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No. 51736-1-II

**IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION TWO**

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*In re Personal Restraint Petition of*

JAMES CHARLES MATHES,

Petitioner

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Kitsap County Superior Court No. 14-1-00301-1

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**SUPPLEMENTAL BRIEF OF PETITIONER**

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JOHN HENRY BROWNE  
Attorney for Petitioner

LAW OFFICES OF JOHN HENRY BROWNE, P.S.  
800 Norton Building  
801 Second Avenue  
Seattle, WA 98104-3414  
(206) 388-0777

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**I. STATUS OF PETITIONER AND PROCEDURAL HISTORY**

Petitioner James Charles Mathes (DOC #931439), by and through his attorneys, applies for relief from confinement. Mr. Mathes is currently incarcerated at the Washington State Penitentiary, 1313 North 13th Avenue, Walla Walla, WA 99362.

After trial in Kitsap County Superior Court No. 14-1-00301-1, on November 3, 2015, 2013, the jury found Mr. Mathes guilty as charged. As based upon an incorrect offender score, the court imposed 720 months of confinement at sentencing on November 6, 2015. See CP 92-104.

Mr. Mathes filed appeal in No. 48401-3-II in this Court claiming, among other things, that trial counsel was ineffective in failing to request a voluntary intoxication instruction. In an unpublished opinion, this Court affirmed. State v. Mathes, 197 Wn.App. 1050 (Jan. 24, 2017).

On March 9, 2017, Mr. Mathes filed a petition for review, No. 942358, repeating his appellate claims. The Court denied review by Order dated May 31, 2017.

Prior to hiring present counsel, Mr. Mathes filed his own *pro se* petition on April 6, 2018. A typewritten (but not overly edited or formatted) version of his petition is attached hereto for the Court's convenience as Exhibit A.

This office entered its Notice of Appearance on November 19, 2018. On May 9, 2018, Mr. Mathes, through this office, moved the Court for leave to file a supplemental petition prior to the expiration of RCW 10.73.090's one-year deadline. By Ruling dated May 10, Commissioner Schmidt granted Mr. Mathes' motion and imposed a deadline of June 11, 2018. The Ruling further directed that counsel specify whether the new pleading is meant to supplement or supplant the original petition. It is intended as a supplement so as not to deprive Mr. Mathes of the opportunity to raise the issues he spent years researching.

## **II. INTRODUCTION**

Until approximately 10 years ago, Mr. Mathes struggled with nearly two decades of diagnosed mental health issues as well as substance abuse and legal issues. Then, he gained sobriety, found balance in his medications, and was finally able to lead a normal, stable, productive life.

Sometime in the middle of 2013, however, his doctors, for some reason, decided to tinker with the administration of his medications—to ill effect. Soon thereafter, he relapsed, attempted to commit suicide, and is alleged to have assaulted his girlfriend. Several months later, during a drug-amplified manic event during which he experienced delusions and other manifestations of his underlying mental illness, an ongoing domestic

event escalated into a shootout with law enforcement that resulted in injury to only Mr. Mathes, who was shot three times.

Despite Mr. Mathes' mental deficiencies and intoxication, he is presently serving 720 months for his offenses.

### **III. GROUND FOR RELIEF**

#### **A. ASSIGNMENTS OF ERROR**

1. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions where counsel forced him to choose between speedy trial and effective counsel by failing to move for continuance or dismissal.
2. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions where counsel provided incorrect and incomplete advisements during the plea negotiation process.
3. Mr. Mathes was denied the effective assistance of counsel and right to present a complete defense guaranteed by the state and federal constitutions where trial counsel failed to articulate the proper grounds upon which to admit copious amounts of mitigating evidence and evidence of Mr. Mathes' state of mind.
4. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions where counsel errantly moved to suppress statements helpful to Mr. Mathes and then later could not articulate proper grounds for admissibility.
5. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions where counsel failed to adequately prepare the proposed defense expert on diminished capacity, failed to obtain the instruction, and was unable to argue the defense theory of the case.
6. Mr. Mathes was denied of the effective assistance of counsel guaranteed to him by the state and federal constitutions where trial

counsel failed to request a voluntary intoxication instruction despite ample foundational evidence.

7. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions at sentencing, where counsel rushed to sentencing, failed to secure a presentence report, made insufficient argument, and acquiesced to an incorrect offender score and unlawful sentence.
8. Mr. Mathes was denied the effective assistance of counsel guaranteed by the state and federal constitutions due to the cumulative impact of trial counsel's numerous prejudicial errors.

## **B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. Whether Mr. Mathes was denied effective assistance of counsel where the state filed an amended information adding eight additional counts the day prior to pre-trial motions and seven days before opening statements and counsel failed to advise Mr. Mathes of the ramifications of the new allegations, request a continuance, or move to dismiss the new charges?
2. Whether Mr. Mathes was denied effective assistance of counsel during the plea negotiation process where counsel incorrectly—if at all—calculated Mr. Mathes' offender score to include prior convictions(s) that either did not exist or washed out, based his advice upon the wrong offender score, never made clear that the firearm enhancements ran consecutively as straight-time, and never informed Mr. Mathes what his exposure would be if he was convicted as charged at trial—other than it would likely be the remainder of his life?
3. Whether Mr. Mathes was denied effective assistance of counsel where counsel was unaware that there is no such thing as “self-serving hearsay,” did not know the applicable law, and was unable to present significant documentary and testimonial evidence of Mr. Mathes' mental deficiencies and substance abuse issues from lay and law enforcement witnesses that would have helped support a diminished capacity defense and/or an exceptional sentence?

4. Whether Mr. Mathes was denied effective assistance of counsel where counsel moved to suppress statements relevant to Mr. Mathes' state of mind that could have been used to bolster the foundations of a diminished capacity defense; counsel later sought to admit the helpful statements, but could not because he did not know the controlling law; and counsel cited in closing argument to the statements that were admitted to support the defense theory?
5. Whether Mr. Mathes was denied effective assistance of counsel where counsel retained a forensic neuropsychologist to conduct a diminished capacity evaluation, but neglected to provide him with Mr. Mathes' documented nearly 20-year history of diagnosed mental issues; did not instruct him on the controlling law, which counsel did not seem to know; and failed to have the jury instructed on diminished capacity?
6. Whether Mr. Mathes was denied effective assistance of counsel where the main issue at trial was his ability to form criminal intent; there was ample evidence—on and off the record—as to his impairment from drug use; and yet counsel failed to request a voluntary intoxication instruction?
7. Whether Mr. Mathes was denied effective assistance of counsel where counsel chose to proceed to sentencing just three days after verdict, failed to prepare a sentencing memorandum, failed to secure a presentence report, was preempted by the court when he tried to argue for an exceptional sentence because there was insufficient evidence introduced into the record, and acquiesced to an incorrect offender score and unlawful sentence?
8. Whether Mr. Mathes was denied effective assistance of counsel due to the cumulative impact of all of counsel's numerous errors which undermine confidence in the verdict?

All grounds warrant relief pursuant to RAP 16.4(c)(2) & (3).

#### **IV. STATEMENT OF THE CASE**

Mr. Mathes proceeded to trial on 11 counts arising out of an ongoing domestic incident with his girlfriend, Michelle Toste, which

culminated with him getting shot three times by law enforcement. Clerks Papers (“CP”) 92-104; Verbatim Report of Proceedings (“RP”) 572.

Due to Mr. Mathes’ long history of mental health and substance abuse issues, the defense offered the testimony of Dr. Kenneth Muscatel in support of a diminished capacity defense. The court excluded the testimony because Dr. Muscatel could not state with reasonable certainty that Mr. Mathes was incapable of forming the requisite intent. RP 83-87; 107-110; 625-26; CP 18-31. The jury nevertheless heard Toste describe Mathes as “paranoid,” hearing things,” “not making any sense,” people were following him, and he thought she might have had an affair with his father, Roy. RP 195; 214; 218. Roy, in turn, at whom Mr. Mathes pointed a gun, “looked square in his eyes; there was nobody home there. He was gone ... He wasn’t the son I knew.” RP 266-67.

Despite the unavailability of diminished capacity, defense counsel still argued in closing that the main issue was whether Mr. Mathes had the intent to inflict great bodily harm as required for first degree assault as opposed to the lesser included second degree assault. RP 761-67.

Although numerous witnesses testified to Mr. Mathes’ intoxication—and there was ample admissible evidence beyond the record—defense counsel neglected to request an involuntary intoxication instruction. CP 118-30.

The jury convicted on all counts and all enhancements (firearm, crime against law enforcement personnel, domestic violence) as charged. CP 189-200. The court imposed 720 months. CP 201-14.

**V. FACTS RELEVANT TO GROUNDS FOR RELIEF**

**A. SPEEDY TRIAL AND INEFFECTIVE PLEA ASSISTANCE**

Mr. Mathes was initially charged in by Complaint dated January 9, 2014 in Kitsap County District Court with two counts of first degree assault and one count of unlawful imprisonment. See Exhibit B, Charging Documents. He was then charged by Information dated March 25, 2104 in Kitsap County Superior Court with the same offenses as based upon the same probable cause statement. Id.; Clerks Papers (“CP”) 1-7.

The state made a plea offer prepared January 27, 2014 involving a plea to two counts of first degree assault—one with a firearm enhancement—and unlawful imprisonment with a domestic violence enhancement. See Exhibit C, January 27, 2014 Plea Offer. Per the state’s calculations, Mr. Mathes would have an offender score of “14” for Count I and, with the firearm enhancement, a standard range of 300-378 months; “0” for Count II with a standard range of 153-183 months; and “15” for Count III with a standard range of 69 to 78 months. As Counts I and II run consecutively, the state would recommend 473 months. It is unclear what Mr. Mathes’ precise response was, but he clearly rejected the offer.

In defense counsel's file, present counsel located substantial information delineating Mr. Mathes' criminal history. See Exhibit D, Criminal History Information. It seems that all of his prior history has washed and that he should be sentenced solely as based on his current offenses. It also seems that Mr. Mathes does not have any juvenile convictions for second degree burglary. A copy of Mr. Mathes' most recent Washington Access to Criminal History report is included. Id.

Per present counsel's calculations, under the terms of that offer, Mr. Mathes' offender score on Count I would have been "2" with, including the firearm enhancement, a standard range of 171 to 207 months; "0" on Count I with a standard range of 93 to 123 months; and "3" on Count III with a standard range of 9 to 12 months. His mandatory consecutive time would have been a standard range of 264 to 330 months—nearly half of the state's acquiesced-to scoring.

In the time intervening between trial, defense counsel suffered from the onset of major heart issues and was forced to take several continuances in order to ensure that he was sufficiently healthy for trial.<sup>1</sup> Counsel had also agreed to handle the entire matter, pre-trial and trial, for \$20,000, but still tried to request more money from the Matheses for trial. See Exhibit E, Retainer Agreement.

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<sup>1</sup> Trial counsel passed away on August 6, 2016 due to cardiac complications.

During plea negotiations in August through October of 2015, the state proposed that Mr. Mathes plead guilty to two counts of first degree assault with one firearm enhancement; unlawful imprisonment with a domestic violence enhancement; felony violation of a court order with a domestic violence enhancement; felony harassment with a domestic violence enhancement; and second degree unlawful possession of a firearm. See Exhibit F, Fall 2015 Plea Materials. This offer was likewise premised upon the assumption that Mr. Mathes had prior criminal history that counted towards his offender score.

On October 1, 2015, Mr. Mathes and the defense investigator met with the prosecutor to try to further negotiate. All agreed that Mr. Mathes had significant mitigating information to present at sentencing, but that if he chose to proceed to trial, there is a likelihood that he would be convicted and sentenced to far more time than involved in the offer—perhaps even something tantamount to a life sentence. Id. Mr. Mathes opted for trial.

On October 19, 2015 the day of trial call, the state filed its First Amended Information, which added eight counts and seriously elevated Mr. Mathes' potential sentencing exposure. See Ex. B. Mr. Mathes now faced: two counts of first degree assault, each with firearm enhancement and law enforcement enhancements; two counts of assault in the second

degree, each with firearm and law enforcement enhancements; kidnapping in the first degree with domestic violence and firearm enhancements; unlawful imprisonment with domestic violence and firearm enhancements; two counts of felony harassment, each with domestic violence and firearm enhancements; felony violation of a court order with domestic violence and firearm enhancements; felony harassment with domestic violence and firearm enhancements; and second degree unlawful possession of a firearm. Counsel never discussed with Mr. Mathes the sentencing implications of the amendment—particularly the fact that each firearm enhancement would result in 60-months straight time of confinement to be served prior to any other component of any sentence.

