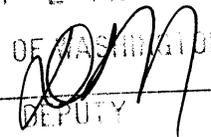


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COURT OF APPEALS
DIVISION II

NO. 37189-8-II

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IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON
BY  DEPUTY

STATE OF WASHINGTON,

Respondent,

vs.

MICHAEL A. MAY, JR.,

Appellant.

APPEAL FROM THE SUPERIOR COURT
FOR PACIFIC COUNTY
The Honorable Michael J. Sullivan, Judge
Cause No. 06-1-00045-3

BRIEF OF APPELLANT

ROBERT M. QUILLIAN
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A. ASSIGNMENTS OF ERROR

1. The trial court erred in failing to follow the dictates of the Sentencing Reform Act by either not considering the challenged portions of the PSI or holding an evidentiary hearing to address those issues.
2. The trial court erred in not following the statutorily prescribed sentencing procedures for a SSOSA sentencing hearing.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Should the sentencing court have, pursuant to statute, either not considered challenged portions of the Pre-Sentence Investigation Report or, in the alternative, held an evidentiary hearing to address those issues? (Assignment of Error No. 1).
2. Did the sentencing court follow the statutorily prescribed procedures and considerations in the sentencing hearing in this case? (Assignment of Error No. 2).
3. Is the appropriate remedy a new sentencing hearing before a different Superior Court judge? (Assignments of Error Nos. 1 and 2).

C. STATEMENT OF THE CASE

Pursuant to a Second Amended Information, filed on August 16, 2007 (CP 1-2), the Defendant, MICHAEL A. MAY, JR., entered pleas of guilty on that day to one count of Child Molestation in the Second Degree, alleged to have occurred on February 1, 2003, and one count of Rape of a Child in the Second Degree, alleged to have occurred on June 29, 2002. RP 1-45.

The matter came before the court for sentencing in a series of hearings, with the Honorable Judge Michael J. Sullivan presiding. The first of these hearings was held on

November 15, 2007. RP 48 et seq. At the commencement of the hearing, Judge Sullivan indicated that he had reviewed the following documents (all of which are set forth in full in the attached Appendix):

A June 23, 2006, Community Counseling Services plan;

A Pacific Polygraph investigation report dated June 5, 2006;

A Comte & Associates psycho/sexual evaluation treatment plan dated January 16, 2007.

A pre-sentence investigation report (PSI) prepared by the Department of Corrections;

Letters from Michael May, Sr., Jennifer Sanchez, Cheryl Green, Carol Dunsmoor, Zachary May, and R. Shane Green, all in support of the Defendant.

There followed a recommendation from the Deputy Prosecuting Attorney that the Court not consider several portions of the PSI due to the fact that the Defendant had not been advised of his right to remain silent or right to counsel during the questioning by Mike Foster, the Department of Corrections Officer who had prepared the PSI. RP 51 et seq. The Deputy Prosecuting Attorney based this recommendation on the case of *State v. Everybodytalksabout*, 161 Wn. 2d 702, 166 P. 3d 693 (2007). CP 55. Colloquy occurred between the court and counsel as to whether that case actually applied to the instant case. RP 55-58.

Defense counsel then raised other concerns/objections about the PSI and its conclusions. RP 58 et seq. Specifically, counsel objected to the factual inaccuracy in the PSI (on page 5 thereof) concerning the time frame of the Defendant's abuse of the victim, and the concern of the PSI writer that, based upon this factual inaccuracy, the Defendant may not meet one of the statutory requirements for the imposition of a sentence under the

Special Sex Offender Sentencing Alternative (SSOSA). RP 59-60. Defense counsel concluded his argument by stating, at RP 61:

And I'm just saying, your Honor, that's a reason - what I'm saying is that's a reason to just discount the PSI because there's just tremendous inaccuracies in there that - that were the basis of his opinion [to recommend against a SSOSA sentence].

The Court then ruled that the case of *Everybodytalksabout, supra.*, does not apply to the case. RP 61. The Court went on to indicate that it would still honor the State's request that certain portions of the PSI not be considered. RP 61-62. The Court then confirmed that it was the position of defense counsel that the PSI be disregarded in its entirety. RP 62. The Court then summoned the PSI writer, Mike Foster, to the stand for testimony. RP 63.

Foster testified that in making a report to the court, he goes with "the broadest spectrum that the victim is reporting rather than the narrow." RP 65. He related that he had reviewed a copy of a police interview with the victim where the victim where the victim stated the abuse started "when he (i.e. the Defendant) moved in with my mom." RP 65. It was based upon that statement that he included in his PSI report that the abusive relationship between the victim and the Defendant started when the victim was 4 or 5 years old. RP 65.

On cross examination, Foster was unable to point to a specific portion of the police report/victim interview where the victim stated she was 4 or 5 years old when the abuse first started. He stated he did not interview the victim himself, nor did he request and/or review a copy of the polygraph report to clarify the timing of the start of the abuse. RP 71-73.

There followed brief arguments by counsel. Defense counsel again stated his concern that the conclusion of the PSI writer, to the effect that the Defendant did not meet statutory criteria for a SSOSA sentence, was based upon incorrect information as to when the abuse began. RP 80. During the course of argument, the Court discussed options, such as ordering that a copy of the polygraph report be given to DOC and ordering another DOC officer to prepare another PSI report. RP 84. The Court ultimately ruled that the sentencing hearing would proceed, that he would consider the PSI report, and would give it such weight as he considered appropriate. RP 85.

The sentencing hearing continued with the State's recommendation. RP 86 et seq. The Deputy Prosecutor quoted portions of the SSOSA statute, indicating that in the event the victim supported the SSOSA option, and in the event the Court declined to impose a SSOSA sentence, the Court would have to issue written findings as to why it had not imposed the treatment option. RP 86-87. The State went on to argue against the imposition of a SSOSA sentence, and argued instead for minimum term sentences of 31 months on Count I and 102 months on Count II, to run concurrently. RP 87-91.

There then followed oral statements by the victim, M.M., and her mother, Barbara Sleasman. The victim made the following statement, at RP 93:

I only want to tell you that I love my dad and I don't want him to go to jail. I want him to go to treatment. I don't think he deserves that. I want him to just go to the treatment program. And I know he's a good person, and he won't ever do it again. And I just want him to get help. And that's what I want to tell you guys is that I want him to go to that SSOSA thing, whatever it's called, I don't know. That's where I feel he should go to and needs more. And I don't know.

I just wanted to say that, 'cause I know it will help

possibly. So that's all I wanted to say is that I think my dad deserves to go to the treatment program.

Barbara Sleasman, the victim's mother, made the following statement to the Court, at RP 94:

I want to say that I agree with my daughter. We believe that Michael deserves it - a chance to get some treatment. and with this program I believe that it would help him. and - I just want to be on the record that I do support Melissa's decision on what she wants to have done at this time.

In response to the Court's inquiry, Ms. Sleasman indicated that she and Melissa had discussed the issue in great detail, and that she had never tried to influence Melissa as to what he wanted to have happen. RP 95.

The defense then called Michael Comte, a State certified sex offender treatment provider, to testify as to his conclusion, set forth in his psycho/sexual evaluation treatment plan, that the Defendant was a viable candidate for a SSOSA sentence. RP 96 et seq. Comte's direct testimony was interrupted by time constraints, and the hearing, with Comte still under direct examination, continued on November 29, 2007. RP 117 et seq. Comte gave extensive testimony, both on direct examination by defense counsel and on cross examination by the Prosecuting Attorney. RP 96-263. During the course of cross examination by the prosecutor, there was mention of several studies and treatises, and Comte was questioned by the prosecutor concerning those studies and treatises.

At the conclusion of Comte's re-direct testimony, the Prosecuting Attorney moved to admit exhibit's A through L, which were the studies and treatises mentioned above. RP 242. Defense counsel objected, based on lack of foundation and the fact that Comte only acknowledged familiarity with a couple of the offered exhibits. RP 243. After further

arguments of counsel, the Court admitted exhibit's A through J, and exhibit L, but indicated that he would consider only those portions of the exhibits about which Comte was questioned, and about which Comte offered testimony. RP 251.

There followed extensive arguments by counsel, with occasional colloquies between counsel and the Court, and a statement to the Court by the Defendant. RP 263-333. After a brief recess, the Court gave a short statement and denied the SSOSA sentencing option, instead sentencing the Defendant to a minimum term of 120 months. RP 334-335; CP 3-17. After a short discussion of other terms of the Judgment & Sentence, court was adjourned. RP 339.

Timely Notice of Appeal to the Court of Appeals was filed on January 7, 2008. CP 18-30.

D. ARGUMENT

The trial court erred in failing to follow the dictates of the Sentencing Reform Act by either not considering the challenged portions of the PSI or holding an evidentiary hearing to address those issues.

The operative section of the Sentencing Reform Act is RCW 9.94A.530(2), which reads as follows:

In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court **must** either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hear-

ing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. (Emphasis added).

In the instant case, it is beyond question that the defense objected to the information in the PSI which indicated that the abuse of the victim by the Defendant had started when the victim was 4 or 5 years old, and at the time when the Defendant first started living together with the victim and her mother. RP 59-61.

Under the clear and **mandatory** language set forth immediately above, the sentencing court had to do one of two things: either not consider the fact or hold an evidentiary hearing to resolve the factual issue. While the Court did call the PSI writer, Mike Foster, to the stand for questioning, the reason for that testimony was not to resolve the factual issue, but rather to explore why Mr. Foster had made the statement in the first place. The only witness(es) who could resolve the true factual question were the victim herself, M.M., and possibly her mother. These individuals were never called to testify in any sort of evidentiary hearing with regard to that factual issue and, in fact, no evidentiary hearing on that issue was held at all.

Alternatively, at no time did the Court indicate that it would not consider the disputed fact, as it was required to do in the absence of any evidentiary hearing on the matter. Indeed, the Court ultimately indicated that it would “consider the report, but decide what weight to give to it.” RP 85. Such a resolution is contrary to the explicit requirements of the statute in question, and clearly operates to the detriment of the Defendant, who is clearly entitled to (a) the fact not being considered or (b) a full evidentiary airing of the issue to decide whether it merits consideration by the sentencing court at all.

The failure of the Court to follow the clear dictates of the statute in this case raises serious questions about the fairness of the sentencing proceeding, particularly in view of the fact that the issue in dispute allegedly would have constituted a prohibition, as per the SSOSA statute, of the Defendant even being eligible for a SSOSA sentence. Indeed, that was explicitly stated by Mr. Foster in the body of the PSI. To proceed on with sentencing, in the absence of either a statutorily mandated evidentiary hearing or an agreement not to consider the facts as stated in the PSI, was clear error, and should entitle the Defendant to a new sentencing hearing before a different judge with a newly drafted PSI.

The sentencing judge should have, in the alternative, recused himself, ordered a new PSI to be prepared, and ordered a new sentencing hearing before a new judge.

As set forth in the preceding section, the sentencing judge committed clear error by not following the clear statutory mandates which come into play whenever facts stated in a PSI are disputed by the defense. Though the sentencing judge ignored those mandates, there was one other way to avoid and possibly negate the prejudice which was inherent in the proceedings. This alternative was briefly discussed in the Court's colloquy with defense counsel at page 84 of the Report of Proceedings. At that point in the proceedings, the Court inquired whether it should (a) order that the polygraph report be provided to the Department of Corrections and (b) order a new PSI, to be written by another DOC officer (i.e. not Mike Foster). By raising these possibilities, it is clear that the sentencing judge was seriously concerned about the allegedly incorrect information in the PSI and the fairness of proceeding without the information being reviewed (and probably corrected) by an impartial DOC employee.

Inherent in the judge's comments is a realization by him that concepts of fundamental fairness in such important matters require extraordinary protection. His realization that another DOC officer may have to write a new PSI is nothing more than a common sense realization that Mr. Foster was essentially "committed" to his position, and that a fresh look at the matter by a totally uninvolved DOC officer would seem appropriate and necessary, in order to fully protect the impartiality of the proceeding and the Defendant's fundamental rights.

The same calculus applies with equal weight to the sentencing judge himself. He had been exposed to a sentencing recommendation (i.e. that the Defendant was not even statutorily eligible for a SSOSA sentence) which was based on suspect, or even clearly erroneous, information. Even though judges are called upon to routinely consider or not consider certain evidentiary matters, the clearly preferred course of action by the judge, in order to preserve the fundamental fairness of the proceedings, would have been to order a new PSI **and** to remove himself from the case, assigning a new judge (who had not been arguably "tainted" by the incorrect information) to hear the sentencing hearing. The failure of the sentencing judge to do this was prejudicial to the Defendant's right to a fair hearing, and calls for relief.

There is a long line of cases which are analogous to the instant case and which order exactly the relief being requested here, i.e. a new sentencing hearing before a different judge. Those cases involve situations where a plea agreement has been breached by the prosecuting attorney, wherein the prosecutor advocates for a sentence which is different from that required to be advocated for pursuant to the plea agreement. In that line of cases, the holding by the appellate courts is consistent, i.e. that the Defendant

essentially has a choice of (a) withdrawal of the plea) or (b) specific performance of the plea agreement by means of **a new sentencing hearing before a different judge**. See, e.g., *State v. Van Buren*, 101 Wn. App. 206, 211-212, 2 P. 3d 991 (2000); *State v. Jerde*, 93 Wn. App. 774, 780, 970 P. 2d 781, *review denied*, 138 Wn. 2d 1002 (1999).

