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SUPREME COURT OF THE STATE OF WASHINGTON

In re the Marriage of :
NEHA CHANDOLA NKA NEHA VYAS,
Respondent,

and

MANJUL VARN CHANDOLA,
Appellant.

BRIEF OF *AMICUS CURIAE* JAMES J. MCKENNA

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I. INTRODUCTION

According to the United States Census, presently, the state of Washington is home to more than 2,907,490 families whose cultural roots span the globe and the state's increasing cultural diversity shows no sign of stopping.¹ As the Census Bureau further reports, between 2000 and 2011, Washington's foreign-born population grew by 48%.² What's more, almost 4.9% of that population is of Indian descent.³

Each of these individuals and their families carry with them a host of unique and rich cultural traditions, parenting styles and family structures that have served and bonded them for generations. Some families, for example, live in traditional 'nuclear households' while others embrace a multi-generational living situation; some follow an authoritarian and disciplinary model when interacting with their children, while others feel that any form of punishment is unacceptable and children should be free to make their own decisions. And, of particular import to

¹ United States Census Bureau, "Washington", <http://quickfacts.census.gov/qfd/states/53000.html>; American FactFinder, United States Census Bureau. "2007-2009 American Community Survey 3-Year Estimates". Factfinder.census.gov. Retrieved November 2, 2011 ("The largest ancestry groups (which the Census defines as not including racial terms) in the state are: 20.7% German, 12.6% Irish, 12.3% English, 8.2% Hispanic, 6.2% Norwegian, 3.9% French, 3.9% American, 3.8% Swedish, 3.6% Italian, 3.3% Scottish, 2.5% Scotch Irish, 2.5% Dutch, 1.9% Polish, 1.8-2.0% Russian")

² US Census Bureau, 2011 American Community Survey (ACS).

³ *Id.*

the present action, some, especially Indian families, embrace the theory of “attachment parenting” which emphasizes the development of strong emotional bonds between a parent and child.

This and other courts have consistently recognized that each of these diverse traditions and theories concerning parenting have merit and value and, in fact, can be critical to the livelihood and healthy development of a child, especially in minority communities.⁴ It is for precisely that reason that Washington courts have maintained that “[p]arental conduct [regarding child-rearing] may only be restricted [by

⁴ See, e.g., *In re Parentage of Jannot*, 149 Wn.2d 123, 127, 65 P.3d 664 (2003)(noting that “culture” and “family history” should be taken into account when crafting a parenting plan); *Marriage of Maurer*, 245 Or. App. 614, 634-35, 262 P.3d 1175 (2001)(noting the importance of considering a child’s “cultural and religious growth” when developing a parenting plan); *In re Marriage of Hollingshead*, 157 Wash. App. 1039 (Wash. Ct. App. 2010)(“Parenting plans are individualized decisions that depend upon a wide variety of factors, including “culture, [and] family history . . .”); *In re Harker*, 158 Wash. App. 1025 (Wash. Ct. App. 2010)(“the Court may consider the cultural heritage of a child in making a parenting plan determination”); *Aguero v. DeAguero*, 172 Wash. App. 1053 (Wash. Ct. App. 2013)(“In establishing a permanent parenting plan, the court may consider the cultural heritage and religious beliefs of a child”); *Rogers v. Rogers*, 490 So. 2d 1017, 1019 (Fla. Dist. Ct. App. 1986)(“Although a trial court may consider religion as a factor in a custody determination, it may not additionally condition the award of custody upon the parent’s curtailment of his or her religious activities or beliefs”); *In re Marriage of Estill*, 42453-3-II, 2013 WL 2107063 (Wash. Ct. App. May 14, 2013)(“RCW 26.09.184(1) states that the objectives of a parenting plan . . . Bryan also argues that the trial court put undue emphasis on Evelyn’s cultural heritage. This argument is not persuasive”); *Adoptive Couple v. Baby Girl*, 398 S.C. 625, 653, 731 S.E.2d 550, 565 (2012), reh’g denied (Aug. 22, 2012), cert. granted, 133 S. Ct. 831, 184 L. Ed. 2d 646 (U.S.S.C. 2013) and rev’d, 133 S. Ct. 2552 (U.S.S.C. 2013)(“Where an Indian child’s best interests are at stake, our inquiry into that child’s best interests must also account for his or her status as an Indian, and therefore, we must also inquire into whether the placement is in the best interests of the *Indian child*.”).

the Courts] if the conduct would endanger the child's physical, mental, or emotional health."⁵ To do otherwise would be to ask the Courts to reach into an area that they are ill-equipped to advise upon and, therefore, would force Courts to, in the face of very little information about family histories and traditions, rely on assumptions and personal prejudice concerning the proper manner in which children should be raised. *Id.*

Reaching a similar conclusion, the United States Supreme Court explained that the United States Constitution "does not permit a State to infringe on the fundamental right of parents to make child-rearing decisions simply because a state court judge believes a 'better' decision could be made."⁶ The Court, further, specifically warned that courts crafting a parenting plan or applying a state's family law should be vigilant in avoiding leaving minority families "vulnerable to judgments based on cultural or class bias."⁷

Unfortunately, this case involves precisely the sort of judgment proscribed by the Court and centers around the marriage of Manuj Varn Chandola and Neha Vyas Chandola – a couple of Indian descent, who, throughout their marriage, made the parenting decision to engage in a form of "attachment parenting" that has been commonly practiced in

⁵ *Marriage of Wickland*, 84 Wn. App. 763, 770, 932 P.2d 652 (1996).

⁶ *Troxel v. Granville*, 520 U.S. 57, 72-73, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000).

⁷ *Santosky v. Kramer*, 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982).

Indian households for generations. One of the tenants of this form of “attachment parenting” is ‘co-sleeping’, a practice in which children and grandchildren sleep in the same bed or room as their parents or grandparents in order to foster trust and bonding.

Following the parties’ dissolution, the trial Court, although failing to make a finding that sleeping in the same room – in and of itself⁸ – was harmful to the child, ordered that Manuj Varn Chandola abandon the family’s cultural tradition of co-sleeping or face severely restricted residential time with his daughter. The trial court’s ruling in this case runs contrary to the admonitions made by this, and other courts, that, in the area of family law, Washington courts should strive to respect the diversity of Washingtonians and their cultural heritage, if at all possible. Therefore, *Amici* suggests that the lower court be reversed.

II. IDENTITY AND INTERESTS OF *AMICUS CURAIE*

Professor McKenna (“*Amicus*”) is a professor of anthropology and director of the Mother-Baby Behavior Sleep Laboratory at Notre Dame University, where he also holds a distinguished chair. He is a fellow at the

⁸ The trial court did make a finding that if a parent who is co-sleeping with a child constantly interrupts the sleep of the child with loud music, videos or unnecessary holding, then harm to the child might result. This, however, is not a criticism of the practice of co-sleeping, rather it is an indictment of a parent failing to respect their child’s need for sleep. Indeed, a parent could disrupt a child’s sleep with loud music or unnecessary holding, even if they slept in separate rooms.

American Association for the Advancement of Science as well as the leading authority on the topic of co-sleeping. At the invitation of Harvard University, he is presently writing a text on the topic of co-sleeping and its relationship to the judicial system. *Amicus* wishes to assist the Court by sharing his research on the practice of co-sleeping.

Amicus urges the Court to accept this case so as to set an important precedent regarding the need for cultural sensitivity in family law cases. Co-sleeping has become a topic of import in the present action and would be an important issue of first impression for this Court. Should the Court accept review, *Amicus* hopes that the Court's decision will create meaningful precedent concerning the acceptability of the practice of co-sleeping in Washington state. *Amicus* is concerned that absent this Court's review, based upon a complete knowledge of the history and cultural import of the practice which holds a lot of meaning for Indian families, co-sleeping might become unfairly prejudiced in the eyes of the law merely because it is less common in many Western societies that tend to incorrectly associate it with pedophilia.

