

CHAD EVANS WRONGLY CONVICTED COMMITTEE

71 Sullivan Street, Keene, New Hampshire 03431

www.chadevanswronglyconvicted.org committee@chadevanswronglyconvicted.org

13 October 2011

RE: Requesting re-investigation of Chad Evans
case

Jeffery Strelzin
Senior Assistant Attorney General
Department of Justice
33 Capitol Street
Concord, NH

Dear Mr. Strelzin,

Before all else, please know that from the day that Chad Evans met Kassidy Bortner on Friday, June 9, 2000, until her death on Thursday, November 9, 2000, Chad loved her and never hit nor spanked her. Let's work together to see how the jury's understanding of Chad Evans came to be so radically different from mine and from the people who know him, and how he was convicted.

Ten years ago this December, Chad Evans was wrongly convicted of Second Degree Murder, five counts of Second Degree Assault, and one count of Child Endangerment, all against Kassidy Bortner, and one count of Second Degree Assault against Amanda Bortner.

Since then, there have been several related legal proceedings:

1. Direct appeal to the New Hampshire Supreme Court.
2. Sentence Review Board increase of his sentence from 28 years to life to 43 years to life.
3. Appeal of the Sentence Review Board decision in the State Courts.
4. Civil lawsuit against Chad by Jeff Marshall.
5. Failed appeal of the decision by the Rochester Police Dept., upheld by the Rochester District Court, to destroy his valuable gun collection, instead of returning it to his former wife, and mother of his son, Kyle, so she could sell it to assist with Kyle's upbringing.

6. Eviction proceedings against a tenant at Chad's former home, which he was finally forced to sell to pay for legal costs.
7. Motion for Federal Habeas Corpus relief in the Federal courts against the 15 year increase in his sentence by the Sentence Review Board.

During all these legal efforts, he made the best decisions he could in order to work with his attorneys and heed the advice of others who knew the legal system far better than he did. By remaining in prison for ten years for something he didn't do, he has paid a heavy price for mistakes that everyone in this process has made, including his own.

This letter presents 46 reasons for re-investigating Chad's case, which show the flaws in his conviction or the facts of his innocence. Many of these arguments may have to be presented later to a court, but they are presented here in the hope that you will want to see justice done now without having to request a judge's order in whatever proceeding might be available such as Motion for New Trial, Writ of Coram Nobis or Writ of Habeas Corpus. Some of the reasons presented below for a re-investigation might not be recognized in a judicial proceeding, but which are good reasons nonetheless, and should appeal to your interest in truth and justice. These 46 reasons are presented by citizens to an executive branch of government, just as any other request for redress of grievances is presented, and they should be considered on their own merits regardless of whether a judge might act positively on them.

In his campaign for justice, which can be said to have begun in the Spring of 2010, when the Chad Evans Wrongly Convicted Committee was created, Chad Evans is doing what he was advised not to do at several of the proceedings mentioned above, which is to proclaim to the world his innocence to all the charges against him.

Below are listed the 46 reasons for this request by the Chad Evans Wrongly Convicted Committee for a re-investigation of the Chad Evans case.

1. Medical records show that Kassidy Bortner had two doctor appointments, on August 10, 2000 and September 11, 2000, which were during the period of Child Endangerment and Assault charges against Chad. The records of those appointments were in the possession of the prosecution's witness, Dr. Margaret Greenwald, and they were not provided to Chad's lawyers. Dr. Greenwald referred to them once when she was asked about evidence of Kassidy's easy bruising, and she said, "*There was never any previous description of that from the pediatricians.*" (p. 218 of her testimony on December 13, 2001.) [Empshais

added] See Appendices A and B for the medical records and Appendix C for Dr. Greenwald's testimony.)

