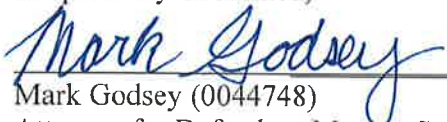


IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	94CR045372
	:	93CR044489
	:	94CR045368
	:	
Plaintiff,	:	Hon. Judge D. Chris Cook
	:	
-v-	:	<u>MOTION FOR NEW TRIAL</u>
	:	<u>PURSUANT TO RULE 33(B)</u>
NANCY SMITH	:	
JOSEPH ALLEN,	:	
	:	
Defendants.	:	

Defendants Nancy Smith and Joseph Allen, by counsel, respectfully request the Court vacate their convictions and order a new trial pursuant to Crim.R.33(B). For the reasons discussed in the attached Memorandum in Support, the Motion for New Trial should be granted.

Respectfully Submitted,



Mark Godsey (0044748)
Attorney for Defendant-Movant Smith
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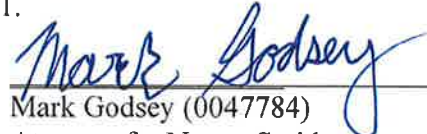
Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the Lorain County Prosecutor's Office via email on this 14th day of December, 2021.



Mark Godsey (0047784)
Attorney for Nancy Smith

MEMORANDUM IN SUPPORT

This court is familiar with the facts of this case. In short, Nancy Smith and Joseph Allen were convicted of sexually abusing young children who were part of the Head Start daycare program in Lorain County. The convictions were based on the testimony of 3 and 4 year-old children. The defendants asserted their innocence and claimed that the charges were the result of coaching and contamination by the parents and others that lead to the children making false allegations. The parents whose children were involved in the case all eventually arrived at seven-figure settlements against Head Start after Smith and Allen were convicted.

New evidence has surfaced which eviscerates the State's case and supports the defendants' theory that the charges against them were baseless and manufactured.

Ohio Rule of Criminal Procedure 33 governs the granting of new trials in a criminal case. The rule specifically provides that a new trial should be granted in cases of newly discovered evidence of innocence:

“A new trial may be granted on motion of the defendant for any of the following causes affecting materially his substantial rights:

(6) When new evidence material to the defense is discovered which the defendant could not with reasonable diligence have discovered and produced at the trial.

The Ohio Supreme Court has adopted a six-part test to determine whether a new trial should be granted:

To warrant the granting of a motion for a new trial in a criminal case, based on the ground of newly discovered evidence, it must be shown that the new evidence (1) discloses a strong probability that it will change the result if a new trial is granted, (2) has been discovered since the trial, (3) is such as could not in the exercise of due diligence have been discovered before the trial, (4) is material to the issues, (5) is not merely cumulative to former evidence, and (6) does not merely impeach or contradict the former evidence.

State v. Hawkins, 66 Ohio St.3d 339, 350 (1993) quoting *State v. Petro*, 148 Ohio St. 505 (1947) paragraph 1 of the syllabus).

For newly discovered evidence to warrant a new trial, the evidence must not be “merely cumulative to former evidence.” *Petro*, 148 Ohio St. 505, at syllabus. The qualification “merely” is the core of the standard. “Because the standard is that the evidence be not ‘merely’ cumulative, it will not be deemed cumulative simply because part of its content was covered or duplicated by evidence produced at trial, so long as the testimony contains additional elements which contribute significantly to [the] defendant’s case.” *State v. Barber*, 3 Ohio App. 3d 445, 447.

Similarly, newly discovered evidence will not support a new trial if it serves no additional value beyond “mere” impeachment or contradiction of evidence at trial. Because all newly discovered exculpatory evidence will in some sense impeach or contradict former evidence of guilt, a broad reading that ignores the qualification “merely” would lead to nonsensical results. As explained by the court in *Dayton v. Martin*, 43 Ohio App. 3d 87, 90 (emphasis in the original):

While *Petro* stands for the proposition that newly discovered evidence that *merely* impeaches or contradicts other evidence is not enough for a new trial, we do not read *Petro* as establishing a *per se* rule excluding newly discovered evidence as a basis for a new trial simply because that evidence is in the nature of impeaching or contradicting evidence. ***The test is whether the newly discovered evidence would create a strong probability of a different result at trial, or whether it is merely impeaching or contradicting evidence that is insufficient to create a strong probability of a different result.***

This conclusion is supported by the Ohio Supreme Court’s holding in *State v. Lopa*, 96 Ohio St. 410 (1917). The *Lopa* decision predated *Petro* by thirty years, and it served as the foundational basis for the standard that would later be adopted by the Court in *Petro*. *Petro*, *supra*, at 507-08.

In *Lopa*, the Court treated evidence that is “merely” impeaching and evidence that “will result in a different verdict” as flip sides of the same essential analysis. *Lopa*, supra, at 411.

In this case, five categories of new evidence have surfaced: (1) affidavits from Dino Grondin Sr. and Dino Grondin Jr. who state that they were present when the allegations in the Head Start case originated, and that they arose from Margie Grondin, who became the ringleading parent in the case, coaching her daughter to make false allegations in order to “get paid”; (2) an affidavit from former Detective Tom Cantu, who states that he was the first detective in charge of the case and determined that the allegations were baseless; charges were created later after the children changed their stories, which occurred after the parents in question mounted a public campaign to have charges brought; (3) affidavits from Dr. Virginia Braden and Dino Grondin, Jr., which demonstrated that Margie Grondin, in 2021, orchestrated a similar campaign to manufacture fabricated child abuse charges, presumably for financial gain; this effort by Margie Grondin was investigated and found to be baseless, and the detective in charge determined that she had manufactured false charges by coaching a small child; (4) a report by psychologist Dr. Maggie Bruck, which demonstrates that the testimony of the child witnesses in this case have all the earmarks of the children having been manipulated and coached into making false allegations; and (5) admissions from the Lorain County Prosecutor’s Office, in writing, that they have reinvestigated the case in 2021 and determined that Nancy Smith and Joseph Allen are innocent, and that the crimes they were convicted of having committed did not actually take place.

Affidavits of Dino Grondin Sr. and Dino Grondin Jr.

At the time of trial, defendants had no direct evidence to support an argument that the parents in this case coached the children to make false allegations for financial gain. Now, however, two witnesses who were present at the time the case originated have stepped forward and provided direct, firsthand evidence demonstrating that the charges were in fact concocted for financial gain. Dino Grondin Jr. has stated that he witnessed his younger sister, and the other children who participated in the Head Start case, being coached by his mother, Margie Grondin. *See* Dino Grondin Jr. Affidavit. Margie Grondin incorporated what she wanted her daughter to say into games, which would result in rewards if she repeated the allegations properly. An eventual trip to Disneyworld was held out as the ultimate prize if the little girl could properly learn and recite the allegations. Dino Grondin Sr. was also present in the same time period, as he and Margie Grondin shared custody of two children, Dino and Dino's older sister. As a result, Dino Sr. was often present at Margie's residence to visit his children, or to attend child-related parties or events. He also was frequently present during custodial exchanges of the children. Dino Grondin Sr. has sworn that he witnessed Margie coaching her youngest daughter to repeat the allegations of sexual abuse in the Head Start case that Margie had created for her. Margie told Dino Grondin Sr. on one occasion that she was going to "get paid" at the end of the case.

For further details, please read the affidavits of Dino Grondon Jr. and Dino Grondin Sr., attached and incorporated by reference herein.

Affidavit of former Detective Tom Cantu

Tom Cantu was assigned as original detective on the Head Start case, due to his years of experience with child sexual assault cases. He fully investigated the matter and concluded that

no sexual assaults had taken place. The children in question told him that nothing improper had happened and in fact that they knew and loved Nancy Smith as their bus driver. After Smith passed a polygraph, Cantu ultimately closed the investigation. The investigation was then later re-opened by other detectives, however, only after the parents involved, led by Margie Grondin, raised a fuss by going the media and the Mayor's Office and put extreme public pressure on the police to bring charges. When charges were eventually brought against Nancy Smith and Joseph Allen in the Head Start case, no detective or prosecutor ever asked Cantu about what his early investigation had uncovered. This was highly unusual based on the custom and practice in the department. After Cantu witnessed the children's stories evolve through time, he came to the conclusion that the children had been coached for financial gain. Also, Cantu became aware that rumors were spreading in the law enforcement community that Cantu had an affair with Nancy Smith, and that he closed the investigation as a result of a conflict of interest. Cantu understood these rumors to have originated from the lead prosecutor in the case. These rumors were not true, as Cantu had only met Nancy Smith in passing prior to the Head Start case arising.

Affidavits of Dr. Virginia Braden and Dino Grondin Jr.

The affidavits of Dr. Virginia Braden, acting as an investigator for the Ohio Innocence Project, combined with the affidavit of Dino Grondin Jr., paint a bombshell story confirming the defense's arguments about the devious modus operandi of Margie Grondin. These affidavits, as well as the supporting documents referred to in the affidavit of Virginia Braden (which can be made available to this Court), tell the story of Margie Grondin, in 2021, using her granddaughter to make false allegations of sexual abuse for financial gain. Margie Grondin's plan evolved over nearly two years. It required her to first make false allegations against her granddaughter's mother, in order for Margie to gain custody of her granddaughter. Then when the granddaughter

was finally in a place where Margie could allege sexual abuse and an entity with deep pockets would be liable, Margie made allegations of sexual abuse. She did not get away with it as she did in the Head Start case, however, because the detective in charge of the investigation was able to determine that Margie had coached the little girl into making false allegations. In fact, the detective testified under oath in juvenile court that it appeared that Margie had coached the little girl to make false accusations.

At this time, this Court should read the affidavits of Dr. Virginia Braden and Dino Grondin, Jr., which together set forth this new evidence in full detail. The affidavits are incorporated by reference herein.

Expert Report of Dr. Maggie Bruck

Dr. Bruck is a world-renowned expert on children's language and memory development, who since the 1990s has studied extensively children's patterns of disclosure of alleged abuse and the ways in which adults can knowingly and unknowingly lead or cause children to make false allegations of abuse through improper interviewing techniques, community contamination, and parental intrusion. Dr. Bruck observed based upon a review of the evidence available to her that Margie Grondin had improperly injected herself into every aspect of the Head Start investigation (indeed she had initiated it), went to the press and generated headline grabbing allegations, repeated to parents and the children all of her allegations and induced other parents to involve themselves in the investigation, and directed through various manipulations and suggestions her daughter's responses to questions. Dr. Bruck discussed at length how children's memories can be impacted and changed by adults who employ these suggestive techniques and manipulations, including by the use of leading questions, rewards and punishments, and the

refusal to accept answers inconsistent with the adults' desired narrative. She concluded based upon her detailed analysis of the evidence and her experience that the children's statements in the Head Start case were totally unreliable.

The above newly discovered direct evidence regarding Margie Grondin's allegations relating to her granddaughter and her attempted manipulation of her granddaughter's memories are consistent with the actions identified and discussed in detail in Dr. Bruck's Expert Report, and explain the motivation for Margie Grondin's actions against the Defendants. Dr. Bruck's Expert Report is incorporated by reference herein.

Admissions of Innocence by Lorain County Prosecutor's Office

In 2021, at the request of undersigned counsel, the Lorain County Prosecutor's Office re-examined the Head Start case in light of all the original evidence and the new evidence. After months of back and forth, where counsel supplied various forms of information and documents to the prosecutor's office, prosecutors in the office sent undersigned counsel emails stating that they had completed their investigation and concluded that Nancy Smith and Joseph Allen are innocent. The prosecutors further stated that they believe no crime actually occurred. Such emails are in the possession of undersigned counsel and can be made available to the Court if necessary.

This evidence would be admissible in a new trial as a party opponent statement under Ohio Rule of Evidence 801(d)(2).

CONCLUSION

Clearly, the new evidence in this case would result in an acquittal if Nancy Smith and Joseph Allen were tried today. At trial, the State denied that Margie Grondin coached the

children in this case, but she has subsequently been found to have coached a small child to make false claims of sexual abuse for financial gain---the very thing the defense suspected she had done in this case. The State's claims about the virtues of Margie Grondin would fall on deaf ears today. In addition, new direct evidence exists, from two witnesses present at scene, that Margie Grondin manufactured this case for financial gain. New understandings in child memory and psychology show that, even separate and apart from the evidence above, the children's testimony in this case has all the earmarks of coached, unreliable testimony. And the defendants would have something in a new trial that is almost unheard of: party opponent admissions from the prosecutor's office that the defendants are innocent. Nancy Smith and Joseph Allen's evidence greatly exceeds the standard for a new trial. Indeed, a prosecution today, let alone a conviction, seems unimaginable.

For the reasons stated above, Nancy Smith and Joseph Allen therefore respectfully request the Court grant their Motion for New Trial.

Respectfully Submitted,



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Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the Lorain County Prosecutor's Office via email this 14th day of December, 2021.



Mark Godsey (0074484)
Attorney for Defendant Nancy Smith

AFFIDAVIT OF DINO GRONDIN, SR.

My name is Dino Grondin. I have children, now grown, with Margie Grondin and our son together is Dino Grondin, Jr.

I am familiar with what has become known as the Head Start case involving Nancy Smith and Joseph Allen.

At the time those allegations were going on, I had frequent interaction with Margie Grondin and was at her residence, because we had children together and I would frequently pick them up and drop them off, etc. I would sometimes be in the home for periods of time during those exchanges and would sometimes be there for kids' birthday parties or other events.

I witnessed Margie coaching her daughter on what to say in order to make the allegations of sexual abuse in the Head Start case. I asked Margie what had happened. Her daughter, one of the child "victims" in the Head Start case was present during these conversations. Margie would state a narrative and would ask her daughter, "Isn't that how it happened? Tell him that's how it happened. Isn't that right?" Margie would try to get her daughter to repeat what she was saying or to agree with the story she was telling. Over time, this story would change and grow. Margie was persistent in trying to get her daughter to agree with what she said happened. This was something Margie wanted her to practice.

Margie told me that she was going to "get paid" after the case was over.

When my son Dino called me last year about the allegations Margie was making against his wife Emily, where Margie was claiming Emily had abused their daughter, I told my son to be careful because Margie was likely trying to get custody of the girl so she could use her to make false allegations against someone and sue for more money. I had this concern because it was obvious to me that this is what had happened in the Head Start case.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 20TH day of NOVEMBER, 2021, at LORAIN, OHIO.

