



EXHIBITS

- | <u>NUMBER</u>   | <u>PAGE</u> |
|---|-------------|
| 8. Bruck, M., Ceci, S.J. & Hembrooke, J. (In press). Children's reports of pleasant and unpleasant events, in D. Read and S. Lindsay (eds.). <u>Recollections of Trauma: Scientific Research and Clinical Practice</u> , New York: Plenum Press             |             |
| 9. Ceci, S.J., & Bruck, M. (1993). The suggestibility of the Child Witness: A Historical Review and Synthesis, 113 Psychological Bulletin 403.  |             |
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17.	Lepore, S.J., & Sescio, B. (1994) Distorting Children's Reports and Interpretations of Events through Suggestion, 79 Applied Psychology 108.
18.	Thompson, Clarke-Stewart, & Lepore, S.J. (1997). What Did the Janitor Do? Suggestive Interviewing and the Accuracy of Children's Accounts, 21 Law and Human Behavior 405.
19.	Amicus Brief for the Case of State of New Jersey v. Margaret Kelly Michaels, Presented by Committee of Concerned Social Scientists, published in 1 Psychology, Public Policy and Law 272 (1995).
20.	National Association of District Attorneys, Investigation and Prosecution of Child Abuse, Ch. 2 (57-196) 2nd ed. 1993).
21.	Position Statement of the American Academy of Child and Adolescent Psychiatry, "Guidelines for the Clinical Evaluation of Child and Adolescent Sexual Abuse." (1998).
22.	American Academy of Pediatrics (1991), "Guidelines for the Evaluation of Sexual Abuse of Children." 87 Pediatrics 254.
23.	Videotapes of Research Studies (2)
24.	American Academy of Child and Adolescent Psychiatry, "Practice Parameters for the Forensic Evaluation of Children and Adolescents Who May have Been Physically or Sexually Abused," appearing in Journal of American Academy of Child and Adolescent Psychiatry, 36:10 Supplement, October 1997.
25.	Curriculum Vitae of Diane H. Schetky, M.D.
26.	State v. Michaels, 642 A.2d 1372 (N.J. 1994)
27.	United States v. Rouse, 100 F.3d 560 (8th Cir. 1996)
28.	Tape A -- W [REDACTED] I [REDACTED]
29.	Tape B -- J [REDACTED] O [REDACTED]
30.	Tape C -- part 1 -- M [REDACTED] T [REDACTED]

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37. Affidavits in Support of Commonwealth's Opposition to Defendants' Motion to Dismiss or Grant Appropriate Relief (March 14, 1986)	
38. Defendants' Renewed Motion for Exculpatory Evidence Psychiatric History of Parents, Custodians, and Guardians of Alleged Victims (March 25, 1987)	
39. Motion for Interview of Complainants by Defendants' Expert and articles attached (April 3, 1987)	
40. Defendants' Renewed Motion to Dismiss or Grant Appropriate Relief Pursuant to Mass. R. Crim. P. 13(c) (May 13, 1987)	
41. Brown, D., Schefflin, A.W., & Hammond, D.C. (1998). <u>Memory, Trauma, Treatment and the Law</u> , pages 235 - 251.	
42. Brown, D., Schefflin, A.W., & Hammond, D.C. (1998). <u>Memory, Trauma, Treatment and the Law</u> , pages 271 - 280.	
43. Brown, D., Schefflin, A.W., & Hammond, D.C. (1998). <u>Memory, Trauma, Treatment and the Law</u> , pages 356 - 381.	
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45. Loftus, E.F. & Palmer, J.C. (1974). Reconstruction of Automobile Destruction: An Example of the Interaction Between Language and Memory, 13 Journal of Verbal Learning and Verbal Behavior 585.	
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48. Loftus, E.F. (1975). Leading Questions and the Eyewitness Report, 7 Cognitive Psychology 560.	
49. Loftus, E.F. & Davies, G. (1984). Distortions in the Memory of Children, 40 Journal of Social Issues 53.	
50. Johnson, M.K. & Foley, M.A. (1984). Differentiating Fact from Fantasy: The Reliability of Children's Memory, 40 Journal of Social Issues 33.	
51. Pezdek, K. & Roe, C. (1997). The Suggestibility of Children's Memory for Being Touched: Planting, Erasing, and Changing Memories, 21 Law and Human Behavior 95.	
52. Rudy, L. & Goodman, G.S. (1991). Effects of Participation in Children's Reports: Implications for Children's Testimony, 27 Developmental Psychology 527.	
53. Pezdek, K., Finger, K., & Hodge, D. (1997). Planting False Childhood Memories: The Role of Event Plausibility, 8 Psychological Science 437.	
54. Pezdek, K. & Roe, C. (1994). Memory for Childhood Events: How Suggestible Is It?, 3 Consciousness and Cognition 374.	
55. Pretrial Transcript: portions filed to date: 1. Dr. Daniel Schuman (expert)	

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## 56. Trial Transcript

portions filed to date:

1. M [REDACTED] T [REDACTED] (child)
2. D [REDACTED] T [REDACTED] (mother)
3. J [REDACTED] B [REDACTED] (child)
4. D [REDACTED] B [REDACTED] (mother)
5. J [REDACTED] O [REDACTED] (child)
6. C [REDACTED] O [REDACTED] (mother)
7. W [REDACTED] L [REDACTED] (child)
8. G [REDACTED] W [REDACTED] N [REDACTED] (child witness)
9. M [REDACTED] J [REDACTED] M [REDACTED] (mother)
10. Dr. Renee Brant (expert)
11. Dr. Sherry Skidmore (expert)
12. Dr. William Erickson (expert)

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Tuesday  
February 17, 1998  
Cambridge, Massachusetts

(9:10 a.m.)

THE CLERK: Middlesex Superior Court  
criminal docket numbers 85-63, 64, 66, 67;  
2678, 2679 and 2680, Commonwealth versus  
Cheryl Amirault LeFave.

Counsel, please introduce yourselves  
for the record.

MS. ROONEY: Good morning, your  
Honor. Assistant District Attorney Lynn  
Rooney for the Commonwealth.

MS. SULLIVAN: Good morning, your  
Honor. Catherine Sullivan for the  
Commonwealth.

THE COURT: Good morning.

MR. SULTAN: Good morning, your  
Honor. James Sultan for the defendant. Also  
present representing the defendant is Daniel  
Williams from New York.

MR. WILLIAMS: Good morning your  
Honor.

MR. SULTAN: Daniel Finneran from

1 New York, and my associate, Catherine Henton,  
2 and the defendant, with leave of Court, is  
3 present at counsel table.

4 THE COURT: Good morning.

5 With the cooperation of counsel in  
6 prior discussions, we've been able, I think,  
7 to efficiently organize the hearing so that I  
8 think at this stage, unless either, on behalf  
9 of Miss Amirault or the Commonwealth, if  
10 anybody wanted to say anything before we  
11 begin, I just as soon we call the first  
12 witness.

13 MS. ROONEY: Your Honor, I would just  
14 like to put on record the Commonwealth's  
15 Motion in Limine regarding Dr. Bruck's  
16 testimony.

17 THE COURT: On the issue about  
18 whether or not it's admissible under Lanigan?

19 MS. ROONEY: That's correct.

20 THE COURT: And I think what I've  
21 indicated to counsel is, I'll save your  
22 rights under that motion. I think her  
23 testimony needs to come in. I'll protect your  
24 rights if subsequent to her testimony you

1 believe you're entitled to argue the motion,  
2 and perhaps for me to strike her testimony,  
3 I'll consider it at that point.

4 MS. ROONEY: Thank you.

5 THE COURT: Otherwise, why don't we  
6 proceed. You may call your first witness.

7 MR. WILLIAMS: Thank you, your Honor.  
8 The defense calls Dr. Maggie Bruck.

9  
10 DR. MAGGIE BRUCK, SWORN

11  
12 THE COURT: What I've indicated to  
13 counsel, and so you know Dr. Bruck, is that -  
14 - I believe her affidavit will also be an  
15 exhibit. We don't need to spend a lot of  
16 time, but I'll give you a brief few minutes  
17 to get her qualifications in, but I will  
18 allow the Commonwealth to challenge her  
19 qualifications during their cross-  
20 examination, and otherwise save your rights  
21 to do that. But I think it would be better  
22 if we begin right away and get to the issues  
23 before the Court.  
24

1     **DIRECT EXAMINATION**

2     **BY MR. WILLIAMS:**

3     Q.     Good morning, Dr. Bruck.

4     A.     Good morning.

5     Q.     The first thing I want to do, in light of the  
6           Court's directive, about your background and  
7           your expertise, let me just show you what's  
8           been marked as Exhibit 1. Just, for the  
9           record, just identify that for us, please.

10    A.     This is an affidavit I wrote this summer  
11           concerning the Amirault case.

12    Q.     Is there a curriculum vitae that you  
13           prepared?

14    A.     I think it's attached to the end of this  
15           document.

16    Q.     So it's attached to Exhibit 1?

17    A.     Yes.

18    Q.     It's part of Exhibit 1?

19    A.     Yes.

20    Q.     Tell me, where do you teach?

21    A.     At McGill University.

22    Q.     And how long have you been teaching at  
23           McGill?

24    A.     I've been at McGill for over 25 years, but

1 I've been teaching in the Psychology  
2 Department since 1991.

3 Q. Now, I just want you to tell us, for purposes  
4 of this hearing so we're clear about what  
5 kinds of opinions you're going to be giving,  
6 what your area of expertise is?

7 A. My area of expertise is the suggestibility of  
8 children or the reliability and credibility  
9 of their reports.

10 Q. And what about the nature of your research,  
11 can you just describe it in general terms?

12 A. Well, the nature of our research concerns the  
13 factors that make children's reports accurate  
14 and inaccurate.

15 Q. Now, let me ask you this, have you ever done  
16 any studies dealing directly with sexually --  
17 how sexually abused children conduct  
18 themselves?

19 A. No, I haven't.

20 Q. Have you ever interviewed sexually abused  
21 children in the context of doing a research  
22 study?

23 A. No, I haven't.

24 Q. Well, is it important for your testimony that

1 you have had contact with sexually abused  
2 children in a research context?

3 MS. ROONEY: Objection.

4 THE COURT: Basis?

5 MS. ROONEY: Her comment on her  
6 importance of her testimony is irrelevant.  
7 It's for the Court to decide.

8 THE COURT: Overruled. You may  
9 answer.

10 A. My testimony and my research does not concern  
11 sexually abused children, but concerns how  
12 children can come to make reports that are  
13 inaccurate that might in fact make them look  
14 like sexually abused children or might make  
15 them look like children of crime or violence.  
16 So my research really is not about sexually  
17 abused children but about factors that  
18 impinge on children's accuracy that make them  
19 claim -- make claims that are inaccurate.

20 Q. Has your research gone into the issue of how  
21 child sex abuse cases, mass sexual abuse  
22 cases, are investigated?

23 A. Not my research but our writing, my  
24 colleague, coauthor, Stephen Ceci at Cornell

1 University and I, have written a book  
2 actually on how some of these cases have been  
3 investigated.

4 Q. Have you had direct exposure to the  
5 investigation of mass sexual abuse cases?

6 A. Direct exposure?

7 Q. Yes.

8 A. No.

9 Q. Okay. How have your views, and we're going to  
10 get to those in a moment, but how have your  
11 views on the area of suggestibility of  
12 children been accepted or been received in  
13 the scientific community?

14 A. Well, our work has been published in peer  
15 review journals. We've written, a few years  
16 ago, we wrote a brief for Kelley Michael's  
17 case, the State of New Jersey, where over 40  
18 of the top developmental and cognitive  
19 psychologists in Canada, the United States,  
20 signed it. We've been asked by a number of  
21 the most prestigious societies involving  
22 child development or psychology, or -- to  
23 write annual or decade papers on the state of  
24 this research.

1 Q. Tell me a little bit more about what you just  
2 commented upon what you've been solicited to  
3 write about.

4 A. Mm-hmm. Some examples?

5 Q. No. Tell me why that's significant in terms  
6 of how your views and your research has been  
7 received in the scientific community?

8 A. Well, for example, The Handbook of Child  
9 Psychology, which comes out every ten years,  
10 which is -- samples the major areas of child  
11 development, we were asked to write the paper  
12 on children's suggestibility among all the  
13 researchers, and I take that as a view that  
14 our work or the way we present work is  
15 regarded in high esteem by the scientific  
16 community.

17 Q. Okay.

18 A. And more recently, American Psychology --  
19 we've written a paper for American  
20 Psychologist, which every five or ten years,  
21 they put out a special volume on child  
22 development and they decided to select  
23 children's suggestibility as one area and  
24 they asked us to write that paper also.

1 Q. When you say "us," who are you referring to?

2 A. Stephen Ceci and myself.

3 Q. Now, what were you asked to do in this  
4 particular case?

5 A. I was asked to review the record and to write  
6 an opinion on the investigation and the  
7 children's reliability.

8 Q. Okay. I want to show you what's been marked  
9 as Exhibit 2A and 2B, just take a moment and  
10 review those.

11 A. (Witness examines documents.)

12 THE COURT: And by the way, the  
13 exhibits number 56, and they're deemed  
14 formally admitted into evidence.

15 A. I looked at this one. These are the  
16 transcripts.

17 Q. Would you just identify those exhibits, 2A  
18 and 2B?

19 A. Right. 2A is a compilation of police  
20 reports, DSS reports, some available therapy  
21 reports of the child witnesses in these two  
22 cases, and Appendix B are the available  
23 transcripts of the Susan Kelley interviews of  
24 7 children, I believe.

1 Q. Actually it's 9 children, isn't it?

2 A. In B it's only 7 children.

3 Q. And are those the materials you reviewed in  
4 preparing your affidavit?

5 A. Yes.

6 Q. Now, have you ever engaged in this sort of  
7 task before, that is, you take a record of  
8 the investigation in a case, and the  
9 interviews in a case, and written a report?

10 A. Yes, I have.

11 Q. Okay. When have you done that?

12 A. Well, the first one was Kelly Michaels which  
13 I did. I don't know what the date was, 1993.

14 Q. Okay. That's the State of New Jersey versus  
15 Michaels?

16 A. Yes.

17 Q. And -- I'm sorry.

18 A. That was an Amicus -- we wrote an Amicus  
19 Brief.

20 Q. Do you recall what court -- for what court?

21 A. The Supreme Court of New Jersey.

22 Q. Was the report similar in nature as the one  
23 you prepared here?

24 A. Yes, it was, in terms of the format, yes.

1 Q. Actually, let me mark that -- let me present  
2 that exhibit to you.

3 I show you what's been marked as Exhibit  
4 19.

5 A. (Witness examines document.)

6 Okay. This is the published version of the  
7 brief that was submitted to the Court.

8 Q. Okay. When you say a published version, what  
9 do you mean?

10 A. It was published in a peer review journal,  
11 Psychology, Public Policy and the Law.

12 Q. Okay. That was --

13 A. This was -- it was published in 1995; the  
14 brief was written in -- I can't remember when  
15 it was written, 1993.

16 Q. Now, I think there are signatures, a list of  
17 signatures on the back?

18 A. Yes.

19 Q. Can you tell us about that for us?

20 A. Well, before we wrote the brief - well, we  
21 wrote the brief and then sent it to these  
22 people and asked them to read it, and make  
23 comments on it, and whether they would agree  
24 to sign the brief.

1 Q. Okay. You say "these people," who are these  
2 people?

3 A. These are different -- these are mainly  
4 academic people who are experts in the field  
5 of memory, eyewitness identification,  
6 children suggestibility, in the United States  
7 and Canada.

8 Q. And in terms of the stature of the people  
9 that signed on to the Amicus Brief that  
10 you're looking at, Exhibit 19, are you in a  
11 position to characterize that? Are we talking  
12 about prominent experts?

13 A. There are very many prominent experts, or  
14 prominent people in their field on this list.

15 Q. Do you recall about how many people signed  
16 on?

17 A. I think there are about forty.

18 Q. All right. Now, let's focus our attention on  
19 this case for a moment.

20 A. Okay.

21 Q. In reviewing the records in this case, did  
22 you also review the trial testimony or  
23 pretrial testimony of one Dr. Brant?

24 A. I did.

1 Q. Did you review any testimony, pretrial or  
2 trial, of defense experts?

3 A. Yes, I did.

4 Q. Do you recall which ones of the defense  
5 experts you reviewed?

6 A. Dr. Schuman, Erickson and Skidmore.

7 Q. Is it Dr. Schuman, Dr. Erickson?

8 A. I believe. I don't remember.

9 Q. Okay. And then there's a --

10 A. Skidmore, Dr. Skidmore.

11 Q. Dr. Skidmore, okay.

12 Now, in reviewing that record with respect to  
13 Dr. Brant, what did you find that's relevant  
14 to your testimony here?

