

1 (Whereupon, the bench conference is concluded.)

2 MR. PAUL: Your Honor, we would call Amy Morton.

3 (Whereupon, the witness is sworn by Mr. Paul.)

4 Whereupon,

5 AMY H. MORTON

6 Having been called as a witness by and on behalf of the
7 Defendant, after first having been duly sworn, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. PAUL:

11 Q For the record could you tell the ladies and
12 gentlemen your name, please.

13 A My name is Amy Hamrick Morton.

14 Q And, Ms. Morton, how are you employed?

15 A I'm a licensed marriage and family therapist in
16 private practice in Macon, Georgia.

17 Q What is a family therapist?

18 A A family therapist is someone who works with families
19 and couples and children and individuals and helps to address
20 issues and problems that arise in the systems.

21 Q How long have you been involved in that sort of work?

22 A I've been licensed as a marriage and family therapist
23 since 1994, and I've been in private practice since that time,
24 but before that I was -- I worked at the Methodist Home for
25 Children in Macon, Georgia, as a unit director. So I was

1 involved with children there as a social worker. And then
2 prior to that I was in -- I was the director of the Rainbow
3 House in Warner Robbins, which is a child advocacy center now.
4 It's where then all the interviews with children where there
5 had been allegations of sexual abuse were done. So I've worked
6 with children for a very long time.

7 Q By way of your training and education, can you tell
8 us a little bit, I guess, first of all, about your educational
9 background.

10 A I have a bachelor's degree in religion and philosophy
11 with a concentration in psychology from Mars Hill College in
12 North Carolina. I then attended the Southern Baptist
13 Theological Seminary in Louisville, Kentucky, and didn't
14 completely finish that degree before going to Baylor Medical
15 Center in Dallas to do the clinical internship. My family --
16 my husband's job moved us to Texas from Louisville, and so I
17 picked up there with that. And then when we moved to Macon, I
18 did my master's degree at Mercer University in family studies.

19 Q And you may have already mentioned this, but how long
20 have you been in private practice as a family therapist?

21 A Ten years.

22 Q Okay. As a family therapist is there -- I know you
23 mentioned that there are a number of different things that you
24 do as a family therapist, but is there any one area in
25 particular that you spend more time than others?

1 A You know, the composition of my practice varies from
2 one time to another, just based on who my patients are, but
3 because of my background and experience I have spent a
4 concentrated amount of time, I would say probably 50 to 60
5 percent of my time, with children.

6 Q You told us that at one point in time you served as
7 the coordinator of something called the Rainbow House in Warner
8 Robbins, and I understood that was a child advocacy center.
9 Can you describe what a child advocacy center is?

10 A Well, it can vary from one jurisdiction to the next,
11 but in -- my work there was in the mid-'80s and -- mid to late
12 '80s. And, I, as the coordinator for the Rainbow House, my job
13 was to work to coordinate a multi-disciplinary team of law
14 enforcement and Department of Family and Children Services'
15 workers and mental health professionals and the district
16 attorney's office, who were working to address allegations of
17 child abuse that arose in families either through therapeutic
18 or legal means, depending on the circumstances. And that is
19 also where we did the interviews with children. In that job I
20 didn't -- I did not do the interviews myself. Law enforcement
21 and Department of Family and Children Services did those
22 jointly. But I was trained -- as they were, I went to the
23 Knoxville Institute of Sexual Abuse Treatment Training, which
24 essentially was a week long intensive workshop while I was
25 there. And then subsequent to that, I attended many other

1 workshops during my period of employment there. But, also, it
2 was basically my responsibility to observe the interviews, and
3 we were able to communicate back and forth with people who were
4 doing those interviews. I was essentially the district
5 attorney's eyes and ears. Because at that time we tried to
6 make it so those tapes could be admissible in court so the
7 children wouldn't have to testify. So it was my job to try to
8 make sure that the proper protocol was followed in those
9 interviews.

10 Q Okay. Are you familiar with the term forensic
11 interview?

12 A Yes.

13 Q What is a forensic interview? What does that term
14 mean to you?

15 A It's an interview where the central focus is
16 searching for the truth; as opposed to a clinical interview
17 where the central focus is healing a child. A forensic
18 interview is looking for factual information. And there's a --
19 normally a good chance that that information is going to be
20 introduced somewhere in a legal proceeding. You would
21 anticipate that.

22 Q All right. Now, with regard to forensic interviewing
23 and forensic interviewing techniques, you mentioned, I think,
24 earlier that you attended at least one intensive week long
25 seminar on that some time ago. Do you remember, by any chance,

1 about when that was?

2 A Well, that was in 1986, but --

3 Q -- Since that time -- since 1986 have you had
4 occasion to attend other seminars or other courses involving
5 forensic interviewing and forensic interviewing techniques?

6 A Yes, many over the years, because it's continued to
7 be a part of my practice, both when I was at the Methodist Home
8 and in private practice. I think that I've attended about 150
9 hours worth of training in that specific area, with the first
10 being in 1986 and the last being in July of 2003 when I went to
11 the Huntsville -- went to Huntsville to the National Child
12 Advocacy Center for a three day training in forensic evaluation
13 of children.

14 Q You and I have had an opportunity before today to
15 speak several times about this case; is that correct?

16 A Yes.

17 Q And just this afternoon you provided me with kind of
18 an outline of some of the things that we're going to be
19 discussing today; is that correct?

20 A I did.

21 Q Let me start with -- first of all, by asking you in
22 the course of your work you mentioned that you had been trained
23 in administering forensic interviews. Have you had an
24 opportunity over the years to instruct other persons in proper
25 interviewing techniques of small children?

1 A Yes; but beginning when I was at the Rainbow House
2 and continuing, I've done in training and seminars for law
3 enforcement, for Department of Family and Children Services'
4 workers, for school counselors, for mental health
5 professionals, for attorneys, and for judges.

6 Q Okay. Prior to this afternoon, have you been called
7 to testify as an expert in the area of forensic interviewing of
8 children in the superior courts of this state?

9 A Yes.

10 Q Okay. Approximately how many times have you been
11 called to testify as a witness for either the defense or the
12 state in a -- as an expert witness?

13 A I don't know an exact number, but over the last ten
14 years I would estimate that I've probably testified fifteen
15 times.

