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Revisiting the Jordan, Minnesota Cases*

Ross E. Cheit and Andrea Matthews**

There was a series of high-profile child sexual abuse cases in the 1980s that played a significant role in how lawyers, psychologists and law enforcement agents came to understand child sexual abuse. These cases, which were originally seen as valid prosecutions, eventually came to be seen as witch-hunts. This view demonstrated the suggestibility of children and the fragility of defendant's rights. The most prominent case from this time period was the McMartin Preschool case, which emerged in August 1983 in Manhattan Beach, California, and lasted until

* Pursuant to the requirements of the Brown University Institutional Review Board, and in order to protect the identities of the complainants, pseudonyms have replaced the names of defendants and witnesses throughout the text of this article, excluding the original defendant (Rud). Additionally, in the footnotes, brackets have been used to indicate the use of a pseudonym in citation. We also abbreviated party names when necessary in case citations. For further explanation, *see* Part I(B) of this article.

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1990.¹ That case came to define an era. There was an equally prominent group of cases in Jordan, Minnesota, which began in September 1983. These cases actually received more national news coverage in 1984 than the McMartin case did. But, the McMartin case lives on in public memory, while the Jordan, Minnesota cases have been largely forgotten. The conventional wisdom about the Jordan cases is that twenty-four adults were charged with child sexual abuse and that everyone arrested after the first defendant was wrongfully accused.² The legal disposition of the Jordan cases neatly fits that narrative: one case ended in acquittal, and the rest of the cases were dismissed soon thereafter.³ The witch-hunt narrative⁴ of these cases is also supported by investigative notes that concern unfounded allegations that key children in some of these cases made about the mutilation and murder of one or more babies in the summer of 1984. Those allegations contributed directly to the cases being dismissed.

There has never been a scholarly examination of the Jordan, Minnesota cases.⁵ One reason for this may be the seemingly

1. See ROSS E. CHEIT, *THE WITCH-HUNT NARRATIVE: POLITICS, PSYCHOLOGY, AND THE SEXUAL ABUSE OF CHILDREN* 183 (2014).

2. See, e.g., *WRONGFUL CONVICTION: INTERNATIONAL PERSPECTIVES ON MISCARRIAGES OF JUSTICE* 14–15 (C. Ronald Huff & Martin Killias eds., 2010); *AUTONOMY OF THE MCMARTIN CHILD MOLESTATION CASE* 267 (Edgar W. Butler et al. eds., 2001) (discussing the parallels between the Jordan and McMartin cases). There were several others involved in the case: one couple, which was not charged criminally, joined several other couples by later participating in a federal civil suit, claiming that they were wrongfully accused in the family court. See *In re Scott County Master Docket*, 618 F. Supp. 1534 (D. Minn. 1985).

3. See *Scott County*, 618 F. Supp. at 1544; HUBERT H. HUMPHREY III, ATTORNEY GENERAL, REPORT ON SCOTT COUNTY INVESTIGATIONS No. 850763 1 (1985) [hereinafter HUMPHREY REPORT].

4. For a detailed examination of the witch-hunt narrative in cases beyond Jordan, Minnesota, see CHEIT, *supra* note 1.

5. The most textured account of these cases—perhaps the only published account that does justice to the complexity of these cases—is the chapter in John Crewdson’s book. See JOHN CREWDSON, *BY SILENCE BETRAYED* (1988). There is also a fairly recent self-published book devoted entirely to the Jordan cases. See TOM DUBBE, *NIGHTMARES AND SECRETS: THE REAL STORY OF THE 1984 CHILD SEXUAL ABUSE SCANDAL IN JORDAN, MINNESOTA* 1–23 (2005). The book is based almost entirely on secondary sources and contains almost no references to primary court documents or police documents.

insurmountable challenge of trying to research a group of cases that never went to trial.⁶ But the Jordan cases were subject to three separate examinations in the years immediately following the dismissal of all charges. First, Minnesota Attorney General Hubert H. Humphrey, III issued a report in February 1985 that analyzed problems with the investigation and explained why no new charges would be brought.⁷ Second, Governor Rudy Perpich appointed a commission in response to a petition to remove the Scott County prosecutor, Kathleen Morris, from office.⁸ It was dubbed the Olson Commission because Judge Lynn Olson chaired the investigation, which included taking two weeks of testimony.⁹ Third, many of the former Jordan defendants filed suit in federal court seeking damages from an array of actors involved in the investigation and prosecution.¹⁰ Those proceedings generated new information in the form of depositions and resulted in the disclosure of previously confidential documents from family court proceedings. This article is based on extensive research of primary documents from those venues and from elsewhere. We found considerable evidence that challenges the “witch-hunt” claims about this group of cases. But there was also much to criticize in how these cases were investigated and pursued. The critiques of these cases are well known, if not overblown, but the evidence that challenges the witch-hunt narrative has, until now, been lost to history.

I. INTRODUCTION

A. *Case Overview*

The Jordan, Minnesota cases began with a single arrest in September 1983 and ultimately involved criminal charges against

6. See Ross E. Cheit, *The Elusive Record: On Researching High-Profile 1980s Sexual Abuse Cases*, 28 JUST. SYS. J. 79 (2007) (on the challenges of doing original trial court research).

7. See HUMPHREY REPORT, *supra* note 3.

8. See COMM’N ESTABLISHED BY EXEC. ORDER NO. 85-10 CONCERNING KATHLEEN MORRIS, REPORT TO GOVERNOR RUDY PERPICH (1985) [hereinafter OLSON COMM’N].

9. *Id.* at 3.

10. [M.] v. Scott County, 868 F.2d 1017, 1018 (8th Cir. 1989); *In re Scott County Master Docket*, 672 F. Supp. 1152, 1152–54, 1160 (D. Minn. 1987).

2014]

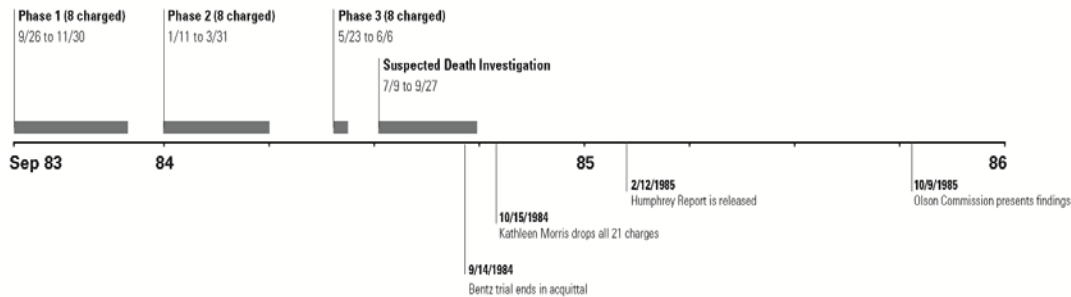
JORDAN, MINNESOTA

549

twenty-three other adults.¹¹ Some of the cases were against individuals, but most were against couples.¹² The arrests occurred over an eight-month period ending in early June 1984.¹³ Additional charges were brought against some of the defendants over the summer of 1984, but no new defendants were added.¹⁴

Figure 1.

Jordan Overview timeline



There was a web of overlapping connections between many of the defendants.¹⁵ Some defendants were related by blood or marriage; others were connected socially in various ways.¹⁶ A few people were central to these webs, particularly James Rud, the original defendant who was linked to the entire first wave of arrests, and Tom and Helen Bryant, who were linked to most of the other people arrested.¹⁷ But there were a few people, like Terry Mueller, whose only connection to the other defendants was that he worked in the same building as Don Baldwin; however,

11. See *In re Scott County Master Docket*, 618 F. Supp. 1534, 1543 (D. Minn. 1985); see also *infra* Figure 1.

12. Stipulation between Kelton Gage & Stephen Doyle, Comm'n Established by Exec. Order No. 85-10 concerning Kathleen Morris, Stipulation No. 2 (Aug. 1, 1985) [hereinafter Stipulation] (listing the charged defendants and complainants subsequent to Rud's arrest); see also Figure 1.

13. *Scott County*, 618 F. Supp. at 1543.

14. Stipulation, *supra* note 12.

15. See *infra* Figure 2.

16. *Id.*

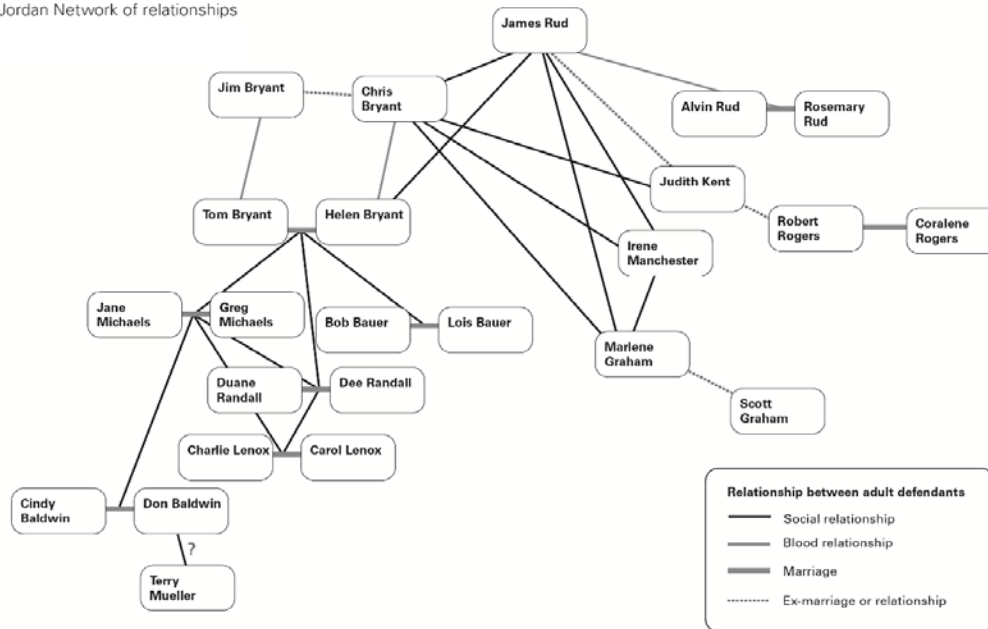
17. *Id.*

550 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546

there is no evidence that they had a social connection.¹⁸

As indicated on the timeline, there were three waves of arrests. The first wave, in the fall of 1983, involved adults connected to James Rud. These adults were mostly women who were socially connected to James Rud, either romantically or through social ties forged at Valley Green Trailer Park, where Rud lived. The second wave of arrests began with Helen and Tom Bryant, who were related to Christine Bryant, a primary defendant in the first wave. The other adults arrested within days or weeks of Tom and Helen Bryant knew the Bryants socially, attending parties at their home and/or camping with them at the Quarry Campgrounds. The third wave of arrests is harder to characterize because several of the defendants in the third phase had little or no connection to other defendants.

Figure 2.
Jordan Network of relationships



18. In a statement to Patrick Shannon on June 4, 1984, Don Baldwin stated that Terry Mueller's name and nickname (Wizard) sounded familiar, but denied knowing him socially or visiting his residence. *See* Interview by Patrick Shannon, Minnesota Bureau of Criminal Apprehension, with Don [Baldwin], Defendant, Scott County Attorney's Office, in Shakopee, Minn. (June 4, 1984) (on file with author). As such, it is difficult to determine whether or not there was a social connection between the two men.

The burden of investigating and prosecuting these cases was carried by a small county prosecutor's office led by Kathleen Morris.¹⁹ Morris had successfully prosecuted a multi-generational child sexual-abuse case in 1982, and she was known for being receptive to bringing cases based on the testimony of children.²⁰ She thought that a child's word could be sufficient to support a criminal case and that child sexual abuse would be significantly under-prosecuted if that was not true.²¹ However one views this philosophy, the simple reality in early June 1984 was that Morris was overwhelmed and needed more staffing and support to handle these cases.²² The first case came to trial in August and it ended in an acquittal the following month.²³ By mid-October, Kathleen Morris dropped charges against all of the remaining criminal defendants.²⁴ The propriety of these events was subsequently investigated to various degrees in several venues: first, in a report by the state attorney general; then, in a report by a commission formed by the governor; and finally, in a complicated group of federal court cases against a host of public actors, including police, prosecutors, and therapists.²⁵ Those cases were eventually joined and later dismissed.²⁶

19. See HUMPHREY REPORT, *supra* note 3; OLSON COMM'N, *supra* note 8; [M.] v. Scott County, 868 F.2d 1017, 1018 (8th Cir. 1989); *In re* Scott County Master Docket, 672 F. Supp. 1152, 1152-54, 1160 (D. Minn. 1987).

20. Thomas Ferraro & Andrea Herman, *Jordan*, SUNSENTINEL, Jan. 2, 1985, at 2, available at http://articles.sun-sentinel.com/1985-01-02/features/8501010083_1_jordan-adults-children.

21. Affidavit of R. Kathleen Morris at 2-3, *In re* Scott County Cases, No. 3-85-774 (D. Minn. 1985).

22. Letter from R. Kathleen Morris, Attorney, Scott County, to Joseph Ries, County Administrator, Scott County (June 5, 1984); Cheryl Johnson, *Commissioners Call for Review of Morris's Budget Increase*, MINNEAPOLIS STAR & TRIBUNE, Oct. 18, 1984, at 10A.

23. E.R. Shipp, *Two in Abuse Case Found Not Guilty*, N.Y. TIMES, Sept. 20, 1984, available at <http://www.nytimes.com/1984/09/20/us/two-in-abuse-case-found-not-guilty.html>.

24. HUMPHREY REPORT, *supra* note 3, at 3.

25. See HUMPHREY REPORT, *supra* note 3; OLSON COMM'N, *supra* note 8; [L.] v. Morris, 484 U.S. 282 (1987); [M.] v. Morris, 810 F.2d 1437 (8th Cir. 1987); *In re* Scott County Master Docket, 672 F. Supp. 1152 (D. Minn. 1987); *In re* Scott County Master Docket, 618 F. Supp. 1534 (D. Minn. 1985).

26. [M.] v. Scott County, 868 F.2d 1017, 1018 (8th Cir. 1989).

B. *Method*

This article is based on extensive research of primary documents from the original investigation and related court proceedings. The most significant group of documents was investigatory in nature. We located and analyzed 269 documents from the investigative phase, covering more than 1,800 pages. The largest categories of documents were police reports, notes from interviews, and affidavits related to the charging documents. This includes police reports that are based entirely on “interviews” conducted by therapists. It also includes the 126 pages related to the “supplemental death investigation” that ultimately helped doom these cases.

Only one of these cases went to trial. That case was so high profile that the transcripts were prepared overnight. Accordingly, even though the case ended in an acquittal, there were transcripts of the proceedings. Those transcripts were entered into evidence in the proceedings of the Olson Commission. We located and analyzed a host of exhibits from those proceedings, along with eleven volumes of transcribed testimony. Our final major source for primary documents was the civil litigation in federal court. Many of the defendants in the Jordan cases filed federal civil claims seeking monetary damages from the state and county. None of them succeeded, but the litigation generated new source material in the form of depositions and answers to interrogatories.²⁷ Excerpts of transcripts and decisions from family court were also included in parts of the federal litigation. We obtained copies of the entire remaining docket from the National Archives. We obtained several thousand pages, although some of the most confidential materials had been destroyed at the end of the case. We identified 139 documents that contained relevant primary source material. We also obtained a host of documents from James Rud’s recent civil commitment proceedings.²⁸

27. *[M.]*, 868 F.2d at 1018; *Scott County*, 672 F. Supp. at 1152–54, 1160.

28. See Transcript of Proceedings, *In re* Civil Commitment of James John Rud, No. 70-PR-08-14829 (Minn. Dist. Ct. Feb. 1–4, 2010) [hereinafter Transcript of Rud Proceedings]; Findings of Fact, Conclusions of Law and Order for Indeterminate Commitment, *In re* Civil Commitment of James John Rud, No. 70-PR-08-14829 (Minn. Dist. Ct. July 12, 2010) [hereinafter Rud Findings of Fact (July 12, 2010)]; Findings of Fact, Conclusions of Law

Finally, we researched secondary sources, including the local newspapers, national television coverage, and assorted magazine stories.²⁹ We also did the equivalent of investigative journalism and located sources that provided some additional primary source material, including videotapes of therapy sessions that involved four of the children in the case. These sessions played a formal role in the investigative phase of the case and are important in understanding some of the most significant failures of the investigative process. In sum, we believe this is the most comprehensively researched account of the Jordan cases that has ever been conducted.

The vast scope of these cases renders it impossible to do a comprehensive analysis in an article. There were twenty-four adults charged with crimes, other adults who lost custody of their children, and some adults who were implicated by numerous children and never charged.³⁰ More than seventy children were involved in the investigation; thirty-two were involved in actual criminal charges.³¹ It would take a book-length treatment and years of additional research to discuss all of this in detail. Accordingly, we narrowed the scope of the article by focusing on several key actors in each phase of the case. For the first wave of arrests, we focused on the three children who were most involved in the origins of the case. Two of those children were the girls who originally were brought into the Jordan Police station. The third was Joshua Owens, who became a lightning rod for criticism of the

and Order for Indeterminate Commitment, *In re* Civil Commitment of James John Rud, No. 70-PR-08-14829 (Minn. Dist. Ct. Sept. 28, 2010) [hereinafter Rud Findings of Fact (Sept. 28, 2010)]. See also *In re* Civil Commitment of James John Rud, No. A10-2005, 2011 WL 2119411 (Minn. Ct. App. May 31, 2011).

29. In addition to reviewing articles from the *New York Times*, the *Los Angeles Times*, the *St. Paul Pioneer Press*, and the *Miami Herald*, we examined a complete record of related articles from the *Minneapolis Star and Tribune* from September through December of 1984. We also examined three local newspapers: the *Jordan Independent*, the *Shakopee Valley Times*, and the *Prior Lake American* from September 1983 through 1984. Using the Vanderbilt Television New Archives we examined national news coverage. We also located collections of local television coverage on VHS tape.

30. Stipulation, *supra* note 12; [M.] v. Morris, 810 F.2d at 1437, 1451 n.10 (8th Cir. 1987)

31. Ross Cheit, Child Database 3.3 (unpublished database) (on file with author) [hereinafter Child Database] (listing the children involved in the Jordan cases).

554 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546

case.

From the second wave of arrests in the case, we focused on allegations against the Bryant family who were the first ones charged in the second phase of the case. We also examined the charges against Bob and Lois Bauer, because it was the only case that went to trial, and the charges against a Jordan police officer, Greg Michaels, who many considered a highly unlikely defendant because of his occupation. From the third phase of the arrests, we examined the charges against Greg Michaels' wife, Jane, who was arrested more than three months after her husband. We also examine the charges against the final couple charged in the case, the Baldwins. Our rationale for these choices is that they represent all three phases of the charges and they cover a significant, but manageable, number of children. A significant limitation of this approach is that it omits direct consideration of more than half of the defendants. And given the conclusion that various defendants in this case were differently situated, it is not clear how generalizable conclusions about some defendants are to other defendants, even in the same phase of the case. In this way, this article is a limited and tentative analysis of these cases.

Our analysis is limited by the nature of the underlying documents and the procedural posture of the cases, almost all of which were dismissed before trial. Accordingly, the focus of our analysis is more on the decision to charge—and, later, the decision to drop charges—than it is on the question of innocence or guilt. The available evidence would need to be developed more fully to reach stronger conclusions on the underlying merits. That might be possible in the single case that came to trial, but our analysis concluded that even that case was difficult to classify.