Counsel also neglected to move for a continuance to prepare to confront the belated charges or ask for dismissal pursuant to CrR 8.3(b).

At some point after the state filed the amended information, the defense finally deigned to calculate Mr. Mathes' potential sentence—albeit still as based upon an incorrect offender score. See Exhibit G, Defense Sentencing Calculations.

#### **B. STATE'S "SELF-SERVING HEARSAY" MOTION *IN LIMINE***

Prior to trial, the state filed motions *in limine*, including a motion to exclude Mr. Mathes' "self-serving hearsay statements to potential

witnesses” absent an offer of proof. CP 35-36. The court granted the motion without much defense challenge. RP 19-20.

This becomes relevant, for example, when the state opted to not call Deputy Pat Dawson at the 3.5 hearing. RP 426. The defense then noted that it wanted Dawson to testify to Mr. Mathes’ belief that the police were coming to kill him. RP 427. The court deferred, but admonished that it needed a legitimate theory of admissibility. RP 429.

In his report, a copy of which is attached as Exhibit H, Dawson writes that he went to school with Mr. Mathes and even recently employed him when he was clean and sober. Dawson guarded Mr. Mathes in the hospital on January 11, 2014. Mr. Mathes told him that he was not shooting at the officers and he just wanted them to kill him; he was upset when he woke up alive. He thought his girlfriend was seeing someone else, and she told him she was married to Mike Trent and pregnant with his child. His mother hired Trent to kill him and gave him a truck, a down payment on a house, and paid for their wedding. When he overdosed several months back, he briefly died and his mother procured his death certificate to receive her \$1 million life insurance claim. Now Trent was coming to kill him at his mother’s house while he had sex with his girlfriend. He got a gun to protect himself from the people under the house, he got an STD from his girlfriend, and his mom wanted him dead.

He told Dawson about a small amount of “crank” in his car and was relieved he did not hurt anyone; he wanted them to shoot him. Id.

Defense counsel never attempted to call Dawson to testify.

The same analysis applied to statements made to numerous others, including Norm Reinhardt, who the defense failed to present or from whom the defense failed to elicit statements attesting to Mr. Mathes’ fragile mental health and dubious ability to formulate intent.

During trial, counsel tried to elicit from Ms. Toste that Mr. Mathes was acting differently on the day of the offenses and that he was paranoid and people were out to get him. RP 242; see Ex. A at Ex. 4D, Toste Letter dated November 19, 2014 asking the court to rescind the no contact order and explaining that shortly before September of 2013, Mr. Mathes’ doctors switched his medications, the new regimen almost immediately had adverse repercussions, and he changed and began acting weird and relapsed after eight years of sobriety.

In response to the state’s hearsay objection, counsel argued merely that the testimony was relevant and admissible. RP 242. During argument, counsel cited the rule of completeness, which does not apply to oral statements, and offered nothing else. RP 243-44.

**C. 3.5 HEARING**

Defense counsel was largely unsuccessful at suppressing any of Mr. Mathes' statements at the crime scene after getting shot three times or at the hospital nearly two weeks later when he was coming back to his senses. Nearly all such statements, however, were beneficial to Mr. Mathes and admissible under the state of mind hearsay exception or simply as non-hearsay.

Detective Eric Janson heard Mr. Mathes state: "They came to kill me." Mr. Mathes further relayed that he had used methamphetamine and that the shooting was "completely unintentional." RP 40-42.

On January 10, 2014, Deputy Brittany was keeping guard at the hospital when Mr. Mathes was regaining consciousness. He stated that he had fired shots and was asking if he had hurt anybody. RP 45. She provided the Miranda advisements, but posed no questions while Mr. Mathes continued to talk. RP 46-47. He made additional statements. RP 48-49. During a telephone call with his father, Gray heard Mr. Mathes ask: "Did you figure everything out about SHELLEY?" "Did you try to get her to act right with the police?" and "act right about the situation." Shelly was "the only answer you have for clearing me on this deal" and he would be going to prison forever for his conduct. He called his mom "a

fucking liar! She's the one trying to get me killed." See Exhibit I, Deputy Gray's Report.

Deputy Eric Adams also visited Mr. Mathes at the hospital on January 10, 2014. Mr. Mathes told Adams it was important to know that if he hurt anyone, it was an accident and he wanted to hurt himself, not an officer. RP 62.

Detective John Keeler contacted Mr. Mathes at the crime scene. Mr. Mathes shared that he did not do anything wrong and that "the cops came there to kill him." RP 71.

Detective Krista McDonald was yet another hospital visitor on January 10, 2014. Although he requested an attorney, he continued to make unsolicited statements. RP 114-116. These statements included: "I only shot because I didn't see any other way" and "I didn't want to hurt anyone. I just felt I didn't have any other option." RP 116. In the middle of the night, Mr. Mathes told the detective that she needed to protect him because he was concerned someone was coming to finish the job. RP 120.

More specifically, Mr. Mathes related that when he was 13 or 14 years old, his mother took out a \$1.5 million insurance policy on him and forged his death certificate when he was 36 to receive the proceeds. The insurance company discovered he was still alive and his mother did not want to face legal peril so she hired "Mike Trent" for \$40,000 to kill him.

He only recently unearthed that his whole family had conspired against him. He shot at the police because he did not see any other way. And, the detective should have her “pistol at the ready” to defend his life when Mike comes to finish the job. See Exhibit J, Det. McDonald Report.

Defense counsel argued that, at the very least, Mr. Mathes’ statements to McDonald after he requested counsel should be suppressed. Specifically, he moved to exclude the statement: “Are you here to protect me” and its circumstances. RP 123-25. The state—for good reason—had no desire to admit the nighttime ruminations. RP 126.

The court ruled that all statements were admissible except for the statements made subsequent to his request to McDonald to speak with an attorney. RP 130.

The state opted to not call Deputy Patrick Dawson. RP 426.

In closing, counsel argued that Mathes’ hospital statements—which he tried to suppress—militated against a finding of intent to inflict grievous bodily harm and that it might have been suicide by cop. RP 764.

**D. FAILURE TO PREPARE DEFENSE EXPERT DR. MUSCATEL AND EXCLUSION OF HIS PROFFERED TESTIMONY REGARDING THE DIMINISHED CAPACITY DEFENSE**

**1. Dr. Muscatel’s Offers of Proof**

In the fall of 2014, the defense retained Kenneth Muscatel to perform a diminished capacity evaluation. He reviewed the records

provided by counsel, interviewed Mr. Mathes, and conducted a series of tests. Critically, though, counsel failed to forward any documentation of Mr. Mathes' chronic mental deficiencies. CP 28-29. Interestingly, the state furnished its expert with Mr. Mathes' medical records from Kitsap Mental Health Services. See CP 36-84.

As Mr. Mathes demonstrates in his *pro se* pleading, he has suffered from a recognized disability starting no later than 1997 and that he has been diagnosed with not otherwise specified attention deficit hyperactivity disorder, not otherwise specified psychotic disorder, post-traumatic stress disorder, stimulant dependence disorder, and not otherwise specified personality disorder. See Ex. A at Exs.1A, 1D. The records also show that on October 8, 2013, Mr. Mathes overdosed on a combination of heroin and crystal methamphetamine and that he made a prior suicide attempt by attempting to overdose on Seroquel as well as revealed the length of time he has suffered from these afflictions and how they have historically impacted him. Id. at Exs. 1B, 1C

The state submitted a lengthy pretrial memorandum requesting exclusion of Dr. Muscatel's testimony as based upon ostensibly controlling case law and the opinion of the state's expert. Id. Both experts agreed, though, that Mr. Mathes suffered from foundational

elements sufficient to raise a diminished capacity defense, but its specific applicability was at issue. Id.

The defense responded that the testimony was admissible pursuant to ER 702 and the same cases upon which the state relied. CP 18-31.

During the first offer of proof, Dr. Muscatel testified that Mr. Mathes suffered from a longstanding chronic mental disorder consistent with bi-polar disorder and an exacerbating very serious substance illness. RP 78-79. He noted that Mr. Mathes was “highly intoxicated” and manifested indications of legal insanity—chronic mental disorder and disorganized and psychotic thinking—but that defense was unavailable. He thought that the drugs may have played a larger role at the time of the offense and could account for all of the behaviors and symptoms. RP 83-84. After describing voluntary intoxication as a variation of diminished capacity, Dr. Muscatel opined that Mr. Mathes could have been engaged in a bizarre version of self-defense rather than assault. RP 85-86. He concluded that Mr. Mathes exhibited paranoid, delusional thinking and presented the foundational elements for a diminished capacity defense, but the facts of the case would determine whether it was applicable in the specific circumstances of the allegations. RP 86-89.

Relying on State v. Atsbeha, 142 Wn.2d 904, 16 P.3d 626 (2001) the trial court excluded Dr. Muscatel’s testimony because he was unable to

testify to a reasonable medical certainty that Mr. Mathes was incapable of forming specific intent at the time of the offenses. RP 107-111. The court did permit the defense to reexamine the issue once testimony and evidence had been admitted. RP 111. Although the state agreed to prepare findings, there do not seem to be any in the record.

During a later offer of proof after Dr. Muscatel had the opportunity to review the testimony of Mr. Mathes' girlfriend and primary civilian victim, Michelle Toste, Dr. Muscatel was more convinced as to the existence of foundational elements of the underlying mental disorder, but was still not reasonably certain that Mr. Mathes was incapable of forming the requisite intent. RP 624-25. The court remained unswayed. RP 641.

During May of 2018, this office corresponded with Dr. Muscatel to determine whether his opinion might have changed had defense counsel forwarded Mr. Mathes' mental health history. He said it might, that he should have had those records, and undertook a review. Ultimately, he was more convinced that Mr. Mathes exhibited the foundational elements for diminished capacity, but he still could not offer an opinion as to the specific circumstances. Dr. Muscatel did not compose a report.

## **2. Dr. Philip Barnard's Evaluation and Findings**

After visiting Mr. Mathes at the Washington State Penitentiary on April 21, 2018, consulting with appellate counsel, and reviewing the

discovery and record, this office retained Dr. Philip G. Barnard to conduct a new evaluation of Mr. Mathes. Counsel provided Dr. Barnard with an abundance of information—all available to trial counsel. A copy of his C/V is attached hereto as part of Exhibit K, Dr. Barnard Materials.

Dr. Barnard, first, believes that “Dr. Muscatel’s evaluation was seriously hampered by the fact that he was not provided with the extremely important information about Mr. Mathes’ extensive mental health history.” He also doubts some of Dr. Muscatel’s testing methods. As to the report of state expert Dr. Yocum, Dr. Barnard finds that he—like Dr. Muscatel—was equivocal and rendered no opinion. See id.

In his report, Dr. Barnard delineates the volume of information he reviewed prior to making any assessments. See id. Particularly relevant—as noted above—were the mental health records as well as certain witness statements. As to the mental health records, there is evidence that on December 2, 2013, Mr. Mathes visited Kitsap Mental Health Services and reported that the Seroquel has been ineffective in reducing his auditory hallucinations and paranoia.

Dr. Barnard notes that Ms. Toste explained that Mr. Mathes was doing great until about September of 2013, when his doctors switched his medications. He began experiencing mood swings, obtained a gun to protect himself from “bad people” that he could hear in the house, and

became paranoid. Mr. Mathes believed his parents were plotting to kill him, and mentioned this to his father. He also told Roy that he had been on crank and heroin for five days and was paranoid. Roy further relayed that during the incident, Mr. Mathes thought someone was in the house trying to kill him. Id. It does not seem that defense counsel elicited much—if any—of this information at trial.