16 Q And when I say have you been asked to testify as an
17 expert witness, have you been qualified by the court as an
18 expert witness on those fifteen -- approximately fifteen
19 occasions?

20 A Yes.

21 Q And have you testified for both -- in the past both
22 as a defense witness and as a prosecution witness?

23 A Yes.

24 Q When we talk about a forensic interview are there
25 certain established protocols or procedures that are applied to

1 a forensic interview?

2 A Yes. There are -- in the State of Georgia there are
3 protocols that are reduced to writing about the -- each
4 jurisdiction is required to reduce to writing a protocol for
5 investigating child abuse cases. Those protocols primarily
6 address who, what, when, where those interviews are going to be
7 done. But there are also protocols for how those interviews
8 should be done. And those have been adopted in some
9 jurisdictions in one fashion or another. But they are
10 scientifically based protocols that have been developed by
11 organizations, like, the American Academy of Child and
12 Adolescence Psychiatry, the American Academy of Pediatrics, the
13 American Association of Professionals Against Child Abuse. And
14 those protocols go in-depth in terms of how those interviews
15 should be done, the training, from the issues of training for
16 the person doing the interviews, how they should be trained, to
17 what sorts of questions should be asked, and what -- the timing
18 of the interview and documentation and those kinds of issues.

19 Q Those -- the protocols that you mentioned, are those
20 scientifically based or are those just somebody's idea of what
21 sounds like a good idea?

22 A I would consider those protocols that I just
23 described to be scientifically based protocols. In fact, back
24 in 1986 when I first started doing this kind of work you could
25 probably fit all the research on interviewing children in two

1 or three volumes and put it on a shelf. But there's been such
2 a proliferation of research in the last fifteen years in that
3 area, it would probably fill a small library at this point.
4 There's been a lot of work done in that area.

5 Q So there are established forms in your field of work
6 as to the proper, and in some cases, improper way to interview
7 a child?

8 A Yes, I think that you can say that there are
9 established forms that -- not every protocol is identical to
10 the next; however, there are general areas of agreement.

11 Q When you and I spoke, it may have been yesterday, it
12 was during one of our conversations of you had mentioned the
13 term suggestibility to me. What is suggestibility? What does
14 that term denote?

15 A Well, the idea that someone is suggestive or that we
16 can all be suggestive, infers that it's the degree to which
17 someone's statements about, and in some extreme cases, their
18 actual recollection of events that have happened to them have
19 been affected, not just by their experience of those events,
20 but also by their conversations with other people, other things
21 they've seen that may have influenced those memories.

22 Q Okay. To some extent I would assume everybody is --
23 is vulnerable to suggestibility to one degree or another.

24 A Even adults. It -- there have been studies done even
25 with adults that indicate that with leading and suggestive

1 questions, asking them to recall events from earlier in their
2 life, they can be led to belief that or acquiesce to the idea
3 that they experienced something that they didn't experience.

4 Q Okay. What about children?

5 A Children tend to be suggestible to a greater degree
6 than adults. Age is one factor in suggestibility; it's not the
7 only factor. But generally it -- it's generally accepted that
8 younger children, particularly preschool children, are more
9 suggestible than older children and adults. It's sort of the
10 generally accepted norm.

11 Q When -- in general, when a forensic interview is
12 conducted are there things that the interviewer needs to be
13 cognizant of to avoid contaminating or effecting the child's
14 account of the experience that they're being questioned about?

15 A Yes, because the children's statements are very
16 important. So it's important that -- the techniques that need
17 to be used in a forensic interview are not necessarily second
18 nature. They're not something that you just know how to do,
19 even if you have an advanced degree in mental health. You need
20 particular and special training in that area. That's the first
21 thing. And then you need to apply that training during the
22 interview so that you do the best you can to not suggest
23 anything to the child, to not lead the child to say something
24 and to discover whether others have led the child to say
25 something.

1 Q When a person does a forensic interview of a child,
2 do they need to be cognizant of any special developmental
3 issues that the child might have?

4 A Particularly, with the preschool child I would agree
5 with the National Child Advocacy Center that it's very
6 important to do a developmental assessment at the beginning of
7 an interview.

8 Q And why is that?

9 A Well, because when you're talking with a child you
10 have two jobs. Your job is to give the child an opportunity to
11 tell you what they need to tell you and make sure you
12 understand what they're telling you. So it's important that
13 you know what language the child uses to describe certain
14 things and that you allow them to provide that as opposed to
15 you providing it. So getting an understanding of how well the
16 child understands your questions and getting an understanding
17 of how well the child is able to respond verbally is part of
18 that developmental assessment. Simple things, like, can the
19 child count, can they -- do they have a mastery of numbers and
20 colors, that's important. And in an investigation of abuse,
21 understanding whether a child understands spacial relationships
22 like on top of, underneath, beside, inside, is very important.
23 That's something that develops in the preschool years, and
24 children can be at different stages. And they may not have a
25 full understanding of that. And you can do that very simply

1 with a box of crayons in having the child tell you whether the
2 crayon is inside, on top, underneath. This is not something
3 that you have to be a psychologist or a psychiatrist or a
4 therapist to do, but it's important to do in every interview.

5 Q Okay. Are language differences between children, is
6 that something that you need to be cognizant of?

7 A Children, as I said before, age is a factor.
8 Developmentally a 3-year-old and 4-year-old may be at very
9 different places, and two 3-year-olds may be at very different
10 places. So, yes, that was what I just describing to you from
11 the language issues understanding what the child -- what words
12 the child uses for different family members, what words the
13 child uses to describe different body parts. That's important
14 to understanding when you're doing an interview of this nature.

15 Q Again, when you and I spoke earlier before today, you
16 told me about a term that I wasn't aware of and, I guess, it's
17 a term of art in your profession. It's something I think that
18 you called memory source monitoring.

19 A Right.

20 Q What is memory source monitoring?

21 A It's the ability to know the source of your memory.
22 It's the -- it's what happens for adults when you have a
23 thought about an event and you think, no, let me think about
24 that. Was what something someone told me? Was it something I
25 saw? Is it something I experienced? And you're able to sort

1 the source of that memory. Young children, particular those
2 below age five, lack that ability. And so -- in part because
3 very young children -- preschool children look to adults to
4 define the world for them. They look to adults to tell them
5 what's real and what's not real. They look to adults to help
6 them interpret and understand their experiences. What an adult
7 tells a child or suggests to a child is often perceived by the
8 child to be real, factual, and true just as if they had
9 experienced it.

