

FAMILY ALBUM

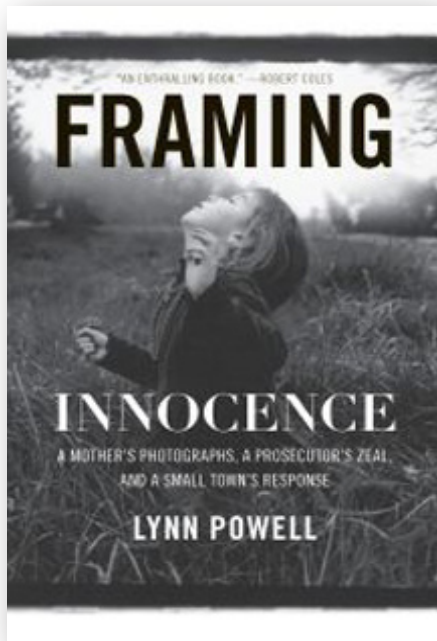


AN EXCERPT FROM
FRAMING INNOCENCE

A Mother's Photographs, A Prosecutor's Zeal
and a Small Town Response

By **LYNN POWELL**

ColdType



Lynn Powell is the author of two books of poetry, *Old & New Testaments* and *The Zones of Paradise*, and has been awarded fellowships from the National Endowment for the Arts and the Ohio Arts Council. She lives with her family in Oberlin, Ohio.

This excerpt consists of the author's Snapshot and Chapters One and Two of **Framing Innocence**, published with permission

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SNAPSHOT

When my son was three years old, he had a mix-and-match wardrobe of invincibility. Before nursery school each morning, he could turn into Superman, Robin Hood, a lion, a pirate, or a policeman in the costumes I improvised out of old pajamas, swaths of dime-store cloth, and my daughter's outgrown tights. But one February afternoon, intrigued by the cherubic boy he'd seen on Valentine's Day cards, my son shed his clothes, slipped into his sister's room, put on her large, pink fairy wings, and sidled up to me in the kitchen holding his plastic bow and suction-cup arrow. "Guess who I am, Mommy!" he exclaimed. It was one of those moments when I wanted the world to stand still and let my child always stay so impish and innocent.

I guessed who the little god was, and

“

I looked back through my lens. No, I thought, nobody could mistake this cute picture for porn

as he ran off, I called after him, asking if I could take his picture. He agreed. So I stood him before a window where the light streamed in, as if he were indeed an emissary from the clouds. I framed his pink body against the gray sky. Then just as I snapped, I thought, Oh, my God! Could this picture get me into trouble?

I had heard news reports of parents getting arrested for taking snapshots of their naked children – pictures the parents considered innocent but the police considered obscene. Could the police see my picture as obscene, too?

I looked back through my lens. No, I thought, nobody could mistake this cute picture for porn. I thought of the large hand-colored photograph framed on the wall of our living room – my husband's father as a naked baby lying bottom up on a bearskin rug in 1925. Reassured, I snapped a few more shots of my Cupid.

When I sent off the film to be developed, I did feel a second twinge of con-

cern. But the prints came back on time, and I was delighted with how they had turned out. I knew that someday, when it was hard to recall my son's exuberant nakedness and lopsided wings, I would be grateful to have those pictures. In the meantime, I tossed them into a box of family photos waiting to be put into albums.

A few years later, however, a mother just down the street, the mother of one of my son's best friends, would be arrested for pictures she hadn't thought twice about taking.



Cynthia dreamed of someday publishing a photojournalistic book that chronicled their family's life. But her larger goal was to bequeath to Nora a photographic memory of her childhood

one of his famous whole-wheat fruitcakes, triple-soaked in bourbon and wrapped in a sheet of Mylar. He presented the cake as Nora's "dowry," then whisked up his new grandchild and draped her over his shoulder. Cynthia picked up her hand-me-down Nikon – a parting gift from an old boyfriend – and snapped.