Finally, in the interest of protecting the privacy of the people in this case who were children at the time, we have employed pseudonyms for all of the children in this case and for almost all of the adults. We did not change the name of James Rud or his relatives. Even though Rud recanted some of his confession, he continues to confirm, as recently as his civil commitment trial in 2010, that he had sixteen child victims, six of whom were connected to the Jordan cases.³² Beyond Rud, there were so many

32. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 867 (containing the admission as to sixteen child victims, involving between fifty

allegations of intra-familial abuse that the only way to protect the names of persons who were children at the time is to change their first and last names. Those changes necessitate changing the last name of virtually all of the defendants in these cases, since there cannot be a coherent discussion of the case without linking children and adults by last name. There were a few adult defendants who were not accused by their own children, but for the sake of simplicity, we made the universal decision to change all of their names.³³ We realize that many of the names that we have “anonymized” are readily available through other sources. Most of those sources were written more than twenty years ago, when some of the defendants were arguably public figures. We believe that the parties in these cases, especially the ones who were children at the time the cases were litigated, deserve this measure of protection from public attention, particularly given that the cases are almost thirty years old.

II. ANALYSIS

A. *Phase One*

The Jordan cases began with one defendant, James Rud.³⁴ The circumstances under which James Rud (pronounced “rude”) came to be in the Valley Green Trailer Park in Jordan, Minnesota, in the fall of 1983 are left out of virtually every witch-hunt account of the case. At the age of twenty-five Rud had twice been convicted on child sexual assault charges.³⁵ In 1978, he received a one-year suspended sentence in Newport News, Virginia, for taking indecent liberties with a child.³⁶ Rud was discharged from the military dishonorably and told to leave Virginia.³⁷ He then

and seventy sexual assaults); Transcript of Rud Proceedings, *supra* note 28, at 268 (containing the admission as to six children connected to Jordan).

33. Except for Rud, every individual’s last name has been changed to a name that begins with the same letter as the real last name. Anyone who was a minor at the time of the case also received a pseudonym for his or her first name, again preserving the original first initial. We did not change the first name of the then-adults, making it easier for any subsequent academic studies to confirm the actual identities.

34. See Complaint, State v. Rud, No. 70-11-6-002730 (Minn. Dist. Ct. Nov. 18, 1983); State v. Rud, 372 N.W.2d 434 (Minn. Ct. App. 1985).

35. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶¶ 48, 59.

36. *Id.* at ¶ 48.

37. *Id.* at ¶ 50.

556 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

moved to Minnesota and, within two years, was charged with second-degree criminal sexual conduct on two young girls in Dakota County.³⁸ Rud pled guilty in 1981 and was sentenced to five years probation.³⁹ He moved to neighboring Scott County the following fall, landing at the Valley Green Trailer Park in the small town of Jordan (population 2,700).⁴⁰ There were 290 units at Valley Green and nearly as many children.⁴¹ One part of the Jordan, Minnesota, story that has been lost to history is that James Rud would never have been living at the Valley Green Trailer Park but for the leniency afforded him twice in the previous five years after proven sexual offenses against children.

How James Rud came to have such extensive access to several children in Jordan is left unexplained in accounts that describe Rud solely as a garbage man.⁴² Rud met many of the children “babysitting.”⁴³ But it appears that Rud seldom charged money to the mostly single mothers who were willing to leave their children with him.⁴⁴ Sometimes he reportedly watched over children in exchange for sex with their mothers, whom he often met at Alcoholics Anonymous meetings.⁴⁵ Other times, the implicit (and probably not so implicit) deal involved Rud obtaining “free access” to the children, whose ages ranged from very young through early adolescence.⁴⁶ One of these women told the police in November of 1983 that she had “assumed” for months that Rud was sexually abusing her girls.⁴⁷ Yet she continued to leave her children with him.⁴⁸

38. *Id.* at ¶ 59.

39. *Id.* at ¶¶ 59, 63.

40. *See id.* at 66; U.S. CENSUS BUREAU, NUMBER OF INHABITANTS: MINNESOTA 22 (1980), available at http://www2.census.gov/prod2/decennial/documents/1980a_mnABC-01.pdf

41. Plot map of Valley Green Mobil Home Park, Jordan, Minn. (Jan. 3, 1980) (on file with author).

42. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 440

43. *See id.* at ¶¶ 43, 53, 81, 135, 171.

44. Bruce Rubenstein, *Many Questions Have Yet to be Answered After Charges Dropped*, PRIOR LAKE AMERICAN, Oct. 24, 1984, at 1 [hereinafter Rubenstein, *Many Questions*].

45. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶¶ 351, 363

46. *See* Arrest Report of Marlene [Graham], Scott County Sheriff's Office, No. 83022352 (Nov. 10, 1983) (on file with author).

47. *Id.* at 3.

48. *Id.*

2014]

JORDAN, MINNESOTA

557

1. *The Origins of the Investigation: Susie Kaplan and Violet Kent*

It is against that backdrop that Christine (Chris) Bryant brought her oldest daughter, Susie Kaplan, age nine, and her daughter's friend, Violet Kent, age ten, in to the Jordan police department.⁴⁹ There had been no child sexual abuse cases in Scott County for many years—at least prosecuted as crimes.⁵⁰ Kathleen Morris's determination to overcome that problem helps explain why a case like the complaint against James Rud was investigated and prosecuted. Her great success with the Cermak case⁵¹—a multi-perpetrator, multi-victim case that she prosecuted in 1982—explains why she plowed ahead with such confidence that her office could handle this case, even as it expanded to become larger than expected.

The Jordan police interviewed Susie Kaplan with her mother, Chris Bryant, present.⁵² Susie accused James Rud almost immediately, but made no allegations concerning her mother, whom she would later implicate along with others.⁵³ Susie's explanation of how she came into contact with James Rud does not appear to disclose the full story. She recalled James Rud picking her up to “just have some fun,” and bringing her and her brother to his trailer, where she alleged that he touched her genital area.⁵⁴ Susie answered negatively when Officer Larry Norring asked whether Rud had picked her up in order to babysit her, but she offered no further details as to how or why she knew James Rud at that time.⁵⁵ This behavior is unsurprising in light of Chris Bryant's presence throughout Susie's first interview, as in subsequent interviews, Susie filled in much of the relationship between her mother, James Rud, and other adults she later implicated in abusive activity.⁵⁶

49. Interview by Officer Larry Norring, Jordan Police Department, with [Susie Kaplan], Child Witness, in Jordan, Minn. (Sept. 26, 1983) (on file with author).

50. Affidavit of Kathleen Morris, *supra* note at 21, at 2.

51. See *State v. Cermak*, 365 N.W.2d 243 (Minn. 1985).

52. Interview with [Susie Kaplan] (Sept. 26, 1983), *supra* note 49, at 1.

53. *Id.* at 2.

54. *Id.* at 3–5.

55. *Id.* at 3.

56. See Interview by Officer Larry Norring, Jordan Police Department, with [Susie Kaplan], Child Witness, in Jordan, Minn. (Jan. 10, 1984) (on file with author); Interview by Officer Larry Norring, Jordan Police Department,

558 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

Susie's silence regarding these individuals during her first interview on September 26 is understandable when viewed in the context of subsequent events. Her mother, Chris Bryant, was eventually arrested and charged with the sexual abuse of multiple children, in part on the basis of statements given by Susie.⁵⁷ Her limited initial disclosure might be seen as evidence that her later allegations were untrue. But it seems more plausible that Susie's statements were limited due to her mother's presence in the initial interview. Taken alongside the allegations made by Violet Kent and disclosures made by Judith Kent and Marlene Graham,⁵⁸ it seems likely that Susie Kaplan's initial silence was reticence that can be explained by her mother's presence.

Soon after her initial interview, Susie Kaplan detailed a broader set of abusive activities that some would call incredible.⁵⁹ These allegations involved instances of abuse in a group setting, incestuous activity, and nude photography.⁶⁰ Yet, other children, and at least one adult, corroborated Susie Kaplan's claims.⁶¹ In addition, Susie made these statements very early on in her interactions with the police, during her second and third interviews. The alleged incidents can roughly be broken into three different groups, each of which was independently corroborated by other children or adults. First, Susie and others described events that took place in Rud's trailer. Second, accounts emerged about abuse that occurred in Judith Kent's home, which involved Susie, Violet Kent, and two children named Sandra and Michelle Graham. Third, multiple accounts described incidents

with [Susie Kaplan], Child Witness, in Shakopee, Minn. (Jan. 13, 1984) (on file with author); Arrest Report of Chris [Bryant], Jordan Police Department, No. 25856 (Nov. 16, 1983) (on file with author).

57. Arrest Report of Chris [Bryant], *supra* note 56.

58. See Interview by Jordan Police Department with Judith [Kent], Defendant (Nov. 14, 1983) (on file with author); Arrest Report of Marlene [Graham], *supra* note 46, at 4; Interview by Officer Larry Norring, Jordan Police Department, with [Violet Kent], Child Witness, in Jordan, Minn. (Sept. 26, 1983) (on file with author).

59. See Interview with [Susie Kaplan] (Jan. 13, 1984), *supra* note 56; Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56.

60. See Interview with [Susie Kaplan] (Jan. 13, 1984), *supra* note 56; Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56; Complaint, State v. [K.], No. 70-11-x-002734 (Minn. Dist. Ct. Nov. 14, 1983).

61. Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58; Arrest Report of Marlene [Graham], *supra* note 46.

2014]

JORDAN, MINNESOTA

559

that happened in the home of Alvin and Rosemary Rud, James Rud's parents. Each series of these incidents is corroborated by multiple witnesses, during multiple interviews, and prior to any possibility of witness contamination via group contact.

Susie's early interviews also accurately fleshed out the social relationships between adults who would later become the center of a ring of defendants. She was interviewed only once more before she was taken into protective custody on November 16.⁶² On that day, she detailed sexual involvement between James Rud, Judith Kent, Marlene Graham, and her mother, Chris Bryant.⁶³ The adults would later make those relationships clear: Judith Kent, Violet's mother, was dating Rud during the summer of 1983 and planning to marry him.⁶⁴ Chris Bryant also had a romantic and sexual relationship with Rud.⁶⁵ Susie's statements about the locations and participants in the alleged abuse bear out these relationships. Susie alleged that in multiple encounters, Rud touched Susie, her brother Joey, and Violet Kent, either in Rud's trailer or Judith Kent's trailer.⁶⁶ Susie described one instance of disagreement between Judith Kent and James Rud that took place in Rud's trailer, after Rud had made both Susie and Violet perform oral sex on him and had performed oral sex on Violet.⁶⁷ Susie recalled that Judith Kent slapped Rud and screamed at him that he was to stop engaging in this kind of behavior with the children.⁶⁸

Susie also described acts of abuse at a level of detail that lent further credibility to her claims. She alleged a series of incidents that took place at Judith Kent's home during which Susie's mother, Judith Kent, and James Rud participated in touching or penetrating the children as well as forcing the children to touch or perform oral sex on the adults.⁶⁹ Susie also alleged that the three adults had taken her, her younger brother Joey, and several other children to Judith's bedroom where all three adults engaged in sex

62. Arrest Report of Chris [Bryant], *supra* note 56.

63. *Id.*

64. Rud described Judith Kent as his ex-fiancé in his civil commitment proceedings. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 175.

65. Arrest Report of Chris [Bryant], *supra* note 56.

66. *Id.* at 1.

67. *Id.*

68. *Id.* at 1–2.

69. *Id.*

560 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

acts with the children and each other.⁷⁰ During this interview, Susie was shown photographic lineups and she identified James Rud and Richard Rud, James' brother.⁷¹ Following this interview, Scott County police arrested Chris Bryant and took all five of her children into child protective custody.⁷² While the accounts we have obtained of this interview do not include a transcript—making it impossible to evaluate the specific questions and answers—there was considerable corroboration of these statements by other children.⁷³

Violet Kent corroborated the alleged incidents in Judith Kent's home in an independent interview.⁷⁴ Violet recalled multiple instances taking place in her home in which she and Susie were told to perform oral sex on or receive oral sex from James Rud, Judith Kent, and Marlene Graham.⁷⁵ The consistency of these statements provides strong support for concluding that Violet and Susie's initial disclosures regarding these events are credible. Violet Kent was interviewed for the first time on September 26 and once more before being taken into protective custody on November 14.⁷⁶ She was eventually interviewed an astonishing forty-two times.⁷⁷ Violet's early interviews provide details about abuse taking place at James Rud's home and mirror the incidents that Susie described.⁷⁸ During her first interview, Violet also discussed staying at Rud's

70. *Id.*

71. *Id.* at 1.

72. *Id.*

73. See Interview by Officer Larry Norring, Jordan Police Department, with [Violet Kent], Child Witness, in Shakopee, Minn. (Nov. 15, 1983) (on file with author); Interview by Officer Larry Norring, Jordan Police Department, with [Violet Kent], Child Witness, in Shakopee, Minn. (Nov. 17, 1983) (on file with author); Interview by Officer Larry Norring, Jordan Police Department, & Doris Wilker, Scott County Human Services, with [Lucy Armstrong], Child Witnesses, in Jordan, Minn. (Nov. 18, 1983) (on file with author); Arrest Report of Marlene [Graham], *supra* note 46, at 1–2.

74. Interview with [Violet Kent] (Nov. 15, 1983), *supra* note 73; Interview with [Violet Kent] (Nov. 17, 1983), *supra* note 73.

75. Interview with [Violet Kent] (Nov. 15, 1983), *supra* note 73; Interview with [Violet Kent] (Nov. 17, 1983), *supra* note 73.

76. See Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58; Arrest Report of Chris [Bryant], *supra* note 56.

77. See Child Database, *supra* note 31.

78. See Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58; Arrest Report of Chris [Bryant], *supra* note 56.

2014]

JORDAN, MINNESOTA

561

home with Susie Kaplan, Joey Kaplan, and her mother Judith Kent.⁷⁹ The fact that Susie originally did not mention Violet's presence at Rud's home when abuse took place might be construed as a serious inconsistency. More likely, the girls were describing different incidents, and Susie Kaplan altered her account of the events she discussed due to the presence of her mother during her interview.⁸⁰

In interviews on September 26, November 15, and November 17, 1983, she described Rud taking pictures of her naked.⁸¹ During her second interview, on November 15, she alleged that she had witnessed her mother, James Rud, and Richard Rud engaging in sex acts with Sandra and Michelle Graham.⁸² She also discussed finding pictures of James, Richard, and Tom Rud featuring the Graham girls naked.⁸³ Violet made statements about pornographic photography and specific incidents concerning a county fair that were corroborated by interviews with other children and adults.⁸⁴ During this second interview, Violet also described two incidents that took place at the same time as a county fair in August of 1983.⁸⁵ Violet alleged that Rud took her to her home, photographed her naked, and forced intercourse with her.⁸⁶ In an interview on November 15, she added that the adults

79. Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58.

80. It is also almost certain that Susie and Violet described different events during their first interviews on September 26. While Susie detailed an event involving her and her brother that occurred over a "weekend in September," Violet discussed the first time she claimed to have stayed at Rud's house, in August. See Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58; Interview with [Susie Kaplan] (Sept. 26, 1983), *supra* note 49. Given the difference in the dates of the incidents described by each child, Susie's exclusion of Violet from her description of Rud's abuse is not only plausible but likely truthful if the girls were discussing completely different incidents. It is possible that Susie Kaplan included every possible detail when describing the abuse that occurred when discussing that one weekend in September. It is also possible that she omitted facts about people or events in an attempt to avoid confronting her mother or other adults who may have abused her.

81. See Interview with [Violet Kent] (Sept. 26, 1983), *supra* note 58; Interview with [Violet Kent] (Nov. 15, 1983), *supra* note 73; Interview with [Violet Kent] (Nov. 17, 1983), *supra* note 73.

82. Interview with [Violet Kent] (Nov. 15, 1983), *supra* note 73.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

562 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

took photographs of each other and of the children naked.⁸⁷ Subsequently, another child, eleven-year-old Lucy Armstrong, corroborated Violet's statements about nude photographs.⁸⁸

Marlene Graham, the mother of Sandra and Michelle Graham, also corroborated James Rud's act of taking nude photographs in statements she made to three Scott County sheriffs.⁸⁹ Interviewed after her arrest in November, Graham waived her *Miranda* rights and said that she wanted to "get it over with."⁹⁰ After admitting that she had frequently been to Rud's home with her children, she said that her twin daughters had also been to Judith Kent's residence with Kent and Rud.⁹¹ She stated Rud had taken her daughters into a separate room for five or ten minutes and then did the same thing with Violet Kent.⁹² Graham did not witness what happened in the room, but "assumed the children were being sexually assaulted" by Rud.⁹³ She stated further that Rud had admitted to taking nude pictures of her daughters and of other children.⁹⁴ She also said that her children had told her in April or May of 1983 that Rud had been sexually assaulting and photographing them.⁹⁵

87. *Id.*

88. Interview with [Lucy Armstrong] (Nov. 18, 1983), *supra* note 73. Lucy Armstrong was Rud's neighbor at Valley Green Trailer Park. On November 18, 1983 Officer Larry Norring interviewed Lucy in the presence of a social worker. At that time, Lucy "indicated that she had been to Jim Rud's residence . . . with Jim's mother and dad, Judy [Kent], [Violet Kent], [Susie Kaplan], [Jessica Manchester], Richard Rud, and Tom Rud . . . Lucy indicated that these people were at the Jim Rud Residence in Valley Green Trailer Park on numerous occasions throughout the summer of 1983." *Id.* Lucy recalled that Rud "had given [Violet], [Susie], and other kids a lot of toys and took them a lot of places and on numerous occasions had found other kids or these children in pajamas." *Id.* Finally, Lucy indicated that "on a couple of occasions she had seen numerous photos of children and teenagers without clothing on. She indicated that the photos she had seen were in a photo album that was shown to her by [Susie Kaplan]." *Id.*

89. Arrest Report of Marlene [Graham], *supra* note 46.

90. *Id.* at 4.

91. *Id.* at 3-4.

92. *Id.* at 3.

93. *Id.*

94. *Id.*

95. *Id.* at 4. She stated that at the beginning of August, 1983 her daughters, Violet Kent, Susie Kaplan, and Joey Kaplan had been taken to Judy Kent's residence, where James Rud and Judith Kent took photographs of the children naked. *Id.* Graham also confirmed that in late August, Rud took her daughters to the Waconia Fair. *Id.*

Jordan police would have had a much stronger case had they recovered any photographic evidence. But when Rud was arrested, the police did not obtain a warrant to search for photographic materials.⁹⁶ However, an officer observed a stack of videocassettes and “a large box” of what looked like pornography.⁹⁷ The officer could not seize the materials without a warrant, so Rud’s parents ordered the officer to leave.⁹⁸ Nine days after Rud’s arrest, police conducted a search, but the stack of tapes and photographs was gone.⁹⁹ Still, multiple accounts from Violet and Susie Kent, Lucy Armstrong, and adult Marlene Graham constitute strong evidence that Rud had taken nude pictures of children. Further bolstering the credibility of both girls, Violet and Susie independently corroborated each other’s allegations in at least two other areas: abuse taking place at Rud’s trailer and abuse taking place at Alvin and Rosemary Rud’s home.¹⁰⁰ Both girls described Alvin and Rosemary Rud’s home in Shakopee, Minnesota, in detail. Both girls also described Rud’s alleged practice of touching them while in the main area of his trailer and in his waterbed.¹⁰¹ Violet Kent and Susie Kaplan’s consistent descriptions of these three broad types of abusive

96. HUMPHREY REPORT, *supra* note 3, at 13.

97. *Id.*

98. *Id.*

99. *Id.*

100. In an interview on November 17, Violet Kent described being abused at the home of Alvin and Rosemary Rud, James’ parents, and specifically noted that the home was in a trailer park in Shakopee, Minnesota. Interview with [Violet Kent] (Nov. 17, 1983), *supra* note 73. Violet noted that she, Susie, and Joey were touched again, that Alvin Rud had penetrated both her and Susie Kaplan with his penis, and Rosemary Rud had performed oral sex on both of them. *Id.* Susie Kaplan stated identical details in a separate location hours later. See Interview by Officer Larry Norring, Jordan Police Department, with [Susie Kaplan], Child Witness, in Shakopee, Minn. (Nov. 17, 1983) (on file with author). Both girls had been in the custody of foster parents for days after Judith Kent was arrested on November 14 and Christine Bryant was arrested on November 16. See *id.*; Complaint, State v. [K.], No. 70-11-x-002734 (Minn. Dist. Ct. Nov. 14, 1983); Arrest Report of Chris [Bryant], *supra* note 56. When asked who participated in the abuse at Alvin and Rosemary Rud’s house, Violet named “Rosie,” Alvin, Violet, Susie, Judy (Judith), Jim (James), Richard, and Tom. Interview with [Violet Kent] (Nov. 17, 1983), *supra* note 73. The latter two were James Rud’s brothers; Tom was fifteen at the time that the investigation began. Violet described the layout of the house in detail, including its immediate surroundings. *Id.*

101. *Id.*

activities—at Judith Kent’s home, in Rud’s trailer, and at Alvin and Rosemary Rud’s home—is strong evidence of their credibility.

