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Shaken-Baby Syndrome Faces New Questions in Court

By EMILY BAZELON

At 4 months, Noah Whitmer was an easy baby. *Super tranquilo*, remembers Trudy Eliana Muñoz Rueda, who took care of Noah at her home day care center in Fairfax County, Va. Rueda and Noah's mother, Erin Whitmer, both noticed when he stopped taking his bottle well and napping as usual in the middle of his fifth month, in April 2009. Whitmer thought this was because Noah had just started eating solid food. She and Rueda talked about it early on April 20, both of them hunched over Noah in his car seat when Whitmer dropped him off.

That afternoon, after a morning in which Noah didn't nap and drank only a couple of ounces of formula, Rueda says she prepared a bottle for him while he lay on a mat. In her native Peru, Rueda, who is 46, ran a travel agency and taught college courses for prospective tour guides. Her husband was trained as a lawyer. After they moved to the United States in 2001, the couple had a second child, and three years later Rueda converted her basement into a home day care center so she could work while spending time with her two kids. When Rueda sat down to feed Noah, her 13-year-old daughter was at school, her 5-year-old was upstairs watching TV and the four other children in her care were taking naps. Rueda's sister-in-law, who spent the morning with the children while Rueda was at a doctor's appointment, had just left the house. "Everything was calm and quiet," Rueda, who has soft features and dark hair, told me in Spanish while her lawyer translated.

There are two irreconcilable versions of how that calm shattered. Rueda says that Noah was crying, and she picked him up, sat on the couch and gave him the bottle to help put him to sleep. While she was feeding him, she felt Noah's arm go limp, and when she moved to take the bottle out of his mouth, he made a sound that she didn't recognize. "I could tell something was happening," she says. She stood up and put Noah on her shoulder, patting him on the back. "As I did this, his body tensed up in a ball. It was

as if he was looking for air, and he couldn't breathe." Rueda put Noah on the floor and started [C.P.R.](#), at the same time reaching for her phone to call 911. She put the dispatcher on speakerphone so she could keep tending to Noah. "I said, 'Please, please get someone here,' " she said. "I knew it could hurt him if there wasn't enough oxygen going to his brain."

Erin Whitmer's account of the moments before Noah lost consciousness is entirely different. "Around 2:30 on April 20, 2009, Noah was shaken," she wrote on her [blog Noah's Road](#), on the one-year anniversary of the incident. "He'd been crying. He needed something that his day care provider wasn't providing him. Maybe he was tired of lying on the mat where she'd had him. Maybe he needed a hug, a laugh, a kind touch. Instead, she picked him up, her fingers gripping him tightly, feeling the softness of his velour pants and his cotton onesie under her fingers, and she shook him."

Whitmer's account of what Rueda must have done to Noah was based on evidence presented at Rueda's trial and information from the doctors who treated him after he was rushed to Inova Fairfax Hospital. The doctors gave Noah a [CT scan](#), which showed subdural hemorrhaging (bleeding in a space between the skull and the brain) and an ophthalmological exam revealed retinal hemorrhaging (bleeding at the back of the eyes). Also, his brain was [swelling](#). For decades, these have been the three telltale signs linked to the kind of child abuse commonly called shaken-baby syndrome.

Noah had no external marks on his body — no bruises or cuts or fractures, no sign that he was forcefully gripped and no evident [neck injury](#) that would seem to result from vigorous shaking. But an [M.R.I.](#) confirmed the CT scan findings and showed that the subdural bleeding was extensive. The doctors at Inova Fairfax tested Noah for clotting disorders that can cause these kinds of hemorrhages. The tests came back negative. The doctors told Erin and Michael Whitmer, who are both 32, that they strongly suspected Noah was violently shaken in the moments before he [stopped breathing](#). While Noah lapsed into a [coma](#), police went to question Trudy Rueda. A day later, Rueda was arrested. She was charged with two felony counts: abuse of a child causing serious injury and cruelty to a child.

Before April 20, 2009, Noah was a healthy baby. Trudy Rueda also had nothing suspect in her past. In five years as a day care provider, she had a pristine record with state regulators — she had taken the classes required for her license and extra ones as well. She cared for a boy with [autism](#) and a girl with one arm, reportedly with calm and assurance. "She was more patient than all of us," one mother testified at Rueda's trial. A second said, "What she's accused of now I could not begin to imagine Trudy doing." And yet Noah emerged from her home with terrible and permanent injuries.

Between 1,200 and 1,400 children in the United States sustain head injuries [attributed to abuse](#) each year. Most of them are less than a year old. Usually, there's not much dispute that these children were abused, because doctors discover other signs of mistreatment — cuts, bruises, burns, fractures — or a history of such injuries. There is no exact count of shaken-baby prosecutions, but law-enforcement authorities think that there are about 200 a year. In an estimated 50 percent to 75 percent of them, the only medical evidence of shaken-baby syndrome is the triad of internal symptoms: subdural and retinal

hemorrhage and brain swelling.

For a year after Noah came out of his coma, he had as many as 32 [seizures](#) a day. Now he is 2, and his parents watch as his 1-year-old brother surpasses him developmentally. Noah sometimes nods his head “yes” and gives high fives, but he is not yet talking; doctors are not sure of his cognitive prognosis. Erin Whitmer, a slender woman with large brown eyes who chose Rueda for part-time day care after a careful search, cried when she found out that Rueda had been arrested. Now she says, “It will never completely leave me, the horror that I trusted my son with someone and she did this to him.”

At Rueda’s trial in January 2010, the prosecutor presented six doctors who testified that Noah’s brain scans showed he had been abused. The doctors’ reading of the scans were the main evidence that a crime had taken place, of its timing and even of Rueda’s state of mind, since they agreed that only an act of great violence could inflict such injuries. Two doctors who treated Noah in the hospital said that the baby’s scans showed that he had an acute [subdural hemorrhage](#) — the bleeding had begun suddenly — which was, as one doctor stated, “inconsistent with accidental trauma.” Another witness, Craig Futterman, a doctor at Inova Fairfax and president of the board of the Shaken Baby Alliance, put it more bluntly, “This child was shaken, or shaken and slammed against something.”

The usual explanation for how a caregiver can become an abuser is that in a moment of intense frustration, she snaps. The prosecutor, Gregory Holt, imagined for the jury a scenario in which Rueda was aggravated that she could not get Noah to stop crying: “Put him on the mat, put him on the chair, he’s not drinking his milk. Getting a little bit frustrated?” And he claimed that Rueda confessed to shaking Noah.

On the day of Noah’s injuries, Rueda spoke to the police without a lawyer and denied hurting him. The next day, Joslyn Waldron, a social worker for Virginia’s Child Protective Services, visited Rueda at home. Waldron knew that Noah’s doctors at Inova Fairfax suspected that he had been abused because of his symptoms. She and Rueda spoke together in Spanish while a detective, who did not speak Spanish, was present. At the trial, Waldron testified that Rueda confessed to shaking Noah when he was crying and before she gave him a bottle. The social worker said she wrote in her notes, “Might have shaken him about three times, but not sure” (using a standard Spanish word, *sacudir*, for shake).

As is protocol in her department, Waldron offered to tape the interview; Waldron says Rueda declined. Rueda has denied telling Waldron that she shook Noah. At the trial, she testified in heavily accented, halting English, frequently interrupting herself because she didn’t understand the questions. Rueda said that she told Waldron, “I probably moved kind of rough with Noah,” at the moment that she lifted him to give him the bottle, but that she had not gotten frustrated with the baby or harmed him.

When her lawyer asked her what she thought happened to Noah, Rueda answered: “I imagine the parents, we all want to know what happened. But I cannot give you an explanation about what I don’t know.”

The Whitmers dismissed Rueda's denials of guilt. "It's a complicated thing to look at someone who always smiled at you, to know that your baby loved her, and to know that because of her, you struggle each day to adapt to a new sense of reality," Erin Whitmer [wrote on her blog](#), which has had more than a million visits, after Rueda's first criminal hearing. Michael Whitmer expressed his rage at Rueda's next hearing by wearing a T-shirt he made. On the back is a picture of Noah taken in the hospital, with tubes coming out of his mouth and the words: "Ask me what happens when you shake a baby."

At the trial, the prosecution presented one more piece of testimony against Rueda. The pediatrician who saw Noah in the I.C.U. told the jury that given the severity of the baby's injuries, their "onset would have been very rapid, so it would have been within minutes of when the injury occurred." This meant that the person with the baby right before he stopped breathing — Rueda — was necessarily the guilty party.

Rueda's lawyer didn't challenge this assumption directly. Medical experts, however, have begun to point out that clinical observations show that it's possible for a child to have a [brain injury](#) and still remain conscious. The child may be lethargic or fussy or may not eat or sleep normally for hours or days, while the subdural hemorrhage and other injuries become more serious, ending in acute crisis. This has made some doctors wary of pinpointing the timing of a child's injury — even when they are sure that abuse occurred — lest the wrong adult take the blame. "The police want us to time it within one to three hours," says John Leventhal, a Yale [pediatrics](#) professor and medical director of the child-abuse programs at Yale-New Haven Children's Hospital. "But sometimes we can only time it to within days."

In this case, because Rueda had been at the doctor that morning and her sister-in-law stayed to help with lunch, she spent only about an hour alone with the children in the day care center before calling 911. Arguing that another adult had harmed Noah would have meant implicating Rueda's sister-in-law, whom Rueda says she has never suspected, or the Whitmers, whom no one has accused. Rueda, her husband and their lawyers decided not to take this tack. The defense relied primarily on Ronald Uscinski, a neurosurgeon on the faculty of the [medical schools](#) of [George Washington University](#) and Georgetown. When he took the stand, Uscinski refuted all the prosecution experts who said that Noah's hemorrhaging was acute — the sudden result of a new injury. Uscinski testified that he saw chronic subdural bleeding on the scans, which he said was the result of trauma at birth. "Rebleeds" like Noah's, he testified, "can occur with minimal or no trauma. They can occur spontaneously." On cross-examination, Uscinski said that he earned approximately \$200,000, which was about 30 percent of his income, as an expert witness in 2009.

For the prosecution, Cindy Christian, a pediatrics professor at the [University of Pennsylvania](#), who has published extensively about shaken-baby syndrome, rejected Uscinski's reading of Noah's brain scans. "That's false, he did not have a rebleed from a chronic hematoma from birth," she said. "There was no evidence of that."

After five days of testimony, the jury deliberated for five hours and voted to convict. Virginia's sentencing guidelines called for a minimum sentence of 3 years and a maximum of 15. The jury

recommended 10½ years and Erin and Michael Whitmer took the stand in support of that punishment. “This is a life sentence for my son, for my wife, for me, and for our family,” Michael Whitmer told the jury.

“Really still, now, I can’t comprehend it,” Rueda told me, looking wan and bereft when I visited her at the Fluvanna Correctional Center for Women in Virginia. Rueda’s daughters have gone to live with her older sister in Peru while her husband works extra hours to support the family and pay for her appeal. Rueda can rarely speak to her children. “It is so hard to talk about this separation,” she said, and started to cry.

A dozen years ago, the medical profession held that if the triad of subdural and retinal bleeding and brain swelling was present without a [fracture](#) or bruise that would indicate, for example, that a baby had accidentally fallen, abuse must have occurred through shaking. In the past decade, that consensus has begun to come undone. In 2008, the Wisconsin Court of Appeals, after reviewing a shaken-baby case, [wrote that](#) there is “fierce disagreement” among doctors about the shaken-baby diagnosis, signaling “a shift in mainstream medical opinion.” In the same year, at the urging of the province’s chief [forensic](#) pathologist, the Ontario government [began a review](#) of 142 shaken-baby cases, because of “the scientific uncertainty that has come to characterize that diagnosis.” In Britain, after one mother’s shaken-baby conviction was overturned, Peter Goldsmith, then attorney general, reviewed 88 more cases. In 2006, he [announced doubts](#) about three of the convictions because they were based solely on the triad; in the other cases, Goldsmith said, there was additional evidence pointing to the defendant’s guilt.

A small but growing number of doctors warn that there can be alternate explanations — infections or [bleeding disorders](#), for example — for the triad of symptoms associated with shaken-baby syndrome. Across the country, the group of lawyers that has succeeded in exonerating hundreds of people based on [DNA evidence](#) is now mounting 20 to 25 appeals of shaken-baby convictions. “No one wants child abuse,” says Keith Findley, a lawyer for the Wisconsin Innocence Project. “But we should not be prosecuting and convicting people in shaken-baby cases right now, based on the triad of symptoms, without other evidence of abuse. If the medical community can’t agree about all the conflicting data and research, how is a jury supposed to reach a conclusion that’s beyond a reasonable doubt?”

Much of the science of shaken-baby syndrome dates from the late 1960s, when a neurosurgeon named Ayub Ommaya conducted a brutal animal experiment to figure out how much acceleration it took to cause a head injury. Ommaya took more than 50 rhesus monkeys and strapped each one into a chair mounted on wheels, leaving their heads unsupported. He placed the chair on a 20-foot-long track, and an air-powered piston sent the monkeys zooming into a wall. Fifteen emerged with some kind of [cerebral hemorrhage](#). Eight of those also had injuries to the brain stem or cervical cord.

Ommaya’s experiment involved neither shaking nor infants. Still, two pediatric specialists, John Caffey and A. Norman Guthkelch, each wrote a paper that pointed to the work as evidence that unexplained subdural bleeding in babies could occur without direct impact to the head and with or without a visible

neck injury. In the 1980s, the term “shaken-baby syndrome” came into broad use, and a national prevention and awareness campaign was set in motion.

As the diagnosis of shaken-baby syndrome took hold in medicine, and prosecutors began to bring charges based on it, doctors testified that shaking could generate the same terrible force as throwing a child from a second--story window. It turned out they were wrong. In 1987, a neurosurgeon named Ann-Christine Duhaime published a paper that included the autopsy results of 13 babies with symptoms associated with shaken-baby syndrome. In all of them she found evidence of trauma that was actually caused by impact. She [teamed up](#) with biomechanical engineers to create infant-sized dummies equipped with sensors to measure acceleration. “We shook them as hard as we could, and we thought something was wrong, because the accelerations we measured were unexpectedly low,” Duhaime says. Instead, the force level shot up when the testers released the dummies after shaking them, even if they hit a soft surface like a bed or a couch.

Later experiments confirmed this finding and have made some doctors and biomechanical engineers skeptical that shaking alone can cause severe brain damage or death. At the same time, the experiments have not ruled this out, Duhaime says. Among other things, the dummies are not live children, and while their heads and necks can exhibit the effects of acceleration, impact on brain tissue is still hard to model.

Many doctors who treat child abuse say that decades of clinical observation, as well as confessions, show that it’s possible for shaking alone to cause the triad of subdural and retinal bleeding and brain swelling. A 2009 [position paper](#) from the [American Academy of Pediatrics](#), written by Cindy Christian, recommends that doctors use the more general term “abusive head trauma” but also calls shaking an “important mechanism” of such trauma. Many doctors who testify for the defense agree that shaking could in theory cause the triad of symptoms but only if there is an injury to the neck or spinal cord, “where the breathing center is,” as one doctor puts it. It’s the absence of signs of this kind of an injury that makes some shaken-baby cases particularly fraught.

In 1993, Audrey Edmunds left her job as a secretary and started caring for children in her home near Madison, Wis. Like Trudy Rueda, Edmunds says that a baby she was taking care of, 7-month-old Natalie Beard, suddenly collapsed while drinking a bottle of milk; Natalie was propped up with the bottle in a car seat while Edmunds was out of the room getting her two daughters and another child ready for preschool. In the hospital, a CT scan showed that Natalie had the triad of shaken-baby symptoms but no spinal-cord injury. The baby died, and the doctors agreed that Edmunds, who was pregnant with her third child, had to be responsible. She was charged with first-degree reckless homicide.

At Edmunds’s trial, a librarian testified that she once heard a thump and then the cries of a child who was with Edmunds, but she didn’t see what had happened. Edmunds denied ever harming a child in her care. Her neighbors testified to her calm around children. Natalie “was a real fussy baby,” one said, “but Audrey was very patient with her.” Another day care provider in the neighborhood said, “I looked up to Audrey . . . when I started doing my day care.”

Still, the prosecution's medical experts said that only Edmunds's violence could explain Natalie's injuries. A forensic pathologist, Robert Huntington, testified that the baby most likely had been abused at some point during the two hours before her collapse — which was when she was with Edmunds. The jury convicted Edmunds, and she was sentenced to 18 years; she went to prison two days after her youngest daughter's first birthday.

A decade later, Edmunds had a hearing to determine whether she should have a new trial. Huntington this time took the stand on her behalf. When Keith Findley, her lawyer, asked whether Huntington was comfortable with his 1996 testimony, the pathologist said, "No, sir, no I am not." He explained that in the years since her trial, he observed a child with subdural and retinal bleeding who was lucid for a period between her brain injury and her collapse. After that, he returned to the medical literature and found research to support this possibility. Huntington now believed that a "lucid interval is a distinct, discomforting but real possibility." He said he could no longer precisely time the injury that caused Natalie's death. For how long could Natalie have appeared relatively normal — fussy, but not obviously in crisis? "I'm sorry, I just don't know," Huntington said.

Huntington's change of heart reflects a new explanation for the manifestation of brain injury in babies. In a [2001 study](#), the British neuropathologist Jennian Geddes found that most babies with the triad of shaken-baby symptoms suffered not from a rupture of the nerve fibers of the brain but rather from a lack of blood caused by oxygen deprivation to the brain's cells.

The rupture of the brain's nerve fibers is immediate and produces instant coma; the effects of oxygen deprivation can be slower and more subtle. This can explain how a child with the triad of shaken-baby symptoms could, for some period of time, seem fussy or lethargic or stop eating or sleeping well. In 2005, Christian [co-wrote a study](#) that concluded, "Although infrequent, young victims of fatal head trauma may present as lucid before death."

This possibility introduces questions about whether the last person to care for a child before he or she stops breathing is necessarily guilty of abuse. In most cases of assault or murder, jurors could weigh this doubt in light of other evidence — witness testimony, perhaps, or the motive the defendant would have had to commit the crime. In shaken-baby cases, however, this kind of additional evidence is often absent. Doubts raised about the medical testimony loom large because it's so central to the prosecution.

At Edmunds's hearing for a new trial, five doctors joined Huntington on the side of the defense. Opposing them were four doctors for the prosecution. The Wisconsin Court of Appeals ruled in January 2008 that the disagreement among the physicians represented a shift in medical opinion and warranted a new trial: a jury would have to hear both sides. Edmunds called her daughters to tell them she was coming home. Six months later, prosecutors dropped the charges against her.

Audrey Edmunds's successful appeal was built on a foundation laid by defense lawyers a decade earlier in the first big courtroom fight over shaken-baby syndrome. In that case, prosecutors in

Massachusetts charged an English au pair, [Louise Woodward](#), with the murder of 8-month-old [Matthew Eappen](#), who stopped breathing in her care. Matthew had the triad of shaken-baby symptoms, along with a [skull fracture](#). Woodward, who was 19, told the police that she shook Matthew lightly when she couldn't wake him from a nap. Prosecutors decided that the shaking must have been violent. They also said that to cause the skull fracture, Woodward must have smashed Matthew's head on a hard surface at a velocity of more than 25 miles per hour.

Woodward's lead counsel was [Barry Scheck](#), who went on to found the Innocence Project at Cardozo law school with Peter Neufeld. He enlisted seven medical experts, including Ommaya, the neurosurgeon who experimented with the rhesus monkeys, and Ronald Uscinski, a colleague. The defense's theory was that Matthew's skull fracture was three weeks old when he died, and that because of it, a slight jarring could have caused his fatal bleeding. Scheck didn't try to explain how the fracture happened. "We didn't know, so we didn't claim anything," he told me. But the defense experts testified that because tests showed no swelling at the site of the fracture, it had to be old.

The prosecution, for its part, lined up the doctors who treated Matthew at Children's Hospital in Boston. Among them was Patrick Barnes, then a pediatric radiologist at Children's. He had written, with another doctor, a chapter in a textbook that embraced the traditional theory of shaken-baby syndrome and shared the assumptions that pointed to Woodward's guilt.

Barnes testified for the prosecution at the trial, saying Matthew's brain scans showed his injuries were a result of shaking as well as a skull fracture. The prosecutors also asked Barnes to help them prepare for their cross-examination by briefing them on what to expect from the defense's doctors. He spent evenings watching Court TV tapes of their testimony. He heard doctors from fields other than pediatrics — biomechanics, [neurosurgery](#) and neuropathology — discuss scientific findings about traumatic brain injury that contradicted his belief in the traditional method for diagnosing shaken-baby syndrome. He started to question his assumptions. "I'd been in lockstep with the child-abuse establishment for 20 years," he told me. "For the first time, I saw that there were well-qualified experts on the other side giving opinions I'd never heard, that I knew nothing about."

Woodward's case ended in a stalemate. After the jury found her guilty of second-degree murder, the judge reduced the conviction to involuntary manslaughter and released her for time served. But a lasting legacy of that case was the eventual conversion of Patrick Barnes from an upholder of the medical orthodoxy surrounding shaken-baby cases to one of its strongest critics.

After Woodward's trial, Barnes continued to think about his newfound doubts. He read widely in the medical literature. He started to look at brain scans brought to him by defense lawyers. In a New York case in which a father was being prosecuted, Barnes says, he found strong support in the medical literature for a diagnosis of infant [stroke](#), which he thought was likely related to an infection like [meningitis](#). Now he says that he sometimes sees other explanations for the triad of symptoms. "There are a number of things you have to look for in these children — infections, bleeding and clotting problems," Barnes says. "Even now, I am most concerned about looking very carefully for predisposing or

complicating medical conditions, in particular for infants younger than 6 months.”

Trudy Rueda’s lawyer asked Barnes to review Noah Whitmer’s brain scans before her trial. Barnes wasn’t able to testify because of a scheduling conflict, but he says the scans indicate that the baby had a thrombosis — a blood clot within a blood vessel. The prosecution’s doctors saw the thrombosis, too, but they claimed it was a result of abuse. To Barnes, the clotting suggested infant stroke, which can be triggered by an infection. He says the fact that Noah was not taking a bottle or napping normally in the days before he was hospitalized suggests that his condition could have been subtly deteriorating during that time. “It’s a very striking pattern,” Barnes says of the thrombosis. “The baby not eating well may reflect the process which starts this. Usually, it’s not a process that happens acutely and the baby crashes. It can start relatively slowly.”

Barnes also testified at Audrey Edmunds’s hearing challenging her conviction. He said that it was difficult to know for sure what had happened to Natalie Beard based on her scans; at the time of her death, [hospitals](#) were using CT scans, rather than also using M.R.I.’s, which provide more detail. But he did say that he saw the possibility of a thrombosis.