15 A. Dr. Brant spent a lot of time focusing on  
16 disclosure patterns of children who had been  
17 sexually abused, and she described children's  
18 telling of sexual abuse as a slow process  
19 that begins with secrecy, with denial, where  
20 these allegations have to come out slowly, be  
21 dug out. Children are often afraid or  
22 ashamed. And then, even when they come out,  
23 sometimes they come out in piecemeal, and  
24 there's sometimes, often in fact, retraction,

1 and it's kind of like a stop and go process.  
2 And at one point I made a note that she  
3 claims that in fact this is the most common  
4 pattern in most children, or a majority of  
5 children show this pattern who were sexually  
6 abused.

7 Q. This disclosure pattern?

8 A. Yes.

9 Q. Okay. I'm going to come back to that  
10 disclosure pattern --

11 A. Okay.

12 Q. -- in a moment. But let's now turn our  
13 attention the defense experts --

14 A. Yes.

15 Q. -- specifically Dr. Schuman. Do you recall  
16 the nature of Dr. Schuman's testimony in  
17 broad terms?

18 A. Dr. Schuman tried to talk about a positive  
19 reinforcement loop whereby children's reports  
20 became a result of the kinds of -- to put it  
21 in laymen's terms, vibrations that they were  
22 getting from their environment. And so, after  
23 awhile, if there was distress, their reports  
24 were a reaction to try to distill or to allay

1 that distress in some way. And I think that  
2 he tried to make the case that one could  
3 modify children's reports in terms of  
4 environmental factors so that children became  
5 aware of the kinds of things that would cause  
6 people distress and maybe suppress those  
7 kinds of reports, and then learn what kinds  
8 of things people wanted and give those kinds  
9 of reports. That was my general feeling of  
10 the kind of point he was trying to make.

11 Q. And did Dr. Schuman, in reviewing the  
12 records, did you notice Dr. Schuman had  
13 scientific data or research to back up his  
14 views?

15 A. None that I could recall.

16 Q. Now, on page 101 of his testimony -- I know  
17 you don't have it -- but I want to ask you if  
18 this accords with your recollection -- when  
19 the prosecution states that there is no  
20 generally accepted standard that applies in  
21 this fashion to nullify children's  
22 testimony --

23 THE COURT: Mr. Williams, let me  
24 clarify. You said page?

1 MR. WILLIAMS: 101.

2 THE COURT: Of?

3 MR. WILLIAMS: Of Dr. Schuman's  
4 pretrial testimony of March 20th, 1986.

5 Q. Where the prosecution says that there are no  
6 generally accepted standards that applies in  
7 this fashion to nullify children's testimony.  
8 Was Dr. Schuman able to refute that claim  
9 that there is no scientific, generally  
10 accepted scientific standard that applies to  
11 nullify children's testimony?

12 A. I must say I read that sentence. I don't  
13 really understand it. It has so many double  
14 negatives in it. Could you rephrase it for  
15 me? What do you think it says?

16 Q. All right. Let me ask you this.

17 A. Okay.

18 Q. If the prosecution was claiming at this  
19 pretrial hearing where Dr. Schuman testified  
20 that Dr. Schuman's views had no scientific  
21 support at that time --

22 A. Right.

23 Q. -- bearing on child sex abuse cases --

24 A. Right.

1 Q. -- was Dr. Schuman able to address that  
2 claim?

3 A. No, he couldn't.

4 THE COURT: This was the hearing  
5 before Justice Dolan?

6 MR. WILLIAMS: Justice Dolan, that's  
7 right, on the admissibility of Dr. Schuman's  
8 testimony.

9 [By Mr. William:]

10 Q. Do you recall whether Dr. -- are you familiar  
11 with the concept of a Frye test?

12 A. Uh, yes.

13 Q. The admissibility of expert testimony, right?  
14 Do you recall whether Dr. Schuman's testimony  
15 met the Frye test according to Justice Dolan?

16 A. My understanding --

17 MS. ROONEY: Objection. The record  
18 speaks for itself.

19 MR. WILLIAMS: I'm just orienting the  
20 witness.

21 THE COURT: For that basis -- for  
22 that limited purpose, I'm going to overrule  
23 the objection.

24 MR. WILLIAMS: Or we can just

1 stipulate that -- the record does speak for  
2 itself. The judge did find that it did not  
3 meet the Frye test, and I just want to ask--

4 Q. Let's posit for a moment that Justice Dolan  
5 said that Dr. Schuman's testimony did not  
6 meet the Frye test.

7 THE COURT: One moment.

8 MS. ROONEY: It appears that Dr.  
9 Bruck has some notes or something that she's  
10 referring to during this testimony. I would  
11 just request that the Commonwealth have a  
12 copy of whatever it is she's reading from as  
13 she's testifying.

14 MR. WILLIAMS: I'll be glad to  
15 provide it.

16 THE COURT: Okay.

17 [By Mr. Williams:]

18 Q. Let me ask it again. Let's posit for a moment  
19 that the Court found that Dr. Schuman's  
20 testimony did not meet the Frye test, and  
21 therefore, was not admissible because there  
22 was no scientific data. In reviewing the  
23 record did you find that there was scientific  
24 data that the Court overlooked in coming to

1           that Frye conclusion?

2           A.    I don't know of any at that time.

3           Q.    Okay. By the way, in -- and you can refer to  
4           your notes to refresh your recollection --  
5           but I'm referring to page 81 and 82 of those  
6           minutes. It's item 3 in your notes, where the  
7           prosecution -- I'm sorry, the defense states,  
8           quote, "Mr. Hardoon spent considerable amount  
9           of time trying to demonstrate to the Court  
10          that there is a paucity of hard data or  
11          actual print material speaking to this area,"  
12          that is, the area that Dr. Schuman is  
13          testifying about. "I suggest to the Court  
14          that the hard data and print material that  
15          Mr. Hardoon would like to see is in fact  
16          forthcoming."

17                    Do you see that?

18          A.    Mm-hmm.

19          Q.    Now, was the defense's prediction about hard  
20          data and research being forthcoming in the  
21          future accurate?

22          A.    Uh, yes.

23          Q.    In fact, that's the kind of research that you  
24          were doing after this case, is that right?

1 A. Well, not in 1987.

2 Q. Right. But they were saying it was  
3 forthcoming, that it was coming in the  
4 future?

5 A. They were prescient, yes.

6 Q. Now, let's look to Dr. Erickson, the other  
7 defense expert. Now, this was trial  
8 testimony.

9 A. Mm-hmm.

10 Q. Do you recall the general nature of Dr.  
11 Erickson's testimony?

12 A. I'm sorry. I thought someone objected. Do  
13 I --

14 Q. Do you recall the general nature of Dr.  
15 Erickson's testimony?

16 A. Well, Dr. Erickson talked about a number of -  
17 - made a number of claims that I think are  
18 very much alive today concerning the use of  
19 threats, children's inability sometimes to  
20 differentiate reality from fantasy. I think  
21 she was talking about what I call source  
22 monitoring. She -- she made another comment I  
23 think about the videotapes, and I think that,  
24 you know, her testimony was reasonable.

1           However, again, my understanding is that she  
2           didn't really have any hard scientific data  
3           to back up these kinds of statements.

4           Q.    Do you recall the nature of the cross-  
5           examination of Dr. Erickson in reviewing the  
6           records?

7           A.    Well, there --

8           Q.    The cross-examination by the prosecution,  
9           just so we're clear?

10          A.    Yes. No, I'm looking at it. Well, she was  
11          asked a number of questions that are not  
12          within my area of expertise about behavioral  
13          syndromes and repression. I think that she  
14          was asked about things like, would parents  
15          typically be horrified -- about parents'  
16          reactions about learning about abuse. I think  
17          that the issue was, did the parents in any  
18          way encourage children to talk about abuse,  
19          and would they be happy. And I don't think  
20          that she could deal with that question. I  
21          think there were a number of questions she  
22          really didn't quite know how to deal with  
23          given the understanding of the process at  
24          that point.

1 Q. When you say "process," you mean the state of  
2 the research?

3 A. Yes.

4 Q. Was she also throwing up her hands saying  
5 that there was no research?

6 A. I don't see that she even cited any research.  
7 I mean, I didn't see the videotape, so I  
8 don't know if she threw her hands up.

9 MS. ROONEY: Your Honor, could I just  
10 clarify? Are we talking about -- when we're  
11 referring to "her," are we talking about  
12 Sherry Skidmore or are we talking about --

13 THE WITNESS: You know, it's a he  
14 actually.

15 MR. WILLIAMS: This is Dr. Erickson.

16 THE WITNESS: Dr. Erickson. I'm  
17 sorry. It took me awhile to figure that one  
18 out.

19 [By Mr. Williams:]

20 Q. Regardless of the gender, you're talking  
21 about Dr. Erickson?

22 A. Yeah.

23 Q. Now, let's turn to Dr. Skidmore, which I  
24 believe is a woman. Now, tell me about Dr.

1 Skidmore's testimony at the trial, what do  
2 you recall from that?

3 A. Well, Dr. Skidmore talked about the  
4 importance of neutrality of the interviewer,  
5 the importance of not having expectations or  
6 how interviewer expectations can in fact  
7 produce error. She talked about children's  
8 inability to distinguish fact and fantasy.

9 Q. Dr. Bruck, let me just stop you for a moment.

10 A. I'm sorry. I'm sorry.

11 Q. You said that she talked about neutrality and  
12 not having expectations.

13 A. Mm-hmm.

14 Q. I just want to focus on that just for a  
15 moment. In your view -- and we're going to  
16 talk about it some more -- but in your view  
17 is that important testimony, the concept that  
18 she was conveying?

19 A. I think it's crucial.

20 Q. You think that testimony was crucial?

21 A. Oh, I think that the concept of interview  
22 neutrality is absolutely crucial to  
23 understanding some of the allegations for  
24 cases such as this.

1 Q. Okay. But the jury was hearing that concept?

2 A. She tried to explain it to the jury.

3 Q. Okay. What else was she trying to explain to  
4 the jury?

5 A. Well, she continued with this talking about  
6 contamination; what happens when you have  
7 bias, how this contaminates interviews. She  
8 talked about the ways one can pressure  
9 children to make different kinds of  
10 statements. She, again, talked about the  
11 inability of young children to distinguish  
12 fantasy from reality. Those are the main ones  
13 I have on these notes here.

14 Q. Now, in item 9 of your notes, and it's on  
15 page 113 and 114 of Dr. Skidmore's testimony.

16 A. Mm-hmm.

17 Q. Let me just orient you here. Where she talks  
18 about the neutrality of the interviewer and  
19 the break from neutrality is often  
20 unintentional and unnoticed by the  
21 interviewer.

22 A. Yes.

23 Q. Do you see that on item 9 of the notes?

24 A. Yes, I do.

1 Q. Is that something that your research  
2 addressed subsequent to this trial?

3 A. Well, we have looked at interviewer bias,  
4 yes.

5 Q. Interviewer bias is this break from  
6 neutrality?

7 A. Yes.

8 Q. Okay. Now, again, let's talk about the  
9 cross-examination by the prosecution of Dr.  
10 Skidmore.

11 A. Okay. Mm-hmm.

12 Q. How can you characterize that cross-  
13 examination in terms of what you're  
14 testifying about here?

15 A. I think that the prosecutor tried to get this  
16 witness to provide some hard scientific data  
17 on whether her claims could be substantiated;  
18 whether in fact, you know, children could  
19 fantasize about having objects inserted into  
20 their orifices, whether -- what studies  
21 showed that children were more suggestible  
22 than adults; and this is a witness who really  
23 did seem to disintegrate under these  
24 conditions where she really said, "I just

1 can't quote you any literature."

2 Q. She said, "I can't quote you any literature?"

3 A. Well, I don't know if she said that, but  
4 that's my kind of impression of reading that  
5 transcript.

6 Q. I want you to look at item 14 of your notes,  
7 and that's at page 170 of the transcript. I  
8 think we'll find there where the prosecution  
9 indicates studies that children, young  
10 children, are in fact less suggestible?

11 A. Yes.

12 Q. Let's posit that that's the thrust of the  
13 cross-examination.

14 A. Mm-hmm.

15 Q. Does your research address that point as to  
16 whether young children are more or less  
17 suggestible than older children?

18 A. Yes, it does.

19 Q. Okay. And was Dr. Skidmore able to address  
20 that point with reference to research data?

21 A. I don't think she could name a study.

22 THE COURT: This is trial testimony?

23 MR. WILLIAMS: This is all trial  
24 testimony--

1 THE WITNESS: Yes.

2 MR. WILLIAMS: -- before the jury.

3 [By Mr. Williams:]

4 Q. Now, you're -- if the prosecution claims in  
5 this hearing that the jury heard about this  
6 break from neutrality and the baleful effects  
7 of that, about the effectiveness of threats,  
8 delayed disclosures and these types of  
9 concepts, if they claim that the jury heard  
10 that, and therefore, your testimony is merely  
11 duplicative, do you have a response to that  
12 in terms of what you read in the trial  
13 transcripts?

14 A. I don't think my testimony could be given in  
15 1988 or 1987. It simply wasn't there. The  
16 studies that I think have made a major impact  
17 in this field really were not conducted until  
18 the beginning of the '90s, maybe 1989.

19 Q. Do you know what prompted this research?

20 A. I think that there was a ground swell of  
21 interest in suggestibility of children and  
22 the reliability of children's reports because  
23 of cases that arose such as this in the  
24 1980s, where experts such as these simply

1           could not provide relevant evidence to the  
2           Court.

3           Q.    So it's these mass -- when you say cases such  
4           as this, you mean mass day-care cases?

5           A.    I think there were a number of mass day-care  
6           cases that certainly raised a number of  
7           issues for developmental and cognitive  
8           psychologists, yes.

9           Q.    And this research that flowed from these  
10           types of cases and that you have participated  
11           in, how broad, how extensive has this new  
12           research been? I want to get a sense of  
13           whether we're talking about just a small  
14           coterie of researchers doing it, or was there  
15           an explosion of research?

16          A.    Well, when I say explosion, I mean compared  
17           to before, there, you know, was a multi -- I  
18           mean there was a multiple effect. But I  
19           wouldn't say that there were thousands of  
20           people researching these issues. I mean,  
21           maybe in the field of children's -- I mean,  
22           there are a lot of people who are researching  
23           children's autobiographical memory and  
24           different kinds of aspects of this, but in

1 terms of the field of children's  
2 suggestibility, maybe there are twenty labs.

3 Q. What about the quantity of publications?

4 A. Well, I think that if you look -- if you do a  
5 chart, you'll see that, you know, the  
6 publication rate has grown greatly and that  
7 now my guesstimate is that there might be  
8 maybe 200 publications, 200 good publications  
9 in the field. I could be wrong. I can't tell  
10 you. But, you know, it's a significant body  
11 of research.

12 Q. Okay.

13 A. It's enough of a body of research that The  
14 Handbook of Child Psychology wants to have a  
15 chapter on it. It's enough of a body of  
16 research that child development -- that the  
17 American Psychologist, in their special issue  
18 on child development, wants to have a chapter  
19 on it. So --

20 Q. Now, let's turn your attention to the  
21 affidavit itself that you prepared in this  
22 case.

23 A. Okay.

24 Q. One of the first concepts you talk about in

1 your affidavit, and you mentioned it here in  
2 connection with Dr. Brant's testimony in this  
3 case, was this concept of disclosure  
4 patterns, right?

5 A. Yes.

6 Q. Okay. I want you to, first of all, tell us  
7 why is this concept of disclosure patterns  
8 important for us to understand?

9 A. Well, the disclosure pattern that occurred in  
10 this case here, and I think it's -- I mean, I  
11 don't think there's any doubting what the  
12 disclosure pattern was, is that you had  
13 silence from the children, no suspicion of  
14 anything going on, and then a number of  
15 factors happen. A child is asked about: did  
16 anything happen. There's a long period of  
17 denial. And then after more questioning,  
18 allegations start to come out. There's  
19 retraction, or there's silence again, and  
20 sometimes later this comes out again.

21 Now, this pattern is one that's been  
22 described in the clinical literature, I think  
23 initially by Roland Summit, and it wasn't --  
24 it was never meant to be diagnostic. His

1 claim was that it was to help people  
2 understand the phenomena of disclosure in  
3 intrafamilial cases.

4 Q. Intrafamilial, meaning abuse that's occurring  
5 within the family?

6 A. Yes. Yes.

7 Q. Okay.

8 A. And since then, I think that it has become a  
9 way for clinicians just to talk about  
10 disclosure patterns in the kinds of cases  
11 that they claim are very very frequent. So I  
12 think in this case it was used to explain why  
13 the children were silent for so long. It  
14 never -- it was never built to have any  
15 explanatory power, actually, and it was never  
16 based on any scientific evidence.

17 Q. When you say it was never built on scientific  
18 evidence, you mean back in the eighties --

19 A. Yes, when it was first proposed.

20 THE COURT: And I just want you to  
21 explain a little more about what you mean was  
22 proposed. What was proposed?

