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The little kids at Fran's Day Care in Oak Hill played games, gardened, and rode horses. Then one troubled girl told her mom that "bad things" happened there. When the grown-ups were through "investigating," Fran and Danny Keller went to prison for life.



BY JORDAN SMITH P.22

scary monsters

Believing the Children



In 1992, Fran and Danny Keller were convicted of multiple counts of child sexual abuse at their Oak Hill day care center and sent to prison for 48 years. It's likely they were innocent. Indeed, it's very likely that no crime ever occurred – except an absurd and overzealous prosecution.

BY JORDAN SMITH PHOTOS BY JANA BIRCHUM

When the little girl on the witness stand said, “No, it didn’t happen,” Frances Keller put her head in her hands and began to sob.

It was the second day of what would be a six-day trial of Keller and her husband, Danny, on charges that they’d sexually assaulted a young girl, Christina Chaviers, in the summer of 1991, when the 3-year-old was an infrequent drop-in at their home-based Oak Hill day care. Among the multiple counts were allegations that Danny had forcibly penetrated Christina with a pen and his penis and that Fran had performed oral sex on Christina and forced the girl to do the same. The charges were based on statements Christina had made, first to her mother, Suzanne Guinne, and then to her therapist, social worker Donna David-Campbell. There was no definitive physical evidence.

On the witness stand, the little girl sat on her older sister’s lap, chewing on a lollipop. “Did Danny ever touch you in a way you didn’t like?” Assistant District Attorney Judy Shipway asked.

“No,” Christina replied.

“Did Fran ever touch you [in] a way you didn’t like?” Shipway asked.

“No,” the girl replied.

Shipway tried a different approach. Did Christina tell anyone else that Danny had hurt her? She did not reply. Shipway asked if Christina would like to “whisper to me” her answer.

“No,” she said.

“Christy, when you say no, do you mean you don’t want to talk about it, or do you mean, no, it didn’t happen?” Shipway asked.

“No, it didn’t happen,” Christina replied once and then again. “No, it didn’t happen.”

“But did you tell somebody it happened?” Shipway asked.

“Yes, yes, yes,” she answered.

Fran held her head in her hands; all the emotion of the last year and a half welled up. Finally, she thought, everyone in the courtroom had heard the truth: Nothing had happened. Fran felt a measure of relief – certainly, this whole ordeal would soon be over.

But that’s not what happened. Instead, Fran and Danny Keller were each convicted of sexually assaulting Christina Chaviers, and each

“Christy, when you say no, do you mean you don’t want to talk about it, or do you mean, no, it didn’t happen?” prosecutor Shipway asked. “No, it didn’t happen,” Christina Chaviers replied once and then again. “No, it didn’t happen.”

was sentenced to 48 years in prison. For the Kellers, now 58 and 68, respectively, it was effectively a life sentence. They’ve since come up for parole, but neither will acknowledge the remorse that is a requirement of release – after 17 years, the Kellers still fiercely maintain their innocence.

And in fact, the *Chronicle*’s reinvestigation of the Fran’s Day Care case has revealed serious problems with the state’s case against the Kellers – including questions about the quality and reliability of the state’s medical evidence and forensic interviews. Moreover, the sensational nature of the charges themselves, in a

period of hysterical national rumors about supposed “satanic ritual abuse” at day care centers, made it virtually impossible for the Kellers to receive a fair or even rational trial. Finally, our investigation has uncovered potentially exculpatory evidence that the Kellers’ defense attorneys say they were not aware of at the time of the 1992 trial.

In light of the problems with the original prosecution and this additional evidence, there remain substantive doubts about the Kellers’ guilt. Indeed, it’s an open question not only whether the Kellers were rightly convicted – but more fundamentally, whether any crime ever happened at Fran’s Day Care at all.

Taking Care of Kids

Frances was devastated by the charges, which she and Danny vociferously denied. She loved children. She had three of her own, already grown, and she missed having little ones around the house. In late 1989, Frances

decided to quit her job in the deli at the Oak Hill H-E-B and to open a day care in her home just off Highway 71. “My boss was having a baby, and I told her I was just getting tired of working, and she asked, if I was going to quit, would I watch her baby? Well, I’ve watched children ... all my life,” Frances, or Fran, as the kids called her, told the *Chronicle* in an interview at the Sycamore Unit of the women’s prison in Gatesville.

“Even when my kids were little I watched children. And ... it just started with her [baby] and then with a couple more. I was in heaven, you know, staying home and taking care of

kids. I just this day ... hurting a husband ...

Yet following Aug. 15, she didn’t ... her – just ... court. (Ar ... Rick Chav ... Mother an ... uled appo ... Campbell ... several m ... ing behav ... half-hour ... the allega ... grown in ... Travis Co ... and Davi ... during th ... them tha ... with an in ... that he ‘ ... comes ou ...

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his mom that Danny had made him eat poop and drink pee. And Brendan Nash – his mother told the television show *American Justice* – said the Kellers held a gun to his head and forced him to assault his infant sister while they videotaped the abuse.

There was little physical evidence to support the children's stories. Christina was examined at Brackenridge Hospital the evening she made her first outcry, and the emergency room doctor said that he saw signs that her outer genitalia were red and that there was some deformity to her hymen. He concluded that the injuries could be consistent with sexual abuse but could not rule out the possibility that there was another cause – a tentative conclusion that would turn out to be the only physical evidence ever provided in the case. Christina and Brendan were subjected to forensic interviews by the Sheriff's Office, but none was certainly confirming nor corroborated by any physical evidence.

Most damning at trial was a statement given to police nearly a year after Christina's first outcry by an acquaintance of the Kellers, Doug Perry, who told investigators that he and his wife, former Travis Co. Precinct 3 Deputy Constable Janise White and her Precinct 3 partner, Raul Quintero, had taken part in abusing the children while at the Kellers' house one Friday afternoon. Perry recanted that confession shortly thereafter, however, claiming he'd been coerced into making it by Texas Rangers. No videotape or photographic evidence of abuse was ever found, and police never found any corpses – animal or human – to back up any of the children's wilder tales.

Nonetheless, a grand jury indicted the Kellers in late 1991 for sexually assaulting Christina – and, subsequently, indicted Perry, White, and Quintero on similar charges. Fran and Danny Keller were shocked. "It was like a nightmare," said Fran. "I think with an accusation like this, the presumption that you're guilty is strong."