10 Q If a child is making statements as a result of a
11 suggestion by someone else, whether it's another child or a
12 caretaker, whomever it may be, are there any indicators that we
13 can look to tell us whether that might be going on?

14 A Well, the reality is that -- the research that we
15 have today indicates that just by listening to the statements,
16 it's very difficult to tell the difference between a statement
17 of fact and a statement that's not factual. And some of the
18 most recent research indicates that even things that you would
19 anticipate, sort of, logically being part of true statements,
20 like, consistency or lots of detail, are necessarily part and
21 parcel. Sometimes false narratives contain that same elements.
22 And so it's very difficult to know. And that's one of the
23 reasons it so important to avoid some of these suggestive
24 elements, some of the things that you just simply shouldn't do
25 during an interview.

1 Q Okay. And if I understood what you just said,
2 sometimes a false memory of a child can be just as vivid or
3 detailed as a real actual event?

4 A Yes. And researchers have speculated that that may
5 be true because over time the child comes to believe it is
6 true. They're not relating something that they think is false.
7 They have interpreted it and incorporated it as part of their
8 experience.

9 Q Okay. In terms of the memory of a child versus the
10 memory of an adult, how do those memories, if they do, differ
11 in any way?

12 A Well, children are not just different on the outside;
13 they're different on the inside, too. And so both physically
14 and developmentally, emotionally, children are not little
15 adults. And, for example, physically, during the preschool
16 years, although the brain is in a rapid phase of development,
17 certain parts of the brain, like, the frontal lobe that has a
18 lot to do with memory and storage of memory, is not fully
19 developed. And so that's one of the reasons, researchers
20 believe, that as adults we experience infantile amnesia. We
21 don't tend to remember things before about age three. And
22 those memories that we do have of our young childhood seem to
23 be sort of flashbulb memories, of sort of pictures of what
24 we've experienced as opposed to containing lots of additional
25 information.

1 Q Okay. Can the passage of time is that a factor that
2 we need to be cognizant of when we evaluate a child's memory of
3 an event?

4 A Yes, generally. The closer the information is given
5 to the actual event the more likely it is to be accurate
6 information, generally.

7 Q In a child sexual abuse or a child physical abuse
8 investigation, does the passage of time and the intervening
9 discussions between caretakers and interviews between
10 investigators and the child and possibly therapy sessions with
11 counselors and the child, are those things that we need to be
12 cognizant of when we evaluate the memory of a child?

13 A Yes. The memory is not sort of a stagnant thing.
14 You don't just see something, remember it, put it in storage,
15 pull it back out to remember it, and it's not affected. Every
16 time we sort of pull that memory forward it can be effected by
17 the things that are said in that intervening time of
18 recollection. So, yes, those interviews or conversations that
19 happen over time with a child, particularly a young child, can
20 be problematic when it comes to preserving that memory.

21 Q Okay. You've touched on some of the research that
22 has been done in this area. Do all -- is all the research --
23 do all the researchers agree on the issues of -- on the issue
24 of suggestibility?

25 A The -- no. There are different researchers who have

1 come to varying conclusions. Although that really sort of
2 depends on the frame they come at this research with. What's
3 happened in the last fifteen years that's really been helpful
4 in establishing some of these protocols, is that research has
5 been done about children's ability to remember actual touches
6 to their own body and report that accurately; that's been sort
7 of a new wrinkle. Some researchers have approached that from
8 the standpoint of let's see how faulty a child's memory can be.
9 Other researchers have approached that from the standpoint of
10 let's see how reliable a child's memory can be. And I think
11 it's important to look at all of that. And what's important to
12 me, as I look at that body of research, is that even in this
13 group of research where we look at how strong a child's memory
14 can be, and that's in terms of demonstration, we still find
15 significant errors on the part of some children in those
16 studies. And so I think that's important to note. And it's a
17 caution to those of us who do these interviews to take care to
18 not use improper techniques.

19 Q You have been retained as an expert witness by the
20 defense in this case; is that correct?

21 A Yes.

22 Q And you are getting paid for your testimony here
23 today; is that correct?

24 A I'm being paid for my time here today, yes.

25 Q And I'm not even sure I remember, but do you know

1 what we're paying you to be here today?

2 A I think that -- I don't -- I think the order said
3 \$1,500 or up to \$1,500. But I charge according to my time up
4 to that amount.

5 Q Okay. So you're billing us on an hourly basis?

6 A Yes.

7 Q And for the time that you've done prior to today in
8 preparing for this case?

9 A Yes.

10 Q In preparation for your testimony today did you have
11 an opportunity to review certain materials that I sent you?

12 A Yes.

13 Q Okay. And did you have an opportunity to review, I
14 believe, it was a single video tape that contained three
15 interviews of [REDACTED] and
16 [REDACTED]?

17 A I did.

18 Q Okay. And did you have an opportunity to view those
19 video tapes of each child in their entirety?

20 A Yes, I did.

21 Q Did you have an opportunity also to review the
22 transcripts from these interviews?

23 A Yes.

24 Q And, again, did you have an opportunity to review
25 those transcripts in their entirety?

1 A Yes.

2 Q I believe that we also sent you some materials on a
3 October abuse and neglect report from the Chattooga County, I
4 believe?

5 A Yes.

6 Q And then a -- possibly a similar report from July of
7 last year, 2003; does that sound right?

8 A Yes.

9 Q And, I think, also we may have sent you some copies
10 of some incident reports, possibly?

11 A Yes.

12 Q And, I believe, there may also have been a copy of a
13 medical examination of the [REDACTED] children, I believe, in
14 Chattooga County?

15 A Yes.

16 Q Okay. What I'd like to do if we could, is start,
17 first of all, I guess, in the order the interviews were
18 conducted, starting first with [REDACTED]. And what I'd
19 like to ask you to do if you could is discuss -- with respect
20 to some of the issues that you've already touched on here for
21 us this afternoon, if you could discuss any issues that you --
22 any concerns that you had with the interview of [REDACTED]
23 [REDACTED].