23 THE WITNESS: It was proposed,  
24 described. It was kind of a way for

1 clinicians -- as I see it, was a syndrome or  
2 a way for clinicians to understand why  
3 children who were sexually abused might in  
4 fact display these kinds of behaviors, or to  
5 say that these things do happen. But, I mean,  
6 Roland Summit, in fact my understanding is,  
7 never saw a sexually abused child to begin  
8 with, just came up with this explanation or  
9 of a description of this phenomena that  
10 clinicians found helpful, but it was never  
11 meant to be diagnostic. So it was never meant  
12 to be: if you see a child display these  
13 behaviors or this sequence, this is a sign  
14 that they were sexually abused. It was never  
15 never meant to have that. I think that some  
16 clinicians in fact have then used it in a  
17 diagnostic way, but that was never its  
18 intent.

19 But, nevertheless, it was still  
20 proposed on kind of a clinical intuition with  
21 no scientific data to back it up.

22 THE COURT: I'm sure we'll get to  
23 this again, but is this part -- is it part of  
24 your opinion that this then led to Dr.

1 Brant's -- some of her testimony, or the  
2 basis for some of her testimony, is it  
3 related to that?

4 THE WITNESS: Well, her testimony  
5 involved trying to explain the behavior of  
6 these children, why they were silent for so  
7 long and why it took so long to get  
8 allegations -- I'm sorry, not allegations,  
9 but reports from them of their sexual abuse,  
10 and how come sometimes they would go  
11 underground and then it would come back again  
12 in little bits and spurts. So this was  
13 something that she spent some time talking to  
14 the Court about.

15 [By Mr. Williams:]

16 Q. What about, when you talk about disclosure  
17 patterns, you also embrace within that the  
18 whole concept of recantation?

19 A. Well, recantation is part of this disclosure  
20 pattern whereby once children do start to  
21 disclose, they'll then stop and say, "No,  
22 nothing happened." Now, intrafamilially, in  
23 fact, this does make some sense because the  
24 dynamics of sexual abuse, when it's intra-

1 familial or there's a father involved, are  
2 quite unique where the child, in fact, is  
3 often threatened to stay quiet because the --  
4 or is afraid to say anything only because of  
5 the repercussions for the family. And that  
6 once it comes out, there sometimes are  
7 terrible reactions within the family of  
8 what's happened and the child will go  
9 underground.

10 So, you know, it could be that this  
11 is -- has much more benefit in terms of  
12 understanding what happens intrafamiliially  
13 where there are very very different dynamics  
14 than what goes on when it's an extra-familial  
15 situation.

16 Q. Now, has there been any research since the  
17 trial of this case dealing with disclosure  
18 patterns?

19 A. Yes, there has been.

20 Q. Can you tell us about that?

21 A. Mm-hmm. Most recently -- I'm sorry. I just  
22 can't hear a whole lot up here. I think  
23 someone's always interrupting me.

24 I recently, Wood and Bradley

1 conducted a study. I'd like to find it in the  
2 affidavit because I could cite the exact  
3 numbers.

4 Q. I think what you're hearing may be the  
5 stenographer.

6 A. It's okay. I'll get used to it.  
7 Do you know the page that I'm looking for?

8 Q. On your affidavit?

9 A. Yeah. On the Bradley and Wood study?

10 Q. It may be at paragraph 30.

11 A. Okay. No --

12 MS. ROONEY: It's page 9.

13 A. Page 9.

14 THE COURT: Page 9.

15 A. Sorry. Thank you. I get more organized. Okay.  
16 What Bradley and Wood did is, they reviewed  
17 the records of 234 validated cases of child  
18 sexual abuse. These children had been  
19 interviewed by CPS workers, and what they  
20 found was, when they interviewed these  
21 children, only five percent of the children  
22 denied abuse, and that when they went through  
23 the records, only three percent recanted  
24 their initial claims of abuse.

1           Now, Bradley and Wood also go on in this  
2 paper to talk about the recantation rates,  
3 and whether in fact the recantation rates  
4 were recantations of real, you know --  
5 whether these were true recantations or just  
6 recantations in order to preserve the family.  
7 And they say it's not really very clear in  
8 all these cases. But let's just take the  
9 three percent as it is, that it's recantation  
10 of true disclosures.

11           In another study that was conducted  
12 in 1987 in Denver, again these were child  
13 protection workers, Jones and McGraw found an  
14 eight percent recantation rate.

15 Q.    An eight percent?

16 A.    Yes. They don't talk about initial denials or  
17 disclosures. Now, these are cases -- my  
18 understanding is of how to frame these in the  
19 framework of children's disclosures, is that  
20 these children are being brought in because  
21 they either already said something or there's  
22 a tremendous amount of suspicion on the part  
23 of a parent or a school. So it's not -- these  
24 might not be the very first time the children

1 are questioned, but it's the first time that  
2 they're questioned probably by authorities.  
3 And so, in these cases you see that the  
4 pattern that's described by clinicians does  
5 not hold up under statistical scrutiny where  
6 you have much lower rates of denial and  
7 recantation than originally thought. But it's  
8 not to say it doesn't happen.

9 Q. It's under ten percent from the research that  
10 we've seen?

11 A. Yes.

12 Q. Do you recall, in reviewing the records in  
13 this case, what the percentage was among the  
14 children who ultimately testified in both  
15 cases, what the recantation rate was?

16 A. Well, according to my notes the recantation  
17 rate was something like 70 percent, and the  
18 way I counted that was that there is some  
19 record from the police or DSS or parents, the  
20 children had made a certain allegation, and  
21 subsequent to that, there were interviews  
22 where they denied that anything had happened.

23 Q. All right. So the research --

24 MS. ROONEY: Your Honor --

1 Q. -- suggests something under --

2 MR. WILLIAMS: Pardon me.

3 MS. ROONEY: -- I'm going to object  
4 at this point if we're talking about children  
5 other than the four children in this case.

6 THE COURT: Yeah, I was going to ask  
7 the same thing. Do you know what the  
8 recantation rate --

9 THE WITNESS: Of the children in this  
10 case?

11 THE COURT: Of the children in the  
12 case --

13 THE WITNESS: Of the four in this  
14 case.

15 THE COURT: -- against Cheryl  
16 Amirault?

17 THE WITNESS: I'm trying to think.  
18 One, two -- let me look at my notes.

19 THE COURT: Take a moment.

20 THE WITNESS: I think three, maybe  
21 four.

22 [By Mr. Williams:]

23 Q. Three out of the four, or it might be all  
24 four?

1 A. Okay. A very strong -- a very strict  
2 criterion is two.

3 Q. On a very strict criterion?

4 A. It's two.

5 Q. Okay. What do you mean by that?

6 A. Well, it's very clear that they said, "No,  
7 nothing happened."

8 Q. And you're implying that there might be a  
9 looser criterion. What does that mean?

10 A. Well, with J [REDACTED] B [REDACTED], for example, her  
11 first allegation was to Susan Kelley, or the  
12 first allegation was to the mom -- we don't  
13 have a record of -- then to Susan Kelley. And  
14 then there's therapy, and during the therapy,  
15 it took awhile for these allegations to come  
16 out again. So one could say maybe there's  
17 some denial there.

18 With B [REDACTED] L [REDACTED] it's clear that in the  
19 therapy records he didn't make any  
20 allegations after the major ones came out. So  
21 you could say those are looser ones.

22 Q. In other words, there's questions about it,  
23 and the child is not -- is in some way not  
24 answering the question?

1 A. It seems to me, yes.

2 Q. All right.

3 A. But on a very strict criterion, let's say  
4 fifty percent.

5 Q. Okay. Now, in your report, I think it's at  
6 paragraph 30, you talk about the disclosure  
7 patterns in this case and the recantation  
8 rate that you found in this case, and you  
9 indicate that it prompted you to explore  
10 another hypotheses?

11 A. Yes.

12 Q. What hypothesis did you explore?

13 A. The other hypothesis was that this pattern of  
14 no claims of abuse followed by denials when  
15 being questioned, followed by disclosures  
16 that kind of seep out, followed by  
17 recantation, followed by more disclosures,  
18 could be a function, or associated, or a  
19 reflection of the fact that these children  
20 were being subjected to suggestive atmosphere  
21 and suggestive interviews.

22 Q. Now, I want to go back to the historical  
23 evolution of these concepts that we're going  
24 to go into now --

1 A. Okay.

2 Q. -- on suggestibility. Have you written any  
3 articles discussing this historical evolution  
4 that kind of encapsulates how this research  
5 evolved?

6 A. I wrote an article in 1993 for Psychological  
7 Bulletin.

8 Q. I want to show you what's been marked as  
9 Exhibit 9, and tell me if that's the article  
10 you're referring to?

11 A. Yes.

12 Q. By the way, just as an aside, were there any  
13 awards that you received for that particular  
14 article?

15 A. Yes. We were awarded a prize. This was the  
16 best paper on child sexual abuse for the  
17 year.

18 Q. Okay. Tell us --

19 A. It was awarded by a Society for Social  
20 Issues, which is a division of APA.

21 Q. Okay. And that -- that provides an historical  
22 perspective so that if somebody read that  
23 article they'll get a sense of how this  
24 research evolved and then --

1 A. Came into the present.

2 Q. -- came into the present?

3 A. Yes.

4 Q. Okay.

5 A. Not much about the -- there's a little bit  
6 about the present, but I mean, even when we  
7 wrote this, it was still in its very, I think  
8 in its infancy and starting to explode.

9 Q. Okay. That's interesting, because two years  
10 later you wrote a book, didn't you?

11 A. Yes.

12 Q. Now, we have excerpts from it, but I'm  
13 holding my hand on the book, right?

14 A. That's the book.

15 Q. I want to show you Exhibit 3. You might as  
16 well keep this here because we might be  
17 talking about items in your book. But can you  
18 just tell us what your book deals with?

19 A. Well, our book was an attempt to take this  
20 more scientific article here --

21 Q. You're talking about Exhibit 9?

22 A. I'm sorry. Exhibit 9. We first wrote this  
23 historical paper where we looked at the  
24 foundations of suggestibility research

1 through the twentieth century and where it  
2 was at the beginning of the nineties. And it  
3 was -- I mean, it's sort of hard going. It  
4 really is written for an academic audience,  
5 and it was reviewed by our academic peers.  
6 And we wanted to write a more -- a book that  
7 was more readable by practitioners, and  
8 lawyers, and mental health professionals, and  
9 laymen and --

10 Q. Would that include judges in that, too?

11 A. Judges, absolutely. And it took us awhile to  
12 figure out how to do it, but two years later  
13 -- was it really only two years later? Yeah,  
14 two years later, this book appeared and by  
15 that time, in fact, the number of studies had  
16 increased, and what we tried to do in our  
17 book with a greater emphasis was to try to  
18 use the -- to try to show how science might  
19 inform policy or cases, and how it might shed  
20 some light in understanding these very  
21 troublesome cases that had arisen in the  
22 eighties and the beginning of the nineties.

23 Q. Is there -- are there discussions in your  
24 book, Jeopardy in the Courtroom, dealing with

1 research studies that you're going to discuss  
2 today?

3 A. Yes, there are.

4 Q. And I'm sure that it goes into other research  
5 studies that we don't have time to go into  
6 today, is that right?

7 A. That's true.

8 Q. What else is in this book aside from a  
9 discussion of research studies? I mean, if  
10 you flip through it you see a lot of excerpts  
11 from what appears to be testimony or  
12 interviews --

13 A. Well, as I said, what we tried to do in this  
14 book was to use the -- to discuss the  
15 research and then to try to discuss it within  
16 specific cases that we describe at the  
17 beginning of the book to see, or to show, or  
18 to show when or when not this research might  
19 elucidate the kinds of claims that children  
20 were making, the reliability of their memory,  
21 the kinds of -- the investigatory techniques,  
22 and how good these were; what the science had  
23 to say about the investigatory techniques.

24 Q. All right. So when you say "investigatory

1 techniques," you mean investigatory  
2 techniques in actual cases?

3 A. In actual cases, yes.

4 Q. Did those include day-care center --

5 A. Yes.

6 Q. -- abuse cases?

7 A. And I think in our book we included -- we  
8 included descriptions of Kelly Michaels, of  
9 Little Rascals, which was in Edenton, North  
10 Carolina; Country Walk, which was - and Finje  
11 which were Dade County.

12 There was a murder case in Texas that  
13 we included. I don't know, you'll have to  
14 refresh my memory.

15 Q. But the important point is that there was  
16 discussions of day-care center cases?

17 A. Yes, there was.

18 Q. Now, how current is this book? I know it's  
19 written in 1995, but how current is it as we  
20 sit here today in 1998?

21 A. Well, it's three years old, and I do -- I do  
22 look though it all the time, and I don't  
23 think that -- there are no mistakes in it,  
24 but there's certainly been more research, and

1 I think some very important research that's  
2 come out since we've written that book, and  
3 as a result, we've been asked to do a major  
4 revision of the book that I know Dr. Ceci is  
5 working on now, and I was going to -- time  
6 working on this summer and hopefully we'll  
7 have a second major revision of this book  
8 within a year.

9 Q. Okay. So there's been enough research from  
10 1995 to the present --

11 A. Absolutely.

12 Q. -- that you're called upon to even revise  
13 this book now?

14 A. Yes. Yes.

15 Q. Okay. Now, there's a phrase that you use in  
16 your introduction, the phrase is "a  
17 paradigmatic shift in the research." What did  
18 you mean by that, "a paradigmatic shift in  
19 the research?"

20 A. Well, I mean, you know, emotionally it  
21 signifies that, you know, that really the  
22 shape of the way investigators looked at  
23 things changed dramatically. Do you want me  
24 to explain what the shift was, or --

1 Q. If you could.

2 A. Well, I think that before the nineties, and  
3 certainly at the time that Amirault was being  
4 tried, there were studies on children's  
5 suggestibilities. Studies had been carried  
6 out since the turn of the century, and we  
7 reviewed those studies in our paper and in  
8 our book.

9 Q. The paper being Exhibit 9?

10 A. Exactly.

11 Q. And the book --

12 A. Yes.

13 Q. -- Jeopardy in the Courtroom?

14 A. Yes. There's a chapter on historical studies.  
15 And the studies show overall that younger  
16 children are more suggestible than older  
17 children, but there are several -- three  
18 major shortcomings to these studies. The  
19 first is that the age of the children  
20 included don't include preschool children for  
21 the most part. There may have been one or two  
22 studies of children of the age of the ones  
23 who testified in these trials, so it's very  
24 hard to make any statements about children's

1 -- the reliability of their reports based on  
2 those scientific studies.

3 Second, when you look at how these --  
4 the nature of these studies, it becomes very  
5 clear that the content speaks very little to  
6 what is actually going on in the courtroom.  
7 These are the kinds of things that happen in  
8 these studies. Children might see a circle  
9 and they'd be asked questions like, "It's a  
10 square, isn't it?" So it was sort of an  
11 interrogative suggestibility where they were  
12 being asked about perceptual matters and  
13 whether they would change their mind. Or they  
14 might be shown a picture, or they might be  
15 read a story, and after they were read the  
16 story, they might be given a piece of  
17 information that wasn't in the story or  
18 contrary to the story, and then later asked  
19 to recall the story.

20 And what these studies universally  
21 found was that, you know, the younger the  
22 child the more likely they were to say, "Yes,  
23 it is a circle," or the more likely they were  
24 to incorporate the false information into

1 their reports. But to use these kinds of  
2 studies to talk about whether or not children  
3 are suggestible about important events  
4 involving their own bodies, or involving  
5 criminal matters, or that are sexual in  
6 nature was really a very very long shot.  
7 Certainly people I know are very hesitant to  
8 go into the courtroom to talk about these  
9 kinds of things as expert testimony. I mean,  
10 it really didn't seem to bear very much  
11 relevance to the kinds of issues that were  
12 going on.

13 Children were being asked about  
14 peripheral events, the color of someone's  
15 beard, what a room was like, and so, the  
16 content was very different.

17 The third aspect is that when you  
18 look at the way in which these -- we'll call  
19 them interviews, and the studies are  
20 conducted, they seem very very different also  
21 from the way the children were interviewed in  
22 these court cases.

23 In court cases, children were  
24 interviewed about events that sometimes

1 happened many many weeks or days or sometimes  
2 years ago, or in their very distant past.

3 Children were not interviewed simply one time  
4 in a short, fifteen-minute interview.

5 Sometimes they were interviewed multiply, and  
6 sometimes the interviews lasted half an hour,  
7 ninety minutes, and even longer.

8 The interviews that took place  
9 didn't simply involve a list of questions:  
10 Did this happen? Didn't this happen? Throwing  
11 in a few leading questions. There were many  
12 other kinds of forces that were used in these  
13 interviews that just are not in these old  
14 experimental studies.

