

Dear Attorney General Delaney;

I am writing today to ask you to take a look at the Chad Evans case from a different perspective. I do not know Mr. Evans personally; I became involved in this case after seeing it on the news in February.

Since then, I have spent 2000 hours researching this case and the infinite reasonable doubt surrounding that could little Kassidy's death. I have read all the statements, interviews with police, reviewed the evidence collected, read all the trial transcripts, including statements from expert witnesses and I am not convinced that Mr. Evans is responsible for Kassidy's death.

Based upon the research I have done in this case, I would like to share with you what I have come to know about the case as a concerned, unbiased citizen who values justice above all else:

Mr. Evans met Amanda Bortner, Kassidy's mother, in June 2000. Their relationship quickly flourished. Amanda moved into Chad's Rochester home. They had a summer filled with fun times: Water Country, concerts, weekend trips, York's Wild Kingdom, etc. Photos taken of these fun times capture Kassidy as a happy, healthy and more importantly, bruise free child.

Witness statements report that Kassidy was free from all signs of physical abuse until the middle of October. Throughout that summer, Amanda had her sister Jen and her boyfriend, Jeff Marshall, babysit Kassidy at their home. Jeff offered to watch Kassidy with greater frequency during the months of October and November. As a result, he became Kassidy's sole babysitter of. However, Kassidy seemed to have a lot of accidents in Jeff's care. These accidents include, but are not limited to the following;

**October** Jeff told Kassidy "*momma's here*" and Kassidy ran off the bed, falling on her face. Amanda was in fact not there. (Not sure what Jeff's purpose in doing this was.)

**October** Jeff stated (exact date unknown) that the dog knocked Kassidy over.

**October 22** Jeff chuckled and bragged to Chad that he had spanked Kassidy so hard, with her diaper on; he claimed it stung his hand. It left a black and blue covering her entire buttocks and the tops of her legs.

**October 26-28** Kassidy was with Jeff and reportedly drank Windex and fell out of Jeff's truck getting 2 large eggs on her head. Jen's statement to police recalled that Kassidy got, "*really, really, really sick and was vomiting*". Kassidy's grandmother, Jackie Conley reported that she spoke with Jen on the phone during this weekend and was told that Kassidy was coughing and crying a lot and they assumed that she had a little cold. Jen later reported to police that Kassidy has been sick ever since she fell out of the truck. When Kassidy returned home Amanda reported that Kassidy was dehydrated, sick, dazed and saw Kassidy's eyes roll in the back of her head.

**October 31** Kassidy was still too sick to go trick or treating. She was running a fever, cranky, lethargic, and sleepy with the beginning signs of thrush on her tongue

**November 1** Chad came home from work and found Amanda sitting on the dining room floor crying. Chad asked her what was wrong and she said, "What is wrong with my baby? She is losing her hair".

**November 5** Kassidy spent the day with Chad and his sister, Nicole, in Belmont, N.H. while Amanda went shopping with her sister and mother. Nicole, a special Ed assistant at an elementary school, recalled Kassidy was sleepy, wasn't very responsive and that she hardly said anything at all. In fact, Kassidy slept for a bit in Nicole's arms. Nicole reiterated this day to Judge Nadeau later in a letter explaining what she witnessed just four days prior to Kassidy's death. "*Kassidy was sitting in Chad's lap sharing pizza saying 'mmmm' with every bite.*" Nicole even recalled that Chad was singing ABC's to Kassidy while she was cuddling with him in a way that she could tell they shared a bond. As a matter of fact, another person that was in attendance claimed he thought Chad was Kassidy's father. In Nicole's professional opinion she thought Kassidy might be delayed, but there was never a concern about abuse.

**November 6** Kassidy was with Jeff and when returned to Amanda, Kassidy appeared to be limping. When Amanda asks what was wrong with her, Jeff stated he "*tripped over her when he ran to answer the phone*". (see photos of microwave where phone is in the kitchen. Due to the layout of Jeff's house, I don't see how it was possible he tripped over Kassidy running for the phone if Kassidy was in the bedroom. The bedroom is PAST where the phone is on the microwave.)

