



Turning Lead Into Gold: How the Bush Administration is Poisoning the Lead Advisory Committee at the CDC



A report by the staff of Rep. Edward J. Markey (D-MA) on the Removal or Rejection of Academic Experts in Lead Poisoning from and Nomination of Industry-Friendly Representatives to the Centers for Disease Control & Prevention (CDC) Advisory Committee on Childhood Lead Poisoning Prevention
October 8, 2002

Introduction:

According to recent Centers for Disease Control and Prevention (CDC) estimates, 890,000 U.S. children age 1-5 have elevated blood lead levels, and more than one-fifth of African-American children living in housing built before 1946 have elevated blood lead levels. The major sources of lead exposure are deteriorated paint in older housing, and dust and soil that are contaminated with lead from old paint and from past emissions of leaded gasoline. The CDC web site¹ states that:

- "Lead poisoning affects virtually every system in the body, and often occurs with no distinctive symptoms.
- Lead can damage a child's central nervous system, kidneys, and reproductive system and, at higher levels, can cause coma, convulsions, and death.
- Even low levels of lead are harmful and are associated with decreased intelligence, impaired neurobehavioral development, decreased stature and growth, and impaired hearing acuity."

The Federal and many State governments have monitoring programs to test blood lead levels in children, programs to increase public awareness about risks and prevention of lead poisoning, and programs to reduce the amount of lead in gasoline and to remediate lead-contaminated sites. These have greatly reduced the numbers of children with elevated blood lead levels from 3-4 million in 1978, to 890,000 in the 1990s².

The CDC Advisory Committee on Childhood Lead Poisoning Prevention (hereafter to be referred to as the "Advisory Committee") is charged with assessing the scientific data and recommending changes to CDC policy to prevent lead poisoning, including assessing whether the blood lead level limits are adequate. These blood lead levels are then used to determine which children are at risk for adverse health effects, and how much remediation must be done to ensure that a lead-contaminated site is safe. The Committee has guided major changes in lead poisoning policy for more than a decade. For example, in 1991, the acceptable blood lead level limits were revised from 25 µg/dL (micrograms per deciliter, the unit used to measure blood lead levels) down to 10 µg/dL in a report released by CDC and developed in part by the Advisory Committee³. In March 2002, the Advisory Committee issued Recommendations entitled "Managing Elevated Blood Lead Levels Among Young Children" which provides health care case managers guidance on how to assess and treat children with elevated blood lead levels⁴.

This report reveals recent changes to the membership of the Advisory Committee that indicate that the nominations of renowned scientists with a long record in determining the health effects associated with childhood lead poisoning are being rejected, and that instead the vacancies are being filled by individuals who have direct ties to the lead industry, which has a financial interest in the policies adopted by the Advisory Committee; if the acceptable blood lead level limits are revised upwards, or if

¹ <http://www.cdc.gov/nceh/lead/factsheets/leadfacts.htm>

² <http://www.epa.gov/opptintr/lead/>

³ <http://aepo-xdv-www.epo.cdc.gov/wonder/prevquid/p0000029/p0000029.asp#head004000000000000>

⁴ http://www.cdc.gov/nceh/lead/CaseManagement/caseManage_main.htm

new scientific evidence indicating they should be revised further downwards is ignored, the health of many children in this country will be imperiled, and corporate polluters will be allowed to trade the long-term health of children for short-term commercial gain.

Documents obtained by Rep. Markey indicate that the Advisory Committee membership has been proposed for alteration in the following manner:

Reappointment rejected:

- Dr. Michael Weitzman, Department of Pediatrics, University of Rochester, and Pediatrician in Chief, Rochester General Hospital, Advisory Committee member since 1997, author of numerous peer-reviewed publications on lead poisoning.

Nominations rejected:

- Dr. Bruce Lanphear, Associate Professor, Department of Pediatrics, University of Cincinnati, Cincinnati, Ohio, currently the Sloan Professor of Children's Environmental Health, author of numerous peer-reviewed publications on lead poisoning.
- Dr. Susan Klitzman, Associate Professor of Urban Public Health at the Hunter College School of Health Sciences, author of numerous peer-reviewed publications on lead poisoning.