By: [Signature]

DINO GRONDIN, SR.

State of Ohio,
County of LORAIN

Subscribed and sworn to or affirmed by DINO GRONDIN before me this 20TH day of NOVEMBER, 2021.

LAURIE A. DOVALA
Notary Public, State of Ohio
Lorain County
My Commission Expires
NOV-13-2022



AFFIDAVIT OF DINO GRONDIN

My name is Dino Grondin. My mother is Margaret Perrazola AKA Margie Grondin, who was the person who led the allegations in the Head Start case where Joseph Allen and Nancy Smith were convicted and sent to prison.

My mom made false allegations in the past couple of years against my wife, Emily. She accused my wife of sexual abusing our daughter, who I'll call AG. She made up all sorts of lies to try to get charges brought so she could take custody of AG, and she did in fact get custody for a while until her scheme fell apart. She was caught in those lies. For example, one lie is she told me that doctors had found evidence of sexual abuse on my daughter at a time when my daughter was too young to talk. This is captured in a recording on a "nanny cam" that was in my house. That turned out to be a lie, the doctors had actually said there was no evidence of sexual abuse and they were not concerned about my daughter's safety. My mom also claimed, after she got custody of our daughter and my daughter was old enough to talk, that my wife abused our daughter during a scheduled visitation when state or county officials of some sort were supervising the whole thing, so it couldn't have happened. The detective who investigated that claim said that Margie had coached our daughter to make the false allegations. For about two years my mom was constantly making false allegations, lying to everyone, and doing everything she could to first get, and then keep, custody of our daughter.

At one point when this was going on, I started to wonder if my mom was doing this so she could get custody of AG and then put AG in a situation where she could claim abuse so she could sue someone with deep pockets for money. The reason I had these suspicions is because when I was six my mom coached my little sister to make false allegations in the Head Start case for money. I saw it with my own eyes and was old enough to understand what was going on. She told my sister what to say and practiced with her, telling her that if she got it right we would get enough money to go to Disneyworld. She held Disneyworld over her as a reward. I wanted to go to Disneyworld too. My mom incorporated the allegations into games, and made my sister say it right to get little rewards. She also said at different times that if my sister didn't get the story right, the "Cucuy," which she used like you would say "boogeyman," was going to come kill her family and then kill her.

In about August 2020, I shared my suspicions with my dad. He told me, yes, you should be worried, because she made up those allegations in the Head Start case for money and she's probably trying to do it again. But she can't do it without a little kid to claim someone abused, so she's trying to get custody of a little kid and making up false allegations against my wife to get custody. He told me to go online and find the documents in the Head Start case. So I did. My wife and I found them and read all the things in the parole documents put together by the Ohio Innocence Project. We also read other things we found on the internet about the case.

When I read those documents, I had a panic attack so bad I had to go to the hospital. I have the medical records from this visit. The reason I had a panic attack was that some of the things the kids alleged in that case were forms of sexual abuse that my mom and her male companion(s)

had done to us kids when we were little. Like sexual abusing us with sticks and even making us pee into a bottle for reasons I still don't understand. It was traumatic reading about it because it was done to me. Also, I saw my sister being sexual abused by a male companion, on some occasions with my mom present. On one occasion, the man was licking my sister's face all over and the man and my mom were laughing hysterically. They made me leave the basement where this was happening. Then screams came from the basement, my sister screamed. This happened on more than one occasion. I was also sexually abused by a male companion of my mom on more than one occasion.

Also, reading the documents online brought me back to what I saw with my mom coaching my sister about. For example, there was a sentence about how the kids said Joseph was black with spots. I know exactly what that is all about. My mom had a male companion put on black hunter's paint, or black or dark face paint of some sort, and pretend to be Joseph to get my sister ready for her allegations in the Head Start case. She had to call him Joseph and she had to practice saying what "Joseph" did to her. The man didn't put it on very evenly and there were spots where the hunter's paint was bare and his skin showed through. He looked like a black man with spots. I saw this with my own eyes.

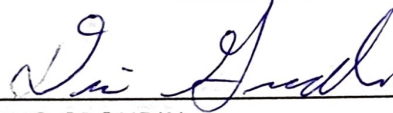
At the same time, my mom had a picture of a black man on the wall in the basement, which I think must have been some sort of mug shot or something of Joseph Allen. She moved it around to different places on the basement walls. My sister had to study it point to it and say it was Joseph. My mom on some occasions had the other kids from the Head Start case down in the basement, and coached them the same way. The allegations I read in the court documents online were the things my mom was coaching them to say, and a lot it was sexual abuse that had gone on in my own family. My mom played "school" with the kids in the basement, and actually set the basement up like a little school with tables or desks, and created educational games. My mom was the "teacher." The tables and desks are still in storage at my grandmother's house. The kids had to say the allegations of sexual abuse the way she wanted them to say it in order to advance in the game.

Three of the kids in the Head Start case who made the allegations admitted to me that nothing happened and the allegations were made up. One of them admitted this to me at the time the allegations were happening, one admitted this to me when we were teenagers, and the third after we were adults. One of them said Margie has told them if it is ever discovered that the story is not true, the kids in the Headstart case will be publicly disgraced and shamed. Margie has also told her they will have to give all of the money back. This person who was a child "victim" in the Head Start case believes this and is worried that, if it is discovered that the allegations were false, everyone will have to give the money back and she will lose her house and everything she has in order to pay it back. My little sister who was involved in the case will not talk about it and is very much under the influence of my mom. My mother is extremely manipulative and controlling.

I have no doubt that my mom coached our daughter to say that my wife sexually abused our daughter during a supervised visitation because she thought this would allow her to sue the state or county, since they would be responsible, and the government has a lot of money. This was what she was waiting for and part of her plan from the beginning. It didn't work because they could see right through it and they disproved it. After this scheme fell apart because she was caught coaching my daughter, my mom lost custody of our daughter.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 19 day of NOVEMBER, 2021, at Lorain, OHIO.


By: 
DINO GRONDIN

State of Ohio,
County of Ohio

Subscribed and sworn to or affirmed by DINO GRONDIN before me this 19th day of NOVEMBER, 2021.


Notary Signature




JO JARRETT CHAPIN
Notary Public, State of Ohio
My Comm. Expires 01/19/2024
Recorded in Lorain County

AFFIDAVIT OF TOM CANTU

My name is Tom Cantu and I am a retired detective. I worked in the youth/gang division of the Lorain Police Department for many years until 1993 when I was promoted. The youth unit handled all crimes against children, and so I had experience with child sexual abuse cases.

I was the detective assigned to what has become known as the "Head Start case" that resulted in the convictions of Joseph Allen and Nancy Smith.

When I was assigned to the case, I performed a full investigation into the matter and determined that no crimes took place and no charges should be brought.

I made this conclusion for a variety of reasons, but the most obvious reason was that the children in question told me, when their parents were not in the room, that nothing had happened. They told me not only that nothing improper had happened, but that they loved Nancy, who was their bus driver, and they were very fond of her.

After Nancy Smith passed a polygraph and I completed the investigation, I wrote my report stating that the allegations were unfounded and no charges should be brought.

After that, I was taken off the case, new detectives were assigned, and a prosecution was created and went forward despite my conclusions. I later learned that this was because the mother who had started the allegations, Margie Grondin, had gone to the Mayor and the media and had created pressure for charges to be brought. But the prosecutor never spoke to me about my findings, and neither did the detectives who replaced me on the case. They never asked what I had uncovered or what I had witnessed, which was very unusual.

After I retired, I came to the conclusion that the children had likely been coached for financial gain. Clearly their stories must have changed and evolved through time until a case was made, as they said that nothing happened when I was in charge of the case. I later saw the videotape of the lineup where the children allegedly picked out Joseph Allen, you could see the parents coaching the kids. One of the parents took her child's hand and pointed it at Joseph Allen for the kid. This was totally improper and should have sent up red flags to investigators. The changing stories, the way the parents seemed so aggressive and motivated for financial gain (and they apparently got a large settlement in the end) and the coaching that was visible on the videotape made me very concerned about what had gone on in the case.

I also learned later that rumors had spread in the law enforcement community that Nancy Smith was my girlfriend and I had tried to sabotage the investigation to protect her. I understood that these allegations were coming from the prosecutor Rosenbaum. But this was false. Nancy Smith was not my girlfriend and I barely knew her. I had worked security when off duty at a bingo hall, and through this job knew Nancy's mother and aunt like I knew any of the other hundreds of people who played bingo there. I said "Hello" to them and we were friendly in the same superficial way that I said hello and made small talk with everyone at the bingo hall.

Nancy came to the bingo hall with them a few times, and I also had a minimal acquaintance with her in the same superficial way. I had just said hello to her and made small talk a few times like I did with everyone else at the bingo hall.

I would have been willing to testify for the defense if called as a witness. However, for reasons I could not understand, I was not called as a witness for the defense, and as far as I know the jury never heard what I had seen and heard during my investigation.

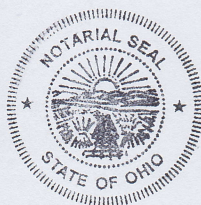
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 19 day of NOVEMBER, 2021, at Westeruille, OHIO.

By: Tom Cantu
TOM CANTU

State of Ohio,
County of Ohio, Fairfield

Subscribed and sworn to or affirmed by TOM CANTU before me this 19 day of NOVEMBER, 2021.



Melissa S. McKinnon
Notary Public, State of Ohio
My Commission Expires

11/28/2022

Melissa S. McKinnon
Notary signature

AFFIDAVIT OF DR. VIRGINIA BRADEN

- 1) My name is Dr. Virginia Braden. I am a Licensed Private Investigator and Behavioral Analyst who engages in freelance work for the Ohio Innocence Project (OIP). I have a PhD in criminal justice from the University of Louisville and have worked in the criminal justice field as a victim's advocate, private investigator, behavioral analyst, investigative consultant, and trainer/educator for more than 20 years serving private clients as well as law enforcement agencies.
- 2) On September 1, 2020, I interviewed Dino and Emily Grondin at their home in Lorain, Ohio. Dino Grondin is the son of Margie Grondin, who was the catalyst in the child molestation allegations against Nancy Smith and Joseph Allen in what has become known as the "Head Start case." Emily Grondin was Dino's wife at the time. Dino and Emily have a daughter, AG, who was 33 months old in September 2020 and who is four years old currently.
- 3) I interviewed Dino and Emily because they had reached out to OIP director Mark Godsey and indicated they had information relevant to the Head Start case. Starting on September 1, 2020 and through today, I have interviewed Dino and Emily many times, and engaged in my own investigation and collected documents pertaining to the information they provided me. In this process, I have learned the information that follows:
- 4) On August 24, 2019, Margie Grondin ("Margie") told Dino Grondin that Dino's wife, Emily Grondin, and Emily's mother have been sexually abusing AG and, as a result, Margie was taking AG to the hospital immediately. When questioned why she believed AG had been abused, Margie claimed to Dino that she "knows the signs" of child abuse.
- 5) AG was examined for sexual abuse that night by several doctors. According to the records now in my possession¹, the results of the examination were benign and showed no evidence of trauma or abuse, as Margie had claimed. Further, the documents indicate that there are no concerns for AG's safety or well-being. Despite these findings, Margie later repeatedly falsely told individuals that the doctors had confirmed her suspicions of abuse.
- 6) On January 23, 2020, Margie filed a complaint with Lorain County Children's Services (LCCS) repeating the same allegations of sexual abuse by Emily against AG. At this time, Dino and Emily were out of town and AG was staying with her paternal great grandmother. On that day, Margie appeared at AG's great grandmother's house and took custody of AG without formal proceeding or authority. When Dino arrived back in town later that day, Margie had custody of AG and LCCS would not allow Dino to retake custody of AG due to the formal complaint filed by Margie earlier that day.
- 7) On Jan 24, 2020, Margie took AG to the hospital again to be examined for sexual abuse and this time she had AG tested for STDs. According to the records, Margie claimed during this examination that she had seen signs of sexual abuse in or around AG's genitalia. During this visit, Margie also falsely stated to medical professionals that Emily had been admitted to a psychiatric facility in Pennsylvania. Margie further stated, without basis, that rampant sexual abuse had been occurring in AG's household, including abuse of an 11-year-old sibling of AG.
- 8) The results of all of tests for STDs are found to be negative. Additionally, the results of the doctor's examination indicate that none of the symptoms Margie reported were seen during the exam. Specifically, the doctor stated that his exam shows no erythema, no rash, no discharge, no signs of injury. I have copies of all records relating to this visit.
- 9) On January 31, 2020, as part of a safety plan for AG in conjunction with Lorain County Children's Services, Margie was officially designated the person who AG will be residing with while the investigation is conducted. This is with the goal of an eventual reunification of AG with both Dino and Emily. Also on January 31, 2020, **Margie falsely told Dino that the medical examinations performed thus far have**

¹ In the interests of protecting juvenile court records, I have not attached the supporting documents mentioned in this affidavit. However, such documents can be made available to the court or produced at a hearing.

uncovered proof of sexual abuse by Emily against AG. This false statement was captured on tape by Dino and Emily's "nanny cam," which I have in my possession.