**November 7** Kassidy was with Jeff. William Pierce, Jeff's neighbor and landlord, witnessed Kassidy fall out of Jeff's truck again. Jeff stated to William Pierce, "*see, she just falls right out of the truck.*" (This tells me that Jeff is WELL aware that Kassidy falls yet, he didn't take precautions to make sure she didn't fall.) Later this night as Chad was carrying Kassidy upstairs he discovered minute marks on the bottom of Kassidy's feet. He discussed it with Amanda and Amanda called Jeff and Jen to ask what the marks were from. They assume they might be from the nail heads that were sticking up out of their tiles in the kitchen. To prevent Kassidy from hurting her feet anymore Chad and Amanda send her Elmo slippers to wear while at Jeff's house. (This date may be inaccurate, as Chad believes that it may have been up to a week prior that he discovered these pin pricks on Kassidy's feet. This recollection was taken from Amanda's statement to police.)

**November 8** Amanda had made arrangements for Kassidy to stay overnight with Jeff due to her scheduling at work. Jeff reported to Jen that "*Kassidy has been sleeping like all day, for like the last 4 hours*". He also told Jen that he didn't want to babysit Kassidy anymore. When Chad got out of work he decided to go pick Kassidy up from Jeff's house because he had suspicions that Kassidy was being abused by Jeff. Because of all the "accidents" that happened to her while in his care. Chad didn't want Kassidy at Jeff's any longer than necessary. (If Chad hadn't picked Kassidy up because he cared about her well-being and loved her, then he would have been eliminated as a suspect all together. To this day he thinks to himself, "*If I just left her there and not picked her up*").

Phone records show Chad called Jeff eight minutes after picking Kassidy up, and asked "***What the hell happened to her? What did you do to her?***" Chad reported that Kassidy was slouched forward, drooling, and incoherent. Her eyes were glassy and sort of bulging. When they got home, after taking her out of the car and standing her up in the driveway while getting his son out of the car, Kassidy fell face first in the driveway without putting her hands out to brace herself from the fall. Chad picked her up, brushed her off and took her in the house. He tried to feed her but she did not have an appetite. Chad states that he could only get her to eat a half a banana which was unusual for Kassidy. She had an excellent appetite for a little girl. After attempting to feed Kassidy, Chad began pitching a few balls to his son Kyle in the bedroom while holding Kassidy on his lap. Kyle was hitting balls left and right and then one accidentally hit Kassidy in the face. Kassidy didn't cry much, just a little whimper. She seemed to be fine. Therefore, Chad continued with the daily routine. Next on the scheduled was bath time. During the bath Travis Hunt, Chad's housemate, came into the bathroom and later reported that he didn't see any new bruises on her, but she was not happy with her hair being shampooed. Travis even held Kassidy when she got out of the tub while Chad got her pajamas, diaper, and powder. Chad noticed Kassidy's mouth had sores in it and it looked like her mouth had bled earlier in the day, so he decided that she could skip brushing her teeth. Later on that evening Chad tucked the kids in bed and read a bedtime story to them. When Amanda arrived home from work, she checked on Kassidy and was aware that she had a poopy diaper but decided to not change her for fear that she would wake and not go back to sleep.

**November 9** Kassidy woke up around 5:15 crying, and was instructed to go back to sleep. Around 6:15 she woke again crying. Amanda got her out of bed and dressed Kassidy in her new two piece red fleece outfit with her Elmo slippers. Chad carried her downstairs, put juice in her sippy cup, and packed a baggie of cereal for her. Amanda later told police that Kassidy was sleepy and had slept during the ride to Jeff Marshall's house. Jeff and Jen were just getting out of bed when Amanda arrived around 8:15. Amanda placed Kassidy in the bed with her coat on and zipped up. Jeff was in the living room watching the voting on TV. Jen was getting ready for work and left around 8:55 that morning.