III. STATEMENT OF THE CASE

On May 16, 1998, following a four-year courtship, Manuj Varn Chandola ("Varn") and Neha Vyas Chandola ("Neha") were married. Varn was born in the United States, but is of Indian descent and was

“raised in an environment where [he] learned a lot about Indian cultural values and family upbringing.” VI RP 842. Both of his parents – Anoop and Sudha Chandola – were born in India and speak Hindi in the home. They also engage in the practice of ‘co-sleeping.’ ‘Co-sleeping’ is a traditional and commonly accepted parenting practice in Indian culture in which, to encourage parent-child bonding, children, or grandchildren, will sleep in the same bed or the same room as their parents, or grandparents. *See, e.g.*, I RP 156 (testimony of Bhattacharyya). Neha, like Varn, is of Indian descent and her family, too, engages in the cultural practice of co-sleeping.

Varn and Neha adopted many of the traditions and parenting practices passed onto them by their families – including co-sleeping – when they had their daughter, Prasha, in November 2008. Early in Prasha’s life, both Nena and her mother (Prasha’s grandmother) co-slept with Prasha and took turns getting up to feed her or hold her. I RP 44-48 ([Nena]: “[w]e ended up co-sleeping . . . [me], [my] mom, and Prasha”). This co-sleeping arrangement continued until Neha returned to work in April, 2009. I RP 47-48. Upon Neha’s return to work, Varn took primary responsibility for caring for Prasha during the day and usually would be the one to wake up with her at night, feed her and rock her to sleep, sometimes to music. He, also, usually slept in the same room as Neha and

Prasha. VI RP 860-861. This parenting schedule and co-sleeping arrangement continued until the parties separated in February, 2011. *See* I RP 181-82.

By December, 2010, however, the parties' relationship had already begun to deteriorate and Neha started to make threats about severing Varn's relationship with Prasha, even accusing him of sexually abusing her (claims she would later disavow). VI RP 894-900. Finally, on February 15, 2011, Neha suddenly disappeared from the house, taking Prasha with her, and promptly filed for dissolution. Trial Ex. 1 at p. 19; Supp. CP 129-133.

Prior to trial, parenting evaluator Dr. Jennifer Wheeler observed the parties and their relationship with Prasha. VI RP 904. At the conclusion of her observations, Dr. Wheeler testified that Neha's concerns regarding sexual abuse were groundless. Instead, she found Prasha to be a "very happy, relatively well adjusted little girl [and explained that] . . . [h]er teachers and daycare providers were seeing her behavior as being within normal limits." II RP 200-208. Concerning Varn's parenting skills, in particular, Dr. Wheeler praised him for engaging Prasha in educational activities and "foster[ing] her cognitive development" but questioned whether he relied too much on "the support of his parents" when engaging in day-to-day parenting functions. II RP 219; Supp. CP

___ (Ex.1 at 27). Based on these findings, Dr. Wheeler ruled out restrictions under RCW 26.09.191(3)(b) but did recommend a residential schedule that provided Varn with very little time with his daughter. Supp. CP ___ (Ex. 1 at 29).

A second parenting evaluator, Dr. Marsha Hendrick, also testified at trial and agreed with Dr. Wheeler's findings concerning RCW 26.09.191(3)(b) restrictions and Neha's allegations of sexual abuse. III RP 488. Dr. Hendrick did, however, criticize Dr. Wheeler's recommendation that Varn be provided limited contact with Prasha as it might result in a "marginaliz[ation]" of her relationship with her father and noting that "children do better . . . if they have two parents involved rather than one." III RP 499-500.

Neither parenting evaluator specifically criticized the parties' practice of co-sleeping, nor did either party request that co-sleeping, as a general practice, be prohibited in the Court's order. I RP 768 ([Neha]: "it wasn't co-sleeping that I had a concern about"); I RP 411 ([Neha]: "I'm not opposed to co-sleeping"); I RP 767 ([Neha]: "it's not the co-sleeping itself that I had an issue with").

In fact, the only direct testimony the Court heard on the subject was that co-sleeping was practiced by both Neha and Varn, and is a common, healthy and accepted parenting practice in Indian culture. I RP

873 ([Varn]: “a co-sleeping arrangement . . . is quite customary in Indian culture); RP I 156 ([Bhattacharyya]: “co-sleeping is . . . customary . . . in [Indian] culture . . . the children . . . sleep with their parents . . . in the same bed”); I RP 765-6([Neha]: “Since separation . . . we co-sleep . . . I am co-sleeping with Prasha”).

Nevertheless, at the conclusion of trial, Judge Doerty ordered the implementation of a parenting plan which included a number of restrictions on Varn’s residential time, including a prohibition on co-sleeping. The trial Court’s plan includes three “stages” of parenting. Varn will, as he moves from stage to stage, be awarded more and more residential time with his daughter. However, he may only progress from one stage to another only if, among other things, Prasha “sleeps in her own room.” CP 81.

Varn appealed the trial court’s prohibition on co-sleeping to the Washington State Court of Appeals, which concluded that the restriction on co-sleeping was justified due to: (1) Neha’s testimony, which does not criticize the practice of co-sleeping generally, that Prasha “was not getting enough sleep because Varn would . . . randomly pick her up . . . [at] 2 in the morning,” and “show her . . . videos on the Internet until 1 a.m., which kept her from sleeping”, *In re Marriage of Chandola*, 68424-8-I, 2013

WL 1953495 * 12-13 (Wash. Ct. App. May 13, 2013); and (2) Dr.

Wheeler's below testimony:

Q . . . are the mothers proposals about what it would look like for the father to progress to phase 2. Is this consistent with your recommendations?

A. I'd say overall, it is consistent. The only modification I would make would be in the first piece with regard to father abiding by mother's bedroom routine and time, the child sleeping in her own room at the father's house. If those are consistent with what the parent trainer recommends, then I would support that, but I'd want the emphasis to be on complying with the parent trainer recommendations versus abiding by what the mother wants.

I RP 241. The Court of Appeals decision, however, includes no evidence that a parent trainer has, in fact, recommended any prohibition on co-sleeping. Accordingly, Varn appeals.

IV. ARGUMENT

During the last twenty years empirical, data-based studies began to force a radical change in what medical authorities traditionally considered "healthy infant and childhood sleep" and what alone was thought to constitute healthy sleeping arrangements between adults, infants and children. In brief, infants and children sleeping separately from their parents, alone and "through the night" as early in life as possible, unattended by parents, was thought to be normal and desirable, and believed (but never shown to be) associated with many developmental psycho-social advantages. But overwhelmingly, these more simplistic,

negative sweeping generalizations about the ever- deleterious and psychologically damaging effects of bedsharing (one form of co-sleeping) has been proven wrong, especially for older children, and so many positive benefits have been now shown to be associated with bedsharing when elected by healthy adults and their children, and when done safely, that a full intellectual about- face on the topic is underway in many fields and disciplines of study. ⁹ Using biological, developmental, and psychological scientific studies and framed within both a cross-cultural and historical perspective it is suggested that when practiced as safely as is presently known by parents (either single or partnered couples) and when parents share an on-going healthy relationship with their infants and children, both short and long term scientific studies show that the practice can be protective and psychologically beneficial.¹⁰

⁹ See James J. McKenna et. al., *Mother-Infant Cosleeping, Breastfeeding and Sudden Infant Death Syndrome: What Biological Anthropology has Discovered About Normal Infant Sleep and Pediatric Sleep Medicine*, 50 Yearbook of Physical Anthropology 133-61 (2007).

