

IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA, )  
vs. )  
GUNTHER FIEK, ) CRIMINAL ACTION,  
Defendant. ) FILE NO. 01-9-1025-18

VOLUME ELEVEN OF THIRTEEN

Jury Trial proceedings held before the Honorable  
GEORGE H. KREEGER, Cobb Superior Court, Marietta,  
Georgia, commencing on September 4, 2001.

APPEARANCES:

Eleanor Kornahrens, Assistant District Attorney,  
Henry Thompson, Assistant District Attorney,  
on behalf of the State.

Jimmy Berry, Attorney at Law,  
Cindi Yeager, Attorney at Law,  
on behalf of the Defendant.

ORIGINAL

JUDITH A. PULLIUM, RMR, CRR  
Official Court Reporter  
30 Waddell St.  
Marietta, Ga 30090-9642

1 Q She called you?

2 A Yes.

3 Q You didn't dial her number?

4 A Not at that time. She beat me to the call.

5 MS. KORNAHRENS: That's all the questions I have,  
6 your Honor.

7 THE COURT: Mr. Berry?

8 MR. BERRY: Nothing further, your Honor.

9 THE COURT: Okay. You may step down.

10 Next witness?

11 MS. YEAGER: Defense calls Amy Morton, your Honor.

12 THE COURT: Amy Morton.

13 THE CLERK: Put your left hand on the Bible and raise  
14 your right. You do solemnly swear or affirm that the  
15 evidence that you will give to the Court and jury on the  
16 issue pending will be the truth, the whole truth and  
17 nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 AMY MORTON,

20 having been first duly placed under oath, was examined and  
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MS. YEAGER:

24 Q Miss Morton, would you please state your full name  
25 for the Court?

1           A     My name is Amy Morton.

2           Q     And where are you currently employed?

3           A     I am a marriage and family therapist. I'm in private  
4 practice in Macon, Georgia, at 886 Mulberry Street.

5           Q     And how long have you been in practice?

6           A     I was first licensed as a marriage and family  
7 therapist in 1994. Marriage and family therapist practice  
8 approximately three years prior to sitting for that exam with  
9 supervision, so I began this type of practice in 1991.

10          Q     And can you describe the nature of your current  
11 practice?

12          A     I see families, couples, children. Approximately  
13 60 percent of my practice is with children under the age of  
14 ten. I do in the course of my practice do forensic  
15 interviewing for children. I also in the course of my practice  
16 have -- do work contractually with the Department of Juvenile  
17 Justice. I evaluate and treat children who -- or teens who  
18 have been charged with sexual offenses for that department.

19          Q     And in the course of your practice do you have the  
20 occasion I guess to conduct forensic interviews with children?

21          A     Yes, I do.

22          Q     And I think you've mentioned for the Georgia  
23 Department of Juvenile Justice?

24          A     That's correct.

25          Q     And have you ever worked with any other state

1 agencies?

2 A Yes. When I first came to Georgia, I was the  
3 coordinator for the Rainbow House in Warner Robins, which is a  
4 center there where children who have been -- who have made  
5 allegations of abuse are interviewed by police and Department  
6 of Family and Children's Service workers.

7 My role there was as coordinator, and I had joint  
8 supervision from the Department of Family and Children's  
9 Services, law enforcement, the district attorney's office and  
10 also from mental health.

11 I was involved. I did not conduct the forensic interviews  
12 there, but I received the same training to do that as the  
13 investigators did and would monitor those interviews from a  
14 separate room and sort of as an advocate for the child and also  
15 assisted the investigators with making sure that appropriate  
16 protocols were followed in terms of interviews.

17 Q So are you familiar with Safe Path here in the Metro  
18 area?

19 A I have some familiarity with it. I have read some  
20 about it, yes.

21 Q Would the Rainbow House in Macon be similar to what  
22 Safe Path would be here in the Metro area?

23 A The Rainbow House is in Warner Robins.

24 Q I'm sorry, in Warner Robins.

25 A It's similar, except that it's my understanding that

1 Safe Path also in that facility has a shelter, which I don't  
2 believe that the Rainbow House does now. It did not when I  
3 worked there.

4 Q But the actual facility as far as working with law  
5 enforcement and providing a place that's more neutral based to  
6 interview children and such is the same philosophy?

7 A Yes.

8 Q And can you please describe your educational  
9 background?

10 A I graduated from Mars Hill College in North Carolina  
11 in 1981 with a bachelor's degree in religion and philosophy and  
12 concentration in psychology.

13 While I was there, I interned as a chaplain at the  
14 Veteran's Administration Hospital in Black Mountain here in  
15 Atlanta -- excuse me -- near Ashville.

16 And then I attended the Southern Baptist Theological  
17 Seminary, Louisville, Kentucky, from 1981 until 1985 in the  
18 Master's of Divinity Program, and I was concentrating on  
19 pastoral care and counseling.

20 During my senior year there or last year there, I left,  
21 and went to Dallas and worked as an extern in the Chaplaincy  
22 Department, Baylor University Medical Center in Dallas.

23 Then after moving to Georgia and working at the Rainbow  
24 House and then later at the Methodist Home for Children, which  
25 I can describe as well, I attended Mercer University, and did a

1 Master's Degree in Family Studies and subsequently completed  
2 the requirements for licensure as a marriage and family  
3 therapist.

4 Subsequent to that, I have also gone back to the Medical  
5 School at Mercer to complete a course in the supervision of  
6 psychotherapy.

7 Q And what -- you talked a little bit, you've mentioned  
8 you had supervised therapy with children at the Methodist Home  
9 for Children. Can you describe that a little bit more?

10 A After leaving the Rainbow House, I was a unit  
11 director at the Methodist Home for Children in Macon. I was  
12 responsible for the boys and the girls there who were between  
13 the ages of 6 and 12.

14 While I was the unit director there, I developed with  
15 other staff a program that still exists that is called the  
16 STARS Program, an acronym stands for Specialized Treatment for  
17 Abused Reactive Syndrome. It was funded originally through a  
18 children's trust fund grant. I did the forensic interviewing  
19 with the children at the -- as they came into those -- that  
20 program to determine whether they were appropriate for  
21 placement in that program and continued to work with them  
22 through the time I was there.

23 Q And since this formal training, have you participated  
24 in any continuing education?

25 A Yes. During and before. As a marriage and family

1 therapist, I'm required to have 30 hours of continuing  
2 education every two years. I do well more than that. I would  
3 estimate that I've had over 300 hours of training specifically  
4 in the area of child abuse and child sexual abuse.

5 I attended, while I was at the Rainbow House, the  
6 Knoxville Institute for Sexual Abuse Treatment Training, which  
7 is where that agency sent investigators to be trained as  
8 forensic interviewers at the time I was there.

9 I have attended numerous workshops sponsored by the  
10 Georgia Council on Child Abuse, also workshops sponsored by the  
11 Georgia Department of Human Resources.

12 I am a GPS map trainer. I had to complete the -- when I  
13 was at the Methodist Home, I completed the training to be a  
14 trainer of foster and adoptive parents. Those are some  
15 examples of the training that I've participated in.

16 Q And your employment and background, I think you've  
17 told us a little about the Rainbow House in Warner Robins, and  
18 can you go a little bit more into your actual -- you know, how  
19 you came about that job and what specifically you did?

20 A I was their first coordinator. Warner Robins was  
21 kind of ahead of the curve in the concept of developing a  
22 coordinated approach to interviewing children who may have been  
23 victims of abuse. This program was funded through a Victims of  
24 Crime Act grant, and as a result of that grant, I not only was  
25 responsible for coordinating the interviewing of the children

1 but was also a part of the team that staffed those cases and  
2 made sure those cases moved through the system appropriately.

3 Also as a part of that grant, we -- I did and we did  
4 training for counties in essentially South Georgia on the  
5 implementation of child abuse protocols and improper forensic  
6 interviewing techniques for children.

7 At that time the general assembly had just passed a law  
8 requiring all counties to adopt such protocols, and this was  
9 intended to help counties comply with that requirement.

10 Q And did you participate -- how many interviews did  
11 you participate in, do you think, while you were at the Rainbow  
12 House?

13 A More than 300. And then obviously, as I stated, I  
14 was observing those interviews and participating -- not doing  
15 the interviews, but was observing, and since that time I've  
16 also continued to do those types of interviews myself.

17 Q And then your next employment I guess was the  
18 Methodist Home for children that you've told us about?

19 A That's correct.

20 Q And so can you tell us, if you've not told us  
21 already, the specific training that you've had to conduct  
22 forensic interviews and if you've been trained in being able to  
23 train others to do forensic interviews?