Phone records show that Chad called Jeff to check on Kassidy at 9:47 and to discuss some work that needed to be done at one of the McDonalds stores. Jeff reported Kassidy was fine, she was sleeping. Jeff later told police this

was the one and only time he checked on her until he went out to retrieve the mail around noon time when he checked on her again and she was unresponsive. However he told one of the EMTs that Kassidy was acting strangely that day and bumping into things. (This statement conflicts with what Jeff told Detective Hamel.)

Phone records also showed that Jeff didn't call 911 upon discovering this unresponsive child. Instead, he called Chad. Chad was in a meeting at work and didn't get the call. These calls started at 12:24. In fact, Jeff made 12 calls, including one to 411, before placing the call for help to 911. Fifteen minutes had elapsed since he first found Kassidy unresponsive. (Could this delay have been a matter of life or death? The ambulance was 1300 yards away and the hospital was only 8.2 miles from Jeff's house. Is it possible Kassidy could have been saved if Jeff called 911 instead of making these 12 calls?)

According to Dr. Baden his research on abuse shows that someone who is abusing a child will make up excuses like "the dog tripped the child", "the child fell down the stairs", etc. and Baden also states that the "abuser" will delay in seeking medical attention when something serious happens to the child. Jeff always had excuses for Kassidy's "accidents". One excuse was her falling out of his truck after he had placed her in the back of his truck and while at the front adjusting some straps or something. Why would he do this if he himself claimed she was a clumsy child?

Jeff's statement to police said that he had rushed Kassidy out to the kitchen to splash water on her face in an attempt to "get her to come to". (See photos of kitchen sink area taken by police. There is NO water present in OR around the sink.) At some point he rushed her out to the porch on a piece of sheetrock to await the arrival of the EMTs in a DIFFERENT outfit than what she was dressed in by her mother Amanda that morning. (How did this child get dressed into another outfit when Jeff claimed he hadn't done anything other than check in on her that morning when Chad called to see how she was doing?)

Jeff informed dispatch that he was "pushing on her stomach" in an attempt to perform CPR. (Kassidy had internal abdominal injuries. Police photos of EMTs working on Kassidy show very little bruising of the face and abdomen at this time. However these abdominal and facial bruises seemed to have multiplied in the photos taken by police an hour AFTER her arrival at York Hospital. But as Dr. Greenwald testified, bruises can take up to an hour to show after injury is inflicted.) Dispatch instructed Jeff that is not the proper way to do CPR. Dispatch also kept telling Jeff to talk to Kassidy in an attempt to keep her alert until responders get there. In fact the dispatcher told the Chief that she thought Jeff "was not very...never mind I'll tell you later". (In my opinion I think dispatch was insinuating that Jeff was not very concerned or wasn't trying too hard to keep Kassidy coherent.)

When the first responder arrived, a Kittery police officer, he reported that Kassidy was blue and cold to the touch. He also reported that the only warm spot left on her body was the armpits and while performing mouth to mouth on her he felt the blood coming from her nose was also cold. EMTs report that she had no vital signs, but transported her to York Hospital where she was pronounced dead. Dr. Baden testified that in his opinion, after seeing the photos taken by police after Kassidy's arrival at York, that he thought it was possible she had been dead for an hour or so PRIOR to EMT arrival.

Dr. Greenwald of the Maine Medical Examiner's Office performed Kassidy's autopsy. Her findings conclude that Kassidy died from head trauma, abdominal trauma and fat emboli. Dr. Greenwald testified that there could have been a number of things that caused the emboli; bruises that could have released fat into the bloodstream, the abdominal injury, or the recent tibia bone fracture. **NO EVIDENCE INDICATES CHAD CAUSED ANY OF THESE INJURIES.**

According to expert testimony from Dr. Baden, called by Chad's attorney, he states that according to Chad's statement to police about how Kassidy was acting when he picked her up and the fact that she wouldn't eat, he

believed that Cassidy had the abdominal injury prior to Chad picking her up on the evening of November 8<sup>th</sup>. He also stated, "It's hard to make up stories that fit pathology," meaning Chad's statements WERE consistent with Dr. Greenwald's findings at time of autopsy. Chad made his statement to police hours after Cassidy's death, prior to him learning details of her death. There was **NO WAY** that he would have been able to make up a lie regarding the findings at autopsy.