15 So I think that, you know, on the one  
16 extreme you have people saying the  
17 experimental studies show the children are  
18 suggestible, but it probably overestimates  
19 their suggestibility because, you know,  
20 they're asked about peripheral events. What  
21 happens -- surely they're not going to say  
22 the same things if you ask them about bodily  
23 events.

24 And on the other hand, you have

1 people saying: But look at these interviews  
2 in these experimental studies. They're very  
3 dry. The kids are just sitting there at a  
4 desk just being asked these questions.  
5 There's no, you know, there's nothing in it  
6 for them to answer one way or another and  
7 they're very dry and we're probably way  
8 underestimating. So that's really -- you  
9 know, there were studies available in the  
10 eighties, but as I say, they were very  
11 laboratory, dry, memory kinds of studies. And  
12 the shift was that beginning at the end of  
13 the eighties people began to do three things.  
14 Now, not always at the same time in the same  
15 study. There's a tremendous focus on the  
16 preschool child, children six and under.

17 Q. Now, was that because a lot of these day-care  
18 center cases involved preschool children?

19 A. My understanding is yes.

20 Q. Okay. Go ahead.

21 A. Second, there was an understanding -- there  
22 was an attempt to understand whether children  
23 were suggestible about more central events,  
24 interesting events, events that sometimes

1 involved touching, sometimes that involved  
2 innuendos of sexual abuse, and there were  
3 attempts to in fact try to mirror in a paled  
4 way some of the investigative techniques, or  
5 some of the delays that happen in real trial  
6 cases.

7 Q. So in trying to replicate these interviewing  
8 techniques, investigatory techniques in a  
9 research context, you look back at the actual  
10 cases, records of actual cases?

11 A. To -- well, I don't -- I mean, this is a very  
12 difficult question to ask because your  
13 retrospective memory of what you did is very  
14 hard to - I can't tell you. I mean, I look at  
15 some of the studies that Steve and I do, and  
16 I look and I say, "Oh, isn't that clever of  
17 us to include this in there. Why did we do  
18 it? Was it because it was in Kelley  
19 Michaels?" I don't know. I mean, I think  
20 sometimes you just get a feeling of things  
21 that happen in cases, or you have a general  
22 abstract structure of the way interviews are  
23 run. You make up lists of different  
24 suggestive techniques and decide to see how

1 these happen. But I don't think that, at  
2 least in our research, that we constructed  
3 any -- or we designed any one study to  
4 specifically mirror any one interview, or any  
5 one investigation, or any one case. It was  
6 just our compilation and abstraction of what  
7 the general principles were, and I think that  
8 this is true for other researchers in the  
9 field as well.

10 Q. All right. Let's talk about the research now.  
11 One of the things that you talk about in your  
12 research and that you've conducted research  
13 on is this - this phenomenon called  
14 interviewer bias. And you mentioned that Dr.  
15 Skidmore at the trial conveyed that concept  
16 to the jury. And I think you devoted -- you  
17 devoted a whole chapter in your book, chapter  
18 8, and it's in your affidavit.

19 Why a whole chapter on interviewer  
20 bias?

21 A. Well, I think that in terms of our own model  
22 of suggestive interviewing techniques,  
23 interviewer bias is the central driving  
24 force. It promotes the use of what we call a

1 number of suggestive techniques, but it also  
2 molds, in the larger world, the way an  
3 investigation is going to take place. And  
4 it's a central concept in experimentation, in  
5 science, and it's one that really had to be  
6 brought into and analyzed much more carefully  
7 in the context of questioning of young  
8 children.

9 Q. Okay. I'm going to have you talk about the  
10 research relating to interviewer bias  
11 specifically. But just so we're on the same  
12 page --

13 A. Yes.

14 Q. -- what is interviewer bias as you use the  
15 term?

16 A. Right. I can describe it very quickly  
17 without going into a whole chapter.

18 Q. Great.

19 A. Interviewer bias is a characteristic and  
20 there's a continuum. I mean, you could have a  
21 lot, or you could have none, or you can be in  
22 between. I mean, you know, there are  
23 different -- it's not an all or nothing --

24 Q. It's a spectrum?

- 1 A. It's a spectrum. It's a continuum. And so  
2 I'm going to talk about the strong form, and  
3 the strong form is, a biased interviewer is  
4 one who conducts an interview with the sole  
5 purpose of collecting evidence to confirm his  
6 pat hypothesis or his primary hypothesis.
- 7 Q. All right, let's --
- 8 A. That's all he wants.
- 9 Q. Let's talk about in terms of a day-care  
10 center case. What would be a form of  
11 interviewer bias in terms of the confirming  
12 of a hypothesis? Talk about it in terms of a  
13 day-care center case.
- 14 A. Okay. In a day-care center case, an  
15 interviewer had a strong bias: was that  
16 children were sexually abused by day-care  
17 workers.
- 18 Q. Okay. And then the interviewing would be  
19 designed to do what?
- 20 A. To elicit information from children that was  
21 consistent with that view.
- 22 Q. Okay.
- 23 A. Now, there's a second aspect which is that  
24 interviewers who are highly biased in this

1 way ignore any information that's  
2 inconsistent with this view. So if a child  
3 says, "No, it didn't happen," it's explained  
4 away or it's not paid attention to.

5 If a child says, "Well, yes, I was  
6 touched because I wet myself," this is  
7 certainly inconsistent with the hypothesis,  
8 and again, this would be ignored, not put  
9 into a report, or just in terms of the whole  
10 thinking, of making a decision, would not  
11 play or give a lot of weight.

12 And finally, I mean, this follows  
13 from one and two, interviewers with a lot of  
14 bias don't raise alternative hypotheses or  
15 test them because they don't really have any.  
16 So when you look at interviews, what you see,  
17 where there's a lot of interviewer bias, is  
18 that children really aren't asked a whole lot  
19 of other questions: Well, you know, are there  
20 other reasons why we think you might have  
21 been touched? Or tell us about, you know,  
22 things like what happened when you wet your  
23 pants? Who would change you? And how would  
24 that happen? Or there's no challenge once

1 they get the answer they want, there's no  
2 attempt to kind of explore this to see if the  
3 child is really reporting what really  
4 happened, or whether they're reporting  
5 something else they heard, or whether it's,  
6 you know, the child is actually just  
7 assenting to what the interviewer wants.

8 So an unbiased interviewer, which  
9 is, I have to say, something very very hard  
10 to be. I mean, it's not something you're, you  
11 know, you just read a book about it and  
12 you're born with it. It takes training and it  
13 takes practice to be really good.

14 But most interviewers do have the  
15 notion that, you know, you have to frame this  
16 in a certain way to make sure that children  
17 understand that they're to tell you what  
18 really happened and not what someone else  
19 told you, and that you don't accept  
20 everything children say as the truth. I mean,  
21 you take everything they say seriously, but  
22 you can challenge them.

23 Now, in a biased interview, what you  
24 see is when there are challenges, the

1 challenges often are when children say things  
2 that the interviewers don't like, so the  
3 child will say, "Well, no, I'm only fooling,"  
4 when they start to talk about a plan, and  
5 then the interviewer will say, "No, I don't  
6 think you're fooling."

7 Q. That little anecdote, did you actually find  
8 that in the record here?

9 A. Yes. I can't tell you what page.

10 THE COURT: And I'm going to ask you,  
11 at some point once you've laid some of this  
12 foundation, we're going to get to --

13 MR. WILLIAMS: We're going to get to  
14 the children, exactly. I want to just kind of  
15 set the architecture.

16 (By Mr. Williams:)

17 Q. Now --

18 A. So that in a nutshell is the concept of  
19 interviewer bias.

20 Q. Okay. Now, Dr. Skidmore presented the concept  
21 to the jury. What research can you tell us  
22 now deals with this concept of interviewer  
23 bias, can you just tell us about the  
24 research?

1 A. Well, there are lots of -- there are a number  
2 of studies, and if you look through our book,  
3 or I could just, you know, what one could  
4 pick up any one study and claim that because  
5 of the way its structured there is the tone  
6 in there, and there's the demand for the  
7 child to provide certain kinds of answers,  
8 but I think that the most recent -- there's a  
9 most recent publication, and probably really  
10 a very excellent example of interview bias,  
11 which is the Janitor Study by Allison Clarke-  
12 Stewart. I don't know if she's -- anyway,  
13 the Stewart, Lapore and Thompson.

14 Q. Right. As I get that exhibit, just tell us  
15 about that experiment?

16 A. Okay.

17 Q. You called it the Janitor Study?

18 A. I think that's what they call it, isn't it?

19 Q. Well, actually, let me show you, Exhibit 18,  
20 just so we're clear on the record.

21 A. Yes. Let's -- Yes. It's called, "What did  
22 the Janitor do? Suggestive Interviewing and  
23 the Accuracy of Children's Reports."

24 I'd like to say something about this

1 publication and what's in my affidavit. This  
2 came out after I wrote the affidavit, and the  
3 affidavit is based on chapters that these  
4 authors have written, and this is a much more  
5 complete report of what's in the affidavit.  
6 In fact, I think that there are some quite  
7 startling findings in here.

8 Q. You're talking about Exhibit 18?

9 A. Yes.

10 Q. Okay.

11 A. And furthermore, in my affidavit, I think  
12 that, as I reviewed it the other day, I saw  
13 that there were parts in it that refer to the  
14 study that are not written up here. And I  
15 suspect it's because they'll be writing  
16 another paper or something. But I think this  
17 is what the record should be.

18 Q. Exhibit 18?

19 A. Yes.

20 Q. Okay.

21 A. Okay.

22 Q. Go ahead. Tell us about the study?

23 A. Well, what these investigators were  
24 interested in was, when children view an

1           ambiguous event, can they be pushed to in  
2           fact make claims of things that they didn't  
3           see.

4                        So here, the ambiguous event, which  
5           wasn't all that ambiguous, was watching a man  
6           come into a room and either clean toys or  
7           play toy -- play with toys. And they were  
8           made to believe that it was the janitor.

9                        And a man came into the room and  
10          either played, and said -- I mean, it's quite  
11          cute actually when you read this -- "These  
12          are toys. I like to play with them. Here's a  
13          truck. Vroom. Vroom." Or in another scenario,  
14          he came in and he was the janitor and he  
15          lifted the dolls up, dusted them, or cleaned  
16          the toys around.

17                       Then the janitor left and after the  
18          janitor left, children were assigned to three  
19          different conditions. And there was a  
20          condition where the children were just --  
21          another interviewer came in and said  
22          something about, "Oh, I'm the janitor's boss,  
23          and he came in here and I really want you to  
24          tell me what happened." And it was a very

1 neutral condition. The children were simply  
2 asked what happened, to tell in their own  
3 words. And they were encouraged and prompted  
4 to tell. And that's the neutral condition.

5 Then there was another condition  
6 where children who were told the janitor was  
7 playing, and for children who saw him  
8 playing, in fact it was very consistent with  
9 what they saw, but for those who didn't see  
10 him playing, it was inconsistent.

11 And if you read through the way this  
12 is written, you can see that it's set up in a  
13 way that the children learn what the bias of  
14 the interviewer is; that the bias that the  
15 interviewer thought the janitor was playing.  
16 And if the children kind of say, "No, that  
17 didn't happen," the questioning got a little  
18 bit more intense. "He shouldn't have been  
19 playing." You know, you've got to tell me  
20 what's happening."

21 And so that was a second condition,  
22 and I think that's called the incriminating  
23 condition.

24 And then there's an exculpatory

1 condition where the interviewer talked about  
2 the janitor cleaning, and wasn't it good that  
3 the janitor was cleaning. It was okay that he  
4 was cleaning. He was doing his job.

5 Now, for children who saw him  
6 cleaning, in fact, again, this was  
7 consistent. I could call this leading. But  
8 for children who saw him playing it was  
9 inconsistent, and again, the same kinds of  
10 procedures were used whereby the children  
11 were encouraged to talk about what happened,  
12 but if it was inconsistent with what the  
13 interviewer said was going on, they upped the  
14 ante of the interview. "I need to know what  
15 the cleaning man's been doing. You know, he's  
16 supposed to clean these toys. These toys  
17 always get dirty. He's supposed to clean them  
18 over," and then it just became more intense  
19 if the children didn't comply.

20 So you have -- that happened, and  
21 then another person came in the room who the  
22 child had met before, and they went through  
23 the same procedure. And then the parents came  
24 into the room, and I think the parents simply

1 said that, "I heard that there was a man  
2 cleaning in here, or I heard a man came in  
3 here, can you tell me what happened?" And  
4 they were asked a number of different  
5 questions. And then a week later, the parents  
6 asked them again.

7 Now, the interesting -- this is --  
8 this is complicated, so let me try to make it  
9 really very simple. This is the bottom line.  
10 Within the very first two interviews,  
11 children quickly acceded to the point of view  
12 of the interviewer. If the interviewer  
13 suggested that the janitor was playing, and  
14 the child actually saw the janitor cleaning,  
15 the children quickly came to say, "The  
16 janitor was cleaning." Is that right? I can't  
17 remember.

18 Q. They're saying the opposite?

19 A. Was playing, saying the opposite. If the  
20 janitor was cleaning and they were told he  
21 was playing, they came to say he was playing.

22 Interestingly enough, when they were  
23 asked by their parents, where there was, I  
24 don't think, any pressure at this point --

1 and this is their point -- and the parents  
2 asked them what happened, their reports were  
3 consistent with what they had just told their  
4 interviewers. And a week later, when they  
5 were reasked, the reports maintained  
6 themselves.

7 Now, these authors claim -- think  
8 that the parent data show that in fact the  
9 children -- that this really is an example  
10 that the children have come to believe that  
11 what they're reporting is true. I think  
12 that's an interesting speculation. I think  
13 more work needs to be done about that, but  
14 it's clear that there was nothing in it for  
15 them to tell the parents one way or another.

16 But it's clear here that within a  
17 very short interview you can use techniques  
18 in a very very compact way to get children to  
19 talk about an event that's quite ambiguous  
20 and to sway their perception of the event  
21 from one that's from playing to cleaning, or  
22 the other way, from cleaning to playing.

23 Now, of course, the more interesting  
24 -- the bottom line of this, and of a lot of

1 the experiments is, when the children were  
2 simply asked, "Tell me what happened," and  
3 there was no pressure on them to have a  
4 certain spin or an interpretation, the  
5 children were entirely accurate about whether  
6 or not the janitor played, or whether or not  
7 the janitor cleaned.

8 The children were also asked  
9 interpretive questions which was, you know,  
10 "When he did this, do you think he was  
11 playing or cleaning?" Those data are very  
12 very similar in nature. And then they were  
13 asked a number of factual questions.

14 Now, the factual questions are a bit  
15 more accurate than everything else because  
16 they're just simply asked, "When the janitor  
17 came in here, did he do X or Y?" And so,  
18 there's very little interpretation that's put  
19 on that. So the children still do in fact  
20 retain many of the elements of the actual  
21 situation. But it's their interpretation  
22 that's changed, and it's the interpretation  
23 that's really very very important.

24 And in this case, you know, what the

1 authors talk about is an ambiguous event. And  
2 other ambiguous events also involve -- are  
3 ones that involve touching. I mean, when you  
4 have touching or you have touching in day  
5 care, I mean, can this be turned around to  
6 make bad touching good touching; or good  
7 touching bad touching, when the touching  
8 actually occurs.

9 And I think that this study, you  
10 know, makes a very good first dent into  
11 showing how this process can happen in a very  
12 very fast manner, and also, how it then  
13 spills over, not only to the interviews -- to  
14 the interviewers themselves, but to parents  
15 who really don't have any vested interests in  
16 having their children say one thing or  
17 another.

18 Q. Okay. Now, I take it that this is not the  
19 only study that deals with interviewer  
20 bias --

21 A. No.

22 Q. -- is that right? Okay.

23 Just to conserve time, are there other  
24 studies out there that are consistent in

1 broad form with the results of this janitor  
2 experiment?

3 A. Yes. Well, there's another one that's on  
4 exhibit, the Lepore and Sesco Study. I think  
5 it's called the Dale Study, there's another  
6 one.

7 Q. You talk about that in your book, the Dale  
8 Study?

9 A. Yes. I mean, there are a lot of studies. The  
10 Sam Stone Study you could say is one of  
11 interviewer bias where the children are  
12 hearing what the interviewers think happened.

13 Q. Okay. We're going to get to the Sam Stone  
14 Study--

15 A. No, I know, but I'm just trying to say that  
16 we can frame a lot of these studies in terms  
17 of interviewer bias. One could argue that  
18 what the children are learning is what the  
19 interviewers' belief system are, and that  
20 when events are either ambiguous, or children  
21 have weak memories, or they don't have a lot  
22 of faith in their own interpretation of  
23 events, that they can be swayed sometimes,  
24 not all the time, to in fact assent to what

1 the interviewers believe.

2 Q. Now, did you look in the record for this case  
3 whether the interviewers pursued alternative  
4 explanations for what the children were  
5 saying?