To a degree, some of the alternative explanations from defense-side doctors are accepted in the child-abuse field. A 2009 textbook that Cindy Christian co-edited includes a discussion of diseases and accidental injuries that can mimic the effects of abusive head trauma. Leventhal, the Yale pediatrician, told me about an unusual case involving an accidental fall. “A child who was sitting in a highchair and put his feet up on the table in front of him and rocked himself backward,” Leventhal said. “When the child was taken to the hospital, the ophthalmologist said, ‘This is shaken baby,’ because of the massive retinal bleeding. Luckily, there were seven people playing cards in the room when the baby fell.” Leventhal continued, “The subdural hematoma continued to bleed, and it turned out he had a previous bleeding disorder, a clotting problem.”

Leventhal and others in the child-abuse field emphasize that such hemorrhaging as a result of a fall is very rare. In order for doctors to determine what caused an injury, they begin with a list of alternatives, ruling out the ones that don’t match a patient’s symptoms until they arrive at a diagnosis, with a reasonable degree of medical certainty. But defense-side doctors like Barnes say that in a criminal case, physicians should be more careful about testing their assumptions, and they should give the possibility of an alternative explanation — a stroke, say, caused by an infection — more weight.

It’s on this question of probable causes that the doctors who testify in these cases split. Prosecution-side experts rely on a set of studies that indicate that when children have subdural bleeding and extensive retinal hemorrhaging, they are far more likely to have been abused than injured in any other way. In a [2010 paper](#) in *Pediatrics*, Christian and the pediatric ophthalmologist Alex Levin concluded that the evidence supporting the “diagnostic specificity” of “severe” retinal hemorrhaging has significantly increased. “Some children have such severe retinal hemorrhaging that it is much more likely to be from abusive head trauma,” Christian told me. She testified to this at Rueda’s trial, because Noah Whitmer had severe retinal hemorrhaging. Levin similarly called Natalie Beard’s retinal bleeding “textbook

severe” when he testified for the prosecution at Audrey Edmunds’s 2007 hearing. When the prosecutor asked him how significant these findings were for diagnosing shaken-baby syndrome, Levin answered: “Very important. We really don’t have any other cause for this particular kind of hemorrhaging and retinal findings.”

Defense experts, however, criticize the methodology of these studies. And even taken at face value, they say, the studies show that severe retinal hemorrhaging is far more common in abuse cases, not that it’s never found in any other circumstance. At the 2010 meeting of the American Academy of Forensic Sciences, the Canadian forensic pathologist [Evan Matshes presented](#) the results of a study, under peer review, of 123 autopsies performed on infants in Miami-Dade County who died under natural or accidental circumstances, or from homicides. Of the children with retinal hemorrhages, 53 percent died from accidental or natural causes, and 47 percent died as a result of homicide. Severe retinal hemorrhages were identified in some of the children in the accident group. Although the children in the homicide group were more likely to have severe retinal hemorrhages than the other groups, this finding could be explained by factors other than abuse, according to Matshes. The children in the homicide group had isolated head injuries and were more likely to be resuscitated for a period of time, he says. In the aftermath, they were more likely to develop brain swelling and bleeding disorders that may explain the severe retinal hemorrhaging. Matshes puts his conclusions like this, “It is simply incorrect to state that severe retinal hemorrhaging is diagnostic of abuse or shaking.” He is now working on a study that looks at whether infants with subdural and retinal hemorrhaging might in fact have neck injuries, which could indicate shaking, that go undetected, because doctors haven’t looked in the right place for them. Matshes and his team are conducting autopsies of the entire cervical spinal column, which is not usually dissected in shaken-baby cases. The goal is to determine whether injuries there could explain how shaking can cause brain damage or death — and whether this additional diagnostic tool might one day help distinguish which babies have in fact been abused, and which have subdural and retinal bleeding from other causes.

Underlying the clash over the medical research on shaken-baby syndrome is another one about human nature. How likely is an adult with no history of wrongdoing to do terrible harm to a child by violently shaking it? To pediatricians like Leventhal and Christian, the sad answer, born of experience, is that such a lapse is all too possible. When I described Trudy Rueda’s case to Leventhal, he told me about cases in which he had met and liked a parent or caregiver who ended up confessing to harming a child. Was there truly *no* indication that the adult in question was capable of such an act? The doctors who treat abused children insisted that sometimes, there isn’t. They described disturbing confessions, like one that made headlines in Florida last year after a 22-year-old mother told the police that she had shaken her 3-month-old baby and perhaps caused him to hit his head, because he wouldn’t stop crying while she was playing FarmVille. Leventhal cites a 2010 study that included 29 people who confessed in the French courts to shaking infants and who described the abuse as extremely violent.

Doctors like Barnes, on the other hand, emphasize that confessions are not always reliable. The exonerations of recent years have shown that people sometimes falsely admit to crimes because of police pressure or the promise of a plea bargain. In the first case from Canada’s shaken-baby inquiry to reach

the Ontario Court of Appeal, the judges [overturned the conviction](#) of Dinesh Kumar, a 44-year-old father who pleaded guilty to shaking his 5-week-old son to death. Kumar says now that at the time of his guilty plea, he believed he had no hope of prevailing against the damning testimony of the state's pathologist, who has since been discredited for giving error-riddled testimony based on botched autopsies.

In response to the critics who question the basis for some shaken-baby convictions, many in the child-abuse-treatment field have fired back with a critique of their own. Christian and Leventhal dismiss defense-side experts' alternate explanations, like Uscinski's theory that children suffer spontaneous rebleeds from birth injuries. "Every year they come up with a new alternate theory that we have to refute," Christian says.

Normally, of course, this is how science progresses: One researcher comes up with a hypothesis, which others question and test. But shaken-baby cases are haunted by the enormous repercussions of getting it wrong — the conviction of innocent adults, on the one hand, and on the other, the danger to children of missing serious abuse. In one study, researchers looked into the deaths of five children who had head injuries that initially were misjudged to be accidents and found that four of them could have been prevented if an earlier pattern of abuse had been detected. If parents are the focus of a shaken-baby investigation, doctors must weigh this risk in helping the state determine whether a child should be removed from the home. "When babies are sent home with an injury that's misattributed to an accident, we know that one-quarter to one-third of them will come back with another serious injury or, in some cases, death," Leventhal says.

Barnes, who is now part of a child-abuse-protection team at Stanford, doesn't dispute the need to investigate shaken-baby symptoms. But he says that most of his colleagues don't present the science dispassionately. "They have built their careers, their entire standing on this issue." His opponents, for their part, dismiss the defense experts as hired guns. "They're aggrandizing themselves and making a lot of money testifying," says Robert Block, the president-elect of the American Academy of Pediatrics. While it's true that experts like Uscinski can make six figures a year testifying (he says he testifies free when a defendant cannot afford to pay him), it's also the case that some witnesses for the prosecution are paid. Barnes no longer takes fees to testify in either criminal or custody cases. Neither did four of the other five defense experts who testified for Audrey Edmunds.

Last September, the fight among the doctors broke out in public on the Web, after Deborah Tuerkheimer, a former prosecutor and a law professor at DePaul, wrote a New York Times [Op-Ed warning](#) of [wrongful convictions](#) and calling on the [National Academy of Sciences](#) to referee the shaken--baby-syndrome dispute. On the Web site CommonHealth, about [20 doctors commented](#), mostly to express outrage. One of them was Block. He wrote that Tuerkheimer had "been beguiled by a group of physicians who are using the courtroom to distort science, facts and reality." And he denounced her for "furthering the cause of the so-called innocence project."

Philipp Baumer was born after a difficult delivery and spent his first week in the newborn-intensive-care unit. His mother, Victoria, who had given up her last baby for adoption, struggled with [drug](#)

[addiction](#). Her sister Julie, who was 27 and a loan officer for a mortgage company, was helping take care of Victoria's oldest child. She volunteered to adopt Philipp. "I didn't want to see anyone else leave the family," she told me in November when I met her in Ann Arbor, Mich.

When Philipp came home, neither Julie Baumer nor her parents could get him to take a bottle regularly. On Oct. 3, 2003, when he was 6 weeks old, Philipp was not able to keep down food for 12 hours, Baumer says. She called his pediatrician, who sent her to the emergency room at Mount Clemens Regional Medical Center outside of Detroit.

The E.R. doctor who saw Philipp found he was dehydrated and septic, gave him fluids and [antibiotics](#) and ordered a CT scan. But the test was canceled when Philipp was scheduled for transfer to the region's specialty facility for pediatrics, Children's Hospital of Michigan in Detroit. At Children's, Philipp went straight to intensive care. But he waited 28 hours for the CT scan. By then, Philipp had been in the hospital for a total of 33 hours. The scan showed subdural bleeding, which was so extensive that his fontanelle (the soft spot on a baby's head) was bulging. An ophthalmologist saw retinal bleeding. Philipp also had a skull fracture, although it was not near the site of the hemorrhage. In an emergency operation, a shunt was placed to relieve the pressure on Philipp's brain, but it was too late to prevent severe damage. Philipp, who is now 7, has [cerebral palsy](#); he cannot walk on his own, talk or see.

Four months after Philipp's injuries occurred, Julie Baumer was charged with child abuse in the first degree. The prosecutor didn't present a theory about why Baumer would have harmed Philipp, saying that it was the state's job to show that Baumer intended to shake the baby, not what motivated her. Two doctors from Children's Hospital testified for the prosecution: Steven Ham, the neurosurgeon who put in the shunt; and Cristie Becker, a radiologist who treated Philipp later. Becker said Philipp's injuries were inflicted by shaking and timed them to "likely within 24 hours" of the CT scan. She said the skull fracture may have been an old birth-related injury. Looking at the scan, Ham said the fracture was new and that Philipp's injuries were the result of blunt-force trauma that occurred "within the previous 12 to 24 hours." He said he could pinpoint the timing based on "how sick the child was, and then the fact that in looking at the scan we could see fresh blood in the scan."

Becker and Ham didn't note in court that their 24-hour time frame meant that Philipp would have started hemorrhaging while he was at Children's — and no longer in Baumer's care. (When I called Becker, she said, "I don't care to revisit that issue, and best of luck trying to find the truth in the midst of that trial." Ham did not return my calls.) Baumer's trial lawyer failed to point out this flaw in the prosecution's case. The lawyer also did not find a defense expert who could read Philipp's brain scans. Baumer had no money to hire one, and her lawyer didn't know that he could have asked for court funds to cover the expense. In 2005, Baumer was convicted and sentenced to 10 to 15 years.

Baumer was raised Catholic, and in 2007, a nun saw her name on a prayer list and came to visit her in prison. When she heard her story, the nun asked Baumer if she needed a new lawyer and wrote on her behalf to Charles Lugosi, then a professor at the Catholic law school Ave Maria. Lugosi agreed to take Baumer's case and enlisted the help of a former prosecutor, Carl Marlinga, who had opened a defense

practice. Later, the [University of Michigan Innocence Clinic](#) joined the defense.

The defense team sent Philipp's brain scans to Patrick Barnes. At the bottom of the images, Barnes saw a distinctive bright triangle surrounding the major vein that brings blood in and out of the brain. To Barnes, the triangle clearly pointed to a diagnosis unrelated to abuse: Venous sinus thrombosis, or stroke, probably from an infection — an explanation similar to the one Barnes gave for Noah Whitmer's injuries. Another radiologist and a forensic pathologist concurred with Barnes's reading of Philipp's scans. The defense experts also saw suggestions of an earlier smaller stroke, which could have triggered the feeding problems that led Julie to call Philipp's pediatrician. This reading of the scans matched the time frame Becker and Ham had given at trial: Philipp could have started to show some symptoms, and then had a major stroke after he was admitted to the hospital. The defense experts agreed with Becker that the skull fracture was old. They said it was likely the result of Philipp's difficult birth.

This testimony won Baumer a new trial. It also gave the defense team an answer to the question that hovers over every shaken-baby prosecution: What happened to hurt the child? During a trial, solving that mystery isn't supposed to be the defense's responsibility — the burden of proof rests with the prosecution. But a credible response makes it easier to lift the weight of the medical evidence from the shoulders of the defendant.

At Baumer's second trial, which took place in October, the defense called neighbors and friends who testified that she was gentle and loving with children. The prosecution introduced no evidence to the contrary. Baumer has two drunken driving offenses on her record from the late 1990s, but they weren't introduced at the trial.

Back on the stand, Ham and Becker now said they had misspoken about the time frame, and came up with new estimates: Becker said that Philipp's internal bleeding could have begun five days before the CT scan, and Ham said one or two days. They both remained convinced that Philipp's hemorrhages were inflicted. "Before they testified, they both said that it was their opinion from the beginning that the injuries occurred before Philipp came to the E.R.," Richard Goodman, the prosecutor at the second trial, says. And the prosecution's doctors disagreed with Barnes and the other defense-side experts that Philipp's scans showed a thrombosis. On cross-examination, Baumer's lawyer, Marlinga, asked Ham and Becker if they were trying to deflect criticism of the hospital for failing to give Philipp the care he needed because of the delay of his CT scan. The doctors denied that their revised testimony had anything to do with protecting the hospital.

The jurors began their deliberations by taking a poll. Nine out of 12 thought Baumer should be found not guilty. "For me, it came down to this: For the prosecution to be right, I was required to believe that a woman with no history or indication of violent tendencies or instability hit this baby's head so hard that she fractured his skull, and shook him so hard that she caused extensive brain damage, while leaving no marks on him," says Carman Minarik, a juror who is a minister at First United Methodist Church in Mount Clemens. "That just didn't make a lot of sense to me."

Sera Miller, a claims representative for the [Social Security Administration](#), was one of the three jurors who thought at first that Baumer was guilty. She found the medical testimony dense and confusing. “I think we needed 12 doctors on that jury,” she said. After an afternoon of deliberations, she went home and couldn’t sleep. In the morning she decided that the defense had done enough to introduce reasonable doubt. The jury found Baumer not guilty.

When Philipp was 3 months old and ready to leave the hospital, he was put into [foster care](#) with Debi and Phil Zentz, who later adopted him and changed his name to Ben. When the second jury announced that it found Baumer not guilty, the Zentzes were in court. Baumer looked at Debi. “I was hoping for a bridge between the families,” Baumer says. Instead, Debi Zentz gave this statement to the press: “The verdict does not change our belief. Reasonable doubt does not equate to innocence.” When I called her in January, she said, “I have absolutely no doubt that Julie Baumer shook and horribly injured my son.”

The Whitmers also feel certain that Trudy Rueda harmed their son and that she wronged them by putting them through a trial. “We got to a point where we said that if she stands up and admits what she did, we might be able to put this behind us,” Michael Whitmer said. “But now, how do you forgive?”

He and his wife were sitting on a couch in their living room, in the Cape Cod-style house in Alexandria, Va., that Michael renovated by hand. Noah, his blue eyes sometimes focused and sometimes vacant, walked a bit unsteadily on the floor in front of us, picking up books and toys and putting them in his mouth. Noah can see now because a few months after his injury, he slept standing up for weeks to drain the blood from behind his eyes. His seizures have stopped, but only thanks to a strict and labor-intensive ketogenic diet. How *could* the Whitmers forgive, given the medical testimony from doctors they trust? Rueda’s conviction is now on appeal, with a hearing scheduled for mid-February.

As for Audrey Edmunds, she has been out of prison for about three years. Now 49, she is blond and slim, and when I met her at a mall near her home outside Minneapolis, she talked to me about her three daughters. She wore jeans and open-toed sandals and showed me pictures of her children at a Twins game and talked about the delight she takes in taking snacks to her youngest girl’s soccer practice. For a few minutes, her 11 years in prison seemed like a balloon she has let go.

But Edmunds does not live with her children. Her husband divorced her four years into her sentence; she says the separation was just too much for him. He stopped taking the girls to see her every week. When she got out of prison, she moved in with a friend and took a job at a Kwik Trip convenience store. Better work is hard to come by because of the time Edmunds served in prison. She also wants the early shift so she can see her kids in the afternoons. Sometimes, though, they go on a trip with their father and forget to call. “I was gone for so long,” she says.

Edmunds said, however, that she had to come to terms with the drive to prosecute her. As we walked through the mall, she pointed out a Dora the Explorer display she thought young kids would like. Then she turned away from it. “A baby has died,” she said simply. “They want to blame somebody.”

Emily Bazelon, a contributing writer, is a senior editor at Slate and the Truman Capote law-and-media fellow at Yale Law School.

This article has been revised to reflect the following correction:

Correction: February 20, 2011

An article on Feb. 6 about shaken-baby syndrome misspelled the middle name of a doctor who offered a definition of it. He is A. Norman Guthkelch, not Norma.



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By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

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[201.](#)

LF

NY, NY

February 7th, 2011

9:14 am

Recommended reading might be "Witchcraft Among the Azande". Here as there all deaths must have a human cause. Witchcraft accusations and prosecutions give resolution -- for the authorities who are called upon and expected to help (doctors) and for parents. They just do so by means of a sacrifice, taking the life of another (ironically fulfilling that which was the initial accusation). Here punishment becomes proof. Bazelon's work here, as with her string of articles earlier this year on witch hunts of bullies after teen suicides, is elegant. (I admit, I was sharpening my pitchfork ready to hunt down Phoebe Prince's bullies until I read her articles on the subject at Slate.) She shows the ways in which the assignation of responsibility within the modern legal system is often continuous with the kind of scape-goating characteristic of types of less institutionalized juridical regimes like witchcraft. Notably in both cases ritual practitioners -- whether they be medical experts or diviners -- are given the exclusive power to determine the truth for the community. Juries should not be expected to evaluate expert testimony, since expertise is that which -- by definition -- we rely upon without understanding. The judiciary must be more proactive in counseling juries about the aura of truth that surrounds expert testimony.

[Recommend](#) Recommended by 4 Readers

[202.](#)

RAM

Scottsdale, AZ

February 7th, 2011

9:14 am

After reading this article, I can safely say that there is NO WAY I will ever agree to take care of any babies or young children, with the exception of any future grandchildren and possibly, great-nieces/nephews.

[Recommend](#) Recommended by 6 Readers

[203.](#)

HIGHLIGHT ([what's this?](#))

Byard Pidgeon

Klamath Falls OR

February 7th, 2011

9:14 am

When my daughter was less than a year old, she fell out of a shopping cart in a store...one of those "we turned away for only a moment" stories. I still remember the sound of her hitting the floor. We took her to our usual family practice clinic, where she was pronounced OK, except for bruises, and we were told to watch for signs of concussion.

A couple of years later, the same daughter got her fingers slammed in a vehicle door. Again, we took her to the clinic.

There were no interrogations or reports, probably because these events occurred over 35 years ago, in a time when almost everyone realized that accidents really do happen and sometimes no one is guilty of intentionally inflicting harm.

Reading this article and reviewing our past, I felt twinges of fear, realizing how differently things could have gone if our incidents had occurred today.

[Recommend](#) Recommended by 33 Readers

[204.](#)

NA

Montreal, PQ

February 7th, 2011

9:15 am

#4 DJS - Thank you - my sentiments exactly.

I feel terrible for little Noah - I hope and pray that he grows up well.

I cannot understand why Erin or Michael Whitmer could not take care of their own child. I have a two and half (2.5) year old daughter and she DOES NOT go to a day care - my wife is a NURSE and she stays at home just to ensure that our daughter is not in the care of some stranger.

I find it despicable that so many women want to have children and then shift the responsibility (along with their husband / boyfriend-whatever) to care for them: Yep, lets have a baby and throw it on the shoulders of some poor non english speaking immigrant to clean its potty and give it formula and milk, etc. and when the baby is not doing well then it is that other person's fault. How do you as a parent know if the caregiver cleaned your child properly, changed their diaper if it was full of pee (I do not want my daughter to be in a wet diaper

- even though they claim that it keeps the moisture away!), whether their bottle was properly sanitized, ad infinitum.

Well, my message to you Erin and Michael Whitmer and other "power" hungry women is that if you are going to have kids then TAKE CARE OF THEM and share that responsibility with their father. Day care and all such facilities should be where you send your kid when there is SOME VERY PRESSING need where the child cannot go with you and there is NO FAMILY member available: LAST RESORT.

[Recommend](#) Recommended by 3 Readers

205.

HIGHLIGHT ([what's this?](#))

People. Please.

wdc

February 7th, 2011

9:19 am

To an outsider reading this article for the first time, it might seem like a well researched and balanced piece. But having attended the trial and having heard the testimony - it saddens me to know the liberty in which Bazelon took in glossing over certain important facts while exaggerating or overstating others.

Many of the folks posting comments seem to be under the impression that the Whitmers are responsible for putting Rueda in jail. I think this speaks to just 1 example of the fuzzy detailing by the author.

Readers, please note that the trial was brought about by the Commonwealth of VA against Rueda. The Whitmers did not hire lawyers or bring about criminal or civil charges against Rueda. It was the state that initiated and brought charges of felony child abuse and child endangerment against Ms Rueda.

I'm also astounded to read commentators assuming so much. For example the Whitmers did not appear as "privileged." As someone who attended the trial, there was nothing that indicated that the Whitmers were any more or less "privileged" than Rueda. Both families seemed to be working, middle class with their equal share of supporters in attendance - so please - no race and class card here.

Rueda had private counsel (not public defenders) and paid expert(s) like Uscinski. The State's experts were not paid, and the Whitmers did not pay for any legal counsel that was involved in the trial against Rueda.

Please note - Rueda's "experts" never treated or saw the child. The defense's experts were simply drawing opinion and theory off of paper, whereas the prosecution's "experts" consisted of the very doctors and medical care staff that treated the baby upon admittance to the hospital and during the weeks he was in the ICU.

In other words: the prosecution had the actual, practicing medical staff testify - for free - whereas the defense had benchside doctors that earn oodles for such testimony. But we're going to assume the later are more experts the the former?

Please note that the article has many inaccuracies, including facts like: Mr Whitmer did not wear a shirt with a photo of his son to the trial. He wore a dress shirt and tie during the trial. Such a visual t-shirt could have easily swayed the jury and been grounds for a mistrial; the attorneys and judge wouldn't have allowed such a t-shirt during the trial. This is a small detail but while reading the article, I couldn't help but wonder how many other facts the writer exaggerated or misplaced in order to craft the story.

Also - while it's true that several witnesses testified that Rueda has a reputation for being tender towards children, it also came out in the trial that she didn't notify the Whitmers that she'd be out of the house for a portion of the day and leave the children with her sister-in-law - someone (if I remember correctly) was not a trained care provider. It was also revealed that she was not straightforward with the Whitmers regarding the increase in number of children that enrolled in her daycare from the time they initially signed up to when Noah was rushed to the ER. In addition, she and her defense "flip flopped" their version of shake, shake gently and didn't shake. All details glossed over and omitted but surely details that influenced the jury.

