

To: The Oregon House Committee on the Judiciary

From: David McGourty, Ph.D, Retired Licensed Psychologist

Re: Joint Resolution (HJR1) introduced by Rep. Mitch Greenlick (D-Portland) as bill promising to repeal the death penalty

Date: 02/25/2013

I have supported the work regarding Fetal Alcohol Spectrum Disorders for more than ten (10) years;. I submit this note & related documents for two reasons: 1.) To apprise Committee members regarding the American Bar Associations (ABA's) recent resolution regarding potential errors Judicial systems may well have made in adjudicating FASD individuals for crimes especially where a death penalty may be served. And 2.) To present copies of court records from the penalty phase of Gary Haugen's proceedings, Mr. Haugen being the Death Row Inmate who continues to press for execution.

The ABA's resolution makes for easy reading and is packed with information relevant to death penalty issues. On Page 7 it is noted that the FASD child is apt to have his/her first encounter with the law by the average age of 12.8 due to a variety of cognitive (e.g. diminished executive functioning abilities) and secondary behavior problems. The writer will expand on what is stated on Page 6 of the Resolution. FASD individuals often transition through the Juvenile & Adult systems without an official diagnosis. Why? They generally present as verbally fluent during initial face-to-face interactions with officials. Others do not suspect anything amiss. Only the FASD's individual's conduct is studied beyond the interview situation does the severity of his/her functioning in daily life (i.e., "adaptive skill levels") become evident. Again, the FASD individuals may pass through Educational and Justice Systems without being diagnosed or having a serious neurological disorder.

The ABA's Resolution provides recommendations from Justice Systems as to remedies for various problems. One of their recommendations is most important, namely, providing diagnostic services to assist courts, and leads to a current Oregon Case.

The documents consist of copies of select portions of the sworn testimony of Debra Combs, who is the older sister of Mr. Gary Haugen's, one of Oregon's Death Row Inmates. In reading their documents, you will see that Ms. Comb's testified that her mother used alcohol and drugs all her life until the year before she dies, and that 2-3 of Mr. Haugen's siblings also have displayed the explosive, sustained temper that he has. Including Ms. Comb's herself. None of the parties involved in the Penalty Phase seemed to accept the suspicion that Dr. Muriel Lezak had that Mr. Haugen may evidence a FASD, and pursue the additional diagnostic testing she recommended. (An MRI- based diagnostic procedure has been developed at the clinic of Washington to determine whether wall-formation associated with FASD is present.)

The question this poses for the Committee is this... Is Oregon to execute a man who may well have FASD, who has not been provided a thorough diagnostic assessment and has, in turn, been denied the opportunity to present this as a "mitigating factor" in his sentencing? FASD being a neurological disorder with high intensity, sustained episodes maybe occurring.

Thank you for your time,

David McGourty, Ph.D.

David McGourty Ph.D., Retired Licensed Psychologist

AMERICAN BAR ASSOCIATION
COMMISSION ON YOUTH AT RISK
COMMISSION ON DISABILITY RIGHTS
COMMISSION ON HOMELESSNESS AND POVERTY
DEATH PENALTY REPRESENTATION PROJECT
HEALTH LAW SECTION
JUDICIAL DIVISION
ALASKA BAR ASSOCIATION

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

- 1 RESOLVED, That the American Bar Association urges attorneys and judges, state,
2 local, and specialty bar associations, and law school clinical programs to help identify
3 and respond effectively to Fetal Alcohol Spectrum Disorders (FASD) in children and
4 adults, through training to enhance awareness of FASD and its impact on individuals in
5 the child welfare, juvenile justice, and adult criminal justice systems and the value of
6 collaboration with medical, mental health, and disability experts.
7
8 FURTHER RESOLVED, That the American Bar Association urges the passage of laws,
9 and adoption of policies at all levels of government, that acknowledge and treat the
10 effects of prenatal alcohol exposure and better assist individuals with FASD.

REPORT

Introduction

Fetal Alcohol Spectrum Disorders (FASD) is a serious problem in the U.S., adversely affecting a very large number of children and families, and in recognition of that the U.S. Senate has annually, since 2004, passed a resolution designating September 9th as National Fetal Alcohol Spectrum Disorders Awareness Day. In 2011 Senate Resolution 259¹ called upon the people of the United States to promote awareness of the effects of prenatal exposure to alcohol, to increase compassion for individuals affected by prenatal exposure to alcohol, to minimize the effects of prenatal exposure to alcohol to

¹ The language of the Senate Resolution includes these observations: "...fetal alcohol spectrum disorders are the leading cause of cognitive disability in Western civilization, including the United States, and are 100 percent preventable...fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime".

ensure healthier communities across the United States, and to observe a moment of reflection during the ninth hour of September 9, 2011 to remember that during her nine months of pregnancy a woman should not consume alcohol.

The Report provides background on FASD and discusses its impact on the justice system, the child welfare system, and the disability benefits system. It also describes approaches to improving the various problems identified in individuals with FASD who are in these systems. In addition, it highlights current initiatives that are in place to benefit individuals with FASD.

The essential focus of this Resolution is to encourage: improvement in the civil, juvenile, and criminal legal representation for persons with FASD; increased access to FASD expert screening and assessment; attention to the over-abundance of FASD-affected persons in foster care, juvenile delinquency cases, adult criminal proceedings, and correctional facilities; and the use of FASD knowledge in court for the mitigation of sentencing and alternatives to incarceration and execution, including therapy and comprehensive services to rehabilitate and reduce recidivism. *Neither the Resolution nor this Report should be construed as suggesting that use of alcohol during pregnancy is, or should be, a criminal act.*

The ABA House of Delegates has not previously addressed the issue of FASD. FASD is a disability that cuts across all age ranges, and it is a lifelong disability. There are unique concerns and problems facing children and youth with FASD that need to be addressed. This includes the very large numbers of children with FASD in both the foster care and juvenile justice system, as well as in the adult criminal justice system and correctional institutions. The focus of the ABA Commission on Youth at Risk is on youth, and that is the reason for its principal sponsorship of this Resolution. Given the unique nature of FASD, this Resolution, while addressing and focusing on issues that impact children with FASD, also contains suggestions for actions that would benefit adults with FASD.

This Resolution and its accompanying Report provides a road map, for legal professionals, lawmakers, and those in government who deal with youth at risk, to increase awareness of FASD. It also encourages federal, state, territorial, tribal, and local law and policy makers to implement laws and policies that reflect the serious effects of prenatal alcohol exposure.

Types of Fetal Alcohol Spectrum Disorders

FASD is a group of conditions that can occur in individuals whose mother drank alcohol during pregnancy.² FASD can result in birth defects, growth and development deficits,

² National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert, Fetal Alcohol Spectrum Disorders: Understanding the Effects of Prenatal Alcohol Exposure, No. 82.

cognitive and learning issues, executive functioning problems, difficulty remaining attentive, and problems socializing, as well as other behavioral issues.³

The correlation between maternal alcohol consumption during pregnancy and deficits in physical and mental development were first identified in the early 1970s.⁴ The first common symptoms identified among children who had been prenatally exposed to alcohol were growth deficiencies and developmental delays.⁵ Shortly thereafter Kenneth L. Jones, et al., found similar physical characteristics in these individuals.⁶ They included similar patterns of craniofacial, cardiovascular, and limb defects.⁷

A follow-up study followed 11 children whose mothers drank heavily during pregnancy and found many common features among this cohort.⁸ Among this small sample population, all children displayed growth deficiencies (for height, weight, and head circumference), their abnormal craniofacial features had not changed over the past decade, and they all had below-normal intellectual development.⁹ Most of these children had low IQ scores and 8 were either mildly or severely handicapped.¹⁰

Since that time, several disorders related to fetal alcohol exposure have been identified. There are several types of FASD, including Fetal Alcohol Syndrome (FAS), Partial FAS, Alcohol Related Neurodevelopmental Disorders (ARND), and Alcohol Related Birth Defects (ARBD).¹¹ These four diagnoses share certain characteristics and fall within the broader category of FASD.¹² All but ARBD involve significant brain damage.

FAS is the most severe of the conditions that constitute FASD. An FAS diagnosis requires three specific deficits:¹³ a characteristic pattern of facial abnormalities known as facial dysmorphism, such as a smooth ridge between the nose and upper lip;¹⁴ growth deficits, such as lower than average weight and/or height;¹⁵ and central nervous system abnormalities or brain damage.¹⁶ The latter may include a diagnosis of Attention Deficit Disorder (ADD) or Attention Deficit Hyperactive Disorder (ADHD).¹⁷

³ *Id.* On March 29, 2012 U.S. Senators Johnson, Murkowski, Inoye, and Begich introduced S.2262, the *Advancing FASD Research, Prevention, and Services Act*, that addresses many of the issues included in this Resolution and Report.

⁴ Kenneth L. Jones, David W. Smith, Christy N. Ulleland, & Ann Pytkowicz Streissguth, *Pattern of Malformation in Offspring of Chronic Alcoholic Mothers*, THE LANCET, June 9, 1973, at 7815.

⁵ C. N. Ulleland, *The Offspring of Alcoholic Mothers*, 197 ANN. NY ACAD. SCI. 197 (1972).

⁶ Medically referred to as aberrant morphogenesis.

⁷ Jones et al., *supra* note 4.

⁸ Ann Pytkowicz Streissguth, Sterling Keith Clarren, & Kenneth Lyons Jones, *Natural History of the Fetal Alcohol Syndrome: A 10-Year Follow-up of Eleven Patients*, THE LANCET, July 13, 1985, at 85.

