**STATE’S NOTICE OF INTENT TO INTRODUCE PRIOR CONSISTENT STATEMENTS**

##### State of Oklahoma

The State of Oklahoma gives notice to the Defendant, D.C. that the State intends to offer into evidence in the instant case certain prior consistent statements according to Okla. Stat. tit. 21 sec. 2801(4) which states:

“A statement is not hearsay if the declarant testifies at the trial… and is subject to cross examination concerning the statement, and the statement is…

(2) consistent with the declarant’s testimony and is offered to rebut an express or implied

charge against the declarant or recent fabrication or improper influence or motive.”

If the defendant attempts to impeach a witness’s credibility showing a recent fabrication, it is within the trial court’s discretion to determine whether a prior consistent statement is offered to rebut the fabrication.

The statements in this case are admissible as the declarants do not have a motive to lie AND in the light of even the potentially powerful motive to fabricate, the prior consistent statements have significant probative force bearing on credibility apart from mere repetition.

The State intends to offer the following witnesses’ testimony as prior consistent statements made by X. and K.M.:

A.B., the victims’ Aunt, was told in her home on August 16, 1995 by B.C. that D.C. played with his pee pee at B.’s house on the bed. B.C. told her D.C. touched “right here” and pointed to her private parts with his private part.

D.Z., an M.S. at TRMC Day Treatment, was told by B.C. at TRMC on August 25, 1995 that D.C. put his private in his bottom and his sister’s bottom and private. B.C. sucked on his private part, and it hurt him “inside.”

T.S., a therapist with the B. Program, was told by K. at treatment during the week of February 18, 1997 that D.C. sexually abused him by putting his private part in K.’s mouth and peed in his mouth, that D.C. stuck his private in K.’s butt, that D.C. did the same things to X.

These statements should be admissible because they have probative value apart from repetition and the five year old and a six year old in this case do not have a strong, powerful motive to lie. They prove that the children have not been fabricating a story due to length in time the disclosures were made and to whom they were made. L.M. was told prior to the arrest of the defendant and the removal of the children from the home, G.H. was told during the time the children were with the State, and C.M. was told two years after multiple foster home placements and when the defendant was no longer a threat.

This notice is filed to comply with 12 O.S. sec. 2803.

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Assistant District Attorney