2. *Claims Against Rud Expand: Joshua Owens*

The third child involved in the case was Joshua Owens, a ten-year-old boy and a neighbor of Rud’s. Joshua first spoke to the police at his home on September 30, 1983, days after Rud’s arrest.¹⁰² The investigative documents do not indicate what prompted Joshua’s father to call the police, but given the chronology, it seems likely that the Owenses were aware of Rud’s arrest, which prompted the call. By all appearances, Joshua was a neighborhood boy whose interaction with Rud arose mainly from their close proximity at the Valley Green Trailer Park. Rud also dropped out of the same Alcoholics Anonymous group that Joshua’s mother attended.¹⁰³

According to Joshua’s interviews on September 30 and October 1, 1983, Rud invited Joshua to go camping with him on the first day they met.¹⁰⁴ Soon after, Rud allegedly photographed Joshua and his friends from his front trailer window while the boys played in the space next to Rud’s residence.¹⁰⁵ He described an incident at Lagoon Park, in which Rud threatened him with a pocketknife and instructed Joshua to take off his shirt.¹⁰⁶ Joshua then described Rud touching his chest and penis before instructing him to get into a brown colored car.¹⁰⁷ While Joshua was still in the car, Rud retrieved a stack of “Playboy” magazines and a snake in a cage from his trailer home.¹⁰⁸ Allegedly, Rud drove them to Holzer Park.¹⁰⁹ There, Joshua alleged that Rud cut out the breasts and genitals from explicit photographs in the “Playboy” magazines with his pocket knife, alternating between mutilating the magazine pages and touching Joshua’s chest or

102. Interview by Officer Larry Norring, Jordan Police Department, with [Joshua Owens], Child Witness, in Jordan, Minn., at 1 (Oct. 1, 1983) (on file with author).

103. *Id.* at 11.

104. *Id.* at 1–2.

105. *Id.* at 2.

106. *Id.* at 4.

107. *Id.* at 4–5.

108. *Id.* at 5–6.

109. *Id.* at 6.

2014]

JORDAN, MINNESOTA

565

penis.¹¹⁰ Joshua claimed that Rud then took the snake he had kept in his car and waved it in the boy's face in order to intimidate him.¹¹¹ Joshua claimed that Rud then drove Joshua back to the edge of the Valley Green Trailer Park and threatened his family should Joshua disclose what had happened.¹¹² When asked how he felt at the end of the first interview, Joshua described relief, but he also expressed concern about the possibility of Rud getting out of police custody.¹¹³ At a minimum, Joshua's preoccupation with Rud's inability to access Joshua or others seems to belie sincere fear.

Later statements that Joshua made to police present significant challenges to his credibility. On October 18, 1983, Joshua was interviewed for a third time and made statements that seem bizarre. He described Rud forcing him into a car and driving to a blue-grey house in Shakopee, where multiple men and women wearing masks and promiscuous clothing detained multiple children.¹¹⁴ He described two photographers among the group who were "dressed up like Elvis."¹¹⁵ He said that the adults called him "a new toy," and that Rud called him "my toy."¹¹⁶ Joshua alleged that Rud performed sex acts on him in the house and forced him to pose with a female child he did not know, before he and the female child were forced to perform sex acts on one another.¹¹⁷ Joshua claimed that when the girl refused to smile, she was whipped.¹¹⁸ Joshua's account of the incident ends after witnessing the girl receiving a shot that caused her to

110. *Id.* at 7.

111. *Id.*

112. *Id.* at 7–8.

113. When asked if he had any questions for his interviewer, Joshua asked how long Rud would be imprisoned for assaulting each child. *Id.* at 11. After the officer explained that a judge would decide how long Rud would be imprisoned, Joshua asked about the source of the very first allegations against Rud. *Id.* at 12. When told that the information would not be disclosed to him, Joshua responded with: "You proved it." *Id.*

114. Interview by Officer Larry Norring, Jordan Police Department, with [Joshua Owens], Child Witness, in Jordan, Minn., at 5–7 (Oct. 18, 1983) (on file with author).

115. *Id.* at 8.

116. *Id.* at 10–11.

117. *Id.* at 9–10.

118. *Id.* at 9.

566 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546

become drowsy.¹¹⁹ Joshua then recalled experiencing “a big blackout” before waking up in the woods.¹²⁰

Joshua described at least three more incidents in which he was taken by James Rud to remote locations in the woods and molested, photographed, or forced to watch Rud mutilate *Playboy* magazines.¹²¹ He claimed that one of these incidents involved a woman he did not know, with whom he was forced to have sex.¹²² Another involved a photographer that he identified in a photo lineup.¹²³ The last incident involved three women on motorcycles who brought him to Rud and an unknown photographer, whom then photographed Joshua being forced to give and receive oral sex and being penetrated by Rud in his rectum.¹²⁴ Each time, he claimed that Rud threatened the lives of his family should he disclose the incident.¹²⁵ When asked why he had not detailed these incidents during his prior interview, Joshua answered that he was too embarrassed and was still afraid that Rud might be released from prison in his old age and recruit younger people to injure Joshua.¹²⁶

Almost a month later, Joshua accompanied several members of the Jordan police department to a wooded area in which he alleged Rud had abused him repeatedly.¹²⁷ Guided by Joshua, the officers collected an empty soda can, a blanket, and a piece of plastic sheeting.¹²⁸ Joshua stated that he had been drinking from the soda can on one occasion when Rud assaulted him.¹²⁹ He alleged that Rud had utilized the blanket during another instance, and that the plastic sheeting had been used to cover a wooden box that contained photographs, a camera, and film.¹³⁰ Finally, Joshua claimed that Rud and “his girlfriend” had forced him to

119. *Id.* at 10.

120. *Id.*

121. *See id.* at 11–21.

122. *Id.* at 16.

123. *Id.* at 18–19.

124. *Id.* at 20–21.

125. *Id.* at 13, 17, 21.

126. *Id.* at 23.

127. Interview by Officer Larry Norring, Jordan Police Department, with [Joshua Owens], Child Witness, in Shakopee, Minn., at 1 (Nov. 11, 1983) (on file with author).

128. *Id.*

129. *Id.*

130. *Id.*

2014]

JORDAN, MINNESOTA

567

take pills before assaulting him in the woods.¹³¹ The box, photographs, camera, and film were never found.¹³²

Joshua Owens' later statements have been cited by members of the media and academics who have cast the Jordan cases as a witch-hunt. For example, Philip Jenkins describes Joshua Owens as lying "repeatedly and creatively" and he suggests that "resemblances between [Joshua's] account and the stereotypes of hard-core pornography will be immediately apparent . . ."¹³³ While some of Joshua's statements are difficult to believe, that observation should be tempered by the fact that some of Joshua's most fantastic claims were later corroborated, in whole or in part, by two other children and the one adult in this case who admitted to both committing acts of abuse and being abused himself.

Four of the strange details alleged by Joshua are partially corroborated by other witnesses. First, Joshua's claim that James Rud threatened him with a snake appears bizarre and was not replicated by any child witness in the course of the investigation. However, a young adult involved in the investigation mentions a similar detail in relation to another adult implicated in the case. Tyler Bryant, the biological son of Tom Bryant and stepson of Helen Bryant, was interviewed in June of 1984.¹³⁴ Tyler was seventeen years old at the time and had recently returned from active duty in the armed services.¹³⁵ Bryant made several statements about his uncle James, who had been married to Chris Bryant and had access to her children when they lived together at Valley Green Trailer Park.¹³⁶ According to Tyler, James Bryant was severely abusive toward the children and engaged in odd behavior like putting a bed in the middle of the living room of his home and making the children sleep there with him.¹³⁷ In addition, Tyler Bryant alleged that James Bryant kept "a bunch of strange [pets]" including "rats, tarantulas, snakes, and all these

131. *Id.* at 1–2.

132. *Id.*

133. Philip Jenkins & Daniel Maier-Katkin, *From Salem to Jordan: A Historical Perspective on Child Abuse Cases*, 9 AUGUSTUS 14, 22 (1985).

134. Interview by Detective Patrick Morgan, Scott County Sheriff's Office, with [Tyler Bryant], Witness, in Minnetonka, Minn. (June 29, 1984) (on file with author).

135. *Id.* at 1, 3.

136. *Id.* at 18–20

137. *Id.* at 19.

568 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

different kind of weird birds.”¹³⁸ Tyler said that James Bryant kept the pets for “sex and stuff” and that he had seen Bryant threaten Christ Bryant’s children with snakes and rats.¹³⁹ Tyler Bryant’s allegations do not concern James Rud, nor did he connect Rud to the use of snakes in any way; but the mention of a factually similar detail by an adult involved in the investigation introduces the possibility that Rud could have threatened Joshua Owens in the way he described.

Second, Joshua’s assertion that Rud used a gun to threaten him might also seem unlikely, but another child echoed a similar account early in the investigation. One day before Joshua stated that Rud had threatened him at gunpoint at Lagoon Park, Jordan police interviewed a seven-year-old child named Brett Landry.¹⁴⁰ Brett also lived at Valley Green and had been a playmate of the Graham twins’.¹⁴¹ According to Brett’s mother, Brett was also a friend of Joshua Owens’.¹⁴² Brett made a series of accusations against James Rud, including witnessing Rud assault other children.¹⁴³ Brett also described an incident during the summer of 1982 at Lagoon Park during which Rud “grabbed him by his arm and also placed a pistol type gun to his head.”¹⁴⁴ Once again, this alleged incident does not directly corroborate Joshua Owens’ assertion that Rud threatened him with a gun. But it does furnish another account of Rud’s behavior that, though appearing bizarre when taken in isolation, may be more credible when mentioned independently by two separate children.

Third, Joshua’s account that James Rud gave him pills is somewhat substantiated by another child witness. Aaron Levine, whose younger sister was later interviewed extensively about potential abuse, gave a statement to the Jordan police in April of 1984.¹⁴⁵ Aaron described several instances of abuse occurring at

138. *Id.*

139. *Id.*

140. Interview by Detective Patrick Morgan, Scott County Sheriff’s Office, with [Brett Landry], Child Witness, in Jordan, Minn. (Nov. 16, 1983) (on file with author).

141. *Id.* at 1.

142. *Id.* at 1.

143. *Id.* at 3.

144. *Id.* at 4.

145. Interview by Detectives Michael Busch & Patrick Morgan, Scott County Sheriff’s Office, with [Aaron Levine], Child Witness, in Shakopee,

James Rud's home involving Rud's parents Alvin and Rosemary, Chris Bryant, Marlene Graham, and Irene Manchester.¹⁴⁶ In addition to naming Joshua Owens as a child involved in the sexual activity between adults and children, Aaron describes being given pills by Rud that made him feel drowsy.¹⁴⁷ Aaron alleged that he was not the only child to whom Rud gave pills, and that Rud himself took them.¹⁴⁸ Aaron further alleged that he was given pills in conjunction with being forced to have sexual contact with Rosemary Rud.¹⁴⁹ Once again, the details of Aaron's account regarding pills differ from those offered by Joshua. Joshua alleged that Rud and his "girlfriend" forced him to take pills in the woods before forcing to have sexual contact with them.¹⁵⁰ Taken in isolation, this allegation sounds incredible; yet an independent child alleged similar facts regarding his own experiences.

Finally, the detail Joshua recalls about being forced to pose nude with another young girl may be partially corroborated by an interview of a young girl who also accused James Rud of sexual abuse. Megan Phelps, the stepdaughter of Irene Manchester, came forward on October 15, 1983.¹⁵¹ Manchester would later be accused of sexually abusing numerous children, including her own son and daughter, Jessica and Justin Manchester.¹⁵² Megan recalled visiting James Rud's trailer after spending time with their father, twin brother, stepmother, and step-siblings at a nearby lake.¹⁵³ There, Megan alleged that Rud pulled her down onto his lap and touched her breasts and genitals over her clothing, though she struggled to get away from him.¹⁵⁴ Megan's story was corroborated in a subsequent interview with her twin

Minn. (Apr. 9, 1984) (on file with author).

146. *Id.*

147. *Id.* at 5.

148. *Id.*

149. *Id.*

150. Interview with [Joshua Owens] (Nov. 11, 1983), *supra* note 127, at 1–2.

151. Interview by Agents Shannon & Simonson, Minnesota Bureau of Criminal Apprehension, with [Megan Phelps], Child Witness, in Jordan, Minn. (Oct. 15, 1983) (on file with author).

152. *See* Interview by Detective Michael Busch, Scott County Sheriff's Office, with [Justin Manchester], Child Witness, in Shakopee, Minn. (Nov. 26, 1983) (on file with author).

153. Interview with [Megan Phelps] (Oct. 15, 1983), *supra* note 151, at 2.

154. *Id.* at 3–4.

570 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

brother, who stated that he saw his sister on Rud's lap and noticed that Rud would not let her go.¹⁵⁵ Jessica Manchester corroborated the story further by stating that she had seen Rud holding Megan on his lap and kissing her.¹⁵⁶

In her interview, given three days before Joshua Owens' infamous third interview, Megan recalled James Rud showing her a book of photographs and asking her if she liked them.¹⁵⁷ According to Megan's recollection, the photographs showed a naked girl and boy touching one another.¹⁵⁸ The incident report detailing Megan's interview does not include any further detail, so it is impossible to identify the children featured in the photographs. It is also impossible to conclude whether the photographs were taken by Rud, although the allegation that they were contained in a photo album rather than a magazine suggests that they were homemade. Megan Phelps' allegations do not fully corroborate the aspects of Joshua's story, but they do parallel certain details in a way that minimizes the possibility of coincidence.

Joshua Owens' statements in mid-October 1983 became a focal point for much of the later critiques of the Jordan cases. A lengthy excerpt from that interview was published in the *Minneapolis Star Tribune* in October 1984, after charges against all remaining defendants had been dropped.¹⁵⁹ History Professor Philip Jenkins focused on these excerpts in his wide-sweeping critique of the case, which concluded "almost all of the testimony that led to twenty-five indictments on very grave charges was invented."¹⁶⁰ But Joshua Owens played virtually no role in the expansion of the case. He was not part of any of the charges in the second or third wave of arrests, and almost all of the charges involving Owens were exclusively about Rud.¹⁶¹ Moreover, Owens

155. *Id.* at 1.

156. *Id.*

157. *Id.* at 10.

158. *Id.*

159. *Excerpts of Jordan Police Transcript*, MINNEAPOLIS STAR TRIBUNE, Oct. 18, 1984, at 6A.

160. Jenkins & Maier-Katkin, *supra* note 133, at 22.

161. Joshua Owens was listed in the complaints against only two other defendants: Marlene and Scott Graham, and those charges were based file October 8, 1983. See OLSON COMM'N, *supra* note 8, at 3. No charges were brought against anyone based on statements Joshua made in the famous

is one of the ten children that Rud admitted to abusing when he pleaded guilty.¹⁶² As recently as 2004, Rud still admitted that those charges were true, undercutting the claim that Joshua's statements were completely unreliable.¹⁶³

The earliest statements of several children supported most of the arrests in phase one. A simple accounting of the interview sequence over time demonstrates that these arrests cannot fairly be described as the result of repetitive interviewing. To the contrary, the problems that plagued the arrests made later in the case were largely absent in November 1983, when all of the defendants in the first phase (after James Rud) were arrested.

3. Conclusion

As discussed, James Rud was the first person arrested in the Jordan cases. He was arrested on the word of Susie Kaplan and Violet Kent, but charges involving thirteen other children were added in a matter of weeks.¹⁶⁴ Joshua Owens was the most significant child witness in terms of total counts; Jaclyn Gregory was a close second.¹⁶⁵ Rud acknowledged ten child victims in Jordan when he pled guilty in August 1984, including the four children just mentioned.¹⁶⁶ While there may be some question about the exact number of Rud's actual victims in Jordan, there is no question that the early statements by these children to police led to the apprehension of a serial child molester.

mid-October interview. *See id.*

162. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 283.

163. *Id.* at 315.

164. Stipulation, *supra* note 12.

165. *Id.* The charges involving Jaclyn Gregory covered a time period beginning in September 1981, more than a year earlier than the changes involving other children. Interview by Detective Patrick Morgan, Scott County Sheriff's Office, with James Rud, Defendant, Shakopee, Minn. (Aug. 16, 1984) (on file with author). They involved abuse at the Harvest Valley Bowling Alley in Shakopee, where Rud allegedly abused Jaclyn repeatedly in a car in the parking lot. *Id.*; Complaint, State v. Rud, No. 70-11-6-002730 (Minn. Dist. Ct. Nov. 18, 1983). Notes from an interview with Jaclyn's mother confirm that they frequented that bowling alley, where Rud worked at the time. *See* Interview by Jordan Police Department with Angie [Gregory], Victim's Mother (Nov. 3, 1983); Interview by Detective with James Rud (Aug. 16, 1984), *supra*.

166. *See* Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶¶ 31–490.

572 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

We did not evaluate the evidence against other defendants in the first phase of arrests, but the public record alone provides considerable evidence to support many of the arrests. Marlene Graham, the second person arrested, was named by Violet Kent and Joshua Owens.¹⁶⁷ She provided a statement that admitted her involvement in sexual activity with children.¹⁶⁸ Judith Kent was the third person arrested.¹⁶⁹ She was engaged to James Rud at the time.¹⁷⁰ Rud later admitted that the only reason he was engaged to Judith Kent was to get access to her daughter, Violet.¹⁷¹ Rud's own statements implicate Judith Kent. Along with admitting to his own acts of sexual abuse, Rud described events where Judith sexually abused children, including her own.¹⁷²

Chris Bryant was the fourth person arrested in the first phase.¹⁷³ Unlike the earlier defendants, she has been embraced as a victim in the witch-hunt narrative.¹⁷⁴ This claim seems plausible because Bryant is the one who first brought two girls into the Jordan police station with complaints in early September 1984. But the reporter most familiar with Jordan cases, having covered them for nine months, did not describe Bryant as a caring mother. He wrote that her "major aim in life was finding a place to stash her children while she went out."¹⁷⁵ Different men

167. Stipulation, *supra* note 12.

168. Arrest Report of Marlene [Graham], *supra* note 46, at 3.

169. See Stipulation, *supra* note 12; see also Letter from Norm Pint, Scott County Sheriff's Office, to Postal Inspector Moores (Aug. 20, 1984) (on file with author) [hereinafter List of Defendants].

170. Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 206.

171. *Id.* at ¶¶ 217, 868.

172. See, e.g., Interview by Detective Michael O'Gorman, Scott County Sheriff's Office, with James Rud, Defendant, in Shakopee, Minn. (Aug. 18, 1984).