⁹ *Id.*

¹⁰ *Id.*

¹¹ National Institute on Alcohol Abuse and Alcoholism, *supra* note 2.

¹² It is important to note that FASD is not a diagnosis; it is a broader category of related diagnoses.

¹³ National Institute on Alcohol Abuse and Alcoholism, *supra* note 2.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 1.

¹⁶ *Id.*

¹⁷ *Id.*

While generally, individuals with FAS tend to be the most impaired, with more severe physical and cognitive issues than individuals with other forms of FASD,¹⁸ those with Partial FAS and ARND tend to show the most severe secondary disabilities.¹⁹ FAS alone costs the United States approximately \$5.4 billion each year in direct and indirect costs.²⁰ It is also the leading cause of non-genetic intellectual disability in the United States.²¹

Partial FAS includes some of the signs and symptoms of full FAS but not all.²² Individuals with Partial FAS typically still present with physical and emotional deficits, but do not have all of the physical characteristics listed in the FAS diagnostic guidelines. ARND includes central nervous system abnormalities and other cognitive/behavioral problems, but none of the outward physical abnormalities.²³ Individuals with partial FAS and ARND present with cognitive issues that can be as severe as those seen in FAS. ARND is a rarely-used diagnosis that only identifies alcohol related physical abnormalities outside the central nervous systems (e.g., skeletal or organ abnormalities).²⁴

The prevalence of full FAS and FASD has been examined in several studies. In one, the prevalence of full FAS in the U.S. was estimated at 0.5-2.0 cases per 1000 births.²⁵ The estimated rate of alcohol-affected births was estimated to be 5 to 10 times higher, close to 1% of newborns.²⁶ A more recent study reported the FAS prevalence in the U.S. to be at least 2 to 7 cases per 1000 births, with all levels of FASD estimated as high as 2-5% among younger school children.²⁷ There is currently an NIAA initiative to establish more accurate estimates of FASD prevalence.

The intent of this Resolution is to spur development of programs for those living with FASD and their families. This should especially include youth transitioning from foster care and juvenile justice systems, since those with FASD are especially vulnerable to

¹⁸ *Id.*

¹⁹ Streissguth, A., Barr, H., Kogan, J., & Bookstein, F. (1966). Understanding the occurrence of secondary disabilities in clients with fetal alcohol syndrome (FAS) and fetal alcohol effects (FAE). Final Report: Centers for Disease Control and Prevention Grant No. R04/CCR008515.

²⁰ National Organization on Fetal Alcohol Syndrome, FASD: What Everyone Should Know, <http://www.nofas.org/MediaFiles/PDFs/factsheets/everyone.pdf>.

²¹ National Institute on Alcohol and Abuse and Alcoholism, *The 10th Special Report to the U.S. Congress on Alcohol and Health: Prenatal Exposure to Alcohol*, No. Publication No. 00-151583 (2000); Amy M. Schonfeld, Blari Paley, Fred Frankel, and Mary J. O'Connor, *Executive Functioning Predicts Social Skills Following Prenatal Alcohol Exposure*, 12 CHILD NEUROPSYCHOLOGY 439 (2006).

²² National Institute on Alcohol Abuse and Alcoholism, *supra* note 2, at 1.

²³ *Id.*

²⁴ *Id.*

²⁵ NIH Fact sheet; P.A. May & J. P. Gossage, *Estimating the prevalence of Fetal Alcohol Syndrome: A Summary*, 25 ALCOHOL RESEARCH & HEALTH 159 (2001).

²⁶ Diane V. Malbin, *Fetal Alcohol Spectrum Disorder (FASD) and the Role of Family Court Judges in Improving Outcomes for Children and Families*, JUVENILE & FAM. CT. J. 52 (2004).

²⁷ Philip A. May, J. Phillip Gossage, Wendy O. Kalbert, Luther K. Robinson, David Buckley, Melanie Manning, and H. Eugene Hoyme, *Prevalence and epidemiologic characteristics of FASD from various research methods with an emphasis on recent in-school studies*. Dev Disabil Res Revs, 15: 176-192 doi: 10.1002/ddrr.68 (2009).

physical and sexual abuse. One study of over 400 individuals with FASD found that 72% had been abused, either physically or sexually.²⁸

Cause of FASD

FASD is caused by prenatal alcohol exposure. There is no safe amount of alcohol to drink during pregnancy, and even small amounts of alcohol may have an impact on fetal brain development.²⁹ A U.S. Surgeon General's 2005 advisory states that: pregnant women should *not* consume alcohol during pregnancy; pregnant women who have already consumed alcohol while pregnant should *stop* to minimize risk; and women who are *considering* becoming pregnant should not drink alcohol.³⁰ In addition, former Surgeon General Carmona recommended that health professionals routinely ask women of child bearing age about their alcohol consumption and advise them not to drink during pregnancy, noting that this is of particular importance since about half the births in the United States are unplanned.³¹ Many professional medical association guidelines also indicate that women should not drink alcohol during pregnancy.³²

Although any prenatal alcohol exposure presents a risk, there does seem to be a correlation between the amount of alcohol a woman drinks during pregnancy and the likelihood her child will have FASD.³³ Some women who consume alcohol heavily during pregnancy do not have a child with FASD.³⁴ However, typically, the more a woman drinks during pregnancy, the higher the risk her child will have FASD and the more severe that child's symptoms will be.³⁵

Diagnosis and Treatment

There are several diagnostic guidelines for FASD, each of which list characteristics required for a FAS, partial FAS, ARND, or ARBD diagnosis. Despite these guidelines, there are still challenges to diagnosing individuals with these disorders. It may be particularly difficult to diagnosis less severe cases of FASD. Individuals with FASD do not always present with observable physical characteristics, making it more difficult to diagnose them.³⁶ In addition, one of the most helpful ways to diagnose FASD is when

²⁸ Ann Streissguth, *Attaining Human Rights, Civil Rights, and Criminal Justice for People with Fetal Alcohol Syndrome*, TASH NEWSLETTER, September 1998, at 18.

²⁹ U.S. Surgeon General, Surgeon General's Advisory on Alcohol and Pregnancy, 2005, available at <http://www.surgeongeneral.gov/pressreleases/sg02222005.html>; Claire Coles, *Discriminating the Effects of Prenatal Alcohol Exposure From Other Behavioral and Learning Disorders*, 34 ALCOHOL RESEARCH AND HEALTH 42 (2011).

³⁰ U.S. Surgeon General, Surgeon General's Advisory on Alcohol and Pregnancy, 2005, available at <http://www.surgeongeneral.gov/pressreleases/sg02222005.html>.

³¹ *Id.*

³² See e.g., American College of Obstetricians and Gynecologists.

³³ Susan E. Maier & James R. West, *Patterns and Alcohol-Related Birth Defects*, National Institute on Alcohol Abuse and Alcoholism, available at <http://pubs.niaaa.nih.gov/publications/arh25-3/168-174.htm>.

³⁴ This may be due to a number of factors including, but not limited to, genetic susceptibility, maternal metabolism, drinking patterns,

³⁵ Maier, *supra* note 33.

³⁶ Malbin, *supra* note 26.

there is confirmed prenatal alcohol exposure; however, mothers are often reluctant to admit they drank alcohol during pregnancy due to a sense of guilt or shame.³⁷

Individuals with FASD may have IQs that are in the average range and appear to have good verbal skills, making it more difficult to recognize FASD.³⁸ Although these individuals may not have obvious symptoms or characteristics, they typically exhibit adaptive behavior and other deficits that make it difficult for them to function at an age appropriate level.³⁹

There is no cure for FASD, and the deficits associated with these disorders follow children into adulthood.⁴⁰ That being said, early intervention and treatment services may improve a child's development. Strategies include medication for some symptoms, behavioral and educational therapies, special education, social services, and the support of a nurturing and loving environment.⁴¹ These interventions are most effective when a child is diagnosed before age 6.⁴² Children with FASD who were involved in intervention programs to improve social skills showed improvements in both knowledge and behavior.⁴³

It is critical that comprehensive resources be allocated for early identification, diagnosis, intervention, and treatment for those with FASD. Given the array of problems individuals with FASD face, and the importance of early intervention, it is vital that professionals become aware of the issue so that appropriate services can be provided.

Impact on the Justice System

Children with FASD are at high risk of getting into trouble with law. One study looked at FASD in alleged juvenile offenders in British Columbia, Canada during 1995. All youth from the juvenile court who were sent to the Inpatient Assessment Unit for purposes of a psychological and psychiatric study were also assessed for what was then called FAS/FAE and is now called FASD. Of the 287 youth seen over a year's time, 23.3 % had an alcohol-related diagnosis (FASD). The authors also found, among youth in juvenile facilities, an astounding 40 times the expected rate of individuals with FASD.⁴⁴

³⁷ Kenneth Lyons Jones & Ann P. Streissguth, *Fetal Alcohol Syndrome and Fetal Alcohol Spectrum Disorders*, 38 J. PSYCH & L. 373 (2010).

³⁸ Natalie Novick Brown, Anthony P. Wartnik, Paul D. Connor, and Richard S. Adler, *A Proposed Model Standard for Forensic Assessment of Fetal Alcohol Spectrum Disorders*, 38 J. OF PSYCH. & L. 383, 387 (2010).

³⁹ Kathryn Page, *The Invisible Havoc of Prenatal Alcohol Damage*, J. CENTER FOR FAM. CHILD. & CTS. 1, 10-11 (2002).

⁴⁰ Blair Paley and Mary J. O'Connor, *Neurocognitive and Neurobehavioral Impairments in Individuals with Fetal Alcohol Spectrum Disorders: Recognition and Assessment*, 6 INT'L J. DISABIL. HUM. DEV. 127, 130 (2007).