By 1999, motherhood had transformed Cynthia Stewart from a casual to a passionate photographer. Early in her daughter's life, Cynthia had decided to take pictures of Nora on the last day of every month to record her growth and changes. Soon the photo sessions were weekly. And as Nora grew, so did the reasons to bring out the camera: puddle splashings, tree climbings, tea parties, bubble baths, picnics, birthdays, family friends, playmates, grandparents, fields of wildflowers, sunsets, pets. Nora took Suzuki violin lessons and Scottish dance lessons, played on a city soccer team, sang in a children's chorus, and performed with a children's drama troupe. Wherever her daughter went, Cynthia went, too, always with her Nikon around her neck.

Cynthia annotated, numbered, dated, and filed with its negative every photograph she took. Those photos were stored in a few dozen cardboard boxes – hatboxes, fruit boxes, shoe boxes – stacked in columns against the family's dining room wall. Cynthia dreamed of someday publishing a photojournalistic book that chronicled their family's life. But her larger goal was to bequeath to Nora a photographic memory of her childhood. In the eight years since Nora's birth, she had taken a staggering 35,000 photographs. Not all of those pictures were of Nora, but she was in the frame more often than not.

Cynthia, David, and Nora lived in a hundred-year-old farmhouse about a

CHAPTER 1

A KNOCK AT THE DOOR

The first two photographs of Nora Stewart were taken by her father, David Perrotta, in 1991, on the day she was born. In one, the midwife is hefting and weighing her, as if hefting and weighing a good-sized fish, in the sling of a portable scale. In the other, her mother, Cynthia Stewart, is lying back on a pillow looking exhausted but pleased, with a "Gonzo's Garage" T-shirt pulled up above both of her breasts. The baby is wearing a bright Guatemalan cap. Her eyes are closed, and her tiny hand is half-clenched, with one of her fingers reaching up and almost touching the nipple her mouth is about to latch onto.

Cynthia's own first snapshot of her daughter was taken a week later. Cynthia's father had come for a visit bearing

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mile from the center of Oberlin, Ohio. Their house – the next-to-last before the neighborhood petered out into fields and farmland – was little, but with a big yard filled with forsythia, apple saplings, and a vegetable garden. Cynthia was a school bus driver. Now in her late forties, she was tall with ruggedly beautiful features and a mass of bushy brown hair that flowed down her back. There was a sureness to her bearing, a down-to-earth elegance and an expansive warmth. David telecommuted to New York City, working as a consultant for *The Nation* magazine, managing their digital archives. He was shorter than Cynthia, more reserved, and very handsome, with dark hair, a dark goatee, and a mordant sense of humor. Nora had grown into an articulate, precocious eight-year-old with her father's large, dark eyes and her mother's lighter brown hair, which almost touched her waist.

The family lived in a kind of cozy, whimsical disorder: piles of books teetered on tables and the piano bench, sweaters and scarves occupied comfy-looking chairs, issues of the *New Yorker* rose in knee-high stacks, colorful bird feathers were taped to kitchen cabinets, old holiday decorations hung about like domesticated ghosts. A large aquarium with fluttering fish stood in the small living room, where several cats lounged on the clutter. The most orderly precinct of the house was David's office, which shared the tiny upstairs with his and Cynthia's bedroom.

Cynthia usually took her film to be developed to Drug Mart, a large chain drugstore on the town's edge. On July 6, 1999, spotting an ad for a film processing sale, she scooped up eleven rolls and drove to Drug Mart. As usual, she scribbled the date and a few notes to herself



When Cynthia stopped by a few days later to pick up her prints, the clerk could find only ten envelopes with her name. Cynthia showed her the eleventh receipt, and, after searching the bins, the clerk promised to call the processing lab and track down the missing roll

on the receipts.

When Cynthia stopped by a few days later to pick up her prints, the clerk could find only ten envelopes with her name. Cynthia showed her the eleventh receipt, and, after searching the bins, the clerk promised to call the processing lab and track down the missing roll. But after a week of calling with no results, the clerk gave Cynthia the lab's number and wished her better luck.