173. Stipulation, *supra* note 12.

174. Alexander Cockburn described her simply as "a twice-married mother of five." Alexander Cockburn, *Out of the Mouths of Babes; Child Abuse and the Abuse of Adults*, *THE NATION*, Feb. 12, 1990, at 190. Dorothy Rabinowitz also painted a favorable picture of Christine Bryant. See, Dorothy Rabinowitz, *From the Mouths of Babes to a Jail Cell*, *HARPER'S MAG.*, May 1990, at 56, available at http://campus.murraystate.edu/library/E_reserve/HerrELE403/mouths.pdf.

175. Bruce Rubenstein, *Search for Justice in Scott County*, *MINNESOTA L.J.*, Mar. 7, 1986, at 2 [hereinafter Rubenstein, *Search for Justice*]. In an order, family court Judge L.W. Yost stated that "at times Christine Bryant would lock all five children in a room at their house and then leave the home

fathered all five of her children, and the first was a product of rape by her stepfather.¹⁷⁶ “Aunt Chris,” it was revealed through the investigation, started having sexual relations with her sister’s stepson when he was fifteen years old.¹⁷⁷ The more one learns about Chris Bryant, the easier it is to believe that she tolerated, even participated in, the sexual abuse of children. The same could likely be said of James Rud’s parents, who disposed of videotapes that the police noted when they arrested James Rud and who were in the process of moving out of their trailer when they were arrested.¹⁷⁸

Robert Rogers was the seventh person arrested in Jordan.¹⁷⁹ Rogers lied with Judith Kent before she got involved with James Rud.¹⁸⁰ The charges against Rogers were supported by far more than the word of children. A seventeen-year-old male and one of Rogers’ adult-age daughters both gave statements to police about sexual abuse by Rogers.¹⁸¹ The seventeen-year-old male also witnessed Rogers abusing Violet Kent and Susie Kaplan.¹⁸² The final person arrested in the first wave was Irene Manchester, whose seven-year-old son, Justin, told Officers Norring and Busch that his mother took down his pants and sucked his penis in the living room shortly before his birthday in July.¹⁸³ At least two of

for an inappropriate period of time with no responsible adult present.” Adjudicatory Order, *in re* Welfare of [J.B.], [S.K.], [J.K.], [M.C.] & [T.C.], Nos. 83-10552, 83-10553 (Minn. Fam. Ct. May 20, 1985).

176. See Stipulation, *supra* note 12; List of Defendants, *supra* note 169.

177. Interview by Detective Patrick Morgan, Scott County Sheriff’s Office, with [Tyler Bryant], Witness, in Shakopee, Minn., at 1–4 (Jan. 16, 1984) (on file with author).

178. HUMPHREY REPORT, *supra* note 3, at 13.

179. See Stipulation, *supra* note 12; List of Defendants, *supra* note 169.

180. See Interview by Officer Larry Norring, Jordan Police Department, with [Violet Kent], Child Witness, in Shakopee, Minn. (Nov. 22, 1983) (on file with author).

181. Rogers’ daughter told police she left home to escape Rogers’ abuse. Interview by Detective Patrick Morgan, Scott County Sheriff’s Office, with [Samantha Rogers], Child Witness, in Shakopee, Minn. (Mar. 22, 1984) (on file with author). He could not be charged on those counts because of the statute of limitations.

182. Interview by Officer Larry Norring, Jordan Police Department, with [Brendan Kent], Child Witness, in Shakopee, Minn. (Mar. 20, 1984) (on file with author).

183. Interview with [Justin Manchester], *supra* note 152. He told the officers that his mother said he would be put in foster care if he told anyone and that “foster care was like going to jail.” *Id.* These statements were in the

the three Levine children also implicated Irene Manchester in incidents at James Rud's trailer in Jordan.¹⁸⁴ Beyond the vague claims of a "witch-hunt," there has never been a convincing case made that any of these defendants were falsely accused, nor has there been any response to the specific facts mentioned above.

B. *Phase Two*

The arrests of Tom and Helen Bryant marked the beginning of the second wave of arrests in Jordan. This second wave was much more controversial than the first. First, the second wave of arrests would be cast as dubious because of the contrast in social status of those arrested. The *New York Times* described the defendants in each wave as falling into "two distinct groups": the first "centered on Mr. Rud and the mobile home park"; the second "included a few longtime residents, some older adults, two law enforcement officers and a number of homeowners."¹⁸⁵ The implication that the second wave of defendants was "distinct" from the first group is directly challenged by the web of connections between defendants, particularly the extended Bryant family.¹⁸⁶

fourth interview with police, who noted that "[Justin] did state in previous interviews that he had information to tell us about his mother but that he could not tell us about those incidents because they would hurt his mother." *Id.*

184. Interview by Detectives Michael Busch & Patrick Morgan, Scott County Sheriff's Office, with [Aaron Levine], Child Witness, in Shakopee, Minn. (Apr. 13, 1984) (on file with author); Interview by Detective Busch, Scott County Sheriff's Office, with [Claire Levine], Child Witness, in Shakopee, Minn. (Mar. 20, 1984) (on file with author).

185. E.R. Shipp, *Rumors of Murder Haunt Town Since Dropping of Sex Charges*, N.Y. TIMES, Oct. 25, 1984. This became a popular meme in the press. *See id.* Jenkins noted that "many prominent citizens" were charged. Jenkins & Maier-Katkin, *supra* note 133, at 20. In the *Memphis Commercial Appeal* series in 1988, Charlier and Downing said: "some trailer park transients, but many of them with roots deep in the community," as if transients are somehow more likely to be child molesters than homeowners.

186. *See infra* Figures 3, 4.

Figure 3. Jordan Network of relationships, with phases

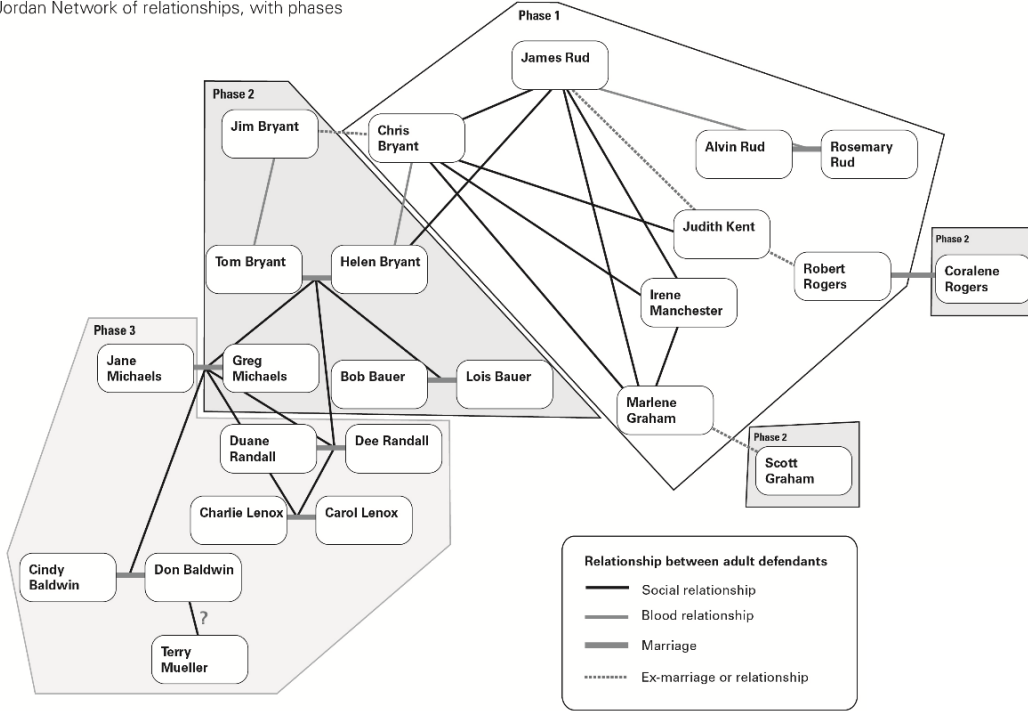
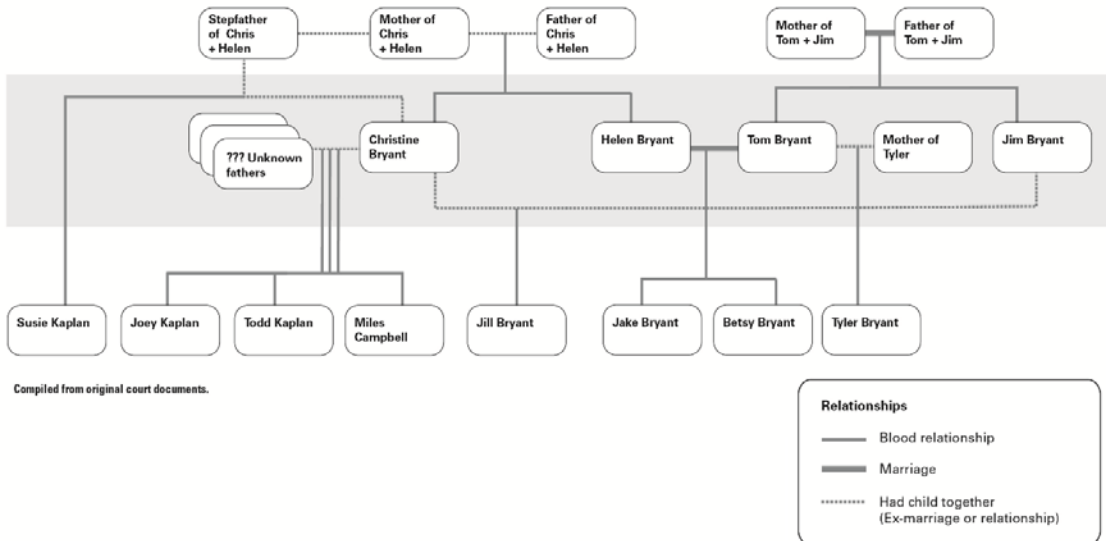


Figure 4. The Bryant Family



Compiled from original court documents.

1. Helen and Tom Bryant

After the investigation slowed through late December 1983, it resumed in early January 1984 with the interviews of several children and quickly resulted in the arrests of Tom and Helen Bryant.¹⁸⁷ These interviews included children who had long-before been taken into protective custody—Susie Kaplan and Violet Kent—and children who had never before been contacted by police, including Jake and Betsy Bryant. Jake and Betsy were closely tied to Susie Kaplan through family and to Violet Kent through social ties.¹⁸⁸ As the children of Tom and Helen Bryant, Susie was Jake and Betsy's cousin.¹⁸⁹ Additionally, not only were Helen Bryant and Christine Bryant sisters, but Tom Bryant and Chris Bryant's ex-husband, James, were brothers.¹⁹⁰ Judith Kent's social connections to Chris Bryant were well established at that time, and later testimony would establish that Judith knew Helen as well.¹⁹¹

Tom and Helen Bryant were arrested on criminal complaints prepared by Michael Busch on January 11, 1984.¹⁹² The arrests closely followed a set of child interviews taking place over January 10 and 11 in rapid fashion. The complaints contained charges relating to five children, including Betsy Bryant and Jake Bryant.¹⁹³ Jake Bryant would go on to implicate multiple adults, his accusations serving as the basis for several criminal complaints in the second phase: first those of his parents, on January 11; the arrests of Robert and Lois Bauer, on January 20,¹⁹⁴ and the arrest of Greg Michaels, on February 6.¹⁹⁵ Around

187. See Stipulation, *supra* note 12; List of Defendants, *supra* note 169.

188. See *supra* Figure 3.

189. See *supra* Figure 3, 4.

190. *Id.*

191. See *supra* Figure 3.

192. See Complaint, State v. [B.], No. 84-00497 (Minn. Dist. Ct. Jan. 12, 1984) [hereinafter Complaint, State v. Thomas [B.]]; Complaint, State v. [B.], No. 84-00279 (Minn. Dist. Ct. Jan. 12, 1984) [hereinafter Complaint, State v. Helen [B.]].

193. See *id.* The other children were Susie Kaplan, Joey Kaplan, and Violet Kent. *Id.*

194. See Complaint, State v. [B.], No. 84-00586 (Minn. Dist. Ct. Jan. 20, 1984) [hereinafter Complaint, State v. Robert [B.]]; Complaint, State v. [B.], No. 84-00587 (Minn. Dist. Ct. Jan. 20, 1984) [hereinafter Complaint, State v. Lois [B.]].

195. See Complaint, State v. [M.], No. 70-11-x-002756 (Minn. Dist. Ct.

this time, Jake Bryant and other children began to describe sex parties and games with adults that implicated a much wider set of defendants than those involved in the winter of 1983.¹⁹⁶ While the evidence provided by child statements regarding these events is considerably less credible due to the practices of the investigation—namely the repeated nature of interviews and the evidence that children were prompted and even rewarded in various ways—there is some corroboration among children and at least one adult that lends some credibility to these claims.

The allegations by Jake Bryant illustrate some of the problems with repeatedly interviewing young children. Over less than one month, Jake Bryant alleged sexual abuse by more than a dozen adults. The strongest evidence that Jake provided involved some phase one defendants plus Robert and Lois Bauer. The statements that Jake provided against his parents were more confusing. Susie Kaplan and Violet Kent provided stronger evidence. The role Jake Bryant played in the arrest of his parents is less significant than those played by other children already involved in the investigation. In his first contact with the investigation, Jake Bryant was interviewed twice on the day the criminal complaints against his parents were written.¹⁹⁷ Jake did not outright allege that his parents sexually abused him.¹⁹⁸ Though the complaints include two charges of criminal sexual conduct on the part of each adult against Jake, the narrative of each complaint does not refer to Jake's interviews that day.¹⁹⁹ It appears that investigators based these complaints on statements made by Susie Kaplan, Violet Kent, and others who were

Feb. 8, 1984) [hereinafter Complaint, State v. Greg [M.]]. Jake Bryant's statements also served as the basis for additional charges against Judith Kent, who was arrested in November of 1983. See Complaint, State v. [K.], No. 70-11-x-002734 (Minn. Dist. Ct. Nov. 14, 1983).

196. See Interview by Officer Larry Noring, Jordan Police Department, with [Jake Bryant], Child Witness, in Shakopee, Minn. (Jan. 11, 1984) (on file with author); Interview by Detective Michael Busch, Scott County Sheriff's Office, with [Jake Bryant], Child Witness (Jan. 12, 1984) (on file with author).

197. See Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 195; Interview with [Jake Bryant] (Jan. 12, 1984), *supra* note 195.

198. See Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 195; Interview with [Jake Bryant] (Jan. 12, 1984), *supra* note 195.

199. Complaint, State v. Thomas [B.], *supra* note 191; Complaint, State v. Helen [B.], *supra* note 191.

578 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

interviewed in the two days before the complaints were sworn. Ultimately, the arrests of Tom and Helen Bryant may have been premature from an evidentiary standpoint. But countervailing concerns about child welfare would have been understandable and credible in their case.

The investigation into the Bryants showcases Kathleen Morris' strategy for arresting and pressing charges against alleged abusers. Beginning with the Bryants, Morris and the Jordan police arrested suspects as soon as possible when one child alleged abuse and as few as one more child corroborated that allegation. The charges filed tended to include all alleged victims mentioned in interviews conducted by that point, even if the alleged victim him or herself had not yet corroborated them. We can only speculate what informed these decisions. On one theory, the criminal complaint is only the first stage in a prosecution, during which complaints can be amended (as they often were in this case, although they were often amended to increase the number of charges) and charges can be dropped, added, or pleaded out. Thus, adding charges for which there is some basis is acceptable. On another view, bringing a criminal charge when the alleged victim has not even made an allegation against the defendant is an abuse of discretion. The method has positive and negative implications. First, isolating possible abusers quickly may be in the interest of public safety by removing them from contact with potential victims as soon as possible. Our current approach to convicted sex offenders takes this view. However, this approach in the pre-conviction stage also raises the possibility of false arrest, poorly substantiated charges, and less-tangible losses like social stigma and family trauma. Kathleen Morris' public statements strongly suggest she considered the safety of children her highest priority.

The arrests of the Bryants illustrate these issues. Susie Kaplan's interview on January 10, 1984, was the first to implicate Tom and Helen Bryant in sexually abusing children.²⁰⁰ By this time, Susie had been in the custody of foster parents for less than three months and had been interviewed three times.²⁰¹ Following

200. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56.

201. See Arrests and Interviews, *infra* note 281; Officer Contacts with Child Witnesses, *infra* note 302.

Susie's interview, the Jordan police made contact with several other children. On January 11, they interviewed Joey Kaplan, Susie's younger brother, along with Violet Kent, and Betsy and Jake Bryant.²⁰² Each child described some kind of sexual abuse; some implicated Tom and Helen Bryant, and some did not.²⁰³

Susie alleged Tom and Helen abused her, Violet, Jake, Joey, and Betsy.²⁰⁴ Joey alleged that he alone was abused by Tom and Helen.²⁰⁵ Violet alleged Tom and Helen abused her, Susie, and the Graham twins.²⁰⁶ Betsy alleged Chris and James Bryant abused Jake and Susie, and alleged Tyler Bryant—her older step-brother—had abused her.²⁰⁷ Betsy also noted that her father had “hurt” her “butt,” and that her mother had told her “not to worry” about Chris Bryant molesting Susie.²⁰⁸ Jake alleged abuse by Chris Bryant of Todd Kaplan and Jill Bryant, and suggested that Tom and Helen Bryant might have abused his sister and another child, Trevor Bauer.²⁰⁹ It is persuasive that several of the children disclosed allegations of abuse so early in their involvement. January 10 was Susie Kaplan's fourth interview overall, and January 11 was Violet Kent's eighth. But January 11 was Betsy and Jake Bryant's first interview and Joey Kaplan's second. Ultimately, each of the allegations made regarding Tom and Helen Bryant resulted in a separate charge filed against each of them. But the charges filed were supported by child interviews of varying credibility. It appears that the Jordan police and

202. See Arrests and Interviews, *infra* note 281; Officer Contacts with Child Witnesses, *infra* note 302.

203. See generally Interview by Officer Larry Norring, Jordan Police Department, with [Joey Kaplan], Child Witness, in Shakopee, Minn. (Jan. 11, 1984) (on file with author); Interview by Officer Larry Norring, Jordan Police Department, with [Violet Kent], Child Witness, in Shakopee, Minn. (Jan. 11, 1984) (on file with author); Interview by Officer Larry Norring, Jordan Police Department, with [Betsy Bryant], Child Witness, in Shakopee, Minn. (Jan. 11, 1984) (on file with author); Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 195.

204. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56.

205. See Interview with [Joey Kaplan] (Jan. 11, 1984), *supra* note 202.

206. See Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 202.

207. See Interview with [Betsy Bryant] (Jan. 11, 1984), *supra* note 202.

208. *Id.* In her first interview, Betsy Bryant recounted speaking to her mother with Susie Kaplan regarding Chris Bryant's abuse of Susie. *Id.* The handwritten notes from this interview read: “Helen said not to be afraid and not to worry about it.” *Id.*

209. Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196.

580 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

Kathleen Morris did not view the number of times a child had been interviewed or how well-corroborated their claims were as important factors in bringing criminal charges. The complaints against the Bryants were based off of single claims made by individual children that implicated the same adults in multiple instances of alleged abuse.