24 A Um, yes. Um, as I described, I attended the  
25 Knoxville Institute of Sexual Abuse Treatment Training. I've



1 attended workshops with Susan Segroi, Nicholas Growth.

2 I also am certified to assess adolescent sexual offenders.  
3 Those workshops were conducted by Jonathan Ross and Peter Laws.

4 I've attended workshops by Gene Abel here in Atlanta,  
5 Nancy Aldridge.

6 I have done training for Department of Children and Family  
7 Service workers. I have done training for law enforcement,  
8 district attorney's offices, mental health providers, child  
9 care facilities, ministers, churches.

10 The South Georgia Conference for the United Methodist  
11 Church employed me to do training for ministers and staff on  
12 how to deal with child abuse allegations if it came up within  
13 the context of their church.

14 I have also assisted other churches in -- locally when  
15 these issues have come up, they have brought me in as a  
16 consultant.

17 Q And have you also kept up to date on any recent  
18 articles, publications, dealing with this issue of forensic  
19 interviews especially of young children in the age ranges of  
20 four to twelve years old?

21 A Yes, I have. I read consistently.

22 Q And has there been any recent trend in this area or  
23 recent studies that show a change in how we might be changing  
24 our interview process?

25 A Really in the last five to seven years, there's been

1 a real break through in the research about children's memory  
2 about children's suggestibility and how these forensic  
3 interviews with children should be conducted.

4 The reason that the -- that has been such an important  
5 time in the research is that studies have begun to be conducted  
6 with children, not only about their memory for events they  
7 might have witnessed but for events that they might have  
8 physically experienced, such as a doctor's visit and something  
9 that would have involved touching.

10 And based on that research, a relatively new and broad  
11 body of literature has been developed, and based on that,  
12 several national, nationally-recognized groups like the  
13 American Academy of Child and Adolescent Psychiatry, the  
14 American Academy of Pediatrics, have revised their recommended  
15 protocols for how forensic interviewing with children should be  
16 done.

17 Q And have you taken all those studies into  
18 consideration in your training of others to do forensic  
19 interviews?

20 A Since I became aware of them, yes.

21 Q And can you describe to us any specific recent  
22 articles that you have read and reviewed?

23 A Certainly. I will do better to look, but the  
24 Reliability and Credibility of Young Children's Reports from  
25 Research Policy and Practice by Maggie Bruck, Stephen Ceci,

1 Helen Hembrock was published in February of 1998 in the  
2 American Psychologist. That article summarizes and reviews the  
3 literature that's available on -- or that was available at that  
4 time on children's memory and suggestibility and forensic  
5 interviewing techniques.

6 I've also reviewed the -- another article by -- that -- by  
7 Stephen Ceci and Maggie Bruck called the Suggestibility of a  
8 Child Witness, a Historical Review and Synthesis.

9 I have reviewed the American Academy of Child and  
10 Adolescent Psychiatry's Practice Parameters for the Forensic  
11 Evaluation of Children and Adolescents who may have been  
12 physically or sexually abused.

13 I've reviewed the American Academy of Pediatrics  
14 Guidelines for the Evaluation of Sexual Abuse of Children,  
15 their policy statement.

16 I've reviewed the Abuse of the Child Sexual Abuse  
17 Accommodation Syndrome by Roland Summit.

18 I reviewed the Psychological Science and Use of  
19 Anatomically Detailed Dolls in Child Sexual Abuse Assessments  
20 by Koocher, Goodman, White, et. al.

21 Suggestibility of Child Witnesses, Reliability and  
22 Credibility of Young Children's Reports by Ceci, Bruck and  
23 Helen Hembrock.

24 And Forensically Informed Psychotherapy Balancing Clinical  
25 and Legal Perspectives.

1           There's a book that is called Investigative Interviews of  
2 Children by Poole and Lamb that was published in 1998. It's  
3 quite extensive. It's probably what I would consider to be one  
4 of the better guides that's available that reviews the subject  
5 area.

6           Jeopardy in the Courtroom is a similar book by Ceci and  
7 Bruck.

8           Q     Okay. And are you involved in any related community  
9 activities or boards in this area?

10          A     I am in the area of forensic interviewing of  
11 children.

12          Q     And anything related to your field of study and your  
13 practice of psychotherapy?

14          A     Okay. I'm a clinical member of the Georgia  
15 Association of Marriage and Family Therapists. I am -- I'm on  
16 the oversight committee for Macon Bibb County's Drug Court. I  
17 am involved in -- have been involved in the American  
18 Association of Professionals on Child Abuse. I have been on  
19 the boards of the women's shelters in both Bibb County and in  
20 Houston County in the past. I'm not currently on those boards.  
21 I have published regularly in the Georgia Family Magazine  
22 articles for parenting about parenting over the years.

23               MS. YEAGER: And, your Honor, I'd tender Miss Morton  
24 as an expert in the area of forensic interviewing  
25 techniques and in child and family therapy.

1 MS. KORNAHRENS: I'd like to voir dire the witness  
2 for a minute.

3 THE COURT: Sure.

4 VOIR DIRE EXAMINATION

5 BY MS. KORNAHRENS:

6 Q Miss Morton, are you familiar with the American  
7 Professional Society on the Abuse of Children?

8 A Yes, I'm familiar with them.

9 Q Are you a member of that?

10 A Not currently.

11 Q Okay. And you mentioned that you had done some  
12 forensic interviewing?

13 A Yes, I do.

14 Q Was that at the Methodist Home for Children?

15 A I did do some forensic interviewing there, but I  
16 continue to do some forensic interviewing in the course of my  
17 practice now.

18 Q Who brings children to you to do forensic  
19 interviewing?

20 A I have children referred from Department of Juvenile  
21 Justice. I have had parents bring children for forensic  
22 interviewing. I've had attorneys refer children for forensic  
23 interviewing. I have been frequently asked -- when I speak  
24 about forensic interviewing, I'm talking about any interview  
25 that might have legal consequences, and so I also have those

1 referrals from the courts in several counties; Bibb, Jones.

2 Q Now, are you referred -- are any of these referrals  
3 from law enforcement agencies in those counties?

4 A No. In Bibb County those interviews are conducted at  
5 the Crescent House.

6 Q And that's according to their protocol?

7 A Yes, it would be.

8 Q Okay. Are you familiar with the American College of  
9 Forensic Examiners?

10 A I am familiar with them, yes.

11 Q Are you a member of them?

12 A No, I am not.

13 Q Are you a member of the Children's Advocacy Centers  
14 of Georgia?

15 A No, I'm not.

16 Q Have you been trained in the Corner House Method?

17 A I have reviewed their manual. I have not been to  
18 their training. I do -- informally have worked collaboratively  
19 with the Crescent House in Macon. I have had occasions where  
20 Dee Simms, who was the director there, has brought a child to  
21 me to ask me to interview them after they have attempted, and  
22 they have shared the manual with me.

23 Q But you haven't had any training on it?

24 A I haven't had any specific training in that method.

25 Q You said that you had had some training, and I can't

1 remember the name of the training. It was in Knoxville.

2 A The Knoxville Institute of Sexual Abuse Treatment  
3 Training.

4 Q What are they training you to do there?

5 A That was a ten-day -- excuse me -- that was a  
6 one-week course. I think it was actually eight days, eight  
7 hours a day, small groups of ten people training us to do  
8 forensic interviewing.

9 Q Okay. And have you been trained to critique forensic  
10 interviewing?

11 A Yes.

12 Q How have you been trained to do that?

13 A That was also part of that course of study, but also  
14 it had extensive experience in supervision in that area at the  
15 Rainbow House.

16 Q How many interviews did you observe at the Rainbow  
17 House?

18 A More than 300.

19 Q But you didn't actually conduct any of those?

20 A I think I actually conducted one; but, no, typically  
21 I did not conduct those interviews.

22 Q Okay. You observed more than 300?

23 A Yes.

24 Q Okay. Have you observed some in the past year there  
25 at Rainbow House?

1 A No. No, I have not.

2 Q Okay. And at the Department of Juvenile Justice,  
3 were you dealing with offenders?

4 A Most of the children who were referred to me by  
5 Juvenile Justice are both victims and offenders.

6 Q But generally if they're involved with Juvenile  
7 Justice, it's because they're the offender?

8 A That's correct. But part of the assessment has to do  
9 with their own history of victimization or potential history.

10 Q But they're not coming to you as victims; they are  
11 coming to you through the Department of Juvenile Justice as a  
12 defendant?