Dr. Barnard also reviewed the notes of the defense interview with Norm Reinhardt, a proposed defense witness not called after the trial court excluded the possibility of a diminished capacity defense. See RP 616; see also Exhibit L, Notes of Interview with Norm Reinhardt. In a very telling statement revealing just how little defense counsel actually knew about Mr. Mathes' prior mental health history, he complained to the court: "Well, Mr. Reinhardt was only about Mr. Mathes' mental history. If [state expert] Yocum says he didn't have any, that's all it is." RP 617. In any event, Mr. Reinhardt was prepared to testify that he met Mr. Mathes about 25 years ago at an AA meeting, and became his sponsor about four years prior. Mr. Mathes had mentioned suicide, but that if he did so, it would be suicide by cop. Mr. Reinhardt noticed a drastic change in Mr. Mathes, who stopped taking his medications, during the year before the incident, and did not see him for a while. When they next met, Mr. Mathes

complained of people underneath his house and related that he was all scratched up because he was chasing people through the woods. Id.

After summarizing the voluminous materials he reviewed, Dr. Barnard summarized his interview of Mr. Mathes, during which he repeated hearing people in the ceiling and underneath his home; sometimes he would try to speed away from them in his car. He purchased a firearm to protect himself from them. He was extremely intoxicated and had been for five days. On the day of the incident, he believed that Ms. Toste told him she slept with Roy, and he thought Roy was in league with his mother to kill him.

Based upon his extensive review, Dr. Barnard diagnosed Mr. Mathes as exhibiting a Generalized Depressive Disorder, Dysthymia; Paranoid Schizophrenia, Multiple Episodes; and Borderline Personality Disorder as well as substance abuse and alcohol disorders. As a result:

Mr. Mathes demonstrates a mental disorder that would rise to the level that would prevent him from being able to form intent, i.e., having the requisite mental state intended to kidnap an individual and to assault a police officer. Therefore, he does qualify as exhibiting diminished capacity ... [T]he combination of a very severe mental illness (paranoid schizophrenia) as well as his high level of intoxication (methamphetamine) rendered him incapable of having the requisite state of mind (mens rea) to be able to form intent. His distorted thought processes with delusions that people were planning to kill him (including police officers) rendered him incapable of forming intent.

Id.

## **E. VOLUNTARY INTOXICATION INSTRUCTION**

Despite all of the evidence of Mr. Mathes' intoxication and how it compounded his mental health issues, counsel neglected to request a voluntary intoxication instruction. Counsel also failed to elicit significant evidence pertaining to Mr. Mathes' state of mind.

In addition to his statements to law enforcement, which counsel could not figure out how to introduce, Toste and other witnesses either testified about or knew that Mr. Mathes was abusing drugs and mentally deteriorating. RP 195, 199, 213, 237, 239, 295. As mentioned above, Deputy Dawson and Norm Reinhardt had relevant, material and helpful testimony to offer, but counsel failed to call either of them.

Counsel also failed to call any custodian of Mr. Mathes' mental health records to testify to his maladies or the fact that he was, in fact, as evidenced by his toxicology screen, on methamphetamine and other substances at the time of the offense, but not opiates. See Ex. A at Ex. 1B.

## **F. INEFFECTIVE ASSISTANCE AT SENTENCING**

Although closings were on Monday, November 2015 and the verdict on Tuesday, November 3, 2015, counsel assured he would be ready for sentencing in two days. RP 806-808. Prior to the sentencing hearing on November 6, 2015, defense counsel submitted nothing in writing, failed ensure that the Department of Corrections would compose a

presentence report pursuant to RCW 9.94A.500, and his lame attempt to argue for an exceptional sentence based upon imperfect diminished capacity was immediately rebuffed by the court, which repeated, “not in the cards.” RP November 6, 2015 at 38.

Counsel did submit letters of support which attested to Mr. Mathes’ mental health issues and how he began devolving after a change in his medication regimen. Id. at 18, 26-29, 35-36.

Counsel, finally, disagreed about the nature of Mr. Mathes’ alleged prior offense that still scored, but agreed with the state’s offender score and other sentencing calculations. Id. at 3, 36. Counsel also never requested that the state admit any evidence to support its determinations.

## **VI. ARGUMENT**

New trial is required because any one ground of ineffective assistance, standing alone, is sufficient and because all of the errors, cumulatively, mandate new trial.

To obtain relief in a personal restraint petition, a petitioner must show actual and substantial prejudice resulting from alleged constitutional errors or, for nonconstitutional errors, a fundamental defect that inherently results in a complete miscarriage of justice. Matter of Harvey, ---Wn.App-- 415 P.3d 253, 259 (April 12, 2018) (citation omitted). Ineffective assistance of counsel constitutes constitutional error such that the

demonstration of prejudice required for a claim satisfies the actual and substantial prejudice on collateral relief. Id. at 259-60 (citation omitted).

A criminal defendant is entitled to effective assistance of counsel. State v. Lopez, ---Wn.2d---, 410 P.3d 1117, 1123 (2018); see Strickland v. Washington, 466 U.S. 668, 688, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)). To establish a claim of ineffective assistance, the defendant must establish deficient performance and resulting prejudice. State v. Kylo, 166 Wn.2d 856, 862, 215 P.3d 177 (2009) (citation omitted). Deficient performance falls “below an objective standard of reasonableness based on consideration of all the circumstances.” Id. (citations omitted). Prejudice, in turn, means a reasonable probability that, but for counsel’s deficient performance, the outcome of the proceedings would have been different. Id. (citations omitted). This threshold is “lower than a preponderance standard,” and requires only a “probability sufficient to undermine confidence in the outcome.” Lopez, *supra*, at 1123.

**A. NEW TRIAL IS REQUIRED DUE TO COUNSEL’S INEFFECTIVE ASSISTANCE IN FAILING TO MOVE FOR CONTINUANCE OR DISMISSAL AND FORCING MR. MATHES TO CHOOSE BETWEEN EFFECTIVE COUNSEL AND HIS SPEEDY TRIAL RIGHTS**

As counsel failed to request a continuance or move for dismissal when the state filed its First Amended Information, which added eight counts—nearly all with some sort of enhancement—on the day of trial call

and just seven days before the state's opening, such deficient performance forced Mr. Mathes to choose between effective counsel and his speedy trial rights. New trial is thus warranted.

The Court in State v. Michielli, 132 Wn.2d 229, 233, 937 P.2d 587 (1997), faced an analogous scenario. Three days prior to the scheduled trial date, the state amended the information to add four new counts. The court permitted amendment over counsel's objection, and counsel was forced to move for a continuance. Id. Counsel then moved to dismiss the late filing—partially on grounds that it was in retaliation for the defendant's refusal to plead guilty earlier. Id. The court dismissed the four amended counts in the interests of justice. Id. The appellate court reinstated one of the counts. Id. at 234.

The Michielli Court first determined that the dismissal was pursuant to CrR 8.3(b), which requires arbitrary action or government misconduct. Id. at 239. Such misconduct, though, can consist of simple mismanagement. Id. at 239-40. For dismissal, there must also be prejudice affecting a defendant's right to a fair trial. "Such prejudice includes the right to a speedy trial and the 'right to be represented by counsel who has had sufficient opportunity to adequately prepare a material part of his defense....'" Id. at 240 (quoting State v. Price, 94 Wn.2d 810, 814, 620 P.2d 994 (1980)).

Here, as in Michielli, the state knew all of the allegations at the time it initially charged Mr. Mathes in district court. The state knew everything when it initially charged Mr. Mathes in superior court. The state knew Mr. Mathes wanted to proceed to trial approximately three weeks prior when he rejected the plea offer. The Michielli Court held that there is no reason for a prosecutor to wait until five days before trial to amend unless intended to harass the defendant. Id. at 233-34. “The delay, without any justifiable explanation, suggests less than honorable motives.” Id. As the state’s mismanagement forced Mr. Mathes to proceed to trial unprepared or forgo his speedy trial rights, which constitutes prejudice, dismissal is warranted.

It thus follows that defense counsel’s failure to request a continuance or move for dismissal was deficient performance. And the prejudice was making Mr. Mathes opt between speedy trial and effective counsel. Relief is thus warranted.

More recently, this Court reiterated that the State ‘cannot by its own unexcused conduct force a defendant to choose between his speedy trial rights and his right to effective counsel who has had the opportunity to adequately prepare a material part of his defense.’ State v. Brooks, 149 Wan.App. 373, 387, 203 P.3d 397 (2009). Such is the case here.

**B. NEW TRIAL IS REQUIRED DUE TO COUNSEL’S FAILURE TO PROPERLY ADVISE MR. MATHES DURING PLEA NEGOTIATIONS**

As counsel offered advice based upon an incorrect offender score, failed to apprise Mr. Mathes of the potential sentencing exposure he faced if he proceeded to trial, and never made clear that each of the enhancements would run consecutively with no good time and be served prior to the underlying offenses, new trial is required.

Effective assistance of counsel in a plea bargaining context requires that counsel “actually and substantially [assist] his client in deciding whether to plead guilty.” State v. Estes, 193 Wn.App. 479, 493, 372 P.3d 163, aff’d, 188 Wn.2d 450, 395 P.3d 1045 (2017) (citations omitted). Counsel must discuss “tentative plea negotiations and the strengths and weaknesses of a defendant's case so that the defendant knows what to expect and can make an informed judgment whether or not to plead guilty.” Id. at 493-94. At a minimum, counsel must reasonably evaluate the evidence and the likelihood of conviction at trial. Id. at 494. Uncertainty about the outcome of plea bargain negotiations should not prevent reversal where confidence in the outcome is undermined. Id.

**1. Offender Score**

As counsel possessed all of Mr. Mathes’ criminal history information well before trial and still miscalculated his offender score,

such deficient advisements during the plea process were prejudicial and prevented Mr. Mathes from intelligently assessing his options.

Although counsel should have been aware that Mr. Mathes has never been convicted of a class B felony, he did not seem to make his own sentencing calculations until immediately prior to trial—and after the state filed the amended information. This was subsequent to Mr. Mathes' rejection of the state's offer.

Pursuant to RCW 9.94A.525(c), prior convictions for class C felonies do not score if the offender has spent five years in the community without committing a crime that results in convictions. Here, Mr. Mathes has never been convicted of a class C felony and more than five years have elapsed since his last release from confinement. See Ex. D.

Accordingly, when assessing the state's first plea offer, counsel's advice was totally deficient. He should have known that Mr. Mathes did not have three juvenile residential burglary convictions and that his sentencing exposure was approximately half of what the state and defense counsel believed. With proper advice and scoring, Mr. Mathes likely would have accepted a plea offer to a lower quantum of time.

Next, at the time of the filing of the amended information, counsel still had not done his sentencing calculations and could not possibly intelligently advise Mr. Mathes about the consequences of accepting a

plea versus proceeding to trial. Counsel’s deficient performance was thus prejudicial and warrants new trial.

Note that even if an incorrectly calculated offender score is non-constitutional error, a sentence based upon an incorrect offender score is nevertheless “a fundamental defect that inherently results in a miscarriage of justice” and warrants relief. See, e.g., In re Goodwin, 146 Wn.2d 861, 867–68, 50 P.3d 618 (2002); see also State v. Davis, ---P.3d--- (No. 75610-9-I) (May 29, 2018) (holding that counsel’s failure to object to an improper comparability analysis is ineffective assistance of counsel and that prejudice “is self-evident as it increases the defendant's offender score”). Relief is thus required.

## **2. Deficient and Prejudicial Plea Advice and Advisements**

In addition to the miscalculated offender score, counsel, generally, failed in his duties to specifically explain the potential sentencing exposure Mr. Mathes faced if he pleaded guilty versus going to trial.

In re McCready, 100 Wn.App. 259, 996 P.2d 658 (2000), seems dispositive in mandating new trial. In McCready, the petitioner, charged with first degree assault with a firearm enhancement, alleged ineffective assistance in that defense counsel failed to communicate that the mandatory five-year firearm enhancement would run consecutive to the sentence for the assault for a mandatory minimum of 10 years. Id. at 261.

The state offered a plea deal to second degree assault, which the petitioner rejected based upon his lack of understanding of the potential sentencing consequences. Id.

The McCready Court concluded that the failure to advise a defendant “of the available options and consequences constitutes ineffective assistance of counsel.” Id. at 263. Stated otherwise, the defendant’s “rejection of the plea offer was not voluntary because he did not understand the terms of the proffered plea bargain *and the consequences of rejecting it.*” Id. (emphasis in original). As to prejudice, the Court found that had the defendant known that he faced a mandatory minimum of 10 years, “he may have made a different choice.” Id. at 265.