Nominated to the panel:

- Dr. William Banner, expert witness for the lead industry who believes that lead is harmful only at levels that are 7-10 times as high as the current CDC blood lead levels⁵.
- Dr. Joyce Tsuji, principal scientist for Exponent, a company whose corporate clients include ASARCO (which is currently disputing EPA's assumptions that ASARCO is the source of elevated arsenic and lead in residential soils in El Paso and fighting Superfund designation) and King and Spalding, a DC law firm representing several large lead firms, and who has testified that the health risks of toxic plumes were not imminent.
- Dr. Kimberly Thompson, Assistant Professor of Risk Analysis and Decision Science, Harvard School of Public Health, affiliated with the heavily industry-funded Harvard Center for Risk Analysis. HCRA has 22 corporate funders with a financial interest in the deliberations of the CDC Advisory Committee on Childhood Lead Poisoning Prevention and less stringent regulation of lead.⁶ Three of these funders have Superfund sites with lead contamination - Ciba-Geigy Corporation, FMC Corporation, and Monsanto.⁷
- Dr. Sergio Piomelli, Professor, Columbia Presbyterian Medical Center, researcher who reportedly disagrees with the current blood lead standard set by the CDC Advisory Committee in 1991⁸.
- Tracey V. Lynn, affiliation and lead poisoning expertise not able to be determined.

⁵ Deposition of William Banner Jr, MD, Rhode Island v. Lead Industries Assoc, Inc (Sup Ct. R.I.)(No.99-5226)

⁶ <http://www.hcra.harvard.edu/funding.html>

⁷ U.S. EPA National Priorities List (2002).

⁸ <http://www.rainerlaw.com/pages/articles/wsj.html> and <http://www.leadinfo.com/MEDIA/newsleaderjune2000.htm>

Changes to the Advisory Committee's Membership

Proposed changes to the Advisory Committee's membership were revealed in a September 6, 2002 email from CDC to Dr. Jennifer Sass at the Natural Resources Defense Council and obtained by Rep. Markey:

From: Shepard, Evelyn [ess8@cdc.gov]
Sent: Friday, September 06, 2002 11:18 AM
To: Sass, Jennifer
Subject: FW: Advisory Committee Members

Please let me know if you receive this email.

Thanks,
Evelyn Shepard
Branch Secretary
National Center for Environmental Health
Environmental Hazards and Health Effects
Lead Poisoning Prevention Branch
1600 Clifton Road, N.E., MS E-25, RM 1064.02
Atlanta, Georgia 30333
Phone: (404) 498-1429
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Email: ess8@cdc.gov

> -----Original Message-----

> From: Shepard, Evelyn
> Sent: Friday, September 06, 2002 11:12 AM
> To: 'Tfboyd@nrhc.org'; 'jscass@nrhc.org'
> Subject: Advisory Committee Members

>
> Per your request, below are Advisory Committee Members.

> List of the Advisory Members:

> 1. Ms. Carla Campbell - Acting Chair
> 2. Ms. Linda Anderson - Acting Branch Chief,

>
> Members:

> 3. Mr. Cushing Dolbeare
> 4. Ms. Anne Wengrovitz
> 5. Mr. Birt Harvey
> 6. Mr. Thomas Matte
> 7. Ms. Amy Murphy
> 8. Mr. Steve Hays
> 9. Mr. David Jacobs
> 10. Ms. Patricia McLaine
> 11. Ms. Rebecca Parkin
> 12. Ms. Karen Pearson
> 13. Mr. Routt Reigart
> 14. Mr. George Rodgers
> 15. Mr. Robert Roscoe
> 16. Mr. Joel Schwartz
> 17. Mr. Michael Weitzman⁹
> 18. Mr. Walter Rogan
> 19. Mr. Byron Bailey
> 20. Mr. Jerry Zelinger

> **Nominees are subject to change:**

> **21. Mr. Sergio Piomelli**
> **22. Ms. Kimberly Thompson**
> **23. Ms. Joyce Tsuji**
> **24. Ms. Tracey Lynn**
> **25. Mr. William Banner**

> Please let me know if I can be further assistance.

