”
2 *Commonwealth v. Taitano*, 2018 MP 12 ¶ 13.

3 The landmark U.S. Supreme Court case *Daubert v. Merrell Dow Pharms., Inc.* 509 U.S.
4 579 (1993) laid the foundation for determining the admissibility of expert scientific testimony.
5 The U.S. Supreme Court found that Rule 702¹ must “assist the trier of fact to understand the
6 evidence or to determine a fact in issue. This condition goes primarily to relevance. Expert
7 testimony which does not relate to any issue in the case is not relevant and, ergo, not helpful.”
8 *Id.* at 591 (internal quotations omitted). The NMI Supreme Court found the holding in *Daubert*
9 explicitly applicable in the Commonwealth in *Commonwealth v. Crisostomo*, 2108 MP 5 ¶
10 19, and succinctly summed up the admissibility of expert testimony put forth in *Daubert* as
11 “a question of relevance and reliability.” *Commonwealth v. Lisua*, 2024 MP 11 ¶ 19. Where
12 “relevant evidence” is defined as that which has “any tendency to make a fact more or less
13 probable than it would be without the evidence and the fact is of consequence in determining
14 the action.” NMI R. EVID. 401. A Rule 702 analysis is incomplete without an inquiry made
15 into relevancy and reliability. *See Crisostomo*, 2018 MP 5 ¶ 23, (“Courts must also not
16 perform the gatekeeping function inadequately: after a proper inquiry into relevance and
17 reliability, the court must make specific findings regarding its evaluation of the expert. Thus,
18 summarily admitting or excluding testimony without assessing reliability is inadequate—
19 *Daubert* and its progeny require some kind of reliability determination to be made on the
20 record.” (internal quotations omitted)).
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¹ Here the U.S. Supreme Court interprets the Federal Rule of Evidence 702. The NMI Rule of Evidence 702 is identical to the Federal Rule of Evidence 702, making the U.S. Supreme Court’s interpretation of Federal Rule of Evidence 702 persuasive.

1 NMI R. EVID. 403 states that relevant evidence can be excluded “if its probative value is
2 substantially outweighed by a danger of . . . unfair prejudice, confusing the issues, misleading
3 the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”

4 IV. ANALYSIS

5 The Prosecution offers Dr. Chen as an expert witness on the subject of delayed reporting
6 as an element of child sexual abuse accommodation syndrome. The Prosecution submitted
7 Dr. Chen’s CV into evidence and Dr. Chen was questioned and cross examined.

8 ***1. Dr. Chen is qualified by knowledge, skill, experience, training, or education.***

9
10 Dr. Chen testified that he is Chief of Psychiatry at CHCC for the last five years, where he
11 sees patients in the emergency room, and in inpatient and outpatient settings for medication
12 management. Dr. Chen’s patients include children, adolescents, and adults. Dr. Chen has a
13 medical doctorate degree, M.D., from New York Medical College, after which he continued
14 specialized training for four years in psychiatry through a residency, after which Dr. Chen
15 received additional training in child psychiatry at a two-year program at University of
16 Connecticut Health Center. Dr. Chen’s testimony and CV demonstrate many years of training
17 and experience in both educational and hospital setting in psychiatry and specialized training
18 in child psychiatry.

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20 Even so, “an expert witness is not required to be a specialist.” *Commonwealth v.*
21 *Crisostomo*, 2018 MP 5 ¶ 30. For example, where a general medicine doctor is permitted to
22 testify on the effects of certain medications on a patient’s heart without specializing in
23 cardiology. *See Gayton v. McCoy*, 593 F.3d 610, 617-618 (7th Cir. 2010). The Court
24 recognizes that while Dr. Chen does not have to be a specialist, his testimony reveals he did
25 receive specialized training in child and adolescent psychiatry. Ultimately, specialization, or
26 “a lack of specialization goes to the weight of the expert’s testimony, not its admissibility.”

1 Here the Court finds Dr. Chen is qualified to testify about delayed reporting as an element
2 of child sexual abuse accommodation syndrome through his training, education, and
3 experience in general psychiatry from previous experience treating patients.