⁴¹ *Id.*

⁴² *Id.*

⁴³ Mary O'Connor et al., *A Controlled Social Skills Training for Children with Fetal Alcohol Spectrum Disorders*, 74 J. CONSULTING & CLINICAL PSYCH. 639, 646 (2006).

⁴⁴ Malbin, *supra* note 26, citing Julianne Conry and Diane K. Fast, *Fetal Alcohol Syndrome and Criminal Justice*, BC: Fetal Alcohol Syndrome Resource Society (2000); see also, Diane K. Fast, Julianne Conry,

Individuals with FASD have executive functioning issues that result in difficulties socializing with peers, sharing, and managing conflicts.⁴⁵ This can result in rejection, which leads to a higher probability of individuals with FASD associating with other rejected children and a higher probability that they will be involved in delinquent behaviors and have problems with the law.⁴⁶

A large study at the University of Washington found that about 60% of individuals with FASD had a history of trouble with the law and 50% had a history of confinement in a jail, prison, residential drug treatment facility, or psychiatric hospital.⁴⁷ The average age children with FASD begin having trouble with the law is 12.8 years.⁴⁸ This may be in part due to the fact that children with FASD are easily led by others and tend to be impulsive.⁴⁹

Individuals with FASD have various characteristics that put them at a greater risk of ending up in the criminal justice system. For example, as was mentioned, they are typically impulsive and have difficulty predicting the consequences of their actions.⁵⁰ In addition, given their executive functioning problems, these individuals may not always have the legal capacity to commit deliberate/intentional crimes.⁵¹ Given these characteristics:

*...[i]n the criminal context, FASD-associated problems in reflection, forming intent, and carrying out effective goal-directed behavior are directly relevant to mental state...their behavior often breaks down or decomposes in novel high-stress situations...This decomposition often leads to instinctive fight or flight reaction...neglecting previous learning experiences, consequences, and impact on themselves and others.*⁵²

Several issues surrounding individuals with FASD in the justice system include competency to stand trial,⁵³ validity of expert testimony,⁵³ and mitigation during sentencing.⁵⁴ Individuals with FASD may not understand charges.⁵⁵ Since individuals

and Christine A. Loock, *Identifying Fetal Alcohol Syndrome Among Youth in the Criminal Justice System*, *Developmental and Behavioral Pediatrics*, v. 20(5), October 1999.

⁴⁵ Schonfeld, et al., *supra* note 21, at 450.

⁴⁶ *Id.*

⁴⁷ Natalie Novick Brown, Anthony P. Wartnik, Paul D. Connor, and Richard S. Adler, *A Proposed Model Standard for Forensic Assessment of Fetal Alcohol Spectrum Disorders*, 38 *J. OF PSYCH. & L.* 383, 384 (2010).

⁴⁸ *Id.*

⁴⁹ Natalie Novick Brown, Gisli Gudjonsson, & Paul D. Connor, *Suggestibility and Fetal Alcohol Spectrum Disorders: I'll Tell You Anything You Want to Hear*, 39 *J. OF PSYCH. & L.* 39 (2011).

⁵⁰ Substance Abuse and Mental Health Services Administration: *A Fetal Alcohol Spectrum Disorders Center for Excellence. What You Need To Know: Fetal Alcohol Spectrum Disorders and Juvenile Justice: How Professionals Can Make a Difference*. DHHS Pub. No. (SMA)-06-4240 (Rockville, MD: 2007).

⁵¹ Brown, et al., *supra* note 49.

⁵² Brown et al., *supra* note 47.

⁵³ See *State v. Brett*, 126 Wash. 2d 136, 892 P.2d 29 (1995); *Castro v. State of Oklahoma*, 71 F.3d 1502 (10th Cir. 1995) (discussing who can determine whether an individual has FASD when it is unknown if the mother drank alcohol during pregnancy).

⁵⁴ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services, *Fetal Alcohol Spectrum Disorders and the Criminal Justice System*, available at www.samhsa.gov.

with FASD cannot always form the requisite intent required for certain crimes and do not fully understand the consequences of their actions, defendants with FASD may face diminished capacity issues.

In *Dillbeck v. State*, the court held that FASD should be considered in the guilt/innocence phase of the trial as well as in sentencing, noting that:

*... Evidence concerning certain alcohol-related conditions has long been admissible during the guilt phase of criminal proceedings to show lack of intent ... then so too should evidence of other commonly understood conditions that are beyond one's control ... [w]e perceive no significant legal distinction between the condition of epilepsy... and that of alcohol-related brain damage in issue here – both are specific, commonly recognized conditions that are beyond one's control.*⁵⁶

This is significant because the court recognized the benefits of considering FASD during both the trial phase and during sentencing.

Confirming a diagnosis of FASD may be critical in designing a sentence or sentencing alternative that will be effective in reducing the risk of recidivism and will avoid causing far greater harm to a defendant with FASD than to a defendant without this disability. Because of their impairments, individuals with FASD, when confined in a jail or prison, can be more vulnerable than those who are not disabled to physical and sexual abuse, and consequently more adversely affected than others.⁵⁷

In recent years, FASD has been offered as a mitigating factor during sentencing; there are many death penalty cases in which the defendant's history suggests FASD and a diagnosis of FASD has been persuasive to juries as an explanation for otherwise inexplicable behavior. Also, in *Atkins v. Virginia*, the U.S. Supreme Court held that executing an individual with an intellectual disability violates the Eighth Amendment. In some cases this will exclude the defendant with FASD from eligibility for the death penalty. However, if an I.Q. score of 70 or below, as many states define intellectual disability, is what disqualifies a defendant from the death penalty then most of those with FASD, because of their typically higher scores, would not be covered by Atkins.⁵⁸

Children and adults with FASD are becoming involved in the justice system at an alarming rate. The unique characteristics of these individuals warrant additional attention.⁵⁹ This Resolution encourages increased awareness of FASD among attorneys, judges, other court professionals, and court appointed advocates.

⁵⁵ See *Dunn v. Johnson*, 162 F.3d 302 (5th Cir. 1998); *People v. Flemming*, 2003 WL 21675890 (Mich. App.); *State v. Lee*, 220 Wis. 2d 716, 583 N.W. 2d 674 (Ct. App. Wisc. 1998).

⁵⁶ *Dillbeck v. State*, 643 So. 2d 1027 (Fla.).

⁵⁷ Kathryn A. Kelly, "Fetal Alcohol Spectrum Disorders and the Law," in *Prenatal Alcohol Use and FASD: Diagnosis, Assessment and New Directions in Research and Multimodal Treatment* (Susan A. Aduabato and Deborah E. Cohen, eds), 2011.

⁵⁸ *Atkins v. Virginia*, 536 U.S. 304 (2002).

⁵⁹ Timothy E. Moore & Melvyn Green, *Fetal Alcohol Spectrum Disorder (FASD): A Need for Closer Examination by the Criminal Justice System*, 19 CRIM. REPORTS 99 (2004).

These individuals are urged to utilize existing screening tools to identify clients with FASD.

Attorneys, judges, bar associations and law school clinical programs, as well as all other persons and entities involved with youth at risk, juvenile justice, or adult criminal court, should also support training and develop enhanced awareness and understanding of FASD. This can be accomplished by collaborating with medical, mental health, and disability experts on training to enhance representation for individuals with FASD. Current initiatives that strive to achieve such successes are discussed later in this Report and can be used as potential models.

Courts should also be considering FASD disability as a factor in mitigation with juvenile and adult offenders during sentencing, particularly where the death penalty is an option. This mitigating factor should also be applied when considering alternatives to incarceration, including therapy, community-based programs, and other non-custodial measures, in order to rehabilitate the individual and reduce recidivism.

Impact on the Child Welfare System

A large study of over 400 individuals with FASD, ranging from age 6-51, resulted in various concerns about human rights, civil rights, and criminal justice system involvement for individuals with FASD.⁶⁰ An astounding 80% of children in that study had not been primarily raised by a biological parent.⁶¹ In addition, 12% of children and 60% of adolescents experienced significant school disruptions.⁶² This statistic is especially disturbing since children with FASD already face heightened academic challenges based on several of the mental and behavioral characteristics associated with FASD. It is clear that children with FASD are part of the “at-risk” population and should have access to special programs and services.

There are a disproportionate number of children with FASD in the foster care system; the rate of FAS in the foster care system is 10-15 times higher than in the general population.⁶³ In the United States, an estimated 70% of children in foster care are affected by some type of prenatal alcohol exposure.⁶⁴ This is particularly worrisome because children with FASD benefit from having a stable environment, a comfort that is, unfortunately, not available for many children in foster care.

Children in foster care are already at high risk for educational disruptions as well as behavioral and developmental issues. This is exacerbated when that child has FASD. It would be beneficial to provide training and education to foster parents on how to

⁶⁰ Ann Streissguth, *Attaining Human Rights, Civil Rights, and Criminal Justice for People with Fetal Alcohol Syndrome*, TASH NEWSLETTER, September 1998, at 18.

⁶¹ *Id.*

⁶² *Id.*

⁶³ SJ Astley, J Stachowiak, SK Clarren, & C Clausen, *Application of the fetal alcohol syndrome facial photographic Screening Tool in a Foster Care Population*, 141 J. Pediatrics 712 (2002).

⁶⁴ The National Organization on Fetal Alcohol Syndrome, *FASD in the Foster Care System*, http://adp.ca.gov/women/pdf/FASD_in_the_Foster_Care_System.pdf

identify the behaviors associated with FASD, how to seek a diagnosis of the disability, and how to appropriately respond to characteristics and behaviors associated with FASD. This training could provide foster parents with information about services and programs available for children with FASD.

