

1 Department of Family and Children Services, their law
2 enforcement, their mental health and they ran a training,
3 ongoing training institute.

4 Q Knoxville, Tennessee?

5 A Yes.

6 Q And that was a 40-hour course?

7 A Yes.

8 Q Who was the instructor who taught the forensic
9 interviewing at that school?

10 A I don't recall.

11 Q You mentioned that you do -- and I asked you about
12 this, but I want to make sure that I have it correctly -- that
13 you do some forensic interviewing now?

14 A I do.

15 Q Okay. And the way that you get the referrals are
16 through attorneys, one?

17 A Attorneys.

18 Q Okay. Would that be defense attorneys?

19 A Not necessarily. A lot of the situations that -- in
20 fact, most of the situations I'm involved in are domestic, and
21 most of my referrals come from judges.

22 Q So that would be like in the case of a divorce?

23 A It would be.

24 Q Or a visitation?

25 A Could be.

1 Q Or a custody issue?

2 A Could be, yes.

3 Q So does the DA's office call you up to do forensic
4 interviews?

5 A No. Those are done at the Crescent House in Macon.

6 Q And is that due to Bibb County's protocol?

7 A Yes. As I testified yesterday, I have had occasion
8 at least once, maybe twice where the director of the Crescent
9 House has asked me to interview a child or has brought a child
10 to my office that they were ambivalent, they didn't quite know
11 what direction to go with, and that has occurred but, no, I
12 don't do the forensic interviewing there.

13 Q When they asked you to do the forensic interview on
14 those occasions, couple of occasions you mentioned, did you do
15 that interview?

16 A Yes, I did.

17 Q And wouldn't that be against the protocol then in
18 Bibb County?

19 A Yes, it would.

20 Q And you mentioned that there were -- that you did --
21 about a third of your practice was doing these type of
22 interviews?

23 A That's correct.

24 Q And do you get paid for doing these interviews?

25 A Most of the time.

1 Q Okay. So the judges -- you just don't do it out of
2 the kindness of your heart?

3 A Most of the time I do get paid. You're right, that's
4 correct.

5 Q And wouldn't you agree that it's not appropriate for
6 forensic interviewers to be therapists?

7 A No, I would not agree to that.

8 Q Why is that?

9 A I would agree that it's not appropriate for someone
10 to both do forensic interviewing and then do therapy with a
11 child, but it's perfectly appropriate for someone with a
12 background in therapy to do forensic interviewing if they're
13 trained to do that.

14 Q You mentioned adults of high status. And you
15 mentioned police officers, parents, teachers, tae kwon do
16 instructors?

17 A A tae kwon do instructor could be an adult of high
18 status, yes.

19 Q And wouldn't that be true especially if they're
20 taught to respect and obey that instructor?

21 A That's true, yes.

22 Q You mentioned there might be -- that there were
23 occasions when you were looking at these videos where someone
24 said if you don't tell me what happened, someone else might get
25 hurt?

1 A No. No. I think I used that as a general example.
2 There were occasions in these interviews where they said that
3 other people had told them things that had happened to them.
4 And there's an occasion where they said that someone had told
5 them that something had happened to that particular child that
6 they were interviewing, but, no, I was using that as a general
7 example.

