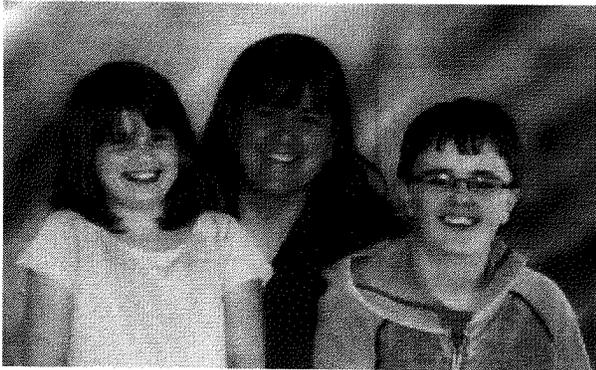


## Key witness changes his view about 2007 infant-death case



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When Lincoln Wilber was rushed to the hospital on Sept. 7, 2007, after falling limp at his day care, doctors discovered bleeding — some fresh, some old — on the 4-month-old boy's brain.

An X-ray showed a fracture of his tiny left leg — one typically associated with abuse — and another scan revealed what appeared

to be a skull fracture.

Doctors and police quickly began to suspect the boy's day care provider, Jennifer Hancock, then 36.

During an eight-day trial in March 2009, medical experts testified that Lincoln was killed by someone who shook or hit him, causing the veins in his brain to rupture, even though there was no neck injury or external sign of abuse, such as bruising.

No testimony carried more weight than that of Dr. Michael Stier, the forensic pathologist who performed the autopsy on Lincoln for the Dane County Coroner's Office. Stier testified that the brain bleeding, known as a subdural hematoma, "was a marker for non-accidental type of injury."

Hancock was convicted of causing Lincoln's death and is serving a 13-year prison term.

But in a series of interviews this spring, Stier said he can no longer stand behind his testimony that abuse was the only possible cause. He now believes Lincoln could have died from natural or other causes.

"I want to make sure that something I did did not lead to an injustice," Stier said in explaining why he is speaking out now.

Five other experts interviewed recently for this story said there are several possible explanations for Lincoln's injuries and death, citing new information that has emerged. And if there was abuse, they said, it's doubtful it can be tied to Hancock.

The new information was uncovered by journalism students from Northwestern University's Medill Justice Project working in collaboration with the Wisconsin State Journal. The reporters obtained court, medical and police records and interviewed people connected to the case, including medical experts, lawyers and Hancock.

These medical experts — who did not testify at trial and who provided their expert opinions for no fee — said Lincoln could have suffered a blood clot in his brain or previous head trauma that began bleeding again.

They also disagreed on the timing of when the bleeding on Lincoln's brain began — raising questions about how it could be linked to the five and a half hours he was in Hancock's care.

The 4-month-old also had a heart virus, one that Stier and a second expert now say could have played a role in Lincoln's death.

Carrie Sperling, co-director of the Wisconsin Innocence Project, said the new theories about Lincoln's death are significant and could be enough to cause "reasonable doubt" in the minds of a jury. The Innocence Project is preparing an appeal of Hancock's conviction. Her two previous appeals were unsuccessful.

Dane County Assistant District Attorney Thomas Fallon, one of two prosecutors in the case, declined to comment on changes in Stier's view of Lincoln's death. Fallon cited Hancock's potential appeal and his ethical obligations not to engage in pretrial publicity.

Fallon is on the international advisory board for the National Center on Shaken Baby Syndrome, which estimates that more than 300 babies die in the United States each year from shaking.

Lincoln's parents, Erin and Benjy Wilber, made it clear they didn't want to discuss the case.

"She (Hancock) was convicted by a jury of her peers," Benjy Wilber said. "She had her time in court, and she's still telling stories. It's clearly not something we want to talk about."

The prosecution's four expert witnesses in the Hancock case also declined comment.

### **Suspicion on Hancock**

In the first hours after Lincoln Wilber arrived at American Family Children's Hospital, doctors were suspicious.

Just before 1 p.m., the 4-month-old boy had suddenly fallen unconscious while at Hancock's home. She called 911 after she said she found him limp.

At the direction of the dispatcher, Hancock began breathing into Lincoln's mouth and pressing on his chest with her fingers. When responders from Fitch-Rona EMS arrived, the boy had no pulse and was not breathing.

For nearly five days, Lincoln was kept alive by machines. On Sept. 11, 2007, his parents made the gut-wrenching decision to discontinue life support. A nurse suggested that the devastated Belleville parents snip lockets of their son's hair and take handprints and footprints as remembrances.

Hancock repeatedly told a Verona police detective that she had done nothing to harm Lincoln. But Stier and other doctors disagreed, telling police that the only plausible explanation was that Lincoln had been abused.

Three months later, Hancock was charged in Dane County Circuit Court with first-degree reckless homicide and two counts of child abuse — the latter two were dropped before trial. Hancock was convicted by a jury and sentenced by Judge David Flanagan to 13 years in prison with seven years of supervised release. Now 43, Hancock is in the fifth year of her sentence at Taycheedah Correctional Institution in Fond du Lac.