⁹ Please note that Dr. Weitzman has been informed that he will not be reappointed to the panel

Names and Backgrounds of Individuals Removed from or Rejected by the Centers for Disease Control (CDC) Advisory Committee on Childhood Lead Poisoning Prevention

The following is a more expanded description of the backgrounds of the individuals who were not reappointed as expected to the Advisory Committee, or whose nominations were rejected.

1) Michael Weitzman, M.D. (716) 275-1544

- **Resume:** <http://www.urmc.rochester.edu/gchas/fellowships/weitzman.htm>
- 1990 – present Department of Pediatrics, University of Rochester, and Pediatrician in Chief, Rochester General Hospital
- 1997-2002 Member, CDC Advisory Committee on Childhood Lead Poisoning Prevention – **reappointment rejected**
- 1990-91 Member, CDC Advisory Committee on the Prevention of Childhood Disability
- 2000-01 Member, Environmental Protection Agency (EPA) Children's Health Protection Advisory Committee
- 2002 - Chair, EPA Children's Health Protection Advisory Committee on Childhood Lead Poisoning Prevention Workgroup to Review Evidence of Health Effects of Blood Lead Levels <10 micrograms per deciliter.
- Author of numerous peer-reviewed publications on lead poisoning.

2) Bruce P. Lanphear, M.D., M.P.H. (513)-636-3778

- **Resume:** http://www.cincinnatichildrens.org/Services/Faculty_And_Staff/L/Bruce+P.+Lanphear.htm
- Conducted numerous epidemiologic studies of lead-contaminated house dust and residential soil, and principal investigator on the primary study to be used by the EPA to establish federal standards for lead in residential dwellings.
- 1997-2002: Associate Professor, Department of Pediatrics, University of Cincinnati, Cincinnati, Ohio, currently the Sloan Professor of Children's Environmental Health
- 1998-2002: Member, Science and Research Work Group, EPA Office of Children's Health Protection Advisory Committee
- 1996-1998: Chair, U.S. HUD Committee on Lead-Contaminated Dust
- 2002: Nominee, CDC Advisory Committee on Childhood Lead Poisoning Prevention – **nomination rejected**

3) Susan Klitzman, M.P.H., Ph.D.

- Associate Professor of Urban Public Health, Hunter College School of Health Sciences
- Author of numerous peer-reviewed publications on lead poisoning.
- 2002: Nominee, CDC Advisory Committee on Childhood Lead Poisoning Prevention – **nomination rejected**

Names and Backgrounds of Individuals Nominated by the Bush Administration to the Centers for Disease Control (CDC) Advisory Committee on Childhood Lead Poisoning Prevention

The following is a more expanded description of the backgrounds of the individuals who have recently been nominated to the Advisory Committee.

1) William Banner, Jr., MD, PhD – Expert Witness for the Lead Industry

Dr. Banner, who is currently an attending physician in the pediatric intensive care unit, Children's Hospital at St. Francis Clinical Professor of Pediatrics, University of Oklahoma College of Medicine, is also currently retained by the Lead Industries Association as an expert witness, in an ongoing legal case wherein the State of Rhode Island is holding the lead paint industry responsible for childhood lead poisoning in Rhode Island.

The Rhode Island complaint cites a 1904 Sherwin-Williams article that says that "lead is poisonous in a large degree, both for the workmen and for the inhabitants of a house painted with white lead colors," but notes that the company continued to sell lead paint until 1978 when it was banned (see Appendix A). In June 2002, Banner was deposed by the plaintiff's lawyers, representing the people of Rhode Island¹⁰. The June 2002 deposition reveals the following, regarding Banner's qualifications and perspective on childhood lead poisoning:

A) Banner believes that blood levels of lead below 70 µg/dL do not pose a threat to children's health. The current CDC position¹¹ is that blood lead levels of 10 µg/dL or greater are high enough to be a health concern.

Q: (Neil Leifer, attorney for the State of Rhode Island)¹² What is the dose and time that you think is required in order for the lead to achieve its target of toxicity in the brain?