2. Dr. Greenwald had issued a "Report of Inquiry" on November 15, 2000 which stated that Kassidy's appointment with Dr. James Timoney, an orthopedic surgeon was in "*September of 1999.*" That statement was false. (Appendix D) That appointment was actually the Sept. 11, 2000 appointment referenced above, which was 41 days into the period of charges against Chad for Child Endangerment and 11 days into one of the charges of Second Degree Assault. Chad's attorneys were likely misled by the incorrect date and an entire line of investigation was not pursued.
3. When Amanda Bortner testified at Chad's trial that she last took Kassidy to a doctor, which was for her apparent pigeon-toe, "*in July,*"[2000] that statement was false. (Appendix E) As noted above, that appointment was on September 11, 2000, which was between 43 and 73 days after the time stated by Amanda. Importantly, the time stated by Amanda for that appointment was outside the period of the charges against Chad.
4. The Second Degree assault charge against Chad for his argument with Amanda on the night of Nov. 8, 2000, should not have been joined with the murder and assault cases on Kassidy. At the time of Judge Nadeau's ruling that the charges could be joined, that decision was within her discretion. However, in the subsequent case of New Hampshire vs. Ramos in 2003, the New Hampshire Supreme Court ruled that in such a case, the risks of unfair prejudice to a defendant required the separation of such charges. Even if her decision was legally correct at the time, and even if the Ramos case rule is not automatically retroactive, the prejudice resulting from the joinder of the charges in his case should be considered in this 2011 request for a re-investigation. Today, we know that the New Hampshire Supreme Court requires the separation of such charges and we are asking you to consider Chad's case in light of today's laws and knowledge.
5. The prosecutors and Chad's attorneys should have known that Dr. Greenwald's testimony regarding a lack of open wounds was doubtful, given that there was blood underneath all ten of Kassidy's fingernails, because that information was provided in the available reports. If the jury had been told about such blood and if several witnesses had been asked about such blood, the jury's understanding of Kassidy's death might have been substantially different. (Appendix F. Dr. Greenwald's testimony. Appendix G. Maine State Crime Lab March 12, 2001

report of blood under fingernails, and the March 22, 2001 DNA report showing that the blood belonged to Cassidy.)

6. Police and prosecutors should have disclosed the presence of a reddish brown stain, possibly blood, on brand new Cassidy's pink jacket, which she wore on the morning of her death. These stains should have been tested for DNA. (Appendix H contains the recording of the jacket as State Exhibit 1, and four photographs taken of the jacket at Strafford County Courthouse in 2011.)
7. Given the highly suspect motivations of inmate informants, and their responsibility for many wrongful convictions in the U.S., which are now more clear than they were in 2001, the testimony of Cory Merrill should not have been allowed. In his abbreviated testimony, he made several incriminating allegations, and no cross-examination was conducted after he committed perjury. Instructions to the jury to ignore Merrill's testimony were not enough to overcome the prejudice to Chad. Instead, a mistrial should have been requested and declared. In the alternative, cross-examination should have been permitted on the testimony Merrill had given. As with the joinder of charges issue above, Judge Nadeau's decision at the time may have been legally correct, but it caused unfair prejudice to Chad. As Chad wrote in his May 24, 2011 letter to Morrison Bonpasse, Merrill said to Chad in prison when he asked Merrill about his testimony, as best Chad could recall, "*...I'm sorry, man. I didn't want to testify, they made me... I only talked to them trying to get a deal. When they first came to me I said nothing. They promised to help me get into the program (sex offender treatment) quicker and out the door quicker. Then they wanted me to testify and I said no. They said they would get another sentence imposed if I didn't. I was stuck man.*" (Appendix I)
8. Prosecutors should have disclosed an interview at the Strafford County Jail with Adam Tuttle in November, 2000. He was a cellmate of Chad after he returned from his arraignment on Friday, November 10, 2000. The prosecutors did provide copies to Chad's attorneys of the interviews of the other inmates, John LaCroix, Eric Cook and Cory Merrill, as all three sought provide the police incriminating information against Chad in return for a benefit. Adam Tuttle met with two investigators, and he told them that he believed that Chad was innocent. He told them what Chad had said in his presence and the presence of his fellow cellmates, Craig Gautreau and Merrill. Tuttle knew Chad from before his arrest. No report of that interview and no disclosure that it occurred were provided to the defense. Enclosed as Appendix J is Tuttle's April 21, 2010 letter to me.