8 Q So that was never said anywhere?

9 A Not that I saw, no.

10 Q All right. Did you personally interview any of these
11 children?

12 A No, I did not.

13 Q And did you personally interview any of the parents?

14 A No, I did not.

15 Q Okay. Did you talk to any of the detectives involved
16 in this case?

17 A No, I did not.

18 Q Did you speak with Jinger Robins from Safe Path?

19 A No, I did not.

20 Q Did you ever attend any of the meetings at the
21 Eastside Baptist Church?

22 A No, I did not.

23 Q Did you ever personally receive a letter from the
24 Eastside Baptist Church?

25 A No.

1 Q So the information that you received was from the
2 defense attorneys; is that true?

3 A I received -- yes, I received copies of the discovery
4 material it's my understanding they were provided with.

5 Q Okay. But that's who gave you the information?

6 A Yes.

7 Q And transcripts that you got, was that provided to
8 you by the defense attorneys?

9 A Yes, at my request.

10 Q Okay. Now, you don't really know who received what
11 letters from the church?

12 A That's correct.

13 Q And you don't know what, if anything, was said at
14 school?

15 A Yes, that's correct, and that's the problem, that we
16 don't know. And that's what should have been investigated and
17 that's where the ball got dropped in this case.

18 Q That's your opinion as a forensic interviewer?

19 A Yes.

20 Q Now, you're not a trained law enforcement officer,
21 are you?

22 A No.

23 Q You haven't been to the POST mandated school for law
24 enforcement officers?

25 A No, but forensic interviewing is an animal in and

1 unto itself and in conducting a forensic interview, those would
2 have been important questions to explore and that we are here
3 in court today and don't know the answers to those questions is
4 evidence that those interviews were not conducted
5 appropriately.

6 Q Miss Morton, let's go back to this law enforcement
7 officer. I hear what you're saying. You're not trained as a
8 detective, are you?

9 A No, I'm not.

10 Q And your job isn't to go out and collect evidence, is
11 it?

12 A Doing a forensic interview is collecting evidence.

13 Q But your job isn't to go out and take pictures of the
14 crime scene, is it?

15 A No.

16 Q Okay. Now -- and, again, you don't know who the kids
17 talked to, if anyone?

18 A None of us do. No, I do not.

19 Q Have you -- you weren't in here during any other
20 evidence, were you?

21 A No.

22 Q So you really don't know what's been said in this
23 case and what the children have told this jury, do you?

24 A That's correct.

25 Q So you don't know if they said whether or not they

1 talked to anyone?

2 A That's correct.

3 Q And you don't know exactly what parents said to their
4 children?

5 A No. However, it would be problematic to have -- to
6 simply have that information now eight months after the
7 original disclosure. That information should have been
8 gathered in context of those forensic interviews because of the
9 potential for suggestion during that period of time.

10 Q But, again, you're just speculating as to what
11 parents may or may not have said to their children?

12 A That's right. It's inappropriate that we would have
13 to speculate about that at this point.

14 Q Now, in any of these interviews, you talked earlier
15 about the child's mind and the defendant being labeled as a bad
16 person?

17 A Yes.

18 Q Did any of the detectives do that in these
19 interviews?

20 A Detectives -- Detective Streefkerk told Paul's mom
21 that this --

22 MS. KORNAHRENS: I'm going to object, your Honor, as
23 to what -- this is double hearsay right now and I objected
24 to it before. She can't testify to that.

25 THE COURT: Response?

1 MS. YEAGER: Your Honor, I think if she asked the
2 question, that the witness is entitled to answer it.

3 MS. KORNAHRENS: Your Honor, no. I asked her
4 specifically was there anywhere in these interviews that
5 the detective had labeled the defendant a bad person.
6 That was the question.

7 THE COURT: That's the question.

8 THE WITNESS: Not in the context of the interviews.

9 BY MS. KORNAHRENS:

10 Q Okay. Is the question: Has anyone given you a touch
11 you didn't like, does that suggest any particular response to
12 you?

13 A It would depend on where it occurred in the flow of
14 the interview. Probably not, but it could.

15 Q But it could be -- could be talking about anybody,
16 the answer could be anybody?

17 A It could be, unless you then immediately go into
18 questions about tae kwon do or someone else that the detective
19 believes in their mind has done this.