Cynthia began calling the lab, fifty miles away in another Ohio town, every few days. Each time she called, her query was met with silence. Then the customer service agent would say, "That roll of film has not left the premises." Yes, Cynthia would explain, she had been told that before, but since her roll of film was clearly lost in their facility, could they keep looking for it? The agent would respond, "We have a tracer out on it." At first, this reassured Cynthia. But as she called repeatedly over several weeks, she grew frustrated: no one seemed concerned that her pictures had been lost, and no one could explain what this "tracer" process involved.

The date on Cynthia's receipt indicated that the missing roll had been shot in early June. The receipt's note – "Three in bath with crossed arms" – meant that the last three shots were similar and, since the third one was probably best, she should make sure the lab printed every frame. Cynthia was not concerned that the missing roll contained nude pictures of a child. She had taken photos of Nora naked – both in and out of the bathtub – since she was born, and most of those had been developed through this same lab. Cynthia's concern was that thirty-six of her pictures might be lost for good. Once before, another lab had lost one of her rolls, and she had spent two years

calling, trying to track it down. Cynthia could never remember what was on the roll, which was exactly what pained her.

Over the following weeks, Cynthia kept calling, and, one by one, jotting down the names of the employees she had spoken with – Shelly, Jody, Minnie, Janet.

On the morning of August 11, two policemen knocked on the family's front door. One of the officers introduced himself as Detective Anadiotis from the Oberlin police department. He said they had some of her photographs down at the station.

"You've found my pictures!" Cynthia interrupted, delighted.

"Yes," he said, "and there are serious questions about those pictures, ma'am."

The detective's stern tone surprised Cynthia. He seemed tense, as if his efforts to be polite were being taxed by something unsaid. Then she thought of the bathtub shots. He must have gotten a wrong idea about them, she realized. Confident she could straighten out any misunderstanding, she invited the officers into the house.

As the men came in, Cynthia explained that she was a mother and an amateur photographer. Her missing roll – the roll they had found – was part of an ongoing project to document her family's life. She pointed at the boxes stacked in the dining room as proof.

The detective glanced at the boxes and said, "Ma'am, we'd like you to come down to the station right now and answer some questions."

Again Cynthia was taken aback by the officer's brusqueness. But she quickly agreed to go to the station – whatever it took to bring those pictures home. First, she would need to tell her partner, who was upstairs working, where she was go-



The detective glanced at the boxes and said, "Ma'am, we'd like you to come down to the station right now and answer some questions"

ing.

David had studied Law and Society in college and had interned with a lawyer; he had a broad and somewhat jaded understanding of the legal system. When Cynthia told him of the conversation downstairs, David was alarmed: "You're not talking to the police – not without a lawyer, you're not!"

"The police just misunderstood," she assured him. "It's no big deal."

David was incredulous. "It's always a big deal when the police want to talk!"

Cynthia said she could explain everything.

"Not without a lawyer, you won't!" David insisted that an attorney was needed anytime you said anything to law enforcement, no matter how innocent you were.

But Cynthia didn't see why she couldn't just go down to the police station and set the matter straight. She didn't need anyone's help to tell the truth. Their disagreement escalated down the stairs and continued in the living room in front of the officers until Cynthia turned to Detective Anadiotis and asked him to explain the situation to David.

The detective looked straight at her and said again, "There are serious questions about those pictures, ma'am."

David blanched. And for the first time, Cynthia felt concerned, too – not about the police, but about David. Fighting was not something she and David often did, and this sudden vehemence between them unsettled her. She didn't want to push their fight any further, especially with the policemen watching. "All right," she conceded. "We're going to call a lawyer." The detective urged her to have the lawyer contact him at the police station as soon as possible.

As the officers drove away, there was

no disagreement about what to do next. Cynthia picked up the phone and dialed Tom Theado.

CHAPTER 2

LAWYERS IN THE LIFT

Tom Theado was one of Cynthia's oldest friends. They had met in 1970 as freshmen at Oberlin College and had both ended up settling in the town. In their young adulthood, they had socialized often. When Tom had visited the Stewart family farm in West Virginia, he had been astonished to learn that Cynthia's father did not change his clocks when the rest of the country went on daylight savings time: Bill Stewart considered daylight savings time unnatural. And Tom had been nonplussed when he had learned firsthand what Cynthia had meant by, "We'll go swimming at The Farm." She had meant they would be skinny-dipping in the Ohio River with barges going by.