Again. Small details that I heard during the trial but weren't included in the article.

And for those who want to be hateful towards the victims (why I ask?) - please remember that Rueda was convicted by a jury of her peers - not by the Whitmers.

Rueda was found guilty beyond reasonable doubt - of child endangerment and felony child abuse. (those are the charges)

Yes. Terrible things sometimes just happen. But babies don't just get pools of blood behind their eyes and across the front AND back sections of their brains and go into a coma and start having seizures and neurological problems. I'm not a medical expert but I sat through what the experts had to say. They did a better job explaining it to the courtroom than Bazelon's attempt at written summary - and it was made very clear that pools of blood, brain swelling, etc don't just form from birth trauma or stroke.

Again, fuzzy detailing. The medical reporting (or repeating) within the article is weak.

After years of being a loyal NYT's reader, I'm disappointed by this inside glimpse at just how wrong and misguided a reporter can be. Not only was the medical reporting inaccurate but Bazelon tries too hard to draw parallels were they don't exist and omits details and facts in

the process.

Tisk, tisk NYT. I hope for better reporting going forward.

[Recommend](#) Recommended by 20 Readers

206.

dc lambert

nj

February 7th, 2011

9:19 am

If the injury cannot be pinpointed without reasonable doubt to the exact hours the baby was in this woman's care, then the jury should not have convicted. It's really that simple. All the other theories--whether it IS an injury, etc. - are besides the point. And my understanding that the moment of injury in "Shaken Baby Syndrome" CANNOT be pinpointed with high accuracy. Our understanding of brain injury is limited anyway--to use just one example, athletes can get one concussion that appears to be minor, but then if they have a second concussion, also minor, it can have major or even catastrophic effects.

So to my mind the basic fact is that there is not enough scientific backing to convict without reasonable doubt. The above poster who judges the guilt of the accused based on how little emotion she shows--that's just preposterous. Every culture and every person is different; sometimes you're in shock and show no emotion over something emotional. Much as we'd like to, you CANNOT read a person like a T Shirt.

Let's face it--babies are far more at risk from their own parents and siblings than they are from caregivers. This is a fact. We don't like to hear that, but it is true. In this case, if the injury could be as much as 30 days old, or even 24 hours old, the parents could be equally as guilty in this tragedy. I am NOT saying they ARE guilty. But they - or anyone in contact with this poor child - could be just as guilty. Until the science improves here, we are really engaging in state sanctioned witch hunts. It's a scandal.

[Recommend](#) Recommended by 13 Readers

207.

Trish

Vancouver WA

February 7th, 2011

9:20 am

That someone could be an expert on a medical issue while being unaware of scientific evidence from related fields is frightening. That is happens regarding such emotionally-charged a topic as the potential abuse of infants is both unsurprising and deplorable. It also demonstrates a serious downside to specialization in medical sciences.

The willingness of courts to qualify as experts persons with such a narrow scope of knowledge - especially about such an emotionally-fraught issue as injury to a child - is a deeply-flawed, but repeated, pattern in our justice system. When the alleged crime is a subject of popular interest and outrage, the quality of the evidence sufficient to convict seems to decline. Like the day-care child abuse cases in the 1980s, or the Salem witch trials, we see increased willingness to accept testimony [including self-incriminating confessions] with little or no corroborating evidence, testimony that contradicts earlier testimony from the same witness as long as the later testimony points to guilt, annoyance on the part of the public with procedures that are in place to protect the rights of the accused, and an atmosphere in society-at-large that accusation itself is sufficient evidence to conclude guilt even before a trial has occurred.

The overall design of our justice system is a brilliant attempt to minimize the all-too-human tendency for the luridness of the accusation to be equated with likeliness of its truth. It's very sad that, in the instance of accusations that relate to a type of crime that is currently the subject of emotional popular rhetoric, those very protections seem to be taken the least seriously.

But seeing that the "shaken baby syndrome" is being re-examined by cooler heads, there is hope that this type of accusation will no longer be judged without the full scientific picture being available to those needing to make decisions.

I'd also like to take the opportunity to say that Dr. Patrick Barnes is a model of scientific ethical behavior in his willingness to alter his opinion about the causes of brain bleeding in young children, especially considering that his opinion was so in line with popular belief about shaking babies.

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176.

Ruanne
Arkansas
February 6th, 2011
4:42 pm

I cannot imagine the anguish these babies' families must have faced during legal proceedings, to say nothing of their medical treatment and ongoing developmental delays. The reopening of these cases must be just as hard. But the right to a fair trial is essential to the foundations of our nation. Reasonable doubt and the assumption of innocence until guilt is proven are enshrined in our legal system. If any of these convicted caregivers were in fact, innocent, then an injustice needs to be righted. This is not the first time changes in medical diagnosis and practice have swept through society. There was a time, for example, when lobotomies were regularly recommended and performed. It seems barbaric to us now, but medical professionals and families truly believed in the practice and had the best of intentions. The same was true of the trio of symptoms for shaken baby syndrome. The doctors truly believed these symptoms always pointed at child abuse, and always within a specific time frame, and courts and the affected families had no reason to disbelieve them. Revisiting these assumptions will be very difficult and in many cases heartbreaking. But it must be done.

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177.

M.S.
Los Angeles
February 6th, 2011
4:45 pm

I can't get past the staggering callousness and denial of the Whitmers. They sent Mrs. Rueda, a mother and wife, to prison, a woman with a very believable story regarding the series of events preceding Noah's coma. A woman with children of her own who exhibited no signs of abuse. A woman who had shown their son affection, love, and care. The Whitmer's are entitled people who, when dealt a blow, abandoned rational reasons for their son's health problems and instead victimized the woman who cared for their son so thoroughly she performed CPR on him until help arrived. This is a terrifying warning to anyone thinking of becoming a child care worker. All the love, care, and apparently scientific evidence in the world is no match for the wrath of parents searching for someone to blame for their own misfortunes. I hope justice finds the Rueda family.

[Recommend](#) Recommended by 31 Readers

178.

Lucy
Columbus, Ohio
February 6th, 2011
4:45 pm

One thing that shocks me is when I see babies or toddlers who are sunburned. There is no excuse for this.. It makes me sad.

[Recommend](#) Recommended by 1 Reader

179.

Merrybee
NM
February 6th, 2011
4:45 pm

I'm wondering if he hadn't had a stroke.

[Recommend](#) Recommended by 1 Reader

180.

LW
New York, NY and San Francisco, CA
February 6th, 2011
4:47 pm

When it comes to the protection of children, many of their motor reflexes end up not being fully developed for some time, and often times that requires a bit more of a watchful eye on the child. Parents shouldn't neglect the attention of their children, because they have not been conditioned to safety as an incremental part of living. Preventing such instances of injury and accidents becomes necessary the first time, and if it continues to happen, then it is a sign that you are unconsciously being a neglectful parent, because the learning curve is not going in the right way, and the parent isn't learning to take precautions.

It is necessary for the parent to take consideration and be a bit watchful especially in the first 24moths and the first few years, as the infant's skeletal structure and soft tissues are just that - soft, like theirs once were. They biologically are that was so that the baby can be birthed, and then over time hard through continuous development and metamorphosis, and continues throughout childhood and into

adolescents with growing children and growing skeletal structures. It is very important to provide safety and direction to the child so that they don't injury themselves or enter into accidental situations, but also be aware of also the nature of human nature and the exposure to human nature. Possible pre-meditation can occur, and this is where the realization of improper development of the psyche is realized. In situations such as these heinous acts, these children as well as children who turned adult and had children, need to seek counseling and learn to better self-manage emotional states and reactions to issues.

If ever someone were think of committing or has committed such a horrid thing to their child, it would need to be addressed immediately. Often times what underlies projected emotions such as anger or stress onto a child can become a very harmful and disastrous incidence. What becomes an issue in parenting is not just the troubles of stressful working environments and home life environments, but as well as the stress of bring a child into this life. If someone needs to shake something, shake a musical instrument, like a tambourine or a pair of maracas, because maybe then, you will "shake up the routine" and possibly be able to create a more positive environment through music, not anger or hatred or through shaken drinks and alcoholism which can exacerbate an already problematic situation. Transferring emotions onto another non detrimental, more peace creating object can be very helpful. As well if you feel you need to hit, tap or beat an african drum or other percussion instrument. Studies have shown that this lowers blood pressure and lessens anxiety and anger, but maybe the baby or child will stop crying because of the musical rhythm - and if it doesn't, take a step away from the situation, turn on relaxing music and condition your baby or child to become relaxed as well through listening to music, such as classical or other music. Studies have shown that listening to calmer and relaxing music decreases the impact stressors have on the sympathetic nervous system. If all else fails, simply hold the child after these techniques because, through repetitive training, the child over time, may learn to better rely on the use of music to calm distress, and self-manage their anxieties and tensions. (If the child pulls out the pots and pans and starts banging on them, or creates an imitation maraca, as an imitation of your drumming on the drum and maracas, respectively, then realize that you have created a successful transfer of a bit more positive behavioral learning, even if they are not sure why you initially did it in the first place. be careful of complains of the neighbors though that too much music is going on... they just don't know the secret to make music themselves - in a musical conversation.) Soon enough, over the years, both you and the child will equally learn that responding to unreasonable crying may not manifest, but rather music becomes more central as well as the sound of laughter or other melodic signs of progress. And then they may be able to talk about the situation through words as they express themselves and mature through the ages.

[Recommend](#) Recommended by 0 Readers

181.

Kris

VA

February 6th, 2011

4:48 pm

#148, I agree about the blog...it casts Ms Whitmer in a very unappealing light.

I was taken aback by how militant she is in her blog regarding Trudy's immigration status. I guess when Trudy represented cheap reliable day-care, her immigration status wasn't so important. Now, for some reason, Ms. Whitmer is quite concerned with her "illegal" status. I'd ask Noah's parents...did you bother looking into any of this before you started handing your baby over to this woman?

#133, some people seem to feel the need to broadcast their every waking thought via a "blog" and receive nothing but universal applause. Guess again. When you open every detail of your life - and that of your hapless family members - you make all of you fair game for anyone who comes across your little account to read and comment, thumbs up or thumbs down. No one's looking to deny anyone the right to blog, just don't be stunned when the feedback isn't what you had in mind.

[Recommend](#) Recommended by 25 Readers

182.

mcs

missouri

February 6th, 2011

4:48 pm

Thank you for this article. A little over a year ago my child fell from a car seat and suffered the triad of symptoms. My son was removed from our house. The car seat which he fell from was recalled a little over a month later yet that still wasn't evidence enough. Luckily, no charges were filed but we missed the first year of our sons life. With every article put out I know soon innocent families will stop being accused.

[Recommend](#) Recommended by 28 Readers

183.

austin mom

texas

February 6th, 2011

4:48 pm

Insisting on inaccurate information concerning vaccinations will only hurt more children by easily gulled parents. The one's who would rather blog about why we should listen to Jenny McCarthy instead of your local parenting class down at the hospital. Not learning what actually happened to this child is a disadvantage to the community and future parents. The angry mob mentality is not in the best interest of anyone's children, ever. "Methinks thou dost protest too much."

[Recommend](#) Recommended by 11 Readers

184.

Ted Morgan
Baton Rouge
February 6th, 2011
4:49 pm

My dyslexia intrudes in my posting. I apologize for that, even though I try to correct my errors.

The use of "experts" in trials makes me suspicious as I age. To hear someone attended whatever school or training program does not tell me what the science behind his or her expertise is. I think prosecutors and defenders ought to explain more of the sciences behind such expert testimony.

Too many of those convicted of "popular" crimes such as this one seem poor, undereducated, young, and largely defenceless. I worked in law enforcement though courts for a quarter century; for that reason, I do not have much faith in even the best prosecutions by the most careful prosecutors. They need to work for convictions with hard evidence, not questionable experts, eyewitnesses, and rhetorical skills. Sending someone to life in prison or to execution has to be done better than we do it.

[Recommend](#) Recommended by 12 Readers

185.

John
Hartford, CT
February 7th, 2011
9:10 am

SBS is a differential diagnosis without support of scientific method studies. First, we don't know for sure that shaking alone is capable of inflicting the injuries without also causing spinal damage. Second, even if we did know that, we don't know for sure that other causes such as thrombosis aren't capable of inflicting the same injuries. The reason we can't determine these things is because we have no source of indisputable case history, and we can't observe a million babies 24/7 to see what injuries arise.

In the absence of a scientific method study to give us certainty, or at least a firm probability of accuracy of this diagnosis, it has no place in the courtroom.

Doctors are free to TREAT patients based on their best guess, but they aren't free to use their position to have their best guesses put people in prison. We have a presumption of innocence in this country, and our cultural values are that it's better for a few guilty to go free than to imprison the innocent.

[Recommend](#) Recommended by 6 Readers

186.

Ruby
Washington, CT
February 7th, 2011
9:10 am
Re:post 175

Mr. Skolnick, what do you mean those days are over with? Are you saying that giving children some four dozen vaccines, beginning with the Hep B vaccine--of all vaccines!--on the day of birth, don't cause any health problems or cause death, ever? None of them, for any children, no matter their health status or genetics, no matter what lot, what manufacturer is used or what combination vaccines are given to any particular child?

Are you saying that all vaccines are safe?

[Recommend](#) Recommended by 4 Readers

187.

Todd Fox
Connecticut
February 7th, 2011
9:10 am
@ #175:

Even though some of the claims of vaccination damage are exaggerated, we should be careful not to swing so far in the opposite direction that we can no longer recognize that there are legitimate claims of vaccine damage and even death. All you have to do to weigh these risks is read the package insert included with every vaccine! The package insert lists adverse reactions which contraindicate further vaccinations. Unfortunately doctors often ignore these warning signs, in their zeal to immunize all children 100%.

Several years ago my child unexpectedly had an adverse reaction to a vaccine. (Nobody believes that THEY will be the statistic.) I was alarmed and pointed to the list of contra-indications but my doctor dismissed my concerns. He was however, concerned enough to suggest administering a half-dose for the next shot.

I wrote to Everett Keep to ask his opinion and he responded, in writing, saying that damage from vaccines is possible, and that I should not allow a second dose of that particular vaccine. He recommended going forward with the other vaccines, on schedule. Even armed with this recommendation, it was next to impossible to find a pediatrician who would allow any deviation from the standard schedule.

If indeed the daycare provider is innocent, it's frightening to think that the cause will never be discovered because we are afraid to look at all possible causes.

[Recommend](#) Recommended by 3 Readers

188.

Todd Fox

Connecticut

February 7th, 2011

9:11 am

From the MMR package insert, provided by Merck:

Experience from more than 80 million doses of all live measles vaccines given in the U.S. through 1975 indicates that significant central nervous system reactions such as encephalitis and encephalopathy, occurring within 30 days after vaccination, have been temporally associated with measles vaccine very rarely. The Centers for Disease Control and Prevention has pointed out that "a certain number of cases of encephalitis may be expected to occur in a large childhood population in a defined period of time even when no vaccines are administered". However, the data suggest the possibility that some of these cases may have been caused by measles vaccines.

I'm not trying to go overboard about the dangers, or blame the vaccine for what happened to Noah. I just want it to be clear that there is a possibility, as the package insert states, of damage from the MMR and/or other vaccines. As I said before, nobody ever thinks that their child will be the statistic.

I hope that we're honest in our discussion, and in our investigations of these tragedies, and that we leave no stone unturned in the search for a reason—even if it's not politically correct to explore the possibility of vaccine damage.

There seems to have been a horrendous increase in death and injury, attributed to childcare providers shaking babies, in recent years, just as there has been a horrendous increase in cases of autism. Let's find out why.

[Recommend](#) Recommended by 3 Readers

189.

HIGHLIGHT ([what's this?](#))

fiflarue

seattle

February 7th, 2011

9:11 am

I'm floored by the vast number of readers who fault parents for using daycare. The majority of abused kids are abused by PARENTS. No wonder people like poor Trudy are convicted- readers here have already found her guilty because of her profession.

I find it selfish to NOT provide a child some education, socialization, and yes, care, outside the family. Our families are not all reality, and everyone is enriched by knowing others. I can't sing, and I'm glad my daughter's talents in that were given expression in daycare. I love her too much to make her stay with me all the time.

[Recommend](#) Recommended by 41 Readers

190.

Jay

PA

February 7th, 2011

9:11 am

Prosecutors, police and in general have the difficult task of protecting the innocent. Regrettably though their only tool is prosecution to find guilt. Most people have limited means to defend against the awesome power of the state. Once accused and put to trial the outcome is all but decided. In the cases of alleged child abuse most have already made up their minds. Someone must be punished. When a child shows up injured at a hospital the first thing that happens is that parents and /or other responsible person is immediately suspect. The result is too often equally tragic to parents, children and the accused. Somehow we must find a better way to review and diagnose child injuries without prejudice and without the need to immediately seek revenge. Battering children and rendering them severely injured, brain damaged or dead is intolerable but seeking only to place blame and seek revenge is equally heinous. We need to step back, take a breath and look at what we know and what we don't know before we allow the destruction of the lives of other innocents.

[Recommend](#) Recommended by 5 Readers

191.

ted2010

brooklyn, ny

February 7th, 2011

9:12 am

I understand that Trudy Rueda is hoping for a new trial. But what about Julie Baumer and Audrey Edmunds whose convictions were overturned? Can they sue the state of Michigan or Wisconsin?

Also, don't know if Ms. Baumer's still interested in keeping her family in tact, if so, can she get her nephew back from his adopted parents?

Maybe this is just a coincidence but the common thread among these falsely convicted caregivers is that they had less than stellar counsel. If all these women had Barry Scheck advocating for them, their families might not be torn apart.

I wish these women all the best and little Phillip/Ben and Noah too.

[Recommend](#) Recommended by 7 Readers

192.

Hugh

Franklin, NJ

February 7th, 2011

9:12 am

The solution is so simple and so perfect: If you do not intend to take personal, hands-on care of your own baby, then do not have one.

Shoving off the huge responsibility of nurturing your baby onto someone else is arrogance and folly. It most certainly is not love.

[Recommend](#) Recommended by 4 Readers

193.

Tommy

Washington, D.C.

February 7th, 2011

9:12 am

Our justice system isn't about guilt or innocence. It's about locking people up to feed the prison industrial complex. It's about how paying for the most expensive expert witnesses. High publicity cases like the Arizona shooter will have a multi-million dollar defense paid by the taxpayer and he's clearly guilty. This poor lady had her husband who could only afford one expert witness vs. the state's 5 witnesses. It's a travesty, but then that's why we have the highest incarceration rate in the world except North Korea.

[Recommend](#) Recommended by 5 Readers

194.

wj

Colleyville, Texas

February 7th, 2011

9:12 am

The best prevention is: raise your own children or don't have them. What is it with women having children and letting someone else raise them 10+ hours a day!

[Recommend](#) Recommended by 4 Readers

195.

JK

Crested Butte, CO

February 7th, 2011

9:12 am

I am deeply saddened to think that this woman's life has been destroyed by inconclusive evidence. I recognize and empathize with the child and his family but sadly enough our society wants to blame someone and it seems that Trudy was an easy target. I wish for peace for all those involved, but I am saddened to think of unnecessary destruction of lives in this incident. Sometimes sad things just happen without clear explanation or someone causing it.

[Recommend](#) Recommended by 6 Readers

196.

herb

d.c

February 7th, 2011

9:13 am

For a compelling albeit frightening essay on the linkages between the epidemic of rickets due to Vitamin D deficiency and the linkage to SBS read this

<http://www.vitamindcouncil.org...>

[Recommend](#) Recommended by 2 Readers

197.

ellem

New York

February 7th, 2011

9:13 am

TO #70 Becky,

Unfortunately, reasonable doubt will not help Trudy on appeal. The standard for overturning a case is an error on the part of the judge, prosecutor, or defense attorney. The appellate court does not retry the case, or determine that the jury was wrong, unless they believe that there was no reasonable way for the jury to convict. The burden of proof no longer lies with the prosecution after the trial verdict has been delivered.

[Recommend](#) Recommended by 3 Readers

198.

Elisabeth

Arizona

February 7th, 2011

9:13 am

Why is it that the anti-vaccination folks (#17) take every advantage to promote their fraudulent and dangerous theories. This is a story of innocent people who are jailed due to dangerous myths and overreaction to a "shaken baby" theory that appears to become more and more discredited. By taking advantage of an unrelated factor, a supposed and extremely rare possibility of a negative reaction to vaccinations, you may scare more parents in delaying these life saving measures and creating a more danger for their children (and the immune suppressed around them) by creating preventable epidemics of scourges such as polio, measles, diphtheria, influenza etc.

In fact, I'm sure the next story will be when a parent brings a wrongful death law suit against a parent who willfully not vaccinate their child who become ill with whopping cough and then passed it on and then killed an infant who was too young to receive the shots.

[Recommend](#) Recommended by 9 Readers

199.

Trish

Vancouver WA

February 7th, 2011

9:13 am

Vaccines don't cause babies' brains or retinas to bleed. Period. Even the now-disgraced Dr Wakefield, who faked all the evidence he published to support his entirely untrue claim that autism was caused by vaccines didn't say vaccines make babies brains & eyes spontaneously bleed.

Vaccines are very safe & reliable - and much safer than polio, dyphtheria, pertussis, mumps, rubella - even chicken pox, which is considered mild - but can kill when the pox are on the lungs instead of the skin.

Why people whould attempt to link one discredited claim - that vaccines are inherently more dangerous than the diseases they prevent - with another SBS, is beyond me.

[Recommend](#) Recommended by 11 Readers

200.

Sarah A.

New York, New York

February 7th, 2011

9:13 am

Here's what I find odd: if something happened to my child and I had the option of attributing it either to abuse or to something random and biological, I would ABSOLUTELY want it attributed to something random. I'd be tortured by the thought of somebody hurting my child. Why on earth would a parent cling to the idea that somebody hurt their child when a more likely scenario is presented?

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

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151.

Ted Morgan
Baton Rouge
February 6th, 2011
3:09 pm

I recall how reputable reporters for "The Wall Street Journal" and "Frontline" exposed famous and widely reported conviction of child abuse in many places including Elizabeth City, North Carolina. The work these reporters did took years.

Then much later, "Frontline" exposed a conviction for a terrible death my fire that was not even a murder but that resulted in the execution of a man, mostly like guilty of no crime. Now, after decades of indoctrination, we learn that fingerprint interpretation is ambiguous.

I have grown wary of "experts" just as much as I am wary of identification by witness. Once I was on a jury in Oregon wher the accused looked just like the prosecutor--who acknowledged that fact.

[Recommend](#) Recommended by 5 Readers

152.