9. Records of the Portsmouth District Court disposition, one month prior to Kassidy Bortner's death, of charges against Jeff Marshall, of assault and criminal threatening against a third person, were not provided to Chad's attorneys. Without these records, Chad's attorneys were led to believe that Marshall's criminal record was behind him, and therefore they did not argue strongly that it should be admitted into evidence. (See Appendix K for those court records.) During his police interviews, Jeff Marshall was not asked a single question about his criminal record.
10. The jury heard New Hampshire State Police Sergeant William Magee testify that one item found in the kitchen trash basket was a package for "Mice Cube" which he stated that he believed to be a mouse poison. This was not relevant to the charges against Chad, but was apparently intentionally presented for an effect on the jury. This was prejudicial, and may have led the jury to believe that Amanda Bortner and Chad were careless about the presence of poisons around their children. In fact, "Mice Cube" is a New Hampshire-manufactured non-toxic, humane trap for mice, which can then be released outdoors. Chad began using these "Mice Cubes" when his son, Kyle, was born to ensure that Kyle did not get hurt by the old-fashioned snapping mouse traps. At the time of trial, Chad knew what "Mice Cubes" were, but it's likely that Chad's attorneys didn't know, and Chad didn't understand at the time how prejudicial such off-hand testimony could be. (Appendix L has Sergeant Magee's testimony and the photo of Chad's kitchen trash barrel and images and marketing description of "Mice Cube.")
11. Photographs of Kassidy during the period of charges were not sought or presented at Chad's trial. Approximately 15 such photographs, all of a bruise-free Kassidy, still existed at the time of his trial, including one taken 20 days before Kassidy's death. (Many more photos existed until they were unintentionally burned in August, 2001.) The only Second Degree Assault charge which was returned with a Not Guilty verdict was for the charge during the period between October 1-7, 2000 which included the period of the only photograph in the case showing Kassidy alive. That photo was Prosecution Exhibit 19, and was dated by courtroom testimony as being taken on October 1, 2000. That photograph is included in the collection mentioned above. (Appendix M of this letter contains those photographs and it is a copy of the Appendix of the enclosed copy of the book, EYE CONTACT - The Mysterious Death of Kassidy Bortner and the Wrongful Convictions of Chad Evans and Amanda Bortner, pages 683-694)

12. No video records were sought or presented at Chad's trial. The Bortner/Conley family had at least one video of Cassidy, walking. It was before Chad met Cassidy, but that image may have been helpful to the jury to understand her walking problem.
13. No timeline was presented to the jury to show the important events of Cassidy's life after she met Chad on June 9, 2000. Without such a timeline, the defense against the chronologically sequential assault charges was severely hampered. The dates of many verifiable events were left undetermined, such as the date of Jacqueline Conley's operation, at approximately the end of August, and the date of a doctor's appointment for Amanda's friend, Emily Conley. Amanda and Cassidy went with Emily to that appointment, which was in October. With the date of that appointment, Chad's attorneys could have more effectively challenged the prosecution's claim that Amanda was hiding Cassidy. That was also the appointment for which the "trampoline story" was created by Chad and Amanda.
14. No medical records for Cassidy were sought or presented at trial. This dampened any possible interest in the alternate explanations for Cassidy's declining health and death. In addition to the records mentioned above for the medical appointments (8/10/2000 and 9/11/200) during the period of Chad's indicted charges, it is believed that the Maine Medical Examiner also had the records of a pediatrician appointment on May 9, 2000 and the records of Cassidy's birth on February 4, 1999. Perhaps the Maine Medical Examiner also has the records of Cassidy's pediatrician, probably in the Sanford area, between her birth and the spring of 2000. Amanda told the police in her first interview on November 9, 2000 that her mother took Cassidy with a fever to a hospital. It has since been established that the hospital was the Goodall Hospital in Sanford, where Amanda's parents lived before moving to Auburn in the spring of 2000. The records of that hospital visit have not yet been made available to us. (Appendix N consists of the first and 21st pages of Amanda's first interview, with the reference to that hospital visit.)
15. No medical records, including optometrists, were sought for Amanda Bortner. Her vision was 20/800. The dates of medical appointments would have helped establish a timeline for the events between June 9 and November 9, 2000. Also, they would have been occasions when Amanda likely took Cassidy to public places. It has been learned that Amanda had an optometrist appointment on Friday, October 27, 2000 to order new contact lenses. She received authorization from the ASPIRE program to purchase those lenses with public

funds on October 31, 2000 and she picked up the lenses on Friday, November 10, 2000, the day after Cassidy died. Knowing these dates at Chad's trial would have been helpful in establishing exactly what happened during the fall of 2000. (Appendix O for the record of Amanda's October 27, 2000 appointment, and the ASPIRE authorization for payment for new contact lenses.)