Inherent in those cases is the realization that a judge, though constantly trusted with the responsibility to consider only relevant evidence, must on occasion, in order to sustain the fairness of the proceedings, be removed from a case and have the matter re-heard by a different judge who had not heard the improper evidence or improper argument. This is in no way a negative reflection on the original judge, but simply a realization by our courts that concepts of fundamental fairness require, whenever possible, that such taints be removed from the proceedings. Such is the case in the instant case. Mr. Foster's recommendation against SSOSA (at least insofar as it was based upon statutory eligibility) was premised on inaccurate and prejudicial information. This recommendation, and the inaccurate information it was based upon, was heard and considered by the sentencing judge. In accordance with the reasoning of *Van Buren* and *Jerde, supra.*, the sentencing judge in the instant case should have ordered a new PSI and should have ordered a new sentencing hearing before a different judge. Failure to do so was clear error.

The sentencing proceedings did not follow the statutory requirements for a SSOSA sentencing hearing, and did not allow for adequate appellate review of the judge's sentencing decision in this case.

The Special Sex Offender Treatment Alternative is a creature of statute and, as such, the statute dictates as to sentencing proceedings involving the SSOSA option

must be strictly followed. The decision as to whether to impose a SSOSA sentence is generally within the trial court's discretion. *State v. Onofrey*, 119 Wn. 2d 572, 575, 835 P. 2d 213 (1992). That decision will not be disturbed unless there is an abuse of discretion by the trial court, defined as a decision which is "manifestly unreasonable" or "based on untenable grounds." *State v. Rohrich*, 149 Wn. 2d 647, 654, 71 P. 3d 638 (2003). See also *State v. Radcliffe*, 139 Wn. App. 214, 159 P. 3d 486 (2007). A court abuses its discretion if it categorically refuses to impose a particular sentence **or if it denies a sentencing request on an impermissible basis.** *State v. Khanteechit*, 101 Wn. App. 137, 139, 5 P. 3d 727 (2000). Furthermore, a defendant may appeal a standard range sentence if the sentencing court failed to comply with procedural requirements of the SRA or constitutional requirements. *State v. Mail*, 121 Wn. 2d 707, 711-13, 854 P. 2d 1042 (1993); *State v. Osman*, 157 Wn. 2d 474, 139 P. 3d 334 (2006).

The operative statute for purposes of a SSOSA sentence is RCW 9.94A.670. The relevant section, for purposes of this discussion, is section (4), which provides in relevant part as follows:

After receipt of the reports, the court **shall** consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victims of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court **shall give great weight** to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed is contrary to the

victim's opinion, the court **shall** enter written findings stating its reasons for imposing the treatment disposition. (Emphasis added).

There are several instances of mandatory language in this statute, which make it clear that a sentencing judge **must** consider those factors. Not the least of these factors is the opinion of the victim as to the appropriate disposition. While it is true, as the case law cited above establishes, that a sentencing court is afforded discretion in granting or denying a SSOSA sentence, it is equally true from that same case law that a reviewing court must have an opportunity to actually review that decision, and to insure that the judge comported with all of the statutory requirements in his or her sentencing decision. Why else would the statute mandate certain factors that must be considered? Why else would the statute mandate written findings in the event the sentencing judge imposes a sentence which is contrary to the wishes of the victim? The answer is obvious, viz. to allow for proper appellate review of these decisions.

This clear legislative directive and mandate for such sentencing decisions, by its very internal logic, demands that a sentencing judge not only consider those factors, but also enunciate, on the record, his or her consideration of those factors, and how those factors weighed in with regard to his or her ultimate sentencing decision. Only in that way can a reviewing court be assured that the statutorily mandated factors were considered as intended.

The oral ruling of the sentencing judge in the instant case spans but 34 lines, from his opening words, at RP 334, line 15, to his denial of SSOSA at RP 335, line 24. While he makes a few comments in between, nowhere does he engage in the clearly intended and mandated weighing of the factors from the statute, and there is absolutely no way to

tell whether he ever considered them at all. Similarly, his sentence was in direct opposition to the wishes of the victim and the victim's mother, yet there are no written findings, as contemplated by statute. Even if it is ultimately determined by this court that written findings were not required in this particular case, in no way can it be said that the other mandatory language of the statute does not apply. In no way can it be said that a reviewing court can say, with any certitude or confidence at all, that the sentencing judge undertook the type of analysis mandated by the Legislature in such matters. The record simply does not support such a conclusion in any way.

It is respectfully submitted that the proper course of action, as has been urged previously in this brief, would be for this Court to order a new sentencing hearing before a different judge. The sentencing judge in this case had no specific knowledge of the facts of this case, or about the Defendant, before the sentencing hearing was held. Thus, there is no reason why another judge could not, by a similar proceeding, or even by reviewing a transcript of many of the portions of the hearing itself, become just as well acquainted with the facts of the case, so that he or she could render a sentencing decision in accordance with the mandates of the applicable statutory scheme. At the very least, the matter should be remanded to the Pacific County Superior Court for the entry of findings regarding the mandated considerations. However, the Appellant urges this Court to remand for a new sentencing hearing altogether, as a remand simply for findings would not, in the long run, prove useful, due to the original sentencing judge having already made his decision, arguably based upon an incomplete and/or insufficient analysis. A remand for a new sentencing hearing before a different judge is by far the more preferable, and more equitable, course of action, for all of the reasons cited in this

Opening Brief.

E. CONCLUSION

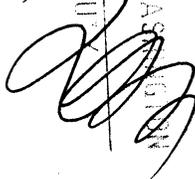
For the reasons stated herein, this court should remand this matter to the Pacific County Superior Court for preparation of a new Pre-Sentence Investigation Report and a re-sentencing hearing before a different judge or, at the very least, should remand this matter to the trial court for the entry of findings explaining the trial court's refusal to grant a SSOSA sentence alternative in this case.

DATED: September 2, 2008.

Respectfully submitted,



ROBERT M. QUILLIAN,
Attorney for Appellant
WSBA #6836

STATE OF WASHINGTON
BY _____ DEPUTY
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CERTIFICATE

I certify that I mailed a copy of the Brief of Appellant by depositing same in the United States Mail, first class postage prepaid, to the following people at the addresses indicated:

Mr. David John Burke
Prosecuting Attorney
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DATED this 2nd day of September, 2008.



ROBERT M. QUILLIAN, WSBA #6836
Attorney for Appellant

APPENDIX

<u>Document</u>	<u>Pages</u>
June 23, 2006, Community Counseling Services Plan	A1-A11
Pacific Polygraph investigation report dated June 5, 2006	A12-A21
Comte & Associates psycho/sexual evaluation treatment plan	A22-A34
Pre-Sentence Investigation	A35-A40
Letters	A41-A48

CONFIDENTIAL

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Linda L. Rutledge, M.S. M.A.

D. R. Stone, R.C.

June 23, 2006

**PSYCHOSEXUAL EVALUATION
AND TREATMENT PLAN**

NAME: Michael A. May, Jr.

CAUSE #: 06-1-00045-3

ADDRESS: 1018 S. 312th #515
Federal Way, WA 98003

DOB: December 20, 1965

REFERRING PARTY: Thomas Keehan
Attorney at Law

DATES OF EVALUATION: June 3, 2006

TESTS ADMINISTERED: Multiphasic Sex Inventory II (MSI-II):
June 16, 2006
Polygraph Examination:
June 5, 2006

Redisclosure of this evaluation to any party other than for whom it was written requires a valid release of information from the client and the permission of this evaluator. This evaluation may contain personal and sensitive information that may be harmful if used improperly.

To: Thomas Keehan
Re: Michael A. May, Jr.
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REFERRAL INFORMATION

Mr. Michael A. May, Jr. was referred for a Psychosexual Evaluation and Treatment Plan by his attorney, Mr. Thomas Keehan. Mr. May was charged with one count of Rape of a Child in the Second Degree, one count of Rape of a Child in the Third Degree, and three counts of Child Molestation in the Second Degree. Charges stem from the sexual assault of his former girlfriend's daughter, MW (AKA MM) (D.O.B. 6/29/90). The sexual assault occurred over a four-year period beginning in 2002, beginning when the victim was 12 years of age. Mr. May doesn't remember the exact numbers of times he sexually assaulted the young girl, but admitted to "quite a few times." The victim's statements concur with that fact.

Mr. May was interviewed in the Pacific County Jail for this evaluation. He had been detained there for 70 days at that point. Mr. May is a 40-year old man of average height and build, who appears to be of average intelligence. He was neat and tidy, appeared to be coherent and tracking.

Mr. May initially denied the accusations against him. Even after he knew that he had been caught, he continued to deny the accusations. He went to far as to request that he be given a polygraph, even though he continued to be untruthful on it. After being found deceptive on the polygraph, Mr. May finally confessed. He explained that he really isn't a person who usually lies about things and he was feeling guilty over his behavior.

This evaluation was requested to aid in the determination of his amenability to treatment in a community-based program by providing information about his problem with sexual deviance and risk of re-offense.

FAMILY HISTORY

Mr. May is the oldest of two children. His sister, Cheryl, is two years younger than him. His parents divorced when he was 10 years old. The children lived with their father in Raymond, WA, after the divorce. Their mother moved to Bellevue, WA, for approximately four years, later returning to the Raymond area. During high school, Mr. May and his sister lived with their mother in the family home. His father had moved out. He remembers his childhood as being "fairly normal--nothing extraordinary." His immediate family was nearby, in the South Bend and Raymond area. Mr. May denies that there were any incidents of his being sexually abused as a child.

To: Thomas Keehan
Re: Michael A. May, Jr.
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He lived in the Raymond area until he joined the Navy in 1984. After he completed his military service, he returned to Raymond for four years and then moved Aberdeen for another two years. He has lived in the Seattle area for the past 10 years.

Mr. May has never married, although he has had two long-term relationships, one lasting for seven years. He has two sons, ages 15 and 10, from two of his former relationships. The boys live with their respective mothers. The victim, MW, is the daughter of one of Mr. May's live-in girlfriends. The child visited with Mr. May on weekends after Mr. May and her mother broke up.

SEXUAL HISTORY

Not remembering anything sexual, not even "show-and-tell", until he was eight years old, he remembers playing "doctor" with another same-age child. His sister had friends who he remembers flirting with, but nothing else. At 15, he had his first sexual experience--with one of his sister's friends. At 17, he had sexual intercourse with a girl he had just met at a party. He explains that he knew her through mutual friends. They never dated before or after that. He dated several girls during high school, but "no one in particular."

At 12, he remembers awaking with an erection. He thought that it was painful. He had a wet dream, and didn't know what was going on. He doesn't remember any discussion of sexuality with his schoolmates or friends. He believes that he first masturbated while in high school. Prior to his arrest, he admits to masturbating only occasionally, since he had a live-in girlfriend who he was sexually active with.

He admits to viewing pornography several times a week, owning magazines like Playboy, Penthouse, and Hustler. He also admits to viewing pornography on the Internet several times a week. He admits to "having seen child pornography on the Internet—but did not look/view it nor download it." He has participated in chat rooms on the Internet daily, but admits to only having had Internet sex on two occasions.

While in the Navy, he feels that he "made up for lost time." While there, he admits to frequenting topless establishments and hiring prostitutes on several occasions. While in the service, he began working out, and when he came home the girls seemed to notice that he had grown up and physically developed. He started having "sex on a regular basis."

His first serious girlfriend was in 1987, when he was 21. They dated for two years, but he was not monogamous. He had several girlfriends at the same time, his main girlfriend not

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being aware of them. When he told her of his indiscretions, they broke up. He continued along that vein, dating several girls at a time, for several years. He admitted during the polygraph that he had had relationships with about 100 to 150 different women in his life. During this interview, he admitted to telephone sex with one of the women he dated.

There were further revelations given during the polygraph, which were not revealed during this interview. These included an arrest in San Diego for unlawful sex with a minor (a 14-year old girl). He had also had sex with her 17-year old sister. He was 23 years old. Charges were later dropped.

In 1990, he met Jennifer, whom he dated for four years. They have a son together, born in 1991. Neither one of them were monogamous during their relationship. He continued having several girlfriends, "nothing serious," until he met the victim's mother, Barb, in 1995. The victim, MW, was five years old at the time. They dated until 2000. Their relationship ended when Mr. May started dating another woman. Presently, he is seeing a woman named Dawn. That relationship has been "on-and-off" also.

When asked about the offense, he stated that initially he thought that MW was curious about sex. She was about 10 years of age. Instead of him stopping the conversations, he "allowed them to continue." This progressed to her being in the bathroom and he entered, seeing her nearly naked. He remembers that he felt short of breath, and was very excited. Shortly after that, he started sexually assaulting the young girl, encouraging her to also touch him. He admits to performing oral sex on her. He claimed that he would ask her to do certain things, and "she never did anything that she didn't want to do." At one point, she expressed her discomfort with the events. He stopped for a few months, but started up again. When asked why, he stated that he could just tell by her actions—asking for a backrub, sitting next to him. "It grew into a routine—but with me just only 'touching' her at this point." The backrub would then initiate further molestation. He felt that she was a willing partner, even though he knew what he was doing was wrong. This started when she was 12 and ended when she was 15 years of age; he being 36 to 39 years old.

Initially, he admits to being very aroused, although he knew that what he was doing was wrong. After time, however, he claims that the sexual assaults were so "routine" that he failed to become aroused. He did, however, continue to molest her. When asked when the sexual assaults finally stopped, he explained that after she got a boyfriend, ("and since I wasn't really aroused anymore"), he stopped. This was about a year before his arrest.

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POLYGRAPH EXAMINATION

It is this agency's practice to use polygraph examinations to help validate the completeness of a client's given account of their sexually deviant behavior. On June 5, 2006, Mr. May voluntarily submitted to a polygraph examination administered by Mr. Thomas Taylor of Pacific Polygraph & Investigation. Results of this examination showed that **NO DECEPTION WAS INDICATED** on questions #1 and #2, "Have you had sexual contact with any other minor child" and "Have you committed a sexual act that could cause your arrest?" However, on question #3, Mr. May was judged **DECEPTION INDICATED**. Question #3 was "have you engaged in a sexual act that you have not disclosed?" A copy of this examination is enclosed.