CONTINUED ON P.24



Frances Keller

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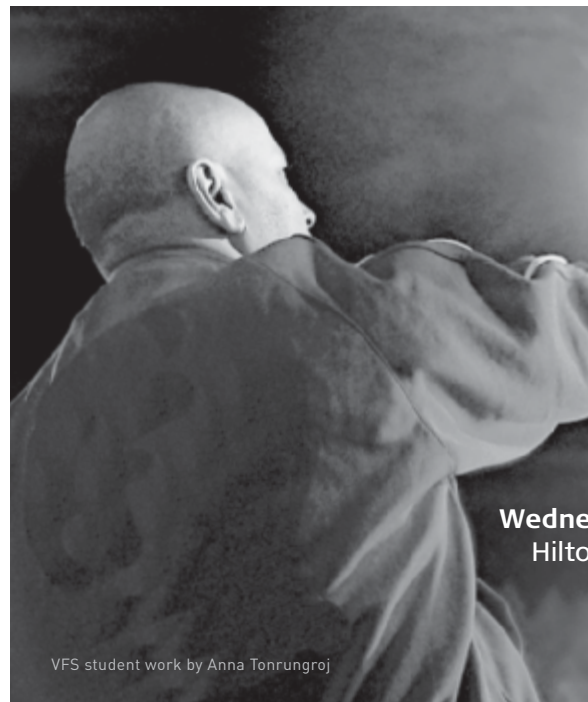
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Traumatic Origin

Fran and Danny Keller had been married about a year when they moved into a ranch-style brick home on Thomas Springs Road, northwest of the Y in Oak Hill. They'd been living in an apartment, but Fran, a country girl at heart, was eager to find something out of town. "I like gardens, and I like animals," she said recently. "I just wanted someplace in the country." The couple found the three-bedroom home owned by Julia Dietz, who has remained friends with the Kellers. "They were nice people," she says.

The couple leased the home on July 1, 1988, and immediately began work on the property. Danny, a manager of the county's Precinct 3 road crew, put in a stone walkway to the front door and began clearing cedar in the back yard, where the couple pastured their horse, Fancy Dancer; Fran planted a garden. The couple had been in the home just more than a year when Fran decided she was tired of working at the H-E-B. When her former boss gave birth to a son, Fran began to care for him while his mother was at work. It wasn't long before Fran was taking in other kids, referred to her by friends and neighbors. Eventually, she put a sign up in the front yard advertising her services. "It was wonderful. I taught the kids how to garden," she says, "and we had a big back yard, and we bought a pool for the kids. And we had sand all over the yard. ... We built one of those big wooden gyms. ... We had a horse, and [the kids] would take rides on the horse."

By 1991, Danny had retired; he tended the property and helped with the kids, taking them out for rides on the horse or pulling them in a large wagon behind his riding lawn mower. Teresa Chambers, a former paramedic, says the environment the Kellers had created was the main reason she put her two children in day care with Fran. "I took a tour of the house; it was clean. There was one particular room that was the kids' room. There was fishing net on the wall holding up stuffed ani-

mals," Chambers recalled. She was also impressed by the animals (in addition to the horse, the Kellers had six doves, a pair of parakeets, a dog, and a cat) and the garden. "I thought ... this is so cool for kids!" By the summer of 1991, the Kellers were regularly taking in between eight and 10 kids each day – including Christina Chaviers and Vijay Staelin, both 3, and Brendan Nash, then 5.

By all accounts, before she ever spent a moment at the Kellers, Christina was a troubled child. In the summer of 1991, her parents, Rick and Suzanne, were embroiled in a bitter divorce, marked in part, recalls Rick, by accusations that he had been abusive toward his wife and toddler daughter. "We were both evaluated, and [Suzanne] came out as passive-aggressive, and I was a dumbshit with an average IQ," he says. But Suzanne "got to court first and said I was abusive and all that stuff." (Suzanne Guinne, now Stratton, did not respond to phone calls or e-mail requesting an interview for this story; Christina Chaviers did not respond to similar requests.) Guinne, an interior designer, told the court that the reason she sought day care for Christina was so she'd have a place to take her daughter while she ran errands related to the divorce – to court, to see her lawyer, to attend counseling. Christina attended Fran's Day Care no more than 13 times; prior to that year, she had rarely been away from her mother's side. At the same time she began dropping Christina off for day care at the Kellers, in May 1991, Guinne began taking her daughter to see David-Campbell.

According to the therapist's testimony at the Kellers' trial, Christina's behaviors were among the worst she'd ever seen. Christina had been "acting out" for months, she said, long before the child began going to Fran's Day Care. She was violent toward her mother and often bit her; she once tried to jump out

of a moving car; she was behaving like a dog, eating and drinking from a bowl and defecating in the back yard; she once tried to stab the family's dog with a fork. She was inserting toys into her vagina – mostly marbles and crayons – and she was already using rough language, including the phrase "butt fuck." Whether David-Campbell was able to identify the cause of Christina's behavioral issues or whether her behavior improved with therapy isn't clear. (David-Campbell told the court that, by the end of 1992, she'd seen Christina roughly 150 times and that Christina's behaviors would wax and wane.) But as the summer of 1991 wore on, she said, Christina's behaviors were definitely getting worse.

In mid-August, Guinne and David-Campbell said later, they believed they had found the answer to why Christina was so ill-behaved. It didn't explain why Christina had been acting out for so long and in so many different ways, but neither her mother nor her therapist acknowledged that in court. Instead, they moved quickly to a single explanation: Christina had been abused at Fran's Day Care.

On Aug. 15, 1991, Guinne picked Christina up from the Kellers' at about 1:30pm, to take her to a 2pm session with David-Campbell.

According to Guinne, she was driving on MoPac toward the therapist's office when Christina volunteered that she didn't like Danny. "I asked her why," Guinne testified in November 1992. "She said that he hurt her – he had hurt her and pulled her panties down and spanked her and he pooped and peed on her head." Guinne said she decided not to ask too many questions, "because I didn't know how to handle that exactly and figured that we were going to counseling and that was the best place to handle all of whatever she had to say."

At the office, David-Campbell brought out a pair of anatomically correct dolls for Christina – so she could show the therapist and mother

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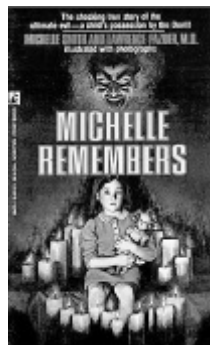
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Julia Dietz

The Satanic Abuse Scare

The sensational charges against Fran and Danny Keller and their home day care were not unique. By 1992, the year the Kellers were tried, about 100 child-care workers across the country had been charged with ritual sex abuse of children, and 20 day care workers had been convicted in similar cases. The most notorious concerned the McMartin Preschool in Manhattan Beach, Calif. There, more than 300 children would eventually make statements accusing their teachers not only of sexually violating them but also of subjecting them to bizarre, ritualistic abuse. Many of the allegations made by children in the McMartin case were curiously similar to those that would be made against the Kellers. In 1990, after a decade in the courts for what became the longest and most expensive criminal case in American history, the McMartin defendants were acquitted.