Full implementation is also necessary for a provision of the federal *Child Abuse Prevention and Treatment Act*⁶⁵ that was intended to provide for more effective screening and referral processes for individuals with FASD, in recognition of the importance of addressing the over-abundance of children with FASD in the child welfare system. Fully implementing that Act's existing mandate of screening and referral processes for children with FASD can help assure their early identification and hopefully prompt access to successful treatment.

Impact on Disability Benefits

Individuals with disabilities may be eligible for medical and cash benefits, such as Social Security Disability, based on their disability. Children and adults with FASD may be eligible for such benefits, but a diagnosis of FASD does not create an automatic entitlement⁶⁶ and they will be required to meet statutory criteria, and establish that such impairment exists.⁶⁷ In some cases, individuals will be required to prove that FASD severely limits their work activities, which may not be the case for many individuals with FASD.⁶⁸

Individuals with FAS or more severe FASD symptoms will have an easier time proving they are eligible for benefits. That being said, even individuals with severe cases of FAS may face difficulties establishing their eligibility because the system is complex and often difficult to navigate.⁶⁹ Also, state law and policy may not list FASD related impairments within their definitions of "developmental disabilities."⁷⁰ Individuals who seek attorney representation may have an easier time establishing eligibility and gaining access to disability benefits that will improve their quality of life.

It is important that FASD, alcohol-related neurological disorders, alcohol-related birth defects, and the effects of fetal alcohol exposure generally, be included within statutory definitions of developmental disabilities and listing of conditions that provide medical and other benefit coverage for screening, diagnosis, and treatment for those with these conditions. Law and policy makers should ensure that individuals with FASD are eligible for disability benefits and appropriate medical services. Eligibility and utilization

⁶⁵ 42 U.S.C. 5106a (b)(2)(B).

⁶⁶ Amy Gilbrough, *Eligibility for Social Security Benefits: Fetal Alcohol Spectrum Disorders*, in *Alcohol Related Birth Disorders and the Law: How Should Attorneys & Judges Respond to FASD?*, Continuing Legal Education Materials (Feb. 3, 2012).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ One state law that does include FASD as a "related condition" within the definition of developmental disabilities is Minnesota Statutes §252.27.

of these benefits and services will help improve the lives of individuals with FASD, especially youth and those transitioning out of the foster care or juvenile justice system.

Current Initiatives

There are many beneficial programs and initiatives in the United States focusing on increasing awareness of FASD among legal professionals, identifying individuals with FASD in the justice system, and ensuring that these individuals receive appropriate and necessary services. This section highlights two of these initiatives.

Seventeenth Judicial District Juvenile Court FASD Project

The Juvenile Court of Colorado's 17th Judicial District's FASD Project is working to increase awareness of FASD among judicial officers, attorneys, and court appointed advocates and use referrals as an effective tool for children in the child welfare system.⁷¹ The FASD Project screens children in the Juvenile Delinquency and Child Welfare Courts of Adams and Broomfield Counties for prenatal substance exposure.⁷² By integrating FASD screening, diagnosis, and intervention within the court system, the FASD Project is working to improve the lives of children and youth with FASD.

The FASD Project's key strategies are:

- To integrate FASD screening into Juvenile Court;
- To refer children to a diagnostic center for evaluation and a possible diagnosis;
- To meet with key players in the child's life, including parents, case workers, and probation officers, to develop individualized case plans for children with FASD; and
- To track data and monitor the success of this project.

The FASD project is so important because "it is identifying, supporting and tracking outcomes for children and youths who would otherwise have a high likelihood of failing in school, experiencing multiple placements, and re-offending or violating probation."⁷³ This project provides the necessary care for children with FASD while increasing awareness among professionals who work with these individuals to ensure that the appropriate care and services are provided.

Alaska FASD Partnership

The Alaska FASD Partnership is a statewide coalition of over 75 organizations and individuals working to prevent FASD and improve access to services for individuals with FASD. The mission of the partnership is "[t]o promote awareness, prevention, and effective life-long interventions for those affected by prenatal exposure to alcohol and their families."⁷⁴ Through seven workgroups, the partnership has been able to identify

⁷¹ Seventeenth Judicial District Juvenile Court FASD Project, Project Summary, <http://www.fasdcenter.com/files/17thJudicialDistrictColorado-Article.pdf>.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Advisory Board on Alcoholism and Drug Abuse, Alaska FASD Partnership, <http://www.hss.state.ak.us/abada/fasd.htm>.

gaps and barriers to services for individuals with FASD.⁷⁵ The workgroups develop policy and funding recommendations and strive to increase awareness about this issue.

In 2010, the partnership's first year, they were integral in establishing state funding for substance abuse treatment programs for pregnant women, parent navigation services, and greater access to services for individuals with FASD.⁷⁶ The workgroups are currently addressing several important issues, including prevention of FASD, diagnosis and access to services, the impact of FASD in the legal and education systems, and professional development.⁷⁷ Identifying these issues and establishing best practices will ensure better services and care for individuals with FASD.

The Seventeenth Judicial District FASD Project and the Alaska FASD Partnership are two initiatives that exemplify meaningful work being done around the country to serve individuals with FASD. As highlighted by this Report, legal professionals and individuals involved with youth at risk should be supporting training and awareness of FASD. In addition, lawmakers should be addressing various issues surrounding FASD to ensure that individuals with FASD have access to appropriate services and are treated fairly.

Conclusion

Given the alarming data, and the unique characteristics of individuals with FASD, there is a clear need for increased awareness of FASD. Attorneys, judges, bar associations, law schools, and other entities involved with at-risk youth, juvenile justice, and the adult criminal court should support training and awareness of FASD. These individuals should collaborate with medical, mental health and FASD disability experts to promote appropriate legal representation and advocacy for individuals with FASD and to address the over-abundance of individuals with FASD in the foster care system, the juvenile justice system and the adult criminal court.⁷⁸ In addition, courts should use FASD as a mitigating factor for juveniles and adults during criminal sentencing.

Federal, state and local law and policy makers should also enact laws and policies that reflect the serious effects of prenatal alcohol use. It is vital to increase public awareness, especially for women who are substance abusers, pregnant, or of childbearing age, about FASD to both prevent it's occurrence and to ensure that individuals with FASD, and specifically children and youth with FASD, have access to appropriate services and, if they are involved in the courts, skilled legal representation.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ In August 2010 the Council of the Canadian Bar Association approved resolution 10-02-A, which called for the "initiative of Federal, Provincial and Territorial Ministers responsible for Justice with respect to access to justice for people with FASD," urged "all levels of government to allocate additional resources for alternatives to the current practice of criminalizing individuals with FASD," urged "federal, territorial and provincial governments to develop policies designed to assist and enhance the lives of those with FASD and to prevent persistent over-representation of FASD affected individuals in the criminal justice system," and urged "the federal government to amend criminal sentencing laws to accommodate the disability of those with FASD."

Respectfully submitted,
Robert Schwartz, Chair
Commission on Youth at Risk
August 2012

General Information Form

1. Summary of Resolution

The Resolution is about the topic of fetal alcohol spectrum disorder (FASD). FASD is a group of disabling conditions that can occur in individuals whose mother drank alcohol during pregnancy. FASD can have severe consequences, including birth defects, growth and development deficits, cognitive, learning, and executive functioning problems, difficulty remaining attentive, and difficulties socializing, as well as other behavioral problems that place individuals at risk. This Resolution urges that issues be addressed, through legal/judicial action and law reforms, related to FASD and those with this condition who are involved with the criminal justice, juvenile justice, and child welfare systems. It supports reforms highlighted in current initiatives to benefit individuals with FASD.

2. Approval by Submitting Entity

The Resolution was approved by the Commission on Youth at Risk on April 4, 2012 through an e-mail vote.

3. Has this or a similar resolution been submitted to the House or Board previously?

No similar resolution has been submitted previously to the House of Delegates or the Board of Governors.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

There are no existing Association policies which are relevant to this resolution.

5. What urgency exists which requires action at this meeting of the House?

On March 29, 2012 U.S. Senators Johnson, Murkowski, Inouye, and Begich introduced S.2262, the *Advancing FASD Research, Prevention, and Services Act*, that addresses many of the issues included in this Resolution and Report. Also, the ABA Center on Children and the Law may be receiving federal funding to help work on these FASD issues, and having ABA policy on this would be helpful in orienting that work.

6. Status of Legislation

This Resolution does not support a specific piece of federal legislation (but see 5. above, which is referenced in the Report).

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates

The Commission on Youth at Risk, and the Center on Children and the Law, will plan additional opportunities to educate attorneys and judges on FASD issues, and the adoption of the policy will make it possible for the ABA to support legislation at the federal and state levels that help assure that these issues are appropriately addressed in statutory reform.

8. Cost to the Association (Both direct and indirect costs)
Adoption of the Resolution will not result in expenditures by the Association.