Tom had gone on to become a successful lawyer in the large county Oberlin was part of: Lorain County. Through the years, he and Cynthia had stayed in touch, mostly by phone. Now he listened to her description of the police visit with more concern than Cynthia had anticipated.

As a class-action attorney, Tom said he couldn't be of much help. But he did know an attorney whose specialty was family law and who would be just right: Amy Wirtz. Though only in her early thirties, Amy had already served as public



She did think, however, that the situation could be easily resolved.

For a parent to get into trouble, usually the photos had to show sexually graphic or explicit material, a sexual act

defender in a nearby county, had extensive experience with Children Services, and was earning a reputation as a feisty advocate. Tom promised, "Amy will fight for you 100 percent because that's the kind of lawyer she is."

As soon as they hung up, Tom called Amy himself. He wanted to assure her that she could believe everything Cynthia and David told her. "I knew Cindy way back when she was Cindy," Tom said. "I can vouch for these parents."

When David and Cynthia called Amy, she agreed that it had been prudent for Cynthia not to go down to the station. She did think, however, that the situation could be easily resolved. For a parent to get into trouble, usually the photos had to show sexually graphic or explicit material, a sexual act. Their first appointment would cost \$40. Cynthia and David scheduled that appointment for the next day.

Amy Wirtz was in private practice in Elyria, the county seat. She shared a tidy suite of offices — and a secretary and a legal assistant — with another female attorney. A blindfolded, scales-and-sword-wielding Lady Justice towered on each side of the office's large window that looked out on the green town square and the county courthouse.

Amy had short brown hair and wore a trim dark suit and pumps, all of which made her look to Cynthia and David like a textbook lawyer. But they liked that her conference room was furnished with a dining room table. Amy believed that the best talking in a family happened around meals, so a law office ought to have a table where people can open up as they do at home.

To Amy, Cynthia looked like an attractive, aging hippie. She was braless and wore a loose blouse, flowing skirt,

and Birkenstocks. David looked younger than Cynthia, and Amy quickly learned that he was younger – by thirteen years. He and Cynthia had never married, but they had been together a dozen years and were raising their daughter nuclear-family style. As David detailed his concerns about a police interrogation, Amy found him well-informed and ferociously articulate.

Cynthia wanted to describe to Amy the beginnings of her passion for photography. After the birth of her daughter, she said, she had been flooded with postpartum elation. That had not surprised her. What had surprised her was an accompanying feeling: a sharpened sense of her own, and her daughter's, mortality. That overwhelming sense of the transience of life made her marvel at her camera: a box she could put a moment inside of; a contraption that could catch and keep what was fleeting. Cynthia had begun to document her family's life in an almost daily way. Her interest was not in filling up scrapbooks. Her interest was larger: she wanted to give her daughter a vivid, permanent memory of her childhood – to save from oblivion the ordinary days of her growing up. Every picture she took, Cynthia felt, was a moment she had snatched away from death.

Amy listened to Cynthia carefully. She knew something about the art of photography: her own father had taught the subject at a state university, and he had worn a camera around his neck much of the time. Still, she had never heard anyone talk about photographs in such an ardent way. Concerned, she asked Cynthia to describe what was on the confiscated roll.

Based on the date and the note on her receipt, Cynthia said, the roll probably contained end-of-school-year pictures



Nora had been mesmerized by a black-and-white photograph, shot from above, of a woman rising out of a claw-foot tub with her head thrown back, her eyes closed, and her long hair swirling in the water behind her

and pictures of Nora in front of a weeping cherry tree. Most of her photographs were spontaneous, she explained, but sometimes she took pictures in annual series. For example, each spring, when the neighbor's weeping cherry or the peonies in a professor's yard bloomed, she would pose Nora in front of those flowers.

The roll also definitely included some nude shots. In June, Cynthia had taken Nora to see a photography exhibit at a local art gallery. Nora had been mesmerized by a black-and-white photograph, shot from above, of a woman rising out of a claw-foot tub with her head thrown back, her eyes closed, and her long hair swirling in the water behind her. When Nora had asked if they could re-create the picture at home, Cynthia had agreed.