But the public hysteria surrounding alleged day care abuse, exemplified and fed by the McMartin prosecution, was still very much in the cultural atmosphere. So was a widespread notion that a vast network of Satanists was intent on corrupting and sexually abusing children and that many of its practitioners could be found working in child care. (The cults avoided discovery and prosecution, some claimed, because law enforcement members were themselves part of the satanic network. In the Kellers' case, one parent told *Texas Monthly* writer Gary Cartwright she suspected longtime District Attorney Ronnie Earle – in part because he lived near a goat farm.)

Partly for this reason, the allegations made by the children against the Kellers were hardly tested at all. Apparently, the prosecutors and some of the police investigators believed at least some of the wildest allegations – specifically, that there was cult abuse at work.

Satanic ritual abuse is a fictional pop-culture archetype – mostly in horror movies – but it was widely introduced to the public as a real, hidden conspiracy with the 1980 publication of the book *Michelle Remembers*. The co-authors, Canadian psychiatrist Lawrence Pazder and a longtime patient of his, Michelle Smith

(whom Pazder later married) purportedly "remembering" the abuse by her mother and other members of the cult. The book was published by Columbia. The book has since been widely read by researchers, but at the time, it was a sensation. It was a widespread notion that there was a widespread network of Satanists who were sexually abusing children – caught parents who, with many women, were leaving their children in the hands of Satanists. The notion of a powerful, underground network of Satanists, parents, therapists, and creators of satanic ritual abuse-related to the Kellers, the satanic ritual abuse network, was well established and had no

An excellent history of the satanic ritual abuse network is *Silence: Ritual Abuse and the Hunt*, by Debbie Nathan and Lawrence Pazder (New York: Basic Books, 1995). For more information on the Kellers, see *The Kellers*, by Lawrence Pazder and Michelle Smith (New York: Basic Books, 1995). For more information on the Kellers, see *The Kellers*, by Lawrence Pazder and Michelle Smith (New York: Basic Books, 1995). For more information on the Kellers, see *The Kellers*, by Lawrence Pazder and Michelle Smith (New York: Basic Books, 1995).



Sgt. Larry Oliver

“We heard from the kids that they dug up a body at the cemetery.”
– APD investigator Sgt. Larry Oliver

Bad Witnesses

Roger Wade, now the affable spokesman for the Travis Co. Sheriff’s Office, was the department’s only child abuse investigator at the time. When he arrived at work on Aug. 16, 1991, there was a new case waiting for him: an allegation that Christina Chaviers had been sexually abused at Fran’s Day Care. Immediately, Wade thought of the McMartin Preschool case, a notorious day care abuse case in California that had dragged on for a decade – he did not want that to happen here. “My greatest fear was that it would turn into a long, drawn-out McMartin case. I didn’t want that to happen; I wanted to do it right,” he recently recalled. (See “The Satanic Abuse Scare,” left.)

Wade set out to investigate. He visited Christina, her mother, and therapist David-Campbell that day and called in one of the TCSO’s video interviewers, Karen Knox, to sit down with Christina for a forensic interview – a 13-minute session that produced, at best, mixed results. Under Knox’s urging, Christina, at one point, said that Danny had touched her with his penis, but several minutes later said that Danny had neither touched nor hurt her. (See “Children and Testimony,” p.26.)

CONTINUED ON P.26



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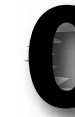
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Children and Testimony

There is a growing body of psychological research reflecting that children can easily be led to make up stories, often with the help of inexperienced or credulous interviewers. Much of that research did not fully develop until the mid-Nineties, after the Kellers' trial and conviction. "Until the 1980s, the common wisdom among experienced professionals was that [children] were fairly suggestible and that you had to be careful in questioning them," says James Wood, UT-El Paso psychology professor and expert in children's suggestibility. "That was clinical lore, basically. There were a few studies ... but there was not a dense clinical literature on children's suggestibility."

In the Eighties, Wood says, the field was bombarded by a "propaganda blitz" from the "Believe the Children" movement. The thinking was that "children don't lie to get into trouble; they lie to get out of trouble," he said. "And it mainly came from the social workers; that's where it got started." The lore became that children were too frightened to tell about abuse and that social workers - with little training in child development - needed to use "vigorous methods to get kids to talk." For nearly a decade, he said, "you had these so-called experts, without a scientific basis, promoting ... crappy interviewing."

It was during the Believe the Children years that stories of ritual abuse at day care centers swept the country. By the time the Kellers were tried, 20 day care workers had been convicted of abusing children in their care - and nearly every case involved accusations similar to those in the Keller case. In subsequent years, all but three have been released, most because their convictions were overturned. Two of the three still incarcerated are Fran and Danny Keller.

Some so-called experts explained the similarities among the allegations as evidence that there was indeed a vast network of cultists that had infiltrated the nation's child-care system. Wood and other researchers believe the similarities have a far less fantastic origin: poor interviewing and therapy techniques undertaken by therapists who either believed or were caught up in the sensational concept of ritual abuse and allowed that to affect their interactions with children they were interviewing. In short, in many instances, the therapists were the actual sources of the stories the children told.

There is a research-confirmed formula for eliciting false stories from children, says Wood. First, the interviewer motivates the children to talk by offering either positive or negative feed-

back and consequences and then "introduces information" that effectively suggests what they want to hear.

"The McMartin [therapists] pioneered that," said Wood. "They learned how to make kids make false statements." Moreover, the number and type of allegations increase when children are repeatedly interviewed - by law enforcement, therapists, and parents who are alarmed by the possibility that their children might have been molested. "They're frightened, right?" says Wood. "You get the parents urgent enough, and they think [the child is] holding back, and they just keep prying and prying, and they won't take no for an answer. And eventually, the little kid gives it to them."