4 **2. The expert's scientific, technical, or other specialized knowledge will help the trier
5 of fact to understand the evidence to determine a fact in issue.**

6 NMI R. EVID 702(a) states that an expert is a qualified to testify when “the expert’s
7 scientific, technical, or other specialized knowledge will help the trier of fact to understand
8 the evidence to determine a fact in issue.” The landmark U.S. Supreme Court case *Daubert v.*
9 *Merrell Dow Pharms., Inc.* 509 U.S. 579 (1993) laid the foundation for determining the
10 admissibility of expert scientific testimony. The U.S. Supreme Court found that Rule 702 must
11 “assist the trier of fact to understand the evidence or to determine a fact in issue. This condition
12 goes primarily to relevance. Expert testimony which does not relate to any issue in the case is
13 not relevant and, ergo, not helpful.” *Id.* at 591 (internal quotations omitted). The subject matter
14 here is delayed reporting by children after alleged sexual abuse. The Defendant argues that a
15 trier of fact does not need expert insight into understanding delayed reporting because the
16 subject is easily understood by a common person, the subject being why a child would delay
17 reporting an alleged instance of sexual abuse. (*Commonwealth v. Lisua*, Crim. No. 23-0086,
18 (NMI Super. Court, August 4, 2025) (Defendant’s Opposition to Commonwealth’s Motion
19 to Allow Expert to Offer General, Educative, Testimony Regarding Delayed Reporting to
20 Help the Trier of Fact at pg. 4, ln. 2). Dr. Chen’s expert testimony not only offers reasons for
21 delayed reporting, but also educates the trier of fact that delayed reporting can be a trait among
22 children who experience sexual abuse based on his education and experience.
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25 Dr. Chen is both a ‘cold expert’, meaning he would only educate the jury about CSAAS
26 and a ‘blind’ expert, meaning he does not need to know the victims or the facts of the case
and would not offer any opinions specific to the victims. *See State v. Salazar-Mercado*, 325

1 P.3d 996, 997-98 (2014). (Where the Court found that an expert testifying on CSAAS was
2 both “a ‘cold’ expert, meaning she would only educate the jury about CSAAS, and a “blind”
3 expert, meaning she had no knowledge about the victims in this case and would not offer any
4 opinions specific to them). *See also CNMI v. Melvin Maratita Manglona*, Civil Case No. 17-
5 0012, (NMI Super. Ct. June 22, 2017) (Order Granting the Commonwealth’s Motion to
6 Reconsider as NMI Rule of Evidence 702 Allows an Expert to Offer General, Educative
7 Testimony to Help the Trier of Fact Understand or Resolve Factual Issues if (1) the Expert is
8 Qualified; (2) the Testimony Addresses a Subject Matter on Which the Expert Can Assist the
9 Trier of Fact; (3) the Testimony is Reliable; (4) the Testimony is Relevant to the Facts of the
10 Case; and (5) the Testimony is Not Barred by the NMI Rule of Evidence 403) (Where the
11 Superior Court permitted Commonwealth’s motion to allow “cold” expert testimony on
12 CSAAS).

14 The Court finds Dr. Chen’s “cold” and “blind” expertise can assist the trier of fact to
15 understand the evidence, making the expert testimony relevant under NMI R. EVID. 702.

16 **3. *Dr. Chen’s testimony is the product of reliable principles and methods***

17 The second element of Rule 702 requires that the testimony is reliable. The Defendant
18 objects to expert testimony on the premise that Dr. Chen has no expertise beyond “vague
19 references to medical literature,” (Opposition at pg. 5, ln. 19-21), and delayed reporting, as an
20 element of CSAAS does not meet the requirements of NMI Rule of Evidence 702(b)-(c). In
21 *Daubert*, the U.S. Supreme Court outlined some factors for evaluating the admissibility of
22 expert scientific testimony, including whether the theory has been tested, subject to peer
23 review and publication, and in regard to a scientific technique - whether there is a known rate
24 of error or a control group, and last, whether the science is “generally accepted.” 509 U.S.
25 579, 593-595 (1993). Defendant seized onto these *Daubert* factors and argues that “[d]ata
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1 regarding delayed reporting has no control group, no error rate, no testable and repeatable
2 findings . . .” (Opposition at Pg. 5, ln. 9-11).

3 However, the above factors offered in *Daubert* were meant as guidelines and not
4 requirements for admissibility,² “[t]he inquiry envisioned by Rule 702 is, we emphasize, a
5 flexible one.” 509 U.S. 579, 594 (1993). Rather, the ultimate inquiry is that the proffered
6 testimony be reliable, and the judge has “broad latitude in how they perform their obligation,
7 both in deciding how to test an expert’s reliability and whether the expert’s relevant testimony
8 is reliable.” *Crisostomo*, 2018 MP 5 ¶ 18 (quoting *Daubert*, 509 U.S. 579, 152 (1993))
9 (internal quotations omitted).
10

11 **4. The expert has reliably applied the principles and methods to the facts of the case.**