9. Disclosure of Interest
We are not aware potential conflicts of interest related to this Resolution.

10. Referrals
The Resolution has been referred to the following entities:

Coalition on Racial and Ethnic Justice
Commission on Domestic and Sexual Violence
Criminal Justice
Individual Rights and Responsibilities
Litigation
Law Student Division
Legal Education and Admissions to the Bar
Criminal Justice
Public Utility, Communications and Transportation Law
Public Contract Law
Real Property, Trust and Estate Law
Science and Technology
Standing Committee on Medical Professional Liability
TIPS
Young Lawyers Division

11. Contact Name and Address Information
Howard Davidson, Director, ABA Center on Children and the Law
American Bar Association, 740 15th Street, NW, Washington, DC 20005
202/662-1740 howard.davidson@americanbar.org

12. Contact Name and Address Information
Person who will present the Resolution to the House and who should be contacted at the meeting when questions arise concerning its presentation and debate:
Robert G. Schwartz, Juvenile Law Center
1315 Walnut St. Fl. 4, Philadelphia, PA 19107-470
215/625-0551 rschwartz@jlc.org (no cell phone; at meeting contact Howard Davidson at 240/437-7212)

Executive Summary

1. Summary of the Resolution

The Resolution is about the topic of fetal alcohol spectrum disorder (FASD). FASD is a group of birth-related disabling conditions that can occur in individuals whose mother drank alcohol during pregnancy. FASD can result in birth defects, growth and development deficits, cognitive and learning issues, executive functioning problems, difficulty remaining attentive, and problems socializing, as well as other behavioral issues. The Resolution urges attorneys and judges, state and local bar associations and law school clinical programs to support training to enhance understanding of this issue, its impact on individuals in the child welfare, juvenile justice, and adult criminal justice systems, and the importance of collaboration with medical, mental health, and disability experts, and to help identify and effectively assist individuals with FASD. It also urges state, territorial, tribal, and federal laws, and policies, at all levels of government, to reflect the serious effects of prenatal alcohol exposure and address the serious disabilities created by FASD.

2. Summary of the Issue the Resolution Addresses

Fetal Alcohol Spectrum Disorders (FASD) is a serious problem in the U.S., adversely affecting a very large number of children and families. There are several types of FASD, including Fetal Alcohol Syndrome (FAS), Partial FAS, Alcohol Related Neurodevelopmental Disorders (ARND), and Alcohol Related Birth Defects (ARBD). These four diagnoses share certain characteristics and fall within the broader category of FASD. FAS is the most severe of the conditions that constitute FASD and is the leading cause of non-genetic intellectual disability in the United States. Its prevalence in the U.S. is estimated to be at least 2 to 7 cases per 1000 births, with all levels of FASD estimated as high as 2-5% among younger school children. Children with FASD are at high risk of getting into trouble with law. Individuals with FASD also have various characteristics that put them at a greater risk of ending up in the criminal justice system. There are also a disproportionate number of children with FASD in the foster care system.

3. Please Explain How the Proposed Policy Position will address the issue

This resolution calls for developing training that enhances understanding of the child and adult disability of FASD, its impact on individuals in the child welfare, juvenile justice, and adult criminal justice systems, and the importance of legal collaboration with medical, mental health, and disability experts on this issue. It also urges improvement of state and federal laws, and policies at all levels of government, to reflect the serious effects of prenatal alcohol exposure. Finally, it would put the ABA on record for support of preventative measures, increased public awareness, especially for women of childbearing age and substance-abusing women generally, about FASD and the importance of preventing alcohol-related birth disorders.

4. Summary of Minority Views

We are unaware of any minority views or opposition to this Resolution.

COLLOQUY

1 **MR. HAUGEN:** It is good advice, but
2 at the same time, my granddaddy, bless his soul,
3 you know, may he rest in peace, you know, would
4 say: Hey, son. You've got to do what you've got
5 to do.

6 **THE COURT:** I know that, sir, but I
7 also want you to do things in your best interest.

8 **MR. HAUGEN:** Absolutely.

9 **THE COURT:** Make sure you consult
10 with your attorneys.

11 **MR. HAUGEN:** Thank you, Your Honor.

12 **THE COURT:** We will see you at 1:30.
13 Thank you.

14 **MR. HAUGEN:** Thank you, Your Honor.

15 (Lunch recess taken.)

16 (Jury enters courtroom.)

17 **THE COURT:** Good afternoon, folks.

18 **THE JURY:** Good afternoon.

19 **THE COURT:** Just so you're not
20 confused, and I don't think you would be -- you
21 guys are pretty savvy after this amount of time --
22 but the last witness that was called was a witness
23 for the state, and we are now back on the defense
24 putting on their evidence in their case.

25 Ms. Mooney, you may proceed.

DEBRA COMBS - D

1 MS. MOONEY: We would call Debra
2 Combs.

3 THE COURT: All right. Is she
4 present in the courtroom?

5 Ms. Combs, please come forward.

6 THE WITNESS: (Complying.)

7 THE COURT: Ma'am, our witness stand
8 is right over here just to my left, and if you
9 would face my clerk and raise your right hand to be
10 sworn.

11 THE WITNESS: (Complying.)

12 THE COURT: Thank you.

13 //

14 DEBRA COMBS,

15 having been first duly sworn, was examined and
16 testified as follows:

17 //

18 THE CLERK: Please be seated.

19 THE WITNESS: (Complying.)

20 THE CLERK: Could you state your
21 full name and spell your last name for the record?

22 THE WITNESS: Debra Lorraine Combs;
23 C-O-M-B-S.

24 THE COURT: Thank you, ma'am.

25 Ms. Mooney?

DEBRA COMBS - D

1 //

2 DIRECT EXAMINATION

3 BY MS. MOONEY:

4 Q. Good afternoon, Ms. Combs.

5 A. Hi.

6 Q. How are you doing?

7 A. Okay.

8 Q. What is your relationship to Mr. Haugen?

9 MS. MOONEY: I'll speak up.

10 BY MS. MOONEY: (Continuing)

11 Q. What is your relationship to Mr. Haugen?

12 A. He is my little brother.

13 Q. He is your little brother?

14 A. Uh-huh.

15 Q. And how many other brothers and sisters
16 do you and Mr. Haugen have?

17 A. Gary, Timmy, Matthew, Mark, Annette, me.

18 There are six with my dad and my mom.

19 Q. And what are your parents' names?

20 A. Juanita and Oscar.

21 Q. And do you also have some half brothers
22 and sisters?

23 A. I do.

24 Q. And what are their names?

25 A. Rita and my sister Teresa. And then we

DEBRA COMBS - D

1 have another brother, Samuel, that none of us ever
2 met.

3 Q. And can you explain the age relationship
4 between both you and Mr. Haugen and all of your
5 other brothers and sisters?

6 A. Gary and I are about a year and a half --
7 about a year and a half. Tomorrow is his birthday
8 as a matter of fact.

9 Q. Okay.

10 A. About a year and a half.

11 Q. And so, you're -- now, are you the oldest
12 or is there someone older than you?

13 A. My sister, Teresa, who passed away two
14 years ago, she was 16 months older than I was --
15 than I am. There's -- there's about a year or
16 so -- a year to two years in between all of us.

17 Q. Okay. So, then it's Teresa, yourself,
18 Mr. Haugen and then Tim; is that correct?

19 A. Then Tim. Then Matthew. Than Mark.
20 Then Annette. Then Rita. Uh-huh.

21 Q. And now, when you were growing up, where
22 did -- where did your family live?

23 A. California.

24 Q. And -- and did you all live together?

25 A. Up and to a certain point. Well, until

DEBRA COMBS - - D

1 our -- my parents walked out and left us and the
 2 authorities came and got us and took us to foster
 3 homes. But until -- I was probably about 8 years
 4 old. Somebody called it in. My older sister took
 5 care of all of us.

6 Q. Can you speak up -- just try and speak up
 7 a little bit more. I'm having a little bit of
 8 trouble hearing you.

9 THE COURT: I was concerned that the
 10 jury could hear. They weren't indicating. So,
 11 ma'am, just try to speak up. These people have to
 12 hear you over there. Okay.

13 THE WITNESS: Okay.

14 THE COURT: Thank you, ma'am.

15 MS. MOONEY: And this is a
 16 microphone in front of you.

17 THE WITNESS: Okay.

18 BY MS. MOONEY: (Continuing)

19 Q. Okay. So, prior to your siblings and
 20 yourself being removed to foster care, who all
 21 lived together?

22 A. Gary, Timmy, Matthew, Mark, Teresa,
 23 Annette and myself. We lived with my mom and dad
 24 when we -- before -- my mom left my dad. She
 25 walked out and my dad -- I just remember him being

DEBRA COMBS - D

1 drunk, and my sister -- sorry.

2 Q. That's okay. Just take your time.

3 A. There was a lot of violence. A lot of --
4 a lot of stuff happened.

5 Q. Can you describe a typical day at home?

6 A. Well, us kids, per my dad, were to be
7 seen and not heard. My mom spent the day cleaning
8 and ironing sheets and ironing his undershirts and
9 his -- everything had to be perfect. And us kids
10 had to be bathed, fed, and in bed before he got
11 home. And then when he would get home, my mom
12 would have his dinner ready for him and, of course,
13 us kids -- we all slept in one room and we slept on
14 cots, and -- we did have one real bed we got to
15 rotate. Whoever wasn't the bed-wetter got to sleep
16 on the bed.

17 And he -- my dad would come in, and he
18 would be drunk and he would come in the kitchen and
19 say to my mom: What is this slop? And then sling
20 it all over the walls, and then I would -- we would
21 hear the screaming and the yelling and the hitting,
22 and my mom would, like, run into the bathroom with
23 a butcher knife and be stabbing at the walls. And
24 my dad would be hiding behind us kids. And then
25 the police would come. And my dad would be really

*** Maureen Gager, RPR, CSR ***
*** Third Judicial District ***

DEBRA COMBS A-F D

1 all calm and like nothing -- like it was her. Like
2 it was my mom, you know, and -- because she would
3 be hysterical.

4 And so, it was like -- it was like living
5 in an insane asylum is what it was like, not to
6 mention some of the other things that he did which
7 later -- things happened later down the road. My
8 dad molesting me, and I'm not sure what he did.
9 There's several years during that time before we
10 went to foster homes that I don't remember.