20 Q It could not only just be anybody, it could be nobody
21 gave them a bad touch or a touch they didn't like?

22 A It could be, yes.

23 Q Have you been qualified as an expert in the field of
24 mass hysteria?

25 A No, I have not. I'm not even sure that's a field.

1 Q Well, you testified to it as being an extreme form of
2 peer pressure?

3 A I believe that is true.

4 Q Okay. But -- and you also talked about the group
5 decided that someone is a villain?

6 A Yes. And that -- those types of statements would
7 have relevance to my training as a family therapist because
8 family therapists are trained in systems theory.

9 Q And therapy is different from forensic interviewing?

10 A But family systems is -- being trained in systemic
11 thought about systems and society, which is part of my
12 training, is not just about therapy.

13 Q But it's not about forensic interviewing?

14 A That's correct.

15 Q That's two totally separate things; family systems
16 and forensic interviewing?

17 A That's correct.

18 Q Okay. I want to talk a little bit about the
19 suggestibility research that you mentioned, and isn't it true
20 that, for instance, a 12-year-old is no more suggestible than
21 an adult?

22 A There is not enough research to validate that
23 statement, no, because there's not been enough research done.
24 One of the places there's a lack of research is on children
25 between the ages of 12 and 20, and so you can't draw that

1 conclusion.

2 Q The suggestibility research that has been done,
3 though, doesn't that mostly involve suggestions over a period
4 of time?

5 A Some of it does. But there are, um -- but those time
6 frames can I believe vary between immediately after interviews,
7 three months, six months, four months, nine months, depending
8 on which study you're talking about.

9 Q So you're familiar with the Trailer Study?

10 A No, I am not, unless you tell me the author. That
11 might help me.

12 Q Okay. That would be Rudy and Goodman, Effects of
13 Participation on Child's Report, Implications for Children's
14 Testimony?

15 A Is that 1996?

16 Q 1991.

17 A No, I've not read that.

18 Q Have you read any of the -- are you familiar with the
19 Sam Stone Study?

20 A Yes.

21 Q Okay. And tell us a little bit about that study?

22 A I'm going to turn to that in my notes.

23 Q Okay.

24 A Okay. The Sam Stone Study was conducted in 1995 by
25 Stephen Ceci and Leichtman, and in that study children between

1 the ages of three and six were interviewed under conditions
2 that were suggestive.

3 Also in this particular study, the technique or the issue
4 that we've discussed in terms of stereotype induction was
5 something that they looked at and the experimenter in this case
6 told some of the children that Sam Stone was a friend, that he
7 was very clumsy, and over the next few weeks these children
8 were told various stories about Sam's clumsiness, and then at
9 the end of the 12 weeks, all the children were questioned by a
10 new interviewer about what actually happened during Sam Stone's
11 visit to wherever they were, I don't recall, but the setting
12 they were in, and some of the information that had been given
13 to the children was beyond the clumsiness and explained
14 malicious behavior on his part, such as him tearing a book
15 and -- or doing something to a bear, and so that was -- that
16 was the basic issues in that study that were looked at.

17 They found that children who then repeatedly interviewed
18 with a combination of stereotype induction and misleading
19 questions made the most false reports about what happened when
20 Sam Stone's visit in the classroom. Those children included
21 details in their accounts that never occurred, and I think what
22 was important was that there were elements of -- according to
23 the study, that were familiar to all the children in the
24 classroom, the setting, that he was there, et cetera, but the
25 children had different accounts of what actually happened even

1 though they were all there in the same room and saw the same
2 thing.

3 Q And some of the questions the children were asked by
4 the interviewers were things like I wonder if Sam Stone got the
5 teddy bear dirty on purpose or by accident? Isn't that an
6 example of the questions they were asked?

7 A I think that would be an accurate representation,
8 yes.

9 Q And not really is that leading. That really suggests
10 that in fact, you know, something did happen. It suggests that
11 the teddy bear was dirty; isn't that true?