Police took photos of Cassidy being worked on by EMTs and there were bruises on her face and abdomen at this time. However, more bruises seemed to appear later on when Cassidy arrived at York Hospital.

When police showed Amanda a picture of Cassidy after her death Amanda replied, "Oh my God, she did not look like that when I dropped her off!"

Therefore, to figure out who was telling the truth about Cassidy's injuries that morning I wrote to Chad and asked him to recall the bruises that he witnessed on Cassidy on the morning of November 9<sup>th</sup>-- the results were shocking. Chad sent me a copy of Dr. Greenwald's handwritten drawing with his recollections, written in red of bruises on the morning of November 9<sup>th</sup>. His markings were the same as what was seen in the photos of EMTs working on Cassidy. This means the rest of the bruises on her had to be inflicted after Amanda dropped her off for the day with Jeff. Dr. Baden also agreed that these bruises were inflicted after being dropped off. Dr. Greenwald testified that sometimes it takes an hour or so for bruising to appear. This also makes sense as to why the bruises aren't seen clearly in the EMT photos, but later on in the York Hospital photos.

Chad's statements were consistently backed up by the findings. For example: Chad claimed Cassidy was acting strangely when he picked her up on the afternoon of the 8<sup>th</sup>. He also stated that she had only eaten about a half of a banana that evening as well. In the search and seizure of his home there was in fact a banana peel in the trash. Then at autopsy the contents of her stomach revealed that Chad's statement was in fact truthful. These facts persuaded Dr. Baden to believe that Chad's statement was truthful and that Cassidy had the internal abdominal injury PRIOR to Chad picking her up from Jeff Marshall's home. Dr. Baden also believed that according to Amanda's statement, "Oh my God, she did not look like that when I dropped her off", that Cassidy's "newer" injuries (facial and abdominal) happened **AFTER** she was dropped off at Jeff's house.

Another IMPORTANT clue to consider is Amanda reported to police that she knew Cassidy had a poopy diaper when she went in to kiss her goodnight when she returned home from work. But she did not change her for fear that Cassidy would wake and not fall back to sleep and waited until the next morning to change her diaper. If Cassidy had a diffusely hemorrhagic mesentery Amanda would have seen blood in Cassidy's bowels when she had changed her the following morning. Another thing to consider is WOULD Cassidy have been able to have a bowel movement with this damage to her GI tract?

Jeff Marshall's initial statement to the first responder on scene claims Cassidy was always showing up with bruises. Detective Hamel, who first interviewed Jeff, testified that Jeff's demeanor was excited and concerned and then like a flip of a coin his attitude went back to being angry and blaming another individual (Chad Evans) for abusing the child. He also testified that Jeff had pointed the finger at Chad Evans the entire time he was talking with him. If Jeff was really convinced that Chad was responsible for this then why did he try calling Chad multiple times after finding Cassidy unresponsive instead of calling 911? Jeff also stated to Hamel that Chad was responsible for this and that he'll probably get away with it. However during Jeff's call to 911 he didn't seem excited at all. As a matter of fact, dispatch had to keep reminding him to keep talking to Cassidy until responders got there.

What was the delay in calling 911 when discovering this unresponsive child? Jeff also claimed that he didn't have anything to do with Cassidy that morning other than checking in on her when Chad called at 9:47 a.m. So

how did this child become undressed from her 2 piece outfit that her mother dressed her in? And why did police only find the bottoms to this 2 piece outfit lying on Jeff's bed? (Also note that men's boxers and pants were also on the bed with Cassidy's pajama bottoms. Why weren't these tested for DNA?) Where did Cassidy's sippy cup and diaper bag go that Amanda had brought that morning? Why does it appear that Jeff's bed, that had been slept in all night by 2 adults and then half the day by a child, appear to be neat and tidy in the police photos? Why does it appear that a fitted bed sheet is in the laundry basket at the foot of the bed? In the evidence control list everything is listed with a color except for the fitted sheet. Why weren't these items tested for cross contamination of DNA? Jeff also claimed that he had rushed her to the kitchen to splash water on her face to try and revive her. However, police photos show absolutely NO water in or around the sink. And why was there blood under her little fingernails found at autopsy when Chad had bathed her the night before until she "pruned"? Anything that was under her fingernails would have been "soaked" away during this bath. I think Amanda and Chad both would have noticed blood under her fingernails that morning.