I further discussed this inconsistency with Mr. Taylor. He stated that he believes that Mr. May has had further sexual encounters that he had not disclosed. Due to the number of sexual partners, this was not surprising. However, Mr. Taylor felt confident that there were no other **minor** victims that have not been disclosed.

PSYCHOLOGICAL TESTING

Mr. May was given the Multiphasic Sex Inventory-II (MSI-II) for Males. This was developed by H.R. Nichols, Ph.D. with his colleague, Ilene Molinder, M.A. The MSI-II was scored and interpreted by Dr. Nichols.

In the MSI-II, Dr. Nichols states:

Test Validity: His scores suggest that he was defensive and attempted to present himself in an overly favorable light. This suggests that his scores on many of the scales and indices are "submerged" and provide limited information for interpretive purposes. In addition, even though he admits committing a sex offense, his score on the Lie scale shows that he has suppressed some sex deviance scale scores.

Clinical/Behavioral Results: Again, his scores on some of the clinical and behavioral test results may have been affected by his suppressed response set.

Sexuality Test Results: The findings show that he has accurate information about sexual anatomy and physiology. He indicates that he is heterosexual and presents himself as having basic libido urges and drives, non-impaired erectile functioning and adequate sexual performance. He reports that he has had a sexually transmitted disease. He does not report paraphilia interests or behaviors involving female apparel, bondage/discipline.

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inflicting sexual humiliation or pain on others, sexual masochism or any other fetishes. It is noted that he indicates he has always known it is wrong to either force someone to have sex or to engage a minor in sex.

Sex Deviance Assessment:

- 1) he scored in the partial disclosing range on the Child Molest Scale. More particularly, a breakdown of the stages involved in an act of child molestation include:
 - a. Deviant Arousal – a precursor step in which sexual themes involving children (minors) have been used for sexual stimulation; *in this client's case it was found that he seriously minimizes ever having had deviant sexual thoughts and interest involving children (minors);*
 - b. Pre-Assault – a preparatory step in which a child (minor) has been "set up" and manipulated so that a sexually desired outcome (i.e., molest) could occur; *in this client's case it was found that:*
 - i. *he seriously minimizes ever having attempted to physically interact with and "groom" a child (minor) for sexual purposes;*
 - ii. *his pre-assault behavior to manipulate and groom a child (minor) for sex also appears to include having exposed himself;*
 - c. Sexual Assault – a final step in which a purposeful and willful decision has been made to act out latent deviant sexual desires involving touching, fondling, oral contact, penetration between an adult and a child (minor); *in this client's case it was found that he is disclosing about having molested a female child(ren) (minor);*
- 2) he says he has been accused of rape and the results from the Rape Scale show that:
 - a. *he does not acknowledge ever having been sexually aroused by thoughts or fantasies involving force or rape;*
 - b. *he denies ever having used pre-assault behaviors to seek out, stalk, manipulate, force or coerce a "non-consenting" person to engage in a sex act;*
 - c. *and he does not acknowledge ever having acted out rape assault behaviors;*
- 3) on the Sex Obsessions Scale, *this client minimizes his past obsession with sex;*
- 4) on the Scheming Scale, *it was found that he denies or does not recognize this part of his offense behavior;*
- 5) on the Superoptimism Scale, *he does not recognize or seriously minimizes the excitement involved in his offense behavior.*

Accountability: Components of accountability involve a client's ability to take responsibility for his problems in life and accountability for his sexual behavior. *He uses*

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justifications and excuses to keep from accepting full accountability for his sexual assault behaviors as noted by his endorsements of items like, "My sexual offense happened because I thought the person wanted and liked the sex thing that happened," and "My sexual offense happened because I tried to help the person with their sexual growth and development."

From the limited information provided by this client, his test results suggest he: 1) has had sex deviance problems (child molest, exposing); 2) does not know the dynamics involved in his child molest behavior; 3) does not take full accountability for his offense behaviors.

Treatment Candidacy: A client's treatment candidacy is assessed based on his degree of openness and disclosure about himself and his behavior, level of accountability for his actions, history of having the ability to control his behaviors and recognition of having a problem which needs treatment. The client's testing shows a potentially positive response to treatment in some respects. There is the necessary acknowledgment of having committed a sexual offense. He showed good effort and concentration in taking the lengthy MSI II which is a positive in dealing with the demands of treatment. He recognizes he needs treatment. If he is to be involved in treatment, there are concerns about his amenability. For instance, he was quite defensive on testing and if this sample of behavior carries over into treatment he may try to minimize and deny his sexual problems and avoid change. He shows little contrition for his actions which suggests he may not have much incentive to change his behavior.

The client produced a "Look Good" profile which limits the information available for interpretive purposes. However, he was disclosing of committing sexual assault behaviors.

CRIMINAL HISTORY AND VIOLENCE

There was no criminal history reported. He does admit to receiving "only one or two" speeding tickets.

He admits to being involved in several fights while in high school, in the Navy, and after leaving the Navy. Alcohol was usually involved.

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Mr. May also admitted on the polygraph exam that he has had three instances of domestic violence:

1. In 1992, his son's mother, Jennifer, *started hitting me while I was driving and tried to grab the wheel*, so I "pushed her in the side of her head against the window."
2. In 2004, *my girlfriend was hitting me during an argument*, so I "picked her up and threw her down to the floor."
3. In 2005, *during an argument, I pushed, grabbed, and threw his girlfriend against the wall on two occasions.*

ALCOHOL AND DRUG HISTORY

Mr. May admits to having started drinking and partying in high school. He also smoked marijuana. While he was in the service, he only drank alcohol. He was UA'd "constantly" since he had a Secret clearance. Upon leaving the service, he admits to starting to use marijuana for a brief time, quitting when his first child was born in 1991. He claims that he hasn't tried marijuana since. He stopped drinking alcohol, except very occasionally, in 1995 with the birth of his second son. He failed to mention that most of the fights he has been in were alcohol-related. Again, this was disclosed on the polygraph.

He admits to trying LSD once, in 1989. He states that he didn't know what it was that he had been given. He did not have a "good trip." He denies trying other non-prescription drugs.

SCHOOL, EMPLOYMENT, AND MILITARY SERVICE

Graduating from Raymond High School in 1984, Mr. May had joined the service prior to his graduation. He was in a program that had limited spaces available, therefore he had to wait to start his military service until April, 1985. He was in the service until 1989, leaving with an Honorable Discharge. He qualifies as a Veteran and belongs to the VFW. He flew combat missions during the administration of the first President Bush.

His first job at 16 was for Port of Willapa Harbor, doing maintenance for the Port. He worked for them for approximately one year. He then joined the Navy. Upon his return, he worked for Radio Shack, ending up in a management position. He worked for them for seven years. He then moved on to a video rental store, while he attended Green River

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College. He received his AA degree in 1998. While attending school, he began to run the recreation facility at a large apartment complex. He then went on to earn his bachelor's degree from the University of Washington in 2000, majoring in International Studies. He went on to pursue a Masters Degree at the UW, completing the work to earn that degree. He failed to pay the University money he owed them, so he put that degree on hold. He was pursuing a Masters in International Studies. He continued working for the apartment complex where he had lived, quitting in 2002. He then went on to Federal Way,

remaining there until his arrest in 2006. He was working as a caregiver for a friend with Multiple Sclerosis.

At one point, he had wanted to become a high school teacher, but didn't pursue that further, instead wanting to work for the FBI. Hence, the degrees in International Studies.

CONCLUSIONS

In general, Mr. May wasn't very open or disclosing about his life in general. In order to glean out the details of his life, I had to build a picture based upon this interview, the psychological testing, and the polygraph exams he was given (one criminal/one sexual history). Normally, a person facing the option of receiving a SSOSA with jail time in lieu of a prison sentence is much more open and disclosing. Prior to my involvement, Mr. May had been given a criminal polygraph by Mr. Tom Taylor. Since he already knew Mr. Taylor (or realized that Mr. Taylor already knew a great deal about this case), he was apparently more disclosing on the second polygraph. He wasn't, however, disclosing on the Multiphasic Sex Inventory-II, or with me during this interview.

When asked if he would like to say, he stated that he was sorry for what he did. He betrayed her trust. He never should have taken advantage of her that way. He has remorse for what he did. He'd like to know why he didn't stop when he knew what he was doing was wrong.

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RECOMMENDATIONS

In our opinion, Mr. May is a **marginal candidate** for community-based sex offender treatment. He, however, certainly needs to participate in the rigors of treatment, either at the present time, while in prison, or after his release. If the Court determines that he should be given a SSOSA disposition at the present time, I make the following recommendations:

1. That Mr. May participate in a specialized sex offender treatment program which involves weekly individual therapy sessions, initially, and then incorporates weekly group meetings in a confrontive sex offender treatment group. Treatment is expected to last, at a minimum, for three years. His progress in this type of program will be determined, to a large degree, by the effort Mr. May puts into his treatment work and the changes he demonstrates.
 - a. Initial stages of individual treatment should focus almost entirely on his deviant sexual behavior and the rationalizations and cognitive distortions which accompanied it.
 - b. He should be required to participate in aversive therapy to reduce sexual arousal to minor age females and to deviant sexual themes, and he needs to be challenged to examine, in full detail, all aspects of his sexually abusive behavior.
 - c. As treatment progresses, he required to participate in an intensive therapy process aimed at uncovering and resolving deeper emotional problems which may be at the root of his offensive behavior.
2. That Mr. May have no contact with minor age children without the presence of a "Knowledgeable Adult" who is fully informed about his sexual problems and the risk of reoffense. Such "Knowledgeable Adults" shall be approved both by his treatment provider and probation officer.
3. That Mr. May have no contact with his victim unless he has explicit approval by his therapist. This would only happen in a treatment setting.
4. That Mr. May be financially responsible for any treatment required by his victim as a result of the abuse.

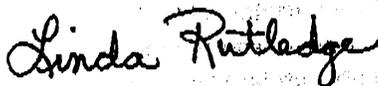
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5. That Mr. May abstain from any use of alcohol and illicit drugs.
6. That Mr. May submit to polygraph tests on a once every six month basis, or as judged necessary by his therapist or probation officer.
7. That Mr. May abstain from any viewing of pornography, and be restricted from use of the Internet.
8. That Mr. May inform his Community Corrections Officer and Therapist of any new relationships to verify that there are no victim-age/minor age children involved, and that the adult is aware of his conviction history and conditions of supervision.
9. That Mr. May maintain full-time employment and that he be financially responsible for treatment by keeping his bill current.
10. That Mr. May complete a Relapse Prevention Plan to be submitted to his probation officer prior to his leaving treatment.

If given the SSOSA treatment option, Mr. May should be made aware that violation of these conditions, whether because of further sexually deviant acts, or because of other dishonest or highly irresponsible behavior would result in termination of treatment necessitating his being returned to court for further sanctions.

If you have any further questions regarding his treatment plan, please contact me.

Sincerely,



Linda L. Rutledge, MS MA
Certified Sex Offender Treatment Provider
Nationally Certified Counselor
Licensed Mental Health Counselor

CONFIDENTIAL

Pacific Polygraph & Investigation
P. O. Box 2424
Ocean Shores, WA 98569
(360) 289-3780
(877) 761-7060

Ms Linda Rutledge
501 W. Young
Elma, WA 98541

June 05, 2006

Client: MAY, Michael A Jr.
DOB: 12-20-1965
File #: 06-0149
Test: Sexual History Examination
Date of Examination: June 05, 2006
Results: NO DECEPTION INDICATED to questions #1 and #2
Treatment Provider: Ms. Linda Rutledge, Psy.D.
Test Location: Pacific Co Jail, South Bend, WA

Dear Ms. Rutledge

As requested I conducted a polygraph examination on Mr. Michael May. The purpose of this examination was to verify his sexual history regarding sexual contact with minor children, sexual abuse, and that the information he provided was truthful. Also to determine if he had been truthful regarding his sexual history information provided prior to the examination. Mr. May is in custody on a current molestation charge and has been in custody since March 23, 2006.

Due to the American Polygraph Association Sex Offender testing guild lines, sexual history examinations do not contain specific questions about the Instant Offense during the instrumentation portion of the examination. Due to this, discrepancies, if any, between the official version of the offense and the offender's version, must be tested separately.

SEXUAL HISTORY

The following information was obtained from the examinee prior to the examination.

CURRENT ADDRESS, LIVING SITUATION, RESIDENTIAL VICINITY & EMPLOYMENT

1. Mr. May resides presently at the Pacific County Jail, South Bend, WA. When he is released he will be living at 802 Seeley St, Raymond, WA., with his mother, Carol Dunsmoor age 63. The residence is a single family structure in a residential neighborhood in the Riverview area of Raymond. No other family members or non family members reside at the location.

ANY CHILDREN OF HIS/HER OWN - WHERE DO THEY LIVE AND AGES

- Mr. May has two sons neither are living with him now.
- Zachary May, 15yrs old, lives at 980 Lundington, Raymond, WA. With his mother Jennifer Sanchez.
- Steven May, 10 yrs old, lives in Westport, WA. With his mother Brandy Smith.

FAMILY HISTORY of INAPPROPRIATE SEXUAL BEHAVIOR

1. Mr. May denied any history of inappropriate sexual behavior in his family while growing up

VERBAL ABUSE

1. Mr. May did not mention any incidents of verbal abuse while growing up.

SEXUAL HARASSMENT

1. Mr. May denied any occasion of sexual harassment on others or himself.

BABYSITTING AND/OR CARE GIVER EXPERIENCE

1. Mr. May denied babysitting or giving care other than his own children.

CHILD VICTIMS

1. Mr. May admitted to 5 to 10 incidents of touching of breast and digital penetration of victim's vagina in Pacific County between 1999 and 2004.
2. He admitted to 5 to 10 times touching the breast and digital penetration of victim's vagina along with three incidents of oral copulation by May on the victim in King County between 2002 and 2004.
3. He admitted to one incident of oral copulation on the victim while at the apartment of his ex-girlfriend, Brandy Smith, at 1509 E. Beacon in Westport, WA in 2003.