11 Q. Now, do you recall your dad being
12 involved in any criminal activity?

13 A. Yeah. He -- before we went to the foster
14 homes, my dad was arrested for peeping Tom, and he
15 was also arrested for stealing from the U.S. Mail.
16 He used to peep in our house. I remember seeing
17 him in the windows and stuff, and I didn't know,
18 you know -- it was like -- I didn't know if I was
19 imagining it or, you know -- but yeah. He used to
20 do that to us, too.

21 Q. Now, you testified that your dad was
22 physical towards your mother; is that correct?

23 A. Uh-huh.

24 Q. And was he also physical towards you and
25 your brothers and sisters?

DEBRA COMBS - D

1 A. My brother Matthew -- one of the times my
2 dad and my mom got into a fight, my dad threw an
3 unbreakable brush and supposedly it was meant for
4 my mom, but it hit Matthew in the head, and it
5 split his head open and he lost the hearing in his
6 ear from it. And he -- he was traumatized pretty
7 bad. I guess it was about -- he was seven years
8 old in his foster home, and he was still wearing
9 diapers and -- and he was terrified of adults.
10 He -- that was -- and then my sister Teresa thought
11 that the brush was for her that -- for some reason,
12 she punished herself for years thinking that was
13 meant -- she kept saying it was meant for her. It
14 was meant for her. And I just kind of tried to
15 reassure her it wasn't meant for any of us kids,
16 you know. We had two very sick parents.

17 Q. Other than the brush incident, do you
18 recall any other incidents where --

19 A. My dad beat my mom one time she was big
20 and pregnant. And she was always pregnant it
21 seemed, you know. And the blood was -- with every
22 heartbeat, the blood was just squirting out of her
23 nose, and then he tried to run her over with the
24 car with us kids in it. And there was lots -- lots
25 of stuff like that all of the time. That was

DEBRA COMBS - T D

1 every -- that was always. I don't -- that's --
2 that was my childhood.

3 Q. And did he harm you or Mr. Haugen to the
4 point where you were unable to walk?

5 A. When we got in trouble, my dad would beat
6 us with a -- a razor strap. And one day we were
7 playing -- Gary and Tim and I were playing in the
8 playground at the school. It was not on a school
9 day. And there were teenagers in the school
10 ground, and they trapped my brother Tim up on the
11 top of the slide. And -- and so, then there was
12 just Gary and I and we were like, you know, we were
13 going to save Tim. We're going to try to get him,
14 you know, and -- from these people and they were
15 taunting him and cussing and everything else. We
16 threw rocks at them and all of this stuff and tried
17 to rescue our brother.

18 And anyway when we got home, my dad was
19 standing on the porch with a razor strap, and those
20 kids had went and told on us and said that we were
21 cussing at them and spitting, and stuff like that.
22 Well, yeah, we were trying to save our brother.
23 And so, my dad took the razor strap, and he just --
24 he beat me with that razor strap so bad that I
25 couldn't stand, and he kept telling me to go to my

DEBRA COMBS - D

1 room. And so, I crawled on my hands and knees to
2 my room because I couldn't stand up and all I was
3 trying to do was protect my brother.

4 Q. Do you recall if your dad was treated for
5 any mental illnesses?

6 A. My mom said that my dad was a paranoid
7 schizophrenic and that he had been in a mental
8 institution at one time. He used to leave -- he
9 had a bullet from an M-16. He was in the Marine
10 Corps, and he would leave that by her nightstand
11 and he would tell her that if she ever thought
12 about leaving him, that to think again and then he
13 would, like, stalk her. He would sit outside of
14 his vehicle, and he would stare at the house and
15 watch her. I don't know why.

16 He should be the one up here on trial,
17 not my brother.

18 Q. I'm going to give you a second.

19 THE COURT: Just take your time,
20 ma'am.

21 BY MS. MOONEY: (Continuing)

22 Q. What names do you recall your dad using
23 for you or your mom or Mr. Haugen?

24 A. My dad called -- he called me Dumbra
25 and -- and Lard Ass when I was little, and I

DEBRA COMBS -- D

1 remember him calling my brother Gary -- he was
2 stupid, and he wasn't going to amount to anything,
3 and he was lazy. And my brother Tim, I don't think
4 that he -- I don't think he ever said anything to
5 him. I don't -- I don't know. I don't think he
6 did, though. But I didn't understand why, you
7 know -- I mean, it made me feel stupid like, you
8 know, I just wasn't smart enough and --

9 Q. Do you recall your mom also being
10 violent?

11 A. My mom, yeah.

12 Q. And who was she violent towards?

13 A. My dad. She would fight him back. She
14 would yell and scream at him because he would
15 come -- she found all of this -- in his -- when he
16 would go off in the daytime and go to work, or at
17 least that's where he was supposed to be, he would
18 come home drunk and had been at the bars and there
19 was all kind of porno stuff in the back of the
20 vehicle. And she -- you know, accusations flew,
21 and she didn't know what he was doing but she had
22 to be home and take care of us kids and clean, you
23 know, as far as cleaning with a toothbrush. Things
24 had to be -- they had to be perfect.

25 And -- and then he would come home, and

DEBRA COMBS F D

1 he would start fighting with her. And -- like he
2 would just attack her, and I don't know if it was
3 just a way to get out of the house -- get back out
4 or -- I don't know. But she hadn't done anything.

5 Q. And was she ever violent towards the
6 children?

7 A. No. She was short with us. She was not
8 very caring. Not very loving. We ate soap a lot
9 for, you know, if we -- we had to eat soap. She
10 just wasn't -- she was never a huggy, touchy,
11 loving, feeling, caring kind of parent.

12 Q. And do you recall if your mother had any
13 sort of substance abuse problem?

14 A. Yeah. She -- my mom did. She did speed
15 until she was 7 1/2 months pregnant with me. She
16 was an alcoholic. I did not know my mom without
17 alcohol or drugs until a year before she died.
18 That was the first time of my life I had ever got
19 to see her without anything.

20 Q. And did you guys have enough to eat when
21 you were growing up?

22 A. When my dad got arrested, my -- my mom
23 took us in the station wagon, and we didn't have
24 any money and we didn't have any food. And she
25 took us behind a grocery store and there was a

DEBRA COMBS - D

1 dumpster behind the grocery store. And she told us
2 to stay in the car. And we watched a man come out
3 with a crate -- like a wooden crate thing, and it
4 had all of this produce in there. And he would set
5 one beside the trash can there and then he would
6 throw some other stuff in there. And she would
7 wait and then the door would close, and she would
8 go up the stairs and up onto -- it's like a
9 concrete platform thing, and she would get them.
10 And she would bring them back, and we would go home
11 and she would make us something to eat and -- you
12 know.

13 Q. And it sounds like at some point you were
14 placed in foster care. Right?

15 A. Yeah. They abandoned us, yeah.

16 Q. And can you recall why you were placed in
17 foster care?

18 A. My parents were unfit. They were
19 declared unfit parents, and they had -- my mom
20 walked out on my dad. She left. My dad, he
21 eventually left. The last memory I have is him
22 being drunk laying in the corner and my sister
23 Teresa feeding us peanut butter and jelly
24 sandwiches. You can imagine there is six or seven
25 kids, and I don't know how many in diapers, and she

DEBRA COMBS - D

1 took care of us. And she is only 16 months older
2 than me, so she had to be about nine -- nine years
3 old taking care of all -- she assumed the mom, you
4 know. She took care of us and tried to keep us fed
5 and changed the diapers.

6 And somebody called the police or
7 somebody turned them in, because they noticed there
8 wasn't any parents there, and we weren't going to
9 school. And -- and then we all got separated and
10 we all went to different foster homes.

11 Q. And so, let's talk about the first foster
12 home you went to. Were you at that foster home
13 with Gary -- or with Mr. Haugen and Tim?

14 A. Yeah. That was a temporary foster home,
15 the first one.

16 Q. And what was that foster home like?

17 A. I don't have very good memories of that
18 one. Those people -- one time they -- they locked
19 us outside. It was -- it was a real hot day,
20 and -- and I don't know what they were doing or why
21 we weren't allowed to be inside there. And
22 anyway -- and all I wanted was a drink of water,
23 and they wouldn't let me use the spigot outside to
24 get a drink out of the hose. I wasn't allowed to.
25 And so, I drank out of the dog's dish, and -- I

DEBRA COMBS - D

1 just wanted a drink of water. And so -- so then, I
 2 got in trouble for that and they made me come
 3 inside and kneel down on my knees on raw rice on
 4 the kitchen floor for hours and face the wall
 5 and -- because I drank out of the dog's dish.

6 And then they would make us, at night
 7 time before we'd go to bed, lay on the floor and
 8 roll so that they could hear sloshing in our
 9 stomach so -- to make sure we wouldn't wet the bed
 10 or we didn't drink anything. I just thought they
 11 were weird, you know. But, yeah, it wasn't a good
 12 experience.

13 Q. And both of your brothers were there --

14 A. Yeah.

15 Q. -- with you --

16 A. Yeah.

17 Q. -- in that foster home?

18 MR. HAUGEN: Here's a drink of
 19 water, Sis.

20 THE WITNESS: I've got one.

21 BY MS. MOONEY: (Continuing)

22 Q. At some point you were separated from
 23 your brothers; is that correct?

24 A. (Nodding.)

25 THE COURT: You have to answer out

DEBRA COMBS - D

1 loud, ma'am. Was the answer yes?