- 10) By the end of January 2020, Margie had been telling family members and friends for months that Emily had been sexually abusing AG. I have copies of these text messages in my possession. Margie's smear campaign resulted in people in Emily and Dino's circle of friends contacting them accusing Emily of being a pedophile. Emily subsequently filed a defamation suit against Margie, and this lawsuit is still pending.
- 11) Beginning in early 2020 and into 2021, while she had custody of AG due to the complaint she filed against Emily with Lorain County Children's services, Margie continued to take AG to doctors presenting that AG had a history of sexual and physical abuse at the hands of Emily. During those visits, Margie made various false statements to the doctors. For example, medical records show that Margie stated to a doctor seeing AG that Emily was incarcerated at that time in a prison in Pennsylvania. Margie also stated to medical providers that she has custody due to Emily's abuse of AG and Emily's 11-year-old son. I have possession of copies of these records.
- 12) Indeed, Margie repeatedly presented a history of confirmed child abuse and sexual abuse on multiple doctor's visits. Counseling intake and care records for AG show that in April of 2021, for example, Margie stated that AG had a history of sexual, physical, and emotional abuse, despite the fact that all official findings thus far contradicted this statement. She further claimed that a video exists of Emily sexually assaulting AG's siblings and that Emily had taken inappropriately sexual pictures of AG. I have possession of these records. All of these allegations are unsubstantiated and the medical examinations as well as my investigation into the allegations have refuted these statements. In fact, my investigation as well as the later investigation by Detective Strohsack (discussed below) demonstrate that Margie has repeatedly claimed to have video proof of certain acts that corroborate her allegations, but she does not produce videos with the content she states she has when called up to do so.
- 13) In fact, on March 29, 2020, LCCS issued a report finding no evidence of physical or sexual abuse against AG. This report is in my possession. LCCS did not give custody back to Dino and Emily, however, primarily because of addiction issues they suffered from at the time which were discovered by LCCS as a result of their investigation into Margie's allegations. Throughout 2020, Margie Grondin continued a smear campaign against Emily to friends and family alleging that Emily had sexually abused AG, despite the fact that all doctors and professionals had refuted that claim.
- 14) In August of 2020, Dino informed his father of the false allegations by Margie. Dino knew from his childhood that Margie coached her own daughter (and Dino's sister) Nikki, and other kids, into making false allegations in the Head Start case. Dino remembered that from his own childhood (see Dino Grondin's affidavit) and by this time has become concerned that Margie had an agenda to make false allegations against Emily so she could get parental rights to AG, so that she could then use AG to sue people by making false sexual abuse allegations. Dino's father told Dino that is a valid concern because Margie had concocted the Head Start case for financial gain and told Dino he should go online and look up the allegations that Margie made in the Head Start case.
- 15) On August 22, 2020, Emily and Dino went online and read the allegations from the Head Start case. Dino had a strong emotional reaction because the allegations of abuse in the Head Start case were either things that Margie and her boyfriends had done to Dino and his siblings when they were children or were things that Dino witnessed Margie coaching his sister to say at the time of the Head Start case. This caused Dino to have a panic attack so severe that he had to seek medical treatment at the ER. See Dino's affidavit. Following this revelation, Dino reached out to Mark Godsey, the director of the Ohio Innocence Project, leading to my involvement in the case.
- 16) **On July 28, 2021** Emily had a scheduled visitation with her daughter AG. The visit was supervised by LCCS employees and took place at a state administration building.
- 17) **On July 29, 2021**, Margie alleged that AG (now old enough to talk) told her that Emily had molested her during this visitation session, despite the fact that this visit had been supervised by government officials.

- 18) This accusation was subsequently investigated by Detective Strohsack of the Lorain County Sheriff's Department. Margie stated to Detective Strohsack that AG had complained to her that her vagina was hurting. Margie further stated that AG had disclosed to her that AG's mother, Emily, had sexually molested her and touched her pee during the supervised visit on July 28. Margie additionally informed Detective Strohsack that she had five videos of AG stating that Emily had sexually abused her. Margie then presented him with just one short video clip. The short video clip showed Margie telling AG what to say.
- 19) Further, as a result of this allegation, Margie was instructed to take AG to the Nord Center to have a sexual assault examination completed. Records from the Lorain County Sheriff's investigation show the results of this exam found no evidence of trauma.
- 20) As part of his investigation, Detective Strohsack determined that the abuse could not have happened because Emily and AG had been supervised at all times during this official visit. He also interviewed AG. This interview was recorded and video from that interview shows that while the detective was not in the room, AG practiced pretend crying. AG made no disclosure of abuse to Detective Strohsack. His investigation concluded that AG had been coached by Margie. At the conclusion of his investigation Detective Strohsack determined there was no evidence, no disclosure of harm, and no witnesses and found the allegations to be unsubstantiated and stated the matter was unfounded. During a hearing in the case, Detective Strohsack testified that it was evident to him that Margie had coached AG into making a false allegation. I have possession of this hearing transcript.
- 21) At the end of August 2021, following the above episode where Margie alleged Emily abused AG while on a supervised visit on state property, Margie's temporary custody was revoked.
- 22) On September 11, 2021 Lorain County Children's Services issued their findings on the investigation of the July 29, 2021 allegations. They found the allegations were unsubstantiated. I have a copy of this report in my possession.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 7th day of DECEMBER, 2021, at HAMILTON CO, OHIO.

By: Dr. Virginia Braden
DR. VIRGINIA BRADEN

State of Ohio,
County of HAMILTON

Subscribed and sworn to or affirmed by DR. VIRGINIA BRADEN before me this 7th day of DECEMBER, 2021.



Jim Gronefeld
JIM GRONEFELD
Notary Public, State of Ohio
My Commission Expires 09-12-2024

**EXPERT REPORT OF DR. MAGGIE BRUCK IN SUPPORT OF THE
PETITION OF NANCY SMITH FOR CLEMENCY**

1. I hold a doctorate in experimental psychology and am a full professor of Psychiatry and Behavioral Science at Johns Hopkins Medical Institution. In recent years, I have also served as Acting Director of the Division of Child and Adolescent Psychiatry at John Hopkins. I am also an adjunct professor in the Department of Psychology at McGill University, where I was a full professor until 2000. I specialize in research in the field of developmental psychology. For the past thirty years, my research has focused on children's language and memory development.

2. During the 1980s and early 1990s, there were a large number of criminal cases in which young children claimed that their parents or other adults had sexually abused them. The claims were often fantastic and bizarre, involving reports of ritualistic abuse, pornography, multiple perpetrators and multiple victims. At the time, there was little or no scientific research into the suggestibility or memory of children. The prevailing wisdom was that children do not lie about sexual abuse and that therefore their bizarre and chilling accounts of events, which were beyond the realm of most pre-schoolers' knowledge and experience, had to be true.

3. Since that time, there have been enormous changes in the views regarding the accuracy of children's reports and of claims that have tinges of ritualistic abuse. In regard to the last issue, many to most of the trials that resulted in convictions where there were multiple perpetrators and victims that involved claims of ritualistic abuse have been overturned on appeal. There is general agreement that such acts never occurred and

children's reports were the results of suggestive interviewing techniques promulgated by adults who had errant beliefs about the reality of ritualistic abuse.

4. A second change has been the number of studies devoted to addressing issues of children's autobiographical memory and suggestibility. Since the mid-1990's, there has been an exponential increase in research in this area. This research was motivated by cases such as that of Nancy Smith.

5. Beginning in the early 1990s, with my colleague, Dr. Stephen Ceci, I began studying the factors that influence children's autobiographical memory of events. Our aim was to develop a sociological and psychological understanding of the factors that might influence children's testimonies and memories.

6. In 1994, Dr. Stephen Ceci and I won the Robert Chin Memorial Award for the Most Outstanding Article on Child Abuse for our article "The Suggestibility of Child Witnesses: An Historical Review," *Psychological Bulletin*, 113 403-439 (1993). In 1995, Dr. Ceci and I co-authored and published the book *Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony*, which won the prestigious William James Book Award from the American Psychological Association.

7. In terms of my own contribution to the field of developmental psychology (which includes studies of children's memory and language), I have published some 60 articles in peer reviewed publications, 16 book chapters, and presented more than 40 peer reviewed papers at professional conferences on children's memory and suggestibility. I have reviewed hundreds of research studies and thousands of child interviews. As part of my own research into children's memories, I have looked at the effects of various interviewing techniques on the reliability of children's memories. I have also studied

how children's reports are preserved, finding that adults' memories of conversations with children are faulty and that electronic recordings or reliable transcripts of such recordings are the only accurate means to preserve the important details of children's reports during interviews.

8. In addition to undergraduate and graduate teaching at McGill and John Hopkins, I have given lectures and/or training to judges, prosecutors, defense attorneys, social workers, and therapists regarding the science that has led to the development of techniques and protocols for interviewing children so as to avoid false disclosures. I have also been qualified as an expert witness in federal courts and state courts throughout the country.¹

9. I have been asked by Davis Polk & Wardwell LLP to evaluate the reliability of the alleged victims' statements in the case of *Ohio v. Smith*, Case Nos. 93 CR 044489, 94 CR 045368. I have reviewed the following materials: (1) the police reports, (2) the transcripts of the police interviews with the alleged victims, (3) news articles from the time period of the investigation, (4) the portions of the trial transcripts from the criminal trial of Nancy Smith and Joseph Allen containing the children's testimony, and (5) the expert report of Dr. Kathleen Quinn, which was prepared in connection with an action for money damages brought by the parents of the alleged victims.

10. As I reviewed these materials, two themes emerged that are common to many similar cases from the same time period.

¹ My education, professional experience, publications, and other information relating to my background and qualifications are described in greater detail in my *Curriculum Vitae*, attached as Exhibit A to this Affidavit. A bibliography of the articles referenced in this affidavit is attached as Exhibit B.

11. First, the spread of information from one parent to the next and from one child to the next through such means as active parent involvement in the investigation, widespread dissemination of information (and misinformation) by parents, sensational media coverage, and group interviews, created an atmosphere of mass hysteria in Lorain, Ohio, leading to what amounted to a witch hunt for the perpetrators of the alleged abuse.

12. Second, the pattern of disclosure in this case raises immediate concerns. During early interviews of the children (as opposed to interviews of the parents), the children denied having been abused, then made allegations only after repeated questioning, then often recanted those allegations. The scientific literature has demonstrated that this pattern of disclosure is rare among victims of sexual abuse; fusing this with our own work, these findings indicate the importance of documenting a pattern of suggestive interviewing techniques when such patterns occur.

13. My review of the transcripts of the interviews with the children confirmed that these children were subjected to a number of extremely suggestive interviewing techniques including: (1) obvious interviewer bias communicated by the interviewers' failing to test alternative hypotheses, disregarding discrepant or bizarre reports, and gearing the interviews to provide confirmatory evidence for the primary hypothesis that the children had been abused by Nancy Smith and Joseph Allen, and (2) using suggestive interviewing techniques such as: leading and specific questions; rewarding of answers consistent with the narrative and negative feedback for providing inconsistent answers; telling the child what other people had supposedly said in an effort to influence the child's narrative; and the use of dolls and line drawings to elicit allegations of sexual abuse. Finally, some of the interviewing techniques were so aberrant as to allow parents

to provide their own information in the presence of the child during the interview. Scientific research has demonstrated that these techniques are likely to result in false reports, particularly when used in combination and particularly when used with four and five-year-old children, such as the alleged victims in this case.

14. Thus, the charges against Ms. Smith were brought only after the Lorain community became embroiled in a proverbial witch hunt for the alleged perpetrators of ritualistic-type abuse and only after the alleged child victims were repeatedly subjected to highly suggestive interview techniques. As detailed below, it is my expert opinion that the disclosures obtained in this case to support those charges are tainted and unreliable.

A. Contagion in the Community Contaminated the Investigation

15. Nikki Zelek's mother, Margaret Grondin, was the first person to report allegations of abuse and, as set forth below, she injected herself into every aspect of the investigation. In addition to going to the hospital and the police with her allegations, she visited the parents of other children in the Head Start program in their homes, repeating the allegations to them that she made to the nurse and to the police. (May 26, 1993 Police Report, at PR_010, PR_014; May 27, 1993 Police Report, at PR_017; June 3, 1993, Police Report, at PR_033; June 16, 1993 Police Report, at PR_072; June 28, 1993 Letter from Dr. Richardson, at PR_103.) Ms. Grondin went to the press, which responded with headline-grabbing news stories. She contended that Nikki had been molested by Nancy and Joseph. Among the other children's parents to whom she conveyed these allegations were the parents of Antuan Powell and Amanda Weinbrenner, two of the other alleged victims in the case; Antuan's father, Frederick Powell, then in turn interjected himself into the investigation as well.

16. The allegations thus spread from one set of parents to the next and from one child to the next. For a period of months, not only were these children questioned by multiple adults including parents, police, social workers, teachers, and on television by reporters, but they also heard similar allegations from their parents, other parents and from their peers. Indeed, the alleged victims listened intently as their parents were interviewed by the police; they were exposed to media coverage of the case, and they participated in group interviews with the police. Studies show such community contamination can affect children's disclosures. *See, e.g., Child Sexual Abuse Investigations*, Wood, J.M.; Nathan, D., Nezworski, M.T., & Uhl, E. (2009) (detailing how in the notorious McMartin case, families "create[d] an informal network that guaranteed contamination, that is, the sharing of rumors, genuine information, and misinformation . . . [and how] the legal authorities and media were also swept up in the panic and contributed to the spread of misinformation").

17. In this case, it is actually possible to trace the spread of information from one child to the next. For example, after watching a news report on the case, Nikki identified Charles Ellis as the man who had molested her. After the news report, Nikki's mother, Margaret Grondin, drove Amanda Weinbrenner and Nikki by Mr. Ellis's peach colored house. Not surprisingly, shortly thereafter, both Amanda Weinbrenner and Antuan Powell identified Mr. Ellis's house as the house where the alleged molestation took place. (May 27, 1993 Police Report, at PR_018; May 31, 1993 Police Report, at PR_028–31; June 16, 1993 Police Report, at PR_048.) On several occasions thereafter, Nikki and Amanda continued to insist that the house was peach colored, like Mr. Ellis's house. (*See, e.g.,* July 20, 1993 Police Report, at PR_089.) Recent research by Principe

and colleagues has shown that young children easily pick up information (or wrong information) from their friends and inject this into their own reports, falsely stating that they also experienced such events (*see* Principe & Schindewolf (2012) for a review).

18. Only a few weeks later, after canvassing Lorain, Antuan Powell's father, Frederick Powell, located a man named Richard Jones who he believed was Joseph and took his son by Mr. Jones's house. In subsequent interviews with the police, Antuan – having previously identified Charles Ellis's home as the residence of his molester – now identified Mr. Jones's home as the location of the abuse, provided a description of his molester that “perfectly” matched Mr. Jones, and picked Mr. Jones out of a photo array as “the man Nancy took me to.” (June 20, 1993 Police Report, at PR_055; June 20, 1993 Police Report, at PR_058; July 27, 1993, Police Report, at PR_101; Trial Tr. 1027:25–1028:1–29:10.) In Antuan's own words:

Detective Andujar: Did any of those men look like Joseph?

Antuan: I have seen him before.

Detective Andujar: You have seen him before?

Antuan: He lives right by us.

Detective Andujar: Oh really. Ok. You see any of those men look like Joseph? He looks like Joseph? He looks like him?

Antuan: And my uncle took me to go see him.