16. The police, prosecutors and Chad's attorneys failed to obtain the records for Amanda and Cassidy Bortner as clients of the Maine Dept. of Human Services, and, in particular, its ASPIRE program, through which Amanda began working at Old Navy in early November, 2000. Amanda brought Cassidy with her during visits/appointments to DHHS in Sanford during October, 2000, and perhaps into November. The records of those appointments have now been destroyed, but Amanda's counselors can be interviewed for their recollections of Amanda and Cassidy.
17. Chad's lawyers did not present the evidence at his trial that he brought Cassidy to a family event in Belmont, New Hampshire, four days before she died, on November 5, 2000. At that event, Cassidy was observed, socially, by an elementary school nurse & five others. This event was briefly mentioned to the police by Chad's sister, Nicole, and her husband, Brandon Harvey, in their interviews on the evening of November 9, 2000. Cassidy was observed on November 5, as being tired, and with one bruise at the middle of her right cheek. On the way to that event, Chad brought Cassidy to the Dunkin Donuts in Alton and the drive-thru sales person was especially attentive to Cassidy. That salesperson could have been a witness, and a stronger witness if she had been interviewed in 2000 or early 2001. The elementary school nurse was Nicole's former mother-in-law, Gerri Harvey, and her observations were presented to Judge Nadeau in a pre-sentencing letter. (Appendix P for the police interviews of Nicole and Brandon Harvey, and the February 1, 2002 letter from Gerri Harvey to Judge Nadeau.)
18. Chad's attorneys did not present evidence that Chad had talked with his financial planner, Darren Janakis, about establishing an Individual Retirement Account (IRA) for Cassidy. Chad's sister, Nicole, discussed such plans in her police interview, November 9, 2000. (Appendix Q)
19. Chad's attorneys did not call as a witness the director of his sons' daycare/school, Susan Edgar, with whom Chad had talked a few days before Cassidy's death, about enrolling Cassidy in her school. She had agreed to waive the age requirement, but not the requirement of toilet-training, which was a

threshold Cassidy had not yet reached. Chad had explicitly asked his attorneys to interview Mrs. Edgar and to present her at his trial as a witness.

20. Chad's attorneys gave insufficient attention to the type of ball (T-ball) that hit Cassidy on November 8, 2000, despite Chad's clear statements to the police during his interrogation, that it was a "hard rubber ball," or "starter baseball." The jury was left to understand that it was a wiffle ball, the impact of which is far less than a T-ball.
21. Chad's attorneys failed to present any evidence about Cassidy's health during the fall of 2000. There was no testimony presented regarding Cassidy's "easy bruising," to respond to Dr. Greenwald's representation, cited above, that Cassidy's pediatricians had not mentioned it. There was no expert witness exploration of the brain injury effects of known accidents, including an alleged fall from Jeff Marshall's truck which caused two large bumps on top of Cassidy's head 14 days before her death, and including the hit from a T-ball the night before her death.
22. Chad's attorneys failed to present evidence about other possible causes of death, such as disease, chronic condition or toxins.
23. Chad's lawyers called no witnesses, and there was no discussion or argument that Chad's "*grabbing and squeezing*" [from the indictment] Cassidy's face in order to obtain eye contact was *in loco parentis*, and permitted by Amanda, and was privileged by law. It was not discipline, *per se*. That is, it was not intended to hurt, as physical punishments are intended to do. Amanda Bortner testified that "*He would grab her face like this, and he would say, 'Look into my eyes,' just to get her attention.*" (Appendix R) New Hampshire State law permits parents and their delegates to use physical force to punish children. (Appendix S contains Chapter 627 of the Criminal Code, including section 6 which states, "*A parent, guardian or other person responsible for the general care and welfare of a minor is justified in using force against such minor when and to the extent he reasonably believes it necessary to prevent or punish such minor's misconduct.*") This section had been interpreted in several New Hampshire Supreme Court cases prior to Chad's trial, and his holding Cassidy's face to obtain eye contact was far inside the boundaries of such force as permitted by that court. See the cases: Petition of Jane Doe (1989), In RE: Ethan H. (1992), State vs. Daniel Leaf (1993), NH vs Keith Lowe (1995), Seufert vs Seufert (1997), In Re: Craig T. and Megan T. (1999) and In RE: Samantha L. (2000).