13 A They're reason for being involved with the Department  
14 of Juvenile Justice would be because they are a defendant.

15 Q And in private practice -- I know you've already said  
16 you get some referrals from various sources -- what percent of  
17 your private practice is doing interviews?

18 A I would estimate it probably is about a third of my  
19 practice currently.

20 MS. KORNAHRENS: That's all the questions I have at  
21 this time, your Honor.

22 THE COURT: Anything further?

23 MS. YEAGER: No, your Honor.

24 THE COURT: She may testify as an expert in those  
25 areas.



1 CONTINUED DIRECT EXAMINATION

2 BY MS. YEAGER:

3 Q Miss Morton, can you start us off with telling us  
4 specifically what a forensic interview is?

5 A A forensic interview in the most basic sense is any  
6 interview that might have a legal consequence. It might be in  
7 a custody matter, it might be in a criminal matter, but it is  
8 any interview that might have a legal consequence where the  
9 person who's doing the interviewing and the evaluation is --  
10 should take the role of being an unbiased seeker of truth, an  
11 unbiased finder of fact.

12 Q Why is that essential to a forensic interview?

13 A It's essential because the -- it's important for the  
14 person who's doing the interview to go into that interview not  
15 with an idea of what has happened in their mind already but  
16 with a concept in their mind of what -- of looking at the  
17 various hypothesis that could be potential -- a potential  
18 explanation for the child's statements.

19 Q And so -- and so when you do a forensic interview,  
20 what is your purpose in conducting it, what are you looking  
21 for?

22 A The truth. When you're -- you're looking to find out  
23 not only when you do a forensic interview with the child not  
24 only what the child is saying but why the child might be saying  
25 it and to make sure you're understanding what the child is

1 telling you. As opposed to a clinical interview, where I might  
2 just be trying to be supportive of a child, in the -- in doing  
3 a forensic interview you simply are looking for the truth.

4 Q So the clinical interview would be more geared toward  
5 the therapy and the recovery and that such, but it's a totally  
6 different thing, is it my understanding, than the forensic  
7 interview?

8 A Yes. In fact, it's not appropriate for the same  
9 person to do both. In other words, if it's necessary to do a  
10 forensic interview with a child, it's important that that be  
11 done by someone other than someone who might end up doing  
12 therapy with that child, because the roles are so different.

13 A therapist seeks to be supportive, might engage, for  
14 example, in play therapy, engaging the child in fantasy and  
15 speculation would be a part of the therapy. That would be  
16 certainly inappropriate in a forensic setting. One way to  
17 describe it is that as a forensic evaluator, you're simply on  
18 the side of the truth. As a therapist, you're on the side of  
19 the child, you know, so there's a difference in those two  
20 roles.

21 Q And do any standards exist for how forensic  
22 interviews with children should be conducted?

23 A Yes. There are many standards for how forensic  
24 interviewing with children should be conducted. Each county in  
25 Georgia is required by law to have a protocol for how those

1 investigations should be conducted.

2           There are national standards for how those investigations  
3 should be conducted, including standards promulgated on the  
4 research that I had mentioned before by the American Academy of  
5 Child and Adolescent Psychiatry, also by the American Academy  
6 of Pediatrics, by the American Association of Professionals  
7 Against Child Abuse -- Against the Abuse of Children I think is  
8 the actually the right way to say that, and so those are some  
9 of the protocols that are available.

10           Q     And would you expect anyone in a particular county  
11 that conducts these interviews to be extremely familiar with  
12 the protocol of that particular county and agency?

13           A     Of course, certainly.

14           Q     And would you also expect those protocols to be  
15 changed and developed as new research comes out and new  
16 articles are published on the standards and some of the things  
17 that you've told us about earlier?

18           A     Yes. I think it's very important to do that. One of  
19 the reasons for that is because when we first begin conducting  
20 these kinds of interviews with children, the flood gates kind  
21 of opened in the mid-80's and a lot of the people who were  
22 doing the interviews, we just sort of had to develop -- do what  
23 we thought was right at the time, what seemed intuitively to us  
24 to be the right thing to do, and what we've learned with the  
25 research is that some of the things we thought intuitively were

1 right were not right, and so it is important to incorporate  
2 those changes.

3 Q And what type of training is required for a forensic  
4 evaluator of children? What would you expect?

5 A Regardless of the person's discipline, whether it be  
6 Department of Family Children's Services, mental health or law  
7 enforcement, it's very important that the person have  
8 university level training in child development because it's  
9 important that an interview with the child be conducted in a  
10 way that's appropriate for that child's developmental level.  
11 Without that sort of training that's hard to do.

12 Another thing that I would expect is that the person who  
13 conducts these interviews would have not only had an  
14 opportunity to conduct the interviews, but would have had an  
15 opportunity to be supervised by others and have their work  
16 critiqued, and so that they can improve and get feedback. And  
17 most of the time it's recommended that at least two years of  
18 that type of practice occur before someone goes out and does  
19 these interviews just sort of on their own without supervision,  
20 and even at that point I think it's better to have someone who  
21 can critique and look over your shoulder.

22 Q And in your opinion why is it important for written  
23 protocols to exist as to how these interviews should be  
24 conducted?

25 A Because children are not just little adults.

1 Children are different than adults. They have special needs  
2 that have to be taken into account, and one of the reasons it's  
3 important for these protocols to be in place is, for example,  
4 to avoid unnecessary repetitive interviewing of children that  
5 can be traumatic for the child. These interviews are not any  
6 fun for children to go through. And they often have to come  
7 and talk about things that are difficult for them to talk  
8 about, so limiting the number of interviews is very important  
9 and a protocol can help with that kind of thing.

10 It can also help in making sure that investigators stay on  
11 track in a case and keep -- and keep their focus on their job,  
12 which is to find out what the truth is.

13 Q Is there any issues that have come up in recent years  
14 based on your research and your training and the articles that  
15 you've read that have to do with suggestibility of children?

16 A Yes. There have been -- there have been, and what --  
17 based on that research, there are several things that we've  
18 learned that should not be done in the course of forensic  
19 interviewing with children because of the potential influence.

20 Q And can you tell us some of those things that should  
21 not be done?

22 A One of the things that you have to be very careful  
23 about when interviewing children is the potential influence of  
24 adults of high status.

25 Now, for children, for children any adult could be a

1 person of high status, meaning someone that they might look up  
2 to, but particularly someone who is a police officer, is a  
3 teacher, is a parent, who has some status in the eyes of the  
4 child, someone the child might look to. Children look to  
5 adults of that type to help them to find what truth is. They  
6 look to adults of that type to help them understand things  
7 that happen in their world that they don't understand and to  
8 provide them with the context for experiences that are outside  
9 their experience themselves, so those adults have a significant  
10 impact with children.

11 Q And is there anything else besides these high status  
12 adults that might influence the suggestibility of children?

13 A One of the things that influences the suggestibility  
14 of children is the use of peer pressure. You would never in  
15 the course of a forensic interview want to say to a child, for  
16 instance, well, you know, your friends have been here and they  
17 have told me, or you wouldn't want to say to a child the -- you  
18 know, you need to tell me about this, because if you -- if you  
19 don't tell me, someone else might get hurt. You don't want to  
20 place the child in a position where they feel like they must  
21 disclose a certain thing that you're expecting them to disclose  
22 because their friends have said it, so you would never want to  
23 do that because peers are very important to children.

24 You would want to avoid using selective positive  
25 reinforcement in the course of the interviews with children.

1 In other words, you wouldn't -- not just with your words but  
2 with your body language and the structure of your questions,  
3 you wouldn't want to reinforce certain responses and discount  
4 others.

5 If a child says no, that something didn't happen, that  
6 should get the same response as if they say, yes, it did. You  
7 should not, you know, smile or say that's a great job or just  
8 continue and accept the answer when a child says yes, but when  
9 a child says, no, say, now, are you sure you're telling me the  
10 truth. You should not use selective positive reinforcement.  
11 You certainly should not use leading questions, should not  
12 ask --

13 Q Can you stop a minute and give us an example of a  
14 leading question?

15 A Sure. A leading question is -- I'll give you an  
16 example, but a leading question is any question that contains  
17 part of the information that the evaluator is looking for.  
18 It's any question that contains part of the answer. It also  
19 could be a yes or no question. It could be a multiple choice  
20 question, did it happen one time or two times; instead of  
21 asking an open-ended question like can you tell me more about  
22 that.

23 A leading question might be a question of where an  
24 evaluator would ask a child: So can you tell me whether he  
25 touched you with his hand. That provided the information or

1 the concept of him touching with the hand, unless a child has  
2 already said that. That would be a leading question.