6 THE COURT: And/or evidence of  
7 interviewer bias in this case?

8 [By Mr. Williams:]

9 Q. I.E. interviewer bias actually.

10 A. Which children are we talking about?

11 Q. We'll limit it to the four children.

12 THE COURT: The four children who  
13 testified at this trial.

14 [By Mr. Williams:]

15 Q. Did you investigate the concept of  
16 interviewer bias in this record of the four  
17 children who testified in this case?

18 A. Yes.

19 Q. Now, just tell us, what did you find in  
20 regards to interviewer bias in looking at  
21 this record?

22 A. Well, I mean, there are two -- there's sort  
23 of the macro level and we'll go to --

24 Q. Tell us about the macro level, because we're

1 going to get to the micro level.

2 A. Right. I mean, you know, we can go through  
3 the interviews and show how it plays itself  
4 out, but I think maybe in terms of some of  
5 the investigatory techniques, you might see  
6 it more.

7 My understanding, when I read the  
8 record, what I see is that there is no  
9 attempt to understand the children's  
10 statements in terms of what happens in the  
11 normal activities at day care. So when  
12 children talk about clowns, for example,  
13 there's no attempt -- or any of the kinds of  
14 activities, or picture-taking, there's never  
15 an attempt to think: You know, hey, that's  
16 what happened to these kids. They went to  
17 school where there were clowns, where they  
18 took pictures. It was part of the normal  
19 activity.

20 So they were never really questioned  
21 about this: Well, you know, you're talking  
22 about a clown, but I mean, you know, there  
23 were clowns that came to school, and then  
24 were there other kinds of clowns, for

1 example. I mean, this didn't seem to come  
2 into the questioning.

3 In terms of toileting practices, for  
4 example, the one -- the child that comes to  
5 mind, I just saw this as Jennifer Bennett,  
6 who talks -- there are several instances in  
7 her transcripts where she talks about that  
8 they wet their pants, or something, and they  
9 had them change. So it's clear that these  
10 children are being handled, and are having  
11 their private parts touched in one way or  
12 another by their workers. And it's, you know,  
13 they're never really asked about: Well, when  
14 this touching happened, you know, was it  
15 because they were changing your pants? Or was  
16 it because you wet yourself? Or these  
17 questions just never never ever came out. And  
18 I -- I really see that as really one extreme  
19 example.

20 Another example is that I think that  
21 the police had in their minds this disclosure  
22 pattern that I've talked about.

23 THE COURT: In this case?

24 THE WITNESS: In this case.

1 A. That it is very hard for children to  
2 disclose, and therefore, you've got to do  
3 everything you can. And --

4 Q. You're talking about the mind-set of the law  
5 enforcement now?

6 A. Yes.

7 Q. Okay.

8 A. And I mean, I don't know where they got it  
9 from. Maybe they had consultants at this  
10 point, I don't know, but I mean -- and the  
11 way that the mind-set got communicated, which  
12 was their bias that there was abuse, was: Go  
13 home and question your children, and don't  
14 take no for an answer.

15 Q. Who were they directing that to?

16 A. The parents.

17 Q. Okay.

18 A. Now, there's a bias of the police that  
19 happened that's getting communicated to the  
20 parents. There's never anything about: Well,  
21 maybe, you know, you've got to be a little  
22 careful; and if your kid says no, maybe we  
23 should respect your child. Maybe nothing ever  
24 happened to her. Or if your child says

1 something, let's try to understand it  
2 sensibly.

3 The bias was, abuse happened and  
4 let's go out and get the goods on these kids,  
5 and don't take no for an answer. And it  
6 comes out in the parents' testimony in a  
7 number of different ways.

8 Q. In terms of -- did you want to say something  
9 else?

10 THE COURT: Can I just --

11 MR. WILLIAMS: Sure.

12 THE COURT: -- refer at this point to  
13 some of the micros. There was reference to a  
14 meeting at a --

15 THE WITNESS: Yes.

16 THE COURT: -- was it at the police  
17 station or was it somewhere else?

18 THE WITNESS: My understanding, it  
19 was a parents' meeting that took place very  
20 soon after the first disclosure that took  
21 place at the Malden police station on  
22 September 12th, right?

23 MR. WILLIAMS: Twelfth.

24 THE WITNESS: Twelfth, where there

1 was sixty parents.

2 THE COURT: And there was some  
3 communication to these parents by the Malden  
4 police department?

5 THE WITNESS: My understanding is,  
6 they were told to go home; that there was  
7 sexual abuse, to go home and question their  
8 parents -- their children about a clown,  
9 about a magic room, about a secret room. They  
10 were given a list of behavioral symptoms to  
11 look for that were diagnostic of sexual  
12 abuse, and they communicated the idea that  
13 children will deny, don't take no for an  
14 answer, and for God sake, don't say anything  
15 good about the Amirault's because you'll  
16 never get anything out of them.

17 [By Mr. Williams:]

18 Q. Tell us, what is wrong with telling parents  
19 to go and question your child about sexual  
20 abuse at a day-care center, which by the way,  
21 was closed, and don't take no for an answer,  
22 and for God sake, don't say anything good  
23 about these particular individuals. What's  
24 wrong with that?

1 A. What's wrong with that? Well, how do I start  
2 here?

3 Well, the first thing is, it raises a  
4 tremendous amount of fear in these primary  
5 caretakers of small, little children; and it  
6 doesn't give the parents an out in any way. I  
7 mean, what the parents are being told is,  
8 sexual abuse occurred, and protect your  
9 children and get it out of them, because, you  
10 know, then, you know, then it's out. If it  
11 doesn't come out -- I mean, the parents were  
12 never told: If your child says no, it's okay,  
13 you know. It might not have happened. And  
14 there, you know, there could be lots of other  
15 explanations.

16 So what these parents are walking  
17 around with in their head is, something  
18 terrible's happened to my child and I have  
19 got to get it out of them so I can help  
20 somehow or other. I mean, I think that that  
21 was what the prevailing belief was.

22 I mean, I just can't imagine what it  
23 was like to have this room of sixty parents.  
24 There are lots of other day-care cases where

1 in fact this is how the investigation began  
2 also. You know, it was really getting parents  
3 together in some form or other, telling them  
4 about it, telling them to question their  
5 children.

6 Now, the second part is -- I haven't  
7 talked about this a lot. It's not going to be  
8 a big part of my testimony. Interviewing  
9 children is very very difficult. When you  
10 interview children, my hypothesis -- my model  
11 is that you have to turn off all the natural  
12 impulses you have for how to talk to kids.

13 When you talk to a young child  
14 they're often very silent. They often don't  
15 want to communicate. Even your own little  
16 child. They come home from day care; it's  
17 their first day. You're really excited to see  
18 them. "Tell me what happened at school  
19 today?" The kid goes, "Nothing." If you're  
20 lucky, you might get, "Played," for that day.

21 So what do you do? You start to ally  
22 with the child. You start to guess at things  
23 that might happen, memories you had of what  
24 other kids -- just to get this conversation

1 going. Now, this has a great deal of  
2 socialization value also in helping kids  
3 learn how to give narratives.

4 But the problem is, also, that in  
5 doing that with events that you really don't  
6 know about, and if you're wildly guessing in  
7 the dark, you're in fact also constructing a  
8 model for how a child can talk about  
9 something. We haven't gone to this part of  
10 the testimony yet. But where you have very  
11 worried parents who have been told, "Don't  
12 take no for an answer," I mean, we have one  
13 mother, I know, who said after -- went back  
14 to the police station to ask for more help.  
15 And she said, "Okay. I'll try for several  
16 days."

17 I mean, you know, it almost seems  
18 that these children's lives, that the home  
19 became another -- became the investigatory  
20 arena, where it was one of asking about,  
21 "Tell me about bad things that happened at  
22 the day care that involve sexual abuse."

23 Q. All right. So let's see --

24 A. And you have these very very scared parents.

1 I mean, this is why with parents it's  
2 terrible.

3 If you have outside people who, you  
4 know, care a lot about children, I mean, I  
5 think that they can distance themselves a lot  
6 more, but once you have someone very close in  
7 there, I can't -- I just can't imagine how  
8 one can deal with the situation. It must have  
9 been truly truly terrible for these parents.

10 Q. So what we're seeing here with that parents'  
11 meeting is investigators delegating the  
12 investigative task to parents?

13 A. It seems that way.

14 Q. Okay.

15 THE COURT: Can I ask, and maybe  
16 counsel can answer for me, the evidence of  
17 what was said to the parents at that meeting  
18 at the police station does not come from a  
19 tape. It comes from other people describing  
20 their recollection of what was said?

21 MR. WILLIAMS: Including the  
22 parents.

23 THE COURT: Including the parents.

24 THE WITNESS: Who were actually at

1 the meeting.

2 THE COURT: The parents who were at  
3 the meeting, police personnel who were at the  
4 meeting.

5 THE WITNESS: Who were at the  
6 meeting.

7 THE COURT: Okay. Were there, to your  
8 knowledge, Doctor, any mental health  
9 professionals at that meeting?

10 THE WITNESS: Uhm, not to my  
11 knowledge. Were there? I don't know.

12 THE COURT: You don't know?

13 THE WITNESS: I don't know.

14 [By Mr. Williams:]

15 Q. Now, what about, in terms of the interviewer  
16 bias in this case, did you notice how --  
17 let's focus on Susan Kelley because we have  
18 the best documentation there because we have  
19 videotapes. In the Susan Kelley interviews,  
20 how Susan Kelley dealt with the scatter-shot  
21 allegations against multiple people other  
22 than the defendants, other names being  
23 mentioned, other teachers, how did Susan  
24 Kelley handle that?

1 A. With much less attention.

2 Q. What do you mean by that, "much less  
3 attention?"

4 A. Well, if children made allegations about  
5 other day-care people, I mean, she may have  
6 asked another question about it but then kind  
7 of dropped it out. The bulk of the questions  
8 concern sexual abuse about a clown, and about  
9 the Amiraults.

10 Q. So what would she do different when a child  
11 would mention the name Cheryl, Tooky, or  
12 Violet, or a clown as opposed to when they  
13 mentioned somebody like Miss Joanne, or Miss  
14 Ann Marie, or George, or just other people?

15 A. Right. Well, there might be a question about  
16 that.

17 Q. About the other people?

18 A. Yeah. There might be a question. But it was  
19 never --

20 Q. What did she do with the other, with the  
21 defendants?

22 A. But it was never followed-up. It was never  
23 followed-up to try to get any information  
24 about why the child was saying that, about

1 whether it really happened. She never really  
2 asked about whether it really happened. No  
3 one -- nobody asked the children, did this  
4 really happen. I can tell you that.

5 But it did seem that the questions  
6 were focused on themes, and the themes were  
7 clowns, the Amiraults, secret rooms, magic  
8 rooms. And the Kelley interviews are  
9 interesting from someone like myself who does  
10 narratives where, if you look at these and  
11 you finish an interview with a child who is  
12 really disclosing, and you try to make sense  
13 of it, you can't. It's not -- there's not  
14 really a coherent story. It's really a  
15 child's answer to a bunch of disconnected  
16 questions that involve wrongdoing and abuse.

17 But you don't really get a feeling  
18 that the child is talking about a connected  
19 day where things happened. And it's -- the  
20 questions are really focused on, "Tell me how  
21 you were touched, where you were touched,  
22 which of these three people touched you," and  
23 so on.

24 THE COURT: Mr. William, let me

1 interrupt for a moment.

2 MR. WILLIAMS: Sure.

3 THE COURT: Because I need to  
4 understand some of the chronology --

5 THE WITNESS: Okay.

6 THE COURT: -- and maybe you can help  
7 me.

8 THE WITNESS: Sure. I hope.

9 THE COURT: Before -- what triggered  
10 the meeting at the police station, do you  
11 recall?

12 THE WITNESS: Yes.

13 THE COURT: What was that?

14 THE WITNESS: Well, I think that, you  
15 know, it's important -- I think that truly to  
16 understand this case, you have to understand  
17 the nature of the very first allegation which  
18 was made by a child who's not in this case.

19 THE COURT: Who did not testify in  
20 this trial?

21 THE WITNESS: Right. And that's what  
22 set it off, is that you have this one child  
23 whose mother from - now, I didn't review my  
24 notes, but I--

1 MS. ROONEY: Your Honor, I'm going to  
2 object to this testimony about this other  
3 child. I believe your question simply was,  
4 why did they have a meeting? And I don't  
5 believe she's yet answered that.

6 THE COURT: I think she was --

7 THE WITNESS: I think you have to  
8 understand --

9 THE COURT: I'm going to give her some  
10 leeway to get there. I'm going to overrule  
11 that objection.

12 THE WITNESS: When I wrote this -- I  
13 just want to tell you, when I wrote this  
14 affidavit, my understanding -- my  
15 understanding of this case was, you really  
16 had to understand how this -- you had to  
17 understand this first allegation in order to  
18 understand everything else, because  
19 everything else rested on the first  
20 allegation.

21 THE COURT: So you can understand my  
22 question --

23 THE WITNESS: Yes.

24 THE COURT: -- what got us there?

1 THE WITNESS: Well, there was a child  
2 whose mother -- whose mother put him into  
3 Fells Acres -- someone's going to have to  
4 correct me if I'm wrong about this -- but  
5 after three or four days, the mother,  
6 according to -- became suspicious that  
7 something was wrong with the child. This was  
8 a child who came from quite a rocky family,  
9 where the parents had separated, were back  
10 again together. They had just moved  
11 neighborhoods. He was in a new place. He had  
12 just left his puppy at home, and the mother  
13 questioned this child from September -- from  
14 February to September about what happened --  
15 about sexual -- about her suspicions of  
16 sexual abuse.

17 The mother had a brother who,  
18 allegedly, was also sexually abused, who  
19 would come up at different points and talk to  
20 this child about sexual abuse also.

21 This questioning went on from  
22 February to September. And finally, in  
23 September, you have a breakthrough where the  
24 child does start to make allegations. And the

1           allegations --

2                   THE COURT: This is September of  
3           1986?

4                   MR. WILLIAMS: '84.

5                   THE COURT: I'm sorry. '84.

6                   THE WITNESS: '84. And the  
7           allegations come out and I think -- I didn't  
8           review for this, but the allegations come out  
9           where there is a secret room and a magic  
10          room, and Tooky touching his bottom was the  
11          allegation.

12                   And then you have some police  
13          investigation and then the case breaks open.  
14          But this child is the great recanter, because  
15          after this, he goes to therapy. His first  
16          interview with Susan Kelley -- this is a  
17          child who says nothing ever happened. But one  
18          has to understand this case and the dynamics  
19          of this family in order to understand how  
20          this allegation might have come out. And once  
21          it came out, then panic was absolutely thrown  
22          into the community, and that's when they were  
23          told to ask about a clown, a magic room, a  
24          secret room, and sexual abuse, based upon

1 this one child, where it took seven months to  
2 undig this disclosure.

3 THE COURT: I'll turn it back to you  
4 in a moment.

5 MR. WILLIAMS: Sure.

6 THE COURT: I just want to make sure.  
7 The meeting at the police station takes  
8 place --

9 THE WITNESS: After.

10 THE COURT: -- after that  
11 disclosure, correct?

12 THE WITNESS: That disclosure took  
13 place September 1st, 2nd, or 3rd.

14 MR. FINNERAN: Second.

15 THE COURT: Well, if you don't  
16 recall.

17 THE WITNESS: Okay. But, you know, it  
18 was a few days before the police meeting.  
19 Then, I guess, they closed the day care, and  
20 then they had the meeting.

21 THE COURT: And then some time after  
22 the police meeting, disclosures involving the  
23 four children, who ultimately testified  
24 against Cheryl LeFave, they make their

1 disclosures. And then Susan Kelley becomes  
2 involved?

3 THE WITNESS: It's very different  
4 for every child, okay.

5 MR. WILLIAMS: We're going to show  
6 the Court a time line --

7 THE WITNESS: I don't know if you  
8 want me to quickly give you a chronology as  
9 to each of the four children, because they're  
10 all quite different.

11 MR. WILLIAMS: We have time lines  
12 that we're going to show to the Court, so the  
13 Court can understand, per child, what leads  
14 up to the Susan Kelley interviews and what  
15 follows.

16 THE COURT: Thank you.

17 [By Mr. Williams:]

18 Q. Let me just go back to the names, because I  
19 think when we see the videotape, it's the  
20 most vivid in terms of how the follow-up was  
21 done.

22 For example, do you recall in  
23 reviewing the materials in this case, an  
24 incident where a child actually accused Susan

1 Kelley of abuse?

2 A. Yes.

3 Q. And how did Susan Kelley react when she was  
4 accused?

5 A. It didn't happen.

6 Q. What did she say?

7 A. I don't remember. She said it didn't happen  
8 or --

9 Q. "I wasn't a teacher there," does that refresh  
10 your recollection?

11 A. "I wasn't a teacher." Okay. "I wasn't a  
12 teacher there."

13 Q. And do you recall later in that same  
14 interview what the child said when Susan  
15 Kelley asked her, "Should we punish the  
16 clowns?"