If Chad was authorized by statute to discipline Kassidy by grabbing and squeezing her face with the intent to cause pain, then he must have been authorized to grab and squeeze her face in order to obtain eye contact to ensure that he had her attention for verbal communication. The bruising was accidental and unintentional.

No one at Chad's trial, including the prosecutors and Judge Nadeau, recognized the inherent problem of indictments under one criminal statute for actions that were privileged according to another criminal statute.

24. Chad's lawyer's cross-examination of Jeff Marshall omitted questioning him about Chad's telling Jeff around October 23, 2000 that his landscaping contracts with Chad's McDonald's restaurants would not be renewed. With such testimony, the jury could have considered Jeff's motivations regarding Kassidy.
25. Chad's lawyers failed to question the police and Jeff Marshall about the whereabouts of Kassidy's Sippy cup, and diaper bag, which were taken to Jeff Marshall's on the morning of Kassidy's death. They were not recovered in the police search of Jeff's home.
26. Chad's lawyer's failed to establish for the jury exactly what Kassidy was wearing on November 9, 2000, and how and when those clothes were removed by Jeff or others. There remains a question of whether Kassidy was wearing a 2-piece or 3-piece pajama set.
27. Chad's lawyers failed to respond to excessive and highly prejudicial pretrial publicity, including a newspaper editorial. One option would have been to request a change in venue.
28. Chad's lawyers failed to present, despite Chad's requests, any defense witnesses who knew Chad personally and who had seen him interact with Kassidy and Amanda.
29. Chad's lawyers failed to recall any of the prosecution witnesses, especially Amanda Bortner, as defense witnesses, to obtain their responses to subsequent testimony, and to present an affirmative defense. The story of the shared lives of Amanda, Kassidy and Chad was told by witnesses scheduled by the prosecutors. Chad's lawyers failed to call any defense witnesses, in addition to Dr. Michael Baden.

30. Chad's lawyers failed to verify with the Maine Poison Control hotline the specifics of the call by Jeff and/or Jennifer when Kassidy swallowed Windex during the period October 26-28. (Appendix T)
31. Chad's lawyers failed to present to the jury the facts that Chad recommended to Amanda that she take Kassidy to a doctor for her toe-in problem and on other occasions, to remove a wart from her right index finger. Chad was not blocking medical attention for Kassidy.
32. Chad's lawyers did not sufficiently argue, and present expert witnesses, that Amanda's statements to the police were in the nature of "false confession." Her recantation under oath at Chad's trial was more truthful than her police interviews. Her recantation is consistent with her document, "*My Life Story*" which was brought to Judge Nadeau's attention at Chad's trial, but which Chad's attorneys did not reference during that trial. She wrote about Chad in that document, "*He never hit her or anything.*" (p. 7) She wrote "*My Life Story*" at the suggestion of a counselor in Texas where she was living for some part of early 2001. She began writing it when she was away from Chad and away from the influence over her that was alleged by the prosecutors. (A redacted copy of "*My Life Story*" is enclosed as Appendix U, and the references to that document at Chad's trial are enclosed as Appendix V.)
33. Chad's lawyers did not ask Amanda or Jacqueline Conley about plans made by Amanda and her mother, for Kassidy to be babysat by Jacqueline over the weekend of November, 11-12, 2000, when Chad and Amanda were going to be in Maine for a business meeting. Amanda and Chad were not hiding Kassidy from Amanda's mother or from anyone else as was alleged by the prosecution.
34. Chad Evans loved Kassidy Bortner, and he was planning to marry Amanda and raise Kassidy to adulthood.
35. Chad had a biological son and a stepson and was, by all accounts, an excellent father. The jury was precluded from hearing evidence of his parenting skills.
36. Chad never hit, nor even spanked Kassidy Bortner. He didn't spank his own son or stepson either, as he did not believe in spanking as a method of discipline. He believed in communication and timeouts.
37. The police established their theory of the case within a few hours of Kassidy's death and then gathered evidence to prove their theory, rather than gathering

evidence to find causes of death and to learn as much as possible about Cassidy's health and behavior during her last five months of life. During those few hours, the police told Chad and others that Chad was the primary suspect. That statement of the police theory had the effect of stopping further fair discussion with Chad, and it implicitly encouraged witnesses to provide the police with information that confirmed their theory. People generally want to help the police solve cases and naturally tend to remember what the police want to hear.