3 Q Okay. And is there anything else in this interview  
4 process that can affect the outcome and the credibility of the  
5 interview itself?

6 A Repetitive interviews over time. In other words,  
7 several different interviews with several different people. I  
8 should say that an interview is any conversation about the  
9 event between two people potentially.

10 Q So does that include any conversations that a parent  
11 or a teacher or a pastor, anyone has about --

12 A Or therapist.

13 Q -- about the certain event?

14 A Yes. So repetitive interviews over time are  
15 problematic.

16 When people keep asking children the same questions over  
17 and over again over time, sometimes children get the idea  
18 they're not providing the right answers and that they're not  
19 pleasing the adults. It's very important to most children,  
20 especially in the age range that you mentioned, to please  
21 adults. They want to stay out of trouble with adults. They  
22 will often try to figure out what it is they think adults want  
23 to hear in order to stay out of trouble with adults. So that's  
24 important.

25 Q Based on your training and your expertise in this



1 area -- I mean, you know, obviously parents are going to be  
2 concerned for their children. I mean, what would you tell a  
3 parent if they thought that this situation had come up? What  
4 should they do?

5 A I've had that happen. Parents called me and say,  
6 what should I -- what should I do, my child has said this to  
7 me. And I tell them to listen to their child, to be supportive  
8 of their child, but to not question their child, to take  
9 whatever steps they need to take immediately to make sure their  
10 child is safe. In other words, if that means keeping them away  
11 from someone that the child has named is hurting them, do that.  
12 If they need medical attention, take them to the doctor, or if  
13 you have a concern that they might do that, but before you  
14 start questioning the child, take them to a professional who is  
15 trained to interview children.

16 Q So would you tell the parent just to talk about the  
17 situation like you would any other major concern in your  
18 child's life?

19 A No. Because in this situation so many times the only  
20 real evidence you have is the child's statements, and often  
21 there's no physical evidence, often there are no witnesses, and  
22 so it is very, very important to preserve that child's  
23 statement. And in order to do that, it's my opinion that it's  
24 important for a trained forensic evaluator to do that work.

25 So you can listen to a child, you can be supportive of a

1 child, you can protect a child, but you don't have to question  
2 the child.

3 Q So would it be your opinion that you should not --  
4 the parent should not seek out the child and ask them specific  
5 questions about an event or a person or something like that?

6 A That's correct.

7 Q Now, if in fact the forensic interviewer knew some of  
8 those events that had taken place, how important would it be  
9 for that forensic interviewer to find out how many  
10 conversations there were, what kind of questions they had asked  
11 the child, you know, and how many times they had asked the  
12 child? How important would that be to the credibility of that  
13 forensic interview?

14 A Well, it's very important because if you begin with  
15 the premise that an interviewer, a forensic interviewer goes  
16 into this saying, okay, I've been told the child has said this,  
17 my job is not to try to support the hypothesis of what the  
18 child has said is true; my job is to develop several different  
19 hypotheses, several different theories for why the child might  
20 be saying this and explore each of those.

21 And one of those theories could be that the child's  
22 statements were in some way influenced by someone, so as a  
23 forensic evaluator you would want to ask the child about who  
24 they have talked to and what has been said to them and what  
25 they have heard. It's very important.

1           Q     What affect would the child maybe seeing the  
2 potential accused party on TV or their picture in the paper or  
3 anything like that, where they have access to the information,  
4 how would that affect or would it affect the forensic  
5 interview?

6           A     It certainly could affect the forensic interview  
7 because what can happen is that in the mind of the child, the  
8 person can get labeled as a bad person, either by the media or  
9 by parents or by other adults, and children, again, do want to  
10 tend to stay out of trouble with adults. They don't want to be  
11 affiliated with or aligned with someone they think is a bad  
12 person, so that can affect the outcome of the interview.

13          Q     If the child comes into the interview and they  
14 said -- they told the forensic interviewer, the person that was  
15 interviewing them, you know, they knew why they were here and  
16 somebody had done bad things, what kind of questions would you  
17 expect that forensic interviewer to follow up with?

18          A     Tell me what you've been told. It's a very simple  
19 question, but -- and allow the child to tell you. You would  
20 not want to shut down that line of questioning.

21          Q     And if they told you that they had received this  
22 information from their parents or the news or their school or  
23 whatever, how would it affect, then, your completion of that  
24 interview?

25          A     I would want to say to the child -- you know, I would

1 want to first know what they had been told. Then I would want  
2 to talk with them about that this interview is about telling  
3 truth and that telling truth is not about what parents have  
4 said, it's not about what media has said, pastors, anyone else  
5 has said, it's about what actually happened to you or didn't  
6 happen to you.

7 Q Now, based on your experience and your training, what  
8 are some of the protocols that should be set in place for how  
9 these interviews are conducted?

10 A One of the most important things is that the  
11 interview be child centered. It needs to happen in a timely  
12 fashion after an allegation has been made. It does not need to  
13 wait days. It doesn't really even need to wait days, but it  
14 certainly doesn't need to wait weeks or months after an  
15 allegation has been made because time is very important.

16 It is important not to ask leading and/or suggestive  
17 questions. It's important to try to do just one interview.  
18 There can be instances where it could be appropriate to go back  
19 and check something, but most of the time you want to just do  
20 one interview.

21 You want to make sure that the interview setting is  
22 neutral, that there's no guns or badges around, that it's a  
23 place that's child friendly, but not a playroom or a place  
24 where a child might perceive that there could be secondary gain  
25 from them pleasing the investigator or pleasing the interviewer

1 by saying certain things. So a neutral setting, friendly  
2 setting, comfortable setting, and also it's very important that  
3 the interview be documented. Adults are notoriously bad at  
4 remembering what they have said and that, therefore, it's very  
5 important that forensic interviews be videotaped.

6 Q And when you talked about -- you've told us some  
7 things that in a forensic interview that you really should  
8 avoid doing because it may affect the credibility of the  
9 interview, such as, you know, the high status adult, the use of  
10 peer pressure, selective positive reinforcement. Would those  
11 same principles apply to the parents questioning the child or  
12 is it just to the forensic interviewer?

13 A It applies to anyone who's questioning the child, and  
14 what's important to recognize is that any one of those  
15 techniques can taint the outcome of the interview, but when  
16 they are used collectively, when there are more than one of  
17 those times of techniques is used, it's more likely that the  
18 outcome of the interview will be tainted.

19 Q And what would be the potential impact of using  
20 improper interview techniques?

21 A The research has shown that the potential impact is  
22 that a child can actually over time develop a state of false  
23 belief, which is essentially that they incorporate into their  
24 understanding of what their experience was what they have been  
25 told by other people. And that gets into the fabric of the

1 original memory and changes the child's memory of the event so  
2 that when they recount it, they do so in a way that is pretty  
3 much devoid of any normal hallmarks of lying because they  
4 believe it's true. It's a truth for them. It may not be the  
5 truth, but it has become a truth.

6 Q Now, have you reviewed any video tapes with regard to  
7 this case?

8 A I have reviewed video tapes of 64 children who were  
9 interviewed in this case.

10 Q And what other information have you looked at with  
11 regard to this case, such as newspaper articles, letters, or  
12 things like that?

13 A I have reviewed the indictments. I have reviewed the  
14 Safe Path sheets that were filled out as the children were  
15 interviewed. I have reviewed newspaper articles about the --  
16 I've reviewed a newspaper article that was written about the  
17 police unit for child victims in Cobb County that was done  
18 during this investigation. I've reviewed a newspaper article  
19 that was done about the Safe Path back in 1996. I've reviewed  
20 transcripts of some of the interviews as well. I have reviewed  
21 handwritten notes from -- and typed notes that purported to  
22 have been completed by parents of children who were included in  
23 the investigation; [REDACTED]' mother's notes, [REDACTED]  
24 [REDACTED]'s mother's notes, for instance.

25 Q Have you reviewed any letters that came from Eastside

1 Christian School to any students or any parents?

2 A Yes. I have reviewed a letter, a note that went home  
3 from Miss Jeanne Borders to parents. I reviewed a letter dated  
4 12/6 that went to students. I reviewed a letter that went to  
5 Mr. Gunther Fiek from the pastor of the church that's dated  
6 June 14th. I have reviewed a January 4th letter, 2001, to the  
7 parents and students of tae kwon do, parents and students; a  
8 July 6th letter, Dearly Beloved from Reverend Harris, regarding  
9 this case. I've reviewed class lists and schedules, tae kwon  
10 do classroom rules. Many documents.