HIGHLIGHT ([what's this?](#))

thinkaboutit
Frederick, MD
February 6th, 2011
4:22 pm

#81. Actually the length of the baby's neck DOES make a significant difference in your analogy to cracking a whip. The shorter the lever, the smaller the force, pretty basic physics. The simple fact is that to create the forces necessary to cause the trauma exhibited in these cases of "shaken baby syndrome" would certainly cause severe trauma to the neck. The (horrible) experiment conducted on the rhesus monkeys was performed on adult monkeys with fully developed neck muscles. Any person who has ever held a human infant knows the weakness of the infant neck and the disproportionate weight of the head. To shake an infant with enough force to cause the hemorrhaging apparent in these cases, in some cases involving actual retinal separation, would almost certainly snap an unsupported infant neck, at the very least there would be evidence of distress to the vertebrae and spinal column. In fact, in cases where the child has been verifiably abused, these additional injuries are present, usually accompanied by a cracked skull.

People forget how fragile we are as a species, and our infants even more so. "Shaken Baby Syndrome" is a myth. If you shake a baby hard enough to cause the brain to slosh around the skull, without slamming them against something hard, then you've shaken the baby hard enough to break their neck. Period.

We all need to stop watching C.S.I. for our 'science' and Jersey Shore for lessons in how to be dramatic. It's time to be big girls and boys and face the fact that sometimes really bad things happen and it might not be anybody's fault.

[Recommend](#) Recommended by 39 Readers

153.

Diana Goodman
Los Angeles Calif
February 6th, 2011
4:22 pm

I am a mother with two grown children. I read an article about Dr. Holmes Morton, a renown doctor who has studied pediatric genetic diseases, and first found out about the horror of parents and caregivers who were falsely accused by emergency room doctors making quick convictions of infant abuse who did not adequately understanding infant medical conditions that can mimic abuse. I know that Dr. Morton has helped a number of caregivers who have been wrongly accused of a crime they would never dream of committing, and I am ashamed of a medical establishment that cares more about protecting quick and sometimes wrong assumptions of child abuse in a frazzled emergency room setting, and subsequently has ruined the lives of innocent people. Why is the medical establishment not flexible enough to acknowledge new medical research that puts an unsubstantiated outdated medical convictions of "shaken baby syndrome" where it belongs... in the trash can with other outdated and old assumptions that have NEVER been proven !

[Recommend](#) Recommended by 9 Readers

154.

jcs
nj
February 6th, 2011
4:23 pm

This is the new witch hunt. It reminds me of the McMartin preschool and the false child abuse ring scandal in Washington a few years ago. So called experts become evangelical and are set to save the world despite evidence to the contrary. Epilepsy was once considered

possession by demons. Of course we now know what it really is. Does child abuse occur..of course it does. Medical science, however, is not as precise or advanced as we'd like to think. It also is a continuously changing science. Why would anyone want to take care of others' children after reading of these cases. I'd be too afraid. People are always looking for a person to blame when bad things happen. It is too hard for them to believe that it's just bad luck or that there is often no explanation for why things happen. It shifts their feelings of guilt when there is an outsider to blame.

[Recommend](#) Recommended by 14 Readers

155.

Jaze

New York

February 6th, 2011

4:24 pm

There seems to be an implication here that making the diagnosis of SBS is as simple as crossing off a little checklist - Retinal hemorrhages - CHECK! Subdural hemorrhage - CHECK! Brain swelling - CHECK! I've been a forensic pathologist for over 20 years, and I can assure you that it's not anywhere near that simple.

These types of child deaths are fatalities that we really agonize over: complex histories given by self-interested parties, a constellation of findings that may or may not have alternate explanations, often a delay while the child is in coma, resulting in degradation of the tissues that must be examined to make the diagnosis accurately. We know that every time diagnose SBS, our findings will be pulled apart by highly-paid experts, and that the whole phenomenon will be put on trial all over again, with the same familiar bunch of defense pathologists, radiologists and pediatricians wheeled out before the jury once more.

We know how high the stakes are. We listen to everyone's stories. We consider the evidence. We make the diagnosis on the basis of facts that we can prove.

And one final thing: I promise you that the nightmare of every forensic pathologist - the thing that keeps her or him up late at night - is NOT letting a guilty person go free, but sending an innocent person to jail.

[Recommend](#) Recommended by 14 Readers

156.

Jaze

New York

February 6th, 2011

4:30 pm

By the way, I'm glad that this topic was revisited even-handedly - I thought that Ms. Tuerkheimer's op-ed piece was at best misguided. Perhaps it would've been a good idea to include the rejoinders to her article by NYT letter writers:

<http://www.nytimes.com...>

[Recommend](#) Recommended by 0 Readers

157.

Rigoletto

Zurich

February 6th, 2011

4:31 pm

Let me put in a more general contest of what is called justice in the USA.

Important is that the PM find a culprit and get him / her sentenced: it does not matter if the "culprit" is not guilty of any wrongdoing. You see, these people want to be re-elected and the voters only look on how "good" was the sentencing.

Conclusion:

A real big overhau of the whole system is badly needed and such prosecutors sent to prison for long time!

[Recommend](#) Recommended by 3 Readers

158.

concerned

Washington, DC

February 6th, 2011

4:31 pm

I was frustrated reading this article as it leaves so much information out, failing to adequate describe the true medical workup of these children and promoting theories about other causes which are not based on a reasonable understanding of medicine.

The article glosses over the medical workup of these children as solely based on retinal hemorrhage, subdural hematoma, and brain swelling. The workup is always much more extensive than this--the tests for bleeding disorders are run, the radiologist comments on the condition of the child's bones (as osteogenesis imperfecta is also a common defense used for multiple fractures), and there are frequently other signs, such as posterior rib fractures (from gripping the baby while shaking) or chip fractures at the ends of the long arm and leg bones (from shaking). The medical workup of these children systematically addresses and refutes any other possibility for the child's injuries, as any doctor knows there can be other causes of a catastrophic injury to a child. The literature has shown that subdural

hematoma and retinal hemorrhages do not result from resuscitation attempts such as CPR.

The piece of the article arguing that thrombosis and infant stroke could be a cause of this triad of symptoms shows such a misunderstanding of medicine that this is surprising to me that it was published. A subdural ("under the dura", a layer covering the brain) hematoma results from a rupture of the bridging veins on the outside of the brain. A hemorrhagic stroke causes bleeding within the actual mass of the brain. A thrombotic stroke (where the blood clots WITHIN a vessel, thereby reducing blood flow to a portion of the brain) has no way of causing hemorrhaging outside the brain (like a subdural hematoma). Likewise, a thrombotic obstruction of a vessel would not cause hemorrhage (bleeding) in the eye (the finding with obstruction of the retinal blood supply is a pale retina eventually with a cherry red spot, not retinal hemorrhaging). Discussing the possibility of birth trauma causing SDH, studies have shown that these lesions are usually in a characteristic place (the posterior fossa), are all the same age if there are multiple bleeds, most resolve by 1 month of age, and almost all have resolved by 3 months of age.

While I applaud the New York Times magazine for having a feature on child abuse (which gets far too little attention), it failed to investigate this issue properly. While promoting the fear that we are sending innocent people to prison is a sensational topic, I would have preferred a better piece of reporting. If the reporter had seen even one innocent child in the ICU after being shaken, I bet she would have been more interested in investigating the truth behind the various conflicting claims in the courts.

[Recommend](#) Recommended by 5 Readers

159.

clara

washington

February 6th, 2011

4:32 pm

Most of these cases are the direct result of severe (and often delayed) reactions to vaccination. Because of this, the medical community will NEVER find the answer, because they have made it clear that the one place they absolutely will not look for answers to severe illness and injury in children is their sacred vaccines -- from which, by the way, pediatricians today derive the bulk of their income.

[Recommend](#) Recommended by 6 Readers

160.

val conway

St John's N.L.

February 6th, 2011

4:32 pm

As a general Ophthalmologist and as someone who has testified at a shaken baby trial I have a few comments. For what it is worth Pediatrics was a big component of my 30 year practice.

Ascribing "likely or unlikely" is of no value in these cases.

Retinal hemorrhages is EXTREMELY rare in a baby from any cause. Its rarity is partially the reason it is so important in the diagnosis of Shaken Baby Syndrome. 99% + of Retinal Hemorrhages in a baby I feel have SBS as a cause. In the absence of any evidence of any underlying disease SBS approaches 100%.

Any other cause of Retinal hemorrhage in a baby needs and merits publication on its rarity alone.

I found this article comprehensive, interesting, well written, and very well balanced. To find an article like this in a newspaper these days is almost as rare as the condition described.

This comment is not meant to take lightly of the subject of SBS which is devastating to everyone especially the parent and child who are suffering a life sentence.

[Recommend](#) Recommended by 0 Readers

161.

chris

la jolla, ca

February 6th, 2011

4:32 pm

Another pop psychology/faux expert "syndrome" bites the dust.

[Recommend](#) Recommended by 4 Readers

162.

Lynn

CT

February 6th, 2011

4:33 pm

A warning for out of work moms who care for others children...

[Recommend](#) Recommended by 9 Readers

163.

austin mom
texas

February 6th, 2011

4:33 pm

Ok, I respect #125, this is not for you, but look- just stop with the, I can't be a mom because I'm a career woman. You make all executive decisions.

That's great, but being an excellent mom is not something people just genetically possess. It takes work, it takes practice, education, social support.

Babies on mats in a basement, bottle feeding?

How Absurd! And if you don't know why, take a class and stop calling the care in this instance, a daycare, or a preschool.

The facts in this case are not clear. There are so many undependable people involved, lawyers, doctors, caretaker, parents. There should be a primary caregiver who's number one priority is that child.

There was discussion in other comments as to how long they waited to have a lethargic, not eating child seen- who was under one year? So who took the first aid course?

I could not blame the sitter, she never claimed to be more than expected. What did you expect, in your infinite, professional woman expertise? How much career cash does quality cost? Geez, I need more references just to walk peoples dogs. You think this is harsh, it is, but its life and death and a full time job.

[Recommend](#) Recommended by 2 Readers

164.

pkbormes

Brookline, MA

February 6th, 2011

4:34 pm

As a former childcare provider with extensive training, including a Master's degree, I am glad that I have left the field. Providers get blamed for any number of things, and whether or not these things go to court, the blame is extremely painful. Most of the time the blame comes from fellow providers, as in a daycare situation. I can tell you those places can be extremely nasty places to work. The "teachers", who are usually young and often uneducated, are competitive and jealous of one another. It's often class war inside a daycare center, as these usually very young adults whose lives are quite bleak compared with the upper middle class parents they deal with, provide their services. Childcare is a dangerous business. The shaken-baby part of it is just the very extreme end of it. I would never advise anyone to go into the childcare business, though I have friend who still do it, and who over the years have been accused of various, albeit more minor "offenses".

[Recommend](#) Recommended by 8 Readers

165.

spmc

ny,ny

February 6th, 2011

4:34 pm

An article about nothing more than defense lawyers trying to squeeze a guilty client through the doorway of reasonable doubt.

[Recommend](#) Recommended by 0 Readers

166.

DavidH3

Wisconsin

February 6th, 2011

4:34 pm

This author states the triad for shaken baby syndrome consists of retinal hemorrhage, subdural hematoma and brain swelling. I think that is incorrect. It's retinal hemorrhage, subdural hematoma, and multiple long bone fractures, especially of the ribs. It is very hard to explain all 3 findings of this triad outside of shaken baby syndrome.

[Recommend](#) Recommended by 1 Reader

167.

Nigel S.

Venice, FL

February 6th, 2011

4:35 pm

I can understand why jurors are willing to find someone guilty in cases like these, even when there is reasonable doubt. It must seem to the jurors that it is enough that the accused is more likely than not to have caused the injury.

What I do NOT understand is why judges refuse to exercise their powers to dismiss such cases after the prosecution has presented its evidence. Assuming the defense moves for dismissal on the grounds that the prosecution - even if believed 100% - has not proved the case beyond a reasonable doubt, why would the judge not grant that motion when the reasonable doubt is there for all to see?

The only thing that scares me more than jurors swayed by emotion, is a judge who refuses to take the decision away from them.

[Recommend](#) Recommended by 10 Readers

168.

blissinggirl
North Carolina
February 6th, 2011

4:35 pm

This case is quite difficult, and yes, this and a few other cases of injured infants take on the tone of the Inquisition. But let us not forget that hundreds of thousands of children suffer unspeakable abuse and neglect, and our society turns a blind eye.

[Recommend](#) Recommended by 2 Readers

169.

Peter
Austin, TX
February 6th, 2011

4:36 pm

For those interested, an analogous case is that of Cameron Todd Willingham, a Texan convicted and sentenced to death for the murder of his three daughters, which, it was argued at court, was the result of his setting fire to their house. He was subsequently executed. This case is now being revisited based on conflicting testimony, perhaps wrongful "expert" testimony, and so on. There is an excellent New Yorker article on this case, the link to which is below:

<http://www.newyorker.com...>

It may be necessary that in cases such as these, when so much is dependent on dense medical and/or scientific opinion, the court should appoint a "special master," as is used in patent law, in order to help both the judge and jury sort through the arguments and evidence.

[Recommend](#) Recommended by 7 Readers

170.

DaveD
Wisconsin
February 6th, 2011

4:36 pm

"...the possibility that innocent people have been sent to jail."

In the US? Under our justice system? Under our rhetoric of innocent until proven guilty? Under a system which incarcerates the poor at a higher rate than any other nation?

Say it ain't so.

[Recommend](#) Recommended by 11 Readers

171.

Explat
In exile
February 6th, 2011

4:38 pm

"Innocence Found" makes an interesting point. Babies can have falls or head injuries without suffering SBS. How often do babies suffer the level of trauma assumed to causes SBS without actually having SBS?

When I was baby, my mother dropped me on my head. I don't remember it, but I was told about it after I asked about the stitches under my eyebrow. I assume a few brain cells got damaged at the same time; I am not the brightest bulb on the block.

This was a fairly serious injury, enough to require a visit to the doctor or hospital to get stitches. But otherwise there was no lasting damage that I know of.

This makes me suspect the threshold for SBS is generally higher than some doctors think. Some children may be more fragile, perhaps very fragile due to underlying problems. If so, and relatively little shaking can cause enormous injury, then the adult should be treated more leniently, to say the least.

When you don't know what happened, when there were no witnesses, when the science is imperfect, then there is reasonable doubt, and the risk of poisoning the relationships of good parents and adults to children with fear and legal threats probably outweighs the benefits of prosecution.

I think publicizing the risks of SBS as a health issue is good. Good people need to know about how to handle children correctly.

But do you think the risk of prosecution is going to do much to prevent a bad person from acting in anger toward a crying infant? Someone who does that is not thinking, and not considering consequences. If someone injures or kills an infant, they will have to live with that horror for the rest of their life. Perhaps that is punishment enough.

[Recommend](#) Recommended by 0 Readers

172.

Ruby
Washington, CT

February 6th, 2011

4:38 pm

VACCINES. I cannot believe this article did not address vaccine damage at all. Babies have toxins injected into them at birth, at 2, 4 and 6 months. They cause brain damage, they cause strokes, they cause all manner of injury--and deaths.

Yes, there are crimes committed with these incidents, but the first thing they should look at is what has deliberately been done to them by their parents and their doctors. That is the true horror committed against children.

[Recommend](#) Recommended by 3 Readers

173.

HIGHLIGHT ([what's this?](#))

Charles Hintermeister D.O.

Maine

February 6th, 2011

4:39 pm

Hospital staff are usually predisposed to regard any serious injury to an infant or small child as abuse until proven otherwise, and all too often they turn out to be right. The darker side of this tendency is that doctors, nurses and social workers often feel compelled to build a case for abuse even where there is little or no evidence for it; they feel that missing a true case of abuse would make them as guilty at the abuser him/herself. It is emotionally very easy, indeed gratifying, to play the the role of protector of the innocent, and far more difficult to objectively weigh what is usually an incomplete and complex body of evidence. This mindset, which is far more emotional than medical, so easily morphs into a witch hunt that only ends when somebody -- anybody -- is made to pay for an inexplicable tragedy. It is more a primitive ritual sacrifice for expiation of unnamed and unspeakable sins than a logical process by which a medically, legally and morally supportable conclusion is arrived at.

[Recommend](#) Recommended by 51 Readers

174.

dan

Old Lyme ct

February 6th, 2011

4:39 pm

these in depth looks are why I read nyt, the american infotainment industry is shallow 24/7. My only point on topic is, the more emotionally charged the tragedy, the stronger that [sometimes blind, often distorted] rush for revenge or equilibrium in eyes of jurors, they need to feel it has been settled, how does destroying another innocent life help the first. I remember the frontline episode many years ago, on the daycare witch hunt, everyone who worked there trusted that their innocence would protect them and they all got 20 + yrs. on false testimonies from toddlers being led to believe thoughts implanted by special child investigator working for da, the kids just wanted to make the adult happy by agreeing to the suggestions

[Recommend](#) Recommended by 6 Readers

175.

Lewis B Sckolnick

Leverett MA USA

February 6th, 2011

4:41 pm

Vaccination as the cause???---Give us a break already those days are over with!

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

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126.

Kris
VA
February 4th, 2011
11:06 am
#105 Joan...
"I can only go by what I would do in similar circumstances."

Correct. And that doesn't even begin to form the basis of what should constitute a strong enough case to throw a woman in prison. The way you think you might or might not act under similar conditions has no relevance here. So she didn't act like you might...so what?

#107..."But as you put forth these theories look at the picture of Noah and his parents. It is obvious he has little to no sight. That usually does not occur instantaneously."

Really? Are you a pediatric ophthalmologist? People lose sight for a variety of reasons, over a variety of time periods. Why the heck does the fact that Noah lost sight make the case against the nanny any stronger?

"We can all speculate on why this happened - I have my own speculation."

We can all speculate on lots of things. None of this means anyone should be in jail. Basically, it was proven that something happened at some point to this child. People get sick, people get hurt - people of ALL ages...none of this means that a specific individual is at fault. As for the family caring for Noah, who would expect anything else. He's their child.

"You people are intelligent - do the math for God's sakes!"

I'd say we did the math and decided Trudy got screwed. Best of luck on appeal to the attorney here.

[Recommend](#) Recommended by 33 Readers

127.
ASL
North Carolina
February 4th, 2011
4:24 pm
I am absolutely gobsmacked that so many commenting here could read this article and somehow reach the conclusion that this horrible tragedy had anything *at all* to do with the fact that the Whitmers had Noah in daycare. What is this, the 19th century? Sheesh.

[Recommend](#) Recommended by 24 Readers

128.
mew
Denver CO
February 4th, 2011
4:32 pm
A great article. To me, this highlights the inadequacies inherent in our adversarial system of justice when it comes to dealing with certain types of tragedies and crimes, particularly those involving children. Emotions run high in these cases, and I think the structure of our system encourages people involved to become entrenched in pursuing a particular outcome, which at times comes at the cost of pursuing the truth. And so you do end up with defense experts and prosecution experts, both of whose careers become aligned with particular theories and outcomes.

I would think that this would be a good area for exploring alternative court proceedings, in the same way that some districts have done with mental health courts and so on, to develop procedures that may be more tailored and better able to address the particular vulnerabilities of the victims and the difficulties presented by the heavy reliance on expert and circumstantial evidence. Good luck to all involved.

[Recommend](#) Recommended by 8 Readers

129.
Jon
New Mexico
February 4th, 2011
4:32 pm

It doesn't take a rocket scientist to recognize that shaking a baby is dangerous. But is every ignorant (usually) young mother who does this really a criminal? Spending more money on sex education courses and making them mandatory would be the best money we ever spent. Oh that's right, "pro-lifers" aren't really THAT pro-life. Once a baby is born, they don't care about the baby.

[Recommend](#) Recommended by 23 Readers

130.

HIGHLIGHT ([what's this?](#))

Katy

MN

February 6th, 2011

2:51 pm

To all those saying that the mother should stay at home... why not the father.

For the cases presented in the article with the narrow data available there would seem to be reasonable doubt as to what the cause of the injuries were.

It is within our nature to want answers and to blame someone or something for when bad things occur to those we love, but sometimes the answers are not so simple. Perhaps one day we will be able to fine tune the medical field to help provide those answers. Perhaps the MRI rather than the CAT scan will become the standard.

[Recommend](#) Recommended by 12 Readers

131.

Gwen

Georgia

February 6th, 2011

2:51 pm

Someone have to be blame for this so Ms. Rueda is the fall woman. It is highly disturbing that Erin Whitmer still have time to write fictitious accounts of what happened to her son and fishing for sympathies on her blog.

[Recommend](#) Recommended by 8 Readers

132.

austin mom

texas

February 6th, 2011

2:52 pm

Ok,I respect #125, this is not for you, but look- just stop with the,

I can't be a mom because I'm a career woman. You make all the decisions.

That's great, but being an excellent mom is not something people just genetically possess. It takes work, it takes practice, it takes education, it takes social support.

Red alert, you had me at, She propped the baby on a couch with a bottle in a basement.

How ridiculous! And if you don't know why, take a class and stop calling the care in this instance, a "daycare", or a "preschool".

The facts in case are not clear. There are so many undependable people and facets involved. There was a report as to how long they waited to have a lethargic, not eating child seen- who was under one year? So who took the first aid course?

I could not blame this woman, she never claimed to be more than expected. What did you expect, in your infinite, professional,woman expertise? How much career cash does quality cost? Geez,I need more references just to walk peoples dogs. You think this is harsh, it is, but its life and death and a full time job.

[Recommend](#) Recommended by 3 Readers

133.

Befuddled

VA

February 6th, 2011

2:54 pm

Comment # 13: The mother and father who write this blog are a grieving family who give up moments of sleep to put their thoughts to paper. My own daughter has significant special needs, and the moments I steal whenever I can to write my blog are moments of cathartic release for me, often at the expense of sleep or meals. Will you also judge me for that?

Comment # 19: You are fantastic. You can comment on my blog any day of the week. I couldn't wait for someone to mention how vaccines had absolutely nothing to do with the symptoms of Shaken Baby Syndrome. Get a life, people. In fact, come on down one day and work at the hospital that I work at. Look into the "sometimes vacant" eyes of these babies that have been horribly abused. Look into the eyes of parents who have absolutely no idea how it happened because the babysitter, the aunt, the neighbor, the nanny just snapped. Yes, you can also look into the guilty eyes of parents. There are plenty of them too. But until you have been there, until you have looked into those eyes, please get back on your high horse and ride away.

Comment # 24: Do you have no children? That is the only assumption I can make. Because if you had children, you would know that all

children have a day or two or five where they don't feel like eating, where they aren't sleeping the exact same way that they were sleeping before. It's called growing, not deterioration. If it was called deterioration, we would have PICU's and doctors offices chock FULL of babies deteriorating every day. In fact, I think my daughter is deteriorating right now...she didn't finish her dinner and it took her until 10:45 to fall asleep!