Since the trial, Stier has come to reconsider his earlier findings in light of his own experiences as a forensic pathologist.

He said he's seen people who died of a drug overdose with no head trauma who had the same type of brain bleeding that he saw in Lincoln. Stier said such bleeding can be an "artifact" of the dying process.

Stier said the pattern of injuries seen in Lincoln still supports a theory that he was intentionally harmed. But he now believes that natural causes cannot be ruled out.

In his autopsy report, Stier found Lincoln had a heart virus of "undetermined significance" and did not list it as a cause of death. In a recent interview, however, he said he is no longer sure that the virus played no role in Lincoln's death.

"Can I say that the virus particle has nothing to do with the death?" Stier asked. "No, I can't say that anymore."

Stier said it's also possible Lincoln was undergoing an unexplained death commonly known as sudden infant death syndrome (SIDS) that was interrupted when Hancock found him unresponsive.

"Can I say to a reasonable degree of medical certainty that this kid died from abuse?" Stier asked. "I don't know how to answer that right now."

### **Was skull fractured?**

A large part of the prosecution's case rested on the testimony from experts who insisted that Lincoln had a skull fracture.

Stier told jurors in 2009 that it was possible Lincoln's skull was fractured, although he hadn't detected one in the autopsy.

Stier now says prosecutors "pressured" him to testify that Lincoln's skull was fractured. Stier told jurors he did not see a skull fracture after testing and observing Lincoln's skull and noting the lack of tissue injury on Lincoln's scalp. He described it as an irregularity in the bone.

But he left open the possibility that there was a skull fracture, testifying, "I'm not saying that it is (a skull fracture,) I'm not saying that it isn't."

Prosecutors brought in experts who testified that Lincoln had suffered a skull fracture.

But in an interview, Stier was adamant: "I don't care what anybody says — there was no fracture there."

Sperling, Hancock's attorney, said her case fits a pattern she's seen in many cases of shaken baby syndrome or abusive head trauma.

Sperling questioned how Lincoln's death could be attributed to abuse and blamed on Hancock "when you have no bruising and you have no motive and you've got old bleeding and you've got a virus."

Stier, a UW associate professor, has a new theory about how Lincoln died.

He believes it's possible the subdural hematoma on Lincoln's brain — the one he ruled was a "marker" for abuse — may have been a "spontaneous artifact" of a lack of oxygen during a SIDS-type process that began before Lincoln arrived at the hospital.

Such infants generally die in their sleep of undetermined causes, Stier said. Being kept alive may have caused Lincoln's brain to swell, he said.

Hancock's trial came as the state was defending its prosecution of Waunakee day care provider Audrey Edmunds.

In January 2008 — six weeks after Hancock was charged — Wisconsin's 4th District Court of Appeals overturned Edmunds' conviction, saying that evolving medical science cast doubt on what caused a 7-month-old girl in her care to die.

### **On a 'witch hunt'?**

The turning point in Edmunds' case occurred when Dr. Robert W. Huntington III, the Madison forensic pathologist who conducted the autopsy, concluded there could have been a lucid interval — a time when the child appeared fine after sustaining injuries. That meant the infant's death could not definitively be tied to her time in Edmunds' care.

Hancock's trial attorney, John Hyland, said the effort prosecutors put into Hancock's trial, including hiring several medical experts, was an attempt to combat the increasing scrutiny of shaken baby syndrome, which was the subject of national media attention thanks to Edmunds' highly publicized release after nearly 12 years in prison.

"I think Jennifer was the subject of a big push back to reclaim the wall, so to speak," Hyland said.

Stier said he expressed his doubts to prosecutors about Hancock's guilt before trial.

"I could not then and cannot now say when those injuries occurred and who inflicted them," he said.

But it became obvious to him when he refused to confirm the suspected skull fracture that prosecutors were engaged in a "witch hunt" to pin the blame on Hancock, Stier said.

Prosecutors hired four experts in the areas of pathology, radiology and pediatrics, including two who frequently testify on behalf of the prosecution in alleged cases of shaking or abusive head trauma.

"This case bugged me because they had this attitude that they had to get everyone in the country on board to get a conviction," Stier said. "I could not sleep at night if I have to run around and say that every baby with a subdural (hematoma) was killed by the babysitter."

In a recent telephone interview from prison, Hancock said Stier's new theories and the opinions of the additional experts bring her renewed hope for proving her innocence.

"I'm really glad to hear that — that people are really starting to believe me," she said.

"I don't want to lighten the fact that a child passed away, and I am so sorry for that, but I want to shed light on what these cases do to families and the misuse of the justice system," she said.

### **Authors of this series**

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The Medill Justice Project, founded in 1999, is an investigative journalism enterprise that examines potentially wrongful convictions, probes systemic criminal justice issues and conducts groundbreaking research.

The students were part of an investigative journalism class taught by Northwestern University Professor Alec Klein, director of The Medill Justice Project. Amanda Westrich, The Medill Justice Project's research associate, also contributed to this report.

### **SHAKY CONVICTION: The Jennifer Hancock case**

Today: Prosecution witness reconsiders testimony that helped convict Jennifer Hancock.

Monday: Medical experts raise questions about how Lincoln Wilbur died