The situation here is analogous: Mr. Mathes ended up being charged by First Amended Information with two counts of first degree assault with 60-month firearm enhancements, kidnapping in the first degree with a firearm enhancement, and several other offenses with enhancements. In fact, 288 months of his sentence consists of flat time for enhancements. See Ex. A; RP Sentencing 3-6; 44. Mr. Mathes was unaware that all of the enhancements were mandatory, involved straight-time, and had to be served before the time on the underlying offenses. Had counsel properly advised him, Mr. Mathes likely would have accepted the plea offer so that remand for retrial is required.

As our Supreme Court recently summarized:

Defense counsel did not research the implications of the deadly weapon enhancements, and thus he was unable to communicate crucial information to his client. There is a reasonable probability that had [Mr. Mathes] been fully informed, he would have negotiated a different outcome. [Mr. Mathes] was denied the ability to mak[e] an informed decision about whether to plead guilty, and we find that defense counsel's conduct prejudiced [him].

Estes, 188 Wn.2d at 466 (citation omitted).

New trial is thus required.

**C. NEW TRIAL IS REQUIRED BECAUSE COUNSEL FAILED TO ADMIT SIGNIFICANT HELPFUL EVIDENCE DUE TO HIS LACK OF KNOWLEDGE OF THE APPLICABLE LAW**

On multiple occasions during trial—and even during the motions *in limine*—counsel failed to lodge objections to admissibility based on controlling law and, more importantly, was unable to admit significant helpful and exculpatory evidence as a result of his lack of familiarity with controlling case law. This is deficient performance. The evidence, which would have corroborated Mr. Mathes' mental state and intoxication, would have provided the foundations for the proffered diminished capacity defense and, if not, the foundations for an exceptional sentence. Such evidence was also directly relevant to his intent to inflict grievous bodily harm, as required to convict for first degree assault.

“An attorney's ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point

is a quintessential example of unreasonable performance under Strickland.” Estes, 193 Wn.App. at 489 (citations omitted).

During motions *in limine*, counsel wanted to object to the state’s motion prohibiting “self-serving hearsay,” but could not formulate a sufficient argument. RP 19-20. If he had conducted legal research, he would have found that “there is no ‘self-serving hearsay’ rule that bars admission of statements that would otherwise satisfy a hearsay rule exception.” State v. Pavlik, 165 Wn.App. 645, 650, 268 P.3d 986 (2011). The rules of evidence do not specifically prohibit the admission of self-serving statements; “self-serving” is simply “a shorthand way of saying that the statement is hearsay and does not fit recognized exceptions to the hearsay rule.” State v. Lozano, 189 Wn.App. 117, 126, 356 P.3d 219 (2015) (citations omitted).

Hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” ER 801(c). Whether a statement is hearsay depends upon the purpose for which the statement is offered. State v. Crowder, 103 Wn.App. 20, 26, 11 P.3d 828 (2000). Statements not offered to prove the truth of the matter asserted, but rather as a basis for inferring something else, are not hearsay. Id. (citation omitted).

The state of mind exception to the hearsay rule, moreover, exempts a statement of the declarant's then existing state of mind, but not including a statement of memory or belief to prove the fact remembered or believed from the prohibition against hearsay. ER 803(3)

Here, all of Jimmy's statements to law enforcement at the scene and at the hospital as to his state of mind at the scene are thus admissible as non-hearsay or under the state of mind exception. The defense also would have been able to present the testimony of proposed witnesses Norm Reinhardt, who was familiar with Mr. Mathes's history and mental and substance abuse issues and watched him devolve in the year prior to the incident, and Deputy Dawson, who was also familiar with Mr. Mathes' history and to whom Mr. Mathes made statements at the hospital. Counsel also would have been able to elicit all of the bizarre acts and statements in Ms. Toste's knowledge, which would have then gone to Dr. Muscatel for use in his reevaluation.

In the almost directly on point State v. Ramm, for example, the Court held that the trial court erred by excluding as self-serving hearsay several of the defendant's out-of-court statements to police officers which actually demonstrated his state of mind and would have supported his diminished capacity defense. 198 Wn.App. 1040 (April 17, 2017) (unpublished); see GR 14.1 (permitting permitting citation to unpublished

opinions filed on or after March 1, 2013 for non-binding persuasive value). During his arrest, the defendant stated, “[W]hy are you arresting me, you should be arresting the other guy”, and also may have said, “He attacked me.” The Ramm Court determined that the defendant did not seek to admit the statements for their truth, but instead to show his state of mind at the time of the offense. The Court agreed that the statements were evidence of the defendant’s objectively false belief that he was acting in self-defense, which was consistent with his diminished capacity defense. Given that there is no rule against self-serving hearsay, the statements did not constitute hearsay.

Ramm is completely analogous. Although unpublished, it provides persuasive authority of the proper analysis in this case.

The Wyoming Supreme Court recently reiterated: “Nonsensical statements and those that are patently untrue in light of observable conditions have historically been received to prove insanity, competency, testamentary capacity, and other issues relating to mental state.” Toth v. State, 2015 WY 86A, 38, 353 P.3d 696, 708 (Wyo. 2015) (citing, e.g., People v. Vanda, 111 Ill.App.3d 551,444 N.E.2d 609, 614–15 (1982) (defendant’s letters indicating that he was helping run the jail or that he was a prison fireman admissible to show insanity); Sollars v. State, 73 Nev. 248, 316 P.2d 917, 923 (1957) (defendant’s “classic paranoid letters”

admissible as non-hearsay evidence of mental state); 1, 3, John H. Wigmore, Evidence §§ 228, 1738 (1923). “Nonsensical or delusional statements may be as clear an indication that the utterer is not in his right mind as physical signs and symptoms or bizarre behavior, and they can thus be verbal acts or words of independent legal significance which are not hearsay.” Id. (citing 2 McCormick on Evidence § 249 (Kenneth S. Broun ed., 7th ed. 2013); Mueller and Kirkpatrick, Federal Evidence § 8:22 (4th ed.2013) (a statement that one is Napoleon may be admissible because it proves a lack of connection to reality regardless of who the speaker thinks he is).

In Toth, during cross-examination by defense counsel, a police officer testified that the defendant was doing things and making non-statements indicating he was intoxicated. Id. at 707. Defense counsel then asked what, precisely, the defendant uttered, but the court sustained the state’s hearsay objection. Id. at 707-708. The Toth Court first noted that non-statements could not be assertions—as required by the prohibition against hearsay—and they certainly were not offered for the truth of the matter asserted. Such statements cannot be hearsay. See also State v. Jensen, 251 N.W.2d 182, 188-89 (N.D. 1977) (testimony “not offered to establish the truth of the content of the conversations, but to establish the state of mind of the defendant, which was relevant to his

asserted defenses of mental disease or defect excluding responsibility and intoxication and self-defense” it is not hearsay and its exclusion is reversible error) (citing, e.g., McCormick on Evidence, 2d Ed., s 249, pp. 589-590; Benjamin N. Cardozo (quoting Lord Bowen) in “Law and Literature,” Selected Writings of Benjamin Nathan Cardozo, Margaret E. Hall, ed. (New York: Fallon Law Book Company, 1947), p. 346) (“The state of a man's mind is as much a fact as the state of his digestion.”).

Counsel, furthermore, could have argued that the evidence was admissible pursuant to Mr. Mathes’ state and federal constitutional rights to present a complete defense, including “the right to present testimony in one’s defense” and the “right to confront and cross-examine adverse witnesses.” State v. Hudlow, 99 Wn.2d 1, 15, 659 P.2d 514 (1983) (citations omitted); see, e.g., Holmes v. South Carolina, 547 U.S. 319, 324, 126 S.Ct. 1727, 164 L.Ed.2d 503 (2006) (citations omitted). This right to present a complete defense “is abridged by evidence rules that ‘infring[e] upon a weighty interest of the accused’ and are ‘arbitrary’ or ‘disproportionate to the purposes they are designed to serve.’” Id. at 324-325 (citations omitted); see State v. Gregory, 158 Wn.2d 759, 875 n.3, 147 P.3d 1201 (2006) (Fairhurst, J., concurring) (citing Holmes) (“[w]hen a trial court excludes defense evidence under evidentiary rules that ‘serve no

legitimate purpose’ or are ‘disproportionate to the ends they are asserted to promote, it violates due process”) (add’l citations omitted).

“[W]here constitutional rights directly affecting the ascertainment of guilt are implicated, [evidentiary rules] may not be applied mechanistically to defeat the ends of justice.” Chambers v. Mississippi, 410 U.S. 284, 302, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973) (state hearsay rule prohibiting a party from impeaching his or her own witness precluded defendant from examining a witness who had confessed to the crime and thus unconstitutionally denied the defendant his right to present witnesses and evidence negating the elements of the charged crime). The court’s strict construction of the evidence rules, in conjunction with counsel’s ignorance of the law, thus violated Mr. Mathes’ constitutional rights.

Here, then, like in Toth (and Jensen and Ramm) defense counsel sought to utilize Mathes’ exclamations to show that “he could not form the specific intent to deprive required for a felony conviction.” Id. at 708. But, rather than cite to the state of mind exception or frame the statements as non-hearsay, trial counsel, for example, during cross-examination of Ms. Toste, cited to the inapposite rule of completeness and the court sustained the objection. This is deficient performance in failing to cite to the correct law. And, like in Jensen, counsel’s lacking performance was prejudicial in that the exclusion of this evidence seriously hampered the

proposed diminished capacity defense. This, standing alone, is reversible error—in addition to yet another instance of ineffective assistance.

**D. NEW TRIAL IS REQUIRED BECAUSE COUNSEL SUPPRESSED HELPFUL TESTIMONY**

As counsel moved to suppress statements that were beneficial to Mr. Mathes—and was somewhat successful—new trial is required.

Counsel, for some reason, moved to suppress Mr. Mathes’ statements to law enforcement at the scene and at the hospital. Although he was largely unsuccessful, he managed to suppress Mr. Mathes’ nighttime ramblings to Det. McDonald that he needed protection from the killer stalking him. Counsel, though, later sought to admit some of the other statements he moved to suppress and cited to them in closing.

This Court determined on direct appeal that counsel was not ineffective for *failing to move to suppress* such statements because it was legitimate trial strategy. Mathes, at 10. The Court noted that counsel “made the tactical decision to use Mathes’ statements to police in the hospital to bolster his argument that Mathes did not intend to inflict grievous bodily harm on the police officers” and directly referenced the statements in closing. Id.

How, then, can it be not effective to *fail to move* to suppress the helpful statements without it being ineffective to *move* to suppress the

helpful statements? This is deficient performance that resulted in exclusion of valuable helpful evidence and prejudiced the ability of counsel to argue the defense theory of the case.

**E. NEW TRIAL IS REQUIRED BECAUSE COUNSEL FAILED TO PROPERLY PREPARE DR. MUSCATEL, WHICH LED TO EXCLUSION OF HIS TESTIMONY AND THE BASIS OF THE DEFENSE THEORY OF THE CASE**

As counsel failed to provide Dr. Muscatel with any sort of mental health records, failed to educate him on the controlling legal standards for diminished capacity, and failed to articulate the controlling legal standard during argument, such deficient representation led to exclusion of Dr. Muscatel's testimony and the defense theory of the case.

As definitively stated by Dr. Barnard: "Dr. Muscatel's evaluation was seriously hampered by the fact that he was not provided with the extremely important information about Mr. Mathes' extensive mental health history." See Ex. K. With that information, Dr. Barnard conclusively affirms that the diminished capacity defense was applicable to the facts of the case and should have been argued at trial.

This is not a matter of expert shopping. Dr. Barnard, in fact, was the sole forensic practitioner this office could locate who was not only available, but who was also able to visit Mr. Mathes at the Washington State Penitentiary during one of the approximately six days a month that

he can receive professional visits. Dr. Barnard, moreover, like Dr. Muscatel, regularly consults with both the prosecution and the defense and is esteemed in his field.