A: (William Banner, for the Lead Industries Association) Well, it's probably over, you know, as you said over 70.

Q I haven't said anything.

A Oh, well. Some of your witnesses, I'm sorry. Over 70 and closer to 100, probably. And the time factor nobody's really looked very carefully into. It appears to take a fair amount of time because everybody knows that short exposures is even well over several hundred can be tolerated with minimal effect.

Q¹³ So the absence of encephalopathy, which you have indicated is possible above lead levels of 70 but more likely of lead levels above 100, you don't believe -- is it your opinion that there are no central nervous system deficits or injuries that are associated with exposure and ingestion of lead?

A Well, you're using the word "associated".

Q Okay. That's right, I am.

A And, no, I don't believe that there have been -- no.

¹⁰ Deposition of William Banner Jr, MD, Rhode Island v. Lead Industries Assoc, Ind (Sup Ct. R.I.)(No.99-5226)

¹¹ <http://aepo-xdv-www.epo.cdc.gov/wonder/prevguid/p0000029/p0000029.asp#head004000000000000>

¹² Deposition of William Banner, Jr., M.D. June 13, 2002. Page 133

¹³ Deposition of William Banner, Jr., M.D. June 13, 2002 Page 135

B) Banner doesn't believe that lead can cause childhood cognitive disorders

Q¹⁴ So are you familiar with literature that has found that there are cognitive, IQ, and other kinds of learning deficits that have been associated with ingestion of lead levels above 10 micrograms?

A That people have published that and claim that, yes.

Q You've read some of those articles?

A Yes, I've read many of them.

Q Do you reject those conclusions?

A Yes.

Q¹⁵ I'm asking you for your expert opinion in this case. Do you believe that any of the epidemiological studies have established any relationship between lead ingestion and adverse cognitive, behavioral, or emotional status?

A No

C) Banner has does not appear to have done research on children and lead poisoning

Q¹⁶ Is it your position that you have conducted and published research on the management and treatment of children with lead toxicity?

A Yeah.

Q Okay. Which ones are those, sir?

A Well, we've already been through them.

Q So the rat study is one of them?

A Well, it's a human epidemiology studies as we talked about.

Q Answer my question: Is the rat study one of them?

A These were clinical studies that were designed emulate principles of -- you know, involve in the management of children.

Q My question is: Was the rat study one of the studies that you had in mind when you wrote or approved the statement that you have conducted research and published in the area of the management and treatment of lead toxicity in children?

A That would be one of them, yes.

Q And what were the other ones?

A You know, you got the whole thing there.

Q Doctor, as far as I can tell from my notes you did a Salt Lake City survey.

A Right.

Q You did two -- you did the DMSA rat study and you did the experimental chelation study also on rats with some other compound that I can't pronounce.

A You can't pronounce.

Q And my question is: Is it your representation that those studies constitute research and publication in the area of management and treatment of lead toxicity in children? Is that your position?

A That in part. And what do you do with all the studies on extracorporeal removal of toxins with chelators?

Q Did they involve lead in children?

A They involved chelators and how they--the mechanisms of action and, yes, they impact--if I admitted a kid today under certain circumstances we would use this general approach.

Q What is the basis for your position that you have conducted research and published in the area of treatment of children with elevated blood lead levels, same articles?

A Yeah. I mean, I've done -- I've published, as you pointed out, we went over the discussion of the treatment of children for the Academy of Pediatrics. Do you not consider that to be a publication on treatment of children with elevated blood lead levels?

Q Was that the product of research that you conducted?

A It's a published article.