Kathleen Morris could not properly have based the charges brought against Tom and Helen Bryant related to Jake Bryant on Jake's own statements. Jake was interviewed twice on January 11, both times in the late afternoon.²¹⁰ In his first interview, he stated that "something might have happened before Thanksgiving," possibly to Tyler, but that he did not remember.²¹¹ Two hours later in his second interview, Jake stated that "mom and dad probably did something to Betsy," then more concretely stated that his parents had abused Betsy.²¹² However, Jake was cited as a victim in the charges filed against Tom and Helen Bryant on the basis of statements made by Susie Kaplan.²¹³ It appears police asked Jake whether he thought Susie Kaplan or his sister would lie to police.²¹⁴ Jake noted that he did not think either would.²¹⁵ It is unclear from the notes available whether police disclosed the specific statements Betsy and Susie made to Jake. On multiple occasions, children mention that Jake Bryant was playing outside when abuse occurred.²¹⁶ Jake himself noted that sexual abuse "probably" or "might" have happened often in his early interviews on January 11.²¹⁷ On January 12, he stated that "probably" means that something did happen.²¹⁸ It is impossible to determine why Jake switched from claiming sex acts "probably" happened to stating that they did. The change may have been a product of suggestion or pressure from police, but it is also possible that Jake felt more comfortable making accusations

210. *See id.*

211. *Id.*

212. *Id.*

213. Complaint, State v. Thomas [B.], *supra* note 192; Complaint, State v. Helen [B.], *supra* note 192.

214. *See* Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196.

215. *Id.*

216. *See, e.g.*, Interview with [Joey Kaplan] (Jan. 11, 1984), *supra* note 203; Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 203.

217. Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196.

218. Interview with [Jake Bryant] (Jan. 12, 1984), *supra* note 196.

about criminal behavior as his trust in the Jordan investigators increased. Given Betsy's initial allegations, there was support for the conclusion that Tom Bryant was involved in the sexual abuse of at least one of his children and that Helen Bryant may have been involved in abuse of other children.

The charges concerning Tom and Helen Bryant's alleged abuse of Jake, as filed on January 12, were weakly supported. From the sources available, it appears that the charges stemmed entirely from Susie Kaplan's statements on January 10. The report concerning Susie's interview discloses only that she listed Jake Bryant as one of the children abused by Tom and Helen Bryant and her mother Chris Bryant in a group setting.²¹⁹ No other child concretely implicated Tom and Helen Bryant in sexually abusing Jake prior to their arrest. Betsy Bryant alleged that Chris Bryant and James Bryant abused Jake, but did not implicate Helen and made an unclear reference as to Tom.²²⁰

Tom and Helen Bryant's arrests were based on several allegations of crimes against other children, many of which had greater indicia of credibility. From January 10 to 11, Susie Kaplan, Joey Kaplan, Violet Kent, and Betsy Bryant all accused Tom and Helen Bryant of abusing one or more children.²²¹ The children appeared to be talking about separate instances, but all commonly claimed that they took place at Tom and Helen Bryant's house.²²² While the alleged incidents were heterogeneous in nature, each child depicted Tom and Helen as closely tied to Chris Bryant and her ex-husband James, among other adults later charged with sexual abuse.²²³ Violet Kent and Susie Kaplan

219. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56. The list also contained Betsy Bryant, Violet Kent, and Joey Kaplan, Susie's brother. *Id.*

220. See Interview with [Betsy Bryant] (Jan. 11, 1984), *supra* note 203.

221. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56; Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196; Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 203; Interview with [Betsy Bryant] (Jan. 11, 1984), *supra* note 203.

222. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56; Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196; Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 203; Interview with [Betsy Bryant] (Jan. 11, 1984), *supra* note 203.

223. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56; Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196; Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 206; Interview with [Betsy Bryant]

582 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

described being inside the Bryants' home.²²⁴ Jake Bryant described visiting Chris and James Bryant at their home.²²⁵ One strong impression given by the early 1984 interviews is that police would have heard quite frequently that the adults charged during this phase of the investigation were tied together through social relationships, as evidenced by the alleged presence of several children at the homes of several adults. While child suggestibility is a valid concern with regard to these interviews, there is evidence that there were social relationships between these adults, which made allegations of sexual abuse in a group setting more plausible.

On January 12, Jake alleged that Tyler Bryant—his older stepbrother—and Betsy had a sexual relationship.²²⁶ He then alleged that there was a “party” during which he might have been touched on his buttocks while he was in bed.²²⁷ He also noted a spin the bottle game, and alleged witnessing sexual activity between multiple adults and children, notably Tyler and Chris Bryant.²²⁸ Several aspects of these allegations would later be corroborated by five others, including Tyler Bryant, age seventeen, and Karen Franklin, a neighbor who first became involved in the case in late January 1984.²²⁹ Susie Kaplan discussed a spin the bottle game that involved various adults in her interview with police the next day.²³⁰ She alleged that the adults would spin the bottle and hit or touch children in a “naughty spot” when the bottle landed on them.²³¹ Susie further demonstrated her

(Jan. 11, 1984), *supra* note 203.

224. See Interview with [Susie Kaplan] (Jan. 10, 1984), *supra* note 56; Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 202.

225. Interview with [Jake Bryant] (Jan. 11, 1984), *supra* note 196.

226. See Interview with [Jake Bryant] (Jan. 12, 1984), *supra* note 196.

227. *Id.*

228. *Id.*

229. See Interview by Detective Patrick Morgan, Scott County Sheriff's Office, with [Susie Kaplan], Child Witness, in Shakopee, Minn. (Jan. 13, 1984) (on file with author); See Interview with [Violet Kent] (Jan. 11, 1984), *supra* note 203; Interview by Detective Michael Busch, Scott County Sheriff's Office, with [Karen Franklin], Child Witness (Jan. 27, 1984) (on file with author); Interview with [Tyler Bryant] (Jan. 16, 1984), *supra* note 177; Interview with [Betsy Bryant] (Jan. 11, 1984), *supra* note 203.

230. Interview with [Susie Kaplan] (Jan. 13, 1984), *supra* note 229.

231. *Id.* (describing Tom, Jake, Betsy, and Chris Bryant and her partner George Gibbons, and Chris's children Jill, Joey, Todd, and Miles participating in the game).

allegations with a drawing of the circle of participants.²³² Sandra and Michelle Graham,²³³ Betsy and Jake Bryant,²³⁴ Joey Kaplan,²³⁵ and Karen Franklin²³⁶ would all corroborate allegations of a “spin the bottle game” in the month of January. But without more complete transcripts of their interactions with investigators, it is impossible to draw conclusions about whether these details were suggested by the interviewers.

On January 16, Tyler Bryant corroborated Jake’s statements about his relationship with Betsy, and he lent some credibility to Jake’s claim that adults and children played sexual games.²³⁷ Tyler gave interviews on January 16 and 18 that credibly established a sexual relationship between Tyler and Jake and Tyler and Betsy.²³⁸ At age seventeen, Tyler’s statements to police should be accorded a high degree of credibility, both because he was less “suggestible” in the traditional sense as a young adult and because the information he volunteered was given during his first contact with the police.²³⁹ Tyler Bryant also said he heard rumors about a sex game involving other children and adults.²⁴⁰ Tyler recalled hearing that the Franklins, neighbors of the Bryants with children of their own, played a version of strip poker with adults and children present.²⁴¹

Prior to this interview, Tyler made a deal with police to attend a rehabilitation program outside of Jordan.²⁴² It is not

232. *Id.*

233. Interview by Detective Michael Busch, Scott County Sheriff’s Office, with [Sandra Graham], Child Witness (Jan. 20, 1984) (on file with author); Interview by Detective Michael Busch, Scott County Sheriff’s Office, with [Michelle Graham], Child Witness (Jan. 20, 1984) (on file with author).

234. Interview by Jordan Police Department with [Betsy] and [Jake Bryant], Child Witnesses (Jan. 25, 1984) (on file with author).

235. Investigative Notes by Detective Patrick Morgan, Scott County Sheriff’s Office (Jan. 25, 1984) (on file with author).

236. Interview with [Karen Franklin] (Jan. 27, 1984), *supra* note 229.

237. Interview with [Tyler Bryant] (Jan. 16, 1984), *supra* note 177.

238. *Id.*; Interview by Detective Patrick Morgan, Scott County Sheriff’s Office, with [Tyler Bryant], Witness, in Shakopee, Minn. (Jan. 18, 1984) (on file with author).

239. *See* Interview with [Tyler Bryant] (Jan. 16, 1984), *supra* note 177.

240. *Id.*

241. *Id.*

242. *See* Interview with [Tyler Bryant] (Jan. 16, 1984), *supra* note 177, at 3; Letter from Jane Matthews, Case Supervisor, Nexus Juvenile Program, Inc., to Beth Lundholm (June 26, 1984) (on file with author).

clear how or why Tyler would have had any incentive to be over-inclusive about his allegations as a result of that deal. Moreover, two of Tyler Bryant's main points—that he had a sexual relationship with Jake and that there were rumors of strip poker at the Franklins' home—had been mentioned by Jake Bryant in a prior interview that day.²⁴³ The documentation concerning Tyler's initial statements on January 16 do not include a transcript; as such, the documentation is devoid of the kinds of information that might support hypothesis about whether Tyler Bryant was influenced by investigators to give certain statements. Absent this information, it is possible that Tyler Bryant echoed allegations Jake Bryant had made less than an hour before because investigators suggested to him what kind of information they wanted to hear. It is also possible that he echoed these allegations because they were true.

While Jake Bryant's first statements to police could not have been used as strong evidence in justifying the arrests of his parents, by mid-January it would have been credible for the police to believe that Jake and Betsy Bryant had been the subjects of sexual abuse. At a minimum, the Scott County Sheriff's Office had strong reasons to conclude that Jake and Betsy had come into a level of sexual contact, the secrecy of which would strain the limits of Tom and Helen's believability, had they claimed to not know about it.

2. *The Bauers*

The second wave of arrests was also more controversial than the first wave because the first arrest in the second wave was televised. There was minimal media coverage of the first eight arrests and apparently no television coverage of them either. The Bryants' arrest was televised, potentially because Kathleen Morris tipped the media off. In response to the Bryants' arrest, a crowd of about two dozen people streamed into a Jordan City Council meeting on, Monday, January 16, to protest the actions of County Attorney Kathleen Morris.²⁴⁴ “Why does Morris contact the news

243. Interview by Jordan Police Department, with [Jake Bryant], Child Witness (Jan. 16, 1984) (on file with author).

244. *Meeting Crowd Claims Pair Not Guilty, Blames County Attorney for Press Coverage*, JORDAN INDEPENDENT, Jan. 19, 1984, at 1, 3.

media,” a citizen named Bob Bauer was quoted as saying.²⁴⁵ By the end of that week, Bauer and his wife Lois had also been arrested for child sexual abuse.²⁴⁶

The idea that the Bauers might be involved in activities at Tom and Helen Bryant’s house was not far-fetched: the Bauers were next-door neighbors of the Bryants.²⁴⁷ It is important, therefore, to assess the evidence upon which the charges against the Bauers were based. It is also important to note that the original charges were not the only ones filed against the Bauers. Like so many aspects of the Jordan cases, the allegations involving the Bauers expanded over time. The Bauers were charged with twelve additional counts of sexual abuse in late July, involving five additional children.²⁴⁸

The Bauers were originally accused of playing a version of “hide and seek” with their own children, along with Susie Kaplan, Jake Bryant, and Betsy Bryant, that involved stripping clothing off and performing sexual acts.²⁴⁹ The charges arose largely from statements made by Jake Bryant, who was first interviewed on January 11 about abuse by his parents Tom and Helen. Jake made significant statements concerning the Bauers on January 16 and 20 during his third and fourth interviews with investigators.²⁵⁰ Susie Kaplan’s statement on January 20 was the other primary reason for the Bauers’ arrest that day.²⁵¹ Susie was one of the two original girls in the Jordan cases.²⁵² She was interviewed on the first day of the investigation (September 26, 1983), twice in November, and three times in January 1984, before the interview on January 20 where she made incriminating

245. *Id.*

246. *Jordan Couple Arrested in Sexual Abuse Case; Brings Number to Thirteen*, JORDAN INDEPENDENT, Jan. 26, 1984.

247. List of Defendants, *supra* note 169.

248. Stipulation, *supra* note 12.

249. Complaint, State v. Lois [B.], *supra* note 194; Complaint, State v. Robert [B.], *supra* note 194.

250. Interview with [Jake Bryant] (Jan. 16, 1984), *supra* note 243; Interview by Detective Michael Busch, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, in Shakopee, Minn. (Jan. 20, 1984) (on file with author).

251. Complaint, State v. Lois [B.], *supra* note 194; Complaint, State v. Robert [B.], *supra* note 194.

252. See Child Database, *supra* note 31.

586 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

statements about the Bauers.²⁵³

According to the complaint, Jake and Susie had not spoken to each other for a month or more before the interviews in which they disclosed corresponding allegations of abuse.²⁵⁴ We have descriptions of those interviews, but not actual transcriptions or recordings, so it is impossible to ascertain what facts might have been brought up by the interviewers and what came up of its own accord through responses. The chances that Jake and Susie each raised identical factual allegations on the exact same day appear remote. A more likely possibility is that one child raised the allegation and the Jordan police quickly interviewed the other child to see if details raised in the first interview could be corroborated. Given the string of notes taken by investigators that day, it appears more likely that Jake Bryant was the origin of the “hide and seek” narrative. While investigators might have asked Susie specifically about this game, the level of specific detail in her responses seems most consistent with Susie having experienced the events that she described.

Susie and Jake’s allegations of “hide and seek” games might be seen as the product of repetitive interviews, since the most significant statements came after each child had been interviewed numerous times—three in Jake’s case and six in Susie’s case. Still, these statements were echoed by other children in interviews conducted after the Bauers were arrested: Five days later, Joey Kaplan, in his fourth investigative interview, since first being interviewed in late September, also described a hide-and-seek game.²⁵⁵ Most significantly, Karen Franklin, a twelve-year old neighbor who was not involved in the first phase of the investigation, revealed similar information on February 6, 1984, the date of her *second* interview with authorities.²⁵⁶ In the first interview, on January 27, she talked about sexualized games at Tom and Helen Bryant’s house (spin the bottle, musical chairs, and tag) where the loser took their clothes off and went into a

253. *See id.*

254. Complaint, State v. Lois [B.], *supra* note 193; Complaint, State v. Robert [B.], *supra* note 194.

255. Interview by Detective Michael Busch, Scott County Sheriff’s Office, with [Joey Kaplan], Child Witness (Jan. 27, 1984) (on file with author).

256. *See* Interview by Detective Michael Busch, Scott County Sheriff’s Department, with [Karen Franklin], Child Witness (Feb. 6, 1984) (on file with author); Child Database, *supra* note 31.

room with an adult. In her second interview, she specifically mentioned “Lois and Bob” and “Greg” as participants in sexualized games of tag and hide-and-seek at the Bryants’ house.²⁵⁷

The Bauers’ own children eventually made statements about “hide and seek,” but those statements came months later and were severely criticized for having originated in therapy sessions.²⁵⁸ Whether or not the statements by the Bauer children were considered credible, the case against the Bauers was based on three children, all from different families, who made similar statements about sexualized games at the Bryant house that included their neighbors, Bob and Lois Bauer.

The prosecution suffered several stunning setbacks, before and during the trial, which added to the drama and ultimately benefitted the defense. The first setback was the loss of James Rud’s testimony. Rud was to be the adult who added credibility to the children’s testimony. Instead, he failed to identify Robert Bauer in the courtroom and his testimony was ultimately withdrawn.²⁵⁹ The second setback was a contested legal interpretation that limited testimony in the case. Since both defendants in the Bauer case were charged with “aiding and abetting the crimes of another,” the prosecutor had assumed, with good reason that testimony would be admitted concerning the Bauers’ relationship with other defendants they might have aided or abetted. Instead, the judge concluded that the defendants could only aid and abet *each other*. “Judge Mansur’s puzzling ruling,” as reporter Bruce Rubenstein put it, precluded the very evidence that would support the “sex ring.”²⁶⁰ This ruling left the defense in a position to claim that the “sex ring” allegations were preposterous, safe in the knowledge that the prosecution was prevented from presenting any evidence concerning other adults.

Given those limitations, Kathleen Morris was still confident that she had a strong case.²⁶¹ After all, she had the testimony of five children, including two Bauer children. How those children

257. Interview with [Karen Franklin] (Feb. 6, 1984), *supra* note 256. She also mentioned “Fisherman” and “Snowflake,” nicknames for Duane and Dee Randall. *Id.*

258. *See infra* text accompanying notes 336–39.

259. CREWDSON, *supra* note 5, at 10

260. Rubenstein, *Many Questions*, *supra* note 44, at 2.

261. Affidavit of Kathleen Morris, *supra* note at 21, at 7.

588 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

were presented to the jury and how they held up under cross-examination is difficult to ascertain from the transcripts alone. The direct testimony is dominated by yes-or-no questions that seem to eliminate ambiguity, but that also minimize the kind of elaborated statements that reveal spontaneity or that capture the texture of an experienced event.²⁶² The cross-examination was, by many accounts, brutal. As one reporter who covered the trial put it: “The remaining children were attacked viciously by the defense attorneys. They were thoroughly shaken and confused.”²⁶³ John Crewsdon reported that many vomited after leaving the stand.²⁶⁴ Judge Lynn Olson was appalled after reading the transcript of the cross-examination of the children.²⁶⁵ She told Rubenstein that the examination was “condescending, argumentative and repetitious.”²⁶⁶ The commission that she chaired found that the experience was extremely difficult for all of the children in the Bauer case, supporting Kathleen Morris’s argument that dropping charges was the only way to protect the children against further assaults in court.²⁶⁷ Some have criticized Kathleen Morris for not objecting more often to these defense tactics while Morris blamed the judge for failing to protect the children more.²⁶⁸ Whatever the reason, the ordeal of the trial caused parents, therapists, and prosecutors to question which children, if any, they should allow to be subjected to additional trials. This important issue—how children were treated in the Bauer trial—might explain more about the overall collapse of the Jordan cases than any other single factor. But one would never know it from the witch-hunt versions of the case.

Many observers also concluded that the prosecution weakened its own case by declining to cross-examine several defense

262. CREWDSON, *supra* note 5, at 11.

263. Rubenstein, *Many Questions*, *supra* note 44, at 1.

264. CREWDSON, *supra* note 5.

265. Rubenstein, *Search for Justice*, *supra* note 175, at 5.

266. *Id.*

267. See HUMPHREY REPORT, *supra* note 3, at 1; Civia Tamarkin, *Kathleen Morris: The Controversial Prosecutor Vows to Continue the Legal Fight Against Sexual Abuse of Children*, PEOPLE MAGAZINE (Dec. 24, 1984), available at <http://www.people.com/people/archive/article/02008959300.html>.

268. Civia Tamarkin, *Kathleen Morris: The Controversial Prosecutor Vows to Continue the Legal Fight Against Sexual Abuse of Children*, PEOPLE MAGAZINE (Dec. 24, 1984), available at <http://www.people.com/people/archive/article/02008959300.html>.

2014]

JORDAN, MINNESOTA

589

witnesses.²⁶⁹ Prosecutors, generally frustrated by the right against self-incrimination, often crave to cross-examine the defendant. Yet, Kathleen Morris declined to cross-examine the Bauer parents.²⁷⁰ She also declined to cross-examine defense expert, Ralph Underwager, a controversial psychologist who had recently started specializing in defense work in sexual abuse cases and was undoubtedly vulnerable to questions about the nature of his qualifications and experience.²⁷¹

These problems notwithstanding, there were many apparent strengths to the prosecution's case. First, it was based on the testimony of five children, three of whom were older than ten. Only one of the children "cracked" on cross-examination: Jake Bryant told the defense lawyer on the second day of cross-examination that *some* of his earlier testimony had been "a big lie."²⁷² Nevertheless, Jake did not recant his allegations about sexual abuse.²⁷³ Moreover, none of the other children gave that kind of ground in cross-examination. To Kathleen Morris, who believed the word of one credible child could sustain a criminal verdict, it was an overwhelming amount of evidence.