Counsel, first and most importantly, failed to provide Dr. Muscatel with vital information about Mr. Mathes' long history of mental health and substance abuse disorders, his recent drug overdose, and other examples of his delusional and psychotic thinking. Counsel possessed this information, yet, for no good reason, never furnished the records to Dr. Muscatel. This is, certainly, deficient performance. See, e.g.

Bloom v. Calderon, 132 F.3d 1267 (9th Cir.1997), is instructive. In Bloom, the court found ineffective assistance of counsel where defense secured an expert at the last minute, did little to prepare him, and, most importantly, failed to provide the critical underlying medical records to corroborate the extent of the defendant's mental deficiencies. During post-conviction proceedings, like here, the defendant presented the omitted information to the expert and others, all of whom opined that counsel was deficient in failing to forward such records. Id. at 1274. Although the testifying expert in Bloom changed his mind and was actively involved, other experts agreed that the records established the viability of a mental defense. Id. at 1274-75. Here, while Dr. Muscatel did not change his retrospective opinion, Dr. Barnard, armed with all of

the information counsel should have furnished to Dr. Muscatel, conducted a new evaluation and definitely pronounces that a defense of diminished capacity was applicable on the facts of the case.

Counsel, moreover, failed in his concomitant duty to prepare Dr. Muscatel to testify. While Dr. Muscatel is very experienced, it seems that counsel either failed to adequately prepare him for the second offer of proof or misrepresented the substance of the doctor's unchanged assessment. Counsel also never corrected Dr. Muscatel's misapprehension that a successful diminished capacity defense results in acquittal rather than conviction on a lesser charge. See Turner v. Duncan, 158 F.3d 449 (9th Cir. 1998).

Counsel, finally, failed to cite to controlling law that would have persuaded the court to admit Dr. Muscatel's testimony. After the first offer of proof, the court found that Dr. Muscatel's equivocation on the ultimate issue foreclosed the issue. RP 107-111. In the almost directly analogous State v. Mitchell, however, the Court made clear that "it is not necessary that the expert be able to state an opinion that the mental disorder actually did produce the asserted impairment at the time—only that it could have, and if so, how that disorder operates. 102 Wn.App. 21, 27, 997 P.2d 373 (2000).

In Mitchell—like here—Dr. Muscatel testified that the defendant suffered from a mental disorder at the time of the offense which “would have the potential to interfere with his [requisite mental state].” The trial court excluded the testimony. Id. at 24. The Mitchell Court explained that subsequent to State v. Ellis, 136 Wn.2d 498, 963 P.2d 848 (1998), the admissibility of expert testimony is guided by ERs 702, 401, and 402. Id. at 25. Under this framework, Dr. Muscatel’s testimony would be helpful to the jury to “understand an otherwise bizarre incident.” Id. at 27. The Court thus held that the jury properly should have considered “Dr. Muscatel’s testimony that [the defendant] was suffering from paranoid schizophrenia at the time of the incident, along with testimony that was admitted regarding his behavior at the time of the incident, and determined whether [his] capacity was diminished. It is the jury’s responsibility to make ultimate determinations regarding issues of fact.” Id.

While this Court on appeal excused the trial court’s reliance on “reasonable medical certainty” in rejecting the first offer of proof, had counsel cited to Mitchell, this would have obviated the need for a second offer of proof as the testimony would have been admitted. As to the second offer of proof, the Mitchell Court was unequivocal that Dr. Muscatel’s testimony would have been relevant and helpful to the jury.

Courts have recognized the “power of a diminished capacity defense to overcome even substantial evidence supporting a finding of premeditation and deliberation.” Hernandez v. Chappell, 878 F.3d 843, 857 (9th Cir. 2017) (citations omitted). There is thus “a reasonable probability that, hearing all of the expert evidence in support of a diminished mental capacity defense, a juror would have harbored reasonable doubt on the element of specific intent and, thus, on the counts of first degree [assault].” Id. at 857-58. New trial is thus required.

**F. NEW TRIAL IS REQUIRED BECAUSE COUNSEL WAS INEFFECTIVE IN FAILING TO REQUEST A VOLUNTARY INTOXICATION INSTRUCTION**

Despite the extensive record of Mr. Mathes’ substance abuse disorder and Dr. Muscatel’s opinion that voluntary intoxication is a form of diminished capacity, defense counsel never requested an instruction on involuntary intoxication. This is ineffective assistance in of itself and also ineffective—per this Court’s opinion in Mathes—insofar as counsel failed to elicit the scads of evidence pertaining to Mr. Mathes’ intoxication, which would have supported the instruction.

While there is a general prohibition against raising an issue on collateral review that was already raised on direct appeal, relitigation is possible where there is some other justification for having failed to raise a crucial point or argument in the prior application. In re Stenson, 142

Wn.2d 710, 719–20, 16 P.3d 1 (2001). On the other hand, “Conventional notions of finality of litigation have no place where life or liberty is at stake and infringement of constitutional rights is alleged.” Matter of Johnson, 131 Wn.2d 558, 567, 933 P.2d 1019 (1997) (quoting Sanders v. United States, 373 U.S. 1, 8, 83 S.Ct. 1068, 10 L.Ed.2d 148 (1963)). “Similarly, a PRP envisions a more relaxed standard of finality to judgments in the criminal context.” Id. Relitigation is thus permissible where the ends of justice, “which cannot be too finely particularized,” so require. See, e.g., Matter of Taylor, 105 Wn.2d 683, 688–89, 717 P.2d 755 (1986), abrogated on other grounds by State v. Gentry, 179 Wn.2d 614, 316 P.3d 1020 (2014) (citation omitted).

First, this Court asserted that the record was devoid of evidence of Mr. Mathes’ intoxication. Mathes, at 17. This does not seem to be the case. Ms. Toste saw him injecting drugs, she described his changed behavior, and reported that he had been using drugs for several months. RP 195, 199, 213, 237, 239, 295. Counsel, more importantly, failed to elicit significant evidence of Mr. Mathes’ history of substance abuse disorder from, for example, Roy Mathes and Norm Reinhardt that would have served as sufficient foundations for the instruction.

In addition, where a claim of diminished capacity “is premised wholly or partly on the defendant’s voluntary consumption of drugs or

alcohol ... one instruction can be adequate to permit the defendant to argue defendant's theory of the case.” State v. Furman, 122 Wn.2d 440, 454, 858 P.2d 1092 (1993) (citing State v. Hansen, 46 Wn.App. 292, 730 P.2d 706, 737 P.2d 670 (1987) (holding that an instruction on voluntary intoxication was adequate to allow the defendant to argue the claim of diminished capacity based on drug intoxication).

Here, then, once the court rejected diminished capacity, it was incumbent upon counsel to request a voluntary intoxication instruction. Had counsel properly performed and admitted all of the evidence of Mr. Mathes’ intoxication and how it impacted him, the trial court surely would have been compelled to issue the instruction.

**G. RESENTENCING IS REQUIRED BECAUSE COUNSEL WAS UNPREPARED, DID NOT SECURE A PRESENTENCE REPORT, AND ACQUIESCED TO AN INCORRECT OFFENDER SCORE AND UNLAWFUL SENTENCE**

Due to the numerous instances of deficient prejudicial performance at sentencing, resentencing, at the very least, is required.

Counsel wanted to conduct the sentencing hearing just two days after verdict. The court scheduled it for three days later. Counsel seemed to do nothing to prepare—except maybe contact Mr. Mathes’ proponents and request letters of support. He filed nothing, and offered only perfunctory arguments at the hearing.

Pursuant to RCW 9.94A.500(1), unless specifically waived by the court, the court “shall order” the department to complete a chemical dependency screening before imposing a sentence upon a defendant that has a chemical dependency that contributed to the offense. Here, by all accounts, Mr. Mathes certainly has a chemical dependency that contributed to the offense, and there seems to be no waiver on the record.

The statute further instructs that if the court determines that the defendant *may be* mentally ill as defined by RCW 71.24.025, even though the defendant did not establish that he or she lacked capacity at the time of the offense, the court “shall order” the department to complete a presentence report. RCW 71.24.025, in turn, defines “mentally ill persons” by reference to other sections. Applicable here are RCW 71.24.025(1), which provides that a defendant with a mental disorder as defined by RCW 71.05.020 qualifies. A mental disorder means “any organic, mental, or emotional impairment which has substantial adverse effects on a person’s cognitive or volitional functions. RCW 71.05.020(29). Mr. Mathes’ long history of chronic mental illness makes this section applicable. RCW 71.24.025(9), which defines a “chronically mental ill adult” to include a person unable to engage in substantial gainful activity in the past continuous 12 months due to any mental disorder, also seems to apply. Counsel had a duty to ensure the court acted accordingly.

In State v. Brown, for example, the statute under which the trial court sentenced the defendant expressly mandated a presentence report, but the trial court refused. The Brown Court held that as it “cannot assess what impact a report that does not exist might have had on the outcome,” resentencing was required. 178 Wn.App. 70, 79, 312 P.3d 1017 (2013). The Court determined that even though the error was nonconstitutional, harmless error analysis was inapt insofar as a reviewing court “can only speculate as to what information a report might have contained and what effect that information might have had on the outcome.” Id. at 80. The Court thus concluded that because it cannot know how the lack of the report impacted the outcome, resentencing was required. Id. at 84.

Here, the same analysis applies. The court was obligated to order a presentence report on account of Mr. Mathes’ chemical dependency and chronic mental illness. It did not. Counsel also failed to ensure the court heeded its obligations. This is thus nonconstitutional error beyond harmless error analysis and/or prejudicial ineffective assistance. Either way, resentencing is required.

At the hearing, defense counsel seemingly attempted to argue for an exceptional sentence pursuant to RCW 9.94A.535(1)(e), which provides that a mitigating circumstance for the court’s consideration is whether a defendant’s capacity to appreciate the wrongfulness of his or

her conduct, or conform such conduct to the requirements of the law, was impaired. The court was quick to reject such contention. As noted above, had counsel been effective at trial, there would have been ample evidence supporting the request for an exceptional sentence.

Finally, also as noted above, counsel incorrectly acquiesced to an offender score involving scoring of one of Mr. Mathes' prior convictions—without any evidence, no less. As his criminal history is devoid of any class A or B felonies and he has been out of confinement without committing another offense which lead to conviction for more than five years, all of his criminal history “washed.” RCW 9.94A.525(2)(c); Ex. D.

For his present offenses, then, Mr. Mathes' offender score should be “7” on Count I with a standard range of 178 to 236 months rather than 209 to 277 months. See Ex. A. The court imposed 260 months, which is thus unlawful. On Counts VII and VIII, the recalculation is immaterial as he has more than “9” points. But, on Counts IX, X, and XI, his offender score should be “7,” which, again, is largely immaterial as the court imposed exceptional sentences so as not to exceed the statutory maximum due to the firearm enhancements. But, the changed calculations might have impacted the court's imposition of sentence, notwithstanding the unlawful sentence on Count I.

As this nonconstitutional error is a fundamental defect that inherently results in a miscarriage of justice, resentencing is required. See Goodwin, supra, at 867-68. It is also ineffective assistance of counsel requiring resentencing. See Davis, supra.

#### **H. THE NUMEROUS INSTANCES OF INEFFECTIVE ASSISTANCE COLLECTIVELY MANDATE RELIEF**

Given trial counsel's many deficiencies and the clear prejudice resulting therefrom, relief is mandated.

“Like materiality in the *Brady* context, prejudice resulting from ineffective assistance of counsel must be ‘considered collectively, not item by item.’” Doe v. Ayers, 782 F.3d 425, 466 (9th Cir. 2015) (quoting Kyles v. Whitley, 514 U.S. 419, 436, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); citing also Mak v. Blodgett, 970 F.2d 614, 622 (9th Cir.1992) (where there is a finding of cumulative prejudice, a reviewing court need not decide whether each error alone would meet the prejudice standard).

Here, had trial counsel properly investigated this case, conducted legal research, prepared Dr. Muscatel, communicated with and advised Mr. Mathes, presented all of the relevant evidence, and calculated a correct offender score, there is no doubt that the result would have been different. This is the very essence of an ineffective assistance claim, which warrants relief on the compelling facts of this case.

**VII. CONCLUSION**

For the foregoing reasons, Mr. Mathes respectfully requests that this Court reverse his convictions and remand for a new trial, a trial or hearing, or, at the very least—resentencing.