2 THE WITNESS: Yes.

3 THE COURT: Thank you.

4 BY MS. MOONEY: (Continuing)

5 Q. And eventually you and your sister Teresa
6 went back with your mother; is that correct?

7 A. No. That was the first foster home.

8 Q. Okay.

9 A. After that foster home, Gary and Tim, I
10 think, went to another -- they went to Diamond Bar.
11 They went to another foster home together. And
12 then Teresa and I went to the second foster home,
13 and we were in that one for a couple of years.
14 There was a third foster home. But the second
15 foster home was -- that one wasn't a real good
16 experience, either. The third one was a good one.

17 Q. And at some point you were eventually
18 reunited with your brothers. Correct?

19 A. When we were in the second foster home,
20 my mom had been writing letters saying that she was
21 going to come and get us. And the foster parents,
22 Myra and Tony Parlatto (phonetic) -- they turned it
23 in to the social worker people. And so, they took
24 all of the kids all -- out of all of the foster
25 homes and put us in McLaren Hall.

DEBRA COMBS - D

1 Q. Okay.

2 A. I don't know if it was Los Angeles County
3 or Almonte or -- but it's down south somewhere
4 there. And so, we all got to see each other one
5 more time and that's when I saw what had happened
6 to -- to Matthew. They had him in a crib, and they
7 had him in diapers. And he was just terrified of
8 the adults, and it was just heart wrenching what
9 had happened to him. But we all got to see each
10 other one more time before they -- then they put us
11 in different foster homes, you know. They
12 separated us all again.

13 Q. And at any point, did you have the
14 opportunity to live with Mr. Haugen and Tim?

15 A. When I was 12, my mom said that I was
16 incorrigible. She was -- she drank a fifth of
17 whiskey a day. So, her life was her bottle, and I
18 was kind of in the way. So, I went to go live with
19 my dad and Gary and Tim when I was 12 here in
20 Oregon. And Mary Lou, my stepmom, my dad's second
21 wife --

22 Q. So, at this point Oscar is now married --
23 is married to Mary Lou?

24 A. Uh-huh.

25 Q. And Mr. Haugen and Tim are in that

DEBRA COMBS - D

1 household?

2 A. Yeah.

3 Q. Okay. And how was that experience?

4 A. It was nice to see my brothers, and they
5 were happy with Mary Lou. She was pretty much the
6 only stable thing, the only normal thing I think in
7 their life. I know she was in mine when I got
8 there. My dad still -- he was there. He -- he was
9 the father. He played the part. That whole time I
10 would live there, my dad was molesting me.

11 He came -- would come down into my room
12 at night time, and I remember him wearing his white
13 terry cloth robe, and he smoked Pall Mall Golds,
14 and he would roll them around in his teeth and lay
15 them on the windowsill in my room and there were
16 burn marks. And I would just pretend like I was
17 asleep, and I tried not to breathe and I tried not
18 to move.

19 And -- and then when he was done with me,
20 then I -- I wasn't sure. I felt like -- I didn't
21 know if I imagined what he was doing. I didn't
22 know. Except I would look the next day at the burn
23 marks on the windowsill, and I'm like, I know he
24 was here. I know what he's doing. And I didn't --
25 I couldn't tell my brothers. I didn't want to hurt

DEBRA COMBS D

1 them, and I didn't know if he was doing that to
2 them. If he was doing it to me, was he doing --
3 did he do that to them. I don't know.

4 Q. And eventually you got out of that
5 situation?

6 A. Mary Lou got me out of there. She got me
7 to a safe place, and she told me not to worry about
8 it. She said: I will take care of this. Don't
9 say anything to your brothers. And she got me to a
10 place in Oregon to stay with this lady and her
11 husband, Pat and Virgil. And, yeah, she pretty
12 much saved my life, yeah.

13 MR. HAUGEN: I'da killed him.

14 BY MS. MOONEY: (Continuing)

15 Q. Did that happen when you were about 13,
16 you got out of the situation; is that correct?

17 A. (Nodding.)

18 Q. When was the next time you saw your
19 brother?

20 A. While I was staying there, I got to go
21 have a visit with Gary and Tim, and they were
22 staying with my dad at an apartment. Mary Lou had
23 left. And she still worked at the Chinese
24 restaurant, I believe, and I got to go swimming one
25 day with Gary and Tim. And I remember visiting

DEBRA COMBS - D

1 with them and just swimming and -- we just swam all
2 day long. We loved to swim.

3 And then I didn't see -- I didn't get to
4 see Gary until last year, but --- yeah. And Tim, I
5 got -- I got to see Tim in the early eighties. My
6 sister Annette wanted to meet our dad and -- but
7 she was scared and she didn't want to -- because
8 she knew what I had said to her -- what I had told
9 her. And so, she was afraid.

10 And so, I flew from California to Oregon
11 and met up with them at the airport, and her and I
12 stayed at my dad's apartment, and he stayed with
13 his third wife, Karen. And Tim came over there,
14 and they got -- and Annette got to meet Tim, and
15 the two of them bonded. And so, that felt good,
16 that they bonded.

17 But at that time, I told Tim what had
18 happened. And he -- he thought all of those years
19 that I just didn't love them anymore and that I
20 just didn't want to be around them. And -- and I
21 just told him that I'm sorry. I couldn't tell you.
22 I didn't -- I didn't want to hurt them. I didn't
23 want them to hurt anymore. I was a big girl. I
24 survived it, and I just --

25 Q. And although you didn't see Mr. Haugen,

DEBRA COMBS D

1 did you correspond with him?

2 A. Yeah.

3 Q. Did you write letters back and forth?

4 A. Yeah.

5 Q. And you knew that he was incarcerated at
6 the Oregon State Penitentiary?

7 A. Yeah.

8 Q. And at some point did you have a medical
9 emergency?

10 A. Me?

11 Q. Uh-huh.

12 A. Yeah. I had a liver transplant in 2000.

13 Yeah? So, this June will be seven years that I

14 have -- I made it seven years.

15 Q. Did any of your family members step up to
16 help you out with that liver transplant?

17 A. Yeah. Just my little brother Gary.

18 Q. No one else did?

19 A. No.

20 Q. Was it easy for your brother to get
21 approved to even get the testing from -- to become
22 a donor?

23 A. No. Not at all. It took an act of
24 congress to get him tested. I had the Extra -- the
25 people from the Extra show -- I don't know if

DEBRA COMBS - D

1 anybody knows what Extra is. I don't know. I had
2 them -- they asked to do my story. My story had
3 hit the wire and went national because I was a
4 single parent fighting for my life. The only other
5 person in my family that could possibly be a donor
6 was sitting in the penitentiary. And it was hard
7 to even ask my brother. I didn't want to ask him.
8 I didn't want to ask him. Not because I -- I
9 didn't want a part of him, because I -- I was
10 worried about his health, what would happen.
11 Especially being in prison, what would happen to
12 him.

13 Q. So, he eventually got the testing done?

14 A. So, we got the testing done. The Extra
15 people came in. They filmed. They got him tested.
16 It turns out -- I have RH factor B negative blood,
17 so it was hard to find a match for me. They said a
18 living donor would be best. I had been given six
19 months.

20 So, Gary got tested. He turned out to be
21 A negative. My dad has O negative and my mom was B
22 positive. So, he got the underlying part of my
23 dad's.

24 Q. So, in the end, you weren't a match?

25 A. No.

C DEBRA COMBS D

1 Q. How did that affect -- how did that
2 affect you guys?

3 A. It was pretty devastating for Gary. He
4 was pretty devastated. He just wanted to help me,
5 and he wanted my daughters to be able to have their
6 mom. He had bonded already with my daughters.
7 They love him. That's their uncle.

8 Q. Is that how they refer to him?

9 A. That's my brother. They know how much I
10 love my brother. They know how much he means to
11 me. Yeah. They're pretty special little girls.

12 Q. Now, I want to talk about your other
13 siblings just briefly?

14 A. (Nodding.)

15 Q. So, there's Teresa. She is the oldest?

16 A. She died two years ago.

17 Q. And do you recall Teresa having any
18 emotional problems?

19 A. Teresa was -- Teresa had an IQ of a
20 genius. Teresa was extremely intelligent, although
21 she was bipolar. And no one -- no one knew that
22 she was bipolar until shortly before she died. She
23 was diabetic, bipolar, anorexic, bulimic. Teresa
24 had a lot of -- a lot of problems, yeah.

25 Q. And how about Annette?

1 A. Annette, I believe, is anorexic. Ann
2 has some serious, serious anger issues. I'm not
3 sure if there's mental illness with Annette to be
4 honest with you. I -- I really believe that there
5 is. She has drug abuse. Her life is a shambles
6 right now. It's -- it's a mess.

7 She's repeating the same thing -- the
8 family cycle. And she's got children, and she's
9 repeating the same things. I'm seeing her do
10 the -- and she wasn't raised with us, though. She
11 wasn't raised with us, so I -- you know, my aunt --
12 my mom's sister raised her.

13 Q. And how about Tim?

14 A. Tim had some real -- I thought Tim would
15 be sitting here and not Gary. Tim was the one that
16 had the anger. He was like a walking time bomb.
17 He was extremely explosive, yeah.

18 Q. Did the system fail your family?

19 A. When we were taken away because our
20 parents abandoned us, we were taken away for a good
21 reason; they were unfit. They were both mentally
22 unstable. My dad was obviously very sick and, yet,
23 they -- they gave us back to them. Sure they
24 failed us. They failed us children, every one of
25 us. They gave us back to these people. I don't

DEBRA COMBS RE X

1 understand why.