12 A Yes.

13 Q And the fact is that these interviews took place over
14 a period of ten weeks?

15 A They did, yes.

16 Q And they were -- the children were interviewed once
17 every two weeks for ten weeks, correct?

18 A That's correct.

19 Q So that's a chunk of time, ten weeks?

20 A Yes.

21 Q Now, of the suggestibility studies, have they
22 actually used instances of abuse where kids are abused and they
23 look at those situations?

24 A Well, there has been -- the answer to your question
25 is yes and no. Obviously you can't take children out and abuse

1 them, then interview them and then determine whether or not
2 that was accurate. That would be criminal. That would be
3 wrong. So we wouldn't want to do that, but there have been
4 studies that looked at confirmed cases of abuse and then
5 examined the details of those -- of those children's
6 disclosures.

7 Q If a detective explores -- you said in some of these
8 interviews detectives didn't explore whether the touch was
9 incidental or not?

10 A That's correct.

11 Q If the detective was saying, well, are you sure it
12 was on purpose; isn't that a leading question?

13 A You can ask that question a different way. That
14 would be a leading question. The answer to your question is,
15 yes, that could be a leading question. But you could ask the
16 question -- you could have the child demonstrate, you could
17 have the child draw, you could say, are you sure, can you show
18 me exactly what happened.

19 Q Well, isn't saying are you sure, doesn't that sort
20 of -- the tone of your voice imply that maybe they need to give
21 another answer?

22 A It -- it could, but you could control -- and you
23 probably shouldn't say it the way I just said it, but in these
24 interviews the detectives when the children said no were more
25 than willing to say do you remember that you told me that you

1 would tell me the truth, and that would have been an
2 appropriate thing for them to have said when the child
3 disclosed as well as when the child said no.

4 Q Well, these children were also questioned about other
5 incidences and repeatedly refused to agree with the
6 interviewers; isn't that true?

7 A Yes. And children have different levels of
8 suggestibility, and the problem is that I see here is that in
9 the course of this investigation, when those kinds of issues
10 would come up, detectives did not do the job that they needed
11 to do at that juncture so that we would have the answers or
12 have better answers to those questions today.

13 Q Miss Morton, in fact, children repeatedly refused to
14 say that they had been touched, for instance, on their bottoms
15 when asked?

16 A And sometimes the detectives would repeatedly
17 interview those children if they said that, which implied that
18 they did not accept the -- which implied that they did not
19 accept the child's answers.

20 Q Yeah, but the children never said, well, yeah, you're
21 right, he did touch my bottom. Did any of them do that?

22 A Yes. Over the course of the interviews on some of
23 the counts that were indicted, the children during the course
24 of the interview said, not once, not twice, but three times, no
25 no, no, no, and then again the detective would approach the

1 child with -- in a different way and say, well, perhaps you
2 were confused, and then the person say, well, yeah, maybe he
3 did touch me with his mouth.

4 Q Who's interview is that referring to?

5 A [REDACTED].

6 Q And that's the only example you can find of that?

7 A It also happened in [REDACTED]'s interview.

8 THE COURT: Miss Kornahrens, let's take a short
9 morning recess.

10 Ladies and gentlemen, please go to the jury room and
11 please do not discuss the case.

12 (Whereupon, the jury exited the courtroom.)

13 (Whereupon, Court recessed at 10:48 a.m., and
14 reconvened at 11:00 a.m., as follows:)

15 THE COURT: Ready for the jury?

16 MS. KORNAHRENS: Yes, your Honor.

17 THE COURT: Miss Yeager, are you ready? Are you all
18 ready?

19 MS. YEAGER: Yes, your Honor.

20 THE COURT: Bring them on.

21 (Whereupon, the jury entered the courtroom.)

22 THE COURT: You may continue.

23 MS. KORNAHRENS: Thank you, Judge.

24 BY MS. KORNAHRENS:

25 Q Miss Morton, I think the last answer to my question

1 was yes, is that right?