Second, a spontaneous moment during cross-examination of the youngest Bauer child seemed to convey, with stunning clarity, the optimism and turmoil of a boy with divided loyalties over a sexually abusive father.²⁷⁴ The defense attorney—confident because the child waved and smiled to his parents when he entered the courtroom—used the boy's statement to authorities to

269. *Id.*

270. *Id.*

271. Underwager had been turned down for tenure at St. Olaf College and he had virtually no record of publication or research on child sexual abuse. But he spoke in an overblown manner, telling a national television audience that the interview techniques in Jordan case were equivalent to "the brainwashing techniques used by the Red Chinese." See CHEIT, *supra* note 1. Underwager became a liability in some cases, like the Kelly Michaels case in New Jersey. See *id.* His career as an expert witness declined after an interview he gave to a Dutch pedophile magazine was disseminated in the United States. Thomas Lyon, *The New Wave in Children's Suggestibility Research*, 84 CORNELL L. R. 1004, 1074–76 (1998–99).

272. Transcript of [Jake Bryant] Testimony at 81, State v. [B.], Nos. 70-11-0-002757, 70-11-1-002758 (Aug. 30, 1984).

273. See *id.*

274. See Transcript of [Trevor Bauer] Testimony, State v. [B.], Nos. 70-11-0-002757, 70-11-1-002758 (Aug. 30, 1984).

590 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

ask the child rhetorically: “You’re not worried about your father putting his peener in your butt, are you?” The six-year-old looked over at the defense table where his father was sitting and answered cheerfully: “He won’t do that no more, right?”²⁷⁵ His heartbreaking hope revealed more than could be explained away by the defense.²⁷⁶ The state was also bolstered by the defense’s decision to put psychological tests of the defendants into evidence. As the state’s expert pointed out in rebuttal, those tests indicated that the Bauers were “less than truthful” when answering certain questions.²⁷⁷ Whether or not all of this evidence is sufficient to prove guilt, it certainly demonstrates that there was substantial evidence against the Bauers. It was not, by the wildest stretch of the imagination, a witch-hunt to pursue charges against them. Rather, the state would have been remiss had it failed to pursue charges under the circumstances.

The jury deliberated for three days, and as discussion of a mistrial grew, the jury—comprised of eight men and four women—returned “not guilty” verdicts on all counts. It is not clear whether jurors thought the Bauers were factually innocent or that the state had not met the high burden of proof for criminal cases.²⁷⁸ Kathleen Morris said that the system had failed the children.²⁷⁹

After the Bauers’ acquittal, there were significant problems

275. *Id.* at 25.

276. The Bauers later denied the substance of this testimony. Asked by Charles Gibson on *Nightline* why the boy would say such a thing, Robert Bauer said that “hurt” might have meant anything. But the question was specifically about sexual abuse—and the boy’s answer was entirely spontaneous.

277. *TV Report on John Fowler Testimony*, YOUTUBE (Jan. 28, 2014), <http://youtu.be/Wcovk0f5nLU>. The state’s rebuttal witness, Dr. John Fowler, pointed out that Robert Bauer was in the top 1% for “faking good” and Lois was in the top 2%. When given trick questions, they showed “they were less than truthful,” Dr. Fowler testified.

278. *Michael Shea Interview*, YOUTUBE (Aug. 28, 2013), http://youtu.be/_2AXPUSJj6Y. The only juror to speak on television made a statement that suggested that he expected more of the prosecution than it required by law. His statement also suggested that the jury might have applied the wrong standard, demanding proof beyond any doubt, rather than beyond a reasonable doubt.

279. She was also widely misquoted as saying that she was sick of the presumption of innocence. The Olson Commission examined this claim and documented how this “quote” was truncated in a way that misrepresented its meaning. See OLSON COMM’N, *supra* note 8.

for the remaining criminal cases. First, James Rud's confession had been stricken from two pending trials.²⁸⁰ It was unclear whether it would be available thereafter. Second, it was unclear how the children would fare under the stress of future trials. Would future cases involve cross-examination that was as difficult for the children as the Bauer case cross-examination was? If so, how significantly would that diminish the availability of children at trial? Finally, there was the matter of the investigative notes that remained at the periphery of the Bauer proceedings because they were seen only in the judge's chambers and kept from the jury. Those notes detailed what became the most publicized and remembered aspect of the Jordan cases: the unfounded murder allegations made by some children. Those notes would undoubtedly have become a central issue in the Michaels case, one of the other Jordan cases that had a trial date by the time the Bauer case ended.

3. *Greg Michaels*

Greg Michaels was the fourteenth person charged in the Jordan cases.²⁸¹ Michaels, a Jordan policeman, had a strong social connection with Tom and Helen Bryant.²⁸² The charges against Michaels emanated from two of the Bryant children, Jake and Betsy, and an 11-year-old girl in the neighborhood, Karen Franklin.²⁸³ Jake and Betsy Bryant alleged that Michaels had touched their genitals at the Quarry Campground in the summer of 1983.²⁸⁴ Jake Bryant had mentioned Greg Michaels as a friend of his parents in earlier interviews, but this was the first time that he alleged any sexual acts by Michaels.²⁸⁵ Karen Franklin alleged that Michaels had "caught her" in a game of tag and forced her to have intercourse at the home of Tom and Helen Bryant.²⁸⁶

280. HUMPHREY REPORT, *supra* note 3, at 1, 11, 14.

281. Scott County Sheriff's Office, Lists of Arrests and Interviews (unpublished notes) (on file with author) [hereinafter Arrests and Interviews]. James Bryant, Tom Bryant's brother, was the thirteenth—immediately after the Bauers. *Id.*

282. Arrest Report of Greg [Michaels], Scott County Sheriff's Office, No. 84002193 (Feb. 6, 1984).

283. Complaint, State v. Greg [M.], *supra* note 194.

284. *Id.*

285. Child Database, *supra* note 31.

286. Complaint, State v. Greg [M.], *supra* note 194.

592 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

Upon arrest, Michaels admitted that he had camped at Quarry Campground and that he had been to the Bryants' home for card games and parties.²⁸⁷ He vehemently denied his charges, claiming that he was being treated unfairly because of his social connections to Tom and Helen Bryant.²⁸⁸ These charges eventually expanded to allegations involving his wife, Jane.²⁸⁹ She was charged three-and-a-half months later, well into the third wave of arrests.²⁹⁰ As elaborated below, the nature and quality of the evidence was markedly different between phases two and three.

The statements made by Jake Bryant, Betsy Bryant, and Karen Franklin took place on February 6 and 7.²⁹¹ Michaels was arrested on February 6.²⁹² Jake's February 6 interview was his seventh investigative interview. Betsy's interview on February 8 was her eighth. But Karen Franklin's on February 6 was only her second. These interviews provide mixed support for Michaels' arrest given the significantly different number of total interviews between the Bryant children and Karen Franklin. With the Bryant children, it was possible that the progression of interviews itself had helped create the allegations. If the interviewers were supplying new names over time as part of the questioning, then the emergence of new names in these interviews would be highly suspect. Similarly, if the children had the impression that providing new names would somehow be rewarded, the emergence

287. Arrest Report of Greg [Michaels], *supra* note 282.

288. Presumably, Michaels thought that he was being arrested simply because he was friends of the Bryants. But the allegations involved parties of adults at the Bryants; and Michaels admitted that he attended parties at the Bryants. Interview by Sheriff Tietz, Scott County Sheriff's Office, with Greg [Michaels], Defendant, in Shakopee, Minn. (Feb. 7, 1984) (on file with author). The allegations also involved the Quarry Campground, where Michaels camped with the Bryants. *Id.* Michaels also made ad hominem attacks against Larry Norring, a police officer intimately connected with the investigation. *Id.*

289. Arrests and Interviews, *supra* note 281.

290. *Id.*

291. Interview by Detective Michael Busch, Scott County Sheriff's Office, with [Jake Bryant], Child Witness, in Shakopee, Minn. (Feb. 6, 1984) (on file with author); Interview with [Karen Franklin] (Feb. 6, 1984), *supra* note 256; Interview by Detective Michael Busch, Scott County Sheriff's Department, with [Betsy Bryant], Child Witness, in Shakopee, Minn. (Feb. 7, 1984) (on file with author).

292. Arrests and Interviews, *supra* note 281.

of new names in these interviews would be highly suspect. It is impossible to explore those hypotheses in detail without more specific information about these interviews. But there is general information from the case that casts doubt on these disclosures. Moreover, there are documented instances in the Jordan cases of the interviewer introducing key names. This problem was in full force in the summer of 1984, when children were being interviewed for upwards of the twentieth time.

Karen Franklin was interviewed once in January and once in early February, with her mother within listening distance.²⁹³ The girl recounted a number of sexualized games played between adults and children at Helen and Tom Bryants' house in 1982 and 1983.²⁹⁴ According to the police report, all of these games “involved adults taking a child into a room and sexually assaulting the child.”²⁹⁵ Karen Franklin also named two adult males, George Gibbons and Greg Michaels, who had “hurt” her playing these games.²⁹⁶ She described Michaels as a Jordan police officer and she said that she had sexual intercourse with him during more than one of those games.²⁹⁷ She also stated that Greg Michaels “threatened to kill her” if she disclosed what happened to her.²⁹⁸ The statement was detailed and nothing in it was implausible on its face; indeed, the entire statement was consistent with what the Bryant children had disclosed earlier about sexualized games at their house. Karen Franklin's allegations do not directly corroborate any of Jake or Betsy Bryant's statements about Greg Michaels—as she was recounting something at the Bryant house, not at the Quarry Campgrounds—but they corroborate various things that the Bryant children said about sexualized games with adults at their house. They also bear out the idea that Greg Michaels might have been someone who sexually assaulted children.

293. Interview with [Karen Franklin] (Feb 6, 1984), *supra* note 256; Interview with [Karen Franklin] (Jan. 27, 1984), *supra* note 229.

294. Interview with [Karen Franklin] (Feb 6, 1984), *supra* note 256.

295. *Id.*

296. George Gibbons was never arrested, although numerous children mentioned his name in discussions about sexualized acts. Why he was never arrested, given the extensive statements against him, remains one of the unsolved mysteries of the Jordan cases.

297. Interview with [Karen Franklin] (Feb 6, 1984), *supra* note 256.

298. *Id.*

594 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

The statements of one other child also provides support for these allegations: Joanna Lenox, who Greg Michaels admitted to seeing at the Quarry Campground in the summer of 1983, alleged that Michaels had been swimming with her in the lake when he touched her breasts, buttocks, and genital area under the water.²⁹⁹ Joanna claimed that she went to her mother to keep away from Michaels because he made her uncomfortable.³⁰⁰ The Lenoxes had definitely been to Quarry Campground that summer, as had many of the adults and children implicated in the later Jordan arrests.³⁰¹ Joanna made her claims regarding Michaels less than a week after he was arrested, in the first instance that police spoke with her.³⁰²

When Greg Michaels was arrested, he waived the right to counsel and agreed to answer questions. Michaels acknowledged that he had known Tom and Helen Bryant socially for three or four years, playing cards at their house and once attending a beer party.³⁰³ He also acknowledged camping in the Quarry Campgrounds with the Bryants, their children, and various other children.³⁰⁴ But he denied any sexual abuse or even being alone with a child while camping.³⁰⁵ He also denied knowing Karen Franklin.³⁰⁶ His credibility was bolstered by agreeing to take a lie detector test. However, the results of that test were not in his favor.³⁰⁷ The results would not likely be admissible in court, but

299. Interview by Detective Patrick Morgan, Scott County Sheriff's Office, with [Joanna Lenox], Child Witness (Feb. 13, 1984) (on file with author).

300. *Id.*

301. Arrest Report of Greg [Michaels], *supra* note 282.

302. Interview with [Joanna Lenox] (Feb. 13, 1984), *supra* note 299. Officer Michael Busch indicated that he conducted the only two interviews of Joanna Lenox, one on February 13, 1984 (in which she makes the claims against Greg Michaels) and a second one on an unknown date. The February 13, 1984 interview is most likely Joanna's first given that her brother, for whom all interviews are dated, had his first interview that same day. *See* Scott County Sheriff's Office, Lists of Officer Contacts with Child Witnesses (unpublished notes) (on file with author) [hereinafter Officer Contacts with Child Witnesses].

303. Arrest Report of Greg [Michaels], *supra* note 282.

304. *Id.*

305. *Id.*

306. Interview with Greg [Michaels] (Feb. 7, 1984), *supra* 288.

307. Letter from Charles Yeschke, Polygraphist, to Detective Patrick Morgan, Scott County Sheriff's Office (Feb. 8, 1984) (on file with author) [hereinafter Polygraph Test].

they undoubtedly helped contribute to the charges filed against him. Based on a diagnostic evaluation of the results, Charles L. Yeschke concluded that Michaels was “not truthful” in three important instances, including when he denied having sexual contact with anyone under eighteen at Tom and Helen Bryant’s residence.³⁰⁸ The report also noted that Michaels “intentionally caused distortions” in an apparent “attempt to confuse” the evaluators.³⁰⁹ This does not prove that the allegations were true, but it cast doubt on Michaels’ claim and it provided a substantial reason in support of the decision to charge Michaels.³¹⁰

Michaels was charged with the sexual abuse of three children: all three children at the Bryant house, and the Bryant children (but not Karen Franklin) at the Quarry Campground.³¹¹ None of the allegations involved Michaels’ own children, and none of the allegations involved his wife, Jane. Those claims emerged months later, during phase three of the arrests.

C. *Phase Three*

The final arrest in the second wave came on March 31, when Coralene Rogers was arrested.³¹² Almost two months passed and then, in a span of less than two weeks, eight more people were arrested.³¹³ This third wave of arrests is suspect on its face. Unlike the second phase of the case, which began with statements from children who had not been interviewed previously, the third phase of the case was based almost entirely on the statements of children who had already been interviewed many times. Moreover, the links between these defendants are much less

308. *Id.*

309. *Id.* at 1.

310. *See id.* at 1–2. Michaels requested and received a second polygraph. There is a reference in a police report to the fact that Michaels also flunked the second test. Interview by Sheriff Teitz, Scott County Sheriff’s Office, with Greg [Michaels], Defendant, in Shakopee, Minn. (Feb. 9, 1984) (on file with author) (“I asked Mr. [Michaels] about the second polygraph and he stated that he failed it and does not know why”). It is not clear whether the Yeschke report covers both tests. *See id.*

311. Complaint, State v. Greg [M.], *supra* note 194.

312. *See* Interview by Detective Norm Pint, Scott County Sheriff’s Department, with [Anna Michaels], Child Witness, in Shakopee, Minn. (May 30, 1984) (on file with author); Interview with [Karen Franklin] (Feb 6, 1984), *supra* note 256.

313. Arrests and Interviews, *supra* note 281.

596 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

established than those between the defendants in the first two phases of the case. It is not even clear whether there was a meaningful connection between one defendant, Terry Mueller, and the other defendants. The section that follows focuses on the charges against three of the defendants in the final phase: Jane Michaels, wife of Greg Michaels, and Donald and Cindy Baldwin.

1. *Jane Michaels*

Greg Michaels was mentioned separately by several children who were interviewed in January 1984 about their involvement with Tom and Helen Bryant.³¹⁴ Jane Michaels was not implicated in any of those interviews. She was apparently not implicated in any interviews in February, March, or April. But in May 1984, investigators came to believe that Jane Michaels was equally complicit and she was charged on May 25 with eight counts, connected to four children.³¹⁵ These charges seem suspect on their face. There were dozens of interviews in the winter of 1984 concerning the involvement of Greg Michaels in parties at the Bryant house. The simple fact that Jane Michaels' name did not emerge as a suspect until months later seems dubious. Why would children, who willingly named Greg Michaels, consistently fail to mention his wife if she was actually involved?

According to police reports, Alex Michaels was the first of the two Michaels children to make statements that implicated their mother, Jane, in sexual abuse.³¹⁶ He did so on May 3 and his sister, Anna Michaels, followed suit the next day (although statements that she made on May 15 are the ones cited in the criminal complaint).³¹⁷ What is most striking about these statements is that they came three months after the children had been removed from their home and interviewed repeatedly by authorities.³¹⁸ The police had interviewed Alex Michaels three times before he made these statements, and the statements he

314. See Complaint, State v. Greg [M.], *supra* note 194.

315. Stipulation, *supra* note 12.

316. Interview by Detective Norm Pint, Scott County Sheriff's Office, with [Alex Michaels], Child Witness, in Shakopee, Minn. (May 3, 1984) (on file with author); Affidavit of Norm Pint at 3-4, *In re* Scott County Cases, No. 3-85-774 (D. Minn. 1985).

317. *Id.* at 8-9.

318. See Officer Contacts with Child Witnesses, *supra* note 302.

made about his mother first occurred in an interview with police that included his therapist, Tom Price.³¹⁹ Anna Michaels had been interviewed seven times by the police before she made statements to the police about her mother, and she also made these claims for the first time in an interview at Tom Price's office, with Detective Busch participating.³²⁰ We did not locate documentation of the earliest interviews with the Michaels children, the ones in which they apparently made no allegations against their mother. But it appears from documentation of interviews with Karen Franklin that authorities pursued Jane Michaels as a possible defendant until they obtained statements from children to that effect.³²¹ Franklin also testified in a civil deposition, a few years later, that she told investigators "about three or four times" that Jane and Greg Michaels didn't do anything before she finally said that they did.³²² She could not explain why she changed her mind,³²³ which certainly contradicts any notion that her final statement represented the underlying truth. If it did, then she would have an explanation at hand for why she said it: because the events actually occurred.

Anna's initial statements to Detective Pint on May 4 must be seen in conjunction with corresponding events involving the therapist, Tom Price. Both of the Michaels children were removed from their home when their father was charged with sexual abuse

319. Statement by Patrick L. Shannon, Special Investigator, State of Minnesota Bureau of Criminal Apprehension, No. 84000444 (June 7, 1984) (describing multiple interviews with children) (on file with author) [hereinafter Multiple Child Interviews].

320. Affidavit of Norm Pint, *supra* note 316; Child Database, *supra* note 31.

321. Police reports document that on April 16, a police investigator "asked [Karen] whether she remembers Jane Michaels." Interview by Detective Michael Busch, Scott County Sheriff's Department, with [Karen Franklin], Child Witness, in Shakopee, Minn. (Apr. 16, 1984) (on file with author). The report indicates that Karen Franklin remembered seeing Jane Michaels at the Bryant residence, but she did not make any allegations that Jane Michaels participated in sexualized games. *Id.* Investigators "asked about Jane Michaels" again on May 2—her tenth interview with investigators—and they reported "[Karen] refused on this interview to talk in any more detail about Jane Michaels." *Id.* They asked again and Karen eventually made a statement incriminating Jane Michaels. *Id.*

322. [K.F.] Deposition, *In re* Scott County Master Docket, No. 3-85-774 (D. Minn. Jan. 3, 1986).

323. *Id.* at 85–86.

598 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

in early February.³²⁴ They were placed in foster homes and sent to Price for evaluation and therapy.³²⁵ Their removal from the home seems unjustified in light of the fact that there were no charges against Jane Michaels—and Greg Michaels had been arrested. The dissonance between their removal from the home and the lack of charges against Jane Michaels might have motivated some authorities to pursue the possibility of charges against Jane. Even without that motivation, the state-paid therapist likely had a preconceived view of the facts given that they had been removed from their home. Tom Price, whose qualifications to conduct psychotherapy were hotly contested by the Michaels,³²⁶ played a pivotal role in the disclosures that both Michaels children eventually made to authorities—in Price’s office.