Later that afternoon, at the end of Nora's bubble bath, Cynthia brought her camera into the bathroom. She stood above the tub and aimed her camera down as Nora closed her eyes, threw her head back, and lifted slowly up from the filmy water. Cynthia took several shots as the water drained out. Then Nora stood up to rinse herself with the shower sprayer as she always did.

When her daughter was small, Cynthia had started a bath-time game to make sure she had washed and rinsed properly. Nora would stand in the tub, and Cynthia would name each part of her body, asking if she had rinsed there. Nora would answer by pointing the showerhead at that part of her body and spraying. The rinsing went from head to foot, including her buttocks and genitals. Sometimes as she rinsed, pretending to be a Power Ranger, Nora would assume poses that made her look like a superhero. A couple of times in the past, Cynthia had photographed the rinsing game. That after-

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noon, Cynthia thought to document the game again.

She finished up the roll by taking some waist-up shots of Nora out of the tub with her arms crossed and a towel wrapped around her long, wet hair. Those shots were a test of various lighting conditions – some had flash and some did not. None of the pictures was a close-up. “So, you see,” Cynthia concluded, “those pictures are really no big deal.”

Amy was not so sure. The police were not going to look at those pictures the way a mother would, she pointed out. The police were going to look through the eyes of men who had been charged with the job of rooting out crime, and in the past dozen years or so, child pornography and the sexual abuse of children had become crimes on everybody’s minds – so much so that children were now often viewed primarily as potential victims.

Amy knew of two cases in other Ohio counties where parents had been prosecuted for what they claimed were innocent pictures of their children. In one case, the parents had taken a video of their infant son touching his penis. The parents had thought the video was funny; the police had not. In the other case, a wealthy, single mother had been arrested for snapshots her naked six-year-old daughter and her daughter’s friend had taken of themselves with a disposable camera, without the mother’s knowledge. Against all evidence, the county prosecutor indicted the mother for taking the pictures herself. Although she was eventually acquitted, the prosecution dragged on for months, the headlines were sensational, and the mother spent a couple hundred thousand dollars on her defense.

Anything out of the ordinary could arouse suspicion, Amy warned, and Cyn-



The police were going to look through the eyes of men who had been charged with the job of rooting out crime, and in the past dozen years or so, child pornography and the sexual abuse of children had become crimes on everybody’s minds

thia’s pictures did sound out of the ordinary. Yes, many people had snapshots of their toddlers in the bathtub, but not of their eight-year-olds. And even though Cynthia felt confident she could explain her pictures to the police, those officers might not be as comfortable as she was with nudity in the home, or cameras in the bathroom, or taking a child to photography exhibits with naked women rising up out of claw-foot tubs. If the police thought the pictures looked like porn, Cynthia’s explanations would be irrelevant. The police were trained to focus on hard evidence, not character assessments or motives.

But Cynthia couldn’t imagine how to assuage the policemen’s concerns without talking to them and explaining why she had taken those pictures. Amy argued that a policeman could turn Cynthia’s honesty against her. “Don’t you think a pedophile could become aroused by your pictures?” he might ask. Cynthia might answer, “Well, yes, but I would never show them to a pedophile.” And the policeman would seize upon the “Well, yes” as evidence she had created child porn.

Amy did agree, though, that Cynthia needed to explain the context of her pictures. So she suggested an alternative: Cynthia could write a statement, and Amy would review it, have it notarized, and deliver it to the police. By submitting an affidavit, Amy hoped to allay the detective’s concerns. But, she warned, if the detective passed along the pictures to the prosecutor, the prosecutor might send them on to Children Services for evaluation. If a social worker there thought follow-up was needed, an informal case could be initiated, with the agency working with the family to assess Nora’s well-being. If the social

worker's concerns about Nora deepened, then Children Services might file official charges and hold a court hearing. In the worst-case scenario, if Children Services were convinced that Nora was in immediate danger, the agency could apply for Emergency Temporary Custody – a swift removal of a child to foster care for ninety days while an investigation was pursued. Amy thought all this was unlikely, but she wanted to prepare Cynthia and David for every eventuality.