2 A I just don't remember the question.

3 Q And I don't really remember it word for word, and if
4 we need to have the court reporter look back, I can do that,
5 but I asked you something along the lines the detectives asked
6 children did the defendant, Mr. Gunther, ever touch your bottom
7 and I asked you did any of the children ever admit to that and
8 you said, yes, they admitted to that and then I asked you where
9 --

10 A I'm not sure that that -- I don't recall the question
11 being exactly that, but it may have been. I've answered a lot
12 of questions today, so your question is -- is that your
13 question that you want me to answer?

14 MS. KORNAHRENS: Well, your Honor, if it's not -- I
15 hate to ask Miss Pullium to do it, but if it's not too
16 much problem, to go back so we can get that exact question
17 because I want to make sure I'm getting it correct.

18 (Whereupon, the court reporter read the requested
19 question.)

20 BY MS. KORNAHRENS:

21 Q So the question I asked you had to do with the
22 investigators asking the children if Mr. Gunther had ever
23 touched their bottom; isn't that correct?

24 A Or whether -- I don't recall you asking that specific
25 question. I recall you asking whether -- if the children were

1 asked about touch, ever asked about being touched and said no.

2 Q Okay. But you heard the court reporter just now read
3 it back?

4 A Yes, but I didn't hear -- I'm not trying to be
5 difficult here, I'm really not. I don't want to belabor this,
6 but if it is an important difference, I didn't hear her talk
7 about touching, that particular question, did Mr. Gunther touch
8 your bottom.

9 Q Your Honor, I hate to ask Miss Pullium again, but if
10 she could just read my question to her where I specifically
11 asked about bottoms and maybe this time the witness could
12 listen.

13 A I did listen, I apologize. I just didn't -- I didn't
14 hear a question that said that, but, you know, if you want to
15 assume that and go forward, that's fine.

16 MS. KORNAHRENS: Your Honor, at this time I'd like
17 Miss Pullium to read the question. I would not want to
18 make any assumptions, your Honor.

19 THE COURT: Okay.

20 MS. KORNAHRENS: I'm sorry, Miss Pullium, could you
21 please read my question.

22 (Whereupon, the question was read back by the court
23 reporter.)

24 BY MS. KORNAHRENS:

25 Q So did any of the children say that he touched their

1 bottom?

2 A Did -- yes, some of the children said he touched
3 their bottom.

4 Q After the detectives asked them that question, did
5 Mr. Gunther ever touch your bottom?

6 A I'm not sure.

7 Q Okay. You mentioned in your direct examination that
8 it became more acceptable for the kids to talk about these
9 things. Was that your testimony?

10 A It appears that it became more acceptable for the
11 kids to talk about these things than I would expect it to be,
12 yes. I think that was my testimony.

13 Q What did you base that on?

14 A Years and years of experience, working with children
15 who have made allegations of sexual abuse.

16 Q But did the parents tell you, well, you know, we've
17 been talking about this?

18 A That was one of the problems in this investigation.

19 Q Well, my question was did the --

20 A Yes.

21 Q -- parents tell you?

22 A No.

23 Q Did any parents to your knowledge say that to anyone
24 at the church?

25 A Not to my personal knowledge, no.

1 Q Did anybody ever tell you that these children, that
2 it was just more acceptable for them to talk about these
3 things?

4 A No, but I also based that opinion on observing the
5 children's demeanor in these video tapes that I reviewed.

6 Q Well, clearly to [REDACTED] it wasn't acceptable to
7 talk about those things; isn't that true?

8 A That's correct.

9 Q Because, in fact, he said we don't talk about that in
10 my family?

11 A That's correct.

12 Q You also mentioned something about stereotype
13 induction?

14 A Yes.

15 Q And you talked about that in context -- in context
16 with the interview regarding [REDACTED]. Do you remember
17 that?

18 A Let me go back to it. Yes.

19 Q And you said that an example of the stereotype
20 induction was that the victim didn't like being kissed on his
21 cheek?