DATED this 11th day of June, 2018.

Respectfully submitted,

/s/ Craig Suffian  
Craig Suffian, WSBA #52697  
Attorney for James Mathes

LAW OFFICES OF JOHN HENRY BROWNE, P.S.  
800 Norton Building  
801 Second Avenue  
Seattle, WA 98104-3414  
(206) 388-0777

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on June 11 2018, I caused to be served electronically a copy of the Supplemental Brief of Petitioner in the Division II Court of Appeals, which will also effectively serve the state, and also caused a hard copy to be sent via U.S. mail to Petitioner James Charles Mathes, DOC #931439, at: Washington State Penitentiary, 1313 North 13th Avenue, Walla Walla, WA 99362.

DATED at Seattle, Washington, this 11th day of June, 2018.

LAW OFFICES OF JOHN HENRY BROWNE, P.S.

/s/ Kimberly Hennessey

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT A

## **A. Identity of Petitioner**

Petitioner James Charles Mathes hereinafter referred to as Mathes asks this court to accept review of prior decisions.

## **B. Decision**

Petitioner seeks review of decisions denying review, in The Washington State Supreme Court No. 94235-8 dated May 30, 2017, and the order denying re-consideration filed on February 16, 2017, and also direct appeal filed on January 23, 2017.

## **C. Issues Presented for Review**

- I. Abuse of Discretion Diminished Capacity
  - a) Misconstruction of controlling authority
  - b) Failure to provide adequate instruction
  - c) Court based decisions on unreasonable, untenable grounds
  - d) Abuse of discretion defense theory denied
- II. Ineffective Assistance
  - a) Failure to argue invalid judgment and sentence
  - b) Failure to adequately argue mitigating evidence
  - c) Failure to impeach witnesses
  - d) Failure to argue same criminal conduct
  - e) Failure to request appropriate jury instruction
- III. Speedy Trial
  - a) Failure to timely arraign
  - b) Manipulating bind-over process
  - c) Continuances failure to subpoena witnesses
  - d) Filed 8 additional charges just prior to trial start
- IV. Inconsistent, Perjured Testimony and Statements
  - a) Main witness committed perjury at trial
  - b) Lead detective perjured statements and testimony
- V. Appearance of fairness
  - a) Rulings on statement admissibility
  - b) Excluded expert testimony
  - c) Failure to provide pre-sentence report
  - d) Refusal to set appeal bond when requested
  - e) Sentenced based on invalid judgment and sentence
  - f) Rulings on witness interviews
- VI. Prosecutorial Misconduct
  - a) Amended days right before trial start
  - b) Speedy trial bind-over violations
  - c) Used known perjured evidence and testimony
  - d) Inaccurate statements in closing
  - e) Sub-rosa influenced jurors

## D. Statement of the Case

### I. Facts

Mathes was originally arrested and charged 12/31/13 with three felony counts. Mathes made initial first appearance in Kitsap County district court 1/14/14 ex (3)(A) after twenty-two months in custody just days prior to trial start date. Mathes was charged with 8 additional felony counts ex (3)(b) 10/19/15. Mathes was found guilty by jury trial 11/3/15, denied pre-sentence report opportunities and was sentenced on 11/6/15 to 8 felony counts and a total of 720 months.

Direct appeal was filed January 24, 2017, in Division II Court of Appeals NO-48401-3-11 where sentence and conviction were affirmed. Motion for re-consideration was filed Feb 16, 2017, and denied. Motion to review Court of Appeals decisions was also denied in the Washington Supreme Court NO-94235-8 on May 30, 2017.

This petition is brought forth pursuant to both Wash. and U.S. constitutional amendments entitlements. The rules of evidence of Washington State 401, 402, 702-05 and GrR1.2, 3.3, 4.1, 7.5, 8.3 and also R.C.W. 10.46.010 and 10.13.040 as well as all other applicable laws, rules, statues, and case law of both Washington and the United States including all relevant records and documents.

### II. Summary

This case stems from an incident involving Michelle Toste, knowing there was a felony no-contact order between her and Mathes which she regularly broke RP240. On 13/30/13 Toste was dropped off at Mathes's mom's residence by her daughter Stephanie Vierra ex(4)(b,E).

At some point in the evening Mathes started hallucinating and acting very paranoid and shooting up drugs RP 213, 239, 242 and pulled gun he said for protection. At some point Toste called her daughter to get her and Mathes more drugs. Shortly after around 5 am Toste's daughter Vierra showed up with drugs requested RP 295 and was saying her mother, Toste was acting very weird and must be too high RP 296, 281-82. After doing drugs Mathes and Toste left house and went to get coffee RP 259. Drove around for a few hrs stopped more then once for gas, cigarettes. Upon returning to Mathes's mom's house police were called to report no-contact order violation by Toste's sister. A confrontation pursued and as a result Mathes was shot multiple times by Kitsap County sheriffs office, only Mathes was injured.

Mathes first appeared in court 15 days later on 1/14/14 and was bound-over and first appeared in Superior Court 3/28/14 ex(3)(A,B).

Due to ample evidence of drug abuse and mental health issues diminished capacity was requested. Defense expert testimony was excluded based on misconstruction of controlling authority and failure to acknowledge expert testimony, where two offers of proof were made. Courts continued manipulation of admissibility requirements and ultimately after 2<sup>nd</sup> offer court admitting "we know the case now,"

inferring prior to that point, courts did not know the case. Court was ruling on determining an outcome that would ultimately create a life sentence for Mathes. RP 325-328, 611-619, 633-641 and courts statements regarding “knowing the case now” after 2<sup>nd</sup> offer of proof RP633.

Although defense theory was excluded, multiple statements during proceedings related to drug abuse and mental health were made, however no explanation as to their relationship to the crimes charged and their elements was given or explained to the jury in any way which Mathes will contend creates due process constitutional errors.

During trial lead investigators Det. Rodney Green testified after committing acts of perjury 2x(4)(AGI) which argument within this petition will discuss and in prior arguments Mathes’s statements of additional grounds court’s decisions were based on evidence outside the record however evidence not allowed on direct appeal is both new and factual evidence 2x(4)(H) affidavit of Kitsap County Sheriffs office deputy Mark Rufner which is seen within this petition.

Also where prior court decisions are based on incomplete review of entire record and Mathes’s rights were violated by this seen in appeal courts decisions on instructions. Mathes’s contention is that while review of this entire record may be lengthy as review of all proceedings need to be seen in context. Factual evidence and documentation provided within this petition should be carefully reviewed and Mathes’s right to a full and fair trial, and the opportunity to present a defense should be allowed.

E. Argument:

See attached brief

F. Conclusion:

Petitioner respectfully requests this court to grant review. Dismiss and or reverse and or remand and move for new trial for the reasons stated herein, and return entire case to Kitsap County and or stipulate issues and court’s position on reasonable remedy based on information and facts presented.

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## **GROUND I**

### **Abuse of Discretion – Diminished Capacity**

Although the issue of denying diminished capacity defense has been previously argued and rejected, supporting case law allows the re-determination under certain conditions. They may include new evidence, misconstruction of rules, failing to apply the correct legal standard or by applying the correct legal standard in an unreasonable manner, which could create an abuse of discretion affecting constitutional due process entitlements. In the Mathes case the court's disregard for the truth of the matter assented in determining admissibility of expert testimony in contrast to Supreme Court controlling authorities, rules of evidence in regard to evidence that would have been helpful to the trier of fact.

Throughout the Mathes trial, statements made prior to and after both offers of proof by the Court (see RP 24, 25, 107, 109, 611, 613-14, 618-19, 633, 635, 641) The Court is not sure of what the standards for foundational are in which Dr. Muscatel states have been met (see RP 88, 89, 93, 627). The Court suggests multiple different alternatives required to allow expert testimony, to include, expert opinion (RP 613), reasonable medical certainty (RP 107, 614, 618-19), requisite intent (RP 633, 635), culpable mental state (RP 640), specific intent (RP 107), most of which relies upon no longer applicable Edmon factors *State v Edmon*, 48 Wn.app 98, 621 P.2d 1310 (1981). By *State v Ellis* 136 Wn.2d 498, 965 P.2d 843 (1998) as those barriers were continually surpassed by expert testimony the courts continued to change the foundational requirements to allow expert defense witness testimony. Courts continued incorrect interpretation of *State v Atsbeha* with statements such as matter of foundation, foundational requirements, and foundational elements can be taken from the no longer applicable Edmon case that was updated in *Ellis* and discussed in depth in *Atsbeha*. In both *Ellis* and *Atsbeha* the correct interpretation regarding admissibility of expert testimony should have been determined by the strict application of evidence rules 702, 401, 402 as discussed in *State v Pirtle* and also *State v Gunderson* or related to erroneous legal view creating an abuse of discretion, *State v Lord*, *Stedman v Cooper*. The standard being abuse of discretion in court's exclusion of expert testimony under the rules of evidence. Court's requirements regarding specific intent as discussed in *Atsbeha* determining the four levels of culpability which according to criminal code 9A replaced general and specific intent show the courts incomplete and no longer applicable interpretations which creates a prejudicial showing in the court's overall attitude an abuse of discretion and due process violation. As evidenced throughout entire trial in statements from Court (RP 110, 619, 634) Prosecution (RP 99, 106) defense (RP 3, 89, 325, 611, 632) and both expert (RP 78-9, 83, 88, 626, 632) and lay witnesses (RP 213, 217, 232, 239, and 267) and sheriff's deputy Rick Stoner (RP 654) and information outside trial record (Ex (1)(A) Social security documents (1)(B), hospital records (1)(C), jail medical records (1)(D), and Kitsap mental health records) that ample information was provided during proceedings and currently exists of long-standing history of mental health disorders excepted by The American Psychiatric Association which are included in the diagnostic and statistical manual of mental disorders showing Mathes suffers from chronic mental health disorders and prolonged drug abuse, which is argued in *Tuilaepa v California*, *State v Pirtle* where mental disorders and their relationship to criminality and intoxication determining culpability are 8<sup>th</sup> Amendment Constitutional entitlements when mental health disorders and chronic drug abuse are present. In *Mooney v Holoran* and *U.S. v Salerno* where rejected defense opportunities to present defense create valid 5<sup>th</sup> Amendment due process violations. Although overlooked in the Mathes case, expert testimony did make the connection CS to how pre-existing mental health disabilities were exacerbated by drug

abuse and also how the combination effected the ability to form the culpable mental state required and left Mathes unable to meet the intent elements in crimes charged (RP 78-85, 87, 89, 96, 100, 626-27, 630-33) in light of given testimony in Mathes case analogous with State v Ramm where Dr. Muscatel testified identically in both cases in regard to self-defense versus intent theory and in Ramm as a result, defense was allowed to present evidence of issues related to diminished capacity and its relation to voluntary intoxication which is an abuse of discretion in the rejection and denial of expert testimony related to Dr. Muscatel's diminished capacity defense theory and related issues where Mathes was prohibited from presenting any identical information or evidence. In review of Atsbeha the Kitsap County Court and Division II Court of Appeals decisions it may be possible the courts missed the ultimate issue in Atsbeha applicable to the determination in the Mathes case. The Washington Supreme Court's reasonings behind their reversal decisions. The expert testimony would be excluded as not helpful to the trier of fact decided by the rules of evidence due to both Atsbeha arguing that he could and did form intent to deliver, and expert testimony also determining that Atsbeha could form the intent required to take directions and deliver. This allowed the court's determination that Atsbeha's capacity was not diminished. Thereby proving that his intentions were lawful in his mind. This is not at all analogous to Mathes. Where Mathes never claimed or stated at any point that he could form intent or that he thought his actions were lawful whereas in Ramm if intent was present in Ramm it was the intention to defend himself specifically related to Mathes, intent did not parallel intent to assault, kidnap, imprison or harass which is also agreed and expressed by post-conviction juror statements claiming Mathes's intent was to flee or escape (ex (1)(E)). Ultimately Dr. Muscatel's testimony would have been negated charged intent elements where expert testimony evidence would show at most defense, escape, or suicide intentions not assault, kidnap, imprison, or harassment intentions. However the ultimate issue in Atsbeha applicable to Mathes would be the determination of admissibility of expert testimony evidence given to the jury to allow a fair and full opportunity to present a defense, rather the Court's unreasonable focus of determining admissibility based on expert opinion through the Court's misinterpretation of the Controlling Court authority. In State v Clark clinical evaluation advances a diminished capacity defense when shown that intellectual deficits impaired the defendant's ability related to culpable mental state by excluding on the element of Mens rea Trial Court violated Clark's constitutional right to present a defense in violation of evidence rules. This error was not harmless.