Comment # 53: I have read Erin Whitmer's entire blog, and I find the details of it to be heart wrenching, true daily life for a mother with a special needs child. I chose my special needs child, I adopted my special needs child, yet every day, I write (some things for myself, and some things for others on our blog) about the challenges and heart wrenching trials of raising her. I can only imagine the trials of raising a child whose special needs were inflicted. And yet she has the guts to write about it for all of the world to see. How dare you deny us that?

The Whitmer trial was open to the public. I'm sure the appeal will be as well. For those of you who are concerned about the validity of the evidence, feel free to come on down to Virginia and check it out.

[Recommend](#) Recommended by 2 Readers

134.

endovatan
anywhere
February 6th, 2011
2:54 pm

So a jury reached an indefensible, unconscionable verdict not supportable by the evidence.

What else is new?

[Recommend](#) Recommended by 15 Readers

135.

endovatan
anywhere
February 6th, 2011
2:55 pm

The situation resembles that in the arson community. Before scientific studies of fires was done in the early 1990's, there was a community of arson experts who all agreed on what the signs of arson were even though there was no proof that these things were signs of arson. Then people went and actually studied some burning houses, and they discovered that all these things that all the experts agreed proved there was arson were actually things that happen in accidental fires and have nothing to do with arson at all. The prevailing wisdom of the experts turned out to be nothing more than a bunch of old wives' tales, passed on from one generation of experts to the next, and no one had ever questioned the truth of it.

The article doesn't give enough information to be sure, but what it does say certainly makes it sound like the experts defending shaken baby syndrome got their expertise the same way: it's what everyone in the community of experts agrees on, but the only proof cited is the other experts of the community, who form a sort of echo chamber repeating the unproven conventional wisdom over and over again to each other.

In short, it may well be true that there are tons of doctors who continue to maintain that this triad of symptoms proves recent shaking of the child, but can they base this on any proof other than the fact that they all agree? It's not hard to get a community of experts who swear up and down that something is true in the absence of evidence: that's what happened for decades in the field of arson investigation.

Anyhow, how on earth can one prove by empirical data that you *can't* create this triad of symptoms by any way other than shaking a baby? (Especially since the article cites several known counterexamples to the hypothesis.)

Sounds like it may be yet another case of bogus expert witness evidence, with which forensic science is littered. Along with the old-school arson expertise, microscopic fibre morphology is another such field that has been debunked.

[Recommend](#) Recommended by 7 Readers

136.

Julie
California
February 6th, 2011
2:55 pm

Sounds so junkie, query how it gets in under the Daubert equivalent -- junk science should not be presented as evidence in court.

Also, any ideas as to why Louise Woodward gets time served and Trudy Munoz gets 10.5 years? Calling critical race theorists....

[Recommend](#) Recommended by 4 Readers

137.

J
Forest Hills
February 6th, 2011
2:56 pm

I have seen many new parents not support their infants' heads appropriately. No new parent should be allowed to walk out of the hospital without thorough instructions for infant care. Unfortunately, the time when a grandparent or great grandparent would be on hand to pass down the requisite knowledge is over. The odd thing is that I have seen educated as well as less educated parents make this same mistake.

[Recommend](#) Recommended by 2 Readers

138.

Shedidit

Guilty by a jury of her peers, USA

February 6th, 2011

2:56 pm

The Whitmer's and sweet Noah have endured such tragedy and now may face more. Trudy was found guilty by a jury of her peers, and now must pay for her actions. She did this and no matter how many twisted and wicked reporters, like Bazelon, try to manipulate the facts she is still guilty. Stop playing the race card and accept the fact that she had a fair trial with her own defense and was found GUILTY!!! Leave this family to pick up the pieces that Trudy so violently shook out place. GUILTY, GUILTY, GUILTY!!

[Recommend](#) Recommended by 1 Reader

139.

Shannon

San Francisco

February 6th, 2011

3:04 pm

We live in a Mommy Culture where pedophiles are lurking behind every bush, people go to prison for having pictures of their children in the bathtub, and *everyone's* always thinking of the children. Is it that surprising that when a baby suffers a medical disorder, someone must be to blame? Especially if she doesn't have much social, political, or cultural capital, like poor Mrs. Ruedas? I wonder, though: if these injuries really can be inflicted days before they manifest, is there any more reason to believe that the daycare provider inflicted them than that the mother or father of the child inflicted them? Of course, the most logical explanation is the infant stroke, so this is really more of a thought experiment. But there's something a little desperate in the Whitmers' persecution of this woman, as if desperately trying to deflect blame. They probably didn't do it, but it sounds as if they're very scared of being accused.

[Recommend](#) Recommended by 16 Readers

140.

Gustavo

Greenbrae, CA.

February 6th, 2011

3:04 pm

It is not any evidence against Trudy, she must be freed now.

[Recommend](#) Recommended by 4 Readers

141.

DW

NY

February 6th, 2011

3:05 pm

I'm a foster mom to a child who was physically abused by his parents for many years. I will never know why charges weren't pressed but I can take two guesses - they are both in law enforcement in NYC (she is a big boss!) and the child was never taken to any hospital for his injuries. It was not until the child was old enough to be in school that the physical abuse was detected.

That said, I find it chilling that adults who care for children may be falsely accused of a heinous act of violence against a child and I find it heartbreaking that any family loses a young child. Sadness all around.

[Recommend](#) Recommended by 2 Readers

142.

Christine

IL

February 6th, 2011

3:06 pm

I just finished reading this article, there are many things I want to say and try to keep the emotions out of it. The first thing that comes to my mind is how only one opinion from Joslyn Waldron, a social worker for Virginia's Child Protective Services, who wrote in her notes, "Might have shaken him about three times, but not sure" (using a standard Spanish word, sacudir, for shake). I hope Waldron knows that Spanish varies tremendously from every Hispanic counties and cultures where only one simple word has very different meanings. I couldn't stop wondering if she is still working and how many other families is she affecting right now?, as she did with the Whitmer's who firmly believed her point of view, and Rueda who trust her and tried to cooperated.

Only I see middle class people who trust this system...and were anyone of us can be easily came part of it. From now on I will not be alone with any child especially if it's an infant.

Another question that I have is how Rueda was able to provoke all that damage without any marks in a baby's skin, I have a nephew who is

8 months old and I can say a baby's skin is very sensitive even with little bumps?, Noah had no external marks on his body — no bruises or cuts or fractures, no sign that he was forcefully gripped and no evident neck injury that would seem to result from vigorous shaking. PLUS, Dr. Christian Muller a pediatric radiologist testified that the blood seen in the MRI images of Noah could be as old as 30 days!

I just wonder, does this makes Noah's mom with a master degree to wonder some other cause?, In her place I will not be able to sleep knowing that can be a chance that I sent someone innocent to prison... I will be happy to have Noah alive and try to expend all my time, knowledge and energy in provide everything as a can to help him to develop.... I just know that "what goes around, comes around"...in this life.

[Recommend](#) Recommended by 14 Readers

143.

John

IN

February 6th, 2011

3:06 pm

Thank you so much Ms. Bazelon for this excellent, well-researched article.

First of all, injury to an infant, kid or baby is not good in any way, but I learned NEVER EVER trust in the Police or Social Worker, all you need to say is: I WANT A LAWYER, just that, I WANT A LAWYER, I'd rather to pay 200 \$/hr than go to jail for 10years..!!

Don't take care of any baby without video security cameras running all the time & recording or if you have a Daycare buy immediately video security camera's system & more caution from the medical community.

[Recommend](#) Recommended by 10 Readers

144.

Todd Fox

Connecticut

February 6th, 2011

3:06 pm

The child care provider had four other children in her care, in addition to her own five year old and his teenaged sister. Does anybody really think that being one of six small children, taken care of by one person, is a good situation for a baby?

One woman alone trying to meet the needs of seven children. Is this what we want to accept as a normal and acceptable way for our children to be cared for?

[Recommend](#) Recommended by 2 Readers

145.

Sandra

Germany

February 6th, 2011

3:07 pm

It should be illegal for medical experts to receive payments for their testimony, whether it is for the prosecution or the defense.

[Recommend](#) Recommended by 5 Readers

146.

NH

CT

February 6th, 2011

3:07 pm

I volunteer at a day care respite center for developmentally challenged children. The first thing we are taught is that we are NEVER to allow ourselves to be alone with a child. There always has to be another adult in the room. This is for OUR protection.

I am not against daycare but would never put my child with one person operating out of her home. Spend more money for full daycare.

[Recommend](#) Recommended by 3 Readers

147.

Debbie

New York

February 6th, 2011

3:07 pm

Medical debate aside, I really am astonished by how many people are blaming the parents (read mother) for working. Provide universal health care if you want mothers to stay home.

I went back to work when my daughter was 6 months old because my husbands job was at risk & we would have lost our health insurance. My child was in a family day care setting. My caregiver was great but had something happened it might not have been her fault or my fault. Sometimes we just can't explain why things happen.

[Recommend](#) Recommended by 11 Readers

148.

rmm635

philadelphia, pa
February 6th, 2011
3:08 pm

The writing style of Erin Whitmer's blog in the example, below raises questions for me; first, why a blog? This happens to your son and you blog about it? What's the motivation to blog about this? Is it the lawyer's recommendation? I find its tone mawkish and tabloid-like. . .

Erin Whitmer's account of the moments before Noah lost consciousness is entirely different. "Around 2:30 on April 20, 2009, Noah was shaken," she wrote on her blog Noah's Road, on the one-year anniversary of the incident. "He'd been crying. He needed something that his day care provider wasn't providing him. Maybe he was tired of lying on the mat where she'd had him. Maybe he needed a hug, a laugh, a kind touch. Instead, she picked him up, her fingers gripping him tightly, feeling the softness of his velour pants and his cotton onesie under her fingers, and she shook him."

[Recommend](#) Recommended by 14 Readers

149.

Alexander
California
February 6th, 2011
3:08 pm

The article fails to even mention a likely cause of such tragic events - vaccines.

Vaccines can cause hematoma and cranial bleeding.

It's politically incorrect to mention this.

[Recommend](#) Recommended by 5 Readers

150.

Andy
NC
February 6th, 2011
3:08 pm

To the author:

At the first mention of the expert for the defense, you briefly mention his testimony regarding his medical opinion and then quickly point out his testimony regarding compensation. However, when you mentioned the 6 medical experts for the plaintiff earlier in the article, there is no discussion of their compensation either in this case or in other cases.

This is a long article, you have space to be more even-handed.

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

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101.

[HIGHLIGHT \(what's this?\)](#)

Nick
Chicago, IL
February 3rd, 2011
12:54 pm

A similar article published in 2009 offers a legal perspective on these developments: <http://lawreview.wustl.edu...>

[Recommend](#) Recommended by 14 Readers

102.

Rachel
NYC
February 3rd, 2011
12:54 pm

Here's a thought: At my child's daycare, there are almost always two adults in the room at all times. I would be curious how many of these "shaken-baby" style traumas appear in children when they are alone with one caregiver vs with two or more caregivers (or caregivers who are recorded on camera.) That might be an interesting statistic to look at in assessing how many of these traumas are likely to be caused by abuse, since abuse is a lot less likely when the caregiver is being watched (or has someone to whom they can hand the baby when they start losing patience.)

Either way, I would not like to be making these decisions. The tragedy is so great either way if you get it wrong.

[Recommend](#) Recommended by 4 Readers

103.

[HIGHLIGHT \(what's this?\)](#)

A.
Arizona
February 3rd, 2011
12:54 pm

We have unfortunately now reached a point where abuse is presupposed to be the cause of any injury to an infant who shows up at the hospital. Some friends of ours had to rush their baby to the hospital because the father put the baby in a bouncy chair and (stupidly, he admitted) turned away for a second without fastening the safety harness. The baby fell out of the bouncy chair and broke a leg. When they got to the hospital, the baby was taken away from them and they were pushed into a room, into which a social worker and the police were ushered. After grilling the parents for three hours, the social worker finally allowed them to see their little girl. They were threatened with everything in the book - loss of custody, criminal prosecution - if they didn't give the "real story" of what had happened. At one point, the social worker pulled the wife aside and said that if she pointed the finger at her husband, the hospital would "probably" let the baby go home with her, rather than being put into foster care. Eventually, after my friends called a lawyer and had him come to the hospital, they let the baby go home with them - but they then had to endure unannounced "follow-up" visits for weeks afterward, from social services. Meanwhile, during this same time period, a woman who had been investigated several times for abuse and neglect beat her three-year-old son to death, without the child ever having been removed from her care. The difference was, the abusive mother had never taken the child to the hospital for care, so she never tipped off the medical "authorities."

As with anything, the truth is rarely black and white. Are babies shaken? Yes, and it is a tragedy that should never occur. However, assuming that all cases of hematoma and cranial bleeding are due to abuse is erroneous. Some more caution is called for, from the medical community.

[Recommend](#) Recommended by 285 Readers

104.

eve
san francisco
February 3rd, 2011
4:00 pm

I think most people don't understand that doctors rarely reverse themselves even when all evidence is they were wrong. And if they are researchers and ones at high profile institutions it happens extraordinarily rarely. And unless someone is an expert at injuries caused by abuse they will make mistakes. And most parents these days are hysterical on the subject of abuse. And most parents want perfection in their children and if they don't get that in an injured child they want to blame anyone but themselves.

[Recommend](#) Recommended by 29 Readers

105.

Joan
Alexandria VA
February 3rd, 2011
4:00 pm
Chiang

First of all thank you for your comments.

I can only go by what I would do in similar circumstances. First of all I would be a basket case and gravely concerned for this child. I heard nothing like that in her words (By the way, this interview was recorded o we actually heard the defendent herself speaking).

But it WAS entered into evidence that symptoms occur almost immediately after an event has ocured (ie shaking). It was also part of the court testimony that Dr. Ucinski was not a pediatrician and made a sizeable income testifying in court.

ALL of these factors led me to my belief of Ms. Munoz's guilt.

93.ChiangMiamiFebruary 3rd, 201112:53 pmTo Joan on comment #23.

I was not there but do wonder, how can you infer a person is guilty by her manners: "composed and expressed absolutely no concern composed for the baby"? You say: "I think her very words cemented her conviction". Your overwhelming belief seems more based on your impressions of her than on the facts. I can understand your desire to be on the victim's family's side but the article is disputing the fact that the baby had to be shaken immediately before being rushed to hospital. If the doctors assumptions were wrong do you really think the FACTS support a beyond reasonable doubt guilty verdict? Please share the facts that are, in your opinion, beyond any doubt and point to her culpability.

[Recommend](#) Recommended by 1 Reader

106.

ellie
phoenix, az
February 3rd, 2011
4:01 pm

This was a thoughtful, well researched and well written article. As an attorney I have had to deal with the "expert" who determines the cause of an injury/death by its symptoms. Think about that. We have autopsies so that the medical examiner can review/examine ALL evidence having to do with the death, and THEN determine the mechanics (biological or physical) of death. Even then, they are often unable to come to a conclusion. SBS is "cause of death" simply because there are certain symptoms which may be caused by so many other things. This has put many, many parents and caregivers behind bars who are, in fact, innocent of the accusations made. Thank you for this article. Hopefully, it will open some eyes.

And don't get me started on false confessions.

[Recommend](#) Recommended by 36 Readers

107.

Joan
Alexandria VA
February 4th, 2011
10:27 am

I would like to quote the following from the Washington Post

Fairfax day care provider convicted of child abuse

A Fairfax County day care provider was convicted Thursday of felony child abuse and child cruelty, with a jury finding that she shook a four-month-old boy and caused him brain damage.

A jury rejected the defense of Trudy Munoz Rueda, 45, that shaken baby syndrome was not supported by science.

Doctors who treated the baby, Noah Whitmer, said he was having seizures, had a brain hemorrhage and blood in his eyes when he was brought to Inova Fairfax Hospital on April 20, indications that he had been violently shaken.

Noah spent more than two weeks in the hospital and he continues to have seizures, his mother said.

Munoz Rueda testified that she never shook the baby.

We can all speculate on why this happened - I have my own speculation. I am sure this jury did as well which is why Ms. Munoz was convicted vs acquitted.

The basic difference between this case and the case of the others people refer to is that Noah Whitmer liveed thru this ordeal. His parents and grandparents have done everything humanly possible to promote his recovery.

Everupne would tell a different tale if Noah had not survived. I thank God that they are able to put forward these well meaning hypothesis.

It means Noah has survived and due to his strength and the devotion of his family he is getting the best medical care possible.

But as you put forth these theories look at the picture of Noah and his parents. It is obvious he has little to no sight. That usually does not occur instantaneously.

You people are intelligent - do the math for God's sakes!

I heard the tape of her police interview. I heard no emotion no concern.l....just the facts.

It is a sad day in Mudville for sure!

[Recommend](#) Recommended by 0 Readers

108.

Regeant

VA

February 4th, 2011

10:27 am

I, like one of the previous posters, also attended this trial in (almost) its entirety (I missed a few hours of one prosecution doctor's testimony). I, unlike the other poster, have no immediate connection to the parties in the case. I am an attorney; a friend of mine, who also observed a good portion of the case, is not. Both of us walked away from the case at the conclusion of evidence believing there was no way a jury could find Ms. Rueda's guilt beyond a reasonable doubt. I overheard a substantial number of spectators not connected with the Whitmeyer family echo those beliefs. We were shocked at the guilty finding. I feel deeply for Noah's family; I got the impression the prosecution's doctors believe passionately in advocating for abused children. I think in this case, however, it was passionate advocacy alone, and not objective medical certainty, that governed their testimony. I went into my observations of that trial without an opinion of the guilt or innocence of Ms. Rueda, but certainly with a strong inclination in favor of the concept of "shaken-baby syndrome." I came out of that experience with a lot of doubt about the validity of the diagnosis in cases where there is indication of the "triad", but no physical evidence of abuse or trauma. I think the public for many years has been indoctrinated to believe that all instances of traumatic brain injury present in a child is the result of shaken-baby. Prior to this trial, I, for one, had no idea of the questionable science (particularly the physics) surrounding this "syndrome" or the fierce debate that exists within the medical community. I walked away with, and continue to maintain the belief that an innocent woman was sent to prison because the people effected wanted someone to blame for what they couldn't understand or refused to accept. Thank God for the appellate process!

[Recommend](#) Recommended by 82 Readers

109.

Louise

Bethesda, MD

February 4th, 2011

10:28 am

As a mother of young children, although I am deeply sympathetic to Noah's plight, I am shocked at the self-absorption that his mother displays in her blog, one post after the other.

As for reasonable doubt, Emily Bazelon's spellbinding article establishes that very clearly. What a tremendous tragedy that it wasn't done so at the trial.

[Recommend](#) Recommended by 40 Readers

110.

A.G.

Wilmington, DE

February 4th, 2011

10:28 am

I am the lead appellate counsel in Trudy's case though I did not represent her at trial. I do not intend to comment in this forum except to state that we all wish for Noah and his family only the best, and also that the debate regarding the issues raised in this article proceed in a respectful and civil manner. If someone is mistaken he/she is not necessarily other than well-intentioned.

Based on the interest in this case we have provided a link to the appellate briefs of both the defense and the prosecution as well as links to other articles mentioning the case:

<http://www.bernhardandgardner.com...>

Respectfully,

David Bernhard

Falls Church, Virginia

[Recommend](#) Recommended by 14 Readers

111.

Ashley

New York, New York

February 4th, 2011

10:28 am

I am not sure why people find it so difficult to believe it would be any harder for a "gentle" or "patient" woman to shake a baby. Just as women never suspect her husband to be a cruel man until he hits her, or those who "know" serial killers say they "would never have expected." Humans are masters of wearing masks, to the extent that one person's opinion of another person's ability to harm should not be used as a defense in court.

As for all the people suggesting a baby is like a pet, if you can't care for it, don't have it: I'm not sure what the economy is like on your planet, but where I live, if women waited until they could afford to opt out of their careers until a child can tell the court who shook them, we would have an entire city of childless men and women. These days it just is not possible to expect to never entrust your child into the care of another person.

[Recommend](#) Recommended by 8 Readers

112.

FlufferFreeZone

Denver

February 4th, 2011

10:29 am

My dad was sitting with my 2-year-old niece right in the middle of his double bed. He was holding both her hands while she was bouncing up and down, laughing and smiling. She was not bouncing very high at all, maybe just a couple inches off the mattress.

I was standing right there. She just flopped right off the bed in the weirdest way. NO IDEA how she did it. My dad was horrified. We were both scared. My niece landed on the carpet, and we're just not sure if she hit her head, but she probably did. Thankfully it was on carpet with padding. She turned white as a sheet. She was stunned, then started crying. We picked her up immediately. We both tried soothe her and look her over to see how she was acting, how her eyes looked, etc.

It was heartbreaking. I felt so awful for my dad, knowing he hadn't done one single thing wrong. I was standing right there the whole time, looking right at them as she was bouncing in the center of a bed, holding both of my dad's hands. She just flung off the bed.

We were going to head to the hospital, but she calmed down and started getting color back in her face. Her pupils seemed fine. She was breathing okay, and she didn't seem to have any physical injuries, no knots on her head or anything like that. She seemed to be holding her head up on her own just fine.

Had my niece suffered any type of injury, I'm sure it would have appeared as "shaken baby syndrome" though that is absolutely not at all what happened. Thankfully my niece was, and still is, okay. It brought a very nice family evening to a grinding halt though. Even recalling the incident is a bit difficult. I could not imagine if my dad were wrongfully accused of hurting her when that was nowhere near the case. Thank god we never had to deal with that.

I definitely lean toward Trudy's innocence in this story.

[Recommend](#) Recommended by 29 Readers

113.

FlufferFreeZone

Denver

February 4th, 2011

10:30 am

"Every year they come up with a new alternate theory that we have to refute," Christian says.

What a strange comment from a supposed professional scientist. Anyone ever check out what she might have at stake here, or is she just not that professional after all?

Jill Duncan

Denver, CO

[Recommend](#) Recommended by 30 Readers

114.

HIGHLIGHT ([what's this?](#))

Janene

Missouri

February 4th, 2011

10:30 am

As another commenter observed, years ago people recognized that occasionally and tragically babies died. However, today we need to blame someone in order to feel we have some sort of control over our lives. Well, we don't. Believe me, being abused is no fun. I'm an abuse survivor. But seriously, as the article and research also point out, you have to "shake that baby" pretty hard in order to do the kind of damage they're describing. In order to make the story fit, they assume an amount of rage and hidden violence that the person has no history of exhibiting. This is thoroughly ridiculous. Does child abuse happen? Yes, it does. Do babies occasionally die for unknown or hard to determine reasons? Yes, tragically they do. It's time to stop creating stories in order to shore up a bankrupt theory that only exists in the

first place to assuage our feelings of helplessness.