22 A I said that it could be because at this point in this
23 interview this child interpreted the kiss on the cheek as a
24 negative or a bad touch. I don't think he used the word bad
25 touch. It was a touch he did not like. I said that I wondered

1 whether that was a product of stereotype induction and whether
2 he didn't like the kiss when he originally got it or now he
3 doesn't like it because he believes that Mr. Gunther is
4 touching people's privates.

5 Q Or maybe it could be he just doesn't like being
6 kissed by any man other than his father?

7 A That's correct, but we don't know because no one
8 asked.

9 Q And you're making a lot of assumptions?

10 A Based on what I reviewed, it does not appear that
11 anyone asked, and if interviews occurred where people did ask
12 the children those questions that were not videotaped, then I
13 think that is in and of itself a problem.

14 Q But you have no idea what this child thought about
15 kissing on the cheek?

16 A That's right. And the detectives should have
17 explored that because we don't know.

18 Q And you can't read a child's mind, can you?

19 A No, and neither can the detective, and that is why
20 the questions should be asked.

21 Q How long would a typical forensic interview be?

22 A It depends on the child and the circumstances.

23 Q Typically, though, how long are your interviews?

24 A An interview could be anywhere from ten minutes to an
25 hour. I would be reluctant to go beyond an hour. That would

1 be very atypical.

2 Q Okay. Who's observing your interviews when you're
3 doing them?

4 A Now; no one.

5 Q And are the police involved when you do your forensic
6 interviews?

7 A No, they are not, not unless there has to be a report
8 to them.

9 Q You mentioned that you were not a member of the
10 American Professional Society on the Abuse of Children?

11 A Not currently. I have been up until recently. I
12 just forgot to send my check in basically.

13 Q Okay.

14 A I've been a clinical member of that group. I had a
15 renewal that came up a couple months ago.

16 Q And you're also not a member of the American Board of
17 Forensic Examiners?

18 A I'm not currently. However there's a reason for
19 that.

20 Q You forgot to send your check in?

21 A No. The reason is because they sent me an
22 application last year with an opportunity to grandfather in, to
23 be part of that group without having to go through any
24 qualifications, and basically -- this was the American Academy
25 of Forensic Evaluators that I'm talking about. Is this a

1 different group?

2 Q I'm talking about the American Board of Forensic
3 Examiners.

4 A I'm talking about a different group. I'm sorry.

5 Q That's all right.

6 In the 22 interviews that you observed that we've been
7 discussing, what's the average age of the children?

8 A The children range in age from four till I think the
9 oldest was 12 or 13. Many of the children were nine years old.
10 I guess that would be about the average.

11 Q Okay. So about nine?

12 A Yes.

13 Q And what was the average lengths of these interviews
14 that you observed of the 22?

15 A About 12 minutes.

16 Q How long did you spend reviewing on these 22 each
17 tape?

18 A I would estimate that -- I didn't break it down that
19 way in my thinking because I didn't watch the tapes in order,
20 but the -- but I would estimate that I spent just on these 22
21 probably eight hours.

22 Q Okay. So eight hours for 22 tapes?

23 A Because I reviewed these tapes more than one time.

24 Q Right. So would that be eight hours total for the 22
25 tapes?

1 A Yes.

2 Q So not even an hour a piece for each tape?

3 A Probably not, not actually viewing the tape, but that
4 did not include reviewing my notes because I took notes as I
5 did the tapes and compared the notes to other notes from other
6 tapes and, you know, so it doesn't include all the research I
7 did, no.

8 Q And [REDACTED]'s interview, you talked about you
9 were concerned because he said something along the lines of the
10 touching occurred while the defendant was helping him tie the
11 belt and that was a concern of yours?

12 A I thought it needed clarification.

13 Q Okay. Well, doesn't the child in that video say he
14 tied the belt up here and he touched down there and he actually
15 indicates on his body how that happened? Isn't that on the
16 video?