17 A. "No, we shouldn't. I'm just fooling."

18 Q. "I'm just fooling." And -- now, in terms of  
19 interviewer bias, how does Susan Kelley react  
20 when that child said, "I'm just fooling?"

21 A. "I don't think you're fooling."

22 Q. Did she say, "I think you're telling the  
23 truth?"

24 A. No. No. There was no attempt to start to

1 understand what this child was saying. This  
2 is what happens, from what I can tell. Now, I  
3 don't -- you know, there are some records  
4 that are very opaque or that are hard for me,  
5 but I mean, in 1998, I think that we would  
6 now try to make sense of what these children  
7 were trying to tell us. We would try to make  
8 sense in terms of their own experiences, in  
9 terms of what we know about how they had been  
10 questioned, to try to make sense of all these  
11 different things that were coming out.

12 There was no attempt to do that. It  
13 just seemed like there were these clowns  
14 wondering around, or elephants wandering  
15 around, or people wandering around taking  
16 pictures of kids and touching them. But none  
17 of it made any sense. It was just consistent  
18 with the notion that a child made an  
19 allegation of sexual touching, and it  
20 involved clowns, secret rooms and magic  
21 rooms.

22 And, of course, you know, as the case  
23 expanded, these allegations grew and there  
24 were new things they question children about.

1 Q. Okay. Now, let's talk about how interviewer  
2 bias actually manifests itself in the  
3 questioning that we're going to see in this  
4 case.

5 A. Okay.

6 Q. Can you tell us about that?

7 A. Right. Now, this is our model. And I think  
8 it's just a way of trying to understand  
9 architectures of suggestive interviews, but  
10 according to our model, you have a biased  
11 interviewer who wants -- I mean, I'm going to  
12 be crass about it, but wants to get the  
13 goods, okay. He really wants to get evidence  
14 that's consistent with his point of view. And  
15 in doing so, this interviewer uses a number  
16 of techniques. Now, some of these are very  
17 obvious because there are -- I've got to put  
18 my glasses on -- these techniques are ones  
19 that one -- we traditionally thought of as  
20 being suggestive.

21 But as you'll see in this model, we  
22 really expanded our notion of suggestibility  
23 to be beyond the use of just asking leading  
24 or misleading questions.

1                   And this overhead just really is a  
2                   list of a number of techniques that we have  
3                   seen, or think that biased interviewers can  
4                   use, and it's just merely a listing of them.

5           Q.    Let me ask --

6           A.    I'm sorry.

7           Q.    Are these the things that we should be  
8                   looking for when we go through our analysis  
9                   of the children?

10          A.    Okay. Before you --

11          Q.    These phenomenon here (indicating)?

12          A.    Okay. Well, let me say two things. You can  
13                   look for them, okay. There could be more and  
14                   they may not all be there.

15                   The second thing is, that just by  
16                   merely listing them, doesn't really mean  
17                   anything, because what I'm going to talk  
18                   about in the next half hour is -- is what the  
19                   scientific literature says about the use of  
20                   these techniques on the accuracy of  
21                   children's testimony.

22                   THE COURT: Do we have a -- do we  
23                   have this marked in some way so that we can  
24                   preserve it for the record?

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THE WITNESS: I do. Actually, we have it.

MR. WILLIAMS: My intention was, your Honor, I would like to not mark it. This would just be a visual aid to her testimony and not necessarily admitted as evidence.

THE WITNESS: But I did bring extra copies if you'd like.

THE COURT: Good. Because I may find it helpful.

MR. WILLIAMS: I think you will.

THE COURT: And let me just do this, we've been going about an hour and a half. Let me take about a fifteen minutes recess.

THE WITNESS: This is a good time to do it.

MS. ROONEY: Your Honor, could I just get a copy of her notes during this recess?

THE WITNESS: Sure.

THE COURT: Yes.

[Recess 10:42 a.m.]

1 [Hearing resumes 11:05 a.m.]

2 MR. WILLIAMS: Your Honor, we're  
3 going to be, in short order, making use of  
4 some videotapes of research studies. They're  
5 very brief, but I just want to make sure the  
6 Court can see the monitor.

7 THE COURT: I can.

8 MR. WILLIAMS: Okay.

9  
10 DR. MAGGIE BRUCK, RESUMED

11 DIRECT EXAMINATION, RESUMED

12 BY MR. WILLIAMS:

13 Q. Dr. Bruck, we're going to be looking at --  
14 we're going to talk about a study, what I  
15 call the Pediatrician Study, okay?

16 A. Okay.

17 Q. First of all, can you just set it up for us.  
18 Tell us about the Pediatrician Study and why  
19 it is forensically significant here?

20 A. Well, we conducted this study to examine  
21 whether we could change children's views or  
22 memories about a significant pediatric visit  
23 that had happened approximately a year  
24 before.

1 Previous to the study, the claims had  
2 been made that you really can't suggest to  
3 children changes in significant figures,  
4 changes about bodily events. And in this  
5 study we pared together the use of repeated  
6 interviews, where we provided misinformation  
7 across repeated interviews, and with the  
8 important characteristic that the children  
9 were being asked to remember and to talk  
10 about things that had happened almost a year  
11 before.

12 Q. Okay. Let me, so we're clear on the record,  
13 the -- I want you just to identify these  
14 three exhibits, 4, 5 and 6?

15 Just so we're clear on the record, what  
16 are those studies that I've just showed you?

17 A. The first study, "I Hardly Cried When I Got  
18 My Shot," is the study we're going to talk  
19 about now, which is children's memory of  
20 their visit to a pediatrician from a year  
21 previously.

22 And then there are two studies here, one,  
23 "Anatomically Detailed Dolls Do Not  
24 Facilitate Preschoolers' Reports of Pediatric

1 Examination." This is a study, a normative  
2 study of how three-year-old children use  
3 dolls to report how they were touched. And  
4 the more recent study involves four-year-  
5 olds.

6 So it's a repetition and a  
7 comparison of these -- how three and four-  
8 year-old children use anatomically detailed  
9 dolls to report what happened when they were  
10 touched or not touched at a pediatrician's  
11 office.

12 Q. Okay. Now, you say -- I'm sorry?

13 A. I'm just wondering if I'm speaking loud  
14 enough, that's all.

15 Q. You never speak too softly.

16 So let me see, we've got these pediatrician  
17 studies where children are now going to be  
18 questioned about bodily touching, is that  
19 right?

20 A. About bodily touching or who touched them,  
21 yes.

22 Q. And maybe it's stating the obvious, but what  
23 is the forensic significance of that kind of  
24 research study?

1 A. Well, these studies address the issue of, can  
2 you -- can children give an accurate reports  
3 (sic) about things that happened to their own  
4 bodies that were significant. It's an attempt  
5 to move away from looking at merely what  
6 color was the doctor's beard, or what color  
7 was the picture in the wall -- on the wall.  
8 And those kinds of questions.

9 And also, especially in the  
10 Pediatrician Study, as you'll see, this is an  
11 attempt to look at what happens when you use  
12 multiple interviews where a piece of  
13 information is repeated throughout these  
14 interviews after a significant delay.

15 Q. Okay. Now, we're going to see the evidence  
16 in this case, but is that the kind of thing  
17 that you found in this case, multiple  
18 interviews, repeated questions, things of  
19 that sort, that you're testing for here?

20 A. Children in this case were interviewed on  
21 multiple times. I don't have a record of --  
22 we don't have a record of all of the  
23 interviews, but the ones we do know about is  
24 involved at the very beginning when parents

1 first questioned children. We know that there  
2 are document -- it's documented that they  
3 questioned them on more than one occasion.  
4 We know that DSS and police came and  
5 questioned children at least two times before  
6 51A's were filed.

7 The children then often went to  
8 therapy. Susan Kelley questioned these  
9 children more than one time, and then, you  
10 know, I didn't follow the record right to its  
11 end, but up to trial time, these children  
12 attended therapy. They were questioned by the  
13 D.A.'s Office and so on. So there are  
14 multiple multiple interviews for these  
15 children where their statements are being  
16 rehearsed or suggested in numerous ways.

17 Q. Okay. Tell us about the Pediatrician Study,  
18 and if you need to use overheads --

19 A. I'll tell you when.

20 MR. WILLIAMS: Your Honor, I assume  
21 it will be okay for the witness to step down.

22 THE WITNESS: Right.

23 THE COURT: You may step down.

24 THE WITNESS: Okay. I think where

1 people can hear me.

2 A. In this study, five-year-old children came to  
3 visit their pediatrician -- five-year-old  
4 children came to visit their pediatrician for  
5 a DPT inoculation. This is the first  
6 inoculation that children really have memory  
7 of, and it is not a very pleasant event for  
8 them. Parents are sometimes quite upset;  
9 don't know how to prepare the children, and  
10 so on.

11 THE COURT: Dr. Bruck, I'm having  
12 trouble hearing --

13 THE WITNESS: I'll talk to you.  
14 Okay.

15 A. And what happened was, these children came to  
16 a pediatrician's office who administered a  
17 physical examination, and then, in the  
18 presence of our research assistant, gave the  
19 children an inoculation and an oral vaccine.  
20 And the children went home.

21 Approximately a year later, we went  
22 back and interviewed the children. We  
23 interviewed the children once a week for  
24 three weeks, and during these interviews, for

1 half of the children, we conducted a  
2 suggestive interview by telling the children  
3 that we remembered when they went to see  
4 their pediatrician, that when they went for  
5 their medical visit, that our research  
6 assistant gave them their shot. And then they  
7 were asked questions, "When Lori gave you  
8 your shot, was your mom in the room?"

9 So they were given this piece of  
10 misinformation and then we played with them  
11 for about thirty minutes. And then at another  
12 interview, we gave them similar  
13 misinformation about Lori giving them a --  
14 their oral vaccine when the doctor actually  
15 did this.

16 Now, in this practice, this is a male  
17 doctor who's very well-known to the children,  
18 and most of the children have seen this  
19 doctor for many many years, and had only met  
20 our research assistant for the first time  
21 during this visit.

22 So they were given these suggestions  
23 over a period of three weeks in kind of a  
24 conversation that we remembered this

1 happened. And the other half of the children  
2 were given no suggestions at all. They were  
3 merely asked -- told, "Remember when we went  
4 there, who did this; who did that?" So they  
5 were just given reminders but with no  
6 information.

7 On the fourth interview, we then  
8 asked the children to tell us what they  
9 remembered of the visit and to tell us who  
10 gave them their shot and who gave them their  
11 oral vaccine.

12 We also asked them a question about -  
13 - which we did not give them any information  
14 at all -- and the question was, "Who examined  
15 your eyes and your ears?"

16 And I sometimes find when I do these  
17 lectures, or these talks, it's easier just to  
18 show what these effects look like  
19 graphically, and if you don't find it  
20 helpful, we'll stop.

21 This here is a graph that shows the  
22 percentage of children who named the research  
23 assistant as giving them their shot, the  
24 medicine and the checkup. And the red graphs

1 are those children who got the  
2 misinformation.

3 You see that up to forty percent of  
4 the children who were given this  
5 misinformation later claimed to say that in  
6 fact it was the research assistant who did  
7 it, and not their doctor who they knew very  
8 well.

9 The very interesting part though of  
10 this study, and one that I'm going to  
11 highlight in other things that we do, is what  
12 happens when you start suggestive  
13 interviewing with children.

14 The suggestion does not -- when the  
15 children made false reports as a result of a  
16 suggestion, the false reports do not merely  
17 stick to the suggestion themselves, but go  
18 beyond it.

19 So here you see a number of children  
20 claiming --

21 Q. Dr. Bruck, I'm sorry to interrupt. I want you  
22 to clarify that last point. You said that  
23 they go beyond the suggestion?

24 A. Yes. I'm coming to that now.

1 Q. Okay. Good. Thank you.

2 A. You see that forty percent of the children  
3 who were given wrong information that the  
4 research assistant gave them their shot, and  
5 the research assistant gave them the  
6 medicine, these children also claimed on  
7 their very own that the research assistant  
8 also checked their eyes and ears. And we  
9 never told them this at all.

10 What you here see is a spreading  
11 effect of suggestive interviews, that  
12 children use this information productively.  
13 They try to fit it into their sense of the  
14 world. And here our conclusions are that the  
15 child reasoned, "Oh, it was the research  
16 assistant who did all these medical  
17 procedures giving me this shot and the  
18 medicine, she must have also given me the  
19 physical examination."

20 The interesting thing is to look at  
21 the blue lines. These are children who were  
22 not suggestively interviewed. Very few of  
23 these children make errors. And, again --  
24 there must have been another study -- Oh, the

1 Janitor Study that I talked about, I think  
2 it's very important to pay attention to what  
3 we call these control conditions, where  
4 children are not suggestively interviewed;  
5 they're asked, sometimes, just open-ended  
6 questions or neutral questions, and for the  
7 most part, these children's reports are  
8 highly accurate.

9 So it's important to note that we  
10 don't want to throw out the testimony of all  
11 children and discredit all children, but when  
12 children are interviewed under proper  
13 conditions, where they're merely asked to  
14 tell what happened, that there's no  
15 preconceived bias; they get it right most of  
16 the time.

17 Now, there are always some errors  
18 here in the young, but the important part of  
19 this study is that, A, you can change  
20 children's reports about important things  
21 that happen to their bodies, and that these  
22 reports become tainted not only in terms of  
23 the suggestions, but they go beyond the  
24 suggestions. They become productive. They

1           become creative. They grow over time.

2           Q.    Let me just ask you this. When you say it  
3           becomes productive, I want to make sure we  
4           understand this.

5           A.    Okay.

6           Q.    You're saying that they build a whole  
7           narrative around what they think happens in a  
8           doctor's office?

9           A.    I think that's -- in this case, I think  
10          that's what's happening. It stretches. It  
11          grows.

12          Q.    I see. So they're talking about things that  
13          are never even mentioned by --

14          A.    Yes.

15          Q.    -- the interviewer?

16          A.    Yes.

17          Q.    Okay. Is there another overhead, or do we  
18          want to go to the videotape?

19          A.    There's no videotape. We can go to Doll  
20          Study.

21          Q.    You used doll studies in connection with the  
22          pediatrician? Right.

23          A.    But this is another set of studies.

24          Q.    Okay.

1 A. Do you want to talk about those?

2 Q. Yes.

3 A. Okay.

4 THE COURT: Do you need to do it  
5 there or from the stand?

6 MR. WILLIAMS: I think we can put  
7 just -- We'll put it in.

8 THE WITNESS: You'll put it in.

9 A. (Witness resumes the stand.)

10 Okay. Now, we've done -- I'm sorry.

11 Q. Let's -- exhibit, I believe it's 5 and 6,  
12 deals with anatomical doll studies?

13 A. Mm-hmm.

14 Q. Okay. Just so we're clear on the record. Were  
15 those studies done in connection with a visit  
16 to a pediatrician?

17 A. Yes, they were.

18 Q. Okay. Just tell us what we need to know about  
19 that. Set it up for us before we see the  
20 videotape.

21 A. Okay. On the first overhead, we listed  
22 anatomically detailed dolls as one possible  
23 suggestive element in children's -- in  
24 eliciting inaccurate testimony from children.

1 And it certainly has been an issue about the  
2 degree to which these dolls should or should  
3 not be used as they are in sexual abuse  
4 cases. I'm not going to go through this  
5 because certainly we know the issues are:  
6 young children are young; they need these  
7 props; they don't have the language; they're  
8 shy; they're embarrassed.

9 There are other people who thought  
10 that in fact the dolls are suggestive. They  
11 have all these holes; these cavities. It  
12 promotes play with them. And, in fact,  
13 sometimes we think that interviewers may use  
14 these dolls in suggestive manners by asking  
15 children to show on the dolls things that  
16 kids have ever talked about.

17 Okay. In this study, there are --  
18 there were two studies we did. I'll try to  
19 make this as easy as possible.

20 Three and four-year-old children  
21 come to their pediatrician for their annual  
22 checkup. Part of the annual checkup involves  
23 a genital examination. A genital examination,  
24 for our purposes, what our pediatrician did

1 was, he removed the underpants of the  
2 children. He lightly touched their genitals.  
3 He lightly touched their buttocks. That was  
4 the genital examination.

5 The other half of the children in  
6 this study did not receive a genital  
7 examination.

8 Also during this examination, he did  
9 normal things. He examined their ears. He  
10 used a stethoscope. And then he did some  
11 things for us that don't normally occur in  
12 examinations, which is, he tickled their foot  
13 with a yellow stick. He put ribbon around  
14 their wrist, and a sticker on their tummy.

15 When the children were finished,  
16 they came out. So here you have -- this  
17 interview here is one that takes place  
18 immediately after. There is no time delay at  
19 all.

20 The child and his parent come into a  
21 room with our research assistant who then  
22 asks the child about what happened during the  
23 examination.