That is exactly what Wood believes happened in the Keller case. Wood reviewed the videotaped interviews of Christina Chaviers and Brendan Nash conducted by the Travis County Sheriff's Office and portions of trial testimony - including that of Christina's mother, Suzanne Guinne, and therapist Donna David-Campbell. What he found, he said, was very disturbing - particularly the three recorded interviews with Christina. In those sessions, conducted in August 1991 at the Sheriff's Office, Wood found a laundry list of the interviewing techniques that researchers know increase the likelihood that a child will make false statements. "For a little girl it was ... highly suggestive and didn't shed much light on whether she'd been abused," Wood said. "It looks very much like they did not know how to avoid suggestive questioning. There is a huge amount of contamination. That's a huge cause for concern."

From the start of the very first interview with Christina, for example, TCSO examiner Karen Knox provides a negative "stereotype induction," linking bad things happening at Fran's Day Care to Danny and a penis. When Christina denies that Danny ever hurt her, Knox follows up by asking whether Danny had told her not to say that he'd touched her. Shortly thereafter, she asks Christina how many times Danny touched her with his penis. Wood says that this initial interview quickly diminishes the likelihood that police would ever receive an honest or accurate report. Instead of asking Christina questions designed to elicit her independent account of life at the day care, Knox introduces a narrative for Christina to follow.

The pressure on Christina increases during the second interview, with Ester Vela, when Guinne tries to convince her daughter



to talk. Christina is the "big must help 'save the other K' 'Fran and Danny did was ve ple. And you're the only one hurt." And when Christina fi mother says she can have s motivator for children," said shows that can lead to false 'You can help.' These are tw

Finally, in her third interv Christina is told by Knox tha and answer Knox's question tina's hands and feet to ind Danny abused her. Knox's p these are terrible interviews is a power relationship," he do what I want, and one th tions." (Knox could not be r

Moreover, Knox appears es denying that any abuse h of such negative responses There are more subtle signs several baffled "What's this pubic hair on the adult doll. Wood. "You are just trying t be true, instead of objective if something is true. There i

Wade called in a state child-care licensing investigator, and the pair went to visit Fran and Danny. They told them there had been an allegation of sexual abuse; the couple denied any wrongdoing. Moreover, Fran told Wade he should be wary of any allegations coming from Christina, because she was a troubled girl whom she'd caught in several small lies. Wade told Danny there was medical evidence that showed the girl had been molested. Danny again denied he'd done anything and "continued to say that he did not abuse any kids and that anyone who would should be shot and put out of their misery," Wade wrote in his report. Wade and the licensing investigator advised the Kellers that Danny should have no contact with the children while the investigation was ongoing.

Five days later, Wade got a call from David-Campbell, who told him that during their session that day, Christina had picked up the anatomically correct dolls, undressed them, and then demonstrated how Danny had penetrated her with his penis. Moreover, David-Campbell said that Christina was now saying that Fran had performed oral sex on her and had forced her to perform the same on Fran.

Christina's story was "believable," David-Campbell offered, "and she has no doubt that the sexual abuse took place," Wade wrote in his report. The therapist also said that she had a new patient, Vijay Staelin, who was also a child in day care at the Kellers' - if she thought the child had been abused at Fran's, she told Wade, she'd be sure to call.

Wade brought Christina back to the office for a second interview, this time to discuss the allegations regarding Fran. But Christina refused to talk with the interviewer, Ester Vela, who was filling in for Knox; Christina left the interview room several times, pretended to be asleep, and tried to convince Vela to let her watch TV. Vela ended the interview, and Wade decided to reschedule the meeting after Knox returned from vacation.

But Wade's straightforward investigation soon began to go sideways. Vijay's father, Earl Staelin, called to say his son was acting strangely - crawling around on the floor when he already knew how to walk, for example. And, he said, Vijay was coming home "exhausted after just a half day at Fran's." Indeed, Earl told the *Chronicle* that he and his wife began to suspect

that Vijay was being drugged by the Kellers. His wife, Carol Staelin, "observed that he'd come [home] like he had been drugged, with rings around his eyes," he recently recalled.

As the investigation moved into the fall, allegations against the Kellers began to accumulate. Sandra Nash called to say that her 5-year-old son, Brendan, told his therapist that there were "secrets at Fran and Danny's house." The day care was officially shut down in September, pending the outcome of the investigation, and Wade began getting regular phone calls from the parents of all three children, wanting to fill him in on allegations their children were making during therapy sessions and at home under questioning by their parents. In early October, Carol called to say that Vijay said "pee pee on hair" and that Danny did it; later, she said, Vijay told her that Danny had put a rope around all the kids' necks and said he would "cut off [Vijay's] head with a knife" if he told "any secrets." Suzanne Guinne called to tell Wade that Christina said the Kellers had poked her legs with needles - Guinne also now thought the kids may have been drugged. Carol Staelin called again, say-

ing that V him drink quent call that Dan assured h was at th "very muc In mid- say that V her simila animals - with pens ing them come to t have been care. Late abuse mig The alle recently, k the last. T kids on pl tery, made blood, kill animals. and they him to lay

eyes, and they made a big chop down with the knife,” Sandra Nash told the television show *American Justice* in 1993. “And they told him not to look, that Daniel Keller had chopped off his arm, [and] that they took out the bone and they put ... Satan’s bone” in its place. (Sean and Sandra Nash did not respond to an interview request. Brendan Nash could not be reached.)

All of these elaborate abuses, the children said, happened at the Kellers’ day care – a place where parents (and often neighbors) dropped by at all different times of the day. Wade was becoming increasingly skeptical. He began to question David-Campbell’s methods and expertise. “That was one of the things about this case. ... To me it appeared she was ... someone unfamiliar with forensic interviewing,” Wade said recently. “I was continually trying to figure out how the little girl would’ve come up with [these stories]. As we got further into the case and I started talking to the therapist,” Wade began to suspect that some of the stories were coming from her. He continued, “You can ask a child a certain thing a certain way, and they’ll say, ‘yes.’ And you can ask a certain thing a different way, and they’ll say, ‘no.’” (David-Campbell did not respond to phone calls requesting an interview for this story.)

Wade was also concerned that the children’s parents had (perhaps unwittingly) influenced their children by repeatedly questioning them about what bad things happened at day care. The investigation was beginning to look more and more like the McMartin fiasco. Indeed, many of the allegations by the children from Fran’s Day Care were eerily similar to those made by children in the McMartin case. In that case, a number of the children, now adults, have come forward to say that the allegations they made were not true. Notably, in a 2005 *Los Angeles Times* story, former McMartin child Kyle Zirpolo said that he’d made up stories after

strenuous and repeated questioning by therapists and parents who simply wouldn’t accept his early assurances that no abuse had taken place. “It was an ordeal,” he told journalist Debbie Nathan. “I remember thinking to myself, ‘I’m not going to get out of here unless I tell them what they want to hear.’”