17 A I think he indicated that on an anatomically-correct
18 doll. He may have also indicated it on his body. He showed
19 how to tie the belt on his body. I recall that.

20 Q But he clarified. He said the belt's tied up there,
21 I was touched down there?

22 A It was not -- my opinion is that the clarification
23 was not -- there was some attempt for clarification, but it was
24 not that clear, that the proximity between where he told him he
25 was tying the belt and where he was touching was different, but

1 he didn't in my opinion clarify whether the touch could have
2 been incidental even though it was in a different place while
3 he was tying the belt and the belt ties and the strings hang
4 down, I don't know. I just thought and I do think that there
5 was room for more questions there.

6 Q Well, so you're saying it wasn't clear to you when
7 the child said he tied the belt up here and he touched me down
8 there? To you that was not clarification?

9 A I thought that there was -- I still believe that
10 there is need for more clarification with that child and I do
11 not think distance between where he showed the belt being tied
12 and where he showed being touched was as great as what you're
13 demonstrating.

14 Q You weren't with Miss [REDACTED] when she talked with her
15 son [REDACTED], were you?

16 A No. I have that information from notes that I can't
17 refer to.

18 Q Okay. When [REDACTED] was in his interview --

19 A Yes.

20 Q Okay. He talked about how the defendant massaged his
21 penis. He said sometimes it stretches it out and smooths it
22 out?

23 A Yes, he did.

24 Q Wouldn't you say that's a very sensory description?

25 A Yes, I would.

1 Q In [REDACTED] interview, you mentioned that the
2 fact [REDACTED] knew that the defendant went to jail was a
3 vilification of the defendant, okay. But you don't know what
4 that child thought about going to jail.

5 A I do not know what that child thought about going to
6 jail; however, I have considerable experience with how children
7 view going to jail.

8 Q But you don't have considerable experience with these
9 22 children, do you?

10 A I do not have direct experience with these 22
11 children, but I think it is a reasonable statement that
12 children see going to jail as being something that happens to
13 bad people.

14 Q But, again, you have no clue what's in these
15 children's mind?

16 A No. I don't read minds.

17 Q In [REDACTED] interview, you talked, I believe
18 about you had some concerns about his sophisticated response?

19 A I think that's in my notes. I don't think that I
20 testified to that.

21 Q Okay. You talked about, though, the child saying he
22 molested me?

23 A I didn't testify to that. That's in my rough notes
24 that you have.

25 Q Okay. Now, you said there were -- there would be

1 peer pressure?

2 A Yes.

3 Q Okay. To alleged touching with these children?

4 A Peer pressure can occur on all kinds of ways, but
5 there's no question that for school age children, their
6 opinions of their peers and their need to be accepted by their
7 peers is a profound influence in their life.

8 Q Is it common for a four-year-old and let's say a
9 five-year-old to peer pressure a twelve-year-old?

10 A I think -- I don't know whether those children knew
11 each other. I think that when you -- if you're referring to --
12 I believe it's only that one four-year-old in this
13 investigation, and the problem that I have with his interview
14 has much less to do with peer pressure and much more to do with
15 the nature of his disclosure and the inconsistencies in his
16 interview.

17 Q But the question is, is it common for two year -- for
18 four-year-olds and five-year-olds to peer pressure a
19 twelve-year-old?

20 A No, but it would not be uncommon for a four-year-old
21 or five-year-old to look up to a twelve-year-old.

22 Q What if they didn't know the twelve-year-old?

23 A Then, you know, that's -- that is not a particular
24 issue unless you have a situation in the community where
25 there's general knowledge about the events.

1 Q Is it common for some -- skip that.

2 You mentioned earlier that you had spent -- I want to make
3 sure I get it correct -- 80 hours reviewing of the material in
4 this case?