12 The NMI Rule of Evidence 702(d), that “the expert has reliably applied the principles and
13 methods to the facts of the case,” raises the issue of what facts and data are being relied upon
14 and which facts of the case are being used. Here, the Court recognizes the only applicable fact
15 of the case pertaining to expert testimony on delayed reporting is that the alleged victim did
16 not immediately report the alleged abuse suffered, and the timeline given in the Prosecution’s
17 brief state that the victim alleges the abuse took place in late April 2023 and the victim
18 reported the incident to her father two months later on June 9, 2023. (Commonwealth’s
19 Motion, May 5, 2025, pg. 1-2, ln. 24-25, 1-2). The Prosecution argues that this expert
20 testimony is “general testimony” or testimony where the expert may testify without ever
21 knowing the facts of the case. FED R. EVID. 702 was designed to support the notion that
22 “general testimony” is sometimes needed:
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26 ² The *Daubert* Court also wrote “[g]eneral acceptance’ is not a necessary precondition to the admissibility of scientific evidence under the Federal Rules of Evidence. . .” 509 U.S. 579, 597 (1993), and “[t]he fact of publication (or lack thereof) in a peer reviewed journal thus will be a relevant, though not dispositive, consideration in assessing the scientific validity of a particular technique or methodology on which an opinion is premised.” *Id.* at 594 (1993).

1 it might also be important in some cases for an expert to educate the factfinder
2 about general principles, without ever attempting to apply these principles to
3 the specific facts of the case. For example, experts might instruct the factfinder
4 on the principles of thermodynamics, or bloodclotting, or on how financial
markets respond to corporate reports, without ever knowing about or trying to
tie their testimony into the facts of the case. FED. R. EVID. 702 advisory
committee note's to the 2000 amendment.

5 Here, the Court finds that Dr. Chen's testimony may be permitted for the purposes of
6 educating the trier of fact on the general principles of delayed reporting as an element of child
7 sexual abuse accommodation syndrome, if the Defendant first uses the delayed reporting to
8 impeach or to cast doubt on the credibility of the alleged victim at trial.

9
10 **5. Avoiding undue prejudice pursuant to NMI Rules of Evidence 403**

11 The Defendant argues that Dr. Chen's testimony would unfairly prejudice the Defendant
12 by improperly bolstering the victim's testimony, *Id.* at pg. 6, ln. 2, and that delayed reporting,
13 "may be as consistent with false claims as with true claims." *Id.* at pg. 6, ln. 7. In *Cabrara v.*
14 *Cates* the California Northern District Court reviewed a child sex abuse case previously
15 decided by a California State Appellate Court. No. 20-cv-01256-JST, 2023 U.S. Dist. LEXIS
16 139152, (N.D. Cal. Aug. 9, 2023). The Federal District Court opined that expert testimony on
17 CSAAS, "is admissible to rehabilitate a child victim's credibility when the defense suggests
18 that the victim's conduct after the incident, such as secrecy or delayed reporting, is inconsistent
19 with his or her testimony regarding the molestation." *Id.* at *29. The California District Court
20 goes on to add that "courts have a duty to instruct the jury that the CSAAS testimony is not
21 evidence that the victim's molestation claim is true but is admissible solely to show that the
22 victim's conduct is not inconsistent with having been molested." *Id.* at *29-30.

24 Here, expert testimony such as the one offered by Dr. Chen is appropriate for rehabilitation
25 of a witness, or rebuttal after the defense has made the delayed reporting an issue. To be clear,
26 delayed reporting is not proof that child sexual abuse has occurred, but it is also *not* proof that
child sexual abuse has *not* occurred.

1 The Court finds that expert testimony on delayed reporting as an element of child sexual
2 abuse accommodation syndrome is permissible to rehabilitate a witness if the instance of
3 delayed reporting has first been made an issue of the alleged victim's credibility by the
4 Defendant. In this circumstance, the delayed reporting becomes relevant in which a trier of
5 fact can be assisted by an expert, fulfilling the requirements of NMI R. EVID. 702(a) and
6 avoiding undue prejudice to the Defendant, in compliance with NMI R. EVID. 403, by
7 instructing the trier of fact that delayed reporting is not proof that child sexual abuse has
8 occurred, but it is also *not* proof that child sexual abuse has *not* occurred.

10 V. CONCLUSION

11 For the above reasons, the Court FINDS that Expert Testimony on delayed reporting as
12 an element of Child Sexual Abuse Accommodation Syndrome is permitted for rebuttal or
13 rehabilitation if delayed report is first used by the Defendant to impeach or to cast doubt on
14 the credibility of the alleged victim at trial.

15 **FURTHERMORE**, in compliance with NMI R. EVID. 403 the trier of fact shall be
16 instructed that delayed reporting is not proof that child sexual abuse has occurred, but it is
17 also *not* proof that child sexual abuse has *not* occurred. Each person response differently, thus
18 it is ultimately for the trier of fact to determine the credibility of each witness.

19 **THEREFORE**, the Commonwealth's Motion to Allow Expert Testimony is **GRANTED**.

20 **SO ORDERED** this 16th day March 2026.

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23 /s/
JOSEPH N. CAMACHO, Associate Judge