11 Q Now, let's focus a little bit on what was taking  
12 place at the time that the interviews were taking place, which  
13 based on your viewing the interviews, to put a time frame for  
14 my questioning, was between December 4th and up until I guess  
15 about the 2nd of January of 2001.

16 Can you talk a little bit, starting with the letters that  
17 the children received, you know, what would be the potential  
18 impact had that child received a letter or the letter from the  
19 parents of the forensic interview had they gotten all that  
20 information prior to the -- prior to their interview? Would it  
21 have any impact?

22 A It certainly could have impact on the outcome of  
23 those interviews. First of all, the letter that went home to  
24 the parents, the thing that I found most disturbing about that  
25 was that the letter indicates that parents should talk with

1 their children and if they discover that their child has been  
2 victimized or hurt in some way, that the first thing they  
3 should do is call the church, the second thing they should do  
4 is call the police. I think that as a parent, if I found out  
5 that my child had been hurt, the first thing I would do is call  
6 the police.

7 Q And as a forensic interviewer, is that what you'd  
8 want to happen if there was any potential for abuse in a case  
9 like this?

10 A Absolutely. I think it would be improper for the  
11 church to co-opt themselves into that process. I think that it  
12 would be proper for them to encourage parents to call law  
13 enforcement if they believe something's happened. I don't  
14 think there needed to be a middle man there. I think it was --  
15 I think that that was an odd thing to ask parents to do. And  
16 the letter to the children, I thought was incredible.

17 Q And how so?

18 A Um, the letter that went home to the children really  
19 vilified Mr. Fiek. It did not say what he did. But they asked  
20 that they pray for him. They said that he was breaking rules.  
21 The letter says that he did not handle them with care, and that  
22 gave them a great deal of information. It said that this is  
23 not a good person and I think it was inappropriate for that  
24 letter to go home to children.

25 Q Would it have any greater influence and impact if you



1 knew that the letter was read over the loud speaker to all the  
2 kids in the class?

3 A Yes. I think that that again reinforces the school's  
4 position or an important authority figure's position to the  
5 children that this is a bad guy.

6 Q And based on your position and expertise in the issue  
7 of therapy and psychology, do you think that this would --  
8 potentially could induce more conversations about what had  
9 taken place between some students and not some students or --

10 A Even if those conversations did not occur at school,  
11 I think that it is extremely likely that it would encourage  
12 conversations between peers about these issues, yes, and  
13 between parents based on that letter too.

14 Q And what impact, if any, would have repeated meetings  
15 at the church with potentially 10s, 20s to 100 parents during  
16 the same time that this interview process was taking place  
17 whereby you had the pastor talking to the parents or a  
18 therapist talking to the parents or a detective or district  
19 attorney?

20 A I think that it is that all of those things would  
21 have potential of having tremendous impact because you just  
22 listed some of the most important authority figures in any  
23 child's life, in any adult's life for that matter; their  
24 school, their pastor, their parent, the law enforcement  
25 authorities, very powerful individuals, all of whom are saying

1 this happened.

2 Q Now, let's go a little bit, I think, into the  
3 individual videotaped interviews, and you've had the  
4 opportunity to review those?

5 A Yes.

6 Q As a matter of fact, how many hours do you think  
7 you've dedicated to reviewing the video tapes and looking at  
8 the information and these tapes before coming to court today?

9 A I have documented over 80 hours of reviewing this  
10 material. The video tapes themselves, just watching them one  
11 time was 12 1/2. So, you know, watching and taking notes and  
12 evaluating, more than 80 hours.

13 Q Now, basically you've gotten information from the --  
14 I think you told us one of the pieces of documents you've  
15 reviewed is something prepared by Safe Path, and Safe Path  
16 being the Child Advocacy Center here in Cobb County. Is there  
17 any problem connected with Safe Path being involved in the  
18 collection of the information for use by the police detectives?

19 A I think that if they intend to be a neutral agency,  
20 that moves them out of that role. I think it moves them into a  
21 law enforcement role, yes.

22 Q Have you organized at all these -- the interviews of  
23 the children on the video tapes as far as how you viewed them,  
24 in alphabetical order, chronological order, or how did you do  
25 that?

1           A     Mine are -- my organization is roughly in  
2 alphabetical order, with a couple exceptions, but roughly  
3 alphabetical.

4           Q     And the first one in the alphabetical order, since I  
5 didn't put mine in alphabetical order, who would that be?

6           A     Well, it would be [REDACTED].

7           Q     And you've had the opportunity to review [REDACTED]'s  
8 interview?

9           A     Yes, I did.

10          Q     And based on the information that you've told us  
11 about suggestibility and some of the things, type of  
12 questioning that should not occur with regard to forensic  
13 interviewing, what was your evaluation of this particular  
14 interview?

15          A     I thought that there were a number of problems with  
16 [REDACTED]'s interview. For example, [REDACTED] is one of the  
17 children who makes it obvious at the beginning of the interview  
18 that he's had discussions with his parents about this. He says  
19 in response to being told that he's not in trouble or he didn't  
20 do anything wrong, that his dad already told him that, which  
21 indicates to me that he's had discussions with his dad about  
22 what has happened, which is not atypical, but the interviewer  
23 should have said tell me about that conversation.

24          Q     And did that occur based on your reviewing of the  
25 interview?

1           A     No.  And, overall, in this interview and in others,  
2 when a child would start to go down that road, typically the  
3 investigators would cut that path off.  They didn't -- they  
4 would even cut an interview, what I thought was short, without  
5 getting enough detail if the child was talking about those kind  
6 of issues.

7           Q     And did you see anything else about that particular  
8 interview?

9           A     One of the things that's obvious in that interview is  
10 the issue of stereotyping or that this child had come to  
11 believe that the tae kwon do instructor, Mr. Fiek, was a bad  
12 guy because he says, quote, my tae kwon do teacher was touching  
13 people's privates, and that -- that goes beyond saying he  
14 touched me; it's -- this is what this person does, you know,  
15 and he knows that because his mom told him, he saw it in the  
16 newspaper last night, and the detective doesn't ask for details  
17 about that or try to explore it.

18          Q     And based on your training in forensic interviewing,  
19 should that have been done?

20          A     Yes.

21          Q     And is there anything else?

22          A     This child makes statements in the course of the  
23 interview that are somewhat -- that I think should have been  
24 explored because they were somewhat unusual.  For example, that  
25 this occurred, what he alleged occurred happened when other

1 people were present but that no one was looking. I would have  
2 wanted to know who else was present. I think it's odd that you  
3 know people were there but no one was looking, and that's a  
4 theme that's repeated in several of the interviews.

5 He also states that he believes that this has happened to  
6 everyone in his class but he denies that any of his friends  
7 have told them that. Then he says, I think fifteen or  
8 something, I can't keep up. And where he was getting that  
9 information was important. Where was he getting that  
10 information; from friends, from family, from who, and the  
11 detective should have followed up on that.

12 Q Would it be the proper technique of a forensic  
13 interviewer if they get information like this, that there were  
14 probably other people present, to go back and do a further  
15 investigation and seek out those people and maybe do additional  
16 questions or additional interviews?

17 A Yes.

18 Q And based on your evaluation of the interview, can  
19 you pick out any of the things you mentioned to us that cause  
20 suggestibility in the child?

21 A The stereotyping of the offender, the repetitive  
22 interviews because he's been interviewed by other people, by  
23 parents, the failure -- the investigative bias, which I think  
24 is prevalent in this -- in these interviews that causes  
25 investigators, it appears, to seek out and pursue only that

1 information that is consistent with their hypothesis of the  
2 case, which is that this person did this. And they cut off  
3 avenues that might take them in any other direction.

4 Q And if I go in alphabetical order, I'm going to  
5 assume the next person that you interviewed would have been  
6 Hunter Bentson or reviewed their video tape, [REDACTED]?

7 A That's correct.

8 Q Was there anything in that particular interview that  
9 according to your expertise and training would not have used  
10 the proper interview techniques or followed what a proper  
11 forensic interview should take place?

12 MS. KORNAHRENS: Your Honor, before we go any  
13 further, it's obvious that Miss Morton's reading off some  
14 report. The defense counsel indicated to me that she  
15 didn't have the report. I'm just checking if she does,  
16 we're entitled to receive that.

17 THE WITNESS: I have notes.

18 MS. YEAGER: I have never seen a report nor -- I can  
19 speak for Mr. Berry, has Mr. Berry seen a report from Miss  
20 Morton.