24 A Okay. Well, first of all, one of the concerns I have
25 with this interview, and I'm talking about the interview that

1 was done on 8-4-2003, is that it was far from the first
2 interview in this case. And this -- based on my review of the
3 record, there's been a statement -- according to the DFACS'
4 report in October of 2002, there had been a statement made to
5 the reporter, I don't know who that was, based on the -- that
6 report, but to the reporter about an alleged incident of
7 someone licking one of the children's bottom before -- about a
8 month prior to that initial report. So there had been some
9 conversation beginning as early as September, I guess, of 2002,
10 at least, about these events. And then the reporter that the
11 children were interviewed at that time, and so one of my
12 concerns about all three children including [REDACTED] is that I
13 did not have, if it exists, an objectively documented copy of
14 that interview. And that's an always. At any time you
15 interview a child who has -- where there's suspicion of abuse,
16 any time you conduct a forensic interview, it's proper to
17 either have a video tape, an audio tape, or if there's an
18 emergency and you don't have access to that equipment, to take
19 copious notes in those interviews. It's important to do that,
20 not just for interviews where children allege abuse, but also
21 in interviews where they do not allege abuse, because you never
22 know what is going to be -- happen down the line. And the
23 content of that original interview, the questions that were
24 asked, the statements the children made, I don't have access
25 to. I think it's very important.

1 Q And, again, the initial interview that you're talking
2 about would have been the interview that occurred back in
3 October of 2002 when the report was first made.

4 A Yes.

5 Q Now, is it unusual for very young children to be
6 unresponsive to questions?

7 A Not particularly. However, in a forensic interview
8 one of the reasons you objectively document is because the
9 statements and questions that the adults make are just as
10 important as the statements and questions that the child may
11 ask or statements the child may make. And so it's important to
12 know what has been said to these children because of that risk
13 of suggestion.

14 Q Okay. So would it be, again, applying the norms and
15 protocols that an interviewer is suppose to apply in
16 interviewing the child, would it ever be acceptable to not take
17 notes or not audio tape or not video tape if that's available,
18 even if the child says I'm not going to talk to you?

19 A It's never acceptable.

20 Q Okay. Now, the interview of [REDACTED] that you had an
21 opportunity to view, I believe, was on August the 4th of 2003
22 interview. Did you have any concerns about the passage of time
23 since the events that were being described had occurred in
24 relation to that interview?

25 A Yes, it's reasonable to say that based on sort of the

1 collective research the child who's most at risk for suggestion
2 is a child who is a young child, preschool child, who has been
3 questioned repeatedly over time by people who are biased about
4 what they believe the truth is. In other words, if a child is
5 being questioned repeatedly by individuals that they believe --
6 that believe they know what happened or they know something
7 happened. Whether that is a family member or a professional,
8 it doesn't matter. So that is a situation that apparently
9 occurred here because this extends over at least a year's time.

10 Q Now, in [REDACTED]'s statement in particular, I believe
11 there was some references to a grandmother.

12 A Yes.

13 Q Did you have any concerns about issues related to the
14 mention of the grandmother in [REDACTED]'s video tape?

15 A Yes. One of the affirmative duties of a forensic
16 interviewer is to screen for coaching. When I do forensic
17 interviewing with a child, one of the very first things that I
18 personally do when I interview a child is to establish rapport
19 with them, and then ask them if they know why they're here
20 today. Do you know why you're here today? And let them answer
21 that question, whatever the answer is. And then if they --
22 depending on what they say, follow that with has anyone talked
23 with you about coming to see me today, what do you think my job
24 is? It's very important to do that kind of screening, and
25 particularly in the interview with [REDACTED]. Even though the

1 grandmother comes up a number of times, I don't see any
2 attempts to do that screening. And I think that would have
3 been very important to do.

4 Q During [REDACTED]'s interview, also, it appears that,
5 based on the totality of some of the things that are said, that
6 this child had been in an unstable environment. The child
7 apparently had been between homes and placed in different
8 environments. Did you have any concerns about any of those
9 issues?

10 A Yes. Based on everything I reviewed it appeared to
11 me that the child may have been in rather unstable or even
12 chaotic environments, people living in close quarters,
13 allegedly; people who -- where the child may have seen or heard
14 things or been exposed to things that weren't -- for a child
15 not to be exposed to. But it opens the question of where the
16 child got the information they're reporting, from what part of
17 their experience, from something they saw, or something they
18 actually experienced themselves. And there are things you can
19 do in the course of an interview to help a child sort that out.

20 Q Such as?

21 A You can ask when they say things, like, you know, --
22 I'm looking at the interview, but when they make an allegation
23 about something someone did, you can say, tell me how you know
24 that? There's one place in the interview with [REDACTED] where
25 the -- she's asked whether she saw something happen with other

1 children, and she said, I think I did. But there's no followup
2 to that. That's -- and then later in the interview, after more
3 questions, she says I saw this. But at that point she's saying
4 I think I saw it. Well, you think you saw it, why? You think
5 you saw it because someone told you were there? Or do you
6 think you saw it because? What do you remember about it, would
7 have been the appropriate question. Tell me everything you can
8 remember about it. Asking for context, you know, what you saw,
9 those kinds of things.

10 Q Earlier when you were talking about the norms and the
11 protocols, I think we had touched on briefly developmental
12 screening, establishing competency.

13 A Uh-huh.

14 Q Any issues with [REDACTED]'s interview concerning those
15 issues?

16 A There was relatively no developmental screening done
17 in this case with this child. There's one statement in her
18 interview where the interviewer goes through a paragraph of
19 saying, do you know the difference between telling the truth
20 and telling a lie? But it's interesting to me that in this
21 paragraph although -- well, first of all, that's not enough to
22 do with a child to tell whether they know the difference
23 between telling the truth and telling a lie.

24 Q What else do you want to do when you try to establish
25 whether the child knows the difference between telling the

1 truth and telling a lie?

2 A Well, you can do a couple of things. It's difficult
3 even for an adult to say -- you can't say to a child or you
4 should not say to a child, what does it mean to tell the truth?
5 An adult has problems sometimes answering that question
6 precisely. But you can do things, like, have the child recount
7 to you an incident that's known to both of you, something that
8 happened in the waiting room just a few moments before that
9 maybe you observed. You can ask them, so when you were sitting
10 in the waiting room did you see those puppy dogs and those
11 kitty cats come in; something that is false, that didn't
12 happen. And you can check to make sure the child is willing to
13 disagree with you, willing to say, no, that didn't happen;
14 there were no puppy dogs and kitty cats in the waiting room.
15 And you can test a child's ability and willingness to be
16 strictly honest with you. And so that's an example.