Detective Andujar: Huh?

Antuan: He is Joseph.

Detective Andujar: Your uncle took you to go see him?

Antuan: Uh-huh. He just was gonna make sure if I remember him.

Detective Andujar: That's Joseph.

Antuan: Uh-huh.

Detective Andujar: Are you sure?

Antuan: Uh-huh.

Detective Andujar: Is that the same Joseph you seen with Nancy?

Antuan: Uh-huh.

Detective Andujar: Are you sure?

Antuan: Uh-huh. My mom says he gots a son.

Detective Andujar: Uh-huh. But are you sure that's the same Joseph?

Antuan: Uh-huh.

(July 22, 1993, Interview of A. Powell, at INT_190.) Only days later, Nikki Zelek selected Richard Jones out of a photo array, and when the police drove Jessica Sharpless and Amanda Weinbrenner by Mr. Jones's house, they both supposedly became scared and grabbed their groins. (June 16, 1993 Police Report, at PR_046.)

19. The shift from Charles Ellis to Richard Jones to finally Joseph Allen is powerful evidence of the children's susceptibility to peer contamination and suggestive questioning.

20. Indeed, after a television special and newspaper articles, the atmosphere in Lorain was one of mass hysteria. Parents began questioning their children, often for days in a row, sharing rumors and misinformation. Not surprisingly, after the television special, the parents of fifteen additional children came forward alleging that their children had been abused, several of whom incorporated details from the television broadcast into their allegations. (May 27, 1993 Police Report, at PR_020-21 (Amanda Rose); May 28,

1993 Police Report, at PR_022 (Jonathan Gibson); May 29, 1993 Police Report at PR_023–24, June 15, 1993 Police Report, at PR_042–43 (Justin Anthony); May 29, 1993 Police Report at PR_025 (Jessica Sharpless); May 31, 1993 Police Report, at PR_027 (William Oliver); June 13, 1993 Police Report, at PR_040 (Cameron Taylor); June 13, 1993 Police Report, at PR_041 (Vernard Hardy); June 18, 1993 Police Report, at PR_49–50 (Brett Queen); July 18, 1993 Police Report, at PR_086 (Jennifer Hronek); August 18, 1993 Police Report, at PR_113 (Alia Ortiz); November 8, 1993 Police Report at PR_141–43 (Lazarus Taylor); November 12, 1993 Police Report at PR_201 (Brittaney Bragg); January 17, 1994 Police Report at PR_207–09 (Zachary Peterson); August 5, 1994 Police Report at PR_213 (Adam Boyette); August 31, 1994 Police Report at PR_215 (Sarah Robertson).) Many of these fifteen did not ride Nancy Smith’s afternoon bus and two of them had stopped attending Head Start before Nancy started working as a bus driver. (*See above Police Reports.*) As the allegations multiplied, the atmosphere in Lorain became toxic, leaving no room for reasoned appraisals of the children’s stories.

**B. It is Significant that the Alleged Victims Denied Having
Been Abused in Numerous Early Interviews**

21. The pattern of disclosure that occurred in this case is the one that raises the most concerns about the reliability of children’s reports of sexual abuse. Initially, the children denied outright having been abused.

- On May 25, 1993, Detective Thomas Cantu visited the Head Start School and interviewed the eleven children there who rode Nancy Smith’s bus. In his police report, Detective Cantu noted the following: “The children were questioned if Nancy had ever touched them in a bad way, or in any way which would hurt, or upset them, and each one stated that she has never touched them. The children were questioned if they know anyone named Joseph, and they all indicated that they did not. All of the children stated that they liked Nancy, their bus driver, and that she was nice.” (May 26, 1993 Police Report, at PR_013.)

- Four days after her mother (Margaret Grondin) reported that Nikki had told her about the abuse, which precipitated the entire case against Nancy Smith, Nikki Zelek denied to a Lorain County Children's Services social worker that anyone had touched her improperly (May 11, 1993 Interview of N. Zelek, at INT_002, 005, 014-17, 020), and denied that she had ever seen anyone's "weenee" other than that of a boy her own age (Antuan Powell), who showed his "weenee" to her when they were playing at his house (*id.* at INT_018). Other portions of the interview contained similar denials:

Sally Wright: Did anybody ever kiss you?

Nikki: No.

(*Id.* at INT_014.)

Sally Wright: And do you have titties? O.K. Anybody ever touch your titties? Did anybody ever see your titties?
No? I can't hear you.

Nikki: No.

(*Id.* at INT_015.)

Sally Wright: Anybody ever touch your butt?

Nikki: No.

(*Id.* at INT_016.)

Sally Wright: Anybody ever touch your peepee?

Nikki: No.

(*Id.* at INT_016.)

- When the interviewer pressed Nikki to say what Nancy Smith did to her, Nikki said that "she put a watch on me, a dirty watch" and that Joseph put a book on her head. (May 13, 1993 Interview of N. Zelek, at INT_041.)
- Antuan Powell and Amanda Weinbrenner both stated that "Nancy has never touched them" and denied knowing anyone named "Joseph" during their first interview with the police on May 25, 1993. (May 26, 1993 Police Report, at PR_013.) After extensive questioning by his parents, Antuan made a series of

allegations during his second interview with the police but also told the police “that he was told to say this story.” (*Id.* at PR_014–015.)

- Jessica Sharpless denied having been abused during her first several interviews with the police. (June 15, 1993 Interview of J. Sharpless, at INT_108; July 13, 1993 Interview of J. Sharpless, at INT_142–148, 150; July 14, 1993 Police Report, at PR_079, 081) Jessica Sharpless did claim that Joe touched Nikki’s “monkey” (June 15, 1993 Interview of J. Sharpless, at INT_113), but she later denied having ever said such a thing (July 13, 1993 Interview of J. Sharpless, at INT_150).
- Jonathan Gibson denied having been abused in his initial interview by the police. (May 31, 1993 Police Report, at PR_032.) He did not say he had been abused until February 17, 1994, nine months after the investigation started and after he had been interviewed numerous times. (February 22, 1994 Police Report, at PR_211.)

22. Based on the police reports and interview transcripts, it is clear that the police officers, social workers, and parents involved in this investigation assumed that the children’s early denials were indicative of sexual abuse in that the children were afraid to tell. In part this was due to the claim by parents that the children had previously told them about the abuse, parental reports that I discuss in detail later in this affidavit. Although the adults’ assumption is consistent with some of the scientific literature regarding children not coming forward, it is not consistent with the strong findings that when children are directly asked about abuse, they will usually tell their interviewer (London, Bruck, Ceci, Wright, 2008). Further, recantation by the victims of abuse, which occurred in the present case, is a rare phenomenon.

23. To cite some examples from the literature, Bradley and Wood (1996) found that among 234 validated cases of child sexual abuse, only 5% of the children denied the abuse when questioned by children’s protective services and only 3% recanted their earlier reports of abuse. Jones and McGraw (1987) found a recantation rate of 8% among 309 validated sexual abuse cases seen at a child protection agency. (*See also*, DiPietro,

Runyan & Fredrickson, 1997; Devoe & Faller, 1999; Elliot & Briere, 1994; Gries, Groh & Cavanagh, 1996; Keary & Fitzpatrick, 1994). The most consistent finding in the scientific literature is that, when questioned by authorities, the overwhelming majority of children will disclose abuse, and very few will recant those disclosures.

24. If the Head Start children had been sexually abused, then based on the scientific literature, at least some would have readily stated that they had been abused when directly asked, and only a small proportion would have recanted the allegations once they were made. This, however, was not the case. The allegations in this case were coaxed out of the children after multiple interviews, mainly through leading questions and cues from parents, police officers, and social workers. And throughout the interviews, the children frequently and repeatedly insisted that they had not been abused or failed to recall the abuse. (*E.g.*, May 8, 1993 Police Report, at PR_003; May 11, 1993 Interview of N. Zelek, at INT_002, 005, 014–018, 020; May 26, 1993 Police Report, at PR_013; May 27, 1993 Police Report, at PR_015; May 31, 1993 Police Report, at PR_032; June 15, 1993 Interview of J. Sharpless, at INT_108; July 7, 1993 Interview of J. Gibson, at INT_130, 132; July 13, 1993 Interview of J. Sharpless, at INT_150.) Out of the five alleged victims the prosecutor decided to call as witnesses, two recanted on the witness stand (Amanda Weinbrenner and Jonathan Gibson) (Trial Tr. 528:11–18; *id.* at 835:3–836:4, 837:18–838:11, 862:6–18), one was deemed incompetent at trial and denied the allegations during the investigation (Jessica Sharpless),² and the remaining two denied or failed to remember or changed their allegations at various times during the

² Jessica Sharpless denied being abused (July 13, 1993 Interview of J. Sharpless, at INT_150) after initially being pressured to confirm allegations against Nancy Smith (June 15, 1993 Interview of J. Sharpless, at INT_108–109).

investigation (Nikki Zelek and Antuan Powell). The pattern of disclosure here was contrary to that typically found among children who have been abused.

C. The Interview Techniques Used Were Suggestive and Contaminated the Children's Memory of Events

25. As noted above, the prevailing wisdom in the early 1990s was that sexually abused children will commonly deny that they have been abused. As a result, the scenario that occurred in this case was common. Well-intentioned parents, police officers, and social workers, convinced that a crime had occurred, employed a variety of tactics in order to get these four and five year old children to disclose the abuse that the adults were sure had occurred. The interviewers' bias – i.e., their belief in the allegations – was sometimes expressed as a refusal to accept alternative answers, other times it manifested as leading or suggestive questions, and sometimes as outright cajoling, bribing, or intimidating. As described more fully below, the scientific research demonstrates that these interview tactics can irreparably taint the children's memories and render any subsequent statements completely unreliable. It should be noted that the "interviewers" in this case included a wide variety of adults who asked the children about specific events. Notably, it included parents. In this case, there were two parents who played a major role: the mother of the first complainant and the father of the second complainant. These parents influenced not only the actions or reports of their children but also the reports and actions of other parents and children as well as the reports and actions of the authorities who were in charge of the case.

26. One of the hallmarks of a suggestive interview is *interviewer bias* – the single-minded attempt to gather only confirmatory information and to avoid all avenues that may produce negative or inconsistent evidence. The scientific literature has shown

that interviewer bias inevitably shapes the entire architecture of an interview and is transmitted to the child by a range of suggestive interviewing techniques that are associated with the elicitation of false reports.³

27. At present there are hundreds of studies that have dissected the different ways of interviewing children and of analyzing the methods that will elicit reliable reports and the kinds of methods that will elicit unreliable reports. In the present case, the bias of the interviewers was manifested in the use of multiple interviewing techniques designed to get the child to adopt the interviewer's viewpoint.

28. **Changes and inconsistencies in the children's responses were ignored by the interviewers.** First, the interviewers ignored the numerous changes in the children's statements about what had occurred and the inconsistencies between the children's stories. For example, the police interview of Nikki Zelek proceeded as follows:

Interviewer: Did Nancy ever touch you bad? Or do anything to do other than hit you? What else did she do honey?

Nikki: Um, she put a watch on me dirty watch.

Man: A dirty watch? O.k. How about now Joseph. What did Joseph do to you?

Nikki: Don't now. Um. Put a pulled down my head.

³ For example, Thompson, Clarke-Stewart & Lepore (1997) conducted a study in which children viewed a staged event that could be construed as either abusive or innocent. Some children interacted with a confederate named "Chester" as he cleaned some dolls and other toys in a playroom. Other children interacted with Chester as he handled the dolls roughly and in a mildly abusive manner. The children were then questioned about this event. The interviewer was (1) "accusatory" (suggesting that the janitor had been inappropriately playing with the toys instead of working), (2) "exculpatory" (suggesting that the janitor was just cleaning the toys and not playing), or (3) "neutral" and non-suggestive. When questioned by a neutral interviewer, children's accounts were both factually correct and consistent with the janitor's script. However, when the interviewer was biased in a direction that contradicted the activity viewed by the child, those children's stories quickly conformed to the suggestions or beliefs of the interviewer. When later asked neutral questions by their parents, the children's answers remained consistent with the interviewers' biases.

Man: Want to tell me again what he did to you?

Nikki: What?

Man: What did he do you say?

Nikki: He put a book on my head.

(May 13, 1993 Interview of N. Zelek, at INT_041.)

29. Antuan Powell's story changed so much that his father interjected when he thought Antuan was straying from "the story":

Father: So tell me what you told me last night. That's what I want to know. That's what you need that what you have to tell him the same thing you told me. You don't remember what you told me. Do you remember?

(June 15, 1993 Interview of A. Powell, at INT_083.)

30. As it turned out, the disclosures Antuan Powell made to his father were inconsistent with statements made by Nikki Zelek as well as with statements made at other times by Antuan himself. (*E.g.*, July 22, 1993 Interview of A. Powell, at INT_178; *compare* July 27, 1993 Police Report, at PR_100, *with* May 31, 1993 Police Report, at PR_031 *and* June 20, 1993 Police Report, at PR_058.) Indeed, the police, parents, and social workers completely ignored blatant internal inconsistencies within and between the statements of the various alleged victims. Thus, biased interviewers led to a biased investigation.