¹⁴ ibid

¹⁵ Deposition of William Banner, Jr., M.D. June 13, 2002. Page 157

¹⁶ Deposition of William Banner, Jr., M.D. June 13, 2002. Page 124-126

2) Joyce Tsuji, Ph.D., DABT, Principal Scientist, Exponent

- Resume: <http://www.exponent.com/leaders/bios/pdf/principal/tsuji.pdf>
- Exponent's clients¹⁷ include corporations such as ASARCO (which is currently disputing EPA's assumptions that ASARCO is the source of elevated arsenic and lead in residential soils in El Paso and fighting Superfund designation¹⁸), Dow Chemical, and Dupont (named as a defendant in the Rhode Island lead lawsuit), large insurance companies such as Allstate and USAA, trade associations such as the American Chemistry Council, the National Mining Association and the American Petroleum Institute, and law firms such as Winston and Strawn and King and Spalding (which represents several large lead companies¹⁹).
- 31% of Exponent's 51 corporate clients have a financial interest in the deliberations of the CDC Advisory Committee on Childhood Lead Poisoning Prevention.²⁰ One of these companies, FMC Corporation, has a lead-contaminated Superfund site. The following 15 Exponent clients reported releases of lead or lead compounds to air, land or surface waters in EPA's 2000 Toxic Release Inventory: 3M, ASARCO, Becton Dickinson & Company, Chevron Corp., DaimlerChrysler Corporation, Exxon, FMC Corp., Ford Motor Co., General Electric, Honeywell International, Motorola, Phelps Dodge Corporation, Raychem, Whirlpool Corporation, and Zurn Industries.
- Dr. Tsuji provided testimony in a class action lawsuit regarding the "alleged" need for medical monitoring for all residents in the vicinity of a smelter living on soil with arsenic and lead levels above background levels. "Key issues included the lack of sensitivity of tests at these low exposure levels and the negligible risk of adverse effects."

¹⁷ <http://www.exponent.com/about/clients.html#corporations>

¹⁸ <http://www.asarco.com/elpaso/asarcoresponse.htm>

¹⁹ http://www.kslaw.com/practice_areas/prac_environmental_matters.asp

²⁰ <http://www.exponent.com/about/clients.html#corporations>

3) Kimberly Thompson Sc.D., Assistant Professor of Risk Analysis and Decision Science, Harvard School of Public Health

- Resume: <http://www.hsph.harvard.edu/insight/kmtCV.PDF>
- Affiliated with the Harvard Center for Risk Analysis (HCRA). HCRA has 22 corporate funders with a financial interest in the deliberations of the CDC Advisory Committee on Childhood Lead Poisoning Prevention and less stringent regulation of lead.²¹ Three of these funders have superfund sites with lead contamination - Ciba-Geigy Corporation, FMC Corporation, and Monsanto.²² The other 19 funders reported lead releases in EPA's 2000 Toxic Release Inventory (including releases of lead or lead compounds to air, land or surface waters): 3M, Alcoa, ASARCO Inc., BASF, Bethlehem Steel Corporation, BP America Inc., ChevronTexaco, Delphi Automotive Systems, Dow Chemical Company, Eastman Chemical Company, Exxon, Ford Motor Co., General Electric Fund, Lyondell Chemical Company, Mobil Foundation, Inc., Olin Corporation, PPG, Shell Oil Company, and Volvo.
- Two HCRA funders – Atlantic Richfield Corporation and E.I. DuPont de Nemours & Company – are named as defendants in an ongoing legal case wherein the State of Rhode Island is holding the lead paint industry responsible for childhood lead poisoning.

4) Sergio Piomelli, MD, Professor, Columbia Presbyterian Medical Center

- **Resume:** <http://www.columbiapresbyterian.com/profile.asp?ID=1377>
- Referred to the 1991 Advisory Committee as being dominated by “well-meaning fanatics.”²³ The 1991 CDC Advisory Committee recommended a change in the blood lead levels from 25 µg/dL down to 10 µg/dL. Dr Piomelli reportedly disputed this conclusion and has said “there is no epidemic of lead poisoning in the United States today, but some people are trying to create an epidemic by decree.”²⁴

5) Tracey V. Lynn –affiliation and lead poisoning expertise not able to be determined.

²¹ <http://www.hcra.harvard.edu/funding.html>

²² U.S. EPA National Priorities List (2002).