Details about those therapy sessions, disclosed through the subsequent federal civil suit, raise troubling questions about how Anna came to make the incriminating statements about Jane Michaels to Detective Pint on May 3.³²⁷ Anna’s disclosure was apparently a repetition of statements made earlier to Tom Price.³²⁸ That fact alone is not problematic; the initial disclosure of sexual abuse might well be made to a therapist. But Tom Price revealed, in cross-examination in family court, that he had “confronted” Anna on April 24 with her brother’s allegations concerning their mother.³²⁹ This admission contradicts Price’s claims that his questions were generally open-ended and not leading.³³⁰ “Confronting” Anna with her brother’s alleged statements was both leading and coercive. It not only focused Anna’s attention on Jane Michaels, but it put pressure on the five-

324. Complaint, *State v. Greg [M.]*, *supra* note 194.

325. Affidavit of Norm Pint, *supra* note 316, at 3, 5.

326. While the criminal cases were still pending, the Michaels referred to Price as “self-designated psychotherapist.” Affidavit of Carol Grant, *State v. [M.]*, No. 70-11-x-002756 (July 13, 1984). *See also*, *[M.] v. Scott County*, 868 F.2d 1017 (8th Cir. 1989); *[M.] v. Price*, 463 N.W.2d 773 (Minn. App. Ct. 1990).

327. *See* Transcript of Tom Price Testimony, *In re Scott County Master Docket*, 618 F. Supp. 1534 (D. Minn. Oct. 2, 1985).

328. *Id.* at 993, 997.

329. *Id.* at 990. As Price testified in the Michaels Family Court proceeding: “Yes, the April 24th date was when I confronted [Anna] with, that I had information that her mom was involved with [Alex].” *Id.*

330. *Id.* at 984, 986.

year-old girl to conform to what her older brother allegedly said.

Given these contextual details, Anna's "statement" to Detective Pint on May 4,³³¹ no matter how unprompted it might have appeared, was partly, if not entirely, a function of her own therapist vigorously pursuing the matter and using improper pressure. Tom Price and several other therapists became inextricably involved in the investigation and prosecution.³³² Several critical "disclosures" by children originated in therapy only after a significant number of sessions.³³³ Moreover, a few therapists began questioning the children in a formal way, working directly alongside law enforcement agents, completely blurring the lines between therapy and investigation.³³⁴ Some therapists literally spoke for the children.³³⁵ In the Baldwin case, discussed below, the State eventually offered the hearsay testimony of therapists, instead of testimony of the children, as evidence there had been abuse.³³⁶ The third wave of arrests was not only preceded by the entry of therapists into the case, but those therapists prompted and encouraged statements in ways that cast doubt on the statements that followed.

2. *The Baldwins*

The final arrests in the Jordan cases involved a married couple, Donald and Cindy Baldwin, who were each charged on June 6, 1984, with twenty-two counts of sexually abusing four children: Anna and Alex Michaels, along with their own daughters, Maggie, age four, and Caroline, age two.³³⁷ Donald Baldwin was a twelve-year veteran of the Scott County Sheriff's Department; his wife worked for the Carver County Attorney's Office.³³⁸ They were not related to any of the other defendants by marriage or blood.³³⁹ The only social connection that they had to

331. *Id.* at 992–93.

332. *See id.* at 994–95.

333. *See id.* at 991–92.

334. *See id.* at 994–95.

335. Multiple Child Interviews, *supra* note 319.

336. Findings of Fact, Conclusions and Order at 9, *In re Welfare of [C.B.], [M.B.], & [W.B.]*, No. 84-06324 (Minn. Fam. Ct. Sept. 26, 1984) [hereinafter [B.] Findings of Fact].

337. Stipulation, *supra* note 12.

338. Interview with Don [Baldwin] (June 4, 1984), *supra* note 18, at 1, 3.

339. *See supra* Figure 2.

600 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

any of the other defendants was that Greg and Jane Michaels had babysat their children.³⁴⁰ The Baldwins were arrested on June 4, and their children were taken into custody by the state.³⁴¹

Two investigative documents explain the basis for their arrests. First, there is a Supplemental Report filed by Detective Pint that summarizes interviews with Anna and Alex Michaels on May 30.³⁴² A four-paragraph summary of the statements made by Anna Michaels includes a single sentence about the Baldwins: “[Anna] also indicated that Don Baldwin had hurt Anna; yet Anna stated [Mrs. Baldwin] didn’t hurt kids.”³⁴³ Second, there is a half-page Information Report by Special Agent Patrick Shannon of the Minnesota Bureau of Criminal Apprehension stating that on June 4, 1984, the two Michaels children and Maggie Baldwin “related to me that Donald Baldwin had been sexual with them.”³⁴⁴ There is no elaboration of any details concerning these reported statements.

There are several red flags raised in these two documents. First, even though Anna Michaels is described as saying that Cindy Baldwin “didn’t hurt kids,” Anna was one of the children listed in the charges filed against Cindy Baldwin on June 6.³⁴⁵ Her own words, as conveyed in the police report, were apparently exactly the opposite. Second, the statements on May 30 did not emerge in an investigative interview.³⁴⁶ The purpose of the interview on May 30, as stated in the first paragraph of the report, was “to begin preparing Anna for court testimony.”³⁴⁷ In fact, an investigator did not conduct this interview; instead, the prosecutor, Kathleen Morris, decided to conduct it.³⁴⁸ The emergence of new potential defendants in an interview intended to prepare children for court probably should have given pause, especially since Anna had been interviewed by investigators ten times before without mentioning Donald or Cindy Baldwin.³⁴⁹

340. Multiple Child Interviews, *supra* note 319.

341. Stipulation, *supra* note 12.

342. *Id.*

343. Interview with [Anna Michaels] (May 30, 1984), *supra* note 312.

344. Multiple Child Interviews, *supra* note 319.

345. Stipulation, *supra* note 12.

346. Interview with [Anna Michaels] (May 30, 1984), *supra* note 312.

347. *See Id.*

348. *See Id.*

349. This development is also noteworthy because a significant question

2014]

JORDAN, MINNESOTA

601

Third, the entire mention of the Baldwins consists of one sentence in a single-spaced report that covers two pages.³⁵⁰ The lack of any elaboration raises questions about whether Anna simply acceded to a leading question, rather than providing any kind of detail. The former might not be false, but it provides no useful evidence of the truth. Finally, it is clear from the police report that Alex was told about Anna's statements concerning the Baldwins and then asked if Anna was telling the truth.³⁵¹ In other words, the second "disclosure" was *not* separate and independent of the first. It was a "confirmation" that cannot rightly be counted as such, having been obtained after applying a kind of peer pressure.

There is another police report on June 7 that contains a more detailed account of what Anna Michaels and two of the Baldwin children allegedly said about sexual abuse by the Baldwins (and others).³⁵² It indicates that Special Investigator Patrick Shannon "participated in the interview of three juveniles by therapist Tom Price."³⁵³ It is clear from the report that Price asked many of the questions. Presumably, the police concluded that the children would be more comfortable talking to Price. Even if that was true, it is improper to have investigative interviews led by the potential complainant's therapist.

Therapists are not forensic investigators; they are supposed to support and assist their clients. That role conflicts with the requirements of a good investigation: not to take statements at face value, but rather to conduct an open-minded inquiry. It is apparent that Special Agent Shannon had doubts about these interviews. His three-page report ends with a paragraph that recounts a private conversation with Tom Price, the therapist, about whether "these kids could be telling the truth or not."³⁵⁴

in the subsequent federal civil cases was whether Kathleen Morris had crossed the line between prosecutor and investigator, thereby losing the immunity granted to prosecutors. Morris argued in federal court that she was not an investigator. Yet one of the primary statements used to arrest the Baldwins came from a session with Kathleen Morris for the stated purpose of trial preparation, not investigation.

350. Interview with [Anna Michaels] (May 30, 1984), *supra* note 312, at 2.

351. [B.] Findings of Fact, *supra* note 336, at 9.

352. Multiple Child Interviews, *supra* note 319.

353. *Id.*

354. *Id.* at 3.

602 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

Price is quoted as saying that “there was no doubt” in his mind “that these children were, in fact, telling the complete truth.”³⁵⁵ Such complete certainty is not consistent with the way an investigator should conduct an inquiry. It would appear that the therapist was more of an advocate for the children than he was an investigator. Unfortunately, his advocacy led to charges against Jane Michaels and the Baldwins that were based on “statements” of minimal value, at best.

The records from the investigative interviews led by therapists are summaries, not transcriptions, so it is impossible to evaluate the nature and context of specific questions and answers. But some of the sessions that children had alone with therapists were videotaped. We located videotapes of Tom Price with each of the Michaels children, and Michael Shea with each of the Bauer children. The session with the younger Bauer boy, which was likely held on June 4, demonstrates appalling interview technique.³⁵⁶ The segment opens with a highly leading question—“who touched your penis?”³⁵⁷ The therapist then immediately introduced and undressed an adult doll before the child had said anything in detail.³⁵⁸ “This is a boy doll and we’re just going to play pretend,” Shea tells the boy, blurring the line between an investigative interview and a play session.³⁵⁹ The rest of the session is filled with forced-choice questions that presume abuse.³⁶⁰ When the boy answers one question with “my dad didn’t do anything, he was at work,” the therapist responded by saying “OK, who else touched you?”³⁶¹ He did not follow-up on the statement that suggests the father was not involved and he lead children to name more assailants.³⁶² Furthermore, the therapist has a breathless, almost manic, demeanor during this session.³⁶³ He seems quite anxious to get the child to say certain things on tape. There is no sense that this is an actual inquiry; and the

355. *Id.*

356. *Michael Shea Interview*, YOUTUBE (Aug. 28, 2013), http://youtube/_2AXPUSJj6Y.

357. *Id.*

358. *Id.*

359. *Id.*

360. *Id.*

361. *Id.*

362. *Id.*

363. *Id.*

2014]

JORDAN, MINNESOTA

603

child never gives any kind of elaboration beyond very short, often one-word answers. In our view, the statements on this tape have virtually no investigative value other than to prove how badly these children were hounded. Nevertheless, this interaction was apparently part of the basis for arresting the Baldwins.

Donald Baldwin made a voluntary statement and answered questions the day was arrested.³⁶⁴ Baldwin waived the right to a lawyer, and told the investigator from the Bureau of Criminal Apprehension, “I’m afraid you’ve got a serious problem mainly with the stories you’re getting.”³⁶⁵ When told that his cooperation could result in a deal, Baldwin said, “[t]here is nothing there, I can’t put it any simpler to you.”³⁶⁶ He did not equivocate from that position and did not express the slightest interest in repeated efforts to offer him some kind of deal. At one point, Baldwin made it clear that he was ready to face these allegations any time “because they are absolutely untrue.”³⁶⁷ A denial alone proves very little, given that actual child molesters are quite likely to lie when apprehended. But this specific denial was not defensive and it did not involve any statements that minimized the nature of the charges, classic qualities of “denials” by real abusers. To the contrary, Baldwin seemed genuinely concerned that law enforcement agents were getting bad information “with the stories [they were] getting.”³⁶⁸ Perhaps the point was more apparent than Baldwin could have imagined. There were no more arrests in connection with these cases, although the investigation did take a wild turn in July to involve a suspected murder.

The Baldwins exercised their right to a trial in family court on the issue of child custody issues within ninety days.³⁶⁹ The case was tried in Scott County Family Court between August 28 and September 19, 1984.³⁷⁰ Those proceedings revealed several facts that challenge the basis for the criminal charges (which were, of course, dropped less than a month later). First, the court heard evidence that following the arrest of Jane Michaels, the Baldwins

364. Interview with Don [Baldwin] (June 4, 1984), *supra* note 18, at 2.

365. *Id.* at 2.

366. *Id.* at 4.

367. *Id.*

368. *Id.* at 2.

369. [B.] Findings of Fact, *supra* note 336, at 1.

370. *Id.* at 1.

604 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

had their oldest daughter examined by a doctor and they brought her to investigators from Scott County to have them determine if she had been abused since Jane Michaels had babysat the Baldwins' daughter.³⁷¹ As Judge Mitchell Young put it, the Baldwins' actions were "done voluntarily" and were "inconsistent with allegations that [the Baldwins] abused their children."³⁷² Second, "there was no offer made of in-court testimony by the Baldwin children."³⁷³ In other words, even though Special Agent Shannon said that both children had implicated their parents on June 4, neither child did so in court. Instead, there were statements offered by therapists about what the children allegedly said out-of-court.³⁷⁴ In other words, the therapists were literally speaking for the children.

Judge Young appropriately discounted this evidence: after reviewing the investigative documents, he ruled that "the record is replete with leading and extremely suggestive questioning including two of the Baldwin children who were aged 2 and 4 at the time of questioning."³⁷⁵ He singled out the problem with telling one child what another child said and then asking that child whether the other child was telling the truth.³⁷⁶ That problem is bad enough, but in one instance involving the Michaels children, the problem was worse. Anna Michaels allegedly said that the Donald Baldwin had done something hurtful, but Cindy had not.³⁷⁷ However, that allegation was conveyed to Alex Michaels as "the Baldwins hurt kids."³⁷⁸ In other words, Alex was asked to "confirm" something that Anna never said. The family court concluded that the evidence that the Baldwins were sexually abusing their own children "was not clear and certainly not convincing."³⁷⁹

It appears that the charges against the Baldwins were brought hastily, based almost entirely on statements made in an interview by Kathleen Morris that was supposed to be a court

371. *Id.* at 3.

372. *Id.*

373. *Id.* at 7.

374. *Id.*

375. *Id.* at 8.

376. *See id.*

377. *Id.* at 9.

378. *Id.*

379. *Id.*

2014]

JORDAN, MINNESOTA

605

preparation session, but which ended up involving one child “confirming” something that the other never said. The Baldwins children were taken away for months,³⁸⁰ without any clear statement from either of these children that they were being subjected to sexual abuse. The only detailed statement about the Baldwins in the surviving investigative documents is an interview with Jake Bryant in late August, after the Baldwins’ proceeding in Family Court had begun.³⁸¹ These statements came more than a month after he made incredible claims, discussed below, about murdered children.

The Baldwins’ criminal trial was scheduled shortly after the Bauer trial, but charges against the Baldwins were dropped along with all other charges on October 15, 1984.³⁸² Cindy Baldwin later filed the petition that resulted in the creation of the Olson Commission.³⁸³

3. *The Suspected Death Investigation*

The Jordan cases ultimately became best known for developments that occurred between July 9 and September 27, 1984. That is when a number of children made statements about a baby (or babies) being mutilated or killed.³⁸⁴ We located investigative documents of an interview with Jake Bryant by Detective Pint on July 11. It was Jake Bryant’s twentieth interview with investigative authorities and during this interview he made statements about “a mulatto child” who was “hurt really bad” and “thrown up against a tree.”³⁸⁵ Jake was seeing a therapist at that time, and the therapist ended up playing a significant role in the interviews that followed.³⁸⁶ On July 16,

380. *Id.*

381. Interview by Detective Michael O’Gorman, Scott County Sheriff’s Office, with [Jake Bryant], in Shakopee, Minn. (Aug. 8, 1984) (on file with author).

382. HUMPHREY REPORT, *supra* note 3, at 3–5.

383. *See* OLSON COMM’N, *supra* note 8.

384. HUMPHREY REPORT, *supra* note 3, at 6.

385. Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, Shakopee, Minn., at 1 (July 11, 1984) (on file with author).

386. Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, Shakopee, Minn. (July 16, 1984) (on file with author).

606 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

when Jake was interviewed again, two therapists joined Detective Pint and Earl Fleck from the Shakopee Police Department.³⁸⁷ In this interview, Jake stated that the “mulatto victim” was “stabbed in the stomach,” “losing lots of blood,” and later “buried in the woods behind the Bauer residence.”³⁸⁸ Two days later, Jake was interviewed again at the Scott County Courthouse by Detective Pint and Jake’s therapist, Robert VanSickland.³⁸⁹ This is perhaps the most infamous interview in the case. The substance of the police report begins, “during the course of this interview Jake indicated that there were three or four dead bodies.”³⁹⁰ It should be noted that the police report indicates that the therapists told the law enforcement representatives that they did not take these statements as literally true.³⁹¹ Kathleen Morris took the allegations seriously enough that, before the month was over, Jake was taken into woods with authorities in search of burial sites.³⁹² Nothing was found.³⁹³ Jake later mentioned a rock they had seen as where the mulatto victim “may be buried.”³⁹⁴ But there has never been any physical evidence found to support these statements. A total of ten children were interviewed during the “suspected death investigation.”³⁹⁵ Jake was interviewed seven times, including the trip to the woods.³⁹⁶ Five other children, in addition to Jake, were recorded as making some kind of allegation

387. *Id.*

388. *Id.* at 2–3.

389. Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, Shakopee, Minn. (July 18, 1984) (on file with author).

390. *Id.* at 1–2.

391. *Id.* at 2. At the end of the report, Officer Norm Pint writes “this officer was advised by Diane Johnson and Robert VanSickland that they believed most of what [Jake] said on this day in their opinion was not true, regarding these incidents.” *Id.* Diane Johnson served as Guardian ad Litem for Jake Bryant. *Id.* at 1.

392. Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, Shakopee, Minn. (July 25, 1984) (on file with author).

393. *Id.*

394. *Id.*

395. *See id.*; *see also* Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, in Jordan, Minn. (July 16, 1984) (on file with author); Interview by Detective Norm Pint, Scott County Sheriff’s Office, with [Jake Bryant], Child Witness, in Shakopee, Minn. (July 11, 1984) (on file with author).

396. OLSON COMM’N, *supra* note 8, at 38.

2014]

JORDAN, MINNESOTA

607

concerning a murder in the summer of 1984.³⁹⁷

There are 126 pages of investigative documents from the suspected death investigation. Most of them originated in the month before the Bauer trial. None of those pages were ever provided to the defense in the Bauer case, even though they made a discovery request for any documents that might constitute exculpatory evidence.³⁹⁸ The defense learned of the existence of these notes through cross-examination on the eighth day of the Bauer trial, when a child said something about an officer taking notes.³⁹⁹ Judge Martin Mansur reviewed the notes in chambers, and Kathleen Morris argued that most of the content pertained to a “confidential, ongoing homicide investigation.”⁴⁰⁰ Judge Mansur ruled in favor of shielding the notes from the ongoing homicide investigation, ordering Deputy Pint to provide only those portions of the notes that pertained to sexual abuse allegations.⁴⁰¹ Judge John Fitzgerald, who was assigned to the Baldwin case, made a much more expansive ruling on October 10, ordering the state to turn over *all* notes to the defense, including anything pertaining to murder allegations.⁴⁰²

Five days later, Kathleen Morris dropped charges against all of the remaining defendants.⁴⁰³ She cited two basic reasons for her decision: one was to protect “an active criminal investigation of great magnitude,” the other was to protect the children against the stress and trauma of further proceedings.⁴⁰⁴ The first justification dominated the media coverage and subsequent writing about the case. That is not surprising given the sensational and incredible nature of her position claim—that there might well have been undetected murders connected to the sex abuse allegations. The Olson Commission later expressed “grave doubt” that Morris had sufficient factual basis to conclude that the suspected death investigation was of “great magnitude.”⁴⁰⁵ It is impossible to know whether Kathleen Morris

397. *Id.* at 9.

398. *Id.* at 11

399. *Id.* at 13.

400. *Id.*

401. *Id.*

402. *Id.* at 14.

403. *Id.* at 21.

404. *Id.* at 22.

405. *Id.* at 42.