Did something happen accidentally or intentionally at the hands of Jeff Marshall? When Jeff discovered Cassidy unresponsive did he panic and not want to be blamed for Cassidy's death so he "cleaned" things up before calling 911? What was the delay in calling 911? Is this why the bed appears neat and tidy? Is this why the child became undressed? Dr. Brock at York Hospital stated that Cassidy had "*suspicious looking genitalia*" and "*traces of blood in her vaginal vault*". If this child was found unresponsive in a bed with no clothes and men's clothing on the same bed why didn't these articles of clothing get tested? Why would Jeff agree to a polygraph test, go to the appointment for the test and then refuse once he got there? And why is it that when Jeff refused to take the test, the police did not take a serious look at him? After all the police must have a tremendous amount of confidence in the test if they originally asked Jeff to take one.

Chad was arrested and charged for Cassidy's death PRIOR to her blood samples even arriving at a lab for toxicology and genetic screenings. This concerns me for a few reasons: 1) It tells me that the police jumped to conclusions that Chad was in fact "their man" before the investigation was complete. 2) Cassidy's Complete Blood Counts at birth were abnormal. If Cassidy did have some sort of anemia she would bruise very easily—or it is possible that she had a low platelet count which could have led to numerous complications.

Research shows that there is a particularly high risk of spontaneous bleeding once the platelet count drops below 10 million per ml. The bleeding is usually seen on the skin in the form of tiny pin-prick hemorrhages (purpura), or bruises (ecchymoses) following minor trauma. Bleeding from the nose and the gums is also quite common. More serious hemorrhage can occur at the back of the eye (retina), sometimes threatening sight. The most serious complication, which is potentially fatal, is spontaneous bleeding inside the head (intracranial) or from the lining of the gut (gastrointestinal).

The above is accurate with Dr. Greenwald's autopsy findings regarding the intracranial hemorrhaging, intestinal hemorrhaging, retinal hemorrhaging, the pin pricks on her feet, the easy bruising and possible mouth bleed that Chad witnessed after picking her up from Jeff's on the night of the 8<sup>th</sup>.

There are many other possibilities that could have contributed to Cassidy's death. Interestingly enough I did not find anything to show that Chad could have caused Cassidy's death: 1) it is reported that there was and still is, arsenic in the well water at the Conley residence that Cassidy visited on 2 occasions before her death. 2) It is also possible that she was exposed to toxic mold in the home of Jeff Marshall, as seen in bathroom photos taken by police. 3) It is possible that she was exposed to lead, since Jeff's home was built in 1890, which would heighten the risk of lead poisoning. (Research shows that a bone fracture can cause lead to be introduced to the blood stream causing fatality in 1-3 days. Jeff openly admitted that he "tripped" over Cassidy on November 6<sup>th</sup> running for the phone, and Dr. Greenwald did say that the estimated date of Cassidy's tibia fracture was 1-3 days old.) Cassidy's medical records show that the possibility of lead exposure was not talked about by her pediatrician with

Amanda nor was she tested for lead poisoning which is required by Maine law when a child is on medical assistance through the state.

4) It is possible that the fall out of the back of Jeff's truck caused a brain injury, explaining Cassidy's unsteadiness on her feet thus causing accidental falls and bruises.

5) It is also possible that she was exposed to pesticides or other toxic chemicals. Jeff was a landscaper and used pesticides in his line of work. Jeff had also reported that Cassidy drank some Windex in the weeks prior to her death. Unfortunately, we do not know if this was really "Windex" or was it an unknown chemical-- such as the one seen in the police photos taken in Jeff's living room without a childproof cap OR label? Conflicting statements from both Jeff and Jen reported that Jeff had called poison control. However, Cassidy should have been taken in for medical attention. Research shows that ammonia, the toxic chemical in Windex CAN cause internal hemorrhaging of the GI tract, which Cassidy did have. This was to be OMITTED from trial. This is an important event that the jury should have heard about.