4. Mr. May stated that when he was 23 years old, in 1988/89 he was arrested by San Diego Police for unlawful sex with a minor but the charges were dropped. While in San Diego he started dating a 17 year old Virginia Smith. He had sexual relations with her. He then started dating the mother, Leticia Smith, for a short time. While dating Leticia, he started grooming the 14 year old daughter of Leticia, the sister of Virginia, Yvette. When Yvette was 15 years old he said that they had sexual intercourse. The complaint was filed by Leticia when she found out that May was having relationship with Yvette.

SEXUAL ACTIVITY WITH OTHERS AS A MINOR

1. Mr. May stated that he first incident with as a minor was when he was 8 years old with a 8 year old girl, Lorrie Swanson, playing house, touching each others genitalia on four or five occasions.
2. When he was 14 years old while visiting family in Spokane, WA his 10 year old cousin, Nickie, and his 12 year old sister, Cheryl, took their clothes off and Nickie and May touched each others genitals one to two times. Cheryl only watched.
3. When he was 15 years old a girl named Lenae, unknown last, spooned with each other. He said there was touching and grabbing of her breast, rubbing of her body.
4. When he was 17 he had straight intercourse with a girl named Cindy Sands who was 17 years old three to four times.

PEER AGE MALES/FEMALES

1. Mr. May stated that he has had some form of a relationship with about 100 to 150 different women in his life. The first one was when he was 18 years old was Cindy Sands, straight intercourse.
2. May was 21 years old and while in S. Carolina fondled an unknown named female, possible 19 years old.
3. S. Carolina had intercourse 4 times with a Robin Baker who was 18 years old.
4. May 21 years old while in Raymond, WA, kissed and fondled a 17 year old Char Wall.
5. When May was 21/22 year old he had sexual relationships twice with a 22/23 year old Mika Music.
6. At 21 years old had intercourse with a Carie Harling who was 18 years old twice.
7. While in San Diego at 22 years old he had intercourse with a Angie Roddy who was 23 years old several times and also with Cathy Couler who was 22/23 years old six or more times.

THE FOLLOWING ARE WOMEN WHO HAD CHILDREN WHEN MR. MAY HAVE A RELATIONSHIP WITH THEM.

1. Between 1997 and 2001 he had sexual relationships with a 36 year old Judy Cuellar who resided at 196 5th ST. in Fife. She had children who were 5 and 8 years old at the time.
2. Between 2003 and 2004 he had sexual relations with a Meltony Ecallona who was 27 years old. She had a baby in September 2004.
3. Then his victims mother, Barb.

MASTURBATION

1. Mr. May stated he last masturbated about one month before his arrest at home.
2. Mr. May stated he would masturbate once a weeks at home.
3. Mr. May stated that the first time he masturbated he was in Jr. or Sr. High School and it was at home.
4. Mr. May stated that as a minor it was two to three times a weeks at home.
5. Mr. May state that he rarely has nocturnal emissions but that he had one a couple weeks ago.
6. Mr. May denied any public masturbation.

FANTASIES

1. Mr. May admitted that he has had fantasies of his victim six to eight months ago. But during the time the incidents were occurring it was once a week. He denies any fantasies with themes involving rape, violence, mutilation or same sex.

PORNOGRAPHY

Pornographic video/movie:

1. Mr. May stated that he views pornographic video/movie two to three times a week on average. They involve straight sex between male-female, oral and anal. He stated that the last time was in March 2006 and that the first time was when he was 19/20 years old. He said it was much less when he was in the Navy and dating.

Pornographic magazines:

1. Mr. May stated that he had a lot of magazines like Playboy, Penthouse and Hustler.

Internet Pornography:

1. Mr. May stated he would view pornography on the Internet two to three times a week. He would view both hard and soft core straight sex.

Child Pornography:

1. Mr. May stated he has seen child pornography on the internet when he as surfed the net but did not look/view it nor did he download any.

TOPLESS ESTABLISHMENT

1. Mr. May stated during his Navy enlistment he had been in a few.

CASINOS/GAMBLING

1. Mr. May stated that he has been in a casino two or three times with the last time in 2004 denied.

INTERNET

1. Mr. May stated that he does not own a computer at the present time but his mother does.
2. Mr. May denied down loading but has viewed adult pornography.
3. Mr. May stated that has participated in chat rooms that related to politics, romance about once a night. He also stated that he has had internet sex on two to three occasions between 2003 and 2004.
4. Mr. May denied joining sites on the internet.

CHILD PORNOGRAPHY

1. Mr. May denied any occasion of viewing, downloading or possessing child pornography.

SEX TOYS

1. Mr. May denied the used of any kind of sex toy.

OBSCENE PHONE CALLS AND TELEPHONE SEX LINES

1. Mr. May denied placing obscene phone calls for sexual pleasure.
2. Mr. May denied any occasion of calling telephone sex lines, including 900 numbers and 800 numbers with access to 900 numbers.

PERSONAL ADVERTISEMENT

1. Mr. May denied any occasion of placing or responding to a personal advertisement.

NUDE PHOTOS/VIDEO/VIDEO TAPING

1. Mr. May took nude photographs of Judy Cuellar once.
2. Mr. May denied any occasion of taking photographs or videotape of anyone under the age of 18 for sexual pleasure.

GROOMING / LURING / IMPERSONATION OF ANOTHER FOR SEXUAL PURPOSES

1. Mr. May stated that he only groomed his victim in this case.

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PROSTITUTION

- 1. Mr. May stated that when he was in the Navy and was overseas he paid for sexual intercourse 40 times.

GROUP SEX

- 1. Mr. May denied any occasion of sexual activity in which more than one person was involved.

EXTRA-MARITAL AFFAIRS

- 1. Mr. May stated that he has been involved in a sexual relationship with approximately ten women who were married at the time of the relationship.

MALES/FEMALES

- 1. Mr. May denied any occasion of sexual activity with another male.

RAPE

- 1. Mr. May denied any occasion of forcing any person to engage in sexual activity against their will other than the victim in this case.
- 2. Mr. May denied any occasion of forcing any person to engage in any form of sexual activity with another person.

EXHIBITIONISM

- 1. Mr. May denied any occasion of engaging in exposing her genitals to a non-consenting individual.
- 2. Mr. May denied any occasion of urinating in public.

PUBLIC SEXUAL ACTIVITY

- 1. Mr. May denied any occasion of engaging in public sexual activity at rest stops or parks.

PEEPING

- 1. Mr. May denied any occasion of looking into windows for sexual purposes.

VOYEURISM

- 1. Mr. May denied any occasion of voyeuring on any individual.

FREQUENT PARKS, PLAYGROUNDS, AMUSEMENT PARKS, MALLS, SCHOOLS, ETC.

- 1. Mr. May denied frequenting these locations for sexual purpose.

ANAL STIMULATION

- 1. Mr. May denied any occasion of engaging in anal stimulation of himself or others.

INCEST

1. Mr. May denied any acts of sexual intercourse with a family member.

STALKING

1. Mr. May denied any acts of stalking.

HITCHHIKERS

1. Mr. May denied hitchhiking or picking up hitchhikers for sexual purposes.

FROTTAGE

1. Mr. May denied any acts of frottage.

AUTO-FELLATIO

1. Mr. May denied any occasion of placing his mouth on his own penis.

S/M BONDAGE

1. Mr. May denied any bondage in his past sexual history.

CROSS DRESSING

1. Mr. May denied any occasion of wearing and/or using female clothing for sexual pleasure.

ANIMALS

1. Mr. May denied any occasion of sexual activity with animals.

SEXUALLY TRANSMITTED DISEASE

1. Mr. May stated that he did have gonorrhea and Chlamydia.

FETISHES

1. Mr. May denied any occasion of engaging in fetish activities.

COPROPHILLA

1. Mr. May denied any occasion of sexual activity involving feces.

UROPHILLA

1. Mr. May denied any occasion of sexual activity involving urine.

NECROPHILLA

1. Mr. May denied any occasion of sexual activity involving a dead person or animal.

TREATMENT

1. Mr. May denies any occasion of being treated for a sexual offense prior to this incident.

EVER HAD A POLYGRAPH OR PLETHSMOGRAPH

1. Mr. May did have a criminal polygraph regarding this case and one for a security clearance in the Navy.

OTHER DELINQUENT AND/OR ILLEGAL ACTS

1. Mr. May denied any other delinquent or illegal acts other than admitted in this history.

DEALINGS WITH ALCOHOL

1. Mr. May last had a drink of alcohol over a year ago, prior to that he would drink two to three times a week. His first time he had alcohol was when he was in High School at the age of 16 or 17 years old. When he was in the Navy he would drink often at time. He said that he would drink at a bar one to two times a week up to a years ago. He stated that he has never used alcohol to gain sexual compliance.

ILLEGAL DRUGS

1. Mr. May stated that he uses marijuana lightly from High School with the last time in 1996. He said he did try Acid once in the Navy. He has never sold or manufactured any illegal drug nor has he used it to gain sexual compliance.

OCCASIONS OF PHYSICAL VIOLENCE

1. Mr. May stated that during his school age he had been in five or six fights with peer age kids. While in the Navy he was involved in four or five fights while under the influence of alcohol. He as been in one or two since the Navy after drinking.

OCCASIONS OF DOMESTIC VIOLENCE

1. Mr. May stated that in his first incident of domestic violence was in 1992 with his son's mother Jennifer Sanchez. She started hitting him while he was driving and tried to grab the wheel so he pushed her in the side of her head against the window.
2. In 2004 Mellony Ecallona was hitting him during an argument and he picked her up and threw her down to the floor.
3. In 2005 during an argument he pushed, grabbed, and threw his girlfriend Venetta Ghoslan against the wall on two occasions.

POSSESSION OF WEAPONS

1. Mr. May denied carrying any types of weapons on him or his vehicle.

EXPLOSIVES

1. Mr. May denied any possession of any kind of explosives.

PRE TEST INTERVIEW

During the pre test interview I asked Mr. May to tell me what had happen between the victim, the daughter of a girlfriend, and him. He said that over a period from 1999 to 2004 he had molested the victim on a least 11 or 12 to 20 plus occasions. He said that he had fondled and kissed her breast; digitally penetrated her vagina with his fingers and would orally copulate her on a number of occasions at different locations. These locations included Pacific, Grays Harbor, and King County's.

He said that he knows what he did was wrong and is sorry.

POLYGRAPH EXAMINATION**INSTRUMENTATION**

The questions asked during the instrumentation phase of the polygraph examination were constructed and reviewed with Mr. Michael May. Each question was discussed with Michael to insure a common meaning.

I proceeded to test whether he falsified or withheld any information pertaining to this interview. The test was conducted using a multi-issue Exploratory test. This test consisted of the following three relevant questions to which he responded "NO"

1. Other than what you disclosed in your sexual history, have you had sexual contact with any other minor child?
2. Other than stated, other than this case, have you committed a sexual act that could cause your arrest?
3. Regarding your sexual history, have you engaged in a sexual act that you have not disclosed?

RESULTS: NO DECEPTION INDICATED TO #1 & 2/ DECEPTION INDICATED TO #3
Based on the charts collected, it is my opinion that significant physiological responses were indicated to the relevant question #3 regarding engaging in a sexual act that he has not disclosed. Therefore, Mr. May was not being truthful when he answered "NO".

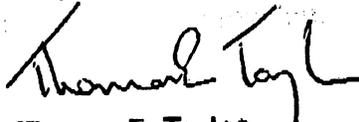
Based on the charts collected Mr. May did not have significant physiological responses to questions # 1 and #2.

POST TEST INTERVIEW

During the post test interview Mr. May stated that he was truthful with all the information he provided.

Thank you for this referral. Please call me if you have any question at (360) 289-3780

Respectfully submitted,



Thomas E. Taylor
Polygraph Examiner
Pacific Polygraph & Investigation

COMTE'S & ASSOCIATES

Evaluations & Therapy

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January 16, 2007

PSYCHOSEXUAL EVALUATION AND TREATMENT PLAN

NAME: Michael Allen May Jr.

ADDRESS: Pacific County Jail
South Bend, Washington

DOB: December 20, 1965

REFERRING PARTY: Rick Cordes, Attorney-at-Law
2625 B Parkmont Lane SW
Olympia, Washington 98502

DATE OF EVALUATION: January 5, 2007

TESTS ADMINISTERED: Shipley Institute of Living Scale
Minnesota Multiphasic Personality Inventory – 2
Curtis Completion Form

REFERRAL INFORMATION:

Mr. Michael May Jr. was referred for a Psychosexual Evaluation and Treatment Plan by his Attorney, Mr. Rick Cordes. Mr. Cordes was interested in my input regarding the defendant's suitability for SSOSA, which entails assessment of the defendant's safety to be at large, based on reoffense probabilities and amenability to treatment in the community. Mr. May was charged in Pacific County with one count of Rape of a Child in the Second Degree, one count of Rape of a Child in the Third Degree and three counts of Child Molestation in the Second Degree, which followed disclosures from a now sixteen-year-old female, MM, who described the defendant sexually assaulting her on numerous occasions between her ages of nine and

fifteen. She described the alleged abuse occurring in Pacific and King Counties. Specifically, she described Mr. May fondling her vaginal area, digitally penetrating her vagina, performing cunnilingus on her and she said he would manipulate her to touch and masturbate him. She did not indicate she was coerced or manipulated into fellating him, she denied penile-vaginal intercourse and did not indicate she was threatened to insure her compliance and silence. He cautioned her not to disclose and she said he told her he might be deprived of relationships with his sons if she did. Although she did not provide an estimate of the number of assaults and encounters, she said when she was in the seventh grade, she thought there were eighteen-to-twenty occasions when Mr. May sexually abused her. She disclosed to her boyfriend, who encouraged her to disclose to her mother, which she did.