¹⁰ See J.J. McKenna & T. McDade, *Why Babies Should Never Sleep Alone : A Review of the Co-Sleeping Controversy in Relation to SIDS, Bed-sharing and Breastfeeding*, 6 Paediatric Respiratory Reviews 134-52 (2005); Richard S. Mosko & J. McKenna, *Infant Arousals During Mother-Infant Bedsharing; Implications for Infant Sleep and SIDS Research*, 100(5) Pediatrics 841-49 (1997); Richard S. Mosko & J. McKenna, *Maternal Sleep and Arousals During Bedsharing and Infants*, 20(2) Sleep 142-50 (1997); Ricahrd S. Mosko et. al., *Infant Sleep Architecture During Bedsharing and Possible Implications for SIDS*, 19 Sleep 677-84 (1996); Lee T. Gettler & James J. McKenna, *Never Sleep With Baby? Or Keep Me*

Here we present a perspective that in some cases will correct sometimes popular but inappropriate and false stereotypes or generalizations made about the deleterious effects or consequences of any and all forms of co-sleeping on infants and children. These stereotypes and/or misunderstandings we will show have a long and interesting historical context by which they can be explained and better understood for what they are: inaccurate underlying assumptions built around recent social values, ideologies and preferences masquerading as objective scientific facts and findings. We likewise address and respond to negative assertions sometimes made about why bedsharing occurs in the first place and seek to make distinctions between the conditions that do and do not make for a healthy, safe, if not happy context by which bedsharing occurs. We likewise show the interconnections between larger cultural ideologies and their political bases regarding ideas about bedsharing outcomes and illuminate the critical importance of protecting basic human, parental liberties and inherent rights of all citizens as they make personal but hopefully informed choices, which are only theirs to make, as to how or if to sleep with their infants and children.

Close But Keep Me Safe : Eliminating Inappropriate 'Safe Infant Sleep' Rhetoric in the United States, 6(1) Current Pediatric Reviews 1-6 (2010).

A. The Practice of Co-Sleeping Has Been Historically Stigmatized in Western Culture for Reasons Wholly Unrelated to the Health or Well-Being of the Child.

Cultural innovations and child care practices and, importantly, the dynamic social values and ideologies that legitimize them shift quite rapidly relative to the more conservative, evolutionary-based changes in fundamental infant and childhood biology. This raises the possibility that due to cultural beliefs and social values widely recommended infant and childhood care practices can be at odds with human biological, psychological, and emotional needs and expectations, at least as inferred from our species' evolutionary past.

Especially infants separated from their caregivers at night (solitary room sleeping), infants sleeping on their stomachs (prone) to promote uninterrupted, early consolidation of adult-like sleep, and bottle-feeding with formula or cows milk (rather than breastmilk) were all relatively recent (novel) culturally sanctioned but scientifically untested (as safe or best) infant care innovations. It is now known that each of these practices (individually) contributed or led to thousands of SIDS deaths.¹¹ Many of these infant deaths were preventable had we more carefully examined and

¹¹ K. Fitzgerald, *The 'Reduce the Risks' Campaign, SIDS International, the Global Strategy Task Force and the European Society for the Study and Prevention of Infant Death in Sudden Infant Death Syndrome: Puzzles, Problems and Possibilities* 310-18 (R. Brard & H. Krous eds. 2001); W.G. Guntheroth, *Crib Death* (1989).

come to understand the biological validity of father and mother-infant safe co-sleeping and breastfeeding. And if we have figured out that infants sleeping on their backs (i.e. the supine infant sleep position is biologically designed to permit the infant to latch onto the breast but is impossible to do so if the baby is sleeping on its stomach) we might have prevented the single most significant risk factor for SIDS from finding expression. This adaptive 'complex' i.e. the infant sleeping on its back, next to its mother, to breastfeed altogether maximized the protection of perhaps the most vulnerable primate of all, the human infant, born the least neurologically mature primate, the slowest developing and the most reliant on the mother's body for physiological regulation and support.¹²

But what explains the western false assumptions so tenaciously adhered to regarding the alleged benefits promoted for so long of infants and juveniles, (dependent children) sleeping alone, separate from their parents whether breastfeeding or not? The answer is found in a consideration of our unique Euro-American history. A quick glance clarifies its origins and the cultural foundation by which western medical authorities in general came to think that solitary infant sleep was

¹² See James J. McKenna et. al., *Mother-Infant Cosleeping, Breastfeeding and Sudden Infant Death Syndrome: What Biological Anthropology has Discovered About Normal Infant Sleep and Pediatric Sleep Medicine*, 50 Yearbook of Physical Anthropology 133-61 (2007).

beneficial and desirable and why sleeping with baby was thought inherently dangerous insofar as mothers could never monitor (accordingly) their babies well enough during their sleep to prevent themselves from rolling over on them and killing them, and if infants *did* manage to survive they would be socially or psychologically damaged.

Indeed, it was just an unfortunate act of history, one might say, that the development of socio-cultural-folk perception that formula feeding and solitary sleeping in infancy was normal and healthful preceded the technological capacity to study infant sleep. The acceptance of separating babies from their mothers for nighttime sleep began prior to the 19th century in the United States and other western industrialized countries. Historians and anthropologists describe, for example, how exceedingly impoverished urban mothers with no access to additional or sufficient family resources, were compelled to sacrifice some of their infants or children so that the rest of their children might live.¹³ Specifically, it was not uncommon for infants to be dispensed by mothers by purposeful overlaying which was followed by a trip by the mother to seek forgiveness in the Catholic confessional. Horrified Catholic priests threatened these mothers with ex-communication, fines or imprisonment, and, at very least,

¹³ See S.B. Hrdy, *Mother Nature: A History of Mothers, Infants, and Natural Selection* (1999).

subsequently born infants were 'banned' from being brought into the parental bed.¹⁴ The legacy of this period in western history appears to have converged with other changing social mores and customs, such as values favoring parental privacy, self-reliance, and individualism, altogether sculpting the philosophical foundation upon which contemporary western, industrialized cultural beliefs about sleeping arrangements emerged.

The rise and proliferation of the notion of "romantic love" throughout Europe also contributed, however, as it was thought the infant might intrude on or compete with the conjugal, husband-wife bond.¹⁵ Likewise, Freud promoted the idea that infants should not be exposed to the sexual acts of their parents for fear of far reaching psychological impairment – although recent research yet again has found no evidence that "primal scene exposure" in early childhood has any harmful consequences at all for later life.¹⁶ Furthermore, with the rise of the father as the authoritarian, fathers were encouraged to limit affectionate

¹⁴ See J.L. Flandrin, *Families in Former Times: Kinship, Household, and Sexuality* (1979); K. Stone, *The Family, Sex and Marriage in England, 1500-1800* (1977).

¹⁵ See V. Fildes, *Breasts, Bottles and Babies: A History of Infant Feeding* (1986).

¹⁶ See P. Okami et. al., *Outcome Correlates of Parent-Child Bedsharing: An Eighteen-Year Longitudinal Study* 23 *J. Dev. Behav. Pediatr.* 244-53 (1995).

physical contact with their children in favor of providing discipline.¹⁷

This historical set of circumstances surely makes it far easier to accept inherent dangers associated with mother-infant sleep contact than to assume the existence of any benefits.

B. Modern and Scientific Study of 'Co-Sleeping' Has Debunked Myths Concerning the Dangers of Co-Sleeping and, in fact, Conclude it Provides Many Psychological Benefits to Children

Although, in many non-Western cultures, children have for generations slept in the proximity and contact with their parents throughout their entire childhood, it is only in the last few decades that studies have been conducted that show that not only is sleeping with older children not harmful but often it is associated with significant psychological advantages not the least of which is increased comfort with affection and social engagement and less fearfulness in general and, potentially, with more optimism and satisfaction with life in general.¹⁸ The following section outlines the conclusions of the most relevant and recent studies in the area of co-sleeping.