31. For example, the children described their molester variously as white, black, Hispanic, and sometimes as covered in paint. (*E.g.*, May 27, 1993 Interview of A. Weinbrenner, at INT_197; May 31, 1993 Police Report, at PR_031; June 20, 1993 Police Report, at PR_058; July 6, 1993 Police Report, at PR_069–070; July 27, 1993 Police Report, at PR_100.) They identified at least seven different houses as the location of

their alleged abuse and provided intricate details, from the carpet to the pictures on the walls, regarding a basement at Joseph Allen's house that did not exist. (*E.g.*, May 8, 1993 Police Report, at PR_002 (Nancy's house); May, 26, 1993 Police Report, at PR_010 (Peach-colored house on Lexington Ave. or W. 14 St.); *id.* at PR_015 (421 15th Street); May 27, 1993 Police Report, at PR_018 (1745 Oakdale Avenue); *id.* (1763 Oakdale Avenue); May 31, 1993 Police Report, at PR_031; June 20, 1993 Police Report, at PR_055–057 (1928 Lexington Avenue); August 2, 1993 Police Report, at PR_111 (1865 Lexington Avenue).) On one occasion, Antuan told the police that Nancy took him from his home to Joseph's house on the school bus and then stayed at Joseph's house while someone else drove the bus full of children to school. (June 20, 1993 Police Report, at PR_056.) On another occasion, Antuan claimed that Nancy came into his class wearing a "black person mask with gray hair" and took him and other children from class to Joseph's house (without his teacher objecting) (May 26, 1993 Police Report, at PR_014).⁴ Another time, Antuan reported that Joseph drove him to Joseph's house in a car. (July 22, 1993 Interview of A. Powell, at INT_179). Ultimately, the allegations at trial were simply bizarre, including claims that (1) Nancy had asked the children to stick a needle into her vagina (Trial Tr. 836:3–837:17), (2) Joseph had peed on their feet and made them drink urine (*e.g.*, *id.* at 593:8–21), (3) children had been tied to a tree outside Joseph's house, which is on a main thoroughfare through Lorain (without anyone noticing)(*id.* at 615:22–617:18), (4) Nancy and Joseph had taken them and other children to the mall and a restaurant (*id.* at 789:10–794:17) and (5) Joseph had shot one child in

⁴ The Head Start teachers told the police that "there is no way that a bus driver, or anyone else could take a student out of the school at any time." (May 27, 1993 Police Report, at PR_019.)

the face with a gun (*id.* at 504:25–505:22). These types of bizarre and implausible allegations are typically found in cases involving false accusations. Indeed, a number of ritualistic abuse cases from this time period, that resulted in no guilty verdicts or were successfully appealed, involved similarly bizarre allegations.

32. The prosecutor, police, parents, and social workers ignored these inconsistencies and bizarre allegations and pushed the children towards confirming the adults' primary hypothesis of abuse.

33. When the children said that Nancy had not been involved but another bus driver had, this was ignored as well. For example, during an interview with Detective Andujar of the Lorain County Police Department and Theresa Thornhill, a social worker with Lorain County Children's Services, Amanda Weinbrenner stated that Angel Powell, another bus driver, had taken her to Joseph's house. Detective Andujar then showed her pictures of just two bus drivers, Nancy and Angel:

Detective Andujar: Which one of those two took you to that house?

Amanda: This one.

Detective Andujar: That one? Are you sure? OK. So you're saying Angel's the one who took you over to Joseph's house, or was it Nancy?

Amanda: Angel.

(July 15, 1993 Interview of A. Weinbrenner, at INT_156; *see also* May 13, 1993

Interview of N. Zelek at INT_048 ("Angel touched me right here, right by my leg."))

34. Every single one of the alleged victims in this case claimed, at some point during the investigation and trial, that someone other than Nancy had taken them to Joseph's house. (*E.g.*, June 15, 1993 Interview of J. Sharpless, at INT_110 (Margie

Grondin); July 15, 1993 Interview of A. Weinbrenner, at INT_156 (Angel Powell); July 22, 1993 at Interview of A. Powell, at INT_185 (Angel Powell); Trial Tr. 532:16–18 (Angel Powell), 760:9–16 (Joseph Allen).) Upon hearing statements that were inconsistent with their own preconceived idea of what occurred, the parents and authorities alike treated the inconsistencies as “lies” or “wrong information”:

- Frederick Powell told the police “[m]y son has lied to me well, from the time I found out about this.” (June 15, 1993 Interview of A. Powell, at INT_103.)
- Detective Andujar admitted to the parents “it doesn’t help us . . . if the kids are giving us wrong information.” (June 15, 1993 Interview of A. Powell, at INT_104.)
- Only three weeks into the investigation, Margaret Grondin observed that “[y]ou must have like a thousand different stories especially from one kid [Nikki who will] probably change her story tomorrow or something I don’t know.” (May 31, 1993 Interview of N. Zelek, at INT_073.)

35. Because they lacked a scientific foundation to understand these inconsistencies and bizarre allegations, the investigators simply disregarded them and steered the children back towards Nancy.

36. **Accusatory statements and related questions by the interviewers tainted the investigation.** The interviewers included in their questioning a number of accusatory questions that sent a clear message to the children that Joseph and Nancy had done something wrong and that they knew this from speaking to others – whether the others were the child’s parents or other alleged victims. Studies have shown that children are very attentive to these stereotypical tones in an interview. For example, if a child is repeatedly told that a person “does bad things,” then the child may begin to incorporate this belief into his or her reports. Lepore & Sesco (1994). In a related vein, the interviewers also set the emotional tone that something bad had happened by telling the

children not to be afraid, to be brave, and to tell so others will not be hurt. When such tactics are used, children who have no memory of an event will succumb to false suggestions of wrong doing (Goodman, Batterman-Faunce, Schaaf, & Kenney, 2002).

37. In this case, Detective Andujar begins Antuan Powell's first recorded interview with the following statement:

My name is Andujar. O.K. Um, I know you're very scared but along with your father. I'm gonna be the one to try and help you out of this. O.K. I'm not gonna let no one, I ain't gonna let no one hurt you or anything like that. O.K. I understand Joseph made some real bad um threats to you, making you afraid of him or what he might do to you or your family or your friends. Am I right? O.K. Um, tell you what. You help me find this guy and I will put this guy away. O.K. Um, you know your father wants the same thing. He wants to get this guy. Put him in jail and so do we. So don't be afraid.

(June 15, 1993 Interview of A. Powell, at INT_079.)

38. Antuan's father, present at the interview, compounded the problem.⁵

You don't have to be scared. Nobody is gonna hurt you. Joseph's not gonna get you. I want you to tell all of his secrets. Do you remember what I told you about your little sister. Do you want him to get her? And do those things he did to you? Daddy doesn't want that either. You have to help your sister and all the other little kids. Joseph had been doing this for a while. And he uses the scare tactic. He wants to scare kids so they don't tell. That's how he gets away. Then he goes and gets more kids. You didn't know that.

(June 15, 1993 Interview of A. Powell, at INT_083.)

⁵ The presence of a parent during such interviews is highly inappropriate for the reasons seen in these interviews. The parents increased the number of questions thrown at the children, they punished and rewarded the children, and they were a reminder to the children to talk to the police. It is also known that the presence of a second adult in an interview will increase the child's false allegations. (Santilla, P., Korkman, J., & Sandnabba, N.K., 2004).

39. Similarly, an interview of Nikki began with the police issuing the following promise: “[w]hat Joseph did is very bad [and] we’re gonna make sure Joseph don’t hurt or touch nobody again.” (May 13, 1993 Interview of N. Zelek, at INT_034.) The scientific literature is clear that the use of such negative characterizations during interviews with children affects the children’s statements, even at subsequent interviews that are free of the suggestive techniques. In a study conducted by Garven, Wood and Malpass (2000), for example, children who had been encouraged to provide incorrect answers inaccurately assented to 35% of misleading mundane questions and to 52% of the misleading questions categorized as “fantastic.” In a second interview, a week later, the same high error rates continued even when the encouragement was no longer present. The general principle here is that suggestive techniques have a long lasting influence, even once they have stopped.

40. **The use of leading and specific questions increased the likelihood of false disclosures.** The bias of the interviewers in this case was particularly evident in their failure to use “open-ended” questions such as “what happened?” This technique is the cornerstone of modern interviewing practices. It is used to allow the child to tell in his own words what happened and to prevent interviewers from jumping in and providing their own views and templates of the alleged reports. In the present case, the questions by the police interviewers were leading, targeted and conveyed important information about the investigation to the alleged victims. For example, the first question during the May 13, 1993 interview with Nikki Zelek is “What does Nancy do to you?” (May 13, 1993 Interview of N. Zelek, at INT_040.) Other interviews included the following questions:

- “What did Joseph do to you . . . want to tell me again what he did to you? What did he do you say? . . . Did he play games with you that you play doctors?” (*Id.* at INT_041.)
- “You told the nurses that he peed on you too. Did he? Did he ever do that to you?” (*Id.* at INT_044.)
- “You need to tell me what else Joseph did to you?” (May 11, 1993 Interview of N. Zelek, at INT_026.)
- “Did Nancy do anything? What did Nancy do?” (*Id.* at INT_027.)
- “Wait, wait. Who took you to this house? Who took you? Were you at Joe’s house? Were you at Joseph’s house? Or Nancy’s boyfriend’s house?” (July 7, 1993 Interview of J. Gibson at INT_134.)
- “Did you ever have to touch a man on his privates? Honey? No?” (Interview of A. Weinbrenner, at INT_201.)
- “Tell me what you told your mother . . . what did you tell your mom about someone touching you. Or about a stick? . . . What happened with a stick?” (July 7, 1993 Interview of J. Gibson at INT_124.)

These leading and suggestive questions were repeated in interview after interview over the one year period prior to trial. The use of repeated questions within an interview is problematic for obtaining reliable reports because young children often change their answers on the presumption that the first answer was not correct. Repeated interviews are often used when the child does not provide the desired information and therefore additional questioning is required. Children often provide the desired information in these subsequent interviews because they become aware of their interviewers’ beliefs or they are influenced by suggestions from prior interviews with investigators, therapists, or parents.

41. Although the strategy of using specific questions, leading questions, and of repeating questions ensures that a young child will provide answers of some kind, the technique is highly problematic because children’s answers to these types of questions

are often inaccurate. For example, Peterson and Bell (1996) interviewed children after they had been treated in an emergency room for a traumatic injury. Across all age groups, errors increased when children were asked more specific questions. The percentage of errors elicited by free recall questions was 9%; specific questions increased the error rate to 45%. Forced choice questions (e.g., “was it the man or the woman?”) also significantly compromise the reliability of children’s reports. This is because children will arbitrarily select a response set (for example, many will select the second rather than the first option) and because children commonly do not provide “I don’t know” responses (*see, e.g.*, Walker, Lunning, & Eilts, 1996) even when the question is nonsensical (Hughes & Grieve, 1980). These effects are exacerbated when the leading or forced choice questions are repeated within an interview and over multiple interviews. Numerous studies have found that multiple interviews (particularly multiple suggestive interviews) dramatically increase the likelihood of false reports. (Bruck, Ceci & Hembrooke, (2002); Bruck, Ceci, Francoeuer & Barr, (1995);

42. One of the reasons that children so willingly provide answers to specific yes/no or to forced choice questions, even though they may not know the answer, is that young children are cooperative. In order to comply with a respected adult, children sometimes attempt to make their answers consistent with what they see as the intent of the questioner rather than consistent with their knowledge of the event (*see* Ceci & Bruck, (1995) for a review). Because of this desire to comply and cooperate regardless of the question asked, it is particularly important in interviews to tell children that they have the option of saying, “I don’t know” or “I don’t remember.” The interviewers in this case refused to accept answers to these leading questions that did not confirm their beliefs. As

is seen in the next example, and what commonly occurs, is that the child tries to escape this aversive situation by providing a response.

In this case, when a child refused to provide the desired information, the questions became more aggressively focused on confirming the allegations. For example, the interviewers refused to accept Amanda Weinbrenner's repeated claims that she didn't know what happened at Joseph's house.

Det. Andujar:	What would happen at Joseph's house?
Amanda:	I forgot.
Ms. Thornhill:	How come you forgot?
Amanda:	I don't know.
Ms. Thornhill:	Was it good that happened at the house or bad?
Amanda:	Bad.
Ms. Thornhill:	Bad! What kind of things happened there.
Amanda:	I forgot.
Ms. Thornhill:	I don't think you forgot. I think you don't want to talk about it. Is that true?
Det. Andujar:	Everybody has been talking about it. They're helping us out.
Ms. Thornhill:	And everybody feels like you do.
Det. Andujar:	They feel yucky. But they tell us what's going on.

(July 15, 1993 Interview of A. Weinbrenner, at INT_156-57.)

43. The scientific research, including two studies conducted by Zaragoza and colleagues (Ackil & Zaragoza, 1998; Zaragoza, Payment, Kichler, Stines & Drivdahl, 2001), has shown that when children are forced to provide an answer (confabulation),

later they will not only continue to provide the same incorrect answer but they will actually believe that the wrong answer occurred.

44. **The interviewers used rewards and punishment to affect the children's statements.** Not only did the interviewers insist that the children answer their leading questions but they selectively rewarded answers that were consistent with their theory that these children had been abused and punished inconsistent answers. For example, Sally Wright often provided positive reinforcement – e.g. “good for you” – when Nikki provided an answer consistent with abuse. (*See, e.g.*, May 11, 1993 Interview of N.Zelek, at INT_029–30.) Similarly, the interviewer of Jonathan Gibson promised him that he could play with the police handcuffs if he gave the right answers. (July 7, 1993 Interview of J.Gibson, at INT_130.) Studies have shown that selective positive reinforcement – praise, rewards or positive feedback – can shape children's behavior. (Garven et al., 2000; Schreiber et al., 2006)

45. Further, Nikki was admonished when she provided an answer that the adults considered incorrect:

Detective Andujar: Did Nancy take you anywhere else?

Nikki: No.

Detective Andujar: Like to a house?

Nikki: No.

Detective Andujar: Now, try to be serious. We're not playing, we're trying to get information from you. Ok. Remember you're mom said answer our questions.

(Expert Report of Dr. Kathleen Quinn, dated September 1, 1998, at 10.)

46. The impact of these rewards and admonishments was evident as the children changed their answers to be consistent with what the adults wanted to hear. This is illustrated with Jonathan Gibson, who denied abuse for nine months, begged to be allowed to play with the police handcuffs, and eventually was one of the alleged victims who testified at trial – where he recanted. Another illustration is from the testimony of Nikki Zelek:

Ms. Grondin: Did you tell me [Joseph's penis] was wrapped in a towel and you seen a little hole? I forgot that part.

Nikki: I don't remember that.

Ms. Grondin: I forgot too.

Detective Cantu: What did he wrap in a towel honey?

Nikki: I forgot that.

Detective Cantu: Did he wrap a peepee in a towel?

Nikki: Yeah.

Detective Cantu: Is that when he squirted you with the yellow stuff?

Nikki: Uh huh. Will you let me use your pencil?

(May 13, 1993 Interview of N. Zelek, at INT_047.)

47. The excerpts contained in this affidavit provide examples of interviewer bias and of the use of suggestive techniques, including the flagrant use of reward and admonishment to cajole the children into giving the desired responses. However, even these excerpts do not convey the extent of the interviewer bias and manipulation at work that a review of the full transcripts reveals. Upon such review, it quickly becomes clear that where the children allegedly “disclose” abuse by Nancy or Joseph it is most often

through monosyllabic answers to leading or limited-choice questions posed by their parents or other authorities.