24 And the examination -- the interview

1 is what we call a doll-directed or a doll-  
2 assisted interview because we used the dolls.  
3 We asked the child to name eleven body parts  
4 of the doll. We showed the doll -- the child  
5 what's special about the doll. We ask the  
6 doll -- the child to name the body parts. And  
7 then we asked the doll -- the child to show  
8 on the doll or on their body how different  
9 instruments were used.

10 So we start very simply with, you  
11 know, "Did he use a stethoscope? How did he  
12 use a stethoscope? Did he use this ribbon?  
13 Show me how he used this ribbon?"

14 And then, most importantly for the  
15 issues in this case, we asked the -- we  
16 pointed to the doll's genitals. We said, "Did  
17 the doctor touch you here?" We pointed to  
18 the buttocks. We asked the same questions.

19 Now, for children who did have a  
20 genital examination, the correct answer is,  
21 "Yes." Right?

22 Q. Right.

23 A. For children who did not, the correct answer  
24 is, "No."

1 We then asked the children to show us  
2 on the dolls how the doctor had touched them.  
3 For children who had received a genital  
4 examination, the correct answer is, "Yes."  
5 It's a leading question, and for children who  
6 had not, the correct answer is, "Don't touch  
7 the dolls." Right? And then we asked them a  
8 number of other things.

9 We gave them a spoon. We said, "Did  
10 he do anything with the spoon," which he  
11 didn't. We said, "Tell us how" -- and if they  
12 said, "No" -- "then how do you think you  
13 could use a spoon?"

14 Q. Why did you use a spoon?

15 A. Well, you think it's because of the Kelley  
16 Michaels case. And probably some place deep  
17 in our subconscious, that's where we got it  
18 from.

19 Q. Because there were allegations of spoons  
20 being placed in children's orifices?

21 A. Yes. The investigators in fact used spoons,  
22 and asked -- and in fact, I'm sure we got it  
23 from Kelley Michaels, but we just can't  
24 remember that direct thought. But they did

1 ask, "Did he ever use a spoon?" "No." "Show  
2 me how he could use a spoon. Where else  
3 could he use a spoon," and so on. Anyway, so  
4 we wanted to see what would happen with  
5 normal children who used the spoon.

6 Okay. Very simply, these are the  
7 results based on the three and four-year-old  
8 children.

9 If you'd simply ask children, "Did  
10 he touch you here," and you don't ask them to  
11 manipulate the doll, what you find is that  
12 children are more likely to make mistakes, to  
13 deny that they have been touched. Okay. So  
14 they make -- forty-nine percent -- forty-nine  
15 percent of the kids who have been touched,  
16 denied it. And something like -- I can't read  
17 my writing here -- I think it's something  
18 like thirty-eight percent of the kids who had  
19 not been touched, said they had. So you still  
20 have a significant number of errors of kids  
21 who have not been touched who say, "Yes, they  
22 have."

23 But the more damaging part of the use  
24 of the dolls now comes on when you let the

1 children touch the dolls and play with them  
2 and manipulate them. And two things happen.

3 The first thing is, is that when  
4 children who have not been touched are given  
5 the dolls, they show a significant number of  
6 touching of the buttocks and the genital  
7 regions. And it's more than touching.

8 Children insert fingers into these dolls.

9 And there are gender differences.  
10 It's mainly girls who do this. So the figures  
11 in fact that are in our papers are kind of  
12 underestimates because they put in the boys.  
13 But when you just look at the girls, the  
14 girls are big touchers. The boys really don't  
15 like the dolls very much.

16 Now, for children who have had a  
17 genital examination -- remember, they were  
18 just lightly touched, right? They also make  
19 many errors. They make errors of what we call  
20 omissions, saying, "I'm not showing you." And  
21 those are mainly the boys.

22 But what the girls do is they over  
23 touch. They take fingers, they insert them  
24 into the genitalia or whatever and kind of

1 wiggle around. Again, you see the girls  
2 really liking to play with these dolls and  
3 touch with the dolls.

4 So the dolls bring out a tremendous  
5 number of inaccurate behaviors especially in  
6 little girls. The dolls do other things.

7 The dolls --

8 Q. Do the children do other things, or the  
9 dolls?

10 A. I'm sorry. The children do other things in  
11 the presence of the dolls. The dolls promote  
12 aggressive behavior. The children take sticks  
13 and beat the dolls, some of them.

14 Some of them take the props that they  
15 were previously asked to deal with and use  
16 them on the dolls in inappropriate ways.

17 Q. Like stethoscopes or --

18 A. Yeah. Or they start to use them on their own  
19 bodies after the dolls have been used. So you  
20 start to see more sexual behaviors come out  
21 after the children have been asked to show on  
22 the dolls.

23 Q. In the same interview session?

24 A. In a very short, ten-minute interview

1 session.

2 Q. Okay.

3 A. These are very young children. These went  
4 very very quickly.

5 So what we think is that -- the  
6 following. That the dolls promote inaccurate  
7 behaviors for a number of reasons.

8 First of all, to the girls, they're  
9 interesting. They want to play with them. It  
10 also becomes clear, just because of the way  
11 our interview was set up, the mom is there;  
12 the mom knows what's going to happen, that  
13 it's permissible; that this is a place where  
14 you are -- you're allowed to talk about  
15 private parts. You're allowed to show private  
16 parts. This is something to do, and the  
17 children use the toys creatively.

18 And you'll see on the videotapes,  
19 they sometimes use them creatively on  
20 themselves and on the bodies.

21 And finally, there's a problem, and  
22 I think it's a general problem in using dolls  
23 with young children that we haven't been able  
24 to address particularly, but Judy DeLoche

1 (phonetic spelling), who's at University of  
2 Illinois has, and her claim is that young  
3 children, the age of the children in  
4 Amirault, have a tremendous difficulty  
5 understanding that the dolls are supposed to  
6 be symbols of themselves. So they don't  
7 understand their representational value.

8 Now, that's really very important  
9 because when you're giving the child a doll  
10 and saying, "Show me on the doll what you  
11 did," and the child does not have the  
12 cognitive capacity to understand that the  
13 doll is a doll but it's also supposed be a  
14 representation of itself, then you may not be  
15 getting, and probably are not getting,  
16 accurate reports of what actually happened to  
17 the child because the child doesn't  
18 understand that he's supposed to be showing  
19 on the doll what happened to himself.

20 Q. Are we going to see that in this case, the  
21 using of the dolls to be symbolic  
22 representations of the child?

23 A. Uhm, no. Oh. I'm sorry.

24 Q. I'm sorry in --

1 A. In Amirault --

2 Q. -- in the Amirault investigation?

3 A. Yes. The children were told, sometimes in  
4 explicit terms, sometimes in vaguer terms,  
5 "Here's the doll. Pretend the doll is you.  
6 Show me on the doll." Or, "Did he touch you  
7 here? Did you get touched here," and so on.

8 Q. Okay.

9 A. So these dolls -- and the drawings, I want to  
10 say, also share a very similar problem  
11 because the drawings are also supposed to be  
12 representations, right.

13 Q. We're talking about nude drawings here?

14 A. The nude drawings are supposed to be  
15 representations. And there are some times  
16 when it's clear the children don't understand  
17 that they're supposed to represent  
18 themselves, or a defendant, or whatever.  
19 They're just drawings that they're circling.

20 So I think the cognitive literature  
21 has really illuminated the problems of using  
22 these kinds of instruments with young  
23 children.

24 Q. Should we see the videotape?

1 A. What I brought with me were some videos of  
2 children in this experiment. And it just  
3 gives you an idea of the kinds of behaviors  
4 that they're showing. And then after that, I  
5 have another video to show you. Because,  
6 here, we've only talked about children in one  
7 short play session. But certainly one of the  
8 themes of our research is, what happens when  
9 children are subjected to repeated  
10 interviews. And I want to show you a pilot  
11 subject who is.

12 THE COURT: These are brief?

13 MR. WILLIAMS: The first one is  
14 Exhibit 23A, for the record.

15 THE WITNESS: They're only three  
16 minutes.

17 I really don't know if I want to  
18 comment on them actually. If you want me to  
19 comment on  
20 them --

21 THE COURT: We'll let them run.

22 THE WITNESS: We'll let them run.  
23 You'll see -- Just let me tell you what  
24 you're going to see.

1                   You'll see a child who's not been  
2 touched who shows genital penetration. You'll  
3 see a child putting a stick -- the spoon into  
4 the doll. You'll see a child taking the props  
5 and showing how they were used on herself.  
6 Okay.

7 Q. These are all --

8 A. These are all -- these are the three-year-  
9 olds that are in this experiment.

10 Q. And they're all demonstrating things that  
11 obviously were not done to them?

12 A. None of these things happened.

13 Q. Okay.

14 A. And parents were present during the  
15 pediatrician interview and during this  
16 interview.

17 [Videotape played.]

18 A. She inserts a finger. It never happened.

19 [Videotape continues to play.]

20 A. She inserts, I think it's her thumb --

21                   MS. ROONEY: I object to the  
22                   commentary.

23 [Videotape stopped.]

24                   THE COURT: I'd rather let it play

1 through.

2 THE WITNESS: Sorry. Okay.

3 [Videotape played.]

4 [Videotape stopped.]

5 [By Mr. Williams:]

6 Q. Now, Doctor, you wanted to comment on what we  
7 just saw here. I'd like you to do so.

8 A. I don't think I want to comment. I think that  
9 what you see here, are, again, some of the  
10 principles I talked about in the Pediatrician  
11 Study; what happens when you have a delay;  
12 the child is asked more than once to show  
13 something that's sexual, or it doesn't have  
14 to be sexual. And how this last child is  
15 incredibly creative about how she uses all  
16 these -- all these props on the dolls to show  
17 abuse.

18 And luckily for this child, we never  
19 interviewed her again. I mean, that was the  
20 end of it. But this is a child who, really,  
21 the only thing that happened was, she had  
22 that interview with me previously, and the  
23 doctor's examination. But you can see how  
24 where the expectations were, "Show daddy what

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1           happened," that the child in fact did make up  
2           this truly spectacular story.

3           Q.    What we saw here, obviously we can't play the  
4           whole research -- tapes of the whole  
5           research, but are these anomalies in your  
6           research or is this exemplars?

7           A.    Well, the children that you saw at the  
8           beginning, I note what the frequency of these  
9           behaviors are in our most recent paper, and  
10          there's something like maybe twenty-eight  
11          percent of the children use props in a sexual  
12          nature; that when you look at all the  
13          suspicious behaviors that are used in the  
14          doll interviews themselves, including  
15          insertion, showing wrong touches, showing  
16          aggressive behavior with hitting them or  
17          something, something like fifty percent of  
18          the children do show these suspicious  
19          behaviors. So they're not anomalies.

20          Q.    Now --

21                         THE COURT:  These were obviously not  
22                         available at the time of this trial.  What  
23                         about any of the studies, any of the  
24                         research?

1 THE WITNESS: No. These doll  
2 studies, the most recent one actually was  
3 just written up. The one about three-year-  
4 olds was published. I think it was published  
5 in 1995. These tapes here, I mean, obviously  
6 the research is done before these were  
7 published, but I think that these tapes were  
8 available in 1993 or 1994.

9 [By Mr. Williams:]

10 Q. Now, there have been claims not only in this  
11 case but generally, that you're aware of, am  
12 I right, where people suggest that you cannot  
13 get a three-year-old or a four-year-old to  
14 talk about or demonstrate sexualized  
15 behaviors on their bodies or on dolls because  
16 it's something outside the realm of their  
17 experience. Does this study that we just saw,  
18 the Pediatrician Studies, address that point?

19 A. I --

20 Q. It's pretty obvious, right?

21 A. I think the doll studies address that point.  
22 You see children showing things on their  
23 bodies that never happened to them.

24 Q. Now, let's go back to this overhead where we

1 list the various components of suggestive  
2 interviews. What kind of techniques did you  
3 use on these children?

4 A. Which children?

5 Q. The children that we saw --

6 A. The doll children?

7 Q. The doll children and also on the other  
8 pediatrician -- the earlier pediatrician  
9 study?

10 A. In the doll children, certainly we used few  
11 open-ended questions. The children were never  
12 asked to tell us what happened. We  
13 immediately brought the dolls out and said,  
14 "Show us what happened?" They were asked  
15 leading or misleading questions - misleading  
16 when the children who had not received the  
17 pediatric exam: Show me on the dolls. And  
18 then they were given the anatomical dolls and  
19 they were used with, you know, with these  
20 other -- these other kinds of procedures: the  
21 misleading questions and the few open-ended  
22 questions.

23 Q. Now, what about, did you do things like --  
24 we're going to talk about this later -- but

1 did you deploy a technique called stereotype  
2 induction in these studies?

3 A. Yes, we did.

4 Q. You did. And since you did that, why don't  
5 you tell us what that means?

6 A. Okay. Well, stereotype induction is a fancy  
7 name for telling people about characteristics  
8 of a person, or your own ideas of  
9 characteristics of a person. So you can have  
10 a good stereotype induction where you can  
11 say, "I have a friend. He's really nice. He  
12 always brings me candies." Or you can talk  
13 about a friend who's always bad and hitting  
14 people. And if you repeat these enough times,  
15 what we think is that the person learns about  
16 the characteristics of this other person, and  
17 so, the stereotype, which is, he does bad. Or  
18 the stereotype could be, bad things happen at  
19 day care, gets induced into the child's  
20 memory or into their cognitive structure.

21 Q. Well, what kind of stereotype induction did  
22 you do in the pediatrician studies that we've  
23 just been discussing?

24 A. There was no stereotype induction.

1 Q. That's what I thought.

2 So, in other words, you did not use this  
3 technique of stereotype induction?

4 A. No.

5 Q. Did you find the use of -- and we're going to  
6 talk about it later in another study, I  
7 assume, right?

8 A. Right.

9 Q. Did you find the use of stereotype induction  
10 in this case, in the Amirault case?

11 A. In Amirault? Uhm --

12 Q. In other words, characterizing people as  
13 bad --

14 A. Right.

15 Q. -- or scary, or things like that?

16 A. Well, there are certainly references to -- in  
17 some of the early interviews that the  
18 children were asked about bad people, or  
19 about bad clowns.

20 MS. ROONEY: I'd just like to know  
21 which children we're talking about.

22 THE WITNESS: Oh, I can't tell you.

23 MS. ROONEY: Then I move to strike.

24 MR. WILLIAMS: Your Honor, what

1 we'll do is --

2 THE WITNESS: Oh, I'll spend time and  
3 go through.

4 MR. WILLIAMS: I was hoping to short-  
5 circuit things, but what we can do is go  
6 child by child and show where there's  
7 stereotype induction.

8 THE COURT: Well, particularly with  
9 the four children --

10 MR. WILLIAMS: With the four  
11 children in this case. We'll do that. We'll  
12 hold off on that. Let's bracket that for a  
13 moment.

14 [By Mr. Williams:]

15 Q. So, let me just make sure we're clear. You  
16 weren't using this whole repertoire of  
17 suggestive interviewing techniques on these -  
18 - on the children that we saw here?

19 A. No. Our research paradigm has been to select  
20 one or two of these, to use them in  
21 combination, and then, as you'll see, we used  
22 sometimes more than three or four to see what  
23 happens when you really put a lot together.

24 Q. Okay. Now, in this case -- you can have a

1 seat, Dr. Bruck, if you wish.

2 A. It's so hot.

3 Q. In this case, there was testimony about  
4 behaviors of children at their homes after  
5 interviews where dolls were used. Are you  
6 aware of any research that deals with the  
7 ramifications of children's behavior when  
8 they are exposed to dolls? And I'm making  
9 reference to pages 168 and 169 of your book.  
10 I'll show it to you.

11 If my question was misleadingly  
12 phrased, just let me know.

13 A. Barbara Boat and Mark Everson conducted a  
14 study on children -- normal children's  
15 interactions with dolls. In this study, the  
16 children weren't asked to do anything. They  
17 were just asked to play with the dolls. They  
18 had children, I think, two to five-years-old.  
19 And after the study, they actually followed  
20 parents and asked them were there any  
21 repercussions to their children's  
22 participating in this experiment.

23 And in their follow-up, they said  
24 that a third of the children, after a single

1 exposure to the dolls, a third -- a  
2 significant proportion of three and four-  
3 year-olds exhibited increased interest in  
4 sexual play and the discussion of sexual  
5 themes.

6 Q. Okay. Now, by the way, Dr. Bruck, didn't Gail  
7 Goodman, who the Commonwealth has identified  
8 as a possible witness in this case, didn't  
9 Gail Goodman do a study on anatomical dolls?

10 A. Well, this is -- Karen Saywitz is her  
11 coauthor, who's the first author, but she,  
12 Saywitz, Goodman and someone -- Moan, I  
13 think, conducted a study on dolls. It was  
14 published '92, '93, yes.