Mr. May admits to the allegations. He said he is uncertain of the exact number of assaults, but estimates abusing the alleged victim on five-to-ten occasions in Pacific County and on five-to-ten occasions in King County. He admits to the particulars as described by the alleged victim. He said he has been charged with two counts of Rape of a Child in the Second Degree in King County. He expects Mr. Cordes will represent him there.

I met with Mr. May in the Pacific County Jail January 5, 2007. Following the clinical interview, I had him complete the above testing protocols, which he returned to me by mail. On January 10, 2007 I spoke by telephone with his mother. Mr. Cordes provided me discovery material, including the investigative reports from the Pacific County Sheriff's Office; results of a Polygraph Examination conducted by Mr. Thomas Taylor, which occurred March 23, 2006; a subsequent "Sexual History Polygraph" conducted by Mr. Taylor June 5, 2006; a previous Psychosexual Evaluation authored by Linda Rutledge Stone, which was dated June 23, 2006 and Mr. Cordes provided me a cover letter outlining the information he was providing me. The initial polygraph examination was conducted to determine the veracity of Mr. May's denial of the allegations. When found deceptive in that examination, he allegedly admitted culpability. The second polygraph examination was conducted at the behest of Ms. Rutledge Stone for her Psychosexual Evaluation. Mr. May was found not attempting deception in his denial of other child victims he had not admitted to and in reference to engaging in sexual behavior that could have resulted in arrest, but the examiner thought he was deceptive in response to the last relevant question: "Regarding your sexual history, have you engaged in a sexual act that you have not disclosed?" Mr. May informed me he had no idea why he was found deceptive in response to that question. He did say there were a number of details regarding his sexual history that he and Mr. Taylor did not discuss, because he was not questioned. Mr. May explained he has an extensive sexual history. My findings and conclusions result from my review of the above information.

BACKGROUND HISTORY:

Mr. Michael Allen May Jr. is a forty-one year old, single, Caucasian male, who was born in South Bend, Washington December 20, 1965. He is the oldest of two children with a younger sister, Cheryl, age thirty-nine born to Carol, currently age sixty-three and Michael May Sr., age sixty-eight. When Mr. May was nine-years-old, his parents' separated. They divorced the following year. When Mr. May was in his twenties, his father married his current wife, Lori.

She has a daughter, currently in her twenties, who she brought to the marriage. Mr. May's father and stepmother did not have children together. Mr. May believes his father had a vasectomy following the birth of his sister. Following the separation and divorce, Mr. May told me he was in his mother's custody and care. She confirmed that was the case. However, he informed Ms. Rutledge Stone he and his sister resided with their father approximately four years and during those years, their mother resided in the Bellevue area. She eventually returned to Raymond, reassumed physical custody and the children remained with her. Mr. May's mother did not remarry. During Mr. May's developmental years, his father had a new car automotive dealership in Raymond, which went out of business in the early 1980's. Mr. May said his father then sold real estate. He is currently employed as the Parts Manager of the Whitney's Automotive Dealership in Montessano, Washington. When his father owned and managed his own dealership, Mr. May's mother was employed in the office. After Mr. May emancipated, his mother found work as an office manager for a legislative lobby firm. She is currently employed part-time selling arts, crafts and other items for various vendors at the local public market.

During his childhood and adolescence, Mr. May said his father was a practicing alcoholic. He described his father as "a happy drunk," who was "never mean" under the influence. However, he commented, "Dad would do stupid things like urinate in the Kingdome parking lot when we would go to football games." He said he would occasionally accompany his father and his father's friends to the games. He said all the men would drink alcohol on the way to the events and while there. He added after his mother discovered his father was romantically and sexually involved with "my best friend's mother," his parents' separated and divorced. Mr. May explained he was aware his father was involved with the woman. On one occasion he was at home without his father's knowledge when his father and woman friend arrived and had a sexual encounter. Mr. May said he overheard them.

Possibly as a result of his father's alcoholism, he developed colitis. He was extremely ill for a number of years and close to death on two occasions. In fact his colon was removed and replaced with a manufactured alternative. His father then committed himself to sobriety. He subsequently affiliated with the Church of Latter Day Saints. Mr. May said he and his father have spirited discussions about their different religious views.

Mr. May said he initially experienced his stepmother as "a pushy person, loud and obnoxious." He said she was "also a drunk." She subsequently affiliated with the Church of Latter Day Saints. Mr. May commented, "She's different now. Although I don't know her that well, I do know she is her own person." His father visits him in jail every Saturday and his mother on Tuesdays and Saturdays.

Mr. May recalled his parents often argued, but he said he was not exposed to domestic violence. After his parents' separated, he said he spent considerable time with his maternal grandmother, who lived in the area. His mother explained to me she was always nutritious conscious, but her mother always indulged her grandson and contributed to him becoming a "junk food junkie." He has struggled with weight through the years. He described his mother as involved, attentive, loving and affectionate with him. He appreciates her current support

very much. She has been assisting with attorney fees and other expenses. She resents the fact her ex-husband will not contribute.

Following his parents' divorce, Mr. May's mother assumed her maiden name "Dunsmoor." She commented she and her children were dramatically impacted by the separation and divorce. She said the children's father did not pay support. With reference to health issues, she denied drinking alcohol or ingesting illicit drugs during her pregnancy with her son. Because she is small stature with narrow pelvic bones, it was evident to her physician she would not be able to deliver vaginally. Consequently, Mr. May was delivered Cesarean Section. According to the attending physician, it was fortunate they delivered him when they did, because he was born with the umbilical cord wrapped around his neck. Had a vaginal delivery been considered, he could have choked to death or at the very least experienced anoxia (oxygen deprivation), which could have resulted in brain damage. He was seven pounds nine ounces at birth. He contracted the chicken pox in early childhood. He was born with a number of extra teeth, some of which were growing through the roof of his mouth. Oral surgery was necessary to remove them. He did not experience other surgeries. When he was seven-years-old, he fell from his tricycle and fractured one of his arms. Mr. May and his mother could not remember which. He is allergic to grass, pollen and cigarette smoke. He has never been a cigarette smoker. Although overweight, he presents in good health.

Religiously, Mr. May was raised Catholic and attended indoctrinational classes on Saturdays and Mass on Sundays. He said he stopped attending services right before adolescence and has only attended sporadically since. He said he was last at church at his grandmother's funeral in 2005. He described himself as an atheist.

Academically, Mr. May graduated from Raymond High School in 1984 with a 3.0 GPA. He denied learning or language disabilities. He excelled in language arts and the social sciences. He said he struggled with mathematics. He described himself as an active adolescent and easily bored. When bored in school, he said he would engage in clownish behavior, which was reinforced by the attention he received. He said he had a reputation as a "jokester." However, he was never suspended for such behavior nor for other behavior problems. Socially, he said he had a group of friends he was raised near, but he was often shy in other situations.

Post high school, Mr. May enrolled at Grays Harbor Community College. At that point, he was interested in the sciences and enrolled in a number of chemistry classes. He had already enlisted in the delayed entry program with the Navy and, after two quarters at the college, decided to enter. Following his honorable discharge in 1989, he again enrolled at Grays Harbor Community College, but did not complete the requirements for an Associate of Arts degree, explaining he impregnated the mother of his oldest son, so he had to drop out of school and work full-time to support them. After transferring with his company, Radio Shack, from the Aberdeen outlet at the mall to the store in Puyallup, he enrolled at Green River Community College in 1996. He earned his Associate of Arts Degree in Liberal Arts in 1998, enrolled at the University of Washington and satisfied degree requirements in 2000. He earned a Bachelor's Degree with a major in International Studies. He subsequently enrolled in the Master's program in Middle Eastern Studies at the University of Washington and completed all

the course work in 2004, but never finished his thesis on the Palestinian / Israeli conflict. He explained he was in arrears on paying his loans and the university would not allow him to proceed. He is determined to complete his thesis and earn his degree. He said he managed a 3.2 GPA during graduate studies.

In summary, Mr. May presents as a personable, well-spoken and intelligent man, who seems to be an underachiever, at least in the employment realm. The last couple of years prior to arrest on the instant charges, he was in a caretaking role with his woman friend, Venetia, who has muscular sclerosis and is wheelchair bound. She paid him for assisting her. Although he obviously has sexual issues, there is no evidence of other antisocial behavior, such as other person crimes or property offending. There is also no evidence he is chemically dependent. He does present as a viable SSOSA candidate.

EMPLOYMENT HISTORY:

During high school, Mr. May was employed part-time in the automotive repair garage of his father's dealership. Beginning in his seventeenth year, he worked summers as a maintenance worker with the local port authority. He entered the Navy in April 1985 and was honorably discharged at the rank of E4 in 1989. He was assigned to antisubmarine warfare and flew as a crew member on planes with highly sophisticated electronic equipment. More than half the time he was land based, but when deployed, he and his squadron were assigned to the aircraft carrier, USS Ranger. Their home base was in San Diego. He denied discipline problems in the Navy and said he never received a Captain's Mast.

Even though Mr. May was in the Navy prior to the Gulf War, he said he is still considered a combat veteran and, consequently, has veteran benefits. Following his discharge from the Navy, he attended school until he and his girlfriend discovered they were pregnant. He then accepted a position at Radio Shack. He started with that corporation in 1990 and was eventually promoted to manager of the store. He said he was the only manager in the region that had not completed the Management Trainee program and he said for some reason the regional manager resented this. He said he was in ongoing conflict with the regional manager, despite the fact he had consistently high sales and was well thought of. He suspects the manager's resentments of him contributed to the decision to transfer him to the Puyallup store, which was considered a demotion, since the store was much smaller. He said he contributed to increased sales at that store, but the regional manager was never satisfied and was constantly "nitpicking me." He quit the company, found work at a video store and was employed there the next three years while attending Green River Community College and the University of Washington. He subsequently found work managing the recreational facility at the Washington Park Apartments. He explained he was employed there five years until 2002, when he quit. He explained he discovered one of the tenants was a wanted felon and informed the police. The family of the man found out he informed and threatened his life. He said the complex manager would not support him by evicting the family. Additionally, he said on one occasion an adolescent was writing graffiti on the walls. After summoning the police, he said he restrained the young man and tried to hold him for the police. Before they arrived, he said the young man eluded him and when he caught him, the young man threatened him with a

pistol. When the police arrived, they could not locate the boy. Months later the boy and his family rented a unit in the complex. Mr. May said he informed his employer the boy was the one who threatened his life, but the manager informed him "the kid had changed and we are going to allow the family to live here." He said he felt betrayed and quit. After that, he began providing care for his woman friend, Venetia, and was so employed when arrested. They are romantically involved. According to Mr. May's mother, Venetia is interested in having him provide care for her in the future and is hoping he will relocate back to the Kent area. If granted SSOSA, he will initially reside with his mother in Raymond and seek work in the area.

ALCOHOL AND DRUG HISTORY:

Mr. May said he began experimenting with alcohol when he was sixteen or seventeen-years-old. He said he usually consumed alcohol at parties on a monthly basis. He said he would routinely drink to intoxication at those times. His consumption and tolerance increased during his years in the Navy and after his discharge. While employed at Radio Shack, he said he was earning a good wage and spending weekends "partying and drinking." After the birth of his second son and after he ended the relationship with his son's mother, he said he reflected on his situation, recognized that if his judgement had not been impaired by alcohol, his youngest son would have never been conceived in the first place and he said "reality set in." He said he stopped drinking then. Since then, he has consumed alcohol "maybe a couple of times a year."

Beginning in mid-adolescence, Mr. May said he started smoking marijuana. He admitted occasional use prior to Navy service. Despite the fact he had a secret clearance and a contaminated urinalysis would have resulted in severe disciplinary action, he said he smoked that drug on one or two occasions then. He said he smoked marijuana on a couple of occasions after his discharge, but quit drinking alcohol and smoking marijuana in 1995. He said he has not smoked marijuana since. He admitted to experimenting with the hallucinogen, LSD, on one occasion in 1989. He denied experimenting with other controlled substances, such as methamphetamine, cocaine and other hallucinogens. There is no evidence of chemical dependency.

ARREST HISTORY:

Mr. May could not recall whether he was twenty-two or twenty-three when he was arrested in San Diego and accused of "Statutory Rape." He said he met the mother of the girl and the mother's cousin, who was seventeen-years-old, at a bar. He subsequently dated the mother and the cousin. He admits developing a sexual interest in the woman's fourteen-year-old daughter. He admitted when the daughter was fifteen-years-old, he was sexually involved with her. When the child's mother discovered their involvement, she reported to the police. Mr. May was arrested and charged, but the charge was dismissed. He said he was never informed why.

Mr. May said his only other arrest occurred a couple of years ago. Because he was in arrears on child support, his driving privileges were suspended. He was stopped by the police and confronted for driving while his license was suspended. However, he said he did not actually

receive a ticket. He said he thought he was up to date on his child support payments, but found out he was in arrears because of reimbursement for childcare. He thought he had satisfied that obligation and explained to his son's mother she would have to provide verification he was up to date. She never provided the verification. He denied later arrests.