38. The police should have interviewed additional people whom they knew had seen and/or known Cassidy during the period of the indictments, including:

Jessica Edmands – She was a close friend of Amanda, and her closest friend in Rochester.

Chet and Pam Evans – These are Chad's parents, who saw Cassidy several times, most recently at their home in Keene over the weekend of August 20-21, 2000.

Jason Evans - He is Chad's brother, who also saw Chad, Cassidy and Amanda several times.

Gerri and Steve Harvey - They are the parents of Chad's sister's husband. They saw Chad and Cassidy on Sunday, November 5, 2000, four days before Cassidy's death. Gerri was an elementary school nurse. Steve is now deceased.

Jeff Porter - He was with Amanda and Cassidy at Portland District Court, Oct. 2, 2000.

Bruce and Michele Truell - friends of Amanda and Chad who saw them with Cassidy several times.

Glen Varney - A friend of Chad who saw him with Cassidy many times when Chad took his family boating on Baxter Lake.

39. The police interviewed Chad's high school girlfriend, Barbara Brooks Hamel, with whom Chad had a troubled, off-and-on, immature relationship as a teenager. The police did not interview Mary Paquette with whom Chad lived in Rochester as a young adult for three and one-half years. She was later interviewed for Stephen Carlisle's Pre-Sentence Report, where she said that her relationship with Chad was mutually respectful and non-violent. (Appendix W)

40. Chad passed a voice-stress analysis lie detector test in July, 2010. Jeff Marshall was scheduled for a lie detector test for November 14, 2000, but he declined. Thus, Chad is the only person in the case who has taken a lie detector test. (Appendix X contains a redacted copy of the report of the test. Also included is

a list of questions which Chad brought to his test examination and which he was prepared to answer.)

41. The police should have performed a SCAN (Scientific Content Analysis) of Jeff Marshall's statement to the Kittery Police. This commonly used forensic technique is used to analyze the veracity of such statements. (Appendix Y is the redacted independent SCAN report done voluntarily for Chad by a New Hampshire private investigator, who is a former New Hampshire State Trooper.)
42. Chad was elected to the Keene Board of Education in 1991, a year after graduating from high school. He loves children and helping them to learn and grow. (Appendix Z)
43. In 1997, Chad received a "hero" award by the Union Leader and Governor Shaheen for his 1996 lifesaving rescue of three men from a burning car near Chad's home. (Appendix AA)
44. Chad was a successful manager of several McDonald's restaurants and coached many young people into becoming better employees and citizens. The police should have obtained his employment records which would have enabled them to better understand Chad, as they evaluated whether to charge him with assault and murder. Also, those records would have assisted them in assembling a timeline of Chad's life with Kassidy from June 9 through November 9, 2000. Chad's attorneys should also have obtained those records.
45. I have written the book about Chad's case, EYE CONTACT - The Mysterious Death of Kassidy Bortner and the Wrongful Convictions of Chad Evans and Amanda Bortner. The title arises from Chad's holding Kassidy's face to ensure that we had eye contact. The book concludes that Chad is innocent of crimes against Kassidy. Last July, I sent email copies to many of the police involved in Chad's case and to the prosecutors and several witnesses, and explicitly asked for feedback and corrections, and none has been received which affects in any way the conclusions of the book. Edition 2b of the book is enclosed and is available online at Chad's website, www.chadevanswronglyconvicted.org, along with most of the available documents surrounding his cases, and the case of Amanda Bortner.
46. Also available online are the collected letters from Chad to me beginning in January, 2010. To date, there are 642 pages and they tell the story of Chad's life,

his wrongful conviction, and the struggle to overcome that wrongful conviction. These letters were not written by an abuser or murderer of a child.

The primary objective of this letter is to persuade the Attorney General to re-investigate the Chad Evans case, by presenting evidence that Chad Evans did not abuse or murder Cassidy Borter, and evidence that his trial was an inadequate answer to the question of what happened to Cassidy.

Below this letter is a Proposed Plan for the Re-investigation of Chad's case. It is slightly revised from the version I sent to you by email last week. We are confident that a fair investigator who follows that plan will see that Chad Evans did not abuse or murder Cassidy, or, at the very very least, that there is considerable or substantial doubt that he could have done so. With either outcome of the re-investigation we are hopeful that the Attorney General will then request the Superior Court to dismiss the charges against Chad Evans, with or without a followup request for a new trial. If a new trial were requested, a jury would be able to consider all the evidence now available.

