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Subject: Elijah Woolley
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Dr Schmidt's Rebuttal to Dr Von Crown's ME Report

The decedent exhibits a patchy fixed lividity pattern in an anterior distribution with definitive blanching over the face, nose and mouth that is purple in coloration.

The lividity was not fixed at the time the body was documented at the scene. Compare the back of the neck on picture 139 taken at the scene with picture 34 at the time of the autopsy. The neck is now red, while it was pale at the scene. This means lividity shifted, which means it wasn't fixed. This picture is in the Powerpoint presented in court, and I believe it was discussed at the time.

The fact that the lividity is fixed and there was rigor mortis present shows that the decedent had been dead for a period of time before being discovered.

Which he does not specify, because he can't. He is speculating that "a period of time" elapsed from death but does not give a time frame. There is a false statement here, i.e., that lividity was fixed. As I pointed out in court, and as demonstrated in the pictures of the scene and autopsy, the pictures of the neck demonstrate that lividity was not fixed when the body was documented at the scene. Rigidity develops and disappears at a similar rate in all muscles, but you notice it in small muscles first because of their decreased mass. That the mouth could not be opened could in fact still mean that death occurred shortly before he was found. It is very common for the mouth to become rigid quickly, especially in children.

The blockage of the nose and mouth could easily cause suffocation. Elijah is a 14 months old toddler and could easily have rolled himself out of this position (a milestone generally reached at 4 to 6 months of age). Possibilities to explain why the decedent would not roll out of this position would include that he was restrained in some manner or was already dead when placed in this position.

This is speculation, because there is no evidence or reason to think any of these things happened. The absence of certain findings is as important as their presence and he ignores other possibilities. There are no abrasions on the face, or other injuries, that indicate that any pressure was applied to the face. There is a process in medicine called differential diagnosis. He clearly did not entertain other conditions, such as sudden cardiac death. His use of the term "possibilities" is dishonest and disingenuous. He limits himself to one, and doesn't say that there are indeed other reasons, and that he has no proof of restraint "in some manner", whatever that was, or placed in that position after death. There is an undertone of malignancy in speculation like this, especially when you know there are other, benign (such as it is) reasons for sudden pediatric death.

Autopsy photograph DSC 0027 (CD ROM entitled Photos Woolley Elijah 181620 Office of the Chief Medical Examiner Folder 1801620 Exam) shows abrasion of the lower lips

with a centralized impression from the upper Incisors; there Is contusion of the mucosal surface of the upper lip matching the teeth; a frenula contusion;

There are no abrasions of the lower lips - they are red because they are congested. Niblo doesn't mention them, and I don't see them either. The centralized impression of the lower lips is due to the lip getting caught under the upper incisors during the agonal process and are blanched due to the pressure of the teeth. This sometimes happen as death occurs, even in adults. It is obvious in pictures like 142 of the child's face taken at the scene: you can clearly see the lower lip caught in the upper teeth. Niblo describes the indentations in the lower lip but didn't think they were inflicted injuries. There is no contusion of the upper lip that matches the teeth - he used the plural too. I discussed the frenulum in my report - that it is intact, and has an erosion on its surface, which is barely visible.

hemorrhage along the gumline of the upper incisors consistent with luxation (dislocation) of the teeth

Of all the comments Von Crowns makes, this one is particularly galling. Niblo describes the dentition as being natural and in good condition. I agree - the teeth look fine. He is implying that a lot of people, including Niblo, missed loose teeth, for if they were dislocated, the teeth would be loose. As part of the autopsy process, you open the mouth and look in it. If there are any loose teeth, you can even completely dislodge them. The teeth look firmly implanted in their sockets. He has basically impugned Niblo's observations with this comment, because he sees "loose teeth", and no one else did. And he wasn't even there to feel whether or not the teeth moved. He doesn't know that there's hemorrhage along the gumline - there is no section to confirm that's what it is, and, in any case, that periodontal hyperpigmentation is common. He doesn't do a differential diagnosis here either, It could be hyperpigmentation from another source. In fact, it probably is, because the pigmentation is much fainter in the right upper teeth, it only compasses the periodontal line on the right upper teeth, is most intense in the interdental spaces, and is absent from the lower teeth. There is also no hemorrhage in the maxilla itself - if you look at autopsy picture 27, you can see pearly white bony prominences over the teeth. This is the most protuberant part of the upper arcade and maxilla, and there is no hemorrhage even though you would expect it to be present in the most prominent part of the mouth, where it would be subject to the greatest pressure if the mouth had been forcefully obstructed.