The work of Paul Okami is particularly important in this area because his is the only on-going longitudinal studies ever conducted on

¹⁷ See K. Stone, *The Family, Sex and Marriage in England, 1500-1800* (1977).

¹⁸ See LeVine, *A Cross-Cultural Perspective on Parenting in Parenting in a Multicultural Society* (M.D. Fantini & R. Cardenas eds., 1980).

the effects of bed-sharing on different stages of the life cycle.¹⁹ Okami's study followed children from infancy to 18 years of age and concluded:

- Bedsharing in early childhood was found to be **significantly associated with increased cognitive competence.**
- Bedsharing was **not associated with sleep problems**, sexual pathology, or any other problematic consequences if practiced safely as part of a complex of valued and related family practice.

A similar study²⁰, conducted by J.F. Forbes, concerning co-sleeping in military bases reached similar conclusions:

- "Contrary to expectations, those children who had not had previous professional attention for emotional or behavioral problems co-slept more frequently than did children who were known to have had psychiatric intervention, and lower parental ratings of adaptive functioning."
- **Bed-sharing children were under-represented in the base psychiatric population** and received higher compartment

¹⁹ See P. Okami et. al., *Outcome Correlates of Parent-Child Bedsharing: An Eighteen-Year Longitudinal Study* 23 J. Dev. Behav. Pediatr. 244-53 (1995).

²⁰ J.F. Forbes et. al., *The Co-Sleeping Habits of Military Children*, 157 Military Medicine 196-200 (1992).

scores from their teachers, and benefited by sleeping with one parent when the other leaves for a tour of duty .

In the first ever study to define operationally what “independence” actually means amongst toddlers, and how sleeping arrangements effects it, Keller and Goldberg, also concluded in favor of co-sleeping. Their results indicated:

- Co-sleeping infants (from birth) were rated as being better and more capable of making new friends on their own, solve problems on their own, (like dressing themselves) and be alone (when mother leaves) therein **fitting the operational definition of “independence” better than the enforced solitary sleepers and reactionary co-sleepers.**

A recent study by Heron²¹ compared children born to mothers who followed La Leche League suggestions, to breastfeed and co-sleep, with more standard care children, raised under a Spock- like model involving children who “never” slept in their parents’ bed and found:

- Mothers of non-bedsharing toddlers described their children as **harder to control than mothers of co-sleeping toddlers**

²¹ P. Heron, Nonreactive Co-Sleeping and Child Behavior: Getting a Good Night’s Sleep All Night Every Night (1994).

- **Non-bedsharing toddlers were rated less satisfied and happy** (by their mothers) and exhibited a greater number of tantrums.
- Children who never were permitted to bedshare were **more fearful** than children who always slept in their parents' bed, throughout the night.

In an extensive survey of adult college age subjects, Lewis and Janda²²(1988) report:

- Males who co-slept with their parents between birth and five years of age **had significantly higher self-esteem, experienced less guilt and anxiety, and reported greater frequency of sex.**
- Boys who co-slept between 6 and 11 years of age also had higher self-esteem. For women, co-sleeping during childhood **was associated with less discomfort about physical contact and affection as adults**

Similar to that finding, a study by Crawford²³ found:

²² R.J. Lewis & L.H. Janda, *The Relationship Between Adult Sexual Adjustment and Childhood Experience Regarding Exposure to Nudity, Sleeping in the Parental Bed and Parental Attitudes Towards Sexuality*, 17 Arch. Sex. Beh. 349-63 (1988).

- Women who co-slept as children also **had higher self esteem** than those who did not.
- Co-sleeping appears to **promote confidence, self-esteem, and intimacy, possibly by reflecting an attitude of parental acceptance**

Finally, in the largest most systematic study to date, conducted on five different ethnic groups from both Chicago and New York involving over 1,400 subjects, Mosenkis (1998)²⁴ found **far more positive adult outcomes for individuals who co-slept as a child, among almost all ethnic groups (African Americans and Puerto Ricans in New York, Puerto Ricans, Dominicans, and Mexicans in Chicago)**. An especially robust finding which cut across all the ethnic groups included in the study was that co-sleepers exhibited feelings of greater satisfaction with life, than their non-co-sleeping counterparts.

C. In Addition to Psychological Benefits, Co-Sleeping is an Important and Long-Standing Cultural Tradition in Indian Families

²³ M. Crawford, *Parenting Practices in the Basque Country: Implications of Infant and Childhood Sleeping Location for Personality Development*, 22(1) *Ethos* 42-82 (1994).

²⁴ J. Mosenkis, *The Effects of Childhood Cosleeping On Later Life Development* (1998).

Where an infant or child sleeps in relationship to other members of its family is not just a simple sleep location but reflects both larger cultural-historical values and ideologies and the psychological needs of members of the family, most especially the infant and child, but also that of their parents. As cultural psychologist Schweder describes it: "Who sleeps by whom is not merely a personal or private activity. Instead it is social practice, like burying the dead or expressing gratitude for gifts or eating meals with your family or honoring the practice of a monogamous marriage, which (for those engaged in the practice) is invested with moral and social meaning for a person's reputation and good standing in the community". Anthropologists and psychologists have determined that where babies and children sleep mirror important values, beliefs and ideologies around which societies and cultural groups and sub-groups are organized, and have identities; and especially sleeping arrangements reflect the ways in which families interpret and put into play practices and sacred ideologies and religious beliefs that have been passed on ordinarily throughout generations as a kind of cultural-or moral 'good'.²⁵ That a critical relationship exists between the cultural ideologies (and family beliefs) that underlie the choice of sleep practices, including co-sleeping,

²⁵ R. LeVine, *A Cross-Cultural Perspective on Parenting* in *Parenting in a Multicultural Society* (M.D. Fantini & R. Cardenas eds., 1980); F Kessel, *Cultural Practices as Contexts for Development* 21-40 (1995).

and desired, family-based developmental outcomes for children, is made dramatically clear from many ethnographic studies across a wide variety of cultures including our own. For example, one of America's most renowned Indian cultural anthropologist, Susan Seymour, writing about a culture in which approximately 93-99% of babies sleep nestled against their mothers and fathers each night, notes:

Old Town [Bhubaneswar, Orissa, India] families use a variety of techniques - often unconsciously, I believe - to achieve their goal of trying to produce children who will be interdependent in both identity and behavior, who will identify with the family as a whole, and who will seek to behave in ways that are compatible with extended family interests. The common American middle-class objective of producing relatively autonomous, independent-oriented individuals who can make their own decisions and who will eventually live on their own, pursue their own interests, select their own spouses and establish their own separate households is anathema to most Old Town families. When children do behave in such independent ways (in Orissa India) *it is generally regarded as a family tragedy. How, then, do Old Town families instill in their children a deep sense of interdependence and commitment to the collective well-being of their families, which, in turn, is built upon clearly differentiated gender roles?*

Susan Seymour, *Women, Family and Child Care in India: A World in Transition* 71 (1999). The Indian socialization process itself (i.e. the general human process by which through observation and experience children develop socially in a way compatible with their parents' values and ideologies) occurs like this: "When the child is tired, either she falls

asleep in someone's lap and then is carefully placed on a mat on the floor [near where activity is taking place] or her mother lies down with her until she falls asleep. At night infants always sleep with their mothers, which makes nighttime feedings easier and also provides the child with much physical contact and, presumably, emotional security. Older children also sleep with other people - with mothers, fathers, grandmothers, or older siblings--throughout childhood, adolescence, and up to marriage." *Id.* at 72. Indeed, almost 100 % of Indian families co-sleep. Summing up her forty years of ethnographic experiences in India, Dr. Seymour suggests: "Most Indians, in my experience, consider it mistreatment of a child to put her in a separate room or sleeping compartment for purposes of sleeping. There are parts of India where hanging cradles are used, but they are always near to where a mother or other caretaker is working and can be pushed back and forth, but this would not be used for night time sleeping. Infants and young children are never left alone."

