



E13 Justice for Ryan Revisited: Potential Exonerations in Shaken Baby Syndrome Convictions

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After attending this presentation, attendees will be able to: (1) describe the differential diagnosis for subdural bleeding, retinal hemorrhage, and encephalopathy in an infant or toddler; and, (2) describe the role of formal biomechanical analysis in apparent traumatic head injury.

This presentation will impact the forensic science community by illustrating an approach to potential post-conviction exonerations in Shaken Baby Syndrome cases.

Professor Tuerkheimer from DePaul University College of Law suggested that Shaken Baby Syndrome (SBS) should be "the next Innocence Project" in a 2009 Washington Law Review article. DNA has been the basis for almost all successful Innocence Projects exonerations to date. However, reversal of SBS convictions will require a different approach, based largely on "new evidence" or on "expert review" of existing evidence. The "new evidence" approach utilizes evolving understanding of the differential diagnosis for subdural bleeding, retinal hemorrhage, and encephalopathy in an infant or toddler, and developing appreciation of the role of formal biomechanical analysis in apparent traumatic head injury. The "expert review" approach is more problematical and less intellectually satisfying than "new evidence." It may be difficult for an "expert" panel to agree on anything. If the experts do not agree, the Court will have the responsibility to evaluate differing evidence, "critically evaluating the reasoning process by which the experts connect data to their conclusions...", and contrasting scientifically verifiable facts with opinion. This may not be an easy task.

This presentation describes a 1999 case in which a prosecutor charged a babysitter with murder 21 years after the death of the 5-month-old infant in her care. A jury convicted the babysitter of second degree murder. She was sentenced to ten years in prison under the Statute in place in 1978. She was paroled in 2005 after serving six years in prison. The Third National Conference on Shaken Baby Syndrome in Salt Lake City, September 26, 2000 highlighted the prosecution and conviction in a Plenary Session. However, a subsequent review of the records and autopsy photographs indicated that superficial cortical vein thrombosis, not "shaking," caused the infant's death.

Shaken Baby Syndrome (SBS), Innocence Project, Tuerkheimer