Wade said dealing with the parents involved in the Keller case was frustrating. To an adult, for example, Christina’s allegation that Danny had put “glue” into her might sound damning, but Wade wondered where she might have come up with that language. He asked Christina’s mother. Actually, Guinne told him, Christina “had been playing with glue at the house” that night before telling her mother “that Danny put glue inside of her,” Wade wrote in his report. “Suzanne said she thought that [Christina] just put the two together.” But Guinne insisted she never told Christina to “say anything” and had “no reason to ‘get’” the Kellers.

When other parents began calling him, Wade asked Guinne whether she’d had any contact with anyone from the day care since reporting the alleged abuse. Guinne told him she’d “purposely” stayed away from the other children but that she had called the parents to tell them about the allegations of abuse and that they might not want to take their kids there. During October 1991, Wade admonished her on at least two occasions not to contact the other parents – whether she heeded his advice is unclear. “It was rather frustrating when you have parents that are connected to each other ... that really want to get together and compare notes, but I tried to discourage that because it made them bad witnesses,” said Wade. “I was getting frustrated with the whole case. And the longer it went on, the more embellishments were coming from the kids. Part of the problem was that ... the kids were going to the

“I was scared because the officers were not believing me, so I started making up a story. I basically started telling them what I thought they wanted to hear.”
– Doug Perry

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same counselor.” The other problem, he felt sure, was that the parents were urging their kids to reveal more details – and as it was with McMartin, Wade feels certain that was the origin of many of the allegations. Many years later, Wade believes that some abuse had taken place – but that the wild tales made it impossible to determine the nature or extent of any actual abuse. “Overzealous parents and therapists who wanted more information,” he said. “I think [they were pushing the kids] trying to get them to talk, and the kids were expanding on things to get them to be quiet.”

Graveyard Rituals

That’s not how prosecutors Case and Shipway saw things. “I think kids are pretty easily intimidated, and they don’t always understand what is going on,” said Shipway. While some of the allegations might sound wild, she and Case believe they were actually the result of conscious actions by the Kellers that were designed to scare the kids. For example, said Shipway, one of the allegations Christina made was that the Kellers had threatened to throw her to the sharks. “Well, we didn’t know where that came from” until the end of the trial, when a witness mentioned that the Kellers had small blow-up sharks in the backyard pool. “So you could see how somebody says, ‘You [tell], and we’re going to throw you in with the sharks,’” she said. “Because she’s real young.” Case agrees: “That’s pretty common. And sometimes the threats are strange. ... That wouldn’t make sense to an adult, because an adult would say, well, a person could never do that,” he said. “But nevertheless, that could intimidate a child.” Overall, the prosecutors say, the children’s allegations were believable.

Wade still wasn’t convinced, but then the case shifted in yet a different direction. According to Christina, the Kellers had help abusing the children from a dark-haired woman and a man that looked like Kenny Rogers. As it turns out, Danny Keller was a longtime friend of Precinct 3 Deputy Constable Janise White, and it wasn’t long before White and her partner, Raul Quintero, were in the investigative spotlight. Wade, who was close to White, didn’t feel that he could go any further with the case, which is what he told Rosemary Lehmborg, then head of the D.A.’s child abuse division and recently elected Travis Co. D.A. “We all sat down, and I said, ‘I’ve gone as far as I want to go, as far as I can go,’” Wade said.

As a result, to avoid potential conflicts, the case was moved to the Austin Police Department, where then-Sgt. Larry Oliver was one of two officers who took up the investigation. Oliver’s job was to get to know the kids and their families. “I’m dealing with the kids,” he said, “not ... the bad guys.” The families were suspicious of him at first, he recalled, because they didn’t think the Sheriff’s Office had taken their stories seriously.

Oliver did. “My job was to establish trust so that I could interview the kids.” He met with Christina and her mother at the Oak Hill McDonald’s and went on drives in the area, during which the little girl would point out

places she said she’d been taken by the Kellers. “We heard from the kids that they’d dug up a body at the cemetery,” Oliver recalled. So he took Christina to a small private cemetery just down the road from the Kellers’ home. To Oliver it seemed clear that Christina had been there before – moreover, he said, there was at least one grave site there that “looked like” it had been disturbed. “I walked around with a video camera; she walked around and said, ‘Yes, we’d been here, and we did this,’” he said. At the Kellers’ trial, police witnesses revealed that they’d even had a Department of Public Safety helicopter fly over the cemetery with an infrared camera, looking for a heat signature that would confirm that a grave had been disturbed. Case told *American Justice* that he too had seen disturbed graves at the cemetery – including one from 1970 that had fresh dirt on it.

Asked recently about this history, a cemetery representative told the *Chronicle* that the police had indeed been to the site asking questions, and they were told that there was a simple explanation for the grave that looked disturbed: A man had been buried there without a concrete vault, and his coffin kept sinking, so the man’s son often added dirt to the site. “It was a continuous thing,” the cemetery representative said. “There was nothing going on there.” Although the police supposedly had this information, Danny Keller’s defense attorney Dain Whitworth said it was not disclosed to the defense. “We never got it,” he said. Knowing that information, Whitworth added, would have helped the defense counter the sensational testimony, suggested the children’s accusations were unreliable, or even prevented the state from introducing that entire line of testimony.

Case said that Shipway recently reviewed the APD reports and found no mention of anyone from the cemetery telling police about a reason that fresh dirt would be used on the grave. She asked APD’s Oliver if he had any independent recollection of that exchange, Case wrote, but Oliver said that “no one told him that anyone had been pouring earth on any of the graves as maintenance.” In fact, while Oliver did record details of visiting the cemetery in his report, there’s no indication there that anyone from the department ever sought out the cemetery owners to inquire about the possibility that graves had been disturbed. That entire line of investigation, it seems, was ignored.

The state’s case against the Kellers was strong enough to secure indictments against the couple and, eventually, against deputy constables White and Quintero, thanks in large part to a “confession” provided to Texas Rangers by White’s ex-husband, Doug Perry. White was a good friend of Danny Keller’s, and after she and Perry married, the two couples socialized regularly. Nearly a year after the investigation began, Texas Rangers questioned Perry at the DPS offices. After four hours of questioning, he signed a confession, saying he had participated in a “beer and sex party” (as it was described in news reports) with the

“And they told him not to look, that they chopped off his arm, [and] that they and they put ... Satan’s bone” in it

– Sandra Nash



The private Oak Hill cemetery where investigators alleged the

Kellers, White, and Quintero, where the adults took turns abusing Christina and Brendan, whom Perry identified only after the Rangers showed him video of the two children. White supposedly took pictures of the incident, which Perry said he’d seen.