21 THE COURT: Whatever she's reviewing, the State would  
22 be entitled.

23 MS. KORNAHRENS: We have not seen that. I see two  
24 large notebooks, your Honor.

25 THE COURT: Witness says notes, whatever notes she's

1 using to refresh her memory, I think you would be entitled  
2 to see.

3 MS. YEAGER: I believe that would be proper on  
4 cross-examination, she asked, just like if I wanted to see  
5 what she was reviewing.

6 THE COURT: She's still entitled to see them.

7 MS. KORNAHRENS: Your Honor, I'm probably going to  
8 need some time to review what she's looking at if it's all  
9 these notebooks. I'm not sure. I can't see over the  
10 little bench. I don't know what she's looking at.

11 THE COURT: You'll have an opportunity.

12 THE WITNESS: Okay.

13 MS. YEAGER: Are we going to do that now?

14 MS. KORNAHRENS: Judge, I think I have -- I should be  
15 able to look at it while she's talking, I mean at least by  
16 the time she's coming up and talking about it. It's a  
17 little too late after she just discussed it.

18 THE COURT: Ladies and gentlemen, please go to the  
19 jury room for an afternoon recess. Please do not discuss  
20 the case.

21 (Whereupon, the jury exited the courtroom.)

22 MR. BERRY: Your Honor, may I inquire as to what  
23 the -- what the Court wants us to do with that? This is  
24 not -- this is kind of like when a police officer gets on  
25 the stand and he reviews his notes, normally in

1 cross-examination we get an opportunity to do that, but we  
2 don't get an opportunity to look at it while he's  
3 testifying. That's just not something that's done. These  
4 are not notes that we have seen. I have not seen that  
5 book, so, consequently, I think the proper time to do it  
6 would be on cross-examination, not for her to look at it  
7 during the time she's trying to testify. That's always  
8 the way that it's been done in the past.

9 MS. KORNAHRENS: I think the difference is here we've  
10 provided in discovery the police report and any police  
11 notes that are taken. I don't think there's that they  
12 didn't get it. Here we haven't even seen it. She's  
13 clearly reading from notes or something, report, we don't  
14 know. We are entitled to see that. It's a different  
15 thing.

16 THE COURT: Yeah, I think so too.

17 MR. THOMPSON: Your Honor, one suggestion could be  
18 for the Court to conduct an in-camera inspection right now  
19 and decide whether it falls under the definition of  
20 written report or just refreshing notes as I believe  
21 Mr. Berry is trying to differentiate between.

22 THE COURT: What is it?

23 THE WITNESS: Well, it's a -- first section is just  
24 background stuff, my background, voir dire stuff.

25 This section is notes that I actually did for another



1 case about forensic interviewing techniques.

2 This section is a summary of the global issues that I  
3 think are problems in this case.

4 This section is summary of children's statements.  
5 There is research in here, copies of articles. There are  
6 copies of some transcripts of the children's interviews in  
7 here.

8 And this notebook are my rough notes that I took as I  
9 was reviewing the video tapes of all the children.

10 MS. KORNAHRENS: Judge -- I'm sorry.

11 THE WITNESS: I'm sorry. There is also a list of  
12 kids by chronologically how they were interviewed. That's  
13 about it.

14 MS. KORNAHRENS: For one, I heard her say summary of  
15 the global issues in this case. Certainly that sounds  
16 like a report to me, and we weren't provided that. I  
17 don't care if defense counsel is provided with it or not,  
18 if she's making summaries, that's discoverable, we're  
19 entitled to it. That's not a little note to the side.

20 THE COURT: Why not, Miss Yeager?

21 MS. YEAGER: Well, your Honor, I believe I did some  
22 research on this. I'm looking for the cases, but the case  
23 that I have -- I'll have to get you the name of the case.  
24 It's probably in my box somewhere.

25 It's an arson case, and the very issue came up when

1 an arson investigator was testifying from summaries and  
2 notes that he did, and the Court concluded that was not a  
3 scientific report and not discoverable. That summaries  
4 based on -- summaries of information based on reviewing  
5 information, even that provided by the State, because  
6 that's what we've talked about in this case, is not  
7 considered to be a scientific report, and under Title 17  
8 would not be discoverable. I should have that case site  
9 in my box somewhere.

10 THE COURT: But aren't reports by experts  
11 discoverable?

12 MS. YEAGER: Only if it's a scientific report. Just  
13 like arson notes for testifying would not be -- the court  
14 concluded was not discoverable under reciprocal discovery.

15 THE COURT: She described something a little more  
16 than just that.

17 MS. YEAGER: Basically what she's done, I believe, is  
18 she's reviewed a video tape provided by the State and  
19 basically is evaluating it. I don't think that equates  
20 with a scientific report.

21 THE COURT: Okay. Anything, Mr. Thompson?

22 MR. THOMPSON: Your Honor, we're not proceeding under  
23 the scientific report theory. We're proceeding under the  
24 part of the Discovery Statute that deals with written  
25 statements of a witness, and those statements of a witness

1 are defined under 17-16-2 as any summary of their opinion.

2 THE COURT: Okay. Do you have anything like that?

3 THE WITNESS: I have a -- I've labeled it that way.  
4 I've labeled this as Summary of Children's Statements.  
5 I've labeled this as a Summary. It's basically -- they're  
6 basically notes that I felt like I needed to have in order  
7 to keep everything straight in this case, there was so  
8 much information.

9 THE COURT: Are there any opinions in there?

10 THE WITNESS: Yes.

11 THE COURT: Well, there you go.

12 MS. KORNAHRENS: Clearly that's discoverable.

13 THE COURT: There you go. Okay.

14 You all might want to look at this and see what has  
15 to be turned over.

16 THE WITNESS: There's only one part that has an  
17 opinion in it. This part. This has opinion in it.  
18 Nothing else does.

19 THE COURT: The opinion part would have to be turned  
20 over, I would think.

21 MS. YEAGER: We haven't seen it.

22 THE COURT: Sure. We'll take a little break. Let  
23 you all look at that.

24 (Whereupon, Court recessed at 4:25 p.m., and  
25 reconvened at 4:34 p.m., as follows:)

1 MS. KORNAHRENS: Can we put a couple things on the  
2 record, Judge?

3 THE COURT: Sure.

4 MS. KORNAHRENS: Judge, just a couple things on the  
5 record. Of course, obviously this summary, typewritten  
6 summary that we've just been handed a copy of from the  
7 defense, I haven't had a chance to read it, obviously. I  
8 hate to ask for time because I was looking forward to  
9 doing closing argument in the morning. However --

10 THE COURT: If this will help you, it doesn't appear  
11 we're going to finish with this witness this afternoon.

12 MS. KORNAHRENS: No, it doesn't. So I would ask for  
13 some time to look at this.

14 Also, your Honor, to clear up one matter really, sort  
15 of really a motion in limine, and I don't think they're  
16 going to do it, but just in abundance of caution, we're  
17 only dealing now with 22 victims. We've dismissed one  
18 count. And, of course, we've said the case law is pretty  
19 clear about not talking about other children the defendant  
20 did not molest, so I don't believe it would be proper for  
21 this witness to go into any other video tapes other than  
22 the one specific that have been viewed in court.

23 THE COURT: Response to that?

24 MS. YEAGER: Well, your Honor, she's been qualified  
25 as an expert in forensic interviewing, and if looking at

1           64 examples of forensic interviewing gives her a better --  
2           makes her better able to give a judgment on the quality  
3           and the type of forensic interviewing done by this police  
4           department, then even though she might not go into the  
5           names and specific people in giving that opinion on the  
6           techniques used, the Corner House Theory, all the things  
7           that the State has previously gone into on direct  
8           examination, I think that she would be entitled to use  
9           those whole class of interviews as a class for those  
10          purposes, not maybe going into the specific names and  
11          specific children on the interviews, but as far as making  
12          evaluation of interview techniques and whether or not they  
13          were properly conducted in the proper setting with the  
14          proper type of questions would certainly be allowable.

15                 MS. KORNAHRENS: Your Honor, I respectfully disagree.  
16                 I don't think she can go into that at all. She can do all  
17                 of what defense counsel just argued with the videos that  
18                 we have viewed in court, the ones that are relevant to  
19                 this case. Those clearly are not admissible, and to try  
20                 to get this in through the back door is improper. She  
21                 can't talk about it.