17 Q Is interviewer objectivity or interviewer bias, is
18 that something that we need to be careful of?

19 A It is very important that a forensic interviewer --
20 that their only allegiance is to the truth. That their only
21 allegiance is to discovering what the truth is and that they
22 take a hypothesis testing approach to the interview as opposed
23 to a hypothesis proving approach, meaning that they have in
24 their minds several different reasons why the child might be
25 saying what they're apparently saying, and they use the

1 interview as an opportunity to test each of those hypothesis.
2 In this instance, those hypothesis would have ranged from this
3 happened to someone is coaching this child. And they would
4 test that through the course of the interview.

5 Q Did the interviewer -- [REDACTED]'s interviewer appear
6 to have some -- did you observe any potential issues with the
7 bias?

8 A Yes, I thought that the interview was very focused to
9 the point of being leading toward [REDACTED] in asking
10 specific questions, not beyond asking about [REDACTED], not asking
11 about other issues, even though there were things in the record
12 that raised questions about other concerns.

13 Q Okay. In [REDACTED]'s interview, again, you had an
14 opportunity to see the entirety of [REDACTED]'s taped interview;
15 is that correct?

16 A Yes.

17 Q Okay. Without going into some of the things that the
18 child specifically said did you have any concerns about
19 [REDACTED]'s reliance on the memories or reports of her siblings?

20 A Yes.

21 Q What -- can you address that issue?

22 A Well, without going into specifics, I had concerns
23 because there were times in the interview where she referenced
24 -- it's not appropriate for an interviewer to allow a child to
25 rely on what someone else has told them.

1 Q Okay.

2 A And you should question them when they bring up those
3 kinds of things.

4 Q Why is that?

5 A Because you're dealing with -- in this instance --
6 let's say, you were dealing with a relative or someone you were
7 vested in. Okay. If that were the case, then you might accept
8 what this other person has told you as true when, in fact,
9 maybe the other person wasn't accurate in their report.

10 Q What about the age of the child at the time? I think
11 [REDACTED] was about five years old at the time of the interview.

12 A Right. And, again, as a preschool child, you have to
13 be very careful with both the structure of the interview and
14 developmental screening that you need to do.

15 Q Okay. Again, I think when you and I talked earlier
16 in the week. You used the term selective positive
17 reenforcement with me. What is selective positive
18 reenforcement?

19 A It means that during the course of the interview you
20 only pay attention to the things that correlate to your
21 hypothesis of what happened in the case, and you ignore
22 everything else. That's one of -- and it can mean, also,
23 praising the child for answering questions in a certain way,
24 overtly, or simply with body language, praising, you know,
25 letting the child know by facial expressions that they're

1 pleased you gave that answer.

2 Q I think in -- I believe in all three cases, it may
3 have been only the two older children, you may remember better
4 than I do, but I believe in [REDACTED]'s case at one point in
5 time the social worker Ms. Mincey brought out some anatomically
6 correct dolls or at least some dolls and asked [REDACTED] if she
7 could utilize those dolls in describing what had occurred to
8 her. Any issues with the use of dolls in a child this age?

9 A Yes. I think that the use of anatomically -- it's my
10 opinion that the use of anatomically correct dolls is very
11 controversial because the dolls in and of themselves can be
12 suggestive. They're not like any dolls this child, or most
13 children, have ever seen before because they have correct
14 anatomy. And it is common for children who are presented with
15 that kind of doll to be drawn to and interested in the things
16 that are different than the other dolls they've seen. So the
17 dolls can in and of themselves be an issue. Also, with
18 preschool children there's -- preschool children get -- before
19 a certain point developmentally cannot use an object to
20 represent themselves. It's called objectification. It's the
21 ability to think abstractly and use this object to represent
22 yourself. And that's a part of cognizant development that is
23 often not available for preschool children. So I don't use
24 dolls at all in my -- in the course of my practice. And
25 anatomically correct drawings, which were also used here, can

1 also be suggestive because again they're anatomically correct.
2 But I think it's appropriate to use those for identification of
3 body parts or for allowing a child to demonstrate what they've
4 already reported, so.

5 Q Based on the totality of your observations of
6 [REDACTED]'s interview, can we draw any conclusions about that
7 interview or not?

8 A I would not be able to draw any conclusions about
9 that interview because of the techniques that were used were so
10 outside the norm for what a forensic interview should be.

11 Q The next interview I think that was done in order
12 would have been the middle child [REDACTED]. And, again, I think
13 [REDACTED] was just only four years old at the time of that
14 interview. And, again, I assume there's some concerns about
15 the age of the child?

16 A The younger the child the greater the concern with
17 the ability to monitor the source of their memories and know
18 that what they're reporting is what happened to them as opposed
19 to what they've heard of seen or someone has told them.

20 Q And, again, what we talked about with [REDACTED], any
21 concerns about the repeated -- possible repeated questioning
22 over time?

23 A Yes, and that's the same concern that I mentioned
24 before. Very young children questioned repeatedly over time by
25 someone who believes to know the answers to the question is the

1 most likely situation for a child to be subject to suggestion.

2 Q Again, as with the prior interview, any concerns
3 about the nature of the questioning itself?

4 A Again, the questions, I think, are very leading. And
5 I look at that in terms of leading questions in the interview
6 like this. It's a little different than a legal context. But
7 in this interview there are many questions that are yes and no
8 answers. And if one of the things that is helpful to do when
9 you look at an interview is to look at what information the
10 child provided that did not first come out of the adult's
11 mouth, and either in the form or the content of the question or
12 in a direct suggestion to the child.

13 Q Did the interviewer do a developmental assessment or
14 a competency testing of [REDACTED]?

15 A Again, no, I observed no developmental assessment.
16 And there was a conversation about truth and lie, but it was
17 not adequate to determine both competency and commitment to
18 that.

19 Q Okay. And, again, the phrase we used earlier this
20 afternoon, memory source monitoring, any concerns about issues
21 of memory source monitoring with [REDACTED]?