48. **The use of props and line drawings increased the unreliability of the children's statements.** At many points during these interviews, the children were given dolls or shown line drawings of a child's and adult's body and asked to show how they were touched. (*See, e.g.*, May 11, 1993 Interview of N. Zelek, at INT_003–7, INT_011–15; July 18, 1993 Police Report, at PR_086; October 29, 1993 Police Report, at PR_156.) Research studies have shown that the use of line drawings, dolls and other props are particularly likely to result in inaccurate testimony (see Poole & Bruck, in press, for review). In the Rawls study (1996), for example, 5-year old children played a dress-up game with a male research assistant and then were asked to show on a line drawing where they had been touched. Over a quarter of the sample reported inappropriate adult-child touching and the children became increasingly inaccurate as more time passed.

49. Similarly, other research studies have demonstrated that use of the dolls does not improve the accuracy of young children's reports and in some cases the uses of dolls decreases accuracy. For instance, we found that three year old children (Bruck, Ceci, Francoeur & Renick, 1995) and four year old children (Bruck, Ceci & Francoeur, 2000) who had just completed a medical examination at their pediatrician's office made a number of errors when asked direct questions about where the pediatrician had touched them and that these errors increased when children were asked these same questions in conjunction with dolls. Specifically, children inaccurately showed that the doctor had touched their genitalia or buttocks when this did not happen. These inaccurate answers reflect the novelty of the dolls, which prompted the children to explore the dolls'

genitalia; the inaccurate answers also reflect the implicit demands of the interview, which were to show and talk about touching. There is also a case study that suggests that repeated exposure to the dolls may lead young children to fabricate highly elaborate accounts of sexual abuse. After a third exposure in a period of a week to an anatomically correct doll, a non-abused 3-year child told her father that her pediatrician had strangled her with a rope, inserted a stick into her vagina, and hammered an ear-scope into her anus (see Bruck et al, 1995). Finally one of the major problems of using dolls with young children is that they invite the child to play rather than demonstrate what actually happened.

50. Both sessions of Nikki Zelek's May 11, 1993 interview show her playing with naked dolls and a doll house, creating detailed stories about them. In fact, when Nikki says she wants to play, the social worker says: "You can play and talk at the same time." (May 11, 1993 Interview of N. Zelek, at INT_009.) Nikki has a female doll fall out of bed, has a male and female doll go to bed together (like she has seen her parents do, she tells the interviewer) and eventually babbles on in what is plainly fantasy play (much of it nonsense) and not a recollection of events:

Nikki: For one time the mommy went through the bed there not in there. But one little brother skooted them over and went to bed together. Scoot. See there all squished.

Woman: Yeah, there all squished.

Nikki: Yeah, but he (inaudible) another bedroom what could have happened. Well he couldn't fit in the bed, so he's in the kitchen. Goodnight. He sleeps in the kitchen.

Woman: Tell me Nikki what else did Joseph do to you.

Nikki: Wait, wait. One little girl went up to her room (inaudible) oh I think in my room. (Inaudible) in her room.

Woman: Yes, come here. Come here. You need to tell me what else Joseph did to you.

Nikki: I know but I need to tell you what this one does.

Woman: O.k. What does that one do to you?

Nikki: That one (inaudible). Oh the house.

(*Id.* at INT_026.)

51. At trial, dolls were used by the prosecution in a blatant effort to change a firm and repeated denial of abuse by Amanda Weinbrenner into a disclosure:

Prosecutor: Did you ever touch Nancy anywhere?

A: No.

Q: Now, look. It is very important that you answer my questions, even if it's hard, isn't it?

A: (Nods head yes)

Q: Now, I want to ask you again. Did you ever have to touch Nancy anywhere?

A: (Shakes head no)

Q: I would like to hand you this doll. Which is supposed to be a grown-up girl doll. Do you want to look at it? Can you show me on that doll where you had to touch Nancy?

MR. BRADLEY: Objection. She has already indicated she didn't touch Nancy, now he is asking a leading question.

THE COURT: This is a 6 year-old child. Overruled.

Q: Can you hold the dolly up, please?

A: Here (holding doll).

Q: Amanda, let me have the doll. Can you show these people where you had to touch Nancy?

A: (Pointing).

Q: Did you have to touch her somewhere? (Pointing to vagina).

Q: Did you tell me no before?

A: (No response).

(Trial Tr. 836:3–837:3.)

52. The use of line drawings is also problematic. In this case, children were shown line drawings of unclothed children and adults. They were asked to name the body parts. Then typically they were asked about the names of private parts. Then they were asked using the drawings to show where the alleged defendants had touched them and where they had touched the defendants. This occurred amid a steady stream of direct and repeated questions. Recent research on this technique has shown that children the same age as those in this case are more likely to make false claims of touching than when the drawings are not used (Poole & Bruck, *in press*). In fact, in this case many of the first purported disclosures of abuse came out during the naming and touching of the drawings.

53. **The parents' presence during police interviews, their own interviews of their children, and their communications about the alleged abuse further tainted the children's statements.** From the very start of the investigation, the police officers interviewed the parents in front of their children (or the other way around) and encouraged the parents to participate in the interviews of their children. The presence of the parents at these interviews had several deleterious effects. First, it compounded the pressure on these children to answer the officer's questions in the way the children thought their parents wanted them to reply. For example, Margaret Grondin repeatedly insisted that Nikki "answer the questions they ask you. Talk to them." (May 11, 1993 Interview of N. Zelek, at INT_014.) and, at times, answered questions directed at Nikki.

(*See, e.g.,* May 13 Interview of N.Zelek at INT_041.) Second, the information that the children learned during the police interviews was then reinforced during subsequent interviews by the parents at home (and vice versa) or even repeated in that same interview. For example, Frederick Powell questioned Antuan for hours at home and then exhorted Antuan to repeat the same information to the police: “Antuan, come on, you’re changing your story . . . I don’t want you to lie. Daddy doesn’t like liars.” (June 15, 1993 Interview of A. Powell, at INT_090.)

54. In the present case, the initial disclosures of the children were reported by parents who then contacted the police. A series of studies have consistently found that such information can be highly inaccurate for a number of reasons. First, these reports do not reveal the bias or the suggestion in the interaction that led to so the alleged disclosures. Memories of such interactions are in fact particularly poor (Bruck, Ceci, & Francoeur, 1999; Lamb et al., 2000; Warren & Woodall, 1999). They omit many details and utterances that may not have appeared important at the moment and were therefore forgotten (for example, they often do not include all the instances when the child said no in response to questions), and they only contain information when the child provided the desired details. Parents reporting information also make mistakes in describing how statements were elicited. So a parent may report that the child said that Nancy drove them to a special house, when in fact this and other pieces of information were elicited in response to (repeated) suggestive questions (Bruck et al., 1999). The reporters of children’s statements, especially those with specific biases, also misinterpret or misperceive what the child actually said: even though a child may not confirm an interviewer’s belief, the interviewer may nonetheless later inaccurately report that the

child made a statement that was consistent with the belief (Bruck et al., 2006). This could be why the children failed to endorse their parents' reports at least in the initial interviews; the children never made these statements.

55. An early police report about Jonathan Gibson illustrates this phenomenon:

[Jonathan] was questioned if Nancy ever did anything to him, or if she had ever touched him, or ever touched his penis . . . Jonathan stated that she had never done anything to him, and had never touched him in any way, and that she never touched his penis.

We then questioned Jonathan if Nancy had a boyfriend, and Jonathan stated that she did and that he was a White Male and that he rode the bus sometimes. He was then questioned if Nancy's boyfriend had ever touched him, and Jonathan stated that he never touched him, and never did anything to him. Jonathan was then questioned if anyone at the school had ever touched him or his privates, or did anything to him that he didn't like, and he stated 'No' to every question asked. . . .

(May 31, 1993 Police Report, at PR_032.)

56. The police report then continues:

According to [Jonathan's parents], Jonathan told his father that Nancy's boyfriend had put a stick up his butt one time on the bus, and this officer then questioned Jonathan about the accusation and he stated that this didn't happen, and that no one put anything up his butt.

(May 31, 1993 Police Report, at PR_032.)

57. Here, the at-home questioning of Jonathan by his parents, who believed abuse had occurred, resulted in statements that were emphatically denied by Jonathan in subsequent interviews.

58. A similar situation occurred with Jessica Sharpless. On July 13, 1993, Jessica Sharpless was interviewed a second time. During her interview, Detective Andujar and Theresa Thornhill, a social worker with Lorain Children's Services,

questioned her about the alleged molestation. (July 13, 1993 Interview of J. Sharpless, at INT_142–151.) Throughout the interview, Jessica denied that abuse occurred (*e.g.*, *id.* at INT_151):

Woman:	Did Nancy ever take you anywhere but to school on the bus? She ever take you anywhere else?
Jessica:	To school.
Woman:	To school. Did she ever take you to a house? Yeah? Who's house?
Jessica:	I don't know.
Woman:	What happened at that house?
Jessica:	I don't know.
Woman:	Did you go?
Jessica:	No.

Jessica also stated that Nikki's mother, Margaret Grondin, used to take her and Nikki to Joseph's house where she and Nikki would take a bath and "wash [their] own hair." (*Id.* at INT_150). Recognizing that they would not get the answers they were seeking from Jessica, Ms. Thornhill said: "I would just find out from Mom what's going on." (*Id.* at INT_151.)

59. The problem was compounded when the presiding judge at trial, while ruling that Jessica Sharpless was incompetent to testify, allowed testimony from her mother.

CONCLUSION

60. Over the course of my thirty years researching the subject of interviewing children, I have reviewed hundreds of interviews of children suspected of being abused; the quality of which has ranged from excellent to very poor. I have also been an expert

or a consultant in more than a dozen multi victim, multi perpetrator cases that share many resemblances to that of the current one. The investigative process and the interviews in this case were similar in terms of the high degree of suggestiveness and bias. In all these cases, extremely young and bewildered children were brought in and interrogated by one, two, and even three interviewers. These interviewers used the full array of suggestive techniques to elicit allegations of abuse. When the children denied that they had been abused, they were bombarded with more suggestions, they were scolded, they were threatened and they were bribed. And when some children begged the interviewers to end the questioning, the interview continued. In my expert opinion, the key facts in this case are incontrovertible: the children denied abuse during early interviews; when they did make allegations, these were preceded by extremely suggestive interview techniques that rendered all subsequent statements unreliable.

Dated: January 25, 2013

/s/ Dr. Maggie Bruck

Dr. Maggie Bruck

EXHIBIT A

Bruck Page 1

CURRICULUM VITAE
The Johns Hopkins University School of Medicine

Maggie Bruck

January 2013

DEMOGRAPHIC INFORMATION

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Education and Training

B.A.	1967	Wheaton College	Psychology
M.A.	1969	McGill University	Experimental Psychology
Ph.D.	1972	McGill University	Experimental Psychology

Professional Experience

Research Associate	Department of Psychology, McGill University	1972
Research Associate	McGill-Montreal Children's Hospital Learning Center	1972
Senior Staff Member	Center for Applied Linguistics, Arlington, Virginia	1975-76
Research Director	McGill-Montreal Children's Hospital Learning Center	1976-93
Associate Member	Department of Psychology, McGill University	1976-92
Associate Professor	Department of Pediatrics, McGill University	1991-2000
Associate Professor	Department of Psychology, McGill University	1992-1998
Full Professor	Department of Psychology, McGill University	1998-2000
Adjunct Professor	Department of Psychology, McGill University	2000-
Associate Professor	Psychiatry, Johns Hopkins Medical School	1999-2002
Full Professor	Psychiatry Johns Hopkins Medical School	2002-
Acting Director	Division of Child and Adolescent Psychiatry, Johns Hopkins School of Medicine	2009-2012