V. CONCLUSION

Because it is somewhat uncommon in Western cultures that encourage children to become autonomous and independent from a young age, the Indian practice of co-sleeping and the theory of attachment and family bonding upon which it is premised are often prejudged by the American public and the legal system. Popular criticism of the practice,

however, is rarely supported by meaningful study or data and instead, is often premised upon unfounded and Eurocentric assumptions. When one does consider the practice's history, cultural significance and the results of studies conducted on the subject, however, its potential value is manifest: it can contribute to a healthy and supportive home environment, encourage and spur bonding between parent, child and extended family and ensure the development of confident and well-supported children.

By all accounts, Manuj Varn Chandola is a kind and caring, if overprotective, parent seeking only to raise his child in a manner that respects his and his family's cultural traditions – one of those traditions is co-sleeping. Washington courts and the United States Supreme Court have recognized that protecting the rights of parents to raise their children in a manner that respects their cultural traditions, is one of the most foundational liberty interests protected by the United States Constitution and is essential to the healthy development of a child. Thus, this right ought not be infringed except upon a specific showing that a cultural practice causes physical, mental or emotional harm to a child.

Because of the constitutional, cultural and practical import of this issue, to affirm the trial court's restrictions on co-sleeping in the present case, the court should be clearly convinced by meaningful data that the practice of co-sleeping, in and of itself, is dangerous to the health and

development of a child. Should the court fail to find sufficient supporting data for such a proposition, the Court should reverse the lower court ruling and remand requiring the entrance of a parenting plan with no restrictions concerning co-sleeping or otherwise make clear in its decision that the legal protection of the practice is not at risk. To do otherwise would not only signal a lack of acceptance to Washington's diverse communities but could also discourage families who engage in the practice of co-sleeping from going to court at all, for fear that they may be stigmatized as a result of their traditions – a clearly untenable result.

Dated this 12th day of August, 2013.



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CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I served by email one copy of this Amicus Brief on the following:

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Joseph Shaub, WSBA# 25037

APPENDIX A

CURRICULUM VITAE

JAMES J. MCKENNA, Ph.D.
Rev. Edmund P. Joyce, C.S.C. Endowed Chair in Anthropology and
Director, Mother-Baby Behavioral Sleep Laboratory
University of Notre Dame
Fellow, American Association for the Advancement of Science

Office Address: Department of Anthropology
624 Flanner Hall
University of Notre Dame
Notre Dame, Indiana 46556
E-mail: James.J.McKenna.25@nd.edu
Website www.nd.edu/~jmckenn1/lab

Additional Appointments:

- Chair, Department of Anthropology (2001-August 2005), University of Notre Dame
- Director, Mother-Baby Behavioral Sleep Laboratory University of Notre Dame, 1997 to present
- Fellow, American Association For the Advancement of Science, since February 2008.
- (Ad Hoc) Expert Consultant. American Academy of Pediatrics. SIDS and Infant Sleep Position, Dr. John Kattwinkel, Chair. 2003-2004.
- Member, Global Strategy SIDS Task Force (Education Committee), 1994-97
- (Ad Hoc) Committee Indiana Perinatal Network (IPN) Produced: Safe Infant Sleep Brochure for State of Indiana
- Health Advisory Board, La Leche League International
- Attachment Parenting International, Board of Directors
- Consulting Advisor for Pregnancy and Fitness Magazine, Child Development Section.
- Advisory Board Medical Anthropology Encyclopedia Yale University HARF
- Executive Committee Member Mendelson Center for the Study of Sport, Culture and Character, University of Notre Dame 2000-2003
- Senior Researcher, Department of Neurology, University of California, Irvine School of Medicine 1984-1997
- Scientific Advisory Committee Member, Fourth International SIDS Meeting Washington D.C. 1994, International Advisory Board Member
- Seventh Annual Meeting of the European Society for the Prevention of Infant Deaths, Jerusalem, Israel June 1999
- Associate Editor, Evolutionary Medicine and Public Health
- Associate Editor, Human Nature, 1989-2006
- Appointed Distinguished Visiting Scholar, Advanced Institute, University of Western Australia. Perth, Australia. Presented public university lectures on the topic of: The Role of Evolutionary Studies in Medicine (Feb 1-19, 2001).

Areas of Interest and Expertise:

- Infant Sleep, Breast Feeding, Mother-Infant Bedsharing/Cosleeping, and Sudden Infant Death Syndrome (SIDS)
- Evolution of Human Behavior (especially parenting and infant development)
- Evolutionary Medicine
- Primate Social Behavior
- Human Evolution

Education:

1975 Ph.D., Department of Anthropology, University of Oregon (Anthropology) Dissertation: "Social Roles and Behaviors of Seventeen Captive Indian Langur Monkeys (*Presbytis entellus*)"

1970-72 M.A San Diego State University (Anthropology) Master's Thesis: "Primate Aggression: A Problem in Behavioral Systematics"

1966-70 Associated Bachelors Degree, University of California, Berkeley (Anthropology)

Awards and Honors:

Phi Beta Kappa

One of two selected candidates to run for the Office of the Presidency, Society of Medical Anthropology (2012) (unsuccessful).

2008 Elected Fellow, American Association for the Advancement of Science (Ceremony February 12, 2009, Chicago, Illinois).

2008 Anthropology in the Media Award (One of Three Highest Honors Given By American Anthropological Association) "in recognition of outstanding contributions to Anthropology through successful communication of anthropology to the general public through the media."

2008 Invited Member Center For the Advancement, Research and Training In Anthropogeny. University of California, San Diego, Department of Biological Sciences and the Salk Institute.

2008 Voted "Inaugural Lecturer" for the "Last Lecture Series", University of Notre Dame student body. Nov 12th,

2008 Sheedy Award For Excellence in Teaching, Arts and Letters Highest single honor for excellence in teaching given by University of Notre Dame, College of Arts and Letters

2008 Edmund P. Joyce C.S.C. Award for Excellence in Undergraduate Teaching University of Notre Dame

2007 International Research Award. Presented by Lamaze International to Professor James J. McKenna, honoring "critical and excellent work in mother-infant co-sleeping and breastfeeding." Presented Phoenix, Arizona, September 8, 2007 at Lamaze International Meetings.

2006 University of Notre Dame Senior Class Fellow Award, presented by the University of Notre Dame graduating class of 2006 to Professor McKenna " an accolade traditionally given to a member of the Notre Dame community who has had a significant positive impact on the graduating class". May 1, 2006

Healthy Children Faculty Award *for significant contributions to the understanding of mother baby sleep*. Presented by Executive Director, Dr, Karin Caldwell, Healthy Children Project January 16, 2006 Orlando, Florida.

Kaneb Award (Excellence in teaching) College of Arts and Letters. University of Notre Dame (2006)

Moira Whitehead Memorial Distinguished Lecturer. Pediatric Grand Rounds. Pittsburgh Children's Hospital. "SIDS, Breast Feeding and Co-sleeping". October 20, 2004

Distinguished Lecturer, World Mental Health Association. University of Melbourne Australia. January 14th Melbourne, Australia. Lecture: "Controlled crying: Social Ideology Masquerading As Science" (2004)

Elected: Executive Committee Member--At-Large: Biological Anthropology Section, American Anthropology Association (2004-2006)

Kaneb Faculty Teaching Fellow Appointment, University of Notre Dame 2004-2005)

Distinguished Presenter Award Washington D.C. Presented by District of Columbia Child Fatality Review Committee. October 2, 2003

Awarded Edmund P. Joyce CSC (Endowed) Chair in Anthropology (2001)

Appointed Distinguished Visiting Scholar, Advanced Institute, University of Western Australia. Perth, Australia. Presented public lectures and university lectures on the topic of: The Role of Evolutionary Studies in Medicine (Feb 2001)

Thomas Madden First Year Students Teaching Award, University of Notre Dame (2000)

Kaneb Award for Distinguished Teaching, Arts and Letters, University of Notre Dame (2000)

Inaugural Invited Guest and Lecturer, in celebration of the opening of the University of Durham, England, Parent-Infant Sleep Laboratory (Stockton Campus). Laboratory Opening. April 15, 2000, Co sleeping, Breast Feeding and SIDS: It's Only Biology.