[Recommend](#) Recommended by 48 Readers

115.

FollowingSinceApril20

DC

February 4th, 2011

10:30 am

For those who keep attacking the Whitmer family directly, I kindly point out that it was in fact the state of VA who pressed charges and not the family.

[Recommend](#) Recommended by 4 Readers

116.

Ketty

Peru

February 4th, 2011

10:30 am

When ignorance allows an injustice`

[Recommend](#) Recommended by 2 Readers

117.

Kat

Brooklyn

February 4th, 2011

10:30 am

It might seem like an insensitive thing to say, but it seems like sometimes, people just need to accept that babies are often weak and sensitive creatures, and there are all sorts of natural causes of death that could occur. Such is nature, sometimes cruel. I feel that this was more readily understood in times past...With significant medical advances, we no longer have to have 8 babies to plan to have 4 that reach adulthood; however, not all of the natural causes of death have been conquered.

[Recommend](#) Recommended by 31 Readers

118.

Jen SJ

New York

February 4th, 2011

10:31 am

Someone mentioned Vitamin C and D deficiencies. A lot of blood is actually taken as part of a laboratory workup when an infant comes into the hospital with a bleed/unexplained/doesn't make sense fracture or injury--at least in New York--along with coagulation factors, calcium, Vitamin D levels to rule out "organic" causes. And, I can't talk about other children's hospitals other than the one I work in, but if a baby comes in with a bump on their head, it's not automatic Child Protective Services. The problem is when there is no consistent, plausible story.

[Recommend](#) Recommended by 2 Readers

119.

Joan

Alexandria VA

February 4th, 2011

10:34 am

There has been much back and forth - some I have agreed with, some not.

I won't revisit except to say Michael Whitmer, Noah's Dad was raised in a Christian home and has strong moral values.

The Whitmers and their parents have worked diligently to provide Noah the best care available to assist in his recovery, from a round the clock vigil in the ICU immediately after Noah's injury, to fighting to get him into programs to assist in his recovery.

The fight is continual. You would be hard pressed to find more diligent caregivers than the Whitmers.

Before suggesting parental abuse, perhaps some of the posters need to walk a mile in the Whitmer's shoes and see how they feel.

[Recommend](#) Recommended by 4 Readers

120.

Sara

Florida

February 4th, 2011

10:34 am

My father, a radiologist with 40+ years of experience, testified for the defense of a couple accused of abusing their adopted child. He did not feel that the parents had caused the abuse--and thought that there was some underlying disease responsible for the injuries. The

prosecution had the children's hospital radiologist testify. The child was taken away from the parents and put in foster care. Yet, the child kept having injuries. Two years later, the child was returned--as they realized that the parents were not responsible. I understand that we need to err on the side of caution in protecting children, but I'm not sure taking a child away from his parents for two years (or a lifetime) is necessarily doing what is right, either.

[Recommend](#) Recommended by 21 Readers

121.

Mike Gordon

Bethesda MD

February 4th, 2011

10:34 am

Reading the accounts of parents with sick or injured infants makes it clear that it could happen, or could have happened, to any of us.

The constitution and bill of rights are there to protect us all, and when you cut corners, you start down the slippery slope to the pandora's box of lynch law.

[Recommend](#) Recommended by 8 Readers

122.

Fredmarkone

UK

February 4th, 2011

10:34 am

We have had cases like this in the UK. After years of mis-jailing innocent mothers/carers, a government 'expert' witness was thoroughly discredited but, instead of him being jailed for his misdiagnosis, the medical profession, which thinks it can do no wrong, protected him. Other children were taken off parents and adopted out in non-reversible cases. Huge injustices and surely these bent medics and lawyers will pay for this one day.

[Recommend](#) Recommended by 17 Readers

123.

george

Poughkeepsie

February 4th, 2011

10:36 am

Just a follow up note on the brief reference to prevention programs in this article...

Ms. Bazelon writes "Ommaya's experiment involved neither shaking nor infants. Still, two pediatric specialists, John Caffey and A. Norma Guthkelch, each wrote a paper that pointed to the work as evidence that unexplained subdural bleeding in babies could occur without direct impact to the head and with or without a visible neck injury. In the 1980s, the term "shaken-baby syndrome" came into broad use, and a national prevention and awareness campaign was set in motion."

While the butterfly may have fluttered in the 1980's, Ms. Bazelon presumably refers to the (only) national prevention campaign to date, one funded by the National Center on Child Abuse and Neglect. Planning reportedly began in 1992, triggered by studies that found one-third of participants in prevention programs indicated they were hearing for the first time about Shaken Baby Syndrome. See Showers, J. (2001). Chapter Seventeen: Preventing Shaken Baby Syndrome, *Journal of Aggression, Maltreatment & Trauma*, v5, n1, p349-365.

The "national" campaign lasted between 1995 and 1998, and most state efforts (including New York's) ended when the limited federal funding (perhaps \$300K per state) ended.

Now, when new parents are asked as part of the education program in New York hospitals whether they have heard of the term "shaken baby syndrome", most do indeed report they've heard of it.

(For info on the Upstate NY SBS Prevention Program, and links to their research, visit <http://www.wchob.org/shakenbaby/>)

However, it still seems many have only *heard* about in the context of the crime news, not in the context of preparation every new parent needs to cope with the frustration of raising a young child.

And being *told* is necessary, but not sufficient.

Case in point: most smokers have seen the warning label on their cigarette package. They "know" what smoking does, yet still light up...

NB. it's A. *Norman* Guthkelch, and he's apparently alive, albeit retired, in Arizona. See <http://www.gwmedical.com...> Although a 1995 letter in BMJ is captioned "A. Norma Guthkelch", he is referred to as "A.N. Guthkelch" in the 1971 BMJ article, which is accessible. A bit more precision with dates and accuracy in the verifiable details when writing stories like this might inspire a bit more confidence in the conclusions.

[Recommend](#) Recommended by 2 Readers

124.

Linda

Fairfax, Virginia

February 4th, 2011

10:38 am

I am a law student in Washington, D.C. and I have followed Trudy Munoz case very closely. I even attended a few days of the trial. What is most frightening about this case is how the jurors were clearly so overwhelmed by their emotions and empathy for the child's parents that they overlooked the obvious inconsistencies with the prosecutions case. The prosecution alleged that Trudy "confessed" yet in the only recorded interview of Trudy by the police that exist, she absolutely denied harming the baby in any way. The prosecution claimed that she "violently" shook the baby, yet the baby did not have a single bruise, scratch, much less fracture or signs of trauma any where in his body. The prosecution experts claimed that at least 50gs of force is required to cause the injuries, yet the only biomechanical engineer who testified at trial stated that studies had shown than no female was capable of generating more than 8 gs of force. The prosecution's main "expert" witness testified that the violent act must have occurred just before the baby arrived at the hospital, yet their own witness, Dr. Muller testified that the blood seen in the MRI images of Noah could be as old as 30 days. This case, more than anything else, shows to me that anyone of us who handles an infant is at risk of being accused of a crime that heavily relies on unproven science.

[Recommend](#) Recommended by 81 Readers

125.

Realistic

East Coast

February 4th, 2011

11:05 am

As a newcomer to a large Eastern city, I wanted to keep my part-time lawyer job, but didn't want to leave my newborn with a stranger. Newborns can't give much feedback. So I stayed home. I had a second child soon after. It was hard at times; little kids weren't my natural call. When my first child got older, I got more confident in trying babysitters, and did my homework in procuring them. I made a practice of having a new sitter watch my kids first while I was around, then I'd run out for an hour. A small, worthwhile investment. I would really beware of women who have left "business careers" to do daycare, because they can't afford daycare for their own kids. I watched a neighbor, who had quit her management job to stay home, talk very nastily to the "other baby" she was watching. The baby was fussy, but I was struck by the fact that she just didn't like what she was doing. I am also leary of non-English speaking women who do childcare, because it's harder to judge quality if you can really speak to them. Don't mean to malign the good ones, mind you, but I remember seeing foreign nannies walking kids in NYC and the nannies looked distinctly unhappy. In the end, I had great success with sitters who were studying to become teachers.

As to the phenomenon of Shaken Baby Syndrome and the accused described in this article, there are just too many questions raised by the "facts". For me, this is reasonable doubt.

I am heartened that the president-elect of the American Academy of Pediatrics sees a problem with Shaken Baby Syndrome. Better science, not gut reactions, needs to be put to the issue of head/brain trauma in babies.

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Wednesday, February 23, 2011

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

207 Readers' Comments

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76.

Todd Fox

Connecticut

February 3rd, 2011

11:27 am

The faith that some of us have in the jury system is both touching and terrifying. How many times have people been convicted in this country based on flimsy evidence and a persuasive lawyer? How many innocent people have served life terms, or even been put to death, based on the decision of a jury? How rigorously are jurors screened for intelligence and the ability-to-discern-the-truth?

[Recommend](#) Recommended by 54 Readers

77.

mmph

Scottsdale AZ

February 3rd, 2011

11:41 am

How many cared and loved children have suffered the equivalent to 'shaken baby syndrome' while being transported in a snuggly carrier on the backs of their parents? It only takes a few minutes at your local farmers market, or outdoor concert venue to see any number of little heads snapping back and forward as their loving parents move through crowds, totally unaware that the child strapped on their backs may be at risk for physical damage. How many suffer damage on the weekend with their parents, only to have symptoms appear a few days later at their daycare? No one wants to leave a child in a daycare situation where abuse can occur, but to ignore other causes for these deaths, and implicate innocent caregivers, is also bordering on criminal.

[Recommend](#) Recommended by 48 Readers

78.

Explat

In exile

February 3rd, 2011

11:41 am

A very well-written article by Emily Bazelon. It could have used a nut graf on the anatomy of the inner skull and brain; most people assume it is at least as well designed at a chicken's egg, but it's not, with ridges, fragile membranes and potential pressure from swelling. There's a lot that can go wrong.

In the late 1990s, shaken baby syndrome was a hot topic with newspapers, especially with one very large chain, which expected each of its papers to produce articles on the subject. They wanted to warn readers about how fragile babies can be to vigorous shaking. But they also wanted emotional stories with colorful writing.

The danger journalists face when covering stories like this is that they might forget the basic rules of journalism: that there are usually two sides to a story that you must cover, and that a person is innocent until found guilty, especially in the press. It is so tempting to sensationalize the story, both for the reporter and the editor.

The third rule they should remember is not to be too gullible when faced with an expert, even a doctor spouting technical jargon. Ask tough questions. Be skeptical. You represent the public. And when it comes to a criminal trial, you also represent the defendant in at least a portion of your reporting.

In the reporting on shaken baby syndrome over the past 15 years, how often has the press forgotten these fundamental rules? And how often has an innocent, loving parent or caregiver gone to jail?

I hope journalists will learn from this, and from this article, and apply what they have learned in future coverage of other subjects. Medical reporting needs to be balanced by multiple viewpoints, too.

I would suggest that shaken baby syndrome be taught in journalism schools, presenting a variety of articles, good and bad, showing how coverage evolved. Except that I don't know why anyone would go to journalism school when so many journalists have lost their jobs; experienced medical reporters have been among the most expendable.

[Recommend](#) Recommended by 11 Readers

79.

E.K.

CA

February 3rd, 2011

11:41 am

Childcare seems like a thankless job.

[Recommend](#) Recommended by 44 Readers

80.

S.G.

Brooklyn

February 3rd, 2011

11:41 am

"sacudir" can be used for different levels of shaking, from gentle to violent. I am a native speaker from Spain, and I can't make any opinion as to what Ms. Muñoz admitted to the social worker without knowing the context in which "sacudir" was used in the conversation. Why it was not taped is beyond my understanding.

[Recommend](#) Recommended by 49 Readers

81.

Vladek

NJ

February 3rd, 2011

11:41 am

#64 in questioning whether shaking a baby could generate that significant a force: Consider cracking a whip. A small flick of the wrist (not much force) and the end of the whip is moving at the speed of sound. That's because there is a sudden change in direction. I know a baby isn't as long as a whip, but the same thing applies. A small force is applied, the head accelerates in one direction. An opposing force is applied and the head snaps back in the other direction. It's the rapid change in direction that creates the large forces. I have no doubt that an adult can accelerate the mass of the baby in such a way to create major damage.

I have no idea about the innocence or guilt of either the nanny or the parents.

[Recommend](#) Recommended by 4 Readers

82.

cb1977

NC

February 3rd, 2011

11:41 am

I'm quite bothered by all the men and women calling for a reversal to 'the good ol' days' when mothers stayed at home with the young ones. There are many people who just cannot pull this off financially.

I was sent to day care from the time I was one but I always went to day care 'centers'. They were not in a basement and I wasn't entrusted to one person. There were many rooms and several women in charge of us. That day care center had been operating for years before I came and thirty years later it is still there.

Secondly, I don't have children, so I don't know but wouldn't you take your baby in for a check up after several days of not eating and napping?

[Recommend](#) Recommended by 62 Readers

83.

Turner

Florida

February 3rd, 2011

11:41 am

This is yet another excellent defense (and article) about why mothers/women should be the care giver of their babies and children and not people outside of the home. When women went to work and began to take on the same sort of "bread winner" ideas as men, a family's children became the target for catch as catch can education, anything goes TV and gaming, and all the other unimportant distractions that have turned our schools into day care centers, our various faiths into commodities, and our futures into medical and judicial nightmares. The victims are always children not just of day care workers, but of misguided parents, who see accumulation of "stuff" to be more important than the gift of their child. I mean, even animals raise their own offspring.

[Recommend](#) Recommended by 8 Readers

84.

Wayne

Wisconsin

February 3rd, 2011

11:41 am

As the saying goes, "If all one has is a hammer, everything looks like a nail." In this situation the hammer equates to the "triad" of symptoms which 'define' the nail that is Shaken Baby Syndrome. How unfortunate that so many medical professionals refuse to believe, given the many recent medical studies, that there may be other conditions that might cause the "triad" of symptoms and immediately jump to a potentially false conclusion that SBS has occurred.

And to those who find it abhorrent that a medical professional would receive compensation to testify on behalf of the defense, do you

believe that prosecutors don't compensate medical professionals for their testimony?

[Recommend](#) Recommended by 35 Readers

85.

T O'Rourke MD

Danville, PA

February 3rd, 2011

11:41 am

There is always a "differential diagnosis" for every medical problem. In all the cases mentioned, abuse was a possibility, but so were other things, and I am sure as this concept is explored, we will come to a better understanding about the causes of subdural hematomas, retinal hemorrhages, and skull fractures in infants. That these doctors who testify for the prosecution are so certain makes it much more likely they are wrong; the history of the interactions of the legal and medical professions are littered with such circumstances. There are no absolutes in medicine - that is the only absolute, and I agree with many of the comments in that the medical experts are far too sure of themselves; they are more interested in protecting their careers than finding the truth. To send someone to prison for years is not something to be taken lightly, and sometimes people profess their innocence because they are innocent.

[Recommend](#) Recommended by 25 Readers

86.

austin mom

texas

February 3rd, 2011

11:41 am

Im sorry, but it is about putting your children in daycare, and when they are under one year old, they are either infants or babies. A wise midwife once advised me to keep my child close, because including the 9 months gestational period, there are another 12 months that humans need with mother to improve their chances for survival. As educated, professional Americans, many of you decide to hold some other women, from a third world country, to your same high ideals of safety and care. A women who you treat like some wet nurse beneath you, that has the magical immigrant powers to take care of hers, yours and other children with little or no resources. How does a typical family discipline their children in Peru or any other low SES societies? Is hitting and shaking normal, did your father do it to you? Americans need to support accredited preschools, pay fair wages to college educated girls who specialize in early childhood development, support education and rally for social policies that support families that stay at home to care for young children until they past their critical first year, or at least until they can talk enough to point to an abuser. Knowing how upset you can get with your own fussy baby, what tolerance does a total stranger have?

[Recommend](#) Recommended by 16 Readers

87.

bk

ny

February 3rd, 2011

11:41 am

It is so tough when people act upon their need to blame somebody for a tragedy. If I were a juror I would have a very hard time convicting someone of shaken baby syndrome absent marks on the infants body, previous history of abuse, or testimony from witnesses. It seems that the only thing this babysitter did wrong was to be the last one with the baby before calling 911.

[Recommend](#) Recommended by 66 Readers

88.

LB

New York

February 3rd, 2011

11:41 am

In all of the instances described the children of the caretaker are in the vicinity. Wouldn't it make more sense to pursue the idea that a child who is envious of attention the caretaker is giving another child might shake the baby?

[Recommend](#) Recommended by 5 Readers

89.

Matt Brosseau

New Jersey

February 3rd, 2011

11:41 am

Did anyone stop to think that perhaps this child was abused by its parents? There seems to be just as much legally valid evidence (that is to say, none) to support parental abuse as there is to support abuse by the caregiver.

The sanctimonious blogging and public-relations initiative taken by the parents does not sit well.

[Recommend](#) Recommended by 93 Readers

90.

Margaret K

Minneapolis

February 3rd, 2011

11:41 am

This well-done article fascinated me. Some of the doctors who gave testimony are similar to so many people who adhere to a position, never changing it (even as new information contradicts it). Unthinking adherence is sadly common. The article also brought to mind a case that occurred in Minnesota several years ago.

This case involved a mother's boyfriend. He shook her toddler, then forcefully threw the child unto a bed. About an hour later, the man left town for a business trip. That day, and during the three days that followed, only the mother was with the child...who she said was lethargic, lacked appetite, and did not sleep well. On the fourth day following the shaking, the mother called an ambulance when the child had convulsions.

The child died. If the mother had been put on trial, the jury might have heard one of those compelling doctors, who disregard new information, stating emphatically that the child's injury definitely "had to" occur 24 hours prior to the convulsions. And this mother might now be in prison. Instead, her boyfriend came forth, himself, bringing a witness to the shaking (that had occurred four days before the child was brought to the hospital).

My hope is that the imprisoned caretaker will receive a fair trial...with medical testimony that addresses all potential causes of this sort of brain damage, and that includes the possibility that many days might separate a shaking of a child and the child's collapse. Without a doubt, I have reason for reasonable doubt in this case.

[Recommend](#) Recommended by 29 Readers

91.

HIGHLIGHT ([what's this?](#))

K

the dumbing down of America

February 3rd, 2011

11:41 am

"A baby has died," she said simply. "They want to blame somebody."

And this, the last line of the piece, is what it all boils down to: people are DESPERATE to blame somebody, ANYbody, rather than try to accept that sometimes these things just happen in small people's heads. It's no different than a young, healthy adult suddenly keeling over from a brain aneurism nobody knew was there. Sure, it'd be great to be able to point a finger and punish somebody every time a baby died or suffered severe, life-changing head trauma, because, let's face it, people like to be able to assign blame, be able to point to a reason it all happened, but sometimes there is no one to blame and no real 'reason'. It just is. Yet we continue to put people in prison rather than acknowledge this. I find that incredibly disturbing ... and, as a parent of three young children, frightening.

[Recommend](#) Recommended by 342 Readers

92.

L

MO

February 3rd, 2011

12:53 pm

A very interesting article, though I think that all this piece does is show that there is a medicolegal gray-zone where circumstances (hand-offs of care, lack of prior care-giver problems, suspicious symptoms before reported injury) cast some doubt on a diagnosis of SBS. This is not a phenomenon associated with SBS, but a reality of our legal system (there are gray-zone murder cases, sexual assault cases, robbery cases). Don't confuse the existence of contention in a handful of cases with a lack of rigor or injustice in the majority of cases.

The reality is that SBS, like other forms of child-abuse, often occurs in a situation where only the parents (or another single care-giver) were responsible for the child during the time period when the injury occurred. The cranial trauma is often accompanied by other findings of child abuse (numerous wounds in different stages of healing, burn marks, multiple healing fractures on bone survey, etc.). And, the parents will often present the child with a story or explanation completely inconsistent with the reported injuries. The story can either be inconsistent in that the trauma described could not account for the injuries (baby falling from a standing position does not fracture the skull) or is inconsistent in that the infants abilities are exaggerated (3mo old "climbing" out of his crib).

These are your garden-variety child abuse cases. They take vigilance to spot and an ear for the inconsistencies, but they do not generally come with the level of medical or legal doubt described in this piece. These cases are not heard about since there is no antagonist for the public to be afraid of, and rarely any dramatic legal process (often the parents confess due to feelings of guilt as well as the preponderance of evidence and then plea out so that everyone can be saved the work and costs of a public trial).

So yes, there are debatable (both medically and legally) cases. But they are certainly not the norm when it comes to SBS.

[Recommend](#) Recommended by 11 Readers

93.

Chiang

Miami

February 3rd, 2011

12:53 pm

To Joan on comment #23.

I was not there but do wonder, how can you infer a person is guilty by her manners: "composed and expressed absolutely no concern composed for the baby"? You say: "I think her very words cemented her conviction". Your overwhelming belief seems more based on your impressions of her than on the facts. I can understand your desire to be on the victim's family's side but the article is disputing the fact that the baby had to be shaken immediately before being rushed to hospital. If the doctors assumptions were wrong do you really think the FACTS support a beyond reasonable doubt guilty verdict? Please share the facts that are, in your opinion, beyond any doubt and point to her culpability.

[Recommend](#) Recommended by 33 Readers

94.

hen3ry

New York

February 3rd, 2011

12:53 pm

"A baby has died," she said simply. "They want to blame somebody."

And that somebody has to be the last person in charge of the baby whether or not that person merits being blamed. The lesson I see from all of these incidents is this: do not talk to the police without a lawyer present. Of course for most of us the cost of a good lawyer is prohibitive and, if we think we have nothing to hide we are very likely to be candid in our statements and try to be helpful. Just remember, whether the police warn us or not about our rights, everything we say CAN and WILL be used against us.

[Recommend](#) Recommended by 50 Readers

95.

DAN

Washington

February 3rd, 2011

12:53 pm

Can there be such a thing as an "expert" in a field when those supposed experts cannot look at the same data, the same information, and the same studies and arrive at the same conclusion? There has to be some type of threshold, say 99%. If less than 99% of highly trained individuals cannot agree, then they should agree that the field cannot provide the answer to the particular problem being addressed in a criminal proceeding.

Otherwise, reasonable doubt should be automatically tripped. The evidence for conviction is supposed to be a very high one in our justice system.