Cynthia and David had read terrible stories about children being harmed in foster care and families being traumatized by family service investigations. But Amy had an upbeat assessment of Lorain County Children Services. Before coming to Elyria, she had worked in a different Ohio county where the family services agency had been too quick to separate children from their parents and even to dissolve family bonds and put foster children up for adoption. Moving here, Amy had been pleasantly surprised to discover that Lorain County's social workers did not rush to take custody or file charges; in fact, they routinely worked with families and their attorneys to resolve problems out of court.

Lorain County Children Services did have one troubling aspect, however, which differed from other counties. Instead of having inhouse prosecutors who were accountable only to their agency and who were motivated solely by their social workers' concerns, they relied on assistant prosecutors assigned to them by the county prosecutor's office. The porous boundary between the prosecutor's office and Children Services made Amy nervous: the prosecutor might put pressure on Children Services to file charges against their own judgment.

Amy did not discuss with Cynthia and



If they suspected she was creating pornography, they would assume she was scanning her pictures to post on child-porn Internet sites

David the possibility of a criminal indictment. She did not imagine the situation developing that way. She did tell them, however, that the police might obtain a warrant to search their house and confiscate Cynthia's pictures and computer equipment. If they suspected she was creating pornography, they would assume she was scanning her pictures to post on child-porn Internet sites.

Cynthia panicked at the thought of her photographs being taken away. But she didn't own or even know how to use a computer. Amy asked if there were any other computers in the house. If so, they would be fair game in a police search. David's work for *The Nation* was entirely computer-based and having his computer confiscated would be catastrophic for him. He nervously wrote down Amy's instructions for what to say and how to behave if the police came back with a search warrant:

- “what can I do to assist you, what are you looking for?”
- READ THE WARRANT
- don't interrupt search
- take pix of damage afterward
- don't answer Q's, “attorney advised us not to speak”
- “YES SIR, NO SIR” keep mouths shut

Amy had one more warning for Cynthia and David. They did not seem to be the kind of troubled family who typically ended up with lawyers in their lives. Yet she knew even strong relationships could become undone by legal ordeals. “I'm going to be honest with you,” she said. “Nothing can stress a relationship more than having your child's well-being called into question.”

Cynthia and David agreed that an affidavit was a good way to proceed. They

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signed a contract and wrote Amy a check for \$1,300 — the flat fee she was charging for her services through the police investigation. Cynthia and David had been saving money to have their basement waterproofed. That check represented 10 percent of their savings. It was painful to give up the money, but they were grateful they had the money to give.

Amy's first impression of Cynthia and David had been positive. But as she closed the door behind them, she predicted to her secretary, "That woman is going to get screwed because she's unusual. The system is going to persecute her for her differences." Amy had been honest in her assessment of the strengths of Lorain County Children Services. Nevertheless, she was a realist who knew that human beings with biases, ambitions, and personal histories filled every position from policeman to prosecutor, from social worker to judge and jury — all sorts of people who might find Cynthia uncomfortably eccentric.

Amy also knew she had her own values and boundaries. In her stint as a public defender, she had had to represent a few parents who had done terrible things to children. Those cases had left her leery of adults who had innocent-sounding stories to explain away suspicious behavior toward children. She would feel uneasy until she had seen Cynthia's photographs. If the photographs alarmed her, she couldn't continue as their lawyer.

That afternoon, Amy called Detective Anadiotis. He seemed agitated, and their talk confirmed her belief that a police interview of Cynthia would not have gone well. Amy typed up brief notes from the conversation:

Compromising positions — 19 photos, at least one naked in shower with the shower spigot between her legs. He



She would feel uneasy until she had seen Cynthia's photographs. If the photographs alarmed her, she couldn't continue as their lawyer

believes that they are over the line and needs to know who took the photos and for what purpose. Will take the pictures to the prosecutor's office to get their determination.

Back home, Cynthia hand-wrote the statement she wanted to give to the police. David typed it on his computer:

I take pictures of my daughter so that when she is my age she'll have an aid to her memory of the way things were. Though I try to take good or artistic pictures, my aim is to keep a photographic journal of our family. . . .