608 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546

truly believed that one or more babies had actually been mutilated or killed. But contemporaneous notes and later testimony indicate that the actual investigators did *not* take these statements literally.⁴⁰⁶ Moreover, the Minnesota Bureau of Criminal Apprehension, working with the Federal Bureau of Investigation, investigated the matter in the weeks after Morris dropped all charges and they concluded that there was “no credible evidence to support allegations of murder.”⁴⁰⁷

With no reported victims or any physical evidence, any child who had made statements alleging a murder would clearly face significant credibility issues as a witness. Arguably, they could never be an effective witness after making such statements. The Olson Commission indicated that eleven of the twenty-one remaining cases relied on children who had made such statements.⁴⁰⁸ There was a solid evidentiary basis, then, for dropping those cases, particularly given the high burden of proof in a criminal case—even if earlier statements by these children were credible and corroborated. That reasoning raises, by implication, an important question about the other ten cases, the ones that were based on children who never said anything about murdered babies. The Olson Commission concluded that the dismissal of those cases was “most troublesome of all.”⁴⁰⁹ That statement was in the context of a report that found that seven charges against Kathleen Morris had been proven and that two constituted malfeasance.⁴¹⁰ But the Commission was *most* concerned that children were “abandoned” in cases where the prosecutor should have gone forward.⁴¹¹

406. *See id.* at 8–11. While such testimony was made with the benefit of hindsight (by November 1984 it was clear to virtually everyone that statements about undetected murders had no factual basis), there are contemporaneous reports that demonstrate their skepticism in the summer of 1984. *See id.*

407. HUMPHREY REPORT, *supra* note 3, at 1.

408. OLSON COMM'N, *supra* note 8, at 24.

409. *Id.* at 53.

410. *See id.* The actions that the Olson Commission found to constitute malfeasance were: (1) suppressing evidence about the murder investigation; and (2) violating the sequestration order by housing the children at the same hotel during trial. Among the acts proven, but not considered malfeasance, were false statements to the press and the judge, along with physical and verbal abuse of employees. *Id.* at 49–51.

411. *Id.* at 54.

2014]

JORDAN, MINNESOTA

609

The second justification that Kathleen Morris gave for dropping all remaining charges—to protect the children against the stress and trauma of further proceedings—has not been discussed in any subsequent writing about the Jordan cases, except a chapter in John Crewdson’s 1988 book, *By Silence Betrayed*. Yet this argument had a strong basis in fact, unlike the claim about the pending investigation of “great magnitude.” There is extensive evidence that the children who testified in the Bauer case were stressed, if not traumatized, by the experience. Bruce Rubenstein wrote that these children were “attacked viciously by the defense attorneys.”⁴¹² Diane Johnson, Guardian Ad Litem for three children, testified that those children were “emotionally upset” by the trial process in the Bauer case and “could not continue to testify.”⁴¹³

Beyond the question of whether the children could withstand more criminal trials, there was a more pressing concern about protecting children against intrusive pre-trial discovery. Judge Jack Mitchell, who was presiding over the upcoming trials of five defendants, all from the first wave of arrests, made an extraordinary ruling on September 24, 1984, that potentially subjected child witnesses to up to twenty-four hours of pretrial examination by defendant attorneys and up to six different psychological evaluations.⁴¹⁴ The Minnesota Supreme Court, which heard the appeal on an expedited basis even though the underlying cases were moot, later overturned this ruling.⁴¹⁵ But Kathleen Morris was correct that when she dropped all remaining charges, the children in five upcoming cases faced a legal order that would cause them great stress, far beyond anything that would ever be required of an adult—or should be required of a child.

It is clear in hindsight that no babies were actually killed or mutilated in connection with the Jordan cases. In fact, it was fairly clear to the investigators and some of the therapists at the time.⁴¹⁶ However, some of the children’s therapists took these

412. Rubenstein, *Many Questions*, *supra* note 44, at 1.

413. OLSON COMM’N, *supra* note 8, at 24.

414. *Id.* at 22.

415. *State v. Rud*, 359 N.W.2d 573 (Minn. 1984).

416. OLSON COMM’N, *supra* note 8, at 10.

610 *ROGER WILLIAMS UNIVERSITY LAW REVIEW* [Vol. 19:546]

statements literally.⁴¹⁷ So why did various children make such fantastic statements? The Minnesota Attorney General's investigation addressed that question in detail. They spoke directly to Alex Michaels, Jake Bryant, and Susie Kaplan, the three most important children who had made these statements, with the intention of ascertaining why they had done so.⁴¹⁸ Alex Michaels told investigators that he said those things because "wanted to please" the investigators.⁴¹⁹ In other words, he told them what he thought they wanted to hear. An understanding of that phenomenon gave rise to protocols that limited the number of interviews a child may undergo, preventing the unintentional signal to a child that the interviewer wants more "disclosures" every time they are interviewed. There is ample evidence in the written reports to bear out the idea that investigators had specific scenarios in mind and often told children those details in advance of questioning them.

However, wanting to please investigators did not explain all of the children. Jake Bryant told authorities that he made those statements because he "didn't want to go home."⁴²⁰ While he recanted the murder allegations, he did not recant the sexual abuse allegations.⁴²¹ In other words, although he admitted making false statements, he provided an explanation that supports, rather than undercuts, his statements about sexual abuse. There was also Susie Kaplan, who clung to the murder story during this final phase of the investigation.⁴²² She would not admit that her statements were false.⁴²³ As the authorities later stated, "this child was simply not believable as to these stories."⁴²⁴ That would appear to make her the worst possible witness. Yet she was also one of the children about whom there

417. Susan Phipps-Yonas was quoted saying that there were "highly consistent accounts of sadistic murders." "I believe them," she told the *American Medical News*. See *Doctor Claims Children Were Sexually Abused*, THE ARGUS PRESS, Oct. 26, 1984, at 5, available at <http://news.google.com/newspapers?nid=1988&dat=19841020&id=vkEiAAAAIIBAJ&sjid=O60FAAAIIBAJ&pg=1440,4507717>.

418. HUMPHREY REPORT, *supra* note 3, at 4.

419. *Id.* at 5.

420. *Id.*

421. *Id.*

422. *Id.* at 5–6.

423. *Id.* at 6–7.

424. *Id.* at 7.

was initially the strongest evidence of abuse by Rud, and in all likelihood, her mother and others. She demonstrates the problem that repeated sexual abuse can co-exist alongside fantastic statements that would tend to destroy her credibility as a witness.

Finally, it is important to keep the murder allegations in perspective. There were three children who were central to these allegations.⁴²⁵ However, that fact has not inhibited those employing the witch-hunt narrative from generalizing from these few children to the entire case. As Nathan and Snedeker explained the Jordan cases, “eventually, the Jordan youngsters accused their parents of murdering babies, forcing them to drink the infants’ blood, and throwing corpses into a nearby river.”⁴²⁶ Nathan and Snedeker made no differentiation among the children, implying that *all* of them made these incredible allegations.⁴²⁷ Actually, the police interviewed seventy children, thirty-two of whom were named in at least one criminal indictment; so the vast majority of the “Jordan children” made none of these fantastic claims.⁴²⁸ Moreover, the one girl who stuck to her untenable position—even after the others admitted they made up the story—is one of the children whose sexual abuse allegations were substantiated by an admission of two adults, Marlene Graham and James Rud.⁴²⁹ Painting all of the children with the same brush, then, glosses over the fact that the potential testimony in over half of the remaining defendants’ cases had absolutely nothing to do with the discredited murder allegations. Moreover, even though they might never have been able to prevail in court, some of the children who made murder allegations in the summer

425. *Id.* at 4.

426. DEBBIE NATHAN & MICHAEL SNEDEKER, SATAN’S SILENCE: RITUAL ABUSE AND THE MAKING OF A MODERN AMERICAN WITCH HUNT 107 (2001).

427. *See id.*

428. *See* Stipulation, *supra* note 12 (listing the children who made claims); Child Database, *supra* note 31 (listing all of the children involved); *see also* Officer Contacts with Child Witnesses, *supra* note 302; Arrests and Interviews, *supra* note 28; and Multiple Child Interviews, *supra* note 319.

429. James Rud has changed his story many times, mostly by withdrawing admissions that he made in August 1984 when he accepted a plea deal. But Rud has never wavered about some of his offenses, including his abuse of Susie Kaplan. In his recent civil commitment trial, Rud described Susie as “one of his main victims or favorites.” He admitted first-degree sexual assault against the girl “25 to 30 times over the course of 3 or 4 months.” Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 263.

of 1984 had made much more plausible, and even corroborated, statements about sexual abuse many months earlier.

III. CONCLUSIONS

The Jordan cases involved significant variation in children, defendants, and the quality of evidence. Earliest interviews had many indicia of reliability. As unreliable as Rud became, it is clear he was a compulsive sex offender with many victims.⁴³⁰ In 2010, when Rud was contesting the petition to classify him as a sexually violent predator, he still admitted to sixteen child victims, including six of the children connected to the Jordan cases.⁴³¹ The court concluded that the real number was likely higher; in other words, the judge found his partial recantation to be unconvincing.⁴³² This is important to keep in mind, since the witch-hunt narrative has generally taken his recantation at face value.

The first round of arrests included adult confessions and considerable cross-corroboration. Some of these adults lost custody of children through Family Court proceedings that substantiated the bases of the criminal charges that had been dropped.⁴³³ But there were issues with how Joshua Owens' interviews evolved. Joshua Owens made statements in mid-October that strained credulity. Still, his main allegations involved James Rud, who admitted to sexually abusing Joshua as recently as 2004.⁴³⁴ The most unlikely statements made by Joshua in mid-October have been used to dismiss him entirely, without any consideration of his earlier statements or Rud's later admissions.

But the investigation went awry in several ways. First, many children were clearly over-interviewed. Some of the children in

430. See Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶¶ 31–490.

431. *Id.* at 233.

432. *Id.*

433. OLSON COMM'N, *supra* note 8, at 53

434. During a psychological examination in June 2004, Rud admitted sexually abusing Joshua. He said that he “night have threatened or scared [Joshua] but did not threaten his family.” Rud Findings of Fact (July 12, 2010), *supra* note 28, at ¶ 315. In 2010, Rud denied that he ever abused Joshua. *Id.* at ¶ 319. The court concluded that his testimony regarding Joshua “was not credible.” *Id.* at ¶ 320.

this case were interviewed more than two dozen times.⁴³⁵ It is now widely understood that such repeated interviewing is likely to produce false reports. Second, some of the interviewing was leading and even coercive. Police records indicate that interviewers in the later months of the case would pointedly ask children about specific adults they had not incriminated.⁴³⁶ They would also tell some children what others had allegedly said, creating a cross-contamination problem with any statements obtained through such methods.⁴³⁷ Third, therapists who seemed bent on finding more abuse allegations played an integral and highly inappropriate role in the cases, particularly in the spring and summer of 1984.⁴³⁸ This led to expanding and less believable charges in the third phase of cases, and later to allegations of murder. Finally, various actions by prosecutor Kathleen Morris were inappropriate, even indefensible. Children were removed from their homes without sufficient investigation.⁴³⁹ Morris lied to the media about whether children had been subject to repeated interviews. She also took an investigative role in the case that exceeded her appropriate role as prosecutor.

That said, it was not the case that, as Philip Jenkins claimed, “almost all of the testimony that led to 25 indictments on very grave charges was invented.”⁴⁴⁰ To the contrary, a significant part of the story in the Jordan cases appears to be about abuse that was never vindicated, about abusers who were never held accountable. The Olson Commission opined that ten cases should not have been dropped.⁴⁴¹ Even defense lawyer Marc Kurzman said that “a dozen or so” former defendants were actually guilty of criminal sex with children.⁴⁴² If that is true, and there are substantial reasons to think so, then the “lessons” from the witch-hunt narrative are half wrong. An important, but lost, part of the story was failure to vindicate children in a significant number of cases.

435. HUMPHREY REPORT, *supra* note 3, at 9.

436. *See id.*

437. *Id.* at 10–11.

438. *See id.* at 7, 23–24.

439. *Id.* at 9.

440. Jenkins & Maier-Katkin, *supra* note 133, at 22.

441. OLSON COMM’N, *supra* note 8, at 51–52.

442. Rubenstein, *Many Questions*, *supra* note 44, at 2.

The conventional wisdom about the Jordan cases fails to examine how they actually developed over time. Instead, the unfounded murder allegations made by a handful of children in the summer of 1984 are cited as reason to dismiss all of the evidence in the cases. Philip Jenkins did this when he formulated his critique of the case around the statements of Joshua Owens.⁴⁴³ Jenkins alleged that Joshua admitted on the stand in the Bauer case that he had told “a big lie.”⁴⁴⁴ Jenkins claimed that Joshua was “a key activist in ‘exposing’” the Jordan murders.⁴⁴⁵ But Joshua Owens is *not* named in the charges against the Bauers, *nor* did he testify at the Bauer trial.⁴⁴⁶ Further, he was not involved in any way with the murder allegations.⁴⁴⁷ Jenkins likely confused Joshua Owens and Jake Bryant in this regard, an explanation made all the more likely by the fact that the New York Times used the pseudonym “[Joshua]” in a story about Jake Bryant.⁴⁴⁸ The mistake demonstrates that while Jenkins was willing to make broad statements discrediting virtually all of the statements in the case, he knew so little about the underlying facts that he could not differentiate among the children.

This is a problem with the witch-hunt narrative in general: it ignores the chronology of the case and it fails to treat the children as distinct individuals. Nathan and Snedeker were not the only ones to paint all of the children connected to the Jordan cases with the same brush. Alexander Cockburn used precisely the same phrase—“the Jordan children”—in a commentary that implies

443. Jenkins & Maier-Katkin, *supra* note 133, at 22.

444. *Id.* at

445. *Id.* at 22.

446. Stipulation, *supra* note 12; Scott County Sheriff's Department, Handwritten Chronology [Bauer] Trial (unpublished notes) (on file with author).

447. *See generally* OLSON COMM'N, *supra* note 8; HUMPHREY REPORT, *supra* note 3.

448. E.R. Shipp, *Boys Recanted Stories of Child Murders*, N.Y. TIMES, Nov. 21, 1984, A12. The New York Times article that confused the two boys did not actually use the pseudonym “[Joshua]” for a story about Jake: these names are themselves pseudonyms that we employed to protect the identity of children in this case. *See id.* Instead, the article used the real name of the boy we call “Joshua” as a pseudonym for the boy we call “Jake” in this article. *See id.* The confusion arose from the New York Times' use of a pseudonym for one boy that happened to be the real name of a different boy in the case. *Id.*

2014]

JORDAN, MINNESOTA

615

that all of the defendants except James Rud were innocent.⁴⁴⁹ Dr. Terrence Campbell, a forensic psychologist in Michigan who claims expertise in false allegations of sexual abuse, was more explicit, characterizing the Jordan cases as “a colossal hoax.”⁴⁵⁰

Based on our analysis of a significant number of primary documents, that claim is extremely overblown. The charges that we examined most closely in the first phase of arrests were based on detailed, cross-corroborating statements of children who were not over-interviewed and were sometimes even corroborated by adults. The charges in the second wave of arrests also appear to have been made on much stronger evidence than the witch-hunt narrative acknowledges. The defendants in the second wave were linked more closely to those in the first wave than is generally recognized, particularly through the extended and dysfunctional Bryant family. While some of the charges in the second wave were based on statements made by children who had already been interviewed numerous times, some were not. Some key arrests in the second phase of the case were based on statements made by children who were not very young and who made their statements in the first or second interview.

The third wave of arrests comes closest to matching the description that has come to characterize all of the Jordan cases. The evidence for the three arrests that we examined was worse than flimsy. Some of it was apparently the product of coercive and cross-contaminating tactics. Moreover, dubious therapists played an active role in “investigating” the case, helping to foster the unfounded murder allegations. There are important lessons to be learned from that dark chapter in these cases. The lessons that have been widely recognized involve interview protocols, beginning with an understanding that interviewing children repeatedly is likely to generate false statements. But there is also a lesson that has been lost to history that runs the other way: that is, “fantastic” statements should not automatically be interpreted to dismiss everything that a child has said. The differences between the children who made the murder allegations should make this clear. One of those children later told authorities that the reason he made those claims was that he thought it was what

449. Cockburn, *supra* note 174, at 190.

450. TERENCE CAMPBELL, *SMOKE AND MIRRORS* 5 (1998).

the interviewers, who had interviewed him repeatedly, wanted to hear. But another child said he made those statements to avoid having to go home, which adds weight to his other abuse claims. Finally, Susie Kaplan, the child who apparently clung to the murder allegations when other children did not, is one of the children who Rud still admits he abused repeatedly. Rather than recognize the complicated reality that “fantastic” statements can be explained in a variety of ways,⁴⁵¹ those who have painted the Jordan cases as a witch-hunt have adopted a view of such statements that ignores a host of underlying details.

Fortunately, there have been improvements in interview protocols based in part on the Jordan cases. It is inconceivable that a child would be interviewed twenty or thirty times in the investigative phase of a sexual abuse case today. If anything, we have gone too far in the direction of worrying about multiple interviews. Psychology Professor Maggie Bruck and others seem to argue against statements made on even just the second or third interview of a child.⁴⁵² Some Child Advocacy Centers have a policy of interviewing children only once, which undoubtedly leads to “false denials.”⁴⁵³

While improvements in interview protocols are admirable, some of the problems that were apparent in the Jordan cases still remain today. First, children can still be subject to withering cross-examination, subject only to limits that a judge might impose at his or her discretion.⁴⁵⁴ It is unclear how often this happens, but the potential for the kind of abusive treatment in the Bauer case remains. Other countries, such as New Zealand, protect children against the possibility of harsh treatment by the

451. See generally Mark Everson, *Understanding Bizarre, Improbable, and Fantastic Elements in Children's Accounts of Abuse*, 2 *CHILD MALTREATMENT* 134 (1997).

452. This is what Bruck did in the Marzolf case, the first “taint hearing” after the Michaels decision in *State v. Michaels*, 642 A.2d 1372 (N.J. 2010). See, CHEIT, *supra* note 1, at 390–93.

453. See generally Thomas D. Lyon, *The New Wave of Suggestibility Research: A Critique*, 84 *CORNELL L. REV.* 1004 (1999).

454. See, e.g., *Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986) (“[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on . . . cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant”).

adversary system by having the judge ask questions of a child witness.⁴⁵⁵ The Confrontation Clause of the United States Constitution undoubtedly prohibits this approach.⁴⁵⁶ But it is worth pondering the fact that the United Nations Declaration on the Rights of the Child has been interpreted to demand it.⁴⁵⁷ Second, there is still a widespread belief that the word of a child is not necessarily sufficient to convict an adult of sexual abuse.⁴⁵⁸ Although courts have eliminated the onerous corroboration requirement,⁴⁵⁹ it seems likely that this requirement lives on informally in how prosecutors select cases and how juries weigh evidence. Finally, it is apparent that many academics and journalists still fault to treat children as individuals. The willingness to lump all children in a case together, as if they were one undifferentiated mass, continues to characterize contemporary writings in the witch-hunt canon. Recognizing that cases like those in Jordan, Minnesota, were complicated and involved multiple stories—some involving false accusations, others involving meritorious claims that should not have been dropped—would be useful step towards recognizing the complex reality of child sexual abuse.

455. The New Zealand Evidence Act of 2006 says that a judge can ask a complaining witness questions, in order to “minimise [sic] stress” for that witness. See *Current Provisions for Child Witnesses*, MINISTRY OF JUSTICE, <http://www.justice.govt.nz/publications/global-publications/a/alternative-pre-trial-and-trial-processes-for-child-witnesses-in-new-zealands-criminal-justice-system/current-provisions-for-child-witnesses> (last visited Mar. 14, 2014).

456. See, e.g., *Kentucky v. Stincer*, 482 U.S. 730, 736 (1987) (“The right to cross-examination [is] protected by the Confrontation Clause”); U.S. CONST., amend. VI.

457. Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (Sept. 2, 1990), available at <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

458. See Glen Collins, *Sex Abuse - The Child's Word Isn't Enough*, N.Y. TIMES, July 11, 1983, <http://www.nytimes.com/1983/07/11/style/sex-abuse-the-child-s-word-isn-t-enough.html>; Elizabeth Holtzman, *To Help Prosecute Child Molesters*, N.Y. TIMES, Mar. 28, 1984.

459. See, e.g., *Gary v. United States*, 499 A.2d 815, 833–34 (D.C. 1985).