Post-conviction juror statements show that there was evidence provided to the jury that there was not only mental health issues, but use and abuse issues as well (ex (1)(F)). However as evidence and inferred from jury statements, if the jury heard these things multiple times throughout entire proceedings yet failed to receive any type of explanation of instruction as to how issues were related to intent elements required to convict on crimes charged. By excluding expert testimony which ultimately denied jury instructions as well as the opportunity to provide related mitigating evidence and special circumstances regarding mental disorders, intoxication and their relationship to crimes charged and their elements Reddy v Kelly mitigating elements necessary to present defense Tuilaepa v California where requirements are met when jury can consider relevant mitigating evidence and circumstances of the crime. The jury's view must be expansive enough to accommodate relevant mitigating evidence to assure assessment of defendant's culpability. Circumstances extenuate gravity of crime, which are due process constitutional entitlements. In light of all facts and evidence shown, only through hearing all related evidence allowable through evidence rules 702, 401, 402 would the trier of fact been able to determine the specific versus generalized intent elements to determine culpability and ultimately guilt or innocence as the generalized intent instructions provided were not sufficient to appraise the jury of

the effects of mental disorders or intoxication on the defendant's capacity to commit the crimes charged, which is shown in *State v Griffen*. Trial proceedings review will show Court's failure to accurately acknowledge possibly even completely ignore relevant aspects of expert testimony *State v Huckaby* and *Quince v Florida*. The Court agreed and was in collusion with Prosecutor's unevicenced and opinions that Mathes thought his actions were lawful or that Dr. Muscatel's testimony revealed that Prosecutor's statements (RP 100, 103, 630, 637) Court's statements (RP 108, 110) contrary to these statements is expert testimony directly related to these issues (RP 100, 630). Courts also dismissed any acknowledgements related to opinions by Dr. Muscatel that would have been used to determine admissibility of expert testimony, and considering the Court determined admissibility based on no showing of opinion this does show a collusive abuse of discretion (RP 111, 613, 641) which directly contradicts the Court's own standards used in ruling on admissibility of expert testimony (RP 634-35, 641). An abuse of discretion is shown in the Court's unsupported view *State v Lord* evidenced directly from statements of fact, presented and heard by courts, from Dr. Muscatel's testimony. (RP 89, 91, 626, 628, 630).

In trial proceeding prior and during Dr. Muscatel's 2<sup>nd</sup> offer of proof the Court's statements show although Court states repeatedly reading the *Atsbeha* case (RP 106) and long after ruling the 1<sup>st</sup> offer of proof the Court contract ledges "we know the case now" (RP 633) which would infer that prior to, and including, prior rulings Court was not knowledgeable of the entire controlling authority in *Atsbeha* also shown in statements such as "whatever the standard may be" by the Court (RP 635) show Court's lack of understanding and knowledge also seen as abuse of discretion in Court's rulings. Where Courts continued throughout entire proceedings to use no longer applicable statements directly from *Edmon* focusing on reasonable medical certainty and specific intent requirements only showing lack of ability or willingness to accurately interpret the entire *Atsbeha* case, including Washington Supreme Court decisions and current applicable law, and accurately interpret the rules of evidence in *State v Pirtle* discussing correct legal standards shown in both *State v Athan* opinions, inferences, or otherwise and *State v Maddox Kitsap* related specific intent testimony admissibility. Although ultimately the issue stated during proceedings *State v Mitchell*, *State v Griffen*, *State v Thomas* which were all cases applicable to Mathes although completely ignored by the Court where *Wright* versus admissibility allowed the trier of fact were pertinent to Mathes. In *State v Nguyen* where Dr. Muscatel opined with the statement "quite possible" which allowed admissibility of expert testimony in *State v Roman* where identical to Mathes testimony was given by Dr. Muscatel stating that it was possible that Ramm, due to the exact same self-defense theory offered in Mathes was not capable of the culpability requirements to convict. But more importantly as a result Ramm was allowed to present extensive evidence of mental illness that caused delusions, and jury was able to hear that Ramm it was possible, was defending himself which was a more accurately ruled decision based on CrR, E.R., and due process requirements than in Mathes (RP 87, 96, 98, 627, 630). Dr. Muscatel's continued statements regarding delusion which was applicable to Mathes, and was allowed in Ramm, also negates Court's rulings based on erroneous interpretations of Supreme Court decisions under what Court and Prosecution both agree are these analogous conditions. In *State v Gunderson* Court's decisions based on unreasonable or untenable grounds and those erroneous decisions impacted the overall trial outcome as argued in *State v Pirtle* all that is required by law to overturn convictions is that there could have been a different outcome minus Court's unlawful and erroneous actions seen in *Reddy v Kelly* and *Wiggins v Smith*. Related to this argument, is Counsel's failure to adequately argue and present express defense theory evidence only advances Mathes's argument.

As a result of defense counsel's actions and all information presented State v Harper. Through the rules of appellate procedure and the Washington Supreme Court R. 7.6 (A)(3) would be applicable under new evidence rules where newly discovered evidence presented by defendant applies, is due to the combination of counsel's deficient performance and being denied any form of access to study or research throughout entire proceedings evidenced by Superior Court judges denying any and all law library access (ex (1)(G) Mathes was only granted access to research materials post-conviction. State v Meterland discusses raising issues not in existing record through the appropriate means of a personelle restraint petition. U.S. v Salerno explains no set of circumstances exist that will allow violations of the 5 amendments due process clause protection. Where he Courts acts or omission deprive defendant opportunities to present evidence shown in Mooney v Hololran and explained in State v Clark where exclusions on the element of mens rea violating rules and constitutional entitlements which violated due process rights in turn creating an abuse of discretion which would allow the Court to reverse and remand fulfilling the opportunity to request a new trial. In Re Taylor where factual issues shown by applicant show the eras of jusice would be served by re-determination where prior hearing was not fair and full.

Mathes would respectfully request reverse and remand for a new trial with Court ruling to allow diminished capacity defense and opportunities, as well as the opportunity to request diminished capacity and or voluntary intoxication instructions to jury in future proceedings as well as self-defense theory opportunities evidenced through expert testimony to accurately appraise the trier of fact as to the relationship between these issues and the intent elements required in the crimes charged.

## **GROUND II**

### Ineffective Assistance

Previously cited in Re Taylor although grounds may be rejected in prior applications, it is open to the applicant to show the ends of justice would be served by permitting re-determination of the ground, if factual issues not previously presented show the evidentiary hearings on a prior application were not fair and full. That a collateral review must be available in cases in which the Petitioner was actually prejudiced and that the appropriate means of relief would be through a personal restraint petition unless the same issue on the same ground has been previously argued. In the rules of appellate procedure 16.4(C)(2) where conviction was obtained or sentence or order entered in violation U.S. or Washington Constitution or law.

Directly related appellate procedures where validity is at issue in determining whether a judgement and sentence is valid on its face. A court is not limited to the four corners of the judgement and sentence and may consider other documents that may reveal facts showing legal error, facial invalidity may be found as in the Mathes case through information not allowed on direct appeal as a result of being outside the trial record.

The Prosecution's statements during sentencing validate in Mathes the arguments presented in State v Jones where an error of law or fact exists within the four corners of the judgement and sentence (RP 14-16) and current judgement and sentence, and also prior history judgement and sentence, 92-1-00857-1 (ex(2)(A) where, Count 1 R.C.W. 69.50.401 which is a class C felony which should have washed with all other class C felonies, which does in fact show current judgement and sentence is invalid on its face and again in State v Jones once an error of fact or law has been proven within the four corners of

the judgement and sentence this can constitute ineffective assistance not just in merely not arguing or discerning but in failure to challenge offender score points Wash issues. Lefler v Cooper also discusses the second prong of the ineffective assistance standard in Counsel's failure to argue prior convictions. State v Hendrickson showing defense counsel's inability to adequately defend and effectively argue relevant issues. State v Foster where showing of a conviction with incorrect offender score not argued by defense is ineffective assistance as in Mathes's case when factual evidence has proven that the judgement and sentence were invalid due to incorrect prior history and points Wash calculations if the correct prior history was not used to determine points calculations then how can it be said the correct offender score was used. State v Thorn with no existence in the record of proof in the Mathes case that the state presented a certified copy of a judgement and sentence to establish prior convictions that were admissible also in State v Gentry and in this instance where the state fails to establish a criminal history and in the Mathes case. C.S. in State v Inocenia the defendant bears the burden of establishing the invalidity of a prior conviction. Where in Mathes's prior drug conviction was in fact not a class B, but class C felony which should have washed with all other class C felonies, which creates a clear showing that defense counsel was ineffective and that defendant was prejudiced by counsel's failures as all, not some of the prior class C convictions should have washed. State v Meforland the appropriate means of presenting facts of evidence on appeal not found in the existing record is through a personal restraint petition.

The 5<sup>th</sup> Amendment's due process clause violations give privilege against compelled self-incrimination which applies through the 14<sup>th</sup> Amendment of the right to counsel under Miranda v Arizona where the primary purpose of defense counsel during interrogation is to ensure suspect's ability to speak or remain silent is unfettered, and also where defendant was drunk or on drugs and the mental condition interfered with the volitional abilities to make free and rational choices. Due process applies where coercive police conduct used to obtain confessions and those statements are used at trial do fall within the fruits of a poisonous tree doctrine as evidenced in Mathes's case where documentation will show that Mathes was under heavy sedation in the hospital and coming out of surgery (ex (2)(b) and (RP 45, 50-51) also evidenced by hospital records (ex (1)(B) where on 12/31/13 testing did show that both amphetamines and benzodiazonines were detailed in Mathes's system showing he was highly intoxicated at the incident scene. These factual issues make a showing of both voluntary and involuntary intoxication as well as a long history of mental illness (ex (1)(A). All evidence that was accessible and available to defense counsel. Bower v Quonterman discusses as in the Mathes case counsel being able to apply relevant law and adequately litigate, falling below the objective standard where as failure to interpret and apply a case as common as Miranda v Arizona from which all of our Miranda rights and warnings originate. Counsel's failure to adequately argue these proven factual issues during 35 hearings or at trial clearly make the ineffective assistance showing. Also arguable would be the excited utterance ideal seen in State v Ramm where as in the Mathes case, Mathes was highly intoxicated and had been shot multiple times. Any reasonable person would agree that at that time Mathes was not thinking clearly or able to understand and adequately acknowledge Miranda warnings. Yet defense counsel completely failed to adequately argue or address any of these issues during 35 hearings and those actions did prejudice Mathes as these statement made by Mathes both in the hospital and at the scene were used by prosecution in violation of the fruits of a poisonous tree doctrine but even more importantly in violation of the 5<sup>th</sup> Amendment through the 14<sup>th</sup> Amendment related to self-incrimination where all the 12 inadmissible statements were heard by the trier of fact and could have affected the overall outcome. State v Conteras where as in Mathes counsel failed to request jury instruction, and

offer to jury mitigating circumstances to allow the trier of fact to determine based on credibility what weight should be given to all statements Mathes made. However counsel's lack of ability or willingness to actively participate in pertinent aspects of the adversarial process show ineffective assistance of counsel. And although the Court of Appeals agrees that defense used these statements, defense only attempted to take advantage of using Mathes's statements to some possible benefit after Court's erroneous rulings.