Within weeks, however, Perry recanted, saying that the Rangers had coerced him into making the statement. He said they had told Perry there were several witnesses who said he had been at the day care. “At this time I started giving them the first statement,” Perry wrote in an August 1992 affidavit. “I was scared because the officers were not believing me so I started making up a story. I basically started telling them what I thought they wanted to hear.” Notably, the Rangers made no audio or video recording of Perry’s interview. His confession was graphic but not particularly compelling in detail. What details there were, Perry said, were gleaned from information contained in a TCSO report that White had brought home. (White later denied ever reading the report.)

The prosecutors did not – and do not – believe Perry’s recantation. “I don’t think we put too much stock in the recantation,” said Case, in part because it is not uncommon for suspects to recant – particularly in universally unsavory child sex-abuse cases. But it is also not uncommon for innocent people to confess to notorious crimes – it’s one of the reasons investigators withhold significant details that only the actual offender would know.

Wade does not believe Perry’s confession at all. “I never understood why he would confess, when, obviously, he didn’t have any involvement and none of that happened,” he said. “It came out afterward that [White and Quintero] had nothing to do with it.” After the Kellers were convicted, the D.A.’s office dropped the charges against White and Quintero. Perry was never tried but pled guilty and was sentenced to 10 years probation. He’s now in prison for failing to keep current his sex offender registration.

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subjected to a witch hunt, as part of the national wave of sensational day care abuse cases. That was until Perry took the stand. A final holdout, the juror recalls ultimately voting for conviction because of Perry's introduced confession – once it was out there, how could the jury be expected to ignore it? Still, the juror had serious qualms about the evidence – and after the verdict was read, fled to the bathroom and wept.

Satan's Arm Bone

Prosecutor Case insists that the state did not rely solely on Perry's confession for its conviction. What "cinched" the case, Case said recently, was the testimony of Brendan Nash. Brendan spoke to jurors via closed-circuit TV and was very vocal about all the things he said happened at "hate care." He said he'd seen Fran and Danny abuse Christina and that the couple had taken the kids to a "graveyard and dug up this body." They made Christina carry all the bones that they dug up, he said.

Yet Brendan's testimony at trial departed strikingly from what he told TCSO interviewer Ester Vela during his first interview in 1991. There, Brendan said that he did know that there were some things that Danny did that were wrong – he took out a chain saw to cut down trees in the back yard; he allowed Brendan to ride on the lawn mower; he had two guns in the house, a pistol and a shotgun; and he let Brendan ride in the pickup truck to get hay for the horse, Fancy Dancer. When Vela asked if Brendan knew about Christina getting hurt, he said he knew she had and said that "Danny could've been the one that did it." But he said he liked the day care and that no one had ever touched him improperly. When Vela asked if he had any secrets about day care, he said no. "Are you telling me what really happened over at Fran and Danny's house?" Vela asked.

"Yes," he said.

It's not surprising that Brendan did not make any allegations during his first forensic interview, insists Case, because it is not "unusual" for kids not to open up about abuse the first time around. "It would take a long time, because a child of those years might be very uncomfortable and uneasy with it." Case said that it wasn't until right before the start of the trial that Brendan finally acknowledged what happened at day care, and in fact, Case said that he was the one to whom Brendan opened up, during an interview in his office on a Sunday afternoon.

Case did not record that interview. "Frankly, it never crossed my mind to record him," he said – but, in retrospect, he said he wished he had done so, "because your hair would stand up too if you heard" what Brendan had to say. Case said that Brendan said the Kellers had performed a ritual on him in which they said they replaced his arm with the arm bone of Satan. When asked at trial why he didn't

CONTINUED ON P.30



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tell Vela what had happened with Christina, Brendan said that was “because Fran and Danny ... gave us these drugs that won’t make us remember ... very long.” He knew he’d been drugged, he said, because “God told me.”

Defense attorney Whitworth cross-examined Brendan. “How many times have your mommy and daddy talked to you about all of this?” he asked Brendan. “Well, I have to count that one,” he said. Brendan said that in addition to talking with the prosecutors, police, and a therapist, he’d talked with his parents 21 times about the Kellers’ day care.

Case says he tried to determine whether anyone had been suggesting things to Brendan, but the child’s mother, Sandra Nash, insisted she had not. “I mean, you know, could people be pulling the wool over our eyes?” Case asked. “They could, yeah, theoretically.” Ultimately, he does not believe that a child would make these things up. That belief was shared by APD’s investigator Larry Oliver and, especially, therapist David-Campbell, who told jurors that children simply don’t create stories out of whole cloth. “With a child ... they don’t have the cognitive, the mental abilities to make up stories unless they have seen something or if a story has been read to them,” David-Campbell said.

In fact, there is a growing body of psychological research reflecting that, essentially, the opposite is true – that children can easily be led to make up stories and even come to believe those stories – often with the help of inexperienced or credulous interviewers. Moreover, experts on the forensic interviewing of children say that the recorded Keller case interviews are prime examples of poor technique and manufactured testimony – effectively useless as evidence. (See “Children and Testimony,” p.26.)

‘Your Case Is Incredible’

Veteran Austin social worker Vivian Lewis, who began her career as a teacher and Child Protective Services caseworker (and, eventually, a child interviewer for the Austin Police Department), says she was first shown the interview tapes from the Keller case by prosecutors. Now, she says, she actually uses them in seminars across the country (notably, with Department of Defense child abuse investigators), as examples of how *not* to interview children. The interviews are rife with “pressure, leading questions, promises of rewards: ‘Tell me what Danny did’ – really leading questions for a child that age,” she said. “I don’t know about you, but if you’ve got a surprise for me, I’ll tell you whatever you want to know.”

In fact, Lewis says that after the allegations of abuse at Fran’s Day Care broke, a number

of parents of children who’d taken their kids to the Kellers’ brought their children to Lewis. “I did extensive interviewing. I feel strongly [that] I did not interview any child who had any [signs of being] abused in their care,” she said. “So it was very peculiar to me. I probably interviewed eight or nine of those kids, male and female. The parents brought them to me just frantic,” she continued. “There was just nothing that I could get out of them.”