Elected Executive Committee, Society for Medical Anthropology (1994-1997)

Honored Lecturer Norwegian SIDS Society Oslo, Norway, November 4, 1995 Celebrating 10th Anniversary (1995)

Endowed Chair by Pomona College: Edwin and Margaret Hahn Chair of the Social Sciences (1995)

Shannon Award: National Institutes of Health, with Dr. Sarah Mosko (\$100,000) (for innovative research on mothers and infants) (1993)

Elected as Member-at-Large, Executive Committee, Central Division, American Anthropological Association 1991-1993

Pomona College Wig Award for Distinguished Teaching
1980, 1984, 1988, 1992 (each time eligible)

William Lauffer Distinguished Visiting Professor of Psychiatry and Lecturer, Bradley Hospital at Brown University (1990)

Luther Cressman Award, University of Oregon, Department of Anthropology (Best Graduate Student Paper, 1975)

Washington, D.C., Student Congressional Intern Fellow, House of Representatives (summer) 1970

Sportsmanship Award, Presented by graduating class of 1966, Mt. Diablo High School, Concord, California (1966)

Grants, and Teaching Fellowships:

2007 Faculty Research Project Grant (\$10,000): Hormonal Profiles of Co-sleeping Mothers, Fathers and Infants in Two Cultural Settings. (With Lee Gettler). University of Notre Dame Office of Research.

2007 Graduate School Office of Research: Hormonal Profiles of Co-sleeping Mothers, Fathers and Infants in Two Cultural Settings. (\$30,000).

2007 Institute For Scholarship In The Liberal Arts. University of Notre Dame (\$15,000): Hormonal Profiles of Co-sleeping Mothers, Fathers and Infants In Two Cultural Settings. (With Lee Gettler)

- 2001-05 Co-PI National Institutes of Child Health and Human Development RO1 "Predicting and Preventing Neglect in Teen Mothers" University of Notre Dame (PI: Dr. John Borkowski) (multi-site study, 5 year, 6, 000,000)
 NICHD Team Members:
 University of Alabama
 PI's Sharon and Craig Ramey
 Consultant: Lorraine Klerman
 University of Kansas (Juniper Gardens Children's Project)
 PI(s) Steve Warren
 Judy Carta
 Georgetown University
 PI: Bette Keltner
- 2000 Equipment and Restoration Grant \$43,950 University of Notre Dame Graduate Research Grant
- 1998 Henkels Scholars Conference Grant, Institute for Scholarship Arts and Letters \$22,000 *Back to the Future* Breast Feeding, Parental Contact and Proximity Promoting Infant Health. University of Notre Dame, September 28, 1998
- 1997 Wenner Gren Foundation for Anthropological Research \$4500: Organized Evolutionary Medicine Symposium for the Human Biology Association Annual Meetings. St. Louis, Mo.
- 1991-96 National Institutes of Child Health and Human Development, (Co-PI) "Infant Parent Co-Sleeping: Implications for SIDS" (\$955,000 RO1) with Dr. Sarah Mosko
- 1990 National Institutes of Health (Shannon Award). (Co-PI) "Infant-Parent Co-Sleeping: Implications for SIDS," with Dr. Sarah Mosko (\$100,000)
- 1989-90 Ford Foundation Grant \$10,000
- 1988 Sloan Foundation SIDS Research Grant \$ 6,000
- 1988 Ford Foundation Fellowship, \$10,000
- 1987 Sloan Foundation Medical Technology Grant \$6000
- 1986 Sloan Foundation Mathematical Modeling of SIDS \$5,000
- 1986 Mellon Discrete Mathematics Project (modeling the breathing patterns of co-sleeping mother-infant dyads) with Richard Elderkin, Ph.D. \$12,000
- 1986 Critical Studies in Science and Technology \$6000
- 1983 Haynes Foundation Summer Research Grant: Female Dominance Hierarchies Among Nonhuman Primates \$4500.00
- 1981 Irvine Foundation Summer Research Grant: sociobiology and Economics: What is the Connection? \$5000
- 1980 Haynes Foundation Summer Research Grant: Alloparenting Among Indian Langur Monkeys \$7000
- 1979 Mellon Faculty Development Grant, summer course developed: Human Sex Differences: Biological and Social Perspectives \$5000

- 1978 National Institute of Mental Health Training Grant, Psychobiology and Mental Illness Summer Institute, U.C. Irvine. Neurobiology and Neurophysiology
- 1974 University of Oregon, NIMH Bio-Medical Grant #50-262-1102, Partial Research Support
- 1972-74 University of Oregon Teaching Fellowship
- 1970-72 Graduate Student Teaching Assistantship, San Diego State University
- 1970 UC Berkeley 'Cal' in the Capital Program: United States House of Representatives and Senatorial Offices, Student Intern Fellowship, Washington D.C. June-August.

Selected Administrative Work:

- 1997-present Anthropology Committee of Appointments and Promotions, University of Notre Dame
- 2011-2013 Faculty Board of Athletics Member (elected)
- 2010 Chair (two Grievance Cases)
- 2001 -2005 Chair, Department of Anthropology, University of Notre Dame
- 2000-2003 Arts and Letters College Council (additional term 2009-2012)
- 2000-2003 Executive Committee, Mendelson Center for the Study of Sport Culture and Character. University of Notre Dame
- 2004-present Theodore Hesburgh Lecturer
- 2004 Kaneb Lecturer
- 2003 Kaneb Center Panel Discussion: Enhancing The Academic Experience Undergraduates in the Departments.
- 2004 Chair, Dean Review Committee, University of Notre Dame College of Arts and Letters
- 2001-2006 Provost's Advisory Counsel, University of Notre Dame (Two 3-Year Terms, elected)
- 1997-98 Undergraduate Studies Advisory Council
- 1998 Affirmative Action Committee
- 1998 Provost's Task Force, Diversity at Notre Dame (appointed)
- 2000-01 Affirmative Action Officer, College of Arts and Letters, University of Notre Dame
- 1983-88 Pomona College Chair, Department of Sociology and Anthropology
- 1989 Dean, Pomona College Alumni College
- 1981-83 Pomona College Administration Committee (Elected, Tenure and Promotion Committee)
- 1984-87 Pomona College Executive Committee (Inaugural member)
- 1991-93 Pomona College Chair, Animal Care Committee
- 1991-94 Pomona College Administration Committee Member (Elected, Tenure and Promotion Committee)
- 1992-94 Director, Freshman Seminar Program, Pomona College
- 1993-95 Pomona College Anthropology Program Coordinator
- 1993-94 Chair, Faculty Diversity Committee (ad hoc, appointed by the President Stanley)
- 1995-96 Administration Committee (Elected, Tenure and Promotion)
- 1995-97 Chair, Public Events Committee, Pomona College,

Teaching Positions and Rank Trajectory

- 2000–present Edmond P. Joyce C.S.C. Chaired Professor (Endowed) of Anthropology, University of Notre Dame
- 1997-2000 Professor of Anthropology, University of Notre Dame
- 1996-98 Hahn Endowed Chair of the Social Science Pomona College
- 1990-96 Professor of Anthropology, Pomona College
- 1981-90 Associate Professor of Anthropology, Pomona College
- 1977-81 Assistant Professor of Anthropology, Pomona College
- 1975-77 Visiting Assistant Professor, Department of Anthropology, University of California, Berkeley

Research Activities:

1998- present University of Notre Dame Mother-Baby Sleep Laboratory: physiological and behavioral differences between cosleeping and solitary sleeping human mothers and infants; ethno-history of family attitudes toward childhood sleep, and sleep behavior during the night. SIDS risk factors, breast feeding behavior, sleeping arrangements in evolutionary and cultural perspective.