[Recommend](#) Recommended by 15 Readers

96.

ong

NY, NY

February 3rd, 2011

12:53 pm

there are no winners in these sad cases. I have four children and felt very very sad at reading this article. Sometimes things happen, and it is no one's fault. on the other hand, sometimes things DO happen, and it IS someone's fault. I take my 2 year old to a indoor play space with a trampoline. many times I see caregivers/mothers place their babies (that still do not have neck control) on the trampoline and then proceed to jump all over in order to create "bounces" that cause the baby to laugh. My god - those babies bounce all over and i see their poor little heads snap, and get knocked all over! Would potential injuries sustained in such a case also fall under shaken baby syndrome? would the injuries manifest symptoms now or later?

[Recommend](#) Recommended by 6 Readers

97.

Dustin

Lubbock, TX

February 3rd, 2011

12:53 pm

I seem to read more and more articles that point to the potentially harmful effects (such as those reported) of vaccinations in infants around this age and in bottle fed babies (SIDs). Additionally, though the parents, as many have mentioned, would like to blame the sitter, the choice for her to work outside the home was theirs.

[Recommend](#) Recommended by 2 Readers

98.

A Reader

Detroit, MI

February 3rd, 2011

12:53 pm

This will be wildly unpopular, I'm sure, but for those who can afford it, what about staying at home and raising your own children?

[Recommend](#) Recommended by 17 Readers

99.

CB
Baltimore
February 3rd, 2011
12:53 pm
Maybe the Whitmers are wrong and the baby had a stroke. If that's the case, an innocent woman is in jail. The baby had been declining over several days, and Trudy was the one who noticed something was wrong. Some folks, especially those who are privileged and never have to assume responsibility for anything, can't come to terms with the awful realities of life. Sometimes babies have catastrophic illnesses.
[Recommend](#) Recommended by 55 Readers

100.
ea
washingtonI , d.c. s.
February 3rd, 2011
12:53 pm

We put our faith in experts who are supposed to be dispassionate and objective. But what if they are incompetent?
Here is a case in Canada where a doctor who has testified in these cases this month had his medical license revoked for incompetence and professional misconduct:
<http://www.canada.com...>
As you can see, Canada now is reviewing cases where he testified that resulted in people going to jail.
Now imagine for a moment that you are a juror in one of these cases, something very likely to happen to any of us. Do you accept the testimony of a well-qualified expert over that of the defense? Do you put extra weight on what the expert says, over what the defense says? In theory, the expert has no interest in the outcome of this case. But what if the expert is incompetent or making it up? I find this story very troubling. If I sat on that jury, I think I would be inclined to give extra weight to the expert. I find that very disturbing.
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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

207 Readers' Comments

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51.

HIGHLIGHT (what's this?)

Alex
Fairfax, Virginia
February 3rd, 2011
9:51 am

I attended Trudy's entire trial. She never admitted to violently shaking the baby. Her demonstration in Court of how she handled the baby did not in any way indicate abuse or violence. The police interviewed Trudy, not once, but TWICE. The first interview was recorded with Trudy's consent within a couple of hours of the incident. During this first interview, she never admitted to "shaking" Noah. However, at the second interview, the Social Worker claims that Trudy, who had so readily agreed to be recorded on her first interview, supposedly did not consent to being recorded on the second interview.

There were plenty of reasons to find Trudy not guilty. The most compelling in my opinion came from one of the prosecution's own expert witness, Dr. Christian Muller. Dr. Muller, a pediatric radiologist testified that the blood seen in the MRI images of Noah could be as old as 30 days! If this is not reasonable doubt, I do not know what is. The only thing more tragic than the suffering experience by little Noah is that an innocent woman is prison paying for it.

[Recommend](#) Recommended by 336 Readers

52.

[Marilyn](#)
Victoria BC Canada
February 3rd, 2011
9:55 am

How is it that most shaken baby cases happen when one adult is alone with a baby?

or

are there any stats to prove that these symptoms occur with the same frequency when a baby is with several adults?

I would love to trust Barry Schect but he is the lawyer who got OJ Simpson off.

[Recommend](#) Recommended by 6 Readers

53.

T L Moran
Idaho
February 3rd, 2011
9:55 am

Good article. Doctors be warned - your infallibility is on trial.

Again.

Remember a few decades ago, when countless women were sent to prison because of bizarre accusations they were running not daycares, but gigantic pedophilia rings?

Yeah. There were a lot of "Expert Witnesses" involved in that social hysteria, too.

Until the medical profession comes up with definitive diagnostics (fat chance of this), most of these cases where a care provider widely respected for her gentleness and patience is suddenly accused of a deeply vicious and violent crime . . . are simply witch-hunts to assuage the grief of parents and helplessness of society in the face of an unexplained child death.

Notice how often the well-off white parents or prosecutors manage to send a poor and/or minority woman to prison. What agenda is truly being served?

P.S. The Whitmer mother's blog is nauseating, especially in how it dwells on the details. It's like kiddie-death-porn. I'm deeply sad that the mother's trauma has found an outlet in such vindictiveness. What kind of lessons is she teaching her children with that?

[Recommend](#) Recommended by 114 Readers

54.

Skeptical Bill
NYC

February 3rd, 2011

9:55 am

Yet one more instance of reliance on so-called experts who are not witnesses to the alleged crime testifying, only to find out later, sometimes years later, that gee whiz, maybe we were mistaken and that poor au pair shouldn't have gone to jail for 25 years. It really is not far from this to so-called experts attesting to climate change (the earth is heating up and Chicago's average temperature will rise 5 degrees over the next 10 years, oh wait a minute, all this cold and winter weather is conclusive evidence of global warming). When we realize that almost every expert has an agenda and needs to be treated with skepticism and not fawning admiration, we will all be better off.

[Recommend](#) Recommended by 11 Readers

55.

Ontario Reader

Ontario

February 3rd, 2011

9:55 am

Excellent, thorough, article. There does, however, seem to be the suggestion that only the defence experts make money from testifying and consulting. This is far from the case in Canada, and I would assume the same in the United States.

In fact, given that so few people charged with serious offences like this can even afford to fully pay a lawyer, do you really think that they can pay a doctor to work with their lawyer? Child care workers?

In Ontario, the legal aid plan pays approximately 1/2 the hourly wage that the prosecution experts receive. Same source of funds, same case, half price.

[Recommend](#) Recommended by 14 Readers

56.

Sam

Florida

February 3rd, 2011

9:55 am

It is a difficult situation but it seems like if there is no other evidence of abuse, bruises, damage to the neck, history of abuse, etc. the brain scan evidence is too murky to be used as sole evidence to convict.

I have all the sympathy in the world to these parents who are hurting and I understand their desire to seek justice but the day care provider should not be sacrificed for that lust.

[Recommend](#) Recommended by 57 Readers

57.

ChrisW

Nowhere

February 3rd, 2011

9:55 am

Hope they enjoy the life they were too busy living to take care of their own child.

[Recommend](#) Recommended by 12 Readers

58.

Baptiste C.

Paris, France

February 3rd, 2011

9:55 am

"How could the Whitmers forgive, given the medical testimony from doctors they trust?"

Well, seen in another perhaps more cynical light, one could also ask the following questions :

How could the Whitmers change their mind when that would make them among the prime suspects for the abuse of their child (accidental or not)?

How could the Whitmers change their mind when it would mean admitting to themselves that they might have been responsible for sending an innocent woman to jail for several years?

How could the doctors change their mind when that might destroy their whole medical careers?

How could the doctors change their mind when it would mean they have been the prime people responsible for sending innocents to jail?

How could the doctors change their mind when they have been handsomely paid to defend one position for years?

What I'm getting at is that nearly all the protagonists in these cases have something important at stake here that might affect their judgement or their opinion.

As it is all too common nowadays, the public wants simple explanations to complex issues and demands certainty whenever opinions are expressed. The more complex and tragic the issue the more the desire for absolute truth is strong.

Only problem is, whatever the medical, scientific, industrial or political world would have us believe, absolute truth is a rare thing and seldom found anywhere but in religion....

As long as we won't

[Recommend](#) Recommended by 159 Readers

59.

Trista

California

February 3rd, 2011

9:55 am

I wonder if polygraphs were used in any of these cases. I realize that results are not admissible as evidence, but they are taken into consideration in charging and in identifying likely perpetrators. If I were involved in something so ghastly as one of these cases, I would demand a polygraph to help establish my honesty and innocence. I know they are controversial, but properly administered, I think they are very accurate, and they can help guide the investigation one way or another.

[Recommend](#) Recommended by 8 Readers

60.

[Alpha Beta Zeta Delta Epsilon Omega](#)

Cental PA

February 3rd, 2011

9:55 am

the television show Quincy did a show on parents falsLY accused of shaken baby syndrome in the 70s! FIND THAT SEGMENT AND WATCH IT.

[Recommend](#) Recommended by 9 Readers

61.

melissa

cape town, south africa

February 3rd, 2011

9:55 am

very sad case indeed. not clear at all, though, that Ms Munoz was/is guilty, as people say, without ruling out other possible causes. this may be old-school, but parents should not hand over their kids to caretakers at that age. i thought i'd take just 3 months off from my career as a journalist/documentary producer when I had my son at age 43. I took 'off' 10 years, and still only work part-time. sorry, but it's the same advice i give to people who get dogs and then leave them locked up in the yard all day, alone. don't get one if you can't spend most of your time with it -- with them. they are totally dependent on you and you are responsible for their well-being.

[Recommend](#) Recommended by 10 Readers

62.

Steve Stowe

Hampton, Virginia

February 3rd, 2011

9:55 am

We live in a society that has the very best Doctors in the world. We have the very best , but not perfect judicial system too. If you have had a grandchild shaken and took him or her into your home and cared for, and loved this child for three years and created his or her obituary, set up the funeral, and researched SBS from the day of the abuse, I will happy to listen to your opinion to set free the people who have lost it and shaken their baby. Every prison is full of people who got a bad deal. Set them free, all of them and we will sit down and chat about your opinion. We are responsible to train parents about SBS, just like we train our kids before they drive a car.

[Recommend](#) Recommended by 4 Readers

63.

geolith

New York

February 3rd, 2011

9:55 am

What's really unfortunate is that the Times has focused on the uncertainties involved in applying the criminal justice system to instances where a child has died, instead of the causes that precipitate those deaths and the actions that can be taken to prevent them deaths.

Example in point: when new parents were educated about the vulnerability of young children to inflicted head injuries, the cases dropped by 50%. That program was extended into western New York and the Hudson Valley, and the results were sustained. In the last two years, they began to extend the program statewide, with the support of the Children's Trust Fund: in a moment of cruel irony, the Governor proposed yesterday to eliminate the Trust Fund.

Education programs seem to mitigate the economic factors that have caused inflicted injuries to spike 55% higher during the recent recession, as reported in TIME's June issue.

Incidentally, some may wonder whether injuries can be inflicted by caregivers, but if they decline in response to education of parents, and increase in response to caregiver stress, the information is consistent with the conclusion that injuries are mediated by caregiver action.

Which is not to say that in any particular case, the investigation was adequate or the facts conclusive.

It is to say that prevention efforts should be the real focus of attention, and of effort. Yet, the total amount of money spent on prevention in New York is almost certainly less than the amount spent on a typical SBS case that goes to trial and is appealed.

And, with the Governor's new budget, it will be less.

Let's see if that makes the Times...

[Recommend](#) Recommended by 12 Readers

64.

vlad1959

Boston

February 3rd, 2011

9:55 am

Being educated as a physicist I was always skeptical about SBS - it does not seem that shaking that does not damage baby's neck could generate forces large enough to cause a significant injury to a healthy baby's brain. Babies bodies are sturdier than that, please.

Unfortunately, while human bodies are quite sturdy, the human collective mind is such that we seem to be programmed to look for hidden evildoers in our midst and to believe the wildest accusations based upon the flimsiest of evidence. Yes, SBS prosecutions are right there with medieval witch hunts, blood libel accusations, Soviet "saboteur" trials of 1930's and day care child abuse cases of 1980's.

It is useful to remember that all of the above were replete with testimony by esteemed "experts".

[Recommend](#) Recommended by 83 Readers

65.

fisch

pfalz, germany

February 3rd, 2011

9:55 am

Trudy's supposed confession to shaking the baby seems to be based on the word "sacudir," which is given as a general term for "shake." I don't know Spanish, but could it also mean "rock"? I hope Trudy gets adequate linguistic help at the re-trial.

[Recommend](#) Recommended by 27 Readers

66.

Pip

London

February 3rd, 2011

9:55 am

momof3: I'm sure you're convinced Trudy Rueda is guilty. Unfortunately I can think of more than one case where everyone concerned was quite convinced the defendant was guilty - and then later evidence proved it couldn't possibly have been them.

From the news article, the evidence seems to consist of (1) medical evidence that could place the child's injury at any point in the preceding several hours and would mean the child was in contact with several other possible assailants and (2) a confession which was understood by only one person present, not taped, and is now denied by the defendant.

You say that in the trial the investigator testified that the defendant showed her(?) how she shook the child. I take it this was also confirmed in evidence by the other witness? You wouldn't need to be fluent in Spanish to see someone demonstrate shaking.

[Recommend](#) Recommended by 18 Readers

67.

Tell the Truth

Bloomington, IL

February 3rd, 2011

9:55 am

If I'm a daycare provider, I get a child tested BEFORE he/she is entrusted into my care. I also take out insurance.

This should raise the cost of childcare so that we go back to the good ol' days when mom stays home until the kids are good and old enough to fend for themselves.

[Recommend](#) Recommended by 4 Readers

68.

SemiConscious

Traveler

February 3rd, 2011

9:55 am

For crying out loud stop calling it a "syndrome." It's not a darn syndrome. Down is a syndrome, shaking a baby is not a syndrome just like "hitting the kid in the head" is not a syndrome. Stop the drama.

[Recommend](#) Recommended by 29 Readers

69.

Charles

New York City

February 3rd, 2011

9:55 am

No witnesses. No bruises or cuts. No history of violence. Only pseudoscience by doctors who rely on very questionable studies.

This is a witch hunt.

[Recommend](#) Recommended by 102 Readers

70.

HIGHLIGHT ([what's this?](#))

Becky

Iowa

February 3rd, 2011

9:55 am

Reasonable doubt...there is more than reasonable doubt in this case, yet Trudy languishes in prison. This article focuses on the facts and possible causes without becoming emotionally involved with the tragedy. That is what the jury should have done, but it is hard when an innocent baby is affected. At the very least, this case should be appealed and reasonable doubt should free Trudy. I have followed this case from the arrest and have been continually appalled by the denial of reasonable doubt, a cornerstone of the American legal system. While hoping for Noah's health to be restored, I also hope for Trudy's life to be restored.

[Recommend](#) Recommended by 207 Readers

71.

JDB

NJ

February 3rd, 2011

9:55 am

This article is incredibly disturbing. Beyond the tragedies of injured or worse children and innocent adult lives ruined, we're left with muddled medical opinions that will continue to convict innocent people. Sounds like a lot more research needs to be done on this subject and effects traumatic brain injury at birth.

[Recommend](#) Recommended by 40 Readers

72.

Carol

Middletown, NY

February 3rd, 2011

9:55 am

In response to comment #4: According to the article, it wasn't only care givers that were accused, tried and convicted. This happened to parents as well. This is not about putting your children into day care. This is about new medical interpretations concerning injuries that have resulted in people being convicted, perhaps wrongly, of reprehensible crimes. I can't imagine the pain of the parents of these children, but their understandable anguish should not result in a rush to judgement.

[Recommend](#) Recommended by 32 Readers

73.

Kris

VA

February 3rd, 2011

9:56 am

" We know that the overwhelming factor in SIDs is formula feeding."

What utter blithering nonsense. Why do people seize on the tragedy of someone else to spread harmful untruths? Good grief.

It doesn't sound like the prosecution met the 'beyond a reasonable doubt' mark at trial, but as someone said, it's always easy to blame a foreign babysitter. I think most of this stems from guilt on the part of the parents for farming their baby out in the first place. I hope Ms Munoz is adequately represented on appeal.

[Recommend](#) Recommended by 61 Readers

74.

Sam
NYC
February 3rd, 2011
11:27 am

I think that, in a hundred years, people will look back at these "shaken baby trials" the way we now look at the witchcraft trials of the seventeenth century.

[Recommend](#) Recommended by 33 Readers

75.

magala46
yonkers, ny
February 3rd, 2011
11:27 am

To relinquish your infant to anyone (but a grandmother, perhaps) seems simply foolish and selfish. In their heart of hearts the Whitmers must have known Noah would not be cared for or loved as he would have been at home.

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Wednesday, February 23, 2011

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

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26.

LE

Maryland

February 2nd, 2011

6:25 pm

"But shaken-baby cases are haunted by the enormous repercussions of getting it wrong — the conviction of innocent adults, on the one hand, and on the other, the danger to children of missing serious abuse."

These stakes are so high. I am heartbroken for all the babies underlying each case that have died or are living with significant disabilities.

[Recommend](#) Recommended by 15 Readers

27.

Sharon

Miami Beach

February 2nd, 2011

6:25 pm

How come charges aren't being brought against the Whitmers for failing to adequately protect their child? They are at least as culpable as Ms. Rueda, if anyone is even to blame for this tragedy.

[Recommend](#) Recommended by 25 Readers

28.

Chris

Pittsburgh, PA

February 2nd, 2011

6:26 pm

Dear MomOf3;

Exactly where did you come by this confession? There were no independent witnesses to this verbal exchange. Each side tells a different story as to what she said.

Dear Anti-vaccine people:

Post-vaccinal encephalitis? You are going to have to do better than that unless you can show that the vaccine given to these young children was smallpox (eradicated from the planet in the 1970s) or a rabies vaccine. In which case the animal bite would be compelling evidence to present.

As for the Yurko case. The judge did overturn the conviction on appeal, that much is true. However, the judge rejected the claims of vaccine related injury and instead supported the appeal because of sloppy work by the medical examiner's office. Also, Alan Yurko is back in jail right now on burglary charges. He'll be out in 2014.

[Recommend](#) Recommended by 57 Readers

29.

Clive

Nebraska

February 2nd, 2011

6:26 pm

DJS,

"Why entrust a baby to a stranger ?" The problem is that the child's parents are just as likely to be guilty of the abuse. You haven't actually solved anything with that suggestion.

[Recommend](#) Recommended by 78 Readers

30.

Clive

Nebraska

February 2nd, 2011

6:27 pm

MomOf3,

>she shook Noah; There is no arguing with that fact.<

Actually there is plenty arguing with that including the fact the no recording of the testimony when that is proper procedure, the officer testifying not speaking Spanish, and the Social worker saying "Not Sure" about the shaking part.

That is more than enough for reasonable doubt.

[Recommend](#) Recommended by 115 Readers

31.

Paul

USA

February 2nd, 2011

6:27 pm

As a single dad who raised my daughter since infancy, I took my daughter to several people I thought could look after her so I could work. My own guilt of not caring for her, and the thought of someone else, who I did not really know watching her, was too much. I only knew one thing, and that was with me, nothing bad would happen, and she would be ok.

Unimaginable what the parents are going through now..

[Recommend](#) Recommended by 13 Readers

32.

HIGHLIGHT (what's this?)

Adia Dennis

Alabama

February 2nd, 2011

6:28 pm

The human nature is too deep, irrational, and murky, and the current level of medical research is not high enough to secure a verdict. We just do not know what happens behind the closed doors when a parent or a caregiver feels frustrated, distracted, overwhelmed, irritated etc. I would never trust my baby to anyone; I'd rather take the economic challenge (I did). On the other hand, there are parents who'd do more harm than anybody else. To send an immigrant woman to a prison is too easy compared to the necessity to admit the parents' wrongdoing, but it will not solve anything. Whoever is guilty will be punished from within, except for the medical establishment that would do anything to deny its fault. Birth traumas occur all the time but who knows when they are recognized and remedied - in time, more critical.

What I see quite often: young mothers, with a cigarette in mouth, carry babies without supporting their heads (even worse, a baby would not have any headgear in a high sun heat). Babies do not have enough neck muscle to maintain their heads straight, and without support, it is a dangerous situation potent with asphyxia and other complications.

I read this article with tears in my eyes and felt sorry for everyone. Wish there was a solution. In old times, it was just natural to lose children due to "natural causes".

[Recommend](#) Recommended by 119 Readers

33.

HIGHLIGHT (what's this?)

Todd Fox

Connecticut

February 2nd, 2011

6:29 pm

@ #22 Read the article.

Trudy did not "admit" shaking the baby. The "social worker" who spoke with her after the tragedy reports that she said she shook the baby, however Trudy says this is not what she said. Trudy spoke willingly with this person, without a lawyer present. Unfortunately the social worker DID NOT record the interrogation and Trudy did not insist on the session being recorded. In my opinion, where there is the possibility of foul play, the interrogation should be recorded automatically. What is there to be gained by leaving it unrecorded?

It is not mentioned if she was questioned in English, or in her native language. It is not mentioned if the interrogator speaks Trudy's native language or is familiar with her culture. Trudy may have been "lead" by the social worker, or possibly confused by terminology. None of us can know, unfortunately, because the social worker chose not to record the session.

The simple fact that she consented to speak with a social worker, without council, suggests to me that she probably believed she had nothing to hide and was trying to help the family.

It amazes me that women operate day care centers in their home, taking on such enormous responsibility and opening themselves up to such horrendous possibilities for liability. It's usually women who desperately want to be able to stay with their own children who do so—they take on an enormous amount of liability for very little money. What a tragedy.

[Recommend](#) Recommended by 382 Readers

34.

Brooke

Harrisburg, PA

February 2nd, 2011

6:30 pm

I don't understand why Erin Whitmer felt the need to write a fictional account of what her son went through on a blog and why she places all of the blame on the daycare provider that she made the choice to take her son to. Having experienced rushing my own child to the emergency room because she was non-responsive, I know not to take the moments I have with her for granted and how lucky I am to have a child who is alive. Maybe Erin Whitmer should spend less time trying to get people to feel sorry for her by writing up a blog and demonizing her daycare provider and more time with her family.

[Recommend](#) Recommended by 221 Readers

35.

wow

San Jose, CA

February 2nd, 2011

6:31 pm

So sad all around. A reminder to never jump to conclusions. Most of all we Americans needs to get away from our obsessive need to find a scapegoat or pinpoint a "reason" for everything. The human body is a super complex machine-doctors can't troubleshoot beyond a certain point

[Recommend](#) Recommended by 74 Readers

36.

Todd Fox

Connecticut

February 2nd, 2011

6:31 pm

Sorry. My error. I went back and checked. The social worker questioned Trudy in Spanish. It doesn't mention if the social worker is a native Spanish speaker. For some bizarre reason, the detective who was there for this interrogation did not speak Spanish. The fact remains, that the social worker did not record the interrogation, so we have no way of knowing, other than her notes and recollection, what transpired.

[Recommend](#) Recommended by 45 Readers

37.