22                 THE COURT: I don't think she can talk about any of  
23                 the details of any of the ones other than the 22 that are  
24                 in evidence or at issue, which would exclude count 23, I  
25                 think, the interview of Sean Carlton.,

1 MS. KORNAHRENS: Yes, your Honor.

2 MR. BERRY: I'm sorry, Judge. The ruling of the  
3 Court was that we could not go into --

4 THE COURT: The.

5 MR. BERRY: -- the fact that she looked at any other  
6 interviews?

7 THE COURT: She's already done that. She said she  
8 saw --

9 MR. BERRY: From the standpoint of what these  
10 interviews said; not the person's name, but what was done  
11 in those interviews to simulate then all of the  
12 interviews. I've looked at a number of others and these  
13 are some techniques that they used in those, not giving  
14 the names but --

15 THE COURT: So what's different from the other 42  
16 that aren't involved in the ones you're --

17 MS. YEAGER: Well, your Honor, I think the importance  
18 is, I mean, the whole crux of the defense is that, you  
19 know, the officers got other witnesses, they got other  
20 people who were with these people, who were with the  
21 children, and they failed to do any further investigation,  
22 failed to do any further questioning of people, and the  
23 fact that some other children were mentioned in these  
24 other interviews which are included in the indictment of  
25 the ones charged would be important to her giving an

1 expert opinion on the quality of the forensic interview,  
2 what they did to follow up and what they didn't do to  
3 follow up. If they have got other information and they  
4 failed to do anything whatsoever in their investigation in  
5 pursuing those leads and those inconsistencies, then  
6 certainly because the whole State's case revolves the very  
7 crux -- the only evidence in this case is the child  
8 interviews and what the detectives did in following  
9 through with their investigation and in seeking out the  
10 lead --

11 THE COURT: So aren't you being inconsistent there if  
12 you're saying they didn't do anything else, and here's  
13 there 42 other interviews.

14 MS. YEAGER: That's right. You know, it would be the  
15 defense's position that we would need to use those  
16 interviews.

17 THE COURT: For what purpose?

18 MS. YEAGER: Maybe not to name the people but to say  
19 that there were other people involved and inconsistent  
20 statements in those interviews which indicated that maybe  
21 some of these things didn't happen and the police just  
22 basically dropped the ball, they did nothing further with  
23 that information.

24 THE COURT: Well, you can't go into the details of  
25 those other interviews that aren't in the case.

1 MS. KORNAHRENS: Judge, are you going to allow us to  
2 have a break to look at the notes? How long a break I  
3 guess? That was my first thing.

4 THE COURT: At 5:30 this afternoon you can have until  
5 tomorrow morning to review that. We'll continue with the  
6 jury for another 40 minutes, 50 minutes.

7 Ready for the jury?

8 MS. YEAGER: Yes, your Honor.

9 THE COURT: Ready, Miss Kornahrens?

10 MS. KORNAHRENS: Yes, your Honor.

11 THE COURT: Bring them in.

12 MS. YEAGER: For purposes of the record, your Honor,  
13 we'd like to renew our objection to turning over Miss  
14 Morton's notes to the State.

15 THE COURT: Well, the way she described it, it was a  
16 summary.

17 MS. KORNAHRENS: It's typewritten on the top,  
18 "Summary."

19 THE COURT: She said it contained opinions, which --  
20 (Whereupon, the jury entered the courtroom.)

21 THE COURT: Miss Yeager, you may continue.

22 BY MS. YEAGER:

23 Q Miss Morton, I think when we last ended, we had begun  
24 our discussion of [REDACTED]?

25 A That's correct.



1 Q And you have reviewed the detective's interview of  
2 Hunter in this case?

3 A Yes, I have.

4 Q And based on your evaluation of the interview, did  
5 you find any of the improper techniques that you've earlier  
6 testified about while you reviewed his video tape?

7 A Yes, I did.

8 One, again, this child had prior knowledge that -- of what  
9 was going on. He says in the course of the interview; it's my  
10 teacher, Mr. Gunther, he touches privates. Again, it's not he  
11 touches my private; it's this is what he does, this is who he  
12 is. That would have to be information that he obtained in some  
13 way beyond his own experience.

14 Also in this interview the detective asked leading and  
15 suggestive questions. For example, at one point the detective  
16 asks him about Mr. Fiek, what did his hand do. The child's  
17 response is I don't know. The detective offers did he wiggle,  
18 squeeze, just touch it, which offers three different options,  
19 and the child responds just touch it. He picks one of the  
20 detective's options that he provided.

21 Also in this interview and in multiple others, I disagree  
22 with the way anatomically correct drawings were used.

23 Q Why is that?

24 A Well, I think that my opinion is and I think the bulk  
25 of the literature supports the concept that those drawings

1 should not be introduced in a forensic interview until after  
2 the child has made a disclosure. It could be appropriate once  
3 the child has made a disclosure to give them a drawing like  
4 that to clarify what they have said. But prior to that, those  
5 drawings are in and of themselves leading and suggestive. They  
6 are not something a child would normally see in their course --  
7 in the normal course of their daily life, a little line drawing  
8 of a child that's basically anatomically correct. It might  
9 look like a coloring book page, but it is very different for  
10 them, so they're seeing something that is beyond their  
11 experience. So it is leading, suggestive and in my opinion  
12 draws their attention to the genital area because that's the  
13 part you don't normally see in line drawings that children  
14 have.

15 This child also had been interviewed repeatedly. There's  
16 evidence in this tape that he had made a disclosure to his  
17 father, so there had been at least one interview there, if not  
18 others. And I believe that there's an inconsistency between  
19 what the child says on the tape and what it says on the Safe  
20 Path sheet.

21 MS. KORNAHRENS: Your Honor, I'm going to object to  
22 anything on the Safe Path sheet and this witness  
23 testifying from that. That's not proper.

24 THE COURT: Response?

25 MS. YEAGER: We won't go into that area.

1 THE COURT: Okay. Sustain the objection.

2 THE WITNESS: Okay. The investigator's bias that  
3 prevented the investigator from asking the questions,  
4 again, about how the child obtained the knowledge and who  
5 the child had talked to is a problem in this interview.

6 BY MS. YEAGER:

7 Q How is this a problem in this interview? I mean,  
8 what affect would it have on the quality of the interview as  
9 far as an unbiased truth-seeking fact-finder?

10 A It would prevent the detective from being able to  
11 determine whether what the child was telling them was fully  
12 based on their own experience or was based in part on what they  
13 had been told or heard from someone else.

14 Q And would this not give greater reasons why you  
15 should go further in your investigation than step one, go one  
16 step further and seek out other children that may have been in  
17 the room and interview them or other parents or potential other  
18 witnesses?

19 A Yes.

20 Q And was the next tape you reviewed [REDACTED]'s  
21 tape?

22 A Yes.

23 Q And what is the date of that interview?

24 A 12/13.

25 Q And what, if anything, based on your evaluation of

1 the tape, did you find?

2 A The child here also has previous knowledge. He knows  
3 why he's there. His mother has told him. And that may have  
4 been perfectly innocent or it may have been a situation where  
5 the mother provided him with information. The issue is the  
6 detective didn't try to find out, and so the investigator asks  
7 him in that tape if his mother told him what to say. And he  
8 responds no, she didn't, but he did not ask; tell me about your  
9 conversation with your mother, which would have given him  
10 information about what the mother had said to the child.

11 You can say a great deal to a child that is leading  
12 without telling them what to say.

13 There is also evidence in this tape of prior discussions  
14 with others. This child, as the tape goes on and he's asked  
15 questions, says to the investigator, don't you know, haven't  
16 you talked to other kids? He's aware of sort of what's going  
17 on in terms of the hysteria in the community about these  
18 events.

19 There's also problems in this tape in that the detective  
20 fails to explore the inconsistency of, again, he says this  
21 happened in the tae kwon do room while he's doing the bridging  
22 and the detective fails to, in my opinion, fully explore how  
23 this could have happened in a public area with all these  
24 children around without there being anyone seeing it, no one  
25 sees it.

1           Again, anatomically correct drawings are used incorrectly  
2 in the same way as I described in the other interview.

3           Q     And the next child I want to talk about is [REDACTED]  
4 [REDACTED]. Did you have the opportunity to review his video  
5 tape?

6           A     I did.

7           Q     And did you make -- did you learn anything from his,  
8 from reviewing his video tape concerning the problems that  
9 you've -- that you foresee in forensic interviewing techniques?

10          A     [REDACTED]'s interview was probably the best  
11 example of the influence of high status adults and the  
12 influence of the church in this case.

13          During the course of the interview [REDACTED] describes that  
14 the night before he's been at a meeting at the church and he  
15 was there until 10:30 and therefore he didn't have to go to  
16 school today. And he discusses to some extent what he gleaned  
17 from that meeting at the church, either from talking to his  
18 friends or from being at the meeting. I wasn't entirely clear  
19 which, but it happened while he was at the church.