2 MS. MOONEY: I have no further
3 questions.

4 THE COURT: Thank you.

5 Cross-examine, Mr. Hanson?

6 MR. HANSON: Thank you, Your Honor.

7 /////

8 CROSS-EXAMINATION

9 BY MR. HANSON:

10 Q. Is it Cooms or Combs?

11 Is your last name Cooms or Combs?

12 A. Combs.

13 Q. Combs.

14 Ms. Combs, it sounds like -- like you and
15 all of your brothers and sisters had an extremely
16 horrible childhood. Right?

17 A. Yes.

18 Q. In growing up with -- with your brothers
19 and the different foster homes, do you recall
20 having a closed-knitted family feeling with them?

21 A. With who?

22 Q. With your brothers and sisters?

23 A. I don't -- I'm not sure what -- what you
24 mean.

25 Q. You said you guys were -- you were taken

DEBRA COMBS - X

1 from your parents and some of the times you were in
2 foster homes together?

3 A. Right.

4 Q. Did it feel like a family at that time or
5 not?

6 A. A family, no. We were all we had. Us
7 kids were all we had, and we didn't trust the
8 adults. We didn't trust any adults because no
9 adult had showed us anything other than just
10 throwing us around and hurting us. There was no --
11 how could you trust them? They were the enemy.
12 They were the enemy.

13 Q. And, Ms. Combs, now you have kids; is
14 that right?

15 A. I do. Two girls.

16 Q. Two girls?

17 A. Uh-huh.

18 Q. Okay. And you're not married? You said
19 you're a single parent. Right?

20 A. Right.

21 Q. Okay. And where do you guys live?

22 A. Michigan.

23 Q. Okay. And do you work?

24 A. Not right now. I don't, not right now.

25 I have been going to school for my -- doing my

DEBRA COMBS - X

1 pre-nursing.

2 Q. Okay. And it sounds like you've had jobs
3 in the past, though?

4 A. Oh, yeah.

5 Q. Okay.

6 A. Yeah. In healthcare. I do healthcare.

7 Q. Healthcare?

8 A. Uh-huh.

9 Q. Is that sort of the reason why it's been
10 hard, because you're living on the East Coast,
11 really to get back and visit your brother?

12 A. Yeah. Yeah. Clear out in Michigan.

13 It's, you know, pretty hard.

14 Q. Yeah.

15 A. Yeah. We've got -- I've still got one
16 young child at home, so -- the other one is off in
17 college. She is at -- my 20-year-old, she is at Le
18 Cordon Bleu in Minneapolis, St. Paul.

19 Q. Okay.

20 A. And my youngest --

21 Q. And that's culinary-type work?

22 A. Yep.

23 Q. She wants to be a chef?

24 A. Yep.

25 Q. Okay.

DEBRA COMBS - X

1 A. That's her dream. And my 16-year-old is
2 getting -- she will be 17 next month. She's
3 getting ready to graduate a year early and go on to
4 do -- be -- she would like to be a stewardess, and
5 then she would like to do physical therapy. So,
6 they're doing very well. Uh-huh.

7 Q. So, it sounds like you're pretty happy
8 with the life you have right now with your -- your
9 daughters?

10 A. I try really hard.

11 Q. Uh-huh.

12 A. Yeah.

13 Q. How often do you think that -- I know it
14 is probably hard to estimate exactly, but how often
15 do you think that you and your brother have
16 corresponded in writing over the last 25 years?

17 A. How often?

18 Q. Yeah.

19 A. Oh, we started corresponding in the early
20 eighties -- early eighties.

21 Q. And you were --

22 A. Before I had kids.

23 Q. Okay.

24 A. Yeah.

25 Q. Do you recall when you found out that --

DEBRA COMBS ET AL X

1 that Mr. Haugen was going to be going into the
2 institution for a murder?

3 A. I found out when he was already in the
4 institution. That's -- yeah. I had found that out
5 and it was in the early eighties when I found out.
6 Somewhere in the eighties.

7 Q. And so, were you -- you would -- it
8 sounds like you're -- you guys are about the same
9 age or a little bit older?

10 A. I'm older.

11 Q. So, that was around when you would have
12 been 19 or 20?

13 A. In the early eighties?

14 Q. He was 19 when he went in.

15 A. No. Early eighties, I would have been
16 about 23. I would say about --

17 Q. Okay.

18 A. Yeah. I was born in 1960.

19 Q. From the time that -- I think the last
20 time you said that you sort of saw your brother was
21 13 years old, and was that the last time you saw
22 him?

23 A. Until last year.

24 Q. Until last year?

25 A. Uh-huh. I got to see him.

DEBRA COMBS - X

1 Q. Did you keep in touch with him during
2 that time period, from 13 years old until he went
3 into the institution?

4 A. Yeah.

5 Q. Okay?

6 A. Yeah.

7 Q. You guys were in different foster homes
8 at that time?

9 A. No. We -- no. We lived with my dad and
10 Mary Lou until my dad molested me and Mary Lou --
11 he had beaten her up, and -- and that's when we got
12 separated again. And my dad took the two boys, and
13 I went to live with the family, Pat and Virgil.
14 Mary Lou got me out of there into a safe place away
15 from my dad because she knew what was happening.
16 No.

17 Then I went -- after that, I went out to
18 California. I went back to live with my mom
19 because I didn't know what else to do. The woman
20 that I was living with, Pat, she was 28 years old
21 at the time, and she had terminal cancer. And so,
22 she was dying. She had a six-year-old son. And I
23 just wanted to go back to California. I went back
24 to my mom's into another nightmare, yeah.

25 Q. Ms. Combs, do you -- have you ever had

DEBRA COMBS APPENDIX

1 any -- yourself any sort of run-ins with the law at

2 all?

3 A. Yeah.

4 Q. Okay. Do you have any --

5 A. Drunk driving many years ago.

6 Twenty-something years ago, yeah. Problems with

7 alcohol and drugs, yeah. In the early, early

8 years, yeah.

9 Q. Since then, though, you haven't had any

10 of those kind of problems?

11 A. No.

12 Q. You were able to get over that and deal

13 with your drug and alcohol issues?

14 A. Pardon me?

15 Q. You were able to kind of get over your

16 drug and alcohol problems that you had?

17 A. Get over them?

18 Q. Right.

19 A. No. I made a major life change. Yeah, I

20 had -- my children came first.

21 Q. You did that all on your own?

22 A. On my own. I have struggled my entire

23 life to try and change what I went through so that

24 my -- no child should ever have to go through that

25 kind of stuff. No child on this earth deserves to

DEBRA COMBS - ReD

1 be treated like that. And my kids certainly didn't
2 ask to be treated that way and they were not going
3 to be treated that way. Not by me or the hands of
4 anybody else.

5 Q. So, you made a decision to make your life
6 better?

7 A. That's right.

8 Q. Thank you, Ms. Combs.

9 MR. HANSON: That's all I have.

10 THE COURT: Anything else,
11 Ms. Mooney?

12 MS. MOONEY: I do.

13 //

14 REDIRECT EXAMINATION

15 BY MS. MOONEY:

16 Q. Ms. Combs, do you recall any time in your
17 life where you had uncontrollable rage?

18 A. Oh, my God. Yeah.

19 Q. Can you describe some of those incidents?

20 MR. HANSON: Your Honor, I guess
21 just for the record, I would object. This is
22 beyond the scope, but I understand --

23 THE COURT: I'm going to allow it.

24 You may answer, ma'am. You may
25 answer.

C. DEBRA COMBS /-3EReD

1 **THE WITNESS:** After-- after the
2 molest -- so, when I was 13 and I went back to live
3 with my mom, I had -- I had so much rage inside me.
4 I have scars. I had slit my wrists several times
5 because there weren't any adults -- nobody wanted
6 to hear. Nobody wanted to help. Nobody wanted
7 to -- I was just a troublemaker. So, I didn't want
8 to be here. I would rather be dead than to have to
9 exist like that. So, I ended up taking it out on
10 other people. Somebody would look at me the wrong
11 way, and it was an excuse for me to beat the living
12 tar out of them. There was -- there was one girl
13 that the -- detectives had come to my mom's house,
14 and I was about 14 or 15. And I took everything
15 out on her, and I -- I beat her so bad, that
16 they -- they took pictures of her body and they
17 came to my mom's house and they flashed those
18 pictures and they said: We're going to get you for
19 this. And it just kind of -- I was like: My God.
20
21 I beat her so bad it -- I broke her
22 nose. I broke her jaw. I detached the -- the rib
23 cage that it punctured her lung. She was bleeding
24 from her nose and her mouth. And I didn't stop. I
25 just kept -- like everything went black. It was

*** Maureen Gager, RPR, CSR ***
*** Third Judicial District ***

DEBRA COMBS - RE D

1 like -- that happened a lot during those years. A
2 lot.
3 And it was -- it was scary, because
4 I mean, I literally could have -- I almost beat her
5 to death. And it wasn't her fault. She didn't do
6 anything except write something on a wall that I
7 was -- I don't know if I can say it or not. But
8 the B-word. She said -- and I -- I took all of my
9 childhood. I took everything out on this girl, and
10 I didn't know that that's what I was doing at that
11 time. I didn't know but it was -- it was pretty
12 scary.

13 BY MS. MOONEY: (Continuing)

14 Q. How did you get over that rage?

15 A. Lots and lots of counseling. Going in
16 and out of counseling. It's been a conscious --
17 something I've had to work on my entire life. It's
18 not something that ever just went away. I had to
19 deal with where it was coming from. I had to
20 learn -- I had to learn the skills to -- to know
21 where this stuff was coming from.

22 There are years of my life that I don't
23 remember; that are blocked out. What I do remember
24 I think is bad enough. But there are things that I
25 guess that I don't remember that I don't know that