RESEARCH ACTIVITIES

Publications*Peer-Reviewed Scientific Articles*

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9. Bruck, M., Lambert, W.E., & Tucker, G.R. (1976). Alternative forms of immersion for second language teaching. *Working Papers in Bilingualism*, 1-51.
10. Bruck, M., & Schultz, J. (1977). An ethnographic analysis of the language use patterns of bilingually schooled children. *Working Papers in Bilingualism*, 59-91.
11. Bruck, M. (1978). The suitability of early French immersion programs for the language disabled child. *Canadian Journal of Education*, 51-72.
12. Bruck, M. (1978). The suitability of early French immersion programs for the language disabled child. *Canadian Modern Language Review*, 884-888.
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14. Bruck, M. & Ruckenstein, S. (1982). Teachers' talk to language delayed children. *First Language*, 201-223.
15. Bruck, M. (1982). Language disabled children's performance in an additive bilingual education program. *Applied Psycholinguistics*, 45-60.
16. Bruck, M., & Hebert, M. (1982). Correlates of learning disabled children's peer interaction patterns. *Learning Disability Quarterly*, 353-362.
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18. Backman, J., Bruck, M., Seidenberg, M., & Hebert, M. (1984). Acquisition and use of spelling-sound correspondences in reading. *Journal of Experimental Child Psychology*, 38, 114-133.
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20. Bruck, M. (1985) Predictors of transfer out of French immersion programs. *Applied Psycholinguistics*, 6, 39-61.
21. Bruck, M. (1985). Consequences of transfer out of French immersion programs. *Applied Psycholinguistics*, 6, 101-119.
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24. Seidenberg, M., Bruck, M., & Backman, J. (1986). Who's dyslexic? A reply to Wolf. *Applied Psycholinguistics*, 7, 77-83.
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26. Bruck, M. (1987). The long-term prognosis of children with learning disabilities. *Annals of Dyslexia*, 37, 252-263.
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28. Bruck, M., & Waters, G. (1988). Analysis of the spelling errors of children with discrepancies between their reading and spelling skills. *Applied Psycholinguistics*, 9, 77-92.
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30. Bruck, M., (1990). Word recognition skills of adults with childhood diagnoses of dyslexia. *Developmental Psychology*, 26, 439-454.
31. Bruck, M., & Treiman, R. (1990). Phonological awareness and spelling in normal children and dyslexics: The case of initial consonant clusters. *Journal of Experimental Child Psychology*, 50, 156-178.
32. Treiman, R., Goswami, U., & Bruck, M. (1990). Not all nonwords are alike: Implications for reading development and theory. *Memory and Cognition*, 18, 559-567.
33. Bruck, M., & Waters, G. (1990). An analysis of the component spelling skills of good readers-poor spellers. *Applied Psycholinguistics*, 11, 425-437.
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35. Schacter, D., Pless, B., & Bruck, M. (1991). Prevalence and correlates of behavior problems in learning disabled children. *Canadian Journal of Psychiatry*, 36, 323-331.
36. Schacter, D., Pless, B., & Bruck, M. (1992). Self reports of family histories of learning difficulties: Artifactual or genuine? *Canadian Journal of Psychiatry*, 37, 29-36.
37. Bruck, M., & Treiman, R. (1992). Learning to read: The limitations of analogies. *Reading Research Quarterly*, 27, 375-388.
38. Bruck, M. (1992) Persistence of dyslexics' phonological awareness deficits. *Developmental Psychology*, 28, 874-886. (abstracted in *Science News*)
39. Ceci, S.J., & Bruck, M. (1993) The Suggestibility of the Child Witness: A Historical Review and Synthesis. *Psychological Bulletin*, 113, 403-439.
40. Reprinted in Hertzog, M. E. & Farber, E. A. (1995). *Annual progress in child psychiatry and child development - 1994: A selection of the year's outstanding contributions*. NY: Brunner Mazel, pp. 195-277.
41. Caravolas, M., & Bruck, M. (1993). The effect of oral and written language input on children's phonological awareness: A cross-linguistic study. *Journal of Experimental Child Psychology*, 55, 1-30.
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43. Bruck, M. (1993). Word recognition and component phonological processing skills of adults with childhood diagnoses of dyslexia. *Developmental Review*, 13, 258-268.
44. Adams, M. J., & Bruck, M. (1993). Word recognition: The interface of educational policies and scientific research. *Reading and Writing: An Interdisciplinary Journal*, 5, 113-139.
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46. Ceci, S.J., & Bruck, M. (1993.). Children's recollections: Translating research into policy. *SRCD Social Policy Reports*. November.
47. Hayduk, S., Bruck, M., & Cavanagh, P. (1993). Do adult dyslexics show low level visual processing deficits? *Annals of the New York Academy of Sciences*, 682, 351-353.
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54. Bruck, M., & Ceci, S.J. (1995). Brief on behalf of amicus developmental, social, and psychological researchers, social scientists, and scholars. State of New Jersey vs. Margaret Kelly Michaels. *Psychology, Public Policy and the Law*, 1, 1-51.
55. Ceci, S.J., Bruck, M., & Rosenthal, R. (1995). Children's allegations of sexual abuse: Scientific and Forensic Issues. *Psychology, Public Policy and the Law*, 1, 494-520.
56. Hayduk, S., Bruck, M., & Cavanagh, P. (1996). Low level visual processing skills of adults and children with dyslexia. *Cognitive Neuropsychology*, 13, 975-1015.
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84. London, K., Bruck, M., Poole, D.A. & Melnyk, L. (2011). The Development of Metasuggestibility in Children. *Applied Cognitive Psychology*, 25, 146-155.
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87. Poole, D.A. & Bruck, M. (In Press). Divining Testimony? The Impact of Interviewing Props on Children's Reports of Touching. *Developmental Review*
88. Bruck, M., & Ceci, S.J (Accepted for Publication). Expert Testimony in a Child Sex Abuse Case: Translating Memory Development Research *Memory*

Invited Editorials, Reviews

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90. Bruck, M. (1975). A review of *Out of the Mouth of Babies*, D. Olmstead. *Linguistics*, March, 88-91.

91. Bruck, M. (1984). A review of *The bilingual child*, D.R. Omark and J.G. Ericksen (Eds.). *Applied Psycholinguistics*, 5, 81-84.
92. Bruck, M. (1985). A review of *Bilingualism and language disability: Assessment and remediation*. N. Miller (Ed.). *Applied Psycholinguistics*, 6, 453-454.
93. Bruck, M. & Ceci, S.J. (1996). Issues in the scientific validation of interviews with young children: Commentary on Steward, Steward Farquhar, Myers & Reinhart "Interviewing Young Children about Body Touch and Handling". *Monographs of the Society for Research on Child Development*. (No. 248)
94. Ceci, S. J. & Bruck, M. (1998). The ontogeny and durability of true and false memories: A Fuzzy Trace account. *Journal of Experimental Child Psychology*, 71, 165-169.
95. Ceci, S. J. & Bruck, M. (2000, Summer). Why judges must insist on electronically preserved recordings of interviews with children. *Court Review*, vol. 37, issue #2. pp. 10-12.
96. Bruck, M. & Poole, D (2002). Co-editors for special issue on Child Witnesses for *Developmental Review*

Book Chapters/Monographs

97. Swain, M., & Bruck, M. (1976). Proceedings of the Research Conference of Immersion Education for the Majority Child. *Canadian Modern Language Review*, 490-610.
98. Bruck, M. (1979). Problems in early French immersion programs. In B. Mlacak & E. Isabelle (Eds.) *So you want your child to learn French*. Ottawa: Mutual Press.
99. Bruck, M. (1984). Feasibility of an additive bilingual program for the language impaired child. In Y. Lebrun & M. Paradis (Eds.), *Early bilingualism and child development*. Amsterdam: Swets and Zeitlinger.
100. Bruck, M. (1984). A communicative approach to language proficiency assessment in a minority setting. In C. Rivera (Ed.), *Communicative competence approaches to language proficiency assessment: Research and application*. Clevedon, England: Multilingual Matters.
101. Bruck, M. (1985). The long-term prognosis of childhood learning disabilities: A Canadian perspective. In P. Gerber & K. Garnett (Eds.), *Life transitions of learning disabled adults: Perspectives from several countries*. World Rehabilitation Fund.
102. Bruck, M. (1986). Social and emotional aspects of learning disabilities: A review of the issues. In S. J. Ceci (Ed.), *Handbook of the cognitive, social, and physiological characteristics of learning disabilities*. Erlbaum.
103. Bruck, M. (1989). Prevalence and etiology of adjustment problems of children with learning disabilities. In J.J. Dumont, H. Nakken & H.. *Learning disabilities: Cognitive, social and remedial aspects* (pp.73-86). Amsterdam: Swets & Zeitlinger.
104. Bruck, M., & Waters, G. (1990). A component skills analysis of the reading and spelling skills of children who show significant discrepancies in their reading and spelling abilities. In T. Carr & B.A. Levy (Eds.) *Reading and its development: Component Skills Approaches* (pp. 161-206). Academic Press.
105. Ceci, S.J., & Bruck, M. (1995). The bio-ecological theory of intelligence: A developmental-contextual perspective. In D. Detterman (Ed.). *Current Topics in Human Intelligence* (Vol 4) *Theories of Intelligence* (pp. 65-84). Norwood, NJ: Ablex.
106. Ceci, S. J., Leichtman, M. D., & Bruck, M. (1995). The suggestibility of children's eyewitness reports: Methodological issues. In F. Weinert & W. Schneider (Eds.), *Memory performance and competencies: Issues in growth and development* (pp. 323-348). Englewood Cliffs, NJ: Erlbaum.
107. Ceci, S.J., Bruck, M. (1996). Memories of childhood trauma: Therapeutic considerations for assessment and treatment. In S. Kaplan (Ed.). *Family violence: A clinical and legal guide*. (pp. 241-276). American Psychiatric Association: Washington, D.C.
108. Bruck, M., & Ceci, S.J. (1996). The description of children's suggestibility. In N. Stein, P.A. Ornstein, C.J. Brainerd & B. Tversky (Eds.), *Memory for everyday and emotional events*. Hillsdale, NJ: Erlbaum.

109. Schwartz, S., & Bruck, M. (1997). The relationship of central auditory processing disorder and learning problems. In C.K. Leong & M. Joshi (Eds.). *Cross-language studies of learning to read and spell: Phonological and orthographic processing*. (pp. 89-102). The Netherlands: Kluwer.
110. Bruck, M., Genesee, F., & Caravolas, M. (1997). A cross-linguistic study of early literacy acquisition. In B. Blachman (Ed.) *Dyslexia and its Treatment* (pp. 45-62). Mahwah, NJ: Erlbaum.
111. Bruck, M., Ceci, S.J., & Hembrooke, H. (1997). Children's reports of pleasant and unpleasant events. In D. Read and S. Lindsay (eds.). *Recollections of trauma: Scientific research and clinical practice* (pp.199-219) New York: Plenum Press.
112. Ceci, S.J., Hembrooke, H. & Bruck, M. (1997). Children's Reports of Personal Events. In D. Cicchetti & S. Toth (Eds.), *Rochester Symposium on Developmental Psychopathology: Developmental Perspectives on Trauma: Theory, Research, and Intervention*. Norwood, NJ: Ablex.
113. Bruck, M. (1998). Outcomes of Childhood Dyslexia. In R.M. Joshi & C. Hulme (Eds.) *Reading and spelling: Development and disorder*. (pp. 179-200) Mahwah, NJ: Erlbaum.
114. Bruck, M. (1998). The trials and tribulations of a novice expert witness. In S. Ceci and H. Hembrooke (Eds.). *What Can (and Should) an Expert Tell the Court?* (pp. 85-104) American Psychological Association: Washington D.C.
115. Ceci, S. J. & Bruck, M. (1999). In the Aftermath of the Sterns: Old wine in new bottles? Introduction to Recollection, Testimony, and Lying in Early Childhood: With 1999 Addendum Clara and William Stern (Translated from the German by James T. Lamiell) Washington, DC: APA Books.
116. Ceci, S.J., Bruck, M., & Battin, D. (2000). The suggestibility of children's testimony. In Bjorklund, D. (Ed). *True and false memories*. Mahwah, NJ: Erlbaum.
117. Bruck, M., & Ceci, SJ (2002). Reliability and Suggestibility of Children's Statements: From Science to Practice. In D. Schetkey and E. Benedict (Eds.) *Comprehensive Textbook in Child and Adolescent Forensic Psychiatry*. (137-148). Washington DC: American Psychiatric Association (Winner of the 2002 APA Manfred Guttmacher award for the best publication in forensic psychiatry)
118. Caravolas, M., Bruck, M., & Genesee, F. (2003). Similarities and Differences between English-and French-speaking poor spellers. In N Goulandris (ed.) *Dyslexia in Different Languages* (pp. 181-207). Whurr Publishers: London.
119. Ceci, SJ., & Bruck, M. (2007) Loftus' lineage in developmental forensic research: Six scientific misconceptions about children's suggestibility, In M. Garry & H. Hayne (eds.) *Do Justice and Let the Sky Fall: Retrospection: Elizabeth F. Loftus and Her Contributions to Science, Law, and Academic Freedom*. Mahwah, NJ: Erlbaum.
120. Bruck, M., Ceci, S.J., Kulkofsky, S., Klemfuss, Z., & Sweeney, C. (2008). Children's testimony. In M. Rutter, D. Bishop, D. Pine, S. Scott, J. Stevenson, E. Taylor, & A. Thapar (eds). *Rutter's Child and Adolescent Psychiatry*. London: Blackwell.
121. Bruck, M., & Ceci, S.J., (2011). Forensic Developmental Psychology in the Courtroom. In M. Ziskin, D. Faust & S. Anderer. *Coping with Psychiatric and Psychological Testimony*. New York: Oxford University Press.

Books

122. Cohen, A., Bruck, M., & Brown, F. (1977). *Bilingual education: Evaluating evaluation*. Center for Applied Linguistics.
123. Ceci, S., & Bruck, M. (1995). *Jeopardy in the Courtroom: A scientific analysis of children's testimony*. American Psychological Association.

Extramural Sponsorship.

- 1976-1979 The effect of French immersion programs on children with language learning disabilities. Language Program's Branch of the Secretary of State of Canada
- 1978-1980 The adult functioning of the learning disabled child. Health and Welfare Canada

- 1979-1980 Quebec Ministry of Education. Children with learning disabilities in French immersion programs.
- 1980-1982 Quebec Ministry of Education. Educational alternatives for the poor achieving French immersion student.
- 1981-1983 Social Science and Humanities Research Council. Precursors and consequences of switching out of French immersion.
- 1982-1983 Good, poor and disabled readers' acquisition of word recognition skills. Le Programme de Formation de Chercheurs et d'Action Concertee (FCAC).
- 1983-1985 Good, poor and disabled readers' acquisition of word recognition skills. Le Programme de Formation de Chercheurs et d'Action Concertee (FCAC).
- 1982-1987 National Health Research Scholar Award . National Health and Welfare Canada.
- 1985-1988 Acquisition and retardation of literacy skills. Fonds Pour la Formation de Chercheurs et L'Aide a la Recherche (FCAR). Team grant with M. Seidenberg.
- 1986-1988 Literacy skills of adult dyslexics. Social Science and Humanities Research Council.
- 1986-1989 Acquisition and use of morphological knowledge for reading and spelling. Natural Sciences and Engineering Research Council of Canada (NSERC)
- 1987-1992 National Health Research Scholar Award. National Health and Welfare Canada. (
- 1988-1991 Computational and behavioral studies of word recognition. Fonds Pour la Formation de Chercheurs et L'Aide a la Recherche (FCAR). Team grant with M. Seidenberg.
- 1989-1992 Relationship of phonological awareness to the acquisition of literacy skills. Natural Sciences and Engineering Research Council of Canada.
- 1989 Reading assistant programs for children and adults. National Literacy Secretariat. (
- 1992-1995 The role of phonological and visual skills in reading acquisition. Natural Sciences and Engineering Research Council of Canada.
- 1992 Equipment grant. Natural Sciences and Engineering Research Council of Canada.
- 1993-1996 Bilingualism: From infancy to adulthood. Fonds Pour la Formation de Chercheurs et L'Aide a la Recherche (FCAR). Team grant with F. Genesee & L. Polka.
- 1995-2000 Developmental and cross-linguistic studies of speech perception and literacy acquisition Natural Sciences and Engineering Research Council of Canada.
- 2001-2005 Accuracy of recall of children with mental retardation. NICHD.
- 2005-2009 Relationship of Metacognition and Suggestibility in Middle Childhood. NSF
- 2007-2012 Do Human Line Drawings Promote Children's Accurate Reporting of Touching, NICHD

EDUCATIONAL ACTIVITIES

Teaching*Classroom Instruction: Undergraduate Courses*

1971-1973	Educational psychology. Faculty of Education, McGill University
1972	Tests and measurement (summer session). Faculty of Education, McGill University
1973	Language development (summer and winter sessions). Sir George Williams University
1978-79	Research methods in psycholinguistics. Psychology Department, McGill University
1980	Childhood psychopathology. Psychology Department, McGill University
1981	Childhood psychopathology. Psychology Department, Concordia University
1990	Psychology of language. Psychology Department, McGill University
1992-1998	Experimental problems. Psychology Department, McGill University
1993-1996	Reading Ability and Reading Disability. Psychology Department, McGill University
1996-1998	Children in the Courtroom. Psychology Department, McGill University
2000	The Child Witness. Summer Session. Psychology Department, McGill University
2001	Psychology and the Law. Psychology Department, Johns Hopkins University

Graduate Level Courses/Seminars

1985-1993	Selected topics in child development. Community, Developmental, and Epidemiology Program, Department of Pediatrics, McGill University
1986, 1987	Graduate clinical seminar. Psychology Department, McGill University
1992-93	Graduate Cognitive Seminar. Psychology Department, McGill University
1996, 1998	Graduate Developmental Seminar. Psychology Department, McGill University
1999-	Normal Developmental Seminar Series Child and Adolescent Psychiatry, Johns Hopkins. I co-teach this course with a number of other faculty.