20          And he says in the course of the interview that he has --  
21 he and his friends have devised a plan that they're going to go  
22 check out Mr. Gunther's office. They're going to see if they  
23 can find a train ticket or, you know, the children are talking  
24 together and basically in their own way taking on the role of  
25 an investigator, in sort of a sense of how this story -- these

1 kinds of stories can grow and can incorporate elements that are  
2 sort of fantastic.

3 This child also alleges during the course of the interview  
4 that he and his friends have determined that there's a  
5 difference in Mr. Gunther and he in that Mr. Gunther is not a  
6 Christian and they know this because they have seen him put his  
7 hands behind his back and in the mirror they can see he crosses  
8 his fingers when he prays before class, so they know that he's  
9 not a Christian, which the interviewer doesn't explore and  
10 doesn't ask any other child about during the course of the  
11 interviews.

12 There is obvious previous knowledge here, again  
13 inappropriate use of anatomically correct drawings. The touch  
14 that he describes, he says the way he touched it, he had to,  
15 because of how he tied the belt, which means that this was  
16 possibly incidental or accidental touch, but the investigator  
17 does not fully explore that to discover whether or not that  
18 could have been the case.

19 He acknowledges that he believes that some of the past  
20 touches were accidental, but, again, the investigator does not  
21 fully explore that.

22 The child says that it happened more on the outside than  
23 on the inside. Again, the detective does not ask for details,  
24 does not ask for dates or time frames. I think he should have.  
25 He named [REDACTED] and two other children who may have been

1 involved, but the investigator does not ask him many questions  
2 about that at all.

3 I think one of the things that's evident here is the  
4 stereotyping. He said, as I described about him thinking that  
5 Mr. Gunther's not a Christian, he's an outsider at this point  
6 as far as this child is concerned, Mr. Gunther. The child's  
7 name for him, Mr. Gunther, was an insider as far as the church  
8 was concerned, he was part of them, but now he's an outsider.  
9 He's not even considered to be a Christian anymore. He's  
10 separate from us.

11 Q And what, if anything, would the impact of failing to  
12 follow up with these other disclosures have on the quality of  
13 this interview?

14 A The problem is that it means that it makes it very  
15 difficult at this point to sort out what was happening here and  
16 what the possible influence was of all these factors with this  
17 child and with the children that he may have come in contact  
18 with.

19 It would have been much easier to figure that out at that  
20 juncture, and at this point it's kind of like trying to get  
21 sugar out of tea. It's very hard to figure out how -- you  
22 know, how to do that and how to separate out what was actually  
23 part of this child's experience and what was part of this sort  
24 of group idea of what was occurring.

25 Q Now, before we go on to the next child, I think

1 you've mentioned now a thought of a mass hysteria. Can you  
2 describe a little bit more what you're talking about when you  
3 say that?

4       A     An extreme form of peer pressure occurs when a group  
5 decides that, usually out of fear, that someone is a villain,  
6 someone or something. It can be a person or a race or a cause,  
7 but something is a villain and usually, again because of fear,  
8 the group is mobilized for action against that person and they  
9 might meet, they might talk, but one of the things they do  
10 typically is to develop sort of a dogma of what the truth is  
11 about this situation or this person, and those who are part of  
12 the group, that truth or that collection of truths is shared  
13 with them in informal conversations, informal ways that  
14 happened at the school, and that information sort of becomes  
15 part of the oral history of that community and the story is  
16 passed around and new information is added often each day as  
17 the crisis is developing or unfolding.

18       The people in the group often pull together to support  
19 each other. They often will meet and have phone conversations.  
20 It's not unusual at all, but one of the things that happens is  
21 the group begins to -- because this dogma, their belief about  
22 what's happened is so important, they tend to accept only  
23 information that supports their hypothesis of what's happened,  
24 they only accept information that supports their idea of what  
25 the truth is. They screen out or make excuses for any



1 information that might come up that indicate things were any  
2 other way.

3 So that -- that type of group also develops an idea of who  
4 the insiders -- who are the insiders in the group and who the  
5 outsiders are, and to be an insider you have to buy into the  
6 dogma, you have to buy into what the truth is.

7 Q Okay. And I think the next child I want to talk  
8 about in his interview was [REDACTED], did you have the  
9 opportunity to review his video tape?

10 A I did.

11 Q Did you make any observations about the interview  
12 techniques and what was done in his interview?

13 A There were issues in that interview again with  
14 stereotype induction, with influence of high status adults. He  
15 attended school at Eastside Christian School and so he would  
16 have been privy to that letter or the announcements  
17 potentially.

18 Probably the main concern that I have with that interview  
19 and most significant is that he names several other boys;

20 [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],

21 [REDACTED], and [REDACTED] who he said were aware of things that  
22 Mr. Gunther said about being gay and boys kissing boys, and I  
23 don't see evidence in the course of these tapes or the  
24 information that I have that indicates that the investigators  
25 followed up on that, and I think they should have. I think

1 they should have interviewed those children. I think they  
2 should have tried to corroborate those statements. I don't  
3 know why they didn't.

4 Also in this interview there's the introduction of  
5 anatomically correct drawings and it's introduced  
6 inappropriately. At the beginning or into this interview, the  
7 interviewer asks a very leading question, saying is there  
8 something that happened with Mr. Gunther that you were wanting  
9 to tell about? You know, he didn't ask the child open-ended  
10 questions, which is what would have been appropriate especially  
11 for a nine-year-old.

12 He did not ask as they did in many of the interviews  
13 questions about their school activities, their after-school  
14 activities, et cetera, to give them an opportunity to mention  
15 this. He just simply said is there something that happened  
16 with Mr. Gunther that you want to talk about. It's very  
17 leading, very suggestive.

18 The child does also in this instance have prior knowledge,  
19 and he knows he's there because Mr. Gunther has done bad things  
20 and the detective fails to explore how the child knows that.

21 He says that -- it appears that the child is, to me,  
22 unclear. He says I think he said if you let me look at your  
23 private, I'll give you two extra games of dodge ball, but he  
24 fails to ask the child if he's sure that's what he said or ask  
25 for clarification. He should have, you know, I think, asked

1 more questions about that.

2 This is the only child who made the specific allegation  
3 that what Mr. Gunther did was to look at his penis versus any  
4 other thing that had been alleged. That was different than the  
5 other children, and it's the only child that made the  
6 allegations about the discussion about what people do when  
7 they're gay.

8 Q Now, you mentioned that [REDACTED] was a nine-year-old. As  
9 children get older, are they less susceptible to these leading  
10 questions or suggestibility or what is the effect of age in  
11 this type of interview?

12 A There's a correlation between age and suggestibility.  
13 Younger children are more susceptible, generally more  
14 susceptible to suggestion than older children and adults,  
15 however every child is different. And some, you know, three or  
16 four-year-old children can be pretty resilient when it comes to  
17 suggestion. Some seven, eight, nine-year-old children can be  
18 very suggestible. Children vary. Even adults can be subject  
19 to suggestion.

20 So it's important to follow good interviewing techniques  
21 regardless of the child's age because you don't know whether  
22 this is a child who might be subject to suggestion or not.

23 Q And would that have any greater importance because of  
24 the fact that this particular child went to Eastside Christian  
25 School and was subject to hearing some of those other ,

1 announcements or letters or things like that?

2 A Yes, it would. And you'd want to make sure that you  
3 asked questions about the impact of that and what it was like  
4 to hear that on the intercom, how they feel about Mr. Fiek now.

5 Q I think the next child that we want to talk about is

6 [REDACTED]. Did you have the opportunity to review

7 [REDACTED]'s interview?

8 A I did.

9 Q And what was the date of his interview?

10 A It was the 2nd of January.

11 Q And did you make any observations watching this video  
12 or specifically about the interview techniques used or perhaps  
13 where improper techniques were used?

14 A This is also a child who is a student at Eastside  
15 Christian School, so he also could have been privy to the  
16 letter or the -- or the potential taint or bias that could have  
17 come from that, and so I think that that certainly should have  
18 been explored. I think it's always important to explore who  
19 else the child has talked to about this and any prior  
20 knowledge. He also says he knows he is there because  
21 Mr. Gunther did a bad thing, so we know that he had that prior  
22 knowledge.

23 The -- this child had taken tae kwon do for three years,  
24 but in the interview says that nothing ever happened at tae  
25 kwon do, which is different than the other allegations..