Samantha

California

February 2nd, 2011

8:00 pm

This is why I would NEVER take care of a baby other than my own. It's not worth spending the rest of your life in jail, if the baby had recently gotten vaccines that caused injury.

[Recommend](#) Recommended by 19 Readers

38.

Ann

Los Angeles, CA

February 2nd, 2011

8:01 pm

When you live in a normal suburb outside of a city, such as DC, NY, LA, the majority of middle class America cannot afford to have only one parent working. Therefore, finding adequate and affordable daycare is a part of life. When you finally find that person and place you trust with all your heart, it is still terrifying to leave your baby with them. However, when that person take responsibility- I feel they truly should be held 100% responsible! Yes, sometime bad things just happen. I've followed this case very close, Trudy admitted shaking Noah, and then tried to retract her statement. Perhaps this was a suggestion from her husband, as a trained lawyer, and she pretty much pulled every trick in the book trying to say language barrier, etc. after realizing what she had admitted to. There is no doubt in my mind she is guilty. Sometimes bad things just happen, but this didn't "just happen." If a person is taking the responsibility of another human being- then they are 100% responsible for their well being. It makes me sick to think that any of the above comments are from real parents, and not just people trying to turn this into a minority thing.

[Recommend](#) Recommended by 7 Readers

39.

VT reader

Vermont

February 2nd, 2011

8:35 pm

"The lawyer also did not find a defense expert who could read Philipp's brain scans. Baumer had no money to hire one, and her lawyer didn't know that he could have asked for court funds to cover the expense"

scary

[Recommend](#) Recommended by 149 Readers

40.

Shirley

Iowa
February 2nd, 2011
8:48 pm

I have known Trudy and her sister and their families for almost ten years. There is nothing in Trudy's past or her demeanor that would indicate that she could ever be anything but a loving and capable caregiver. I do not believe that she is guilty.

Todd Fox makes some strong and legitimate points (#33 & 36). I hope they are emphasized clearly at Trudy's appeal.

This is a tragic situation for the Whitmer family. But keeping Trudy in prison only places another family in a potentially tragic situation.
[Recommend](#) Recommended by 106 Readers

41.

HIGHLIGHT ([what's this?](#))

linda
middlesex,nj
February 2nd, 2011
9:42 pm

We lived this nightmare exactly 16 years ago this month. We were falsely accused of shaking our 2 month old son who was suffering from massive bleeding in the brain requiring 3 transfusions. His ct scans had not one shred of medical evidence supporting their false claims of Shaken Baby Syndrome. Our son survived and no one went to jail because of their lack of experience, stupidity, or ego trip they may have been on. He has been left severely disabled by this catastrophic event. His records have been reviewed by many and ALL have reported this event as a reaction to his 2 month vaccinations.

[Recommend](#) Recommended by 132 Readers

42.

MomOf3
VA
February 2nd, 2011
11:30 pm

@D Truth in Iowa: Were you AT the trial? If you were, you would have heard testimony from the investigator, not only did she admit it but she also physically showed the investigator HOW she shook the child.

[Recommend](#) Recommended by 4 Readers

43.

harry
michigan
February 2nd, 2011
11:49 pm

Great article, I have learned to never ever care for some elses child no matter what. That is unless the whole visit is recored on video.

[Recommend](#) Recommended by 35 Readers

44.

RealityLives
USA
February 3rd, 2011
12:17 am

If you can't understand why a Mother or any family member would blog about the life after a tragic event, especially something that can spread awareness to others, then you have a cement heart and brain. Just hearing about the level of care that Noah needs in one 24 hour period, not to mention his new special diet, proves that his Mother spends plenty of time with her family. Maybe it is a therapy for her to vent about this, in hopes that it will prevent it from happening to another child. Do you really think she needs/wants people to feel sorry for her or their family? This isn't a pity party. Its not like their page is blanketed with advertisers and they are raking in the dough.

If just ONE care provider reads the harm shaking can cause to a child creates a lasting effect in a time of frustration or panic, then she has saved a life. From the number of followers they have, It seems like you may be one of the only people who don't "get it". Meanwhile, Trudy also has a website, I guess her husband should spend more time with his daughters, oh wait....he shipped them back to his country...

The trial and evidence presented did more justice than any newspaper article can, including testimony from the opposing opinions, one of which makes BIG bucks testifying at these trials all over the US. The jury was loaded with Northern Virginia professionals & parents. They ALL agreed she is guilty. Don't let the media put you your panties in a tizzy and get worked up over the spin of a journalist looking for ratings by leaving important details out of the story. NOT ONE JUROR BELIEVED SHE WAS INNOCENT.

As a parent in this situation: Who would YOU believe? A daycare provider or an investigator? A daycare provider or some of the TOP physicians in the world? Of COURSE Trudy didn't want the questioning recorded, DUH! Would ANY guilty party want their admission recorded? Is it too hard to believe the woman SNAPPED? How often do we see stories on Nancy Grace or the news where people SNAP and do crazy things to children? Sad but true. Why doesn't Trudy take a lie detector test?

The Whitmers never jumped to conclusions about what happened to Noah. They didn't immediately point fingers at Trudy. But from what

the physicians told them combined with what the investigator revealed Trudy admitted, they moved forward in support of THE STATE prosecuting her. As any GOOD parent would, justice for their son. WHAT would you have done?

Yes, there may be stories and cases where people were wrongly accused. Yes, SBS is a very controversial subject. But also keep your mind open to the fact that YES, unfortunately people DO shake babies. Normal, happy, professionals, good people, SHAKE BABIES.

[Recommend](#) Recommended by 10 Readers

45.

jose

virginia

February 3rd, 2011

12:41 am

Ms Muñoz is innocent ap to demonstrate that she is guilty , she has been in jail for two years , i think it`s enough.

[Recommend](#) Recommended by 2 Readers

46.

FollowingSinceApril20

DC

February 3rd, 2011

12:41 am

For what it is worth: None of us have the right to judge the Whitmer family or Trudy R. An 8-page article clearly cannot include what was or was not ruled out medically (and was likely not even provided to the author) or the extensive testimony given from both sides during the trial. It also chose not to highlight the inconsistencies of the defendant's testimony throughout the process, which was evident to those in the VA/DC area and were following the case closely. (*Re D Truth's above comment, her admission was part of many other media stories surrounding the trial, but was omitted from this article). Regardless of nationality, race, or religion, the information was presented to a judge and jury. A jury that consisted of men and women, young and old, single and non-married, those with families, and Americans from varied occupations. The bottom line is that the facts were presented and our justice system decided that there was enough evidence to prove beyond a doubt that Trudy was not innocent.

In response to those who are mentioning vitamin deficiencies: It would take days of dehydration and a complete nutrient deprivation to even entertain the possibility of a deficiency. Further, a seizure could be the ultimate result, but would not get close to the amount of physical damage Noah suffered.

In response to those who say he shouldn't have been in daycare to begin with: I'm going to guess that you are either a stay-at-home mother, have never had a profession you were passionate about, or have never lived in a major-metropolitan area where the cost of living is three times that of the average sized town. It sounds immature and selfish to accuse someone of not wanting to be with their child or not loving their child by making the choice to take them to daycare. Not to mention that it is 2011 and there are millions of families in which both parents work, children go to daycare, and the family has a loving relationship.

Lastly, it is easy to take sides and see Trudy or Noah as the victim. However, I see both sides as being victims. Putting the outcome of the trial aside, it cannot be ignored that Noah and his family have suffered and endured an event that changed everything that they knew of life before and what it is to be. What Trudy knew of life is also monumentally changed as she serves 10.5 years in prison. I feel the article leaned more to the support of one party over another and failed to clearly illustrate that the outcome of this case supports SBS in every medical way possible.

Unless one of us completely understands the literature supporting or invalidating SBS, then I'd suggest we simply take this article as the author's interpretation of the events and limited research, and dive in to the vast world of information out there to seek the answer to whether you think SBS exists or not. Let's not forget that our found truth may not be the same found truth of someone else. But majority tends to rule and my opinion holds that justice was served in this case.

[Recommend](#) Recommended by 14 Readers

47.

FollowingSinceApril20

DC

February 3rd, 2011

8:41 am

One other note:

@34: It is extremely cruel to attack a woman (who has a masters degree in writing, might I add) for expressing her grief through a blog intended to be read by her family, friends, and those who want to support this family through the toughest time of their lives. A strong woman spent sleepless nights pouring out her heart writing HER words and HER thoughts. You have no right to accuse someone of seeking pity or not spending time with their family with absolutely no way to validate your assumptions.

[Recommend](#) Recommended by 18 Readers

48.

Sara N

Brooklyn, NY

February 3rd, 2011

8:42 am

Emily Bazelon--Thanks so much for writing this article. I've always thought it was strange, when hearing news reports of SBS, to think that some babysitter just went unexpectedly beserk. I really wish more rigorous studies could be done on this subject--with dummies or otherwise--to give a definitive answer on how much force/shaking/dropping it would take to cause the sort of brain damage discussed in the article.

[Recommend](#) Recommended by 47 Readers

49.

[Eric C](#)

Oakland

February 3rd, 2011

8:42 am

@ comment #5, "Canadian Reader":

"Dr Smith the Ontario pathologist you mentioned, as he gave testimony so often about shaken baby syndrome, had his medical license revoked yesterday. All court cases he participated in are under review and it is believed quite a few people have been wrongly committed."

There's no Dr. Smith in the article. There's a Peter Goldsmith, who is introduced as the attorney general of Ontario... not as a doctor. Whatever your beliefs, misrepresenting what is said in the article is a poor way to advance them.

[Recommend](#) Recommended by 16 Readers

50.

[Adia Dennis](#)

Alabama

February 3rd, 2011

9:51 am

I agree that there are economic reasons for both parents to work and rather pay for daycare which is not cheap. They choose to live in costly places and maintain a rather high level of comfort. But what is the price when the horrible damage happens? It cannot be reversed.

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Readers' Comments

Shaken-Baby Syndrome Faces New Questions in Court[Back to Article »](#)

By EMILY BAZELON

Some doctors are taking issue with the diagnosis of the syndrome, raising the possibility that innocent people have been sent to jail.

Comments are no longer being accepted.

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1.

Silicon valley mom

California

February 2nd, 2011

9:37 am

This is so tough. Honestly, medicine seems to still be in it's infancy. Doctors are only human too. If the accused injured a baby of course they need to pay, but the if the converse is true how horrible for the accused... to spend a decade or more in jail for a crime they didn't commit. There must be a better way. This is not justice.

[Recommend](#) Recommended by 123 Readers

2.

Bill Sardi

San Dimas, California

February 2nd, 2011

9:39 am

Retinal and subdural hemorrhages are consistent with vitamin C deficiency. Bone fractures are consistent with vitamin D deficiency. Nowhere do I hear that medical authorities ruled out these possible underlying factors.

[Recommend](#) Recommended by 41 Readers

3.

DJS

New York

February 2nd, 2011

9:39 am

It sounds like the prosecution did not prove beyond a reasonable doubt that this woman shook the baby. She should be freed immediately. It is so easy to blame a foreign born babysitter.

[Recommend](#) Recommended by 240 Readers

4.

DJS

New York

February 2nd, 2011

9:39 am

I am sure I'll get clobbered for this one- but unless it is a matter of dire economic necessity- in which case, perhaps one should not have a baby, overall, why not stay home and take care of ones own baby until the child is old enough to go to school ? Don't we owe this to our children for their personal protection ? whom can one trust with the care of one's baby more than oneself or spouse ??? Why entrust a baby to a stranger ?

[Recommend](#) Recommended by 164 Readers

5.

Canadian Reader

Canada

February 2nd, 2011

9:51 am

Dr Smith the Ontario pathologist you mentioned, as he gave testimony so often about shaken baby syndrome, had his medical license revoked yesterday. All court cases he participated in are under review and it is believed quite a few people have been wrongly committed.

[Recommend](#) Recommended by 230 Readers

6.

Albert911emt

Virginia

February 2nd, 2011

9:51 am

It's obvious that the issues surrounding shaken-baby syndrome are far from settled. No one else should be prosecuted for it unless and until the medical community can agree on the symptoms and the timing of the injuries. I think for anyone to claim otherwise just shows their own biases, and their own selfish desire to protect their turf.

[Recommend](#) Recommended by 82 Readers

7.

steve

New York

February 2nd, 2011

9:51 am

Ms. Bazelon neglected to mention the Yurkos case in Florida where, after being sentenced to life in prison for fatally shaking his baby, Mr. Yurkos' attorneys were able to show that the vaccinations his child had received were the cause of the brain hemorrhage. After years in prison, his conviction was overturned and he was released. How many people are currently in prison due to the side effect of vaccines?

[Recommend](#) Recommended by 50 Readers

8.

Philip L. Wheeler

London, England

February 2nd, 2011

9:52 am

Miss Bazelon, you are to be commended for bringing the issue of shaken baby injuries to the fore. However, it is sad that you included the example of Dr Geddes's work in the UK as support for your theme of sbs convictions being doubtful. I wonder which authorities in the UK you took the trouble to speak to and I wonder why you did not include this exchange by the barrister at the High Court in London with Dr Geddes when she was giving evidence at the High Court reviews. It went like this:

Question to Dr Geddes. 'Dr Geddes, cases up and down the country are taking place where Geddes 3 (the 3rd article she had produced in support of her theories) is cited by the defense (sic) time and time again as the reason why the established theory is wrong.

Answer by Dr Geddes. 'That , I am very sorry about. It is not fact; it is hypothesis I have never sought... I would be very unhappy to think that cases were being thrown out on the basis that my theory was fact.

I think your readers will agree that this throws a different light on Geddes to that which you attempt to use in your article. I have no knowledge of the cases you cite in the article but I have great experience of working on many cases here in the UK, many of which were in the review by the High Court. Unfortunately too many children are being injured in this way by care givers in the UK and the USA and your readers only need set up a 'google alert' on sbs to show them how many cases of sbs are occurring in your country every week. It is saddening to know. I am rather sad that you did not feel that it was necessary to speak to people in the UK when you are using 'evidence' from there. I think it is poor journalism and not of the standard I would expect from the New York Times. One hopes that you will do a follow up article at some time to highlight the sadness and misery caused to parents when this happens to their child, and the efforts by people such as those at the National Center (sic) on Shaken Baby Syndrome and the Shaken Baby Alliance to prevent this from happening in your great country.

Philip L. Wheeler (Detective Chief Inspector New Scotland Yard , Retired)... Former UK Advisor to Police Forces on Shaken Baby Syndrome and Author of Home Office Report on Shaken Baby Murders and Assaults in the UK 2002.

[Recommend](#) Recommended by 16 Readers

9.

grace

nyc

February 2nd, 2011

10:17 am

I am so sorry for all concerned in this. However, there seems to be no proof that Ms. Ruda shook and hurt Noah. And now, many lives are ruined. I understand that Noah's parents want to blame someone, but sometimes really bad things happen and no one is to blame. I hope Ms. Ruda gets off.

[Recommend](#) Recommended by 237 Readers

10.

descartes

california

February 2nd, 2011

10:17 am

ah the hubris of the medical profession. the history of medicine is littered by "facts" later found to be fallacies. its the perfect storm of the desire for certainty when none exists, and doctors clamoring over each other supply that certainty.

[Recommend](#) Recommended by 143 Readers

11.

AP

Fairfax, VA

February 2nd, 2011

10:18 am

Mary Lee Bolin was recently acquitted in Pampa, Texas, after an horrendous four-year ordeal during which she was suspected, and accused, of killing her six-week-old baby. In the trial that just ended a doctor testified a pre-existing condition called Evolving Chronic Subdural Hematoma was responsible. Here's the local news report:

<http://www.newschannel10.com...>

[Recommend](#) Recommended by 52 Readers

12.

Laura

Stamford, CT

February 2nd, 2011

11:24 am

I'd like to know the correlation between these syndromes and formula feeding/vaccines. We know that the overwhelming factor in SIDs is formula feeding.

[Recommend](#) Recommended by 23 Readers

13.

rstate

Cupertino, CA

February 2nd, 2011

12:57 pm

Medicine - the infallible science! Take a look at GBS' preface to "The Doctor's Dilemma". Anyone wonder where the term "doctoring evidence" comes from? Also, listen to the NPR series on US coroners.

The parents' comments on their blog (they have time for a blog?) are very vivid and damning, and totally fabricated. Their reaction is just part of the "white middle class religious blame someone because i am so good and beautiful nothing bad would happen to me" syndrome.

Isn't it also true that the initial symptoms (lack of napping, inadequate feeding, unresponsiveness etc) started before the alleged SB incident? Maybe the parents did it - they were probably more stressed out, unqualified in looking after children, no previous experience with children - they just lost it and are trying to cover their tracks.

The only parents who are accused of shaking their own babies are minority or poor. We white middle class suburbanites would never ever do such a thing!

[Recommend](#) Recommended by 176 Readers

14.

Sarah

Washington, DC

February 2nd, 2011

12:57 pm

Laura, your comment is incorrect. For a list of the commonly-accepted causes of SIDS, please see this website: <http://www.ncbi.nlm.nih.gov...> will also find similar information on the Mayo website.

[Recommend](#) Recommended by 59 Readers

15.

Sallie

New York City

February 2nd, 2011

12:58 pm

Comment # 9: "Sometimes really bad things happen and no one is to blame." Exactly.

[Recommend](#) Recommended by 190 Readers

16.

Jen

Indiana

February 2nd, 2011

12:58 pm

I had to work for economic reasons when my oldest child was an infant, but I put him in a daycare center. There have been cases of abuse in daycares too, but it made me feel a little better that legally there had to be two adults in the room at all times and there were cameras. I don't like the idea of my child being in a home with one adult who is not accountable to anyone. Also, who knows when the daycare provider is going to leave the house and leave her charges in the care of her husband or her teenage child. I also liked that the kids were in different rooms according to age so my baby wouldn't be stomped on by a five year old.

[Recommend](#) Recommended by 45 Readers

17.

Michael Belkin

Bainbridge Island WA

February 2nd, 2011

2:00 pm

An 8000 word article without a single mention of the baby's immediate vaccination preceding the 'shaken baby' accusation and without any medical definition of post-vaccinal encephalitis (brain swelling), which presents the same symptoms as 'shaken baby syndrome.'

<http://medical-dictionary.thefreedictionary.com...>

How could someone possibly write an article on this topic without bringing that subject up?

'Perception Management" at work with the NY Times.

Vaccines are a religion. Scientific facts don't matter to members of a cult. It's all about maintaining belief in vaccination, not science.

Parents get blamed for brain damage caused by vaccine adverse events.

Michael Belkin

[Recommend](#) Recommended by 26 Readers

18.

MM

The South

February 2nd, 2011

2:00 pm

Re DJJ (#4): In fact, parents are much more likely to abuse their children than other caregivers. The vast majority of physical (excluding sexual) abuse is perpetrated by women, which is not at all surprising given that women, on average, spend more time with their children than men. However men, and in particular fathers, stepfathers, and boyfriends, are much more likely to shake their infants. This has nothing to do with leaving your child with a nanny or at a daycare.

In fact, the evidence suggests that we would see less physical abuse, not more, if more kids were in daycare where they are cared for by trained caregivers who have to pass some quality control and whose movements are recorded on camera.

[Recommend](#) Recommended by 110 Readers

19.

parentof3

NY

February 2nd, 2011

2:00 pm

Do you ever think that the people hired by the defense are wrong? \$200,000/year on these cases doesn't look greedy? Look at OJ, look at his defense.

I don't know what's the right side, but I think the media only like those cases that are controversial, cases where people adamantly pronounce their innocence. Not guilty in court doesn't mean someone did not do a crime, just that the prosecution cannot prove it.

It's never "news" if the case is straightforward. Something is killing and maiming these children.

It's not formula, it's not Vitamin C deficiency, it's not vaccines. Go back to your rock.

[Recommend](#) Recommended by 11 Readers

20.

Samir Hafza

Tripoli, Lebanon

February 2nd, 2011

2:50 pm

Thank you so much for this excellent, well-researched article. Truth and law can be so far apart sometimes; and wrongly-convicted people would have their lives ruined for good, exonerated or not.

Samir Hafza

[Recommend](#) Recommended by 65 Readers

21.

David Noon

Juneau, AK

February 2nd, 2011

3:03 pm

I'm not surprised to see anti-vaccination voices attempting to hijack this issue; it's a variation of the scientifically discredited "DTP defense," however, and it has no more validity now than it did two decades ago.

[Recommend](#) Recommended by 107 Readers

22.

MomOf3

VA

February 2nd, 2011

3:03 pm

Trudy ADMITTED she shook Noah; There is no arguing with that fact.

[Recommend](#) Recommended by 5 Readers

23.

HIGHLIGHT (what's this?)

Joan
Alexandria VA
February 2nd, 2011
6:24 pm

I attended this trial because I have close ties with the Whitmers. I am not involved in Noah's care other than continual prayers for significant improvement. I came into the trial with the belief that Ms. Munoz did not intentionally set out to hurt Noah. I listened to the evidence and there were several factors that led me to the overwhelming belief in Ms. Munoz's guilt.

Her interview with the police that was presented into evidence. This interview took place the day Noah was shaken and from evidence presented at trial, there was a strong possibility Noah would not survive which was why it was done quickly. Ms. Munoz was quite composed and expressed absolutely no concern for Noah's condition.

The evidence presented at trial said that with occurrence of Shaken Baby Syndrome symptoms were almost immediate upon occurrence.

The defense expert Dr. Ucinski makes a sizeable portion of his income testifying in court. He is also not a pediatrician. I had difficulty with his testimony because of these factors.

The jury was a good representation of men and women and I believe to be a good representation of the county population base. I saw them listening and taking notes and they gave serious diligence to their duties.

Since the conviction and subsequent sentencing Ms Munoz's husband and supporters have made numerous references that her testimony was not given credence because of being hispanic.

Quite the contrary - I think her very words cemented her conviction.

It is my sincere hope that Ms. Munoz be made to serve her entire sentence. I am sorry the Ms. Munoz's children are suffering as a result of Ms. Munoz's crime. But their suffering is far less than Noah Whitmer's!

[Recommend](#) Recommended by 19 Readers

24.

D Truth
Iowa
February 2nd, 2011
6:25 pm

@MomOf3 Did you read a different story. Trudy did not say she shook the child. If you insist on laying blame just so you can have a guilty party, blame the parents. How else do you explain his deterioration prior to the phantom incident? I think it's likely no one did anything to the child, but some people insist that children just don't get sick.

[Recommend](#) Recommended by 86 Readers

25.

John
Pittsburgh
February 2nd, 2011
6:25 pm

A large part of the damage is not physical. The trust we have lost with each other is irreplaceable. There is never a need to shake a baby. Ever. We know that much.

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