15 Q. And --

16 A. Their study includes children that are girls  
17 only, five to seven years old.

18 Q. Older than your children --

19 A. Yes.

20 Q. -- that you were using?

21 A. Yes. And their results are very different  
22 from ours.

23 Q. Tell me about that.

24 A. What they say is that it's very common for

1 children who have had sexual exams -- have  
2 had genital exams to omit, to not talk about  
3 the examination. And they also claim that it  
4 is extremely rare to find what we call these  
5 errors of commission, that is, children  
6 sticking fingers into dolls, or saying that  
7 they'd been examined when they hadn't been.

8 Q. How do you explain the differences in  
9 results?

10 A. Well, there are certainly a number of  
11 different possibilities. I talked to Gail  
12 Goodman about this a long time ago. The most  
13 obvious explanation is one of age, that maybe  
14 something very different happens between four  
15 and five years old, where five-year-old  
16 children do become much more reticent, and  
17 they don't want to show these kinds of  
18 behaviors.

19 A second issue, and it's one that  
20 I've never asked her, but it involves why  
21 we've never done the study with five-year-  
22 olds. Because at five, what happens is,  
23 during these examinations children get DPT  
24 inoculations, and the DPT inoculation in fact

1 overrides. It is such an emotional event that  
2 it really overrides everything else that goes  
3 on. So it just sets a very different kind of  
4 setting to examine children's memories.

5 Another possibility is that the  
6 parents were available in our interviews with  
7 the young children. Maybe this set the stage  
8 for the children to know it's okay to talk  
9 about these things. Maybe they felt more at  
10 ease.

11 And I also think that our interviews  
12 focus much more on sexual parts where we had  
13 the kids name the eleven body parts, and we  
14 had them manipulate props, but really, a very  
15 large portion of the interview had to do  
16 with, you know, showing, touching, and naming  
17 these parts. And it's possible that their  
18 interviews are much more diffuse; where the  
19 kinds of questions are there, but when you  
20 look at the number of other questions that  
21 are asked, these are just much less  
22 concentrated maybe signalling to children in  
23 our interviews that we're interested in their  
24 talking about these kinds of things.

1                   But as I say, these are hypotheses  
2                   and the major, certainly the most glaring  
3                   one, is one of age. But until someone does  
4                   the study, we won't know.

5           Q.    Okay. In this Pediatrician Study you're  
6           interviewing children about an event that we  
7           know that they experienced. They all went to  
8           the pediatrician?

9           A.    Right.

10          Q.    What about a situation where you question a  
11          child about an event that we know that they  
12          have not experienced? Do you understand what  
13          I'm driving at? Are there any studies that  
14          deal with that type of phenomenon?

15          A.    Right.

16          Q.    Trying to suggest -- using suggestive  
17          questions about something that we know that  
18          the child has not experienced?

19          A.    Right. Your question is, can -- what I've  
20          showed before is that you can get children to  
21          make errors in terms of moving around people,  
22          or places they've been touched, but can you  
23          get children to fabricate whole events of  
24          things that have never happened?

1 Q. Right. Because in the pediatrician case, we  
2 know that they were touched --

3 A. Right.

4 Q. -- but they are now embellishing on that.

5 A. So the answer is, yes, there are two studies  
6 that I can talk about. The first one is the  
7 Sam Stone Study that's in evidence:

8 "Leichtman and Ceci, The Effects of  
9 Stereotypes."

10 Q. Okay. Tell us about that?

11 A. Okay. I'm going to quickly go through this  
12 because it's described many places in the  
13 brief, in the book, in the exhibit.

14 They had several interests. One was  
15 to look at the combined influences of using  
16 stereotype induction, which in this case  
17 involved telling children about a character  
18 by the name of Sam Stone who was clumsy. And  
19 they wanted to induce an expectation or a  
20 stereotype that Sam Stone was clumsy.

21 And they were interested in the  
22 effects of this on children's subsequent  
23 reports in combination with asking them  
24 misleading questions. So there were four

1 conditions but I'm only going to talk about  
2 two.

3 In one condition -- these are  
4 children between the ages of three and six --  
5 they were visited four times by a college  
6 student who talked to them about their friend  
7 by the name of Sam Stone. And each time the  
8 college student came he told them a different  
9 story about his friend Sam Stone that went  
10 something like this:

11 The other day Sam Stone came to my  
12 house, and he took my sister's Barbie, and he  
13 broke the arms off and Barbie was broken.

14 And during the course of an  
15 interview or a conversation with the child,  
16 the child would be told several kinds of  
17 these Sam Stone stories.

18 Then, after four weeks, all the  
19 children were in the classroom during show  
20 and tell; a visitor stood up for all of two  
21 minutes and introduced himself as Sam Stone  
22 and left the classroom.

23 On the very next day, the teacher  
24 held up before the children a torn book and a

1 soiled teddy bear. And then, for the next  
2 four weeks, the children again were met by  
3 their friendly college student, and they were  
4 asked each week two misleading questions that  
5 went something like this: When Sam came and  
6 ripped the teddy bear, do you think he did it  
7 on purpose or was he being silly?

8 And then, finally, a new interviewer  
9 came in, and the new interviewer asked the  
10 children to tell a free narrative something:  
11 I heard there was a man who came. Did  
12 anything happen? I heard something about a  
13 book, about a teddy bear, can you tell me?

14 And the question was whether  
15 children would come to make claims of Sam  
16 Stone doing these things.

17 Now, it's important to contrast  
18 these children's answers to those of a  
19 control group who received what we call  
20 neutral interviews. And these children in  
21 fact had no stereotype induction at all. They  
22 saw Sam Stone for the first time when he  
23 stood up in the classroom, and for the next  
24 four weeks, they were interviewed by their

1 friendly college student who just generally  
2 asked them to try to remember what happened  
3 when Sam Stone came.

4 Q. The control group was not told anything about  
5 the character of Sam Stone?

6 A. That's right. And they were given no  
7 misleading questions about when Sam Stone  
8 broke the teddy bear or tore the book.

9 Q. And in the literature, are we going to see  
10 that phrase, stereotype induction, and in  
11 your book, that's what you're talking about,  
12 characterizing an alleged perpetrator or --

13 A. Someone who's bad.

14 Q. -- significant person?

15 A. Or could be is good, or whatever.

16 Q. It's characterizing a person in some way and  
17 whether a child will then adopt that  
18 characterization?

19 A. Exactly.

20 Q. Okay. And that's what we're going to look at  
21 in Sam Stone?

22 A. Yes, we are.

23 Q. Okay.

24 A. And we're going to look at it paired with

1 misleading questions.

2 Q. It's stereotype induction plus misleading  
3 questions?

4 A. Right.

5 Q. Okay. That's something new from the  
6 Pediatrician Study?

7 A. Yes.

8 Q. Okay. Do you want to look at an overhead?

9 A. So now in the fifth interview -- yes -- in  
10 the fifth interview someone new comes in and  
11 again asks these children, okay.

12 If you look at the left-hand side  
13 that says "No Suggestion, No Stereotype,"  
14 here, again, what you see is these children  
15 are very accurate. They made very few if any  
16 claims that Sam ripped the book or tore the  
17 teddy bear. For --

18 Q. Let me just stop. When you say it's  
19 inaccurate -- they're very accurate, you mean  
20 the higher it is, the more inaccurate the --

21 A. The higher it is the more false claims there  
22 are -- the more children made false claims.

23 Q. There are very few inaccuracies here  
24 (indicating on chalk)?

1 A. Right.

2 Q. Okay.

3 A. And you can see there are a few children who  
4 said something about Sam, but when they're  
5 challenged, "Did you really see him do it,"  
6 kind of slips almost to one or two children.  
7 And then they're kind of asked again, "Did he  
8 really do it," and you have one young kid  
9 hanging on.

10 The five and six-year-olds really  
11 are very very accurate in saying nothing  
12 happened.

13 Now, the stereotype --

14 Q. And here's where you're characterizing Sam  
15 Stone and then you're going to be using  
16 misleading questions?

17 A. Right. What you can see is that for the three  
18 and four-year-olds, over seventy percent of  
19 the children came to make claims about Sam  
20 doing at least one of these misdeeds. And  
21 even when they're challenged, "Did it really  
22 happen or did someone tell you about it," you  
23 still have a significant number of children  
24 still holding onto these claims.

1 Q. You mean you're telling us that when you  
2 challenge the child, and you're saying to the  
3 child, "You're not telling me the truth"  
4 or --

5 A. Well, no. We don't say that. We say --

6 Q. Okay. Tell us what you said?

7 A. "Did it really happen? Did you see it or did  
8 someone tell you about it?"

9 Q. I see.

10 A. Now, you still, you know, the rate goes down  
11 and the kids will say, "Well, no, I didn't  
12 see it," right. But then when they're even  
13 further -- they're followed up even more,  
14 "Well, you know, are you being silly? Did it  
15 really happen," you see the rates falling.

16 Now, for the five and six-year-olds,  
17 here we start -- you see a typical pattern of  
18 age differences where there are fewer  
19 children who fall sway to these suggestions.

20 Now, what I should tell you is that  
21 these numbers can be moved around a lot.  
22 These are not built in stone. If you just do  
23 the condition where there's just stereotype  
24 without the suggestion, just tell them about

1           how Sam Stone was clumsy, the rates are  
2           slightly lower. It's the combination of these  
3           two -- of these two interviewing techniques  
4           that we call suggestive that really drive up  
5           these rates.

6                        It's also true that if you interview  
7           children more than four times, either  
8           previously or after, you increase the  
9           intensity of the interviews, these numbers go  
10          up even further.

11        Q.    So, in other --

12        A.    So you can play around with these things in a  
13          great number of ways.

14        Q.    You can make these bar graphs go up or down  
15          depending on the intensity of the forces of  
16          suggestion?

17        A.    Absolutely.

18        Q.    Okay. Oh, by the way, since we're on the  
19          topic of stereotype induction, you talked  
20          about the janitor experiment earlier.

21        A.    Yes.

22        Q.    Wasn't there stereotype induction there also?

23        A.    Well, absolutely. The children were told he  
24          was bad. He shouldn't have done that.

1 Q. Right. And we saw the same kind of effect?

2 A. Well --

3 Q. It had a --

4 A. Yes. I mean, it was -- the measurement was  
5 different but the kind of interviewing and  
6 what was put into the interviews were  
7 similar.

8           Again, you could argue that this is a  
9 biased interview, that the children were  
10 induced with the bias that Sam Stone was  
11 clumsy, and in the misleading questions, that  
12 he did something; that that was the  
13 interviewer's belief.

14 Q. Now, we have a videotape also of children on  
15 this study, don't we?

16 A. Yes. I think it's interesting to watch this  
17 videotape for two reasons. One, again, you  
18 can see how these children go beyond the  
19 suggestions and how they kind of put them  
20 together to tell sometimes quite a nice  
21 narrative.

22           The children you're going to see are  
23 between the ages of three and five. The first  
24 is three years old, and then you have a four-

1 year-old and a five-year-old.

2 It takes about five minutes to watch  
3 -- to watch this. I put subtitles on. It  
4 makes it easier.

5 [Videotape played.]

6 [Videotape stopped.]

7 [By Mr. Williams:]

8 Q. Before we go on with that, we see a lot of  
9 perceptual detail there in that child.

10 A. Mm-hmm.

11 Q. Let's just make sure we're clear on the  
12 record. For the record, it's just the first  
13 child on that tape. Did any of those events  
14 actually happen that we -- that were getting  
15 recounted here?

16 A. No.

17 Q. Okay.

18 [Videotape played.]

19 [Videotape stopped.]

20 [By Mr. Williams:]

21 Q. I think that's it, right, on Sam Stone?

22 A. That's it.

23 Q. Now --

24 A. Again, I just want to make a point. I think

1 it's interesting to watch this --

2 MS. ROONEY: Objection. There's no  
3 question before the witness.

4 THE COURT: Yes. Let's wait for the  
5 question.

6 THE WITNESS: Sorry.

7 [By Mr. Williams:]

8 Q. Let me just play devil's advocate here just  
9 for one second. What we see here on this  
10 experiment is an innocuous event, right?

11 A. Mm-hmm.

12 Q. Whereas in the Pediatrician Study we're  
13 dealing with something more invasive in terms  
14 of the child's life. What about when you're  
15 questioning children about wrongdoing, or  
16 what could be perceived as wrongdoing. Have  
17 there been studies on that that may be a  
18 little more troubling for a child?

19 A. Yes. We've conducted studies on that.

20 Q. Okay. Tell me about that?

21 A. Well, in this study we asked several  
22 questions. We asked how hard is it to get us  
23 -- how hard is it to get children to talk  
24 about real wrongdoing, and how hard is it for

1 us to get children to talk to us about  
2 wrongdoing that has a criminal flavor to it.  
3 Is it easier to get children to spin stories  
4 or spin false allegations about more socially  
5 sanctioned events than those that are more  
6 negatively sanctioned.

7 And so, in this study, what we did  
8 is, we looked to see what happens when you  
9 repeatedly interview children with a host of  
10 suggestive techniques to see if, A, they'll  
11 come to assent to certain kinds of events,  
12 and once they do assent, what kinds of things  
13 they say about them.

14 THE COURT: And this is about  
15 wrongdoing that you have verified did not  
16 occur?

17 THE WITNESS: Yes.

18 [By Mr. Williams:]

19 Q. Now, just so we're clear on the record, I  
20 want to show you Exhibit 8 that's been  
21 previously marked. Is that the study that  
22 we're going to be talking about?

23 A. (Witness examines document.)

24 Yes.

1 Q. Okay. Tell us how the study's constructed?

2 A. Okay. I don't know if you want to use  
3 overheads for here. It might make it easier;  
4 maybe it won't.

5 We interviewed children from day-care  
6 centers who were between the ages of three  
7 and five years old. The children are asked to  
8 tell us about four events. Two events were  
9 true; two events were false.

10 Now, the two true events, here  
11 they're listed up here. The first one is  
12 called helping. And this is an event that we  
13 knew all the details about because we had  
14 staged it for the children, and it involved a  
15 visitor coming into the day care and leaving  
16 the child in the hall, helping the child --  
17 and asking the child to help carry some  
18 stuff. She falls on a shoelace, hurts  
19 herself, the child has to go to the office,  
20 ask for help. They put a bandage on her. When  
21 he comes back, she's okay.

22 So we know the full events of this  
23 and every child experienced this event.

24 Q. Everyone experienced the true, the helping--

1 A. That's right.

2 Q. -- which is a positive experience?

3 A. It's a positive experience in that it's  
4 socially sanctioned. The child helps out.  
5 Everything ends up okay.

6 Q. Okay.

7 A. Now, the next one is the punishment event,  
8 and this was different for every child. We  
9 asked parents or teachers to tell us about a  
10 recent event where the child got in trouble  
11 for doing something. And to tell us as many  
12 details as they could about it.

13 And these are ones you could  
14 imagine, being put in time out because the  
15 kid was talking, throwing food around the  
16 room, being sent home from the class trip  
17 because they hit another kid, or so on. But  
18 it was different for every single child.

19 Then there were two false events.  
20 Now, these we made up. And we communicated  
21 these to the children in ways that I'll tell  
22 you.

23 The first one had to do with, "Did  
24 you ever see a man come into the day care and

1 steal food from the kitchen and then steal  
2 toys from your room?"

3 And when we started the study, we  
4 were told that none of the children had ever  
5 experienced this event.

6 And then there was a false helping  
7 event where the -- we suggested -- the  
8 scenario was the child was in a park, a lady  
9 came up and helped -- asked for help to find  
10 the lost monkey -- a lost monkey, which the  
11 child did, and then they got an award.

12 Q. Okay. Let me just stop you there.  
13 So we have a true event that is positive --  
14 has positive connotations --

15 A. Yes.

16 Q. -- socially sanctioned. And we have a true  
17 event that's negative?

18 A. A little embarrassing.

19 Q. A little embarrassing. And then we have a  
20 false that's obviously a negative for the  
21 child?

22 A. Mm-hmm.

23 Q. And then we have a false event that has  
24 positive connotations, the helping?

1 A. Mm-hmm.

2 Q. Okay. Go ahead, and what happened?

3 A. Right. So what we did is the following. The  
4 very first interview we simply asked the  
5 child, for example, "Did you ever help a lady  
6 find a monkey in the park? Yes or no?" If  
7 they said something we asked them for an  
8 analysis, or to tell us what happened.

9 The next set of interviews were ones  
10 that we call suggestive interviews, and in  
11 these interviews, what we did is, we put  
12 together a host of suggestive components that  
13 we have learned from the literature have  
14 detrimental effects on children's reports.  
15 And here's a list of some of the --

16 Q. Let me see if I've got the right one.

17 A. That's it.

18 Q. These are the type of techniques that you  
19 used on the children?

20 A. Yes. So you have to understand, sometimes --  
21 we used these techniques for true-and-false  
22 stories. So for the true stories, we said  
23 things like, "We heard that a lady came into  
24 day care and she hurt herself," and we'd ask