22 A Yes, there was not an effort on the part of the
23 interviewer to ask the child those questions. Is this
24 something that really happened to you, or has someone who has
25 talked with you about this. There's no attempt to try to sort

1 that out.

2 Q Again, looking at [REDACTED]'s interview as a whole, can
3 you draw any conclusions or not about [REDACTED]'s interview?

4 A That it was improperly done with many techniques used
5 that are not proper, including leading questions and use of
6 peer pressure.

7 Q What do you mean by use of peer pressure?

8 A Well, I think that's an important issue in this case
9 because of the three children, and at this interview the
10 interviewer mentions to her what her sister has done or sister
11 has talked about, and that's not appropriate because of the
12 loyalty between siblings. And so in a situation like this, an
13 allegation can develop and sort of cross-pollinate between
14 children and -- in their own conversations or in their
15 conversations together with adults.

16 Q How do you screen for that? How do you avoid that
17 problem where you've got an indication that there may be some
18 cross-pollination or peer pressure? How do you approach it as
19 an interviewer?

20 A Well, clearly you can't prevent what's happened
21 before the child is in front of you, but it is important to
22 screen for it. It's important to ask the child questions about
23 what kind of -- what they've talked with their sisters about,
24 and what they've talked with their grandmother about, and what
25 they've talked to their mom about, their dad, etcetera, to try

1 to discover that, or at least give the child an opportunity to
2 tell you. One of the things that does not happen in these
3 interviews is the child is never -- none of these children are
4 really ever given an open opportunity to just say, tell me
5 everything that happened, you know, and give them at least an
6 opportunity to tell it in narrative before these leading
7 questions begin.

8 Q The last interview that was done was done with the
9 youngest child [REDACTED]. And I think that she was about two
10 years old at the time of the initial interview. Again, I'm
11 assuming that there was definitely -- that that was definitely
12 a concern; is that correct?

13 A Yes. This child was so young. If my birth dates
14 were right, she could have been less than two years old when
15 these alleged initial incidents happened. It is extremely
16 unlikely that she would at that point be relating her memory of
17 an event. And it's much more likely, in my opinion, that she'd
18 be relating what she either remembered telling someone or
19 remembered hearing from someone during the course of that time.
20 That kind of long-term memory doesn't develop until later in
21 the preschool years normally.

22 Q When in the developmental process does a person first
23 begin to develop long-term memory?

24 A Well, it varies from person to person. But generally
25 -- the frontal lobe of the brain that is the part that

1 primarily controls memory is not fully developed until late
2 adolescence. But, again, generally, younger children have more
3 difficulty with that than older children. And, again, I think
4 the easiest way for me to understand it is this concept that I
5 have difficulty remembering, most adults do, beyond past about
6 age three. And those memories are pretty much just flashbulb
7 picture memories. So it would be very rare.

8 Q Again, as with the other children, any issues with
9 the developmental assessment or the competency testing?

10 A They would have been particularly important with this
11 child because of her young age, and it was not done during this
12 interview. In fact, I looked back at it and at least in the
13 video tape that I had, I don't recall there being even a
14 question about truth and lying in that scenario with this
15 child.

16 Q What about issues with the peer pressure that you
17 mentioned a moment ago, the issues of peer pressure?

18 A Yes, at the very beginning of her interview, there
19 was -- I've been talking with [REDACTED], I mean with [REDACTED] and
20 [REDACTED] about somebody that -- you know. And so she brings the
21 sisters in and lets her know that we've -- she's had these
22 conversations early on in that interview.

23 Q Why is that a problem? Explain that.

24 A Because of the sibling alliance. Because it puts
25 potentially pressure on this child to confer with what she may

1 believe that her sisters have said. She goes on to say, I've
2 been talking with [REDACTED] and [REDACTED] about somebody named
3 [REDACTED], you know. Again, it's a very directed approach to
4 looking at just this one individual. It would have been much
5 more appropriate with this child to talk about -- identify body
6 parts, talk about kinds of touches, good touches, bad touches,
7 etcetera, that she may have received, and from whom, and ask
8 that in a very general open-ended kind of way as opposed to
9 directing the interview toward an individual.

10 Q Again, as with the other children, any concerns --
11 and I think you've already touched on it with leading
12 questions?

13 A Yes. Very direct. Very direct, a lot of yes and no
14 questions in the course of this interview.

15 Q And in [REDACTED]'s statement, I think, in particular
16 there were a couple of things that the child mentioned that
17 seemed striking. One of the things I think that the child said
18 in one point in the interview was that she -- that a knife had
19 been used on her.

20 A Yes.

21 Q And I may be confusing my interviews, but I think
22 there was also possibly a reference in [REDACTED]'s about being
23 made to sleep in the -- that [REDACTED] may have tried to make her
24 sleep in the doghouse.

25 A I remember that reference, but I can't recall if it

1 was in [REDACTED]'s or [REDACTED]'s interview.

2 Q [REDACTED]'s or [REDACTED].

3 A But it was --

4 Q -- Are statements like that, are those an issue that
5 you look for?

6 A Yes. I was struck by the statement about the knife
7 because it was kind of spontaneous, and yet there's no
8 reference to it anywhere else in the case. There's no
9 reference in the medical information that I looked at that
10 indicated that something like that could have happened. And
11 the interviewer asked very few followup questions about it. If
12 you believe that someone had taken a knife and cut a child's
13 private area, I would think you would want to ask a lot of
14 questions about that. So I was struck by the fact that she did
15 not.

16 Q Let me ask you a hypothetical. If you were to -- if
17 you were to learn that the child had been treated for a rash by
18 the use of Vaseline on a Q-Tip by a care giver, with this
19 allegation about the knife, is that something that might
20 explain a mistaken association or is it -- is there -- would
21 that be an issue that necessarily wouldn't amount to anything?
22 I mean, how do we explain this statement about the knife?

23 A Well, there can be mistaken associations and things
24 transposed into a child's memory from unrelated experiences.
25 That's a possibility. And it's possible that an experience

1 like that could be one of those experiences. But what we find
2 is that sometimes in the course of these investigations in the
3 course of these interviews children do make fantastic,
4 improbable statements. And sometimes it's not possible to
5 track down the source of those. But you should always pay
6 attention to them, and it should always at least leave you with
7 questions about where did this come from. And if this doesn't
8 seem like it's something that's plausible, then what do I do
9 with the rest of this child's statement. How do I know what is
10 and what isn't, especially if they're delivered with the same
11 degree of certainty and the same degree of affect and the same
12 type of detail.