There are 3 things that I know I've taken pictures of that haven't turned up on any other roll, so I'm assuming they're on this one.

The first is day one and two of a 31 day series that I did of Nora in front of a weeping cherry tree — from pre-bloom through full and on till there were no blossoms left.

The second is of her in the bathtub. From the time she was about 3 years old, I would wash her in the bathtub, teaching her how to clean herself, including her yoni (our word for vagina) and her rosebud (ditto anus). Then I would leave her in the bathtub with the sprayer to rinse while the water ran out and go do whatever I had to do. When I came back

I would say, "Have you rinsed your yoni?" My daughter, who will never give a simple answer when a dramatic one will do, assumes this posture (which has evolved over the years) with the sprayer pointing toward her vagina and shouts triumphantly "Yoni!" Then I ask, "Have you rinsed your rosebud?" She switches the sprayer and the posture and yells "Rosebud!" Over the years I think I probably have two or three other sets of what

we call “yoni-rosebud pictures.”

The third thing that must be on this roll because I haven’t seen it yet is another shot of Nora in the bathtub, possibly taken the same day. This spring I took Nora to the annual photography show at FAVA (Firelands Association for the Visual Arts) in the old Westervelt Building in Oberlin. There was a black and white photo, very dark and dramatic, that she was quite taken with of a nude woman in a clawfoot bathtub mostly filled with water with a soapy, milky surface. The woman was coming up out of the water with her long hair streaming down, her eyes closed – it looked almost birth-like.

Shortly after we saw the exhibit, when Nora was taking a bath, she asked me if we could try to re-create the photograph. We did, but my memory is not very clear on how hard we tried, i.e., I don’t remember whether there was one shot or six shots.

The accompanying photo album is something I came across recently that is a fairly good representation of the way I photograph my daughter and the occasions and frequency with which I have photographed her nude.

Cynthia Stewart

The album Cynthia planned to submit was one she had made when Nora was three years old. It was one of the only albums Cynthia had ever assembled. Taped to each page were one or two photographs of Nora, accompanied by handwritten captions: “Chaos Central or Find the Baby” (baby Nora on a cluttered bed in a cluttered room); “Doing Yoga” (toddler Nora bent over with her head on the floor and her arms outstretched); “Happy Family III” (three-year-old Nora and Cynthia and David smiling on a sunny, windswept promontory).



To give the police a context for the weeping cherry pictures, Cynthia added fifteen recent “Nora-with-flowers pictures” into a clear pouch at the back of the album. In none of these was Nora naked

Of the sixty-five or so photographs in the album, eight showed Nora naked. The first was of Nora as a baby lying bottom-up on a quilt. The next six were a sequence of Nora playing naked in her grandmother’s backyard. She looked about eighteen months old. In one, Nora was sitting with and talking to her grandmother; in another, she was gesturing happily; and in a third, at a considerable distance from the camera, she was squatting down slightly and looking at her toddler potbelly. The last naked picture showed Nora at a slightly older age, laughing and running around a room.

To give the police a context for the weeping cherry pictures, Cynthia added fifteen recent “Nora-with-flowers pictures” into a clear pouch at the back of the album. In none of these was Nora naked. She was often in outfits made by David’s mother: Nora in a white dress in a field of Queen Anne’s lace, Nora in a sunflower sundress in a crowd of black-eyed Susans.

Amy had been raised in a family where nudity was no big deal, and she treasured a handful of snapshots her father had taken of her naked when she was around four years old. When she read Cynthia’s statement, she thought the “yoni-rosebud” language was strange and potentially provocative, but otherwise she thought Cynthia had written a good draft. But the lawyer who shared Amy’s office and who had been raised much more conservatively than Amy read Cynthia’s statement and gasped: “Oh, my God, you can’t use this! This sounds like a sex game!” She helped Amy rewrite the affidavit to minimize language that might raise red flags for the police. The sentences were simple and blunt:

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IN THE STATE OF OHIO: COUNTY OF LORAIN: AFFIDAVIT

Cynthia Stewart, being duly sworn according to the law, says the following:

1. I am Cynthia Stewart. I reside at [address], Oberlin, OH. My life partner is David Perrotta.

2. I am the mother of Nora Stewart.

3. Photography is my primary hobby. I enjoy taking pictures and have taken many pictures of my daughter since her birth. I took three photography classes in Brooklyn, NY in 1996/97. I enjoy going to photography shows and take my daughter to these shows, as well.