In summary, Mr. May does not present with characteristics associated with an antisocial personality disorder. His history reflects he is not normally a law or rule violator, impulsive, deceitful nor does he seem to act with reckless disregard for the safety of self or others. Men with antisocial personality disorders are usually deficient in their capacity to experience empathy, guilt and remorse. Although it is difficult to assess the depth of Mr. May's feelings, throughout the clinical interview he expressed regret and shame about his alleged sexually assaultive behavior.

SEXUAL HISTORY:

Mr. May said modesty was always a standard within his family of origin and open nudity was not condoned. He received sex education in the sixth grade from teachers. He said there was never discussion with his parents. He denied being sexually victimized. When he was six or seven-years-old, he recalled exploratory sexual play with a neighbor girl his age. He said there were four or five instances of removing their clothing and touching each other. When he was eight or nine-years-old, he said he overheard his father and his father's woman friend engaged in sexual behavior. Although he was a very young child, he said he had a vague understanding what was happening. He did not disclose what he heard to his mother.

Mr. May said he entered puberty and evolved an ejaculatory response late in his twelfth or early in his thirteenth year. He told me he was generally self-stimulating once a week during his adolescence and two-to-three times a week during his adult years. In my interview with him he denied masturbating to sexual thoughts and fantasies of the victim, prepubescent children, violent sexual scenarios, such as rape and same sex stimuli. The reader will note there are inconsistencies between Mr. May's disclosures to the polygrapher, Ms. Rutledge Stone and me. In my opinion he was not deliberately confabulating, but has difficulty recalling specifics from one interview to the next. He has an extensive sexual history. He informed the polygrapher he had masturbated to sexual fantasies of the victim and had last done so six-to-eight months prior to the June 5, 2006 sexual history polygraph.

Mr. May evidently forgot to disclose to me that in his fourteenth year he had sexual contact with his ten-year-old female cousin by engaging in mutual fondling once or twice. He said his twelve-year-old female cousin, the sister of the child he was touching, observed them. That incident would have been considered a criminal act and in fact it is a reportable offense. Consequently, despite the statute of limitations, I was required to report it. The alleged sexual contact occurred in Spokane.

Mr. May said his first experience with precoital sexual activity with a peer occurred in his fifteenth year with a girl his age. He said they engaged in mutual sexual fondling. He recalled the experience was so intense he spontaneously ejaculated. He said he experienced penile-

vaginal intercourse the first time two or three years later with a female acquaintance one year his junior. He described a couple of sexual encounters with her. From then until his arrest, he seemed to indicate a promiscuous pattern of sexual involvement with some form of sexual activity with 150 to 200 women. He described a few relationships lasting four-to-five years. He explained he was involved with his oldest son's mother four years. His son, Zack, age fifteen, issued. He was involved with the mother of his youngest son, Steven, currently age eleven, twelve-to-eighteen months. He recalled a relationship with another woman that lasted five years. His current woman friend, Venetia, is forty-eight years old. They have been involved for a couple of years.

Mr. May explained Zack is in the tenth grade. He described his son as a tall (6'3") and well built young man, who is athletic and regularly works out. He has a close relationship with his oldest son and was in regular contact with him prior to his arrest. He said he had infrequent contact with his youngest son, because his son's mother discouraged their relationship and impeded his ability to visit with him. His current woman friend, Venetia, has four children, three daughters and a son, all of whom are grown and emancipated. As with most patients with MS, he explained she is at times more functional than at other times. She is usually wheelchair bound. They have a sexual relationship.

Mr. May seemed certain he did not begin sexually abusing the alleged victim until 2002. He said when he began abusing her, she was pubescent. He said he vividly recalled when his sexual interest in her began. He said she was very curious about sexual issues and would ask questions. Instead of referring her to her mother, he attempted to answer them. He was aroused by the dialogue. On one occasion she discussed the fact she was developing and abruptly displayed to him the fact she had shaved her pubic hair. He said he was intensely aroused then and he sexually touched her the first time shortly thereafter. Intense fondling led to digital penetration and cunnilingus. He convinced her to touch him, but he said she did not want penile-vaginal intercourse with him and he said he would never pressure her to engage in behavior she was uncomfortable with. As discussed, the child indicated there were possibly eighteen encounters when she was in the seventh grade, which would suggest there were numerous encounters before and after that. Mr. May estimates five-to-ten encounters in Pacific County and the same number in King County.

Mr. May recognizes he violated the trust implicit in his role as a pseudo-stepfather to the child. She obviously bonded with him, assumed his last name and continued contact with him after her mother broke up with him. Mr. May was already aware she was a victim of sexual abuse having been assaulted by her biological father, who was convicted and committed to the Department of Corrections. She was vulnerable to further exploitation. He commented, "I hope what I did doesn't have lifetime effects. I betrayed the relationship. I should have been an adult and I wasn't and I feel so bad. With what her father did to her and what I did to her, she may feel her fate is just to please men."

Aside from the victim of the instant charges and the fifteen-year-old girl in San Diego, Mr. May denied sexual contact with other underage individuals. He admits sexual contact in his twenty-third year with the seventeen-year-old cousin of the mother of the fifteen-year-old, but

evidently that is not considered illegal behavior in the State of California. He denied physically coercing an encounter with anyone and aberrant sexual behavior, such as public exhibitionism, compulsive voyeurism, sexual contact with animals and the existence of fetishes. He admits to extensive exposure to pornographic stimuli, including magazines, x-rated videos and accessing pornography over the internet two-to-three times a week. He admits he has viewed "pop-ups" of nude images of children, but he said he has never downloaded them and he did not find such images in any way arousing. He admitted photographing a girlfriend in the nude on one occasion. He admitted involvement with women who were married. He contracted gonorrhea and Chlamydia each on one occasion.

Mr. May and I discussed why he thought he appeared to have an intense attraction to pubescent and young, postpubescent teenage girls. A pattern of such behavior is known as hebephilia. He explained he did not feel attractive, popular or accepted by young women his age when he was in high school. During and after service in the Navy, he was in good physical condition, felt attractive and had no difficulty garnering attention from women his age. The possibility he may have felt "deprived" of female acceptance during his adolescence may have been an unresolved issue in his mind. Normative data on the penile plethysmograph suggests non-offending men begin to express sexual arousal to females as they mature through puberty and post puberty. Acting on the attraction is the deviation. Mr. May admits doing so with two alleged victims.

In summary, there are indications Mr. May was sexually obsessed and, perhaps, compelled to act on his deviant sexual impulses in the past. The fact he was arrested in his twenty-third year obviously did not deter him from involvement with the recent alleged victim, but there is no doubt in my mind he has been impacted by his many months in the county jail. I consider him at low risk to repeat the behavior. What risk does exist can be compromised by participation in and successful completion of sex offender treatment. Consequently, I view him as a viable SSOSA candidate.

PSYCHOLOGICAL TESTS AND DIAGNOSES:

Mr. May is in the above average range of intellectual ability (Shipley I.Q. 114). When I interviewed him he was oriented to time, place and person. He denied a history of symptoms associated with a thought disorder, such as hallucinations and delusions. He said he had never considered suicide. He responded to personality testing in a defensive manner and attempted to present himself in an overly positive light by minimizing faults and denying psychological problems. Such a defensive stance is not unusual with adults who are charged with felonious behavior and are involved in the court system. They are often desperate to try to convince professionals they are not as "bad" as their charge or charges would indicate. Computer analysis of Mr. May's test responses suggests he is not very introspective or insightful about his behavior.

Mr. May elevated on the scale associated with impulsivity. In addition, personality testing identified him as immature, hedonistic and inclined to authority conflicts, although he does not have a history of such behavior. He can be aggressive, he has limited frustration tolerance and

he has difficulty learning from experience. Interestingly, many men with his profile type develop addictive disorders. Given his preoccupation for pornographic stimuli in the past, there is a possibility he was developing a sexual addiction or he already had one.

Interpersonally, Mr. May's testing indicated at first meeting he would appear charming and would make a good first impression, but he is otherwise superficial, hedonistic and, perhaps, untrustworthy in interpersonal relationships. He is focused on his own gratification and can be insensitive to the needs of others. Interestingly, he seems to understand that. He has identified those personality deficiencies. Although men with his personality type have difficulty experiencing guilt and remorse, he is able to articulate such feelings. Additionally, men with his profile often have weak internal controls, project blame for their problems onto others and they are not usually motivated for change. Again, Mr. May appears to be the exception to most men who respond in the manner he did. He articulated the need to change.

In his responses to the Curtis Completion Form Mr. May emphasized missing his sons. He also wrote about "the bad things" he had done, the fact he had been a disappointment to his family and he wrote about his regret in having assaulted the victim. At the end of this particular protocol, the test subject is permitted to offer remarks they consider important. He wrote:

"I would like to say how terribly sorry I am for what I did. It is hard being in jail and to be able to have emotion. It is even more difficult to be jailed for such a crime and talk about anything at all regarding the crime. There is not a day that goes by that I don't think about the horrible things I did to MM. I hope that my actions have not affected her permanently. I still carry guilt to my core."

In Mr. May's evaluation with Ms. Rutledge Stone, she administered the Multiphasic Sex Inventory-II, which was interpreted by one of the authors of the instrument, H.R. Nichols, Ph.D. Consistent with clients at the assessment phase prior to clinical involvement for their sexual deviancy, Mr. May seemed to be minimizing ever having had deviant sexual thoughts and sexual interest in underage individuals. He does not seem to understand pre-assault behaviors, which we refer to as "groomy." He also minimized his past obsessiveness regarding sexual issues. Frankly, probabilities are nobody, including himself, has ever labeled his past sexual history as obsessive or promiscuous. In his responses to the MSI he was, as expected, trying to defend himself by rationalizing and justifying his misconduct. Dr. Nichols commented Mr. May's testing "shows a potentially positive response to treatment in some respects." He was acknowledging he had sexually offended, he apparently applied himself during test taking and endorsed a need for specialized treatment.

In summary, Mr. May's disclosures and test results suggest he does satisfy a hebephilia diagnosis. Interestingly, he recognizes he is an impulsive and hedonistic man, who has only been focused on his gratification without regard to the consequences to others. At this point, he is able to articulate guilt and remorse and the need and desire to change. Defensiveness, minimization, rationalization and justification are characteristic of all sex offenders. Specialized psychotherapy is designed to attack these cognitive distortions, reshape the

offender's thinking, including their sexual attitudes and to help them to understand their offense dynamics, particularly the precursors to their offending, so they can be alert to the possibility of relapse. In my opinion Mr. May is motivated to address his offending behavior.

SUMMARY AND CONCLUSIONS:

Mr. May has much in common with adult children of alcoholics. He is self-absorbed, tends to blame others for his problems and his history reflects he lacks confidence in himself and his abilities. Although he felt accepted by male peers he was raised with, he did not feel attractive nor accepted by girls his age. After basic training in the Navy, circumstances changed, he was in good physical health and his self-esteem with reference to his physical appearance improved. He discovered women found him attractive. On a preconscious level he may have viewed acceptance from pubescent and postpubescent females as "unfinished business." When there was opportunity, he took advantage of the situation in San Diego and with the victim of the instant charges. Because he has been incarcerated over eight months, he has had ample time to reflect on his situation and is just beginning to develop an understanding of some of the contributors to his sexual dyscontrol.

There is no question Mr. May has psychological, emotional and behavioral problems, but he does not present as psychopathic nor has there been a history of antisocial behavior other than his sexual offending. His work history suggests years of stability in some jobs, but underachievement the last couple of years. He claims he has tried to find work, but the fact he had difficulties at Radio Shack and as Recreation Manager at the apartment complex have been obstacles. He understands if granted SSOSA, work must be the priority, so he can support himself and his children and satisfy his treatment costs. I am also recommending he be required to assist in the costs of treatment required by the alleged victim, assuming she is involved in counseling.

Mr. May is fortunate to have the support and encouragement of his parents and woman friend. He is grateful for their involvement. He is advocating for SSOSA. He said he recognizes his history of flawed judgement, hedonistic behavior and pursuit of gratification regardless of the cost to others. He said he is prepared to address these issues in psychotherapy and is anxious to participate. Considering static and dynamic factors, Mr. May presents at low risk for a sexual reoffense. In my opinion he is safe to be at large and amenable to treatment in the community under the following conditions:

1. I am recommending for SSOSA. If the court grants that privilege, then Mr. May should be referred to a Certified Sex Offender Treatment Provider. If granted SSOSA, I instructed him to telephone me and I would refer him to providers in the Olympia area. I am recommending he be allowed to travel through various counties in Western Washington in order to find employment and participate in treatment. He will respond best to a cognitive and behavioral approach in weekly counseling, ideally in a group treatment milieu. He will need to be instructed regarding his offense precursors, offense cycle and he will need assistance in developing a relapse plan. Victim psychology should be emphasized. He will be

required to adhere to all aspects of his sentencing order, restrictions imposed by his Community Corrections Officer and all aspects of his treatment plan.

Physiological monitoring via polygraph examination to verify conformity with the rules and penile plethysmograph assessments to monitor his arousal will be required. Specialized psychotherapy will be necessary a minimum of three years.

2. Mr. May should not work, socialize or recreate in environments where he might have unsupervised access to victim age children. I am not recommending for restrictions on visitation with his oldest son, but his mother, sister or another knowledgeable and responsible adult should supervise him while visiting with his youngest son. His sons' mothers should be informed of his conviction(s) and particulars of his offending behavior.
3. I am recommending Mr. May be allowed to continue his relationship with his woman friend, Venetia. I am questioning whether providing care giving for her will provide him sufficient income to meet his needs. In my opinion he should seek employment elsewhere. According to Mr. May's mother, Venetia is aware of Mr. May's offending behavior, but there should be verification of this.
4. Mr. May should be prohibited from possessing and consuming alcohol and illicit substances, such as marijuana. Random urinalysis and polygraph examination should verify compliance.
5. Mr. May should be required to surrender his pornography collection to his CCO or CSOTP. He should be prohibited from possessing, perusing or otherwise viewing pornographic stimuli via magazines, videos, over the internet or by telephone. He should not be permitted to patronize retail outlets involved in the sex industry. Specifics, including the definition of "pornography" should be provided to him by his CSOTP.
6. Obviously Mr. May should not be permitted to develop relationships with women who have minor or adolescent children in their custody and care.