13 Q Okay. And, again, as with the other children,
14 looking at [REDACTED]'s interview as a whole, can we draw any
15 conclusions about the interview?

16 A Just that especially given this child's young age
17 this is not how this interview should have been conducted.

18 Q I believe that's all the questions I have, Ms.
19 Morton. Ms. Fox may have some questions for you.

20 THE COURT: Ms. Fox.

21 CROSS-EXAMINATION

22 BY MS. FOX:

23 Q Ms. Morton, you indicated you've testified fifteen
24 times in that last ten years. How many times was for the State
25 of Georgia?

1 A Three, I think.

2 Q How many times for the defense?

3 A I would expect the balance of those, yes. But I
4 don't know the exact numbers.

5 Q Okay. So it's approximately fifteen?

6 A Approximately. I don't know the exact numbers.

7 Q Is it a fair statement that interviewing children in
8 child abuse cases has evolved within the last twenty years as
9 far as what's acceptable techniques and what's not acceptable
10 techniques?

11 A Absolutely.

12 Q So this is pretty much a profession that as a whole
13 has modified how to do things over the course of time as things
14 are -- as research is done and also as things are found more to
15 be appropriate and not appropriate as a whole among the people
16 who do monitor these type of cases?

17 A Yes, that's true. Because when we first started
18 doing these interviews, we didn't have a lot of research to
19 rely on, just sort of common sense.

20 Q A good factor would be the dolls.

21 A Right.

22 Q Fourteen years ago everybody had a set of dolls.

23 A Right.

24 Q If you didn't use a set of dolls in your interview
25 you were just a failure, pretty much, as far as your interview.

1 A They were commonly used.

2 Q Exactly. And the same for the diagrams. Several
3 years back, probably mid-'90's, it was a very sophisticated
4 anatomical drawing that was used in almost all the interviews
5 that would show graphic detail of a male penis, for example,
6 rating the diagram that's presented to the child.

7 A Yes.

8 Q And now we've kind of modified to a Gingerbread type
9 little person when they're used, correct?

10 A It depends on the jurisdiction.

11 Q So it --

12 A Yes.

13 Q It evolves is what I'm trying to say.

14 A Yes.

15 Q So an opinion today of what's appropriate and not
16 appropriate might not be the same opinion in research in
17 general fifteen or ten years down the road from now. We can't
18 say that we've reached the pentacle of everything.

19 A I would hope that it evolves -- continues to evolve
20 over time, yes.

21 Q Okay. Would you surprise you that the children said
22 nothing in October, not even their names? There was
23 essentially no interview. They did not talk. It's not I won't
24 talk to you; they didn't talk.

25 A That's fairly unusual in my experience.

1 Q Okay. And you obviously didn't have that
2 information.

3 A I had the information that there was no documentation
4 of that interview and that what was said was the children
5 didn't report anything, because I had a copy of the DFACS
6 investigative summary.

7 Q And it is not unusual for a child who has been
8 molested to delay reporting, that is, not report the same day
9 it's happened, maybe not even the same month it happened. It
10 is not uncommon for a child to report a year or even two years
11 later. That would not be unheard of, and it still could have
12 been a child that was actually molested, correct?

13 A The research swerve all over the place on that.
14 Swenson and Snow would say that children delay -- can delay
15 disclosure. Brady and Wood would say that most children report
16 abuse when they're asked about it. And the issue here
17 primarily is the age range.

18 Q Okay. Is it also a fair statement that a child is
19 more likely to disclose when it is that child that is willing
20 to talk as opposed to you going up and start just questioning?
21 The child that is more willing to talk would be the one that
22 kind of brought it all up to begin with.

23 A I don't know. I mean, I'm trying to make sure I
24 understand your question.

25 Q Uh-huh.

1 A The -- can you say it -- the last part one more time?

2 Q In smaller parts?

3 A Yes, can you break it down just a little bit.

4 Q Okay. A child is more willing to talk if it's a
5 child that initiates the disclosure. For example, the little
6 girl who goes up to her first grade teacher and says so and so
7 has been messing with me is more likely to give a good
8 interview than someone who is sitting there and their best
9 friend says, you know, I think this kid has been molested. And
10 they go and interview that child. They're not as willing to
11 talk because they've been outed, so to speak.

12 A I think sometimes that might be true, but I'm not
13 aware of -- in my experience, how the child does in the
14 forensic interview can vary very much from a child who makes --
15 sometimes the child who makes the initial outcry does not
16 intend to -- does not intend to. They say something they don't
17 know is going to be interpreted by an adult that way. And so
18 they're not really anticipating all the attention they're about
19 to get and having to talk with strangers about what may have
20 happened to them. So not always. I think not always.

21 Q You were certainly not implying in your criticism of
22 the interview that the State of Georgia should never pursue a
23 report of child molestation when a child delays nine, ten,
24 eleven months before a full disclosure is made?

25 A No; but I would say that an interview should never be

1 conducted using this format.

2 Q Okay.

3 A Ever.

4 Q And you also in your analysis of the case assumed
5 that there was repeated questioning of the children from
6 October 2002 through July of 2003 in your assessment of what
7 you read in the files?

8 A Well, it was not just an assumption I made. I found
9 information in the file that supported that, including in the
10 DFACS' summary -- their last summary when they went through
11 date by date and talked about new allegations that were made
12 always to the grandmother over time. So I know that happened.
13 And I know that in these interviews the children refer to,
14 [REDACTED] particularly, what grandmother has said and saying
15 that Tasha would go to jail. So I know that some conversations
16 happened through this time.

17 Q Right. But the disclosures that you're referring to
18 occurred after the July 2003 interview.

19 A The disclosures that I'm referring to?

20 Q The ones that are detailed that were still being
21 disclosed to the grandmother.

22 A Yes -- no, I'm sorry. After the October -- yes. I'm
23 sorry. I'm still trying to get the time frames right. Yes,
24 after the July interview.

25 Q So you're assuming from October to July that they

1 were also being questioned?

2 A I think that there's nothing -- yes. There's nothing
3 in the file that rules that out.

4 Q Okay.

5 A And the children should have been asked about that.

6 Q Okay. You criticized [REDACTED]'s interview because
7 she repeatedly referred to something someone else said. Is it
8 a fair statement that the person she kept referring to was
9 [REDACTED]; [REDACTED] said this happened; [REDACTED] said that
10 happened.