5 A Yes. I'm sure that I have spent more than 80 hours.

6 Q And that's in reviewing the case?

7 A In reviewing all of the video tapes, in reviewing all
8 of the research that I thought was relevant to that, in making
9 notes about the children's statements and comparing what one
10 child said to another child, looking at what is consistent and
11 what is inconsistent, evaluating the interviewing techniques
12 once I made the notes, yes.

13 Q So more than 80 hours?

14 A Yes.

15 Q And how much do you charge an hour for reviewing?

16 A Well, see, here's the thing. I normally charge 125
17 dollars an hour to review, but this -- in this case I have been
18 paid \$1,500. I do not have any idea what I'm going to charge
19 in this case because my hours exceeded anything that I would
20 ever charge, that I would ever charge for. I normally require
21 that before I come to testify in a case that a fee be paid
22 specifically before I come for my time. That's not been paid
23 in this case. I'm not here under subpoena. I am here only
24 because I am -- only because of my concern about the
25 investigative tactics that were used in this case.

1 Q You're here only because of your concern?

2 A I had every -- when I talk with the defense
3 attorneys -- and I get several calls a week -- I tell them I'll
4 look at your tapes, but if I don't -- and you need to send me a
5 retainer to do that, but if I do not believe that there are
6 substantial problems with the investigation, I am not going to
7 testify, and in this case, I have -- in this instance, two
8 other Cobb County cases have been brought to me that were done
9 by these same folks in the last --

10 MS. KORNAHRENS: Your Honor, I'm going to object to
11 her referring to other cases. That's not relevant.

12 THE WITNESS: My point is that I do not testify in
13 cases where I do not believe there are investigative
14 problems, so I would be making more money sitting in my
15 office today.

16 BY MS. KORNAHRENS:

17 Q Now, you said you're getting paid for your time to
18 come to court and clearly you came to court yesterday?

19 A Yes.

20 Q And I believe you had to wait out in the hall before
21 you came in to testify?

22 A Yes.

23 Q How long did you have to wait?

24 A I was here from 12:30 until whenever I left
25 yesterday.

1 Q And did you come from Macon?

2 A Yes.

3 Q Did you go back to Macon last night?

4 A Yes.

5 Q Came back this morning?

6 A Yes.

7 Q You've been testifying all morning?

8 A Yes.

9 Q How much do you charge an hour for testifying for
10 your time?

11 A Normally I charge \$150 an hour. I can tell you there
12 is no way that I'm going to send whoever a bill that reflects
13 an hourly rate on this case. I have no idea what I'm going to
14 charge. I need to go back to the office and look at the time
15 I've spent, the expenses I've incurred, and try to come up with
16 something that I think is fair, but I haven't decided what that
17 amount is going to be right now. I just don't know.

18 Q Okay. Well, and the defense obviously will be the
19 ones paying for the time that you don't know yet what you're
20 going to charge for?

21 A I assume so.

22 MS. KORNAHRENS: I have no further questions, your
23 Honor.

24 THE COURT: Miss Yeager, anything further?

25 MS. YEAGER: No, your Honor, may this witness be

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excused.

THE COURT: Any objection, Miss Kornahrens?

MS. KORNAHRENS: No, your Honor.

THE COURT: You may be excused.

Next witness.

MR. BERRY: At this time, your Honor, the defense would rest, with the exception of the fact that we have several items of evidence that we need to talk about. We've tendered them before and I think the State had some problems with the names that were listed there, so I don't know whether they want to go over that without the jury being present.

THE COURT: Okay.

MR. BERRY: But other than those issues with those pieces of evidence, we would rest.

THE COURT: State have rebuttal?

MS. KORNAHRENS: Yes, your Honor.

THE COURT: Do you want to start on that while the jury is here then deal with the exhibits after?

MS. KORNAHRENS: We can do that, your Honor. That would be fine better.

MR. BERRY: That's fine, Judge.

THE COURT: One thing to think about on No. 18, the equipment.

MR. BERRY: Right.