1984-97 Departments of Neurology, Child Psychiatry, and Human Behavior, University of California, Irvine Medical Center, Sleep Disorders Laboratory. Project: Breathing and Sleep Patterns of Co-Sleeping Human Mother-Infant Pairs (co-researcher Dr. Sarah Mosko, Ph.D.)

1983 Human and Nonhuman Primate Development: The Effects of Supplemental and Surrogate Care (Haynes Foundation Grant and Project)

1981 "Sociobiology and Economics: Can We Predict the Fate of Genes and Dollars by Using the Same Models?" Summer research funded by the Irvine Foundation Grant

1979-80 Infant development and adaptive significance of infant sharing (alloparenting) among captive langurs, San Diego Wild Animal Park, Escondido, California

1975-77 Co-Researcher with Professor P. Dolhinow on the effect of temporary mother-loss among langur monkeys (*P. entellus*) at the Primate Behavior Station, U.C. Berkeley

1975 Sex differences among juvenile Indian langur monkeys, U.C. Berkeley Animal Behavior Station

1974-75 Ph.D. research (10 months) Hanuman langurs (*P. entellus*) San Diego Zoological Garden.

1970-72 Studies of play and aggressive behavior among Spider monkeys, Douc langurs, and Barbary apes at the San Diego Zoo.

1969 Social behavior of crab-eating macaques at the U.C. Berkeley Primate Station (under the direction of Dr. Phyllis Dolhinow).

Publications:

In prep

Invited paper, for

Acta Paediatric (leading European Pediatric Research Journal)

What You Don't Necessarily Know About What Else We Know About SIDS/SUDI: Mother-Infant Co-sleeping, and Breastfeeding Lee T. Gettler and James J. McKenna

Book Contract, Waveview Press "Biological Anthropology of Everyday Life" with Agustin Fuentes.

Books/Monographs

2008 Evolutionary Medicine and Health: New Perspectives. W. Trevathan, N. Smith, J. McKenna (eds.) London: Oxford University Press.

(2007) McKenna, James J. "Sleeping With Your Baby: A Parents Guide to Cosleeping". Platypus Press: Washington D.C.

Spanish Translation (2009) "*Domir con tu bebé: Una guía para padres sobre el colecho, cómo practicarlo de forma segura*".

Dutch translation (2011) "Sleeping With Your Baby" *Slapen Mit Ja Baby*

Italian Translation (2012) "Sleeping With Your Baby *A letto con il nostro bambina*"

2004 Didierjean-Jouveau Claude Suzanne, Jacky Israel, James McKenna. Comment dormant les bébés..Pour ou contre le sommeil partagé (How Babies Sleep: For and Against Mother-Infant cosleeping). Naitre Grandir Devneir Cahier #2. Belin: Paris (book).

1999 Trevathan W. Smith E., McKenna J. (Eds) Evolutionary Medicine. Oxford University Press: Oxford, New York

1991 McKenna, James J.: Researching the Sudden Infant Death Syndrome (SIDS): The Role of Ideology in Biomedical Science. Research Foundation, State University of New York, Stony Brook.

1986 McKenna, James J. An Anthropological Perspective on the Sudden Infant Death Syndrome (SIDS): The Role of Parental Breathing Cues and Speech Breathing Adaptations. Medical Anthropology: Cross-Cultural Studies of Disease and Illness, Vol. 10, No.1.

Refereed Articles and Invited Essays, and Book Reviews:

2012 Lane E. Volpe, Helen L. Ball, James J. McKenna. Nighttime Parenting Strategies and Sleep Related Risks to Infants.. Social Science and Medicine <http://dx.doi.org/10.1016/j.socscimed.2012.05.043>

2012 Gettler LT, McKenna JJ, Agustin SS, McDade TW, Kuzawa CW. (2012) Does cosleeping contribute to lower testosterone levels in fathers? Evidence from the Philippines. Plos One 7:9; e41559

2012 McKenna, James J. and Lee T. Gettler (2012) 'It's dangerous to be an infant': on-going relevance of John Bowlby's *Environment of Evolutionary Adaptedness* (the EEA) in promoting healthier births, safer maternal-infant sleep, and breastfeeding in a contemporary western industrial context. Narvaez, D., Panksepp, J., Schore, A., & Gleason, T. (Eds.). *Evolution, Early Experience and Human Development: From Research to Practice and Policy*. New York: Oxford University Press, 439-452.

2012 Gettler, Lee T. and James J. McKenna (2012) Co-sleeping. Encyclopedia of Sleep and Dreams. Peter MacNamara Ed. ABC Cljo Publishers: Santa Barbara, Ca.

2011 Gettler LT and McKenna JJ. Evolutionary Perspectives on Mother-Infant Sleep Proximity and Breastfeeding in a Laboratory Setting. *Amer Jour of Phys Anthro* 14: 454-462

2010 Gettler, Lee T. and James J. McKenna. "Never Sleep with Baby? Or Keep Me Close But Keep Me Safe: Eliminating Inappropriate 'Safe Infant Sleep' Rhetoric in the United States". *Current Pediatric Reviews* Vol. 6 No. 1, p. 1-6.

2010 Gettler, Lee T. and James J. McKenna. "Evolutionary Perspectives on Mother-Infant Sleep Proximity and Breastfeeding in a Laboratory Setting." *American Journal of Physical Anthropology* (online version published, December 2010, journal copy, in press). See doi: 10.1002/ajpa.21426

2010 McKenna JJ, Gettler LT. Co-sleeping, breastfeeding and sudden infant death syndrome. In: Tremblay RE, Barr RG, Peters RDeV, Boivin M, eds. *Encyclopedia on Early Childhood Development* [online]. Montreal, Quebec: Centre of Excellence for Early Childhood Development; 2010:1-10. Available at: <http://www.child-encyclopedia.com/documents/McKenna-GettlerANGxp.pdf>. Accessed [insert date].

2010 McKenna, James J. "Parental Supplements and Surrogates Among Primates: Cross-Species and Cross-Cultural Comparisons." In *Parenting Across the Life Span: Biosocial Dimensions*. Eds. Jane B. Lancaster, Jeanne Altmann, Alice S. Rossi and Lonnie R. Sherrod. (Republished 2010: pp 143-186)*

2010 McKenna James J. and Helen Ball "Early Infant Sleep Consolidation Is Unnecessary Barrier to Breastfeeding." E-Letter in Pediatrics <http://pediatrics.aappublications.org/cgi/eletters/126/5/e1081> (refereed) DOI: 10.1542/peds.2010-0976 Nov 2 in response to: 2010;126;e1081-e1087; originally published online Oct 25, 2010;

Pediatrics Jacqueline M. T. Henderson, Karyn G. France, Joseph L. Owens and Neville M. Blampied . Sleeping Through the Night: The Consolidation of Self-regulated Sleep Across the First Year of Life.

2009 McKenna, James J. and Lee Gettler. Sleeping Arrangements. *In* *The Child: An Encyclopedic Companion*. Richard Schweder, Ed. University of Chicago Press, pp.917-920.

2009 McKenna, James J On Infants Sleeping Alone. *In* *The Child: An Encyclopedic Companion*. Richard Schweder, Ed. University of Chicago Press. Pg 918.