11 A Yes.

12 Q Okay. So it wasn't necessarily that some other
13 individual, some third party other than [REDACTED], per se, was
14 the one she was repeating. It was repeatedly throughout the
15 interview, [REDACTED] said this, [REDACTED] said that, [REDACTED] said
16 this.

17 A She also refers to her grandmother and some of the
18 things she has said on two or three occasions through the
19 interview.

20 Q Did you also note that what [REDACTED] said [REDACTED] was
21 saying had happened to her matched [REDACTED]'s statement to the
22 DFACS worker?

23 A I would generally agree with you about that. I
24 haven't looked at that directly. The thing that stood out to
25 me was that the statement about [REDACTED] -- the conversation

1 about truth and lie and [REDACTED] not telling the truth about
2 something, and it's unclear in the interview what that was.
3 And so I sort of focused on that.

4 Q On that instead.

5 A On that. So I'm not sure.

6 Q You criticized in your summaries the fact that the
7 children had been referred on to counseling. In each one when
8 you kind of summarized it up as a possible source for
9 information. Are you suggesting that a child that has a case
10 pending in court not get counseling at all until after court's
11 over with?

12 A Well, these were notes. And what I was thinking
13 about -- no, is the answer to your question. But the further
14 answer to the question is that in the DFACS' notes it talks
15 about them being referred for play therapy.

16 Q Uh-huh.

17 A Play therapy is inappropriate for children when a --
18 particularly an open-ended play therapy, when a case is pending
19 in court because it is in and of itself suggestive. So you
20 need to make sure the therapy the child gets is forensically
21 sensitive and -- you can do good therapy with a child and help
22 them without engaging in that.

23 Q But you don't know whether these children went to a
24 play therapist or a different counselor?

25 A No.

1 Q I mean, they're in counseling.

2 A Right.

3 Q But you have no clue which?

4 A I don't know what happened in counseling.

5 Q Okay. So you can't say per se that they are with a
6 bad counselor that's suggesting bad things; you can't say that?

7 A No.

8 Q Okay. You criticized in [REDACTED]'s interview the use
9 of what you call peer pressure. And granted, and I'm going to
10 read it to you, the main question here on Page 5, [REDACTED] told
11 me that you called this part down here where you go pee-pee
12 your private part. That's what you're referring to; that's
13 peer pressure, you're saying to [REDACTED] that [REDACTED] said
14 this.

15 A It's an example of it.

16 Q Okay. But [REDACTED], when she said, what do you call
17 it, [REDACTED] said, pee-pee. She did not cave to the peer
18 pressure. She gave it her own name that she called it.

19 A She did.

20 Q Okay. You also referred to Page 16, which again
21 would be an example of the peer pressure you're criticizing
22 this interview for. You said -- or rather I'm going to read
23 from it, that's what [REDACTED] did and it helped me to
24 understand what she was talking about. She is specifically
25 telling her, [REDACTED] showed me with these dolls in presenting

1 the dolls to the child. Then the child even asked, did
2 [REDACTED]? And she said, [REDACTED] did, uh-huh. She showed me.
3 And then she went on to explain. Again, [REDACTED] did not cave
4 to the peer pressure. You're saying the peer pressure is
5 inappropriate.

6 A It is.

7 Q But this child stood up to it and did not demonstrate
8 with the dolls. She did not cave in and say that's the word
9 I'm going to call it because [REDACTED] did. She held her own.

10 A On those two instances. But what we know is that you
11 cannot infer from that that she did not cave in to peer
12 pressure or other inappropriate techniques through the course
13 of the interview. You can, in fact, have an interview with a
14 child where they resist leading question after leading question
15 after leading question, and then ultimately cave in to a
16 leading question. And just because they handled questions one
17 through four correctly doesn't mean you know that about
18 question five.

19 Q I just pointed out because those were the only two
20 examples you cited. And in those cases, even though, granted
21 it is inappropriate, she should not have been told [REDACTED] did
22 anything. But even having been told that she didn't submit to
23 the peer pressure.

24 A I agree with you about those two instances. However,
25 those were simply notes I was taking for myself. And the over

1 -- more than being referenced in specific questions, my concern
2 is that each of these children knew that the other child was
3 being interviewed, and essentially may have known, we don't
4 know, what the other child was alleging. And they may have
5 also been interviewed together or this may have been discussed
6 with them together. They were certainly in the car when
7 Sabrina licked her sister's face and that whole situation came
8 up.

9 Q You highly criticizing an interview with the 2-year-
10 old.

11 A Yes.

12 Q Is it, first off, a fair statement that a 2-year-old
13 has limited vocabulary?

14 A Yes.

15 Q There's just so many words that they know to describe
16 whatever it is they're trying to communicate.

17 A Yes.

18 Q In that assumption there's also a lot of multi-use of
19 the only words they know to try to get their concept across as
20 they're trying to stretch their vocabulary.

21 A That could be true.

22 Q Okay. Did you notice that [REDACTED] did sometimes
23 volunteer information. That is, she's asked one question or
24 trying to be directed to a particular thing, and she did on her
25 own provide some independent information?

1 A She did. She of that, however, was the information
2 that was pretty fantastic.

3 Q Okay. But she could volunteer information her own.

4 A She could. But whether or not that information was
5 reliable is -- I don't know.

6 Q My last question regarding that would be, you are not
7 suggesting that because someone is two that we should not ever
8 interview and try to pursue the people that have been molesting
9 these 2-year-olds?

10 A You should try to pursue the people who are molesting
11 2-year-old children, but even the National Child Advocacy
12 Center in Huntsville agrees that below the age of three,
13 children are not appropriate for forensic interviews.

14 MS. FOX: Your Honor, I just have two more questions,
15 because I know you're watching the time here.

16 Q In all of your training did you receive training on
17 sexual paraphilias?

18 A Yes.

19 Q Are you familiar with the term urolagnia?

20 A I know what that means, yes.

21 Q What does it mean?

22 A Urinating on another person for sexual gratification.

23 MS. FOX: I have no other questions of this witness,
24 Judge.

25 THE COURT: All right. Ladies and gentlemen, we're