These findings all represent trauma from the lips being forcefully pressed against the teeth and the teeth being moved out of place which is significant for suffocation/smothering in which the face is either forcefully pressed into something (I.e. mattress) or an object (i.e. pillow) is forcefully pressed over the face.

So the teeth moved out of place! Without evidence of it. And Niblo, the investigators and everyone who saw this child's body missed this. And which teeth moved? Going back to picture 142, the upper teeth are firmly clenching the lower lip, which loose teeth would not do. This is extraordinary. You don't often see such dissonance between what you see versus what you say.

The hemorrhage at the base of the skull could possibly represent trauma from overstretching of the muscles.

More speculation, because doesn't know and can't confirm it. And he doesn't disagree it is probably a dissection artifact. This is another speculative leap.

The hemorrhage along the back most likely represents a blunt trauma impact.

But he doesn't know either, and doesn't mention that it is a different color from that seen in the neck, and avoided commenting on the lack of a microscopic section to assess what it actually is. But, as I comment below, Von Crowns discounts histology as a diagnostic observation.

Smothering is a difficult diagnosis to make at the time of autopsy, the findings can be subtle to nonexistent. The findings of injuries to the mucosa of the lips is often the only finding at the time of autopsy.

And if you are not sure, then you say so. And it is not ok to make up stuff like shifting teeth and stretching neck muscles and abraded lower lips which even the prosecting pathologist doesn't describe.

The injuries about the anus consisting of lacerations and contusions are representative of penetrating trauma from a blunt object. Photograph 0040 clearly demonstrates the injuries. In the photograph there are clearly areas of contusion and lacerations with associated areas of hemorrhage. Histologlcaily the microscopic sections show dilated blood vessels and evidence of injury consisting of focal hemorrhage. In the recut sections I received I do not see any hemosiderin laden macrophages, but if they are present this would also be significant for possible trauma. The fact that there is not significant hemorrhage in the sections that were sampled Is of no consequence due to the Injury clearly being seen grossly in the photographs.

I commented on the anal findings in my report. Once again, he does not consider a differential diagnosis, like tears due to constipation and the development of anal fissures and hemorrhoidal venous pooling - the latter is very nicely shown in the slides. To say that "significant hemorrhage in the sections is of no consequence because you can see it in the gross phototographs" is wrong, not only as in simply wrong, but also in the epistemic sense. The essence of pathology is that, to confirm a gross diagnosis, you have to look at the tissue under the microscope. It is one of the tools that is part and parcel of the practice of pathology. If you see something else under the microscope, then you didn't confirm what your gross or eyeball impression was. As an example, if you have a hyperpigmented lesion of the skin, such as a mole, you can't say its malignant or benign until you look at it under the microscope. There is a common lesion in children called a mongolian spot which looks like a bruise - if you don't take a microscopic section, you often can't differentiate it from latter. If what you think is hemorrhage grossly, or an injury, and it doesn't have a microscopic pattern that confirms it, then it is not an injury or hemorrhage.

I think that the prosecutor talked to Crowns before he wrote the report because the bias shown in his conclusions is extraordinary. He not only did not directly address most of the issues I brought up, but succeeded in saying that Niblo made significant mistakes because she missed items like loose teeth and abrasions on the lower lips. I find it difficult to understand how you can affirm there are loose teeth, or injuries in the absence of microscopic

evidence with the aplomb Von Crowns does. Regardless of interpretive issues with Niblo's report, Von Crown's report basically states that Niblo missed basic, significant observations, ones that could only be made if you were physically present to, for example, palpate the teeth and assess their mobility. He was not there. I am mystified by some of his conclusions.

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