The fact that the children Lewis independently interviewed showed no signs of abuse piqued her interest about what Christina and Brendan had told prosecutors, so she asked to see the tapes. What she saw intensified her concern that the D.A.’s case was without merit, which is exactly what she told Case, she said recently. “I said, ‘Your case is incredible.’ He said, ‘That means it’s not true.’ I said, ‘That’s why I used that word.’” She said she explained the problems she found on the tapes, but her concerns were ignored by the D.A.’s office, so Lewis sought out the Kellers’

“I was getting frustrated with the whole case. And the longer it went on, the more embellishments were coming from the kids. Part of the problem was that ... the kids were going to the same counselor.”
– Investigator Roger Wade

attorney, that I was very concerned about the videotapes. I never heard back.” Whitworth says now he was not aware of Lewis’ involvement, and Case did not respond to additional questions regarding Lewis’ account. But in a recent interview, prosecutors said they were only aware of one parent – a friend of the Kellers, they said – who came forward saying that she did not believe her children had been abused and that the Kellers were innocent.

Yet at least one other parent, Teresa Chambers, who had two children in day care at the Kellers’ home, told the *Chronicle* she also found no signs that her children had been abused. Chambers interviewed Fran Keller before deciding to enroll her kids there; she was cautious because her older son had previously been physically abused in day care and sustained a serious head injury. She met with Fran and toured the house before deciding to leave her children there. When the allegations of abuse broke, Chambers said she was contacted by investigators who told her that there was video evidence of abuse. “I want[ed] to know if my children are on those videotapes. I wanted to know what [police] had, specifically,” she recalled. The investigator, whose name she could not remember, “said, ‘Just assume that all the children at that day care were abused.’ This is verbatim; I remember it as if it were yesterday.” She looked for signs, but never found any.

And police never found any photos or videotape evidence of any abuse.

Prosecutors Case and Shipway say they reviewed the children’s interviews, keeping an eye out for any bias from the interviewers or problems with suggestive questioning. They



COURTESY OF THE KELLERS

said they found none. “I think they were conducted well,” said Shipway. “The important thing was that it was on video. So if it was leading questions or something was improper, the defense could see that and bring it to the jury.” But if the accusations made on the tapes are the result of flawed interviewing techniques, it becomes difficult, if not impossible, to determine whether Christina (or other children) was actually abused, says James Wood, a psychology professor at the University of Texas at El Paso and a nationally recognized expert in children’s suggestibility and child interviewing. In other words, it raises questions about whether a crime ever happened.

Sheriff’s investigator Wade says he felt that the parents and therapists were complicit in eliciting the more fantastical allegations from the children – allegations he did not believe. And those just got in the way of the basic, first abuse allegation that Christina made, the one for which the state had its single piece of physical evidence – Dr. Mouw’s report that Christina might have been sexually abused. That convinced Wade that Christina had been abused at the day care. “I truly believe there was some abuse, and I believe Fran and Danny did it,” he said. “Had we not had the physical evidence, it wouldn’t be as good a case because there would have been ... doubt.”

Doubtful Diagnosis

But was there really any physical evidence of abuse?

Contacted for this story, Dr. Michael Mouw, who examined Christina at Brackenridge Hospital on Aug. 15, 1991, now says he’s not so sure that what he saw during his genital examination was, in fact, abuse. “I’ll be straight-up honest with you, I could’ve been wrong about [this],” he said. “At the time, in good faith, I saw something [I thought] was abnormal” about Christina’s hymen. “However, in retrospect, knowing what I know now, [having] seen more detailed photos” of normal hymens and “knowing how to do exams” with newer, more precise medical equipment, Mouw said he isn’t at all sure he would come

to the same conclusion. “I think they were conducted well,” said Shipway. “The important thing was that it was on video. So if it was leading questions or something was improper, the defense could see that and bring it to the jury.” But if the accusations made on the tapes are the result of flawed interviewing techniques, it becomes difficult, if not impossible, to determine whether Christina (or other children) was actually abused, says James Wood, a psychology professor at the University of Texas at El Paso and a nationally recognized expert in children’s suggestibility and child interviewing. In other words, it raises questions about whether a crime ever happened.

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Without a physical diagnosis, Mouw, the doctor who examined Christina, would have had to rely on the attorney’s testimony. “I’ll be straight-up honest with you, I could’ve been wrong about [this],” he said. “At the time, in good faith, I saw something [I thought] was abnormal” about Christina’s hymen. “However, in retrospect, knowing what I know now, [having] seen more detailed photos” of normal hymens and “knowing how to do exams” with newer, more precise medical equipment, Mouw said he isn’t at all sure he would come

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detail in her allegations, Noblitt testified, “I don’t think it is likely that [Christina] got these ideas from any external source.” He testified about the “death and rebirth themes” in cult rituals and, without objection from the defense, laid out his version of the infamous Salem witch trials and described how this case was definitely different than those. In that situation, “little girls” were describing “fantasy events” that didn’t happen. Here, the children have described real events. “This is no witch hunt,” he said.

Professor Wood was stunned that Noblitt’s testimony was allowed into evidence: “Austin, you know, has a reputation for being progressive and an intellectually enlightened city. So it is really shocking to learn that a D.A. there put an expert on the stand to testify to the reality of ‘witchcraft’ – satanic ritual abuse – and that a judge allowed it into evidence. ... I’ve never seen that on any other case I’ve been on.”

Withheld Information

The defense was hamstrung at trial and incapable at times of countering such testimony, in part because of their restricted access to critical evidence – such as David-Campbell’s reports, the children’s videos, the police reports, and Dr. Mouw’s medical report. For example, while the state had the luxury of giving to Noblitt all of the documents related to the case before he testified, the defense had no access to any of those documents until the trial, which meant its expert, psychologist George Parker, had few specifics to offer the jury about his assessment of the case. Moreover, the defense was not given documents – such as David-Campbell’s therapy notes – until it came time for them to cross-examine the state’s witnesses, which often made their examinations of the witnesses seem choppy at best and inevitably incomplete.

Whitworth said recently that he was frustrated by the way the D.A.’s office made information available to the defense. “They handled it differently than other cases,” he said. “On other cases, they always had an open file policy. Here, they’d read parts of the file [to the defense], but we never knew what they were referring to – you never knew what they were reading from” or how it fit into the bigger picture. “They’d read us parts of the reports, but they wouldn’t give us any of the stuff until it was our turn to cross-[examine witnesses].” As a result, he said, the whole trial was “what’s going to happen next?”

It also appears there was a good deal of information that Whitworth and co-counsel Lewis Jones simply did not have any access to during trial or thereafter – information that could have cast further doubt on the children’s stories.