4. I think of the pictures of my daughter as a journal of my family and of her development. I have recorded her growth and beauty in various ways through photography. I have consistently taken pictures of her in front of flowers in clothing that her grandmother has made for her. I also take many photos of family events and milestones. I enjoy taking pictures of her playing with her friends, as well.

5. Throughout her life, I have chosen to take pictures of her when she is in various states of nudity to record the growth of her body and moments of silliness and play. With this affidavit, I am submitting to the Oberlin Police a blue, 3-ring binder containing samples of the kind of pictures I have taken since she was born.

6. I turned in multiple rolls of film to the Drug Mart located in Oberlin on July 6, 1999. When I went to collect the developed film, one roll was missing. Drug Mart did try to get the roll of film from the lab on several occasions and then gave me the phone number to try and retrieve it myself. The lab that develops Drug Mart's film told me the film had been checked in but had not left the facility.



Amy had the affidavit notarized, and she delivered it, along with the photo album, to the Oberlin police department and into the hands of Detective Anadiotis

7. On August 11, 1999, Officer Anadiotis and another officer came to my home to request that I go to the police station to discuss some photographs of my daughter. I decided not to go until I had contacted an attorney.

8. After discussing this situation with my lawyer, Amy Wirtz, I have decided to submit an affidavit rather than participate in a police interrogation. Officer Anadiotis describes the photographs in his possession as naked pictures of an eight-year-old girl in a bathtub. I did take photographs of Nora in the bathtub naked. I have not received these photographs back from Drug Mart. In one of the photographs, Nora was recreating a picture that we saw at an annual photography exhibit.

9. The other naked photographs I took of Nora were of her washing herself. From the time she was about three years old after her bath she would play with the shower sprayer to rinse while the water ran out. This game became part of her bath time ritual and still continues. The pictures are taken to record this bath time game.

Cynthia was unhappy with the changes, which had stripped away every trace of her personality and any feel for their family's life. But after a lengthy meeting with Amy and David, she agreed to sign the rewrite. Amy had the affidavit notarized, and she delivered it, along with the photo album, to the Oberlin police department and into the hands of Detective Anadiotis. Afterwards, Amy left a message on Cynthia and David's answering machine reporting that the officer was "more low-key" than during their previous phone conversation and that he had told her that "once he reviewed the photo album and talked to the pros-

ecutor, if they deemed it appropriate, he would have me come in and talk to him further.”

The message reassured Cynthia and David. Still, David spent frantic hours backing up his computer files, and Cynthia readied all her boxes to be moved to Amy’s office. Amy wanted to protect Cynthia’s photos from seizure since they provided the context that could explain and normalize the prints already in the police’s hands.

With the affidavit filed, the computer backed up, and all of Cynthia’s photographs stored in Amy’s office basement, the family began packing for a weekend trip to West Virginia. They were headed down to The Bash, an annual, old-fash-



Amy wanted to protect Cynthia’s photos from seizure since they provided the context that could explain and normalize the prints already in the police’s hands

ioned family homecoming on the farm the Stewart children had grown up on. Cynthia’s seven siblings would all be there, as well as Cynthia’s mother, Gerry. Gerry had married and divorced Cynthia’s father Bill twice, and she now lived in Oberlin. But Gerry always joined the summer and Christmas pilgrimages back to The Farm, where Bill now lived alone.

The Bash was a time of hand-cranked ice cream, banjo picking, camping out, and swimming in the Ohio River. Traditionally, Cynthia took The Bash family portraits, including the “Moon Shot” in which everyone in the assembled group bared their backsides. But Amy had warned Cynthia to take no nude pictures of anyone until things with the police got cleared up.

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