²³ <http://www.rainerlaw.com/pages/articles/wsj.html>

²⁴ <http://www.leadinfo.com/MEDIA/newsleaderjune2000.htm>

Appendix A – Press Release on the Rhode Island Lead Lawsuit



RHODE ISLAND DEPARTMENT OF ATTORNEY GENERAL



FOR IMMEDIATE RELEASE

CONTACT:

Jim Martin

October 13, 1999

Tel: (401) 274-4400 ext. 2336

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PRESS RELEASE

A.G. Whitehouse Sues Lead Paint Industry Seeks Treatment, Education and Abatement

Documents Nearly a Century-Long Record of Industry Culpability

PAWTUCKET — Calling on the lead paint industry "to take responsibility and clean up its mess," Rhode Island Attorney General Sheldon Whitehouse has made his state the first in the nation to file suit against eight manufacturers of lead paint and the industry's trade association.

The 10-count lawsuit seeks damages to "get the lead out of Rhode Island's children, homes and buildings, by paying to treat children with lead poisoning, meet the education needs of affected children, and abate lead paint from buildings and homes. "Every Rhode Island child knows, if you make a mess you are supposed to clean it up," said Whitehouse at a news conference today. "However, there is one difference," he added. "Children often make a mess by accident. Lead dust is in our homes by design. This silent, invisible poison is the result of intentional, deliberate, informed decisions by the lead paint industry."

"We are doing this for the health of Rhode Island's children," Whitehouse said, citing reports that this year, one in five kindergartners in the state — and nearly one in three children in Providence, Pawtucket, Woonsocket, Newport and Central Falls combined — have elevated lead levels in their blood.

"We know now that this industry knew lead paint was toxic dating back as early as 1904, yet promoted its use and profited by that use," Whitehouse charged. "It willfully made the mess that has endangered the health of many children and imposed great burdens on Rhode Island families and the State."

The lawsuit, filed yesterday in Rhode Island Superior Court, alleges that the defendants marketed and sold lead-based paint with the full knowledge that it was toxic.

For example, the complaint cites a 1904 Sherwin-Williams article warning that "white lead is poisonous in a large degree, both for the workmen and for the inhabitants of a house painted with white lead colors," but notes that the company subsequently made and sold lead paint until 1978 when lead was banned.

The lawsuit explains that, "By at least 1912, National Lead excluded women and children from working in its white lead processes because of risk of lead poisoning." Yet in 1923, National Lead's publication, "Dutch Boy Painter," claimed, "Lead Helps to Guard Your Health."

In 1930, the Lead Industries Association (LIA) acknowledged the dangers of lead paint on children's toys and furniture, and three years later "the LIA internally suggested that its members consider discontinuing the use of Lead on children's toys and furniture," according to the complaint. Yet in 1936, LIA member Glidden was recommending lead-containing "Jap-A-Lac" paint for children's furniture.

The 10 counts in *Rhode Island v. Lead Industries Association, et als* allege Public Nuisance, Violation of Rhode Island Unfair Trade Practice and Consumer Protection Act, Strict Liability, Negligence, Negligent Misrepresentations and Omissions, Fraudulent Misrepresentations and Omissions, Civil Conspiracy, Unjust Enrichment, Indemnity, and Equitable Relief to Protect Children.

The relief demanded by the State of Rhode Island includes:

- Ø Damages to compensate the State for lead-poisoning related health, education and abatement costs;
- Ø Punitive damages;
- Ø Funding of a lead-poisoning public education campaign and "lead-poisoning detection and preventative screening programs in the State";
- "Judgment ordering the Defendants to detect and abate Lead in all residences, schools, hospitals, and public and private buildings within the State accessible to children"; and
- Ø "An order awarding the State such other extraordinary, declaratory and/or injunctive relief . . . to assure that the State has an effective remedy" to the problem of lead poisoning.

The defendants in this case are: the Lead Industries Association (a lead industry trade group), and eight manufacturers: American Cyanamid Company, Atlantic Richfield Company, E.I. duPont De Nemours and Company, The O'Brien Corporation, The Glidden Company, NL Industries, Inc., SCM Chemicals, and The Sherwin-Williams Company.

The civil law suit will be prosecuted on behalf of the State for ½ the standard contingency fee by Leonard Decof, Esq. of Decoff & Grimm (Providence), Jack McConnell of Ness, Motley, Providence, and by Special Assistant Attorney General Linn Freedman.