Jen also reported that she used to put make-up on Cassidy while preparing herself for work and a concealer (aka cover-up) was used once by Jeff and Jen to hide bruises on Cassidy to take her out in public. Research shows that make up is toxic and contains harmful toxins such as lead.

There are so many unanswered questions regarding this case. The State of Maine and the Kittery PD may have "cut corners", putting this tragic burden on the State of NH. Because I have taken the time to look into Mr. Evans claims of innocence I have seen for myself there were many mistakes made in this case and I am disturbed that an innocent man, a once productive citizen of the community, remains behind bars due to human error.

I am not pointing out these facts in an attempt to blame Mr. Marshall for Cassidy's death. I do not know for sure what happened that day; Mr. Marshall is the only one that really knows what happened at his house on November 9th. I just do not understand how there is so much that was "over-looked" in this case. I am just your average citizen, with no credentials or training, and **I can clearly see that there is more than enough reasonable doubt in this case.** How could some of the best trained officials have missed so much?

Chad Evans conviction was merely on circumstantial evidence. There is no concrete proof that he caused Cassidy's death. In fact, after reading expert witness depositions and testimonies, I am CONVINCED that Chad Evans IS INNOCENT. In the many hours of researching this case there is NOTHING proving that Chad Evans caused Cassidy's death. In fact, the more I learned about this case the MORE convinced I was Chad IS innocent. So how could a jury convict Chad Evans beyond a reasonable doubt? The jury can only go on evidence which is presented to them. I know that the jury wasn't aware of all the facts in this case.

The jurors did not hear evidence of Chad's good character, like in April of 1997, NH Governor Jeanne Shaheen held an Awards Dinner in honor of Chad for "Risking his life in and outstanding act of heroism", for rescuing 3 people from a burning vehicle, his work with McDonalds and the Special Olympics, or that he was one of the youngest members of a school board.

In regards to Jeff Marshall's character, the jury heard of his good character including his time as an Explorer with the Kittery Police Department. But they did not hear of his criminal record including the following;

- Violation of Protection from abuse on 1/95
- Criminal Threatening on 3/95
- An Order of Protection from abuse was granted on 3/98
- Violation of Protection from Abuse Order 7/98
- Criminal Threatening charge in which the alleged victim was "in fear of imminent bodily injury in which Jeff stated "I'm going to kill you" 7/98

Another interesting fact that neither the jury nor Chad's defense picked up on was the fact that Jeff Marshall had past training with the Police Explorers Post #393. I know that as a young Explorer, one of the first things taught is CPR and first aid. How could Jeff Marshall NOT know how to do CPR?

If the State of NH decides that I have provided enough reasonable doubt with this case and shall re-investigate, I think it will be discovered that the abdominal and facial bruises on Kassidy hold "fingerprints" if you will, on Kassidy's body. Interestingly enough after reviewing the police photos of Kassidy's body and reading the autopsy report provided by Dr. Greenwald, I can clearly see that Kassidy had what appeared to be "grab marks" on her face and not only that, she also displayed bruises that were of the same size on her abdomen, chin and forehead. We know Jeff tried to do CPR by "*pushing on her stomach,*" and 5 of Kassidy's abdominal bruises had the same measurement of 0.8x0.4. There were two more bruises on Kassidy, her chin and forehead, which have this same measurement. If these are "fingerprints" won't we be able to determine who they came from? Wouldn't hand measurements prove WHO grabbed Kassidy by the face and caused these bruises?

As an upstanding member of society who is concerned in seeing that justice is properly served not only for Chad but for the tragic loss of this precious child, Kassidy Caitlyn Bortner, I am requesting that someone take a look at this case. Kassidy's death was a huge tragedy itself but to have an innocent man, someone that cared for and loved Kassidy as his own behind bars for her death is incomprehensible.

Thank you, in advance, for your time in this serious matter.

Regards,

Christine Gagne