For example, in August 1993, nine months after the Kellers were convicted, Brendan Nash’s parents, Sean and Sandra, filed civil suits against a laundry list of defendants they claimed were responsible for their children being abused at Fran’s Day Care, seeking a total of \$12.5 million in compensation. In addition to suing Fran and Danny Keller, Raul Quintero, Janise White, and Doug Perry – in hopes of getting a judgment against their homeowners insurance policies – the Nashes’ suit cited a host of other defendants, including the Kellers’ landlord, Julia Dietz, and others in the neighborhood: Hillside Bar owner Marilyn Cobb, the Oak Hill Gymnastics Academy, and a man named John Trigg. According to the civil suit records, Brendan (and, likely Christina) had told police these additional people had also abused them. The Nashes claimed rituals were held on Dietz’s property that “left physical evidence, such as places where fires had been, holes in the ground, animal bones, and dismembered children’s toys,” and Dietz knew, or should have known, the Nash boy and his infant sister were abused there. They alleged further that the children were taken to the Oak Hill Gymnastics Academy and to the Hillside Bar and were abused there and, finally, that they were taken to another private residence, where a man named John Trigg lived, where the children were “filmed while being abused at this property.”

Although these broader allegations by the children are summarized in the APD investigative report, the Kellers and their attorneys only learned of these additional defendants after the trial and conviction, when the civil suits were filed. Indeed, responding to the allegations in the Nash suit, Trigg noted that he had been identified as a suspect during the original police investigation. According to the APD report, on a drive around the neighborhood with police, Brendan had pointed out the home Trigg had been living in as a place where he had been abused – “bad things” had happened there, he said. According to Brendan, Danny had taken the children there and abused them; films had been made, and the house had been modified in some way to “facilitate making these films,”

Trigg’s attorney wrote in a court document. The court files also reflect that Trigg’s possible involvement was investigated by police, and Trigg was ultimately cleared as not having been involved.

Trigg “didn’t know these people; he didn’t have a relationship with any of them,” said Ginny Agnew, Trigg’s attorney. “But because of the frenzy of the moment, when the child [pointed out the house Trigg was renting] and said something untoward had happened in his

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house," he got dragged into the case. Agnew says the police investigated and cleared Trigg before the Kellers ever went to trial. That information should have been in the police report, and prosecutors certainly should have given it to Whitworth. But it never was, Whitworth said, and it could've been extremely valuable for the defense to know that the children had fingered other suspects who were cleared by police of being involved in any abuse. "They knew stuff they did not provide to us," Whitworth says.

Additional information was uncovered by former Precinct 3 Constable Drew McAngus, who in 1992 worked for the Kellers' defense counsel as a private investigator. After the civil case was filed, he signed an affidavit saying he had discovered that Nash had made several allegations that were proven not true, information that had not been turned over to the defense. Whitworth filed a motion with the 3rd Court of Appeals, asking it to remand the case to district court for a hearing on the state's "failure to disclose exculpatory evidence." That did not happen, however, in part because shortly after they were convicted, the Kellers fired their appointed attorneys, opting instead to represent themselves on appeal.

Pain, Suffering, and Legal Procedure

Among the saddest aspects of their case is that in the quest to prove their innocence, Fran and Danny Keller may have been their own worst enemies. When initially indicted, they fled Austin, traveling to Las Vegas to stay with Fran's daughter. The media had a field day, and prosecutors played up the "flight" at trial as an indirect admission of guilt. The Kellers say they acted out of fear and were not in hiding. Neither had been in trouble with the law before, and they misunderstood the process, particularly the bonding process. Fran insists that when she asked their attorney, then Revis Kanak, what they should do, he responded that if he were in that position, he'd leave town. Taking the remark literally, Fran and Danny left, although they were readily traceable through their relatives. Kanak did not return phone calls from the *Chronicle*. (Federal public defender Mike Charlton, who worked on the Kellers' case for a while in the mid-Nineties, said that when he asked Kanak about the incident, the lawyer said only that he didn't recall making that remark.)

The Kellers were also blamed for not showing more emotion during the trial, with the implication that an outraged or shocked demeanor would have lent credence to their claims of innocence. Yet they recall that they were so stunned by the charges they felt as though they were living in a fog. Fran says she was determined to present a stoic, unwavering front — looking at the prosecutors would make her

angry; looking at the jury would make her situation too real. "I never looked at the jury," she recalled last summer, "because I didn't want to seem weak. I didn't want to cry." Only when Christina took the stand on the second day of the Kellers' trial and denied that anything bad had happened at day care did Fran break down in tears. In the end, it didn't matter.

The Kellers' certainly erred in their decision to fire their appeal attorney — who Fran said she didn't think was paying enough attention to their case — and instead have Danny file their appeals on his own. Appeals work is detail-oriented and requires specialized legal training, and Danny did not do well. He did not make the right arguments — for example, he did not argue that Perry's testimony had been admitted improperly, an oversight that meant that argument was not preserved for later adjudication. That meant that the Kellers have never had their case fully reviewed by an appeals court. Whether they'll get that chance now is uncertain. Their case is being reviewed by the Innocence Project of Texas, says project general counsel Jeff Blackburn. "We

believe that the Kellers are completely innocent," he said. "The problem is that because of the way this case has been handled by the previous lawyers and by the court system, we have to get through a procedural minefield to get back into court. But we are determined to do so, no matter how much money, time, or energy it takes."

Even should the Kellers ever be proven innocent, much damage has already been done — not only to the Kellers, or to the other "suspects" fingered by the children only to be cleared of any involvement, but also to the children themselves. When the Kellers were convicted and sentenced in 1992, Sandra Nash told local TV news that she would tell her son he'd done a good job. "We'll tell him that all of his pain and suffering and his coming forward has taken the power away from Fran and Danny," Nash said, "and given it back to the children." One of the other children involved in the case, Vijay Staelin, now 21, declined to be interviewed, except to briefly reiterate that Fran and Danny Keller had abused him.

During an interview at the state women's prison in Gatesville, I asked Fran Keller about Vijay's assertion. She broke down in tears. "On my life, on my children's lives," she said, "it did not happen." ■

Posted online with this story is a video produced by Jana Birchum, including excerpts from one of the child forensic interviews with commentary by psychology professor James Wood. For more on the Keller case, see "Point Austin," p.12.

"I think that if I had that case now, I'd probably ... send it to an expert. And I would decline to testify."

— Dr. Michael Mouw, who examined Christina at Brackenridge Hospital

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Lordy Rodriguez, Texas, 2006, Ink on paper, triptych 63 x 45 inches each, Courtesy of

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