Despite the myriad of Mr. May's problems, he is presenting with a positive prognosis. I expect he will be responsive to clinical input and reoffense probabilities will be greatly reduced over the long-term.

Yours truly,



Michael Comte, LICSW, ACSW
Certified Sex Offender Treatment Provider

MC/mls



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

PRE-SENTENCE INVESTIGATION

TO:	The Honorable Michael J. Sullivan Pacific County Superior Court	DATE OF REPORT:	10-29-07
NAME:	MAY, Michael Allen.	DOC NUMBER:	309735
ALIAS(ES):	N/A	COUNTY:	Pacific
CRIME(S):	Child Molestation 2 nd Degree Rape of a Child 2 nd Degree	CAUSE #:	06-1-00045-3
DATE OF OFFENSE:	06-29-02 to 06-28-04	SENTENCING DATE:	11-15-07
CHOOSE ONE ADDRESS:	Pacific Co. Jail	DEFENSE ATTORNEY	Rick Cordes

I. OFFICIAL VERSION OF OFFENSE:

The following information was obtained from file material provided by the Pacific County Prosecutor's Office.

On 12-06-05, MM (DOB 06-29-90) contacted Lacey PD Detective Barnes and informed him that Michael Mays had been sexually assaulting her for the last several years. Detective Barnes tape recorded MM's statement. Addresses of the assaults were verified and determined to have occurred in King and Pacific Counties. In addition, there was evidence that one or more assaults may have taken place in Pierce and Grays Harbor Co. Since none of the assaults were reported to have occurred in the City of Lacey Detective Barnes forwarded the report to the involved agencies.

On 01-09-07, Pacific Co. Sheriff Deputy Jim Bergstrom interview MM at her home in Lacey WA. According to MM, Mays met and began dating her mother while both attended Grays Harbor Community College in the summer of 1994. In February 1995, both moved to Federal Way WA, and lived in the same apartment complex and carried on a "dating" relationship which included contact with MM. In July of 1995, following his loss of employment, May began living with MM and her mother.

May and MM's mom were involved from the Summer of 1994 until sometime in 1997. During the three year relationship May ingratiated himself to MM, taking her out to play, to the movies and shopping. By 1997, MM thought of May as her father and asked permission to use his last name as her own. This was, in part, facilitated by the fact that MM's biological father had been imprisoned in 1994 on a charge of Child Molestation 1st Degree for having sexual contact with MM when she was only four years old. May was well aware of this fact.

Following the break-up of May's relationship with MM's mother in 1997, May continued to have visitations with MM for the next eight years. He would see her frequently and take her over night to his apartment and to his mother's residence in Raymond. He made her feel she was part of his family and she spent time with May's own two sons. May has never been married and his sons are from different mother's who have custody of his sons.

MM's first recollection of sexual contact with May is shortly after May moved in with her mom in 1995 when she was 4-5 years old. MM recalls specific incidents of abuse when she was in the 4th grade, at approximately nine years of age. The pattern was for May to lie down beside MM and start touching her vagina with his hands and mouth. Occasionally May would have MM touch his penis. These contacts occurred in Raymond at May's mother's house and also at his various girl friends, and at his own apartment until she was 15.

During the Summer of 2005, MM finally told her boyfriend and he encouraged her to tell her mom but MM was afraid and didn't until December of 2005.

On 03-22-06, Deputy Bergstrom interviewed May. May initially denied the allegations but failed a polygraph and then admitted the sexual contact much as MM had said it occurred. Deputy Bergstrom arrested May and booked him into the Pacific County Jail.

On 03-28-06, the Pacific County Prosecutor's Office filed an Information charging May with one count of Rape of a Child in the 2nd Degree, one count of Rape of a Child in the 3rd Degree, and three counts of Child Molestation in the 2nd Degree. An Amended Information dated 04-07-06 was filed to clarify language on the original.

On 08-16-07, following plea negotiations that included the King County Prosecutor's office, the Pacific County Prosecutor's Office filed a Second Amended Information charging May with one count of Child Molestation in the 2nd Degree and one count of Rape of a Child in the 2nd Degree.

II. VICTIM CONCERNS:

On 08-24-07, I sent a letter to the last known address of the victim and asked her to respond to pertinent questions regarding the impact this offense has had on her life. To date I've not received a response to this letter and it has not been returned to me. I called and spoke briefly with MM but her mother was not present to give consent to an interview and has not called me back.

III. DEFENDANT'S STATEMENT REGARDING OFFENSE:

On 10-08-07, I interviewed May in the Pacific County Jail. He presented as intelligent and well adjusted. He admitted to the offense and agreed with the official version with only minor variations in dates and places of the offenses. Of note May indicated the sexual contact started when MM was 10 years old whereas the victim indicated it started as early as when she was 4 or 5 years old. May made some statements of remorse for the victim but also made statements indicating the victim had "wanted" the attention and the touching and made no effort to stop either. He stated that he understood that he was the adult and had the responsibility to control his impulses and didn't. May also admitted that he knew MM had been victimized by her biological father and might have been particularly vulnerable to May's advances.

IV. CRIMINAL HISTORY:

SOURCES: 1. WASIC 2. NCIC 3. DOC OBTS 4. DISCUS

Juvenile Felony:	None found
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Adult Felony:	None found
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Misdemeanor(s):	None found
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V. SCORING:

	SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I	VII	3	From 31 to 41 Months
Count II	XI	3	From 102 to 136 Months

VI. COMMUNITY CUSTODY (If applicable):

	SERIOUSNESS LEVEL	OFFENDER SCORE	STANDARD RANGE
Count I	VII	3	From 36 to 48 Months

VII. COMMUNITY CUSTODY BOARD (If applicable):

	SERIOUSNESS LEVEL	OFFENDER SCORE	SENTENCE RANGE
Count II	XI	3	Life

VIII. RISK / NEEDS ASSESSMENT:

A risk / needs assessment interview was completed with the offender. The following risk / needs area(s) and strengths have implications for potential risk, supervision, and interventions. Unless otherwise noted, the following information was provided by the offender and has not been verified.

Criminal History (Including RM Level Information): May has no prior convictions. There were charges filed in San Diego California and the current charges reflect a plea agreement which dismissed Sex Offense charges in King Co.

Date of Offense: 05-24-89 CRIME TITLE: Unlawful Sexual Intercourse with a Minor (San Diego County CA. Cause# 89-141368A) Date of Sentence: N/A Disposition: Dismissed/Withdrawn due to lack of cooperation w/ victim/witness. Behavior Description: May was dating a woman w/ a 14 y-o daughter and 17 y/o sister. May had sexual relations with the 17 y/o sister and the 14 y/o daughter of the woman. Criminal records were requested from San Diego but time frames exceeded their retention schedule.

Date of Offense: 06-29-02 CRIME TITLE: Rape of a Child 2nd (King Co. Cause # 06-1-05314-8). Date of Sentence: N/A Disposition: Dismissed, charged and convicted as part of his Pacific Co. case (see below) Behavior Description: While living in King Co. May would bring daughter of ex girl friend to his apartment to spend the night. While there May would sexually assault the girl by fondling her breasts and vagina as well as digital penetration of the vagina and her masturbating May to near climax. This behavior spanned several years. See Pacific Co. Description for more details.

Date of Offense: 08-25-03 CRIME TITLE: DWLS 3rd (Fife Muni. Cause # CA0030477).
Date of Sentence: un-known Disposition: Deferred Prosecution. Behavior Description: P failed to keep his child support current so WDL was suspended.

Education / Employment: May reports being unemployed for several years even though he also reports that he has a Bachelors Degree and has completed all but the financial portion of his Masters Degree. His most recent living/financial arrangement was as the care provider for a woman friend who has MS.

Financial: May reported to me that he has investments and holdings that will allow him to meet his financial obligations

Family / Marital: May reported that he has support from his mother, sister and girl friend. He reported to the polygrapher and the Sex Offender Therapist that he has a long history of sexual relationships with as many as 200 women but has never married even though he has two sons from two separate women.

Accommodation: Prior to arrest May was living with his current girl friend.

Leisure / Recreation: May indicated he likes to write and submit articles to various college papers. He assists others in their writing effort. He likes to play softball and basketball.

Companions: May reported he maintains (up to his arrest) contact with High School friends. He is not sure of the status of those relationships following revelation of his new conviction.

Alcohol / Drug Use: During High School and his time in the Navy, May reports occasional heavy drinking and some marijuana use.

Emotional / Personal: May presented himself as reasonably well adjusted and noted no medication or counseling needs.

Attitude / Orientation: Although he admitted to the instant offense, May did so only after he was found to be deceptive during a polygraph examination. Even after his deception was uncovered he continued to minimize his actions and only when he was faced with having to say his victim was being untrue, did May finally own up to his full involvement in the assaults. His lack of career development / employment, the fact he has children but assumes little financial support of them and his failure to follow through with his financial obligation to the his Masters Degree program seem to indicate some anti-social tendencies. His admission to sexual relationships with as many as 200 women and charges in San Diego that included sexual contact with two minor females that were related to the woman he was reportedly dating at the time bring into question his orientation to a conventional life style.

IX. CONCLUSIONS:

Before the court is a 41 year-old man facing his first adult conviction. For a period of at least eight years he has engaged in a sexual relationship with a minor female who thought of him as her pseudo father following the incarceration of her biological father. In December of 1994, MM disclosed to her mom and others that her biological father had been sexually assaulting her. MM's father admitted to the sexual assaults on MM between 11-1-94 and 12-31-94. He was convicted of Child Molestation 1st Degree in January of 1996. May began his relationship with MM's mom during the summer of 1994 and was well aware that MM had been sexually abused and was particularly vulnerable when, at age 5, he began to sexually abuse her himself.

X. SENTENCE OPTIONS:

Confinement within the Standard Range Sentence: Mays mentioned nothing during our interview that would prevent him from serving a sentence with in the Standard Range of 102 to 136 months

Work Ethic Program

Exceptional Sentence: The standard sentence range is presumed to be appropriate for the *typical* felony case. The SRA, at RCW 9.94A.535, however, provides that the court "may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. RCW 9.94A.535 provides an illustrative list of factors the court may consider in deciding whether to impose an exceptional sentence. These mitigating and aggravating circumstances for exceptional sentences are provided as examples and are not intended to be exclusive reasons for departures. Examples of aggravating factors applicable in this case might be;

The current offense involved multiple incidents per victim;

The defendant used his position of trust, confidence to facilitate the commission of the current offense.

The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth.

First-time Offender Waiver (FTOW)

Drug Offender Sentencing Alternative (DOSA)

Special Sex Offender Sentencing Alternative (SSOSA): Mays meets most of the 6 requirements to be eligible for a SSOSA. Of concern is requirement (e) which states: "The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime". Because May began his assaults against MM at nearly the same time he began his relationship with her mother it is difficult for this officer to clearly determine if the relationship was not solely for the commission of the current crimes. Although the polygraph given as part of the psychological evaluation indicated no other minor victims, it also noted that May showed deception when he answered "No" to the question; ".. have you engaged in a sexual act that you have not disclosed?". In light of that response it is impossible for this officer to determine his motivation to establish a relationship with MM's mom.

May has had the required psychosexual evaluation to be eligible for this option. In fact he has had two. One on June 23rd, 2006, which labeled him as a "marginal candidate" for this option and another on January 16th, 2007. Of concern to this officer is that there are inconsistencies in May's telling of the events on these separate occasions and the appearance he may have been "shopping around" for a "favorable" evaluation.

The polygraph that was administered as part of the psychosexual evaluation did not appear in the material I had to review. The reference to it in the evaluations did not clearly indicate how in-depth the questions went in exploring May's sexual history. Especially with regard to how many of the women he had relationships also had minor age daughters.

In addition to those issues mentioned above, it appears to this officer that May has manipulated at least two adult women to allow him access to their minor daughters and now has apparently delayed sentencing long enough to get a favorable SSOSA evaluation.

In the opinion of this officer a sentence under the SSOSA option would clearly be far too lenient in light of the fact that the crime(s) spanned a time period of at least eight years and started when the victim was only 5 years old and had recently disclosed that she had been victimized by her biological father only a year or so earlier and that May had manipulated his way into a position of trust with the victim getting her to think of him as "dad" and taking his name as her own.

Based on these observations it is this officer's opinion that May is not a good candidate for this option.

Mentally Ill Offender Sentencing Option (MIOSO)

Community Custody Board (CCB) RCW 9.94A.712: If the offender is not a persistent offender, then the minimum term for this offense (Rape of a Child in the Second Degree) is the standard sentence range, and the maximum term is the statutory maximum for the offense (Life). See RCW 9.94A.712.

When a court sentences a non-persistent offender to this offense, the court shall also sentence the offender to Community Custody under the supervision of the Department of Corrections and the authority of the Indeterminate Sentence Review Board for any period of time the person is released from total confinement before the expiration of the maximum sentence (Life). See RCW 9.94A.712.

XI. RECOMMENDATIONS:

Sentence Type / Option: Confinement within the Standard Range Sentence /
Community Custody Board

Confinement: 136 months

OAA Cases: No CCB-Prison – Length of Community Custody: Life

Community Custody Board: Minimum Term: 102 months Maximum Term: Life

Conversions: None

Supervision Type & Duration: Life

Length of Community Placement: That period of earned early release or 48 months
which ever is longer.