2008 McKenna James J and Lee T Gettler. Cultural influences on infant sleep biology and the science that studies it: toward a more inclusive paradigm, part II. *In: Sleep and Breathing In Children: A Developmental Approach*, vol.2. GLoughlin, JCarroll and CMarcus (eds) New York: Marcel Dekker. Pp. 183-221*

2008 W. Trevathan, E. Smith, J. McKenna. Introduction and overview of evolutionary medicine. *In* *Evolutionary Medicine and Health*. W.Trevathan, NSmith and J.McKenna (eds). London: Oxford University Press,pp 1-54.

2007 McKenna, James J. and LVolpe (2007) " An Internet Based Study of Infant Sleeping Arrangements and Parental Perceptions." *Infant and Child Development* 16:359-385.

2007 McKenna, James J, Helen Ball, Lee T. Gettler. Mother-infant co-sleeping, breastfeeding and sudden infant death syndrome: What biological anthropology has discovered about normal infant sleep and pediatric sleep medicine. *Yearbook of Physical Anthropology* 50:133-161.

2007 McKenna, James J. and Lee Gettler. Mother -infant co-sleeping with breastfeeding in the Western industrialized context. *In: Hale TW and Hartmann PE (eds.) Textbook of Human Lactation..* Amarillo, Texas: Hale Publishing, p.271-302

2006 McKenna, James J, Lane Volpe and Willow Wetherall. Longitudinal Study of beliefs, Sleeping Arrangements, Feeding Practices and Attachment of At Risk Teen Moms Compared with High and Low Risk Older Control Moms: Implications For SIDS. *In* *Bed Sharing and Sudden Infant Death Syndrome: Physiology, Epidemiology and Public Health Perspectives* *Pediatrics and Infant Health Volume 11 Supplement A*, pp 39A-41A. *

2006 McKenna, James. Assessing trade-offs between potential benefits and risks of increased nighttime contact between mothers and infants. *Pediatrics and Infant Health Jour of the Canadian Paediatric Society* Vol 11 Supplement A. pp 49-50A.

2006 Fleming, Peter, Peter Blair and James J. McKenna New Knowledge, new insights, and new recommendations: Scientific controversy and media high in unexpected infant deaths. Invited Editorial. *Archives Disease In Children* 799-801

2005 McKenna James J and Thomas McDade Why Babies Should Never Sleep Alone: A Review of the Co-sleeping Controversy *In* Relationship To SIDS, Breast Feeding and Bedsharing. *Paediatric Respiratory Reviews* 6, 134-152 (pdf available on website)

2005 McKenna, James J. Sudden Infant Death Syndrome. *Encyclopedia of Human Development*. Brian Hopkins with Ron Barr George Michel and Philippe Rochat, pp 453-457. Cambridge University Press

2004 McKenna, James J Mother-Infant Co-sleeping with Breast Feeding: Adaptive Behaviors Worth Fighting For. Guest Essay. Invited Essay for *Breast Feeding Abstracts* Vol 23 Number 1: 3-4.

2004 McKenna, James J Sudden Infant Death Syndrome: Infant Sleep, Breastfeeding, and Infant Sleeping Arrangements. *Encyclopedia of Medical Anthropology. Health and Illness in the World's Cultures*. C. Ember and M.Ember (Eds) Vol. 1 New York: Kluver Academic (Plenum Publishers)pp.506-517

- 2003 McCoy, Rosha...Lawrence Gartner, *McKenna, James (consultant author)* Academy of Breastfeeding Medicine Protocols: Guidelines on Co-Sleeping and Breastfeeding, ABM News and Views – The Newsletter of the Academy of Breastfeeding Medicine, Vol. 9, No. 2, pp 10-13.
- 2003 Volpe, Lane and James McKenna, "Sleeping With Baby: Benefits and Risks Bed Sharing". Advance for Managers of Respiratory Care, pp 27-29
- 2003 McKenna, James J. Co-sleeping. In Breast Feeding: Nutrition in Early Childhood and Reproductive Health. V. Scherbaum, Ukretschmer, F. Perl (Eds) pp. 268-272. (German Text)
- 2002 McKenna, James J Why We Never Ask Is It Safe For Infants To Sleep Alone (Part 2). Academy of Breast Feeding Medicine News and Views. Vol 7, No 6. Issue.
- 2002 Why We never Ask Is It Safe For Infants to Sleep Alone (Part 3). Academy of Breast Feeding Medicine News and Views. Vol 7, No 8. Issue.
- 2002 McKenna, James J., "Breast Feeding and Bedsharing: Still Useful and Important After All of These years." Lead article. Mothering Magazine Special Issue; Sleeping with Your Baby; The World's Top Scientists Speak Out. J McKenna (Guest editor). Volume 114 September-October Issue pp 28-37
- 2002 McKenna James, "Sleeping with Your Baby". Introduction: In Sleeping with Your Baby; The World's Top Scientists Speak Out. J McKenna (Guest Editor). Volume 114, September-October Issue pp 7-8.
- 2001 McKenna, James, Why We Never Ask Is it Safe for Infants to Sleep Alone (Part 1)? Academy of Breast Feeding Medicine News and Views. Vol.7 No 4:32-2001
- 2001 McKenna, James J., Nighttime Parenting, Breast Feeding Annual International Dia Michael, Editor. pp 126-135
- 2001 *Stein, M, Caluruso, C, McKenna, J., Wight, N., Cosleeping (Bedsharing) Among Infants and Toddlers. (Re-published) Pediatrics (April 2001)*
- 2001 McKenna, J and Mosko S., Mother-infant cosleeping and breast feeding as adaptation not pathology: A scientific new scientific beginning point. In Sudden Infant Death Syndrome: Puzzles, Problems and Possibilities. R Byard and H. Krous eds. Arnold Publishers: London, pp 258-274
- 2001 McKenna, J, Culture and Cosleeping. New Beginnings Vol 18, No 1; pp 4-8 Publication of La Leche League International.
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Selected Journals and Publishers for whom I served as expert reviewer Review/Consultant:

National Institutes of Health (Panels on Childhood and Infant Sleep)
Scott, Foresman, and Company (publishers)
Morrow Publishing
Academic Press
Oxford University Press
Holt, Rinehart, and Winston. *Humankind Emerging*, Bernard Campbell, 4th and 5th eds, 1988.
Lothrop, Lee, and Shepard Books. *Hominids: A Look Back at Our Ancestors*, Helen Sattler, 1988.
National Science Foundation, 1987- present
International Journal of Primatology
American Journal of Primatology
Animal Behavior
Social Science and Medicine
Child Development
Wenner Gren Foundation for Anthropological Research
Guggenheim Fellowship Award
National Geographic Society
Pediatrics
Archives of Diseases in Children
Psychological Bulletin
Sleep
Natural History Magazine

Membership in Professional Organizations and Societies:

American Academy of Pediatrics (Section: International Children's Health, 2000-2004)
Society for Research in Child Development
Society for Infant Studies
American Anthropological Association, Fellow (Exec. Committee Member-at-Large, 1991-93)
American Association of Physical Anthropologists, Member
American Association for the Advancement of Science (Fellow)

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From: Joseph Shaub [<mailto:joe@josephshaub.com>]

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Cc: 'James McKenna'; 'Mike Meredith'; 'M Varn Chandola'; 'Janet M. Helson'; novotnylaw@comcast.net; 'David Zuckerman'

Subject: In re Marriage of Chandola - No., 89093-5

Dear Clerk of the Court:

Please find attached a Motion for Leave to File Amicus Brief and accompanying Brief of Amicus Curiae, James J. McKenna, Ph.D. in the above entitled matter.

We have submitted a Motion for an extension to file this brief and request that the Court still consider this motion as Dr. McKenna believes he can submit a more comprehensive argument to this Court if given additional time.

Thank you for your kind consideration of the above.

Joe

Joseph Shaub
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