If we are correct that Chad did not abuse and murder Cassidy, then that leads to the second question, which is why she died. There seem to be three options:

1. Another person abused or murdered her, or
2. She died from accidents, disease, chronic condition or toxins, or
3. A combination of the above two.

While the resolution of Chad's role can be achieved without answering that second question of why Cassidy died, the resolution of that second question would also help answer the first. At Chad's trial, his lawyers tried to show that Jeff Marshall abused and murdered Cassidy, but that did not persuade the jury. There was no consideration at the trial of the other possible causes of Cassidy's death. From the first few hours of the case, the police theory of homicide was accepted as fact.

A member of the Chad Evans Wrongly Convicted Committee, Jessica Robinson, has discussed informally Cassidy's health and death with Dr. Thomas Andrew, the New Hampshire Medical Examiner. She mentioned to him several aspects which seemed to be inconsistent with the determination of homicide:

1. Several of Cassidy's internal organs were congested, which can result from the gradual shutting down of the heart.

2. The hemorrhaging in Cassidy's eyes and the abdominal injuries may have been caused more by Jeff's stomach-CPR than was previously thought. At Chad's trial, Dr. Greenwald discounted the possible injuries from that incorrect application of CPR, but she may not have known the duration of Jeff's efforts. Jessica mentioned to Dr. Andrew that the 911 Dispatcher had counseled Jeff not to continue such incorrect CPR, but that Officer Creamer observed when he arrived at Jeff's home that Jeff was still administering the stomach-based CPR.

Dr. Andrew is being sent by email a copy of this letter, with attachments.

Thank you for meeting today with me and representatives of the Chad Evans Wrongly Committee and for your consideration of this request.

Very sincerely,



CC:

Dr. Thomas Andrew (by email)
New Hampshire Medical Examiner
246 Pleasant Street, Suite 218
Concord, NH 03301

Chad Evans, #75414
New Hampshire State Prison
P.O. Box 14
Concord, NH 03302-0014

Attachment: Outline of Proposed Re-Investigation Plan for Chad Evans case

Enclosures

Appendices A - AA
EYE CONTACT - The Mysterious Death of Cassidy Bortner and the
Wrongful Convictions of Chad Evans and Amanda Bortner (Edition 2b)

OUTLINE OF PROPOSED RE-INVESTIGATION PLAN OF CHAD EVANS CASE

October 13, 2011

KASSIDY PHOTOGRAPHS

- o Examine the ten photographs of Kassidy Bortner in the Appendix of the book, **EYE CONTACT** which are believed by Chad to have been taken during the period of the charges against him, August 1- November 9, 2000.
 1. Establish the dates of those photographs through reading Chad's captions, and photo date stamping, and interviews with Chad, Amanda, and Amanda's family.
 2. Examine the photographs for indications of bruises or other injuries.
- o Ask Amanda Bortner and her mother's family to search for all other photographs and videos of Kassidy, before and after June 9, 2000, the day that Kassidy was introduced to Chad Evans. Do the same analysis as above for those photographs.

KASSIDY MEDICAL RECORDS

- o Obtain all the medical records for Kassidy Bortner which are in the possession of the Maine Medical Examiner. These records include birth records at Southern Maine Medical Center, around February 4, 1999, pediatrician appointments on May 9 and August 10, 2000, and an appointment with Dr. James Timoney, orthopedic surgeon, on September 11, 2000 and determine why those records were not provided to Chad Evans's attorneys.
- o Obtain from Amanda Bortner or her mother, Jacqueline Conley, other remaining medical records, if any. Also obtain the name of Kassidy's pediatrician during the period from her birth through May, 2000, and obtain Kassidy's records from that pediatrician.
- o Obtain from the Goodall Hospital in Sanford, Maine, the records of one or more visits or appointments at that hospital in 1999 or early 2000.

KASSIDY HEALTH AND BEHAVIOR

- o Examine all the medical records, including the autopsy, for full assessment of Kassidy's overall health from birth until death. Perhaps the New Hampshire Medical Examiner, Dr. Thomas Andrew, could designate a qualified physician to review those records.