Conditions of Supervision: (See attached Appendix H – Community Supervision (DOC
09-131))

XII. MONETARY OBLIGATIONS:

Restitution: \$0.00	Court Costs: \$200.00	DNA: \$100.00
Victim Penalty: \$500.00	Attorney Fees: \$250.00	
Drug Fund: \$0.00	Fine: \$0.00	

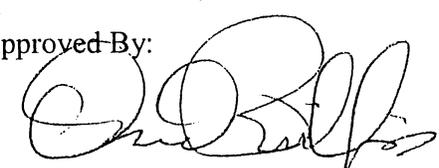
Submitted By:



Mike Foster
Community Corrections Officer III
Raymond Field Office
515 5th St. Raymond WA 98577
360-942-4817

11-7/07
Date

Approved By:



David Phillips
Community Corrections Supervisor
Montesano Field Office
219 East Pioneer Ave, Montesano WA 98563
360-249-5080

Distribution: ORIGINAL – Court COPY - Prosecuting Attorney, Defense Attorney, File, WCC / RC (Prison)

November 11, 2007

Judge Michael Sullivan
Pacific County Superior Court
South Bend, WA.

Dear Judge Sullivan:

A wise man is one who knows that when he faces his ultimate judgment he will need mercy far more than justice. I am not sure how wise I am but that will certainly be true for me and I suspect for most of us that roam this planet.

I am now asking for mercy in the sentencing of my son Michael that will take place in your courtroom on November 15th. In doing so I also feel that by showing mercy in his case that justice will also be best served.

It is my feeling that the true meaning of justice is twofold: First, the citizenry has to be protected from criminal acts, but equally important is the rehabilitation of the offender. I don't envy your position in determining how to balance the two when you have to make such decisions.

In Michael's case I would like to share some things that I know to be true that may possibly help to swing the scales toward leniency.

First, it is my sincere belief that my son is not a predator. He has no history of this type of behavior. He has been, and can be, a contributor to society if he is not forced to spend time in a penitentiary. It is my belief that the chances of him being a repeat offender are almost non-existent.

Second, and maybe most importantly, if he is allowed to remain out of prison and receive treatment he will have a solid support group to help him. His mother Carol Dunsmoor, sister Cheryl Green, and myself will be available at all times to help him in whatever circumstances come about.

It is my opinion that justice can best be served if my son is allowed to receive treatment and not be incarcerated.

Thank you for your consideration on this matter.

Sincerely

Michael A. May Sr.
P O Box 462
Raymond, WA. 98577

I Jennifer Lynn Sanchez-Eerkes am writing this to inform whomever it may concern, that I do now and have ALWAYS considered Carol Dunsmoor to be a 'Guardian' to my son and her grandson, Zachary Tyler May. She has stood in on my behalf many times in the past when it comes to things relating to Zach, such as accompanying him to medical appointments and school functions and is listed as an Emergency Contact, by me at his school. Since the day Zach was born, I've considered his fathers' family to be a part of MY family. Although his father and I are not together anymore, nothing regarding that fact has changed. I trust her opinion and we have a mutual respect when it comes to Zach's best interests, which we, as a family, have always carried out together.

Jennifer Lynn Sanchez
9/7/07

November 14, 2007

Judge Michael Sullivan
Pacific County Superior Court
South Bend, WA 98586

Dear Judge Sullivan:

On March 23, 2006, soon after placing my brother under arrest, Deputy Bergstrom took the time to telephone me to inform me that Michael had confessed to molestation. An unbelievable wave of shock and sadness overwhelmed me and my family. Our lives haven't been the same since.

In the time since Michael's arrest, I have held onto and found hope in the words the Deputy said to me that evening, ". . . now Michael can get the help he needs." It is with this hope, along with my love for and faith in my brother, that I am now asking you to please grant Michael the SSOSA treatment option that will allow him to get the help he needs.

I do not understand why he did what he did; how he could cross a line that, in my mind, is at least a mile wide. It is unspeakable. It is unthinkable. And I know, without a doubt, that Michael realizes this and that he is deeply remorseful and sorrowful for what he's done. Looking back at the few years before his arrest, I could sense a dramatic change in Michael's behavior that I couldn't understand. I believe now that Michael's crimes have weighed so heavily on his conscience that it had even changed his personality. It was painfully apparent that things were not right in his life and that he hated himself. Michael told me, during a visitation soon after his arrest, that the first night in jail, on what I understand was a cold and blanket-less bed, was the best night's sleep he'd had in a long time. I'm sure his conscience needed the relief. During my visits and correspondence with my brother since he's been in jail, I can see that he has had time to reflect about what he's done and that he has a clearer understanding of what he needs to do to change his life and make amends.

It is my sincere belief that Michael is worthy of and amenable to treatment.

In Michael's case, I don't believe that justice will be best served with a prison sentence. I am concerned that sending him to prison will not allow Michael the opportunity to rehabilitate or reconcile his crime, and may only serve to embitter him and prevent him from acquiring positive life skills. I believe Michael will benefit most from the SSOSA treatment program. I understand that it is a very stringent program that will require Michael to repair and rebuild those failed aspects of his life. It is not a "free pass." Michael will have no choice but to toe the line completely, as failure of the program results in serving out his term in prison.

I hope that you recognize the extent of support Michael has from his family and friends, and I hope that it weighs heavily in your most difficult decision. We all want Michael to get the help he needs. And, most importantly, since Michael's arrest, the victim has shown tremendous forgiveness and has been steadfast in her support for Michael receiving treatment over a prison sentence.

Thank you for your consideration on this matter.

Sincerely,

Cheryl Green

November 15, 2007

Honorable Judge Michael Sullivan,
Superior Court Judge of Pacific County

Dear Judge Sullivan,

I am asking you to give great consideration to the Special Sex Offender Sentencing Alternative (SSOSA) for my son, Michael.

I have researched the Sentencing Guidelines for Sex Offenders; and found that Michael qualifies for this program. He would be put under strict regulations to comply with the program. This program is something new to Pacific County, since it has not been given to any previous sex offender here. I know that with Michael's strong family support, he can make it work for himself.

Michael graduated from Raymond High School and enlisted in the Navy Air Division. Upon boot camp graduation, Michael was selected Top Honor Man by his commanders. This is a distinction that only one person in the whole company receives. He was then stationed out of San Diego, California, and ultimately was deployed to the Persian Gulf as an anti-submarine warfare operator. He had top-secret clearance on the nuclear load team. To be hand selected for this, you have to have the highest of integrity and character. His job was to track and destroy enemy submarines, as necessary. While in the Persian Gulf he saw a lot of unspeakable tragedies and incidents that most of us have no idea goes on over there and still goes on over there. In his letters to me, I could see how the job had changed him. He received his honorable discharge after two years of active duty in the Navy.

Michael came back to Raymond and got a job at Radio Shack in Aberdeen, while attending Grays Harbor College. He was promoted to Manager at the Aberdeen store. Michael was the only Radio Shack manager who didn't have to go through their management-training program. He was making 20% sales gains for two (2) straight years, when he was transferred to the Puyallup Radio Shack store. After a year there, he quit his job at Radio Shack to enroll at the University of Washington Tacoma. Then he took a job as recreational director at his apartment complex while going to college. He continued his education and through his master's degree while working. It was sometime between December 2002 and June 2003 that I believe Michael had a mental breakdown. At that time he was struggling with keeping his life together.

Melissa has been a part of our family for over ten years. She was included in all the holidays, family birthdays and celebrations. She was considered my granddaughter and me her grandmother. Our family loves her and misses her terribly. She was also close to my grandsons Zach, Steven and Sam.

Zach has only been able to see his dad in jail just a few times while Steven has not seen his dad in almost two years. I am so sad that the grandchildren are unable to see their dad, and Melissa is unable to see our family. We are all devastated by this.

I believe that Michael deserves a second chance with the SSOSA program. He does not have any previous criminal record. This is his first and only offense. And Melissa has always insisted that she does not want Michael to go to prison, but get the help he needs.

The SSOSA program is designed to help offenders stop offending. This program is not easy. Because, if an offender does not comply with the program, he is sent to prison. Many counties have seen great strides with the DOSA program for drug and alcohol offenders. The SSOSA program could have the same progress. If Michael is sent to prison it will cost the State of Washington hundreds of thousands of dollars for his incarceration. If he is given the SSOSA program he will have to get a job, report as a sex offender, meet with his parole officer, meet with his SSOSA program provider for many years and pay all his costs while contributing to society. The SSOSA program does not cost Pacific County or the State of Washington anything.

By ruling to give Michael the SSOSA program we can all start to heal and get on with our lives.

Thank you for your consideration,

Carol Dunsmoor

Subject: My letter for the judge.
From: Zach May <zax892004@yahoo.com>
Date: Wed, 14 Nov 2007 15:47:53 -0800 (PST)
To: rick@cordesbrandt.com

Honorable Judge Sullivan,

My dad is someone that I have always considered a very important part of my life. He's helpful and encouraging and my best friend. I have many happy memories and have had the best moments of my life with him. I'm sure Melissa and Steven (my brother) can say the same. But unfortunately he made a mistake. My Dad is not a bad person, he just did a bad thing. He will, forever be affected by this mistake and as much as it may hurt him for me to say this, it has affected me as well. Because of this mistake, he has been absent from my life, until just a month ago when I was finally allowed to visit him in jail. That is a whole year and a half of time that we will never be able to get back and the possibility of there being more time apart is daunting. I've missed my dad very much and hope and pray, everyday, that I won't have to miss out on any more time with him. If given the opportunity, I believe in my heart that my Dad will benefit from this program. He is a kind, intelligent human being with a sensible soul. I believe that he will take this help seriously, not only to become a better person, but to become a better son, a better brother, a better friend, and a better father. I believe that treatment will be successful for him because he will be able to see me as well as the rest of his family, who I know he loves very much and will do anything just to be in their lives again and who will support him, every step of the way. So, on behalf of me and my family, I ask you to PLEASE, consider this treatment. I'm lost without my Dad and wish for him to be in my life and to be there when I need him.

Respectfully yours,

Zachary May

Never miss a thing. Make Yahoo your homepage.

A-46

November 14, 2007

Judge Michael Sullivan
Pacific County Superior Court
South Bend, WA 98586

Dear Judge Sullivan:

I am writing to you today in reference to my brother-in-law Michael May and the sentencing that you will be presiding over. I appreciate having the opportunity to be able to have input on this matter, and hopefully I will be able to provide some insight that will be useful to you in making your decision.

I have known Michael since the late 80's when, as you may remember, I started dating his sister. Michael was in the Navy at that time, in a very select capacity as an airman. We rented his mother's home and resided together for about a year and a half after he got out of the service and his son Zach was born. Michael started working for a retail corporation where, as I remember, he was well liked and respected for his ability. He was promoted to management and was eventually assigned to rehabilitate faltering stores. Michael then decided to pursue his education, and it seemed, despite some challenges, things were going well for him.

It was as he was concluding his education that it appeared to me Michael had lost his way. It was bewildering to me what was happening to him. It was soon apparent, however, the exact reason for the difference in his life and behavior. Now, here we are at this juncture, in what has been a most devastating turn of events, waiting for Michael's fate to be determined. I am sure you will hear from friends and family in this process who will tell you that this was not predictable, nor expected of Michael. I have followed this case and the circumstances. I have spoken with and corresponded with Michael, read reports and heard the many varying opinions. I too have experienced a full range of thoughts and emotions.

I believe in personal responsibility, and I have a strong belief system to guide me. Sadly, I have to accept that human beings are imperfect and do things that I cannot understand. In my career, I see numerous cases that, although I do not expect them to happen, they unfortunately do. It seems sometimes like there is a revolving door in the criminal justice system. Many times I just want to see the door locked and the key thrown away. The fact is, that I recognize we face great limits on resources, bed space to house inmates and the means to treat and rehabilitate them in prison. So, I understand completely why we must search out the best option for each individual case, each individual offender.

A-47

I have the strong opinion that Michael has had his only encounter with the criminal justice system, and not because his range of sentencing is up to life in prison. It is because, in as much as any human being can assure another about someone's future behavior, I can assure you that this will be Michael's last offense. I have seen nothing to support any other belief to the contrary.

With his plea of guilt, Michael will require a higher level of incarceration using additional resources to "warehouse" him and provide for him. I don't believe it is in the best interest of our corrections system or of Michael.

With a SSOSA treatment sentence, Michael has the opportunity, no, *the obligation*, to be productive in paying his debt to Melissa, to his children and to society. This crime has taken a toll on many people, and Michael is paying a very high price for what he's done. But Michael has an education, no substance abuse problems, and the ability to contribute by working, paying taxes, and providing financial support.

I believe that we should support the program that will require a productive person to take personal responsibility and contribute to his sentence. When you consider the other option – where we just lock the door and pay the way, only to open that door years from now, with our fingers crossed, hoping that the overburdened system has done what the treatment program will oversee right now I think the choice is obvious.

Thank you for your consideration on this matter.

Sincerely,

R. Shane Green

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IN THE COURT OF APPEALS
STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,)
)
 Respondent,) NO. 37189-8-II
)
 VS.)
)
MICHAEL A. MAY, JR.,) DECLARATION RE: SERVICE
) OF BRIEF OF APPELLANT
 Appellant.)
_____)

CERTIFICATE

I certify that I mailed a copy of the Brief of Appellant motion by depositing same in the United States Mail, first class postage prepaid, to the following people at the addresses indicated:

Mr. Michael A. May, Jr.
c/o Carol Dunsmoor
P.O. Box 191
Raymond, WA 98577

DATED this 5th of September, 2008.



ROBERT M. QUILLIAN, #6836
Attorney for Appellant

DECLARATION RE: SERVICE - 1

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Attorney at Law
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Olympia, Washington 98502
(360) 352-0166