CME Instruction

1999-	Research Seminar; Division of Child and Adolescent Psychiatry. Johns Hopkins SOM. I run this weekly seminar.
1999-	Critical Readings, Child and Adolescent Psychiatry Divisional Conference. I organize this monthly meeting.

Mentoring*Supervision of Graduate Students' Theses at McGill University*

- Schacter, D. Prevalence and correlates of behavior problems in learning disabled children (Awarded M.Sc., 1988).
 Caravolas, M. The effect of input on children's phonological awareness: A cross-linguistic study (Awarded M.A., 1991).
 Hayduk, S. The association of low level visual deficits and dyslexia in adults (Awarded MA, 1993).
 Dumarty, J.L. Speech perception in bilinguals. (Thesis project carried out in the Department of Psychology, McGill University, 1994. Franco-Quebec exchange program).
 Caravolas, M. Six-year-olds' phonological and orthographic representations of vowels: A study of 1st grade Quebec-French children (Awarded Ph.D., 1996).
 Hayduk, S. The effect of strategic influences on orienting visual attention to spatial locations: A developmental perspective (Awarded Ph.D. 1997).
 Melnyk, L. Children's suggestibility (Ph.D. 2002).

Training Grant Participation

Research training in child psychopathology & treatment. (1999-2004). Co-director with PI Dr. Riddle.

Editorial Activities***Editorial Board Appointments***

1990-2008	<u>Applied Psycholinguistics</u>
1995-	<u>Journal of Experimental Child Psychology</u>
1995-	<u>Psychology, Public Policy and the Law</u>
1995-1999	<u>Child Development</u>
1997-2000	<u>Journal of Experimental Psychology: Applied</u>
2001-2005	<u>Associate Editor Journal of Experimental Child Psychology</u>
2005-	<u>Law and Human Behavior</u>
2006	<u>Applied Cognitive Psychology</u>

ORGANIZATIONAL ACTIVITIES**Institutional Administrative Appointments**

1984	Cyclical Review Committee for Department of Otolaryngology, McGill University
1989-1993	Graduate Faculty Social Sciences Research Grants Subcommittee, McGill University
1990-1993	Assistant Director Learning Center of Quebec (McGill-Montreal Children's Hospital Learning Center)
1993-1996	Chair: Graduate Faculty Social Sciences Research Grants Subcommittee, McGill University
1993-1996	Graduate Faculty Council, McGill University
1994-1999	Student Standing Committee, McGill University
1994:	Senate Advisory Committee for Appointment of Dean of Dentistry, McGill University
1996-1997	Graduate Fellowships (Montreal Children's Hospital Research Institute)
1997	Committee on Non-medical research involving human subjects. McGill University
1999-	Executive Committee Division of Child and Adolescent Psychiatry, Johns Hopkins SOM
1999-	Research Director Division of Child and Adolescent Psychiatry, Johns Hopkins SOM
2004	Promotions and Tenure Committee, Dept of Psychiatry, Johns Hopkins SOM
2006	Committee on Diversity, Dept of Psychiatry, Johns Hopkins SOM

Professional Societies

American Psychological Society (Fellow)
 Society for Research in Child Development
 (1991-1993, 2003, 2005, 2007 Review Committee for biannual meetings)

Advisory Committees, Review Groups

1984-88	Member of grant review panel. National Health and Welfare Canada Development Program
1988	Member of grant review panel. National Health and Welfare Canada Development Program. Special Competition Drug and Alcohol Abuse
1988	Member of Review Committee annual meeting American Psychological Association (Division 7), 1989 Annual Meeting
1990-	Member of Review Committee for 1990, 1991, 1993, 2003 Meetings of Society for Research in Child Development,
1993-	Advisory Committee Massachusetts General Hospital Institute of Health Professionals
1994-95	Review Committee for Post-doctoral Fellowships. FCAR
1995	Review Committee Psychology Department, Memorial University
1995	Review Committee NICHD (Learning Disability Center Grants)

- 2001 Scientific Advisory Committee of the Acquiring Literacy in English project funded by NICHD and OERI. Center for Applied Linguistics
- 2002. 2005-Grant review panel for OERI
- 2002 Review Panel for CIAR (Canadian Institute for Advanced Research) Program in Human Development
- 2003 Grant Review Panel for NIH
- 2005- Reader for Radcliffe Institute Fellowships
- 2006 Grant Review Study Section NIH (LCOM)
- 2010 College of CSR Reviewers (NIH)
- 2012 Grant Review Panel for NSF

RECOGNITION

Awards, honors

- 1982-1992 National Health Scholar Award. For two consecutive five-year periods, I received salary support and some research money from this Canadian Health Agency.
- 1994 Robert Chin Memorial Award. This annual Child Abuse Research Award was given to S. Ceci and M. Bruck for our paper "The Suggestibility of the Child Witness: An Historical Review and Synthesis" *Psychological Bulletin*, 113, 403-439. The award is presented by the Society for the Psychological Study of Social Issues.
- 2000 William James Book Award to S. Ceci and M. Bruck for *Jeopardy in the courtroom: A scientific analysis of children's testimony*. The William James Book Award, from the American Psychological Association, is given for significant intellectual advances in bridging the gaps among psychological subfields, or in relating psychology to other areas of human knowledge.

Invited Talks, Panels (1994-

1994

- Assessing the reliability of children's reports. Grand Rounds. Department of Pediatrics (Montreal Children's Hospital), McGill University, January
- Assessing the reliability of children's reports. Grand Rounds. Department of Psychiatry (Montreal General Hospital), January
- Human Memory and Sexual Abuse Cases. Canadian Appellate. Court Seminar. Montreal, Quebec. April
- Cross Linguistic Studies in Literacy Acquisition. Centre d'Hospitalier Cote des Neiges. Montreal, Quebec. May
- Children's Recollections and Suggestibility: Translating Research into Policy. Society for the Study of Social Problems. Los Angeles, August
- Outcomes of Childhood Dyslexia.. Invited Lecturer at NATO meeting on Cognitive and Linguistic Bases of Reading. Writing, and Spelling. October
- Assessing the reliability of children's reports. Colloquium McMaster University, Hamilton, Ontario. December
- A cross Linguistic study of early literacy acquisition. National Foundation for Dyslexia. Kawaii, Hawaii., May 1995

Invited Addresses on Child Witnesses:1995

Canadian Appellate Court Seminar. Quebec City, April, 1995.
Manitoba Educational Seminar. Winnipeg, April, 1995.
Summit on child protection. State of Michigan Governor's task force on children's justice and The State of Michigan Department of Social Services, September, 1995.
Annual meeting of The Wisconsin Judicial Conference. October 26, 1995
Criminal Lawyers Association. Toronto October 27, 1995.

Invited Addresses on Child Witnesses:1996

Psychology Department. University of Arizona, February, 1996
Child Psychiatry, Jewish General Hospital, April 1996
Invited Feature presenter (one of sixteen) NATO Advanced Study Institute "Recollections of Trauma: Scientific Research and Clinical Practice." Port de Borgenay, France, June

Invited Addresses on Child Witnesses:1997

Department of Psychology, University of Toronto, March
Judicial Council of California, March,
American Bar Association and American Psychological Association, April.
North Shore University Hospital-New York University School of Medicine, October.

Invited Addresses on Child Witnesses:1998

Department of Psychology, Johns Hopkins University, February
Department of Psychology, Temple University, March
Department of Psychology, Washington University, November
St. Louis Psychoanalytic Institute, November

Invited Address on Child Witnesses: 1999

Department of Psychology. SUNY Binghamton, January.
Preconference Workshop on Memory, Society for Research on Child Development, April
ABA/APA Conference: Psychological Expertise & Criminal Justice, Washington, DC, October.

Invited Addresses on Child Witnesses 2000

Delaware Psychological Associate, Wilmington, March
Fordham University, New York City, May
American Psychological Association, Washington, DC, August
National Child Abuse Defense & Resource Center, 9th International Conference, Kansas City, MO.
September
Prosecution, Persecution, and the Culture of Accusation, Harvard Law School, Cambridge, Mass.
November

Invited Addresses on Child Witnesses 2001

Iowa Public Defender's Seminar. Sioux City, Iowa, June 2001
MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice.
Boston, July 2001.

Invited Addresses on Child Witnesses 2002

Wrongful Convictions: A Call to Action, Harvard University Law School, April 2002
Prosecuting Attorneys Association of Michigan, Ypsilanti, May 2002

Invited Addresses on Child Witnesses 2003

Connecticut Public Defenders and Connecticut Criminal Defense Lawyers Association, Hamden, Connecticut. January
Astrazeneca Foundation of Spain (International psychiatry research exchange). Baltimore, MD. January.
American Psychological Society. Invited Speaker. Atlanta, May

Invited Addresses on Child Witnesses 2004

Lipsitt-Duchin lectures. Brown University, Providence Rhode Island, October 2004
Hebb Colloquium McGill University, Department of Psychology, November 2004

Invited Addresses on Child Witnesses 2005

Department of Psychology, University of North Carolina, November 2005

Invited Addresses on Child Witnesses 2006

Kentucky Bar Association, Covington Kentucky, June 2006.
Department of Psychology, University of North Carolina, November 2006

Invited Addresses on Child Witnesses 2007

Distinguished Visiting Professor at the NYU Department of Psychiatry and the NYU Child Study Center, April 2007
Carleton College. May 2007.
New York City Family Court Judges' Association, June 2007

Invited Addresses on Child Witnesses 2008

13th National Family Law Conference, Adelaide Australia, April 2008
National Child Abuse Defense & Resource Center, Las Vegas, September 2008

Invited Addresses on Child Witnesses 2009

Centre D'Expertise Marie Vincent. Montreal April 2009.

Invited Addresses on Child Witnesses 2010

Joint National Association of Criminal Defense Lawyers/Innocence Network conference on "Litigating Non-DNA Post Conviction Innocence Claims". Atlanta, April 2010
Brittingham Visiting Scholar. University of Wisconsin/Madison. April 2010

Invited Addresses on Child Witnesses 2012

Psi Chi Chapter, York College of Pennsylvania, March 2012
28th Advanced Family Law Seminar, Richmond Va, April 2012

Invited Addresses on Child Witnesses 2013

Cornell University, Law School, Human Development and Family Sciences, February 2013

OTHER PROFESSIONAL ACCOMPLISHMENTS

Selected Amicus Briefs or Affidavits submitted to Appellate State or Federal Courts

(Note. I have written the following documents to provide the Court with a summary of the scientific evidence on the reliability of children's reports. These documents also highlight how the scientific evidence is important for considering the facts of the case at hand.

- 1993 State of New Jersey vs. Margaret Kelly Michaels.
- 1997 State of Florida vs., Harold Snowden
- 1997 Commonwealth of Massachusetts vs. Cheryl Amirault LeFave
- 1998 Fuster-Escalona v. Singletary
- 1999 State of New Jersey v J Krivacska
- 2000 Ellis v Regina (New Zealand)
- 2000 Oregon v Ryan D Smith
- 2001 Maine vs. Ardolino
- 2002 Christopher Lillie, Dawn Reed v New Castle City Council, Richard Barker, Judith Jones, Jacqui Saradjian, Roy Wardell
- 2004 Commonwealth v Garcia
- 2008 Richard Lee v. Robert Lampert

Certified as an Expert Witness

United States

- California (State v. Kniffen)
- Georgia (State vs Bryan Icenhower)
- Illinois (State vs. Von der Ohe)
- Maine (Ardolino)
- Maryland (Aanenson; Oden; Freeman)
- Massachusetts (Commonwealth v. Amirault; Commonwealth v. Timmie Jones; Commonwealth v. Bernard Baran; Commonwealth v. Fales; Commonwealth v. McHugh; Commonwealth vs. Ramirez)
- Mississippi (Smith v. Smith)
- New Jersey (hearing in Merzolf-Pierce; DYFS appeal in Latendresse; Miller vs. Miller)
- North Carolina (North Carolina v. Robert Fulton Kelly)
- Pennsylvania (Commonwealth v. Hurley)
- South Dakota (U.S. vs. Rouse)
- Texas (Texas vs. Adamec)
- Vermont (Pegues)
- Virginia (Commonwealth v. McGlauglin; Commonwealth v. Charles Calfee; Commonwealth v. Englebrecht; Commonwealth v. Duncan; Commonwealth v Shroder; Canedo vs. Canedo; Shulz vs. Shulz)
- U.S Army (U.S v Chang; U.S v. Allen)

Canada/England

- Saskatchewan Canada (R. v. Linda Sterling)
- London, England (Lillie/Reed)

EXHIBIT B

EXHIBIT B: REFERENCES CITED

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- Bruck, M., Ceci, S.J., Francoeur, E., and Barr, R.J., "'I hardly cried when I got my shot!': Influencing Children's Reports about a Visit to Their Pediatrician," Child Development, 66, 193–208 (1995).
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- Ceci, S. J., and Bruck, M., "The Suggestibility of the Child Witness: A Historical Review and Synthesis," Psychological Bulletin, 113, 403–439 (1993).
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