- o Combine that assessment with a complete analysis of all the observations of Kassidy from June 9 to November 9, 2000, in order to fully understand all the possible causes of Kassidy's death and the appearance of bruises and injuries.

WITNESSES WHO WERE NOT INTERVIEWED BY THE POLICE

- o Contact and interview the following people who saw Kassidy in the fall of 2000:
 - Jessica Edmands, Amanda's best friend in Rochester
 - Chet Evans, Chad's father. Saw Kassidy at Chad's home in Rochester and at the Evans family home in Keene.
 - Jason Evans, Chad's brother. Saw Kassidy at the family home in Keene.
 - Pam Evans, Chad's mother. Saw Kassidy at Chad's home in Rochester and at the family home in Keene.
 - Gerri Harvey, mother of Chad's sister's husband. Saw Kassidy and Chad together on Sunday, November 5.
 - Jeff Porter, friend of Jason Evans and Chad and Amanda. Went to court in Portland, Maine, with Amanda and Kassidy on October 2, 2000.
- o Interview others not previously interviewed.
 - Melissa Allard, secretary to Chad Evans. She spent several hours with him on the afternoon of November 8 and could have testified about his demeanor at that time.
 - Amanda Allard, friend of Chad, and daughter of Melissa. After leaving work on Wednesday, November 8, Chad purchased an energy bar at a store and saw Amanda there. She, too, could have testified about Chad's demeanor.
 - Susan Edgar, Director of Chad's son's day care school. She talked with Chad a few days before Kassidy's death about enrolling Kassidy at the school.
 - Darren Janakis, Chad's financial planner. He talked with Chad about Chad's expressed interest in establishing an education fund for Kassidy.
- o Re-interview
 - Chad Evans
 - Amanda Bortner
 - Nicole Evans Mahoney, Chad's sister. In particular, about the November 5, 2000 family gathering where she provided several hours of care for Kassidy, and the October 20, 2000 when she took a photograph of Amanda and Kassidy.

Brandon Harvey, Nicole's former husband, who also saw Kassidy with Chad and Nicole, on Sunday, November 5, 2000 and on Friday, October 20, 2000.

NEW HAMPSHIRE STATE LAW REGARDING PARENTAL DISCIPLINE

- o Review the laws of parental discipline as applied to this case, in particular Chapter 627, section 6, which states, "*A parent, guardian or other person responsible for the general care and welfare of a minor is justified in using force against such minor when and to the extent that he reasonably believes it necessary to prevent or punish such minor's misconduct.*"
- o Review the cases which interpret that law, and the laws governing child abuse, e.g.
 - 1989 Petition of Jane Doe
 - 1992 In RE: Ethan H.
 - 1993 State vs. Daniel Leaf
 - 1995 NH vs Keith Lowe
 - 1997 Seufert vs Seufert
 - 1999 In Re: Craig T. and Megan T.
 - 2000 In RE: Samantha L.
 - 2003 In re: Juvenile
 - 2006 State vs Vogel

PHYSICAL EVIDENCE

- o Re-examine the physical evidence, in particular the reddish brown stains on Kassidy's new pink parka.
- o Explore the whereabouts of Kassidy's Sippy Cup and diaper bag which were with her at the babysitter's home on the morning of November 9, 2000.

S.C.A.N. ANALYSIS OF APPROPRIATE STATEMENTS

- o Analyze the voluntary statement of the babysitter using S.C.A.N. Analysis (Scientific Content ANalysis)

LIE DETECTOR TESTS

- o Evaluate the voice stress lie detector test which was performed for Chad Evans in July, 2010.
- o Conduct a polygraph examination for Chad Evans

- o Conduct polygraph for others who volunteer, including Amanda Bortner and Travis Hunt, who did offer in 2010 to take an fMRI brain scan lie detector test.

DOCUMENTS TO READ (both available at the website:

www.chadevanswronglyconvicted.org.)

- o EYE CONTACT - The Mysterious Death in 2000 of Kassidy Bortner and the Wrongful Convictions of Chad Evans and Amanda Bortner.
- o “Letters from New Hampshire Prison” by Chad Evans to Morrison Bonpasse, January 2010 to the present.

Proposed Re-Investigation Plan submitted to Senior Assistant Attorney General Jeffery Strelzin on October 13, 2001 by Morrison Bonpasse, Executive Director, Chad Evans Wrongly Convicted Committee.