Counsel's failure to object or impeach as seen in *Locascio v Fla Dept of Corrections* was ineffective where he failed to present perjury allegations which also met the showing of prejudice seen in *Strickland v Wash*. Where as in Mathes, new evidence from discovery that counsel had for 18 months shows text messages involving Stephanie Vierra, showing that on 13/30/13 Vierra dropped Toste off at Mathes's residence. Contradictory to all interviews and testimony under oath by both Vierra and Toste (ex (4)(B) as seen in perjury argument within petition. In *State v Kong* which could be seen as identical to Mathes where in *State v Kong* it states that counsel's performance was deficient for failing to object or move to strike evidence tendered by the state that was used during trial and closing, arguments which prejudiced defendant, showing not only ineffective assistance violations to the 6<sup>th</sup> Amendment of the U.S. Constitution. (RP 743) and (ex (4)(B) where text messages are acceptable forms of communication *U.S. v Siddiqui*. Proof this evidence existed and was available to defense counsel yet never pursued for impeachment purposes. Mathes was prejudiced by counsel's deficient performance specifically in that by bringing to light the impeachment value which would have negated the abduct element in the kidnap charge substantially reducing Mathes's time structure by relieving a most serious offense, 1<sup>st</sup> degree kidnap, where factual evidence proves that Mathes did not pick up Toste 13/30/13 but rather that she came to his house which negates intent or abduct element to kidnap which shows both prongs of he ineffective assist standard.

Same criminal conduct in both *State v Ohnemus Ct of Appeals Div II* and *State v Todder*. As in Mathes's defense counsel's failure to argue some criminal conduct when second degree assault and harassment were both charged and guilt determined when the same time, place, victim, and intent charged all applied does show ineffective assistance, which fell below reasonable standards under prevailing professional norms. And this does show counsel's performance was ineffective and did violate the 6<sup>th</sup> Amendment's right to the assistance of counsel as well as the 1<sup>st</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments which in summation state that we are all allowed equal protections, due process of law, full and equal benefit of all laws and protection against impairment.

In support of defense counsel's only express trial strategy, mitigating elements necessary to present a defense will generally be presented as shown in both *Reddy v Kelly* and *State v Deem* and again in *Wiggins v Smith* where as in Mathes's counsel's failure to investigate and present relevant mitigating evidence of the accused's background and life history (ex(1)(A,D) which violated the Sixth Amendment related to effective assistance in failing to introduce to the court or jury evidence of prior mental diagnosis, treatment, or hospitalizations or any evidence of prolonged drug abuse that could have advanced arguments either in 35 hearings related to admissibility of Mathes's statements, juror perceptions or during sentencing considering, despite no refusal, pre-sentence reports were never requested or done. This could have affected the Court's rulings on admissibility of Mathes's statements as well as expert testimony on diminished capacity as well as sentencing, which had any of this factual evidence been introduced, it could have created the possibility of a different outcome.

If the only defense strategy used, involved diminished capacity and or involuntary intoxication related issues any reasonable person would think that all relevant evidence in support of the defense strategy and theory would at least be introduced, argued, or addressed during applicable portions of proceedings and factually shown evidence of any mitigating factors not being introduced to support express trial strategy does show ineffective assistance.

Based on the defendant's proposed jury instruction (ex (2)(C) showing counsel's deficient performance to request the appropriate instructions as seen in State v Pirtle were chronic drug use allowed counsel to request the appropriate instruction. The court concluded that as a result of counsel's deficient performance the jury was prevented from hearing any culpability elements related to charges and how either prolonged drug abuse and or the existence of mental health related issues could effect the related intent elements where the mens rea requirements were never discussed or instructed to the trier of fact where specific intent versus mens rea as seen in State v Clark also State v Hackett showing prejudice in the Mathes case where defense counsel never even attempted to offer instruction related to intent shows deficient performance that did prejudice defendant Mathes, especially in light of State v Ortega-Martinez where the jury must receive a unanimous instruction and in Mathes where multiple charges were charged and intent would vary, no related instructions were given. Which in State v Ortega-Martinez was a manifest constitutional error from these alleged instructional errors. For the exact reason argued in the Mathes case specific intent versus mens rea relationships to individual charges. Although in closing prosecution argues in multiple instances. Mathes's intent to flee or escape (RP 773, 775) which left the jury to the opinion that intent is general and being guilty of intent to flee or escape met the required elements on all charges. Charged also shown in post-conviction juror statements (ex (1)(E) saying they agreed with prosecution that Mathes's intent was to escape. This shows that defense counsel's deficient performance was extremely prejudicial in failing to request instructions to the jury at least explaining intent relationships was ineffective assistance. Intent to flee or escape is not intent to assault, kidnap, imprison, or harass. For the purpose of this argument related to failure to instruct showing ineffective assistance and how Mathes was prejudiced by counsel's failure to give adequate instructions or even request related to CrR 4.7 State v Hendrickson, prosecution witness prior felony convictions, Miranda v Arizona and Was Ct. R. 3.5 jury shall be instructed that they give weight and credibility to confession in view or circumstances. In Mathes, jury should have at least received instruction related to circumstances surrounding statements made both at scene and in hospital. Strickland v Washington jury should have been appraised of inconsistent and or perjured testimony and the credibility and weight to be afforded to witness testimony based on defendant's proposed jury instructions during entire proceedings, where some sort of instruction should have at least been proposed. The entirety of evidence provided within this argument clearly shows defense counsel's performance fell below professional norms. Mathes would respectfully request reversal and remand for new trial and or the appropriate remedy in light of all evidence provided within this argument.

### **GROUND III**

#### **Speedy Trial**

The U.S. Constitution's 6<sup>th</sup> Amendment, revised code of Wash., and both state and federal evidence rules as well as local court rules all require strict adherence to speedy trial requirements and also require dismissal when these violations occur. The federal Crim P.R. also agree that the court may

dismiss an indictment, information, or complaint if unnecessary delay occurs in bringing a defendant to trial, which is applicable to the states. The American Bar Association standards are also in agreement and require absolute discharge when the matter is not brought to trial within the time limited. Past experience has shown that unless a strict rule is applied, the right to a speedy trial, as well as the integrity of the judicial process, cannot be effectively preserved.

The rules of Criminal Procedure were promulgated are to be construed to secure simplicity in procedure, fairness in administration, effective justice, and the elimination of unjustified expense and delay. This principle should be scrupulously adhered to in the spirit of the criminal rules in general and the speedy trial rules in particular.

Where the improper use of the Preliminary Hearings Process is used in an improper manner CrR 1.2, or when time periods for arraignment are violated when defendant is in custody CrR 4.1. The right to a speedy trial guarantees under the Sixth Amendment of the U.S. Constitution attaches when the defendant is arrested and held to answer which in the Mathes case was 13/31/13 evidenced by the Kitsap County Sheriff's Office arrest and booking info (ex(3)(G) and (RP55) State v McIntyre. Mathes was not initially charged in district court until Jan 14, 2004 (ex (3)(A) in violation of the 14 day rule. Analogous to State v Christopher where Mathes was charged with multiple most serious felony offenses and Prosecution had no intention to charge in district court, yet took advantage of the judicial process manipulating speedy trial requirements with erroneous use of the Bind-over process also seen in State v Edwards. The prosecution must be dismissed if a preliminary hearing for the purposes of binding over defendant from district court to Superior Court is not held before time periods expire under CrR 3.3 that the period for which a defendant must be brought to trial commences no later than the 10<sup>th</sup> day following his arrest, although Mathes was initially bound over from district court to superior court until 3/28/14 (ex (3)(B). The 89<sup>th</sup> day after arrest, under the best of conditions Mathes did not defer bindover and extend jurisdictional time limits affecting time limits to bind-over to superior court. However where Mathes did not appear in court to defer bind-over until 2/11/14 (ex (3)(A) and was actually bound-over to superior court until 3/28/14 (ex (3)(B) which under CrR 3.3 does show speedy trial violations when taken in context to prosecution's attempt to manipulate speedy trial entitlements also seen in R.C.W 10 46.010. This 60 day rule is not an inflexible yardstick by which constitutional guarantees to a speedy trial of felony charged would be filed State v Striker a speedy trial in criminal cases is not only a personal right protected by the state and federal constitutions, it is also an objective in which the public has an important interest.

Although trial was originally set approximately 133 days from arrest May 12, 2014 (ex (3)(B) on May 27, 2015, 515 days after arrest, prosecution filed a motion to continue trial (ex (3)(C)(D) requesting continuance based on several prosecution witnesses that should have been previously subpoenaed, not being available. Also filed on June 24, 2015 was prosecution's second amended witness list (ex)(3)(E) not only showing no conflicts for trial which had been scheduled 6/24/15 but more importantly also showing that 4 of the 5 witnesses that continuance was based on were all cancelled and never used at trial State v Adamski which is analogous to the Mathes case in that the evidence presented has sufficiently shown prosecution's failure to exercise good faith and due diligence by sending subpoenas to witnesses, which can also be argued in Mathes that these witnesses were not key or essential witnesses where as in Adamski the court ruled in Super. Ct. Crim. R. 45 (C) that these types of continuances were prejudicial to the defendant, and a violation of the defendant's right to speedy trial and should not be excused simply because the defendant could not show prejudice. The Washington

State Constitution art. 1 § 22 says that in criminal prosecutions the accused shall the right to a speedy and public trial by an impartial jury, and the U.S. Constitution's Amendment VI says the accused shall have the right to a speedy and public trial. Great efforts have been made to remove these traps for the unwary from this rule and when its provisions are not followed a sanction of dismissal is appropriate.

Superior Court Case Summary (ex (3)(B) claiming states first amended information filed just days prior to trial start date. Multiple documented messages sent from prosecutor Enright to Ness and from defense attorney Ness to prosecutor Enright on both August 11, 2015 and Sept 9, 2015 discussing plea options and adding 3 charges to the original information's 3 charges totaling six showing that on Sept 9, 2015 the original information was still applicable (ex (3)(F) proving that multiple charges were added days before trial start date. State v Michielli states delay without reasonable justification in filing an amended information to charge additional crimes against a defendant just days before trial is to begin, when for several months the state had in its possession all the evidence needed to file on all charges against the defendant constitutes governmental misconduct for purposes of CrR 8.3(b) stating for the purposes of this petition's speedy trial rights argument that prejudice affecting defendant's right to a fair trial which includes the right to a speedy trial and in Mathes which is very similar to Michielli as Mathes was forced to either go to trial unprepared or give up speedy trial rights showing Mathes was prejudiced by prosecution's actions which does make CrR 8.3 (b) applicable.

In this instance where the appropriate remedy would be complete dismissal Mathes would respectfully request dismissal or in the alternative reverse and remand for new trial.

#### **GROUND IV**

##### **Inconsistent Misstatements – Perjured Testimony**

The Wash. Super. Ct. Crim. R. 7-8 (b) says that if a trial witness committed perjury this does constitute a material fact that may be considered by the court in the interest of justice upon motion for relief. R.C.W.9A.72 Whoever knowingly swears falsely under oath or testifies falsely withholding relevant information to statements made under oath is guilty of perjury. R.C.W a.81.110 also states that misstatements are also punishable as perjury, when a sense of justice is offended by false testimony used to obtain a tainted conviction, rules related to perjury state that written statements shall be deemed to have been made under oath if they contain a declaration preceding signature. To the effect of penalties of perjury. That any person that makes a material misstatement of fact in any affidavit should be subject to the penalties of perjury (ex(4)(A) affidavits, statements of fact, and recorded witness interviews accompanied by factual documents related to these issues and how in the Mathes case evidence will show multiple instances of perjury and or inconsistent or misstated statements.

U.S. vs Siddiqui emails, texts, and chat rooms from addresses associated with a particular sender are acceptable forms of evidence within the rules of authentication. Text messages to and from Stephanie Vierra show the question "did you already drop her off (ex (4)(b) when taken in context to all text message records, sent and received. This will show that Michelle Toste did violate R.C.W.9A.72 and R.C.W.9.81.110. Ultimately the showing of perjury has been made (ex(4)(C) and also (RP 192, 244, 245, 762) and (RP 28, 29). To show the impact of these perjured statements and how they effect proceedings. This witness's blatant disregard for the law can be seen not only in perjured statements under oath, but also in this witness's propensity for dishonesty evidenced by a willingness to continually violate felony no contact orders (RP 240). This propensity for dishonesty became so apparent during

proceedings that both the court and prosecution make reference to this witness's credibility (RP 328, 768). These issues of inconsistency and or dishonesty can also be seen in letters written by Toste (ex (4)(D) and (ex (4)(E) when taken in context to entire proceedings. This evidence advances petitioner's claim, where any reasonable person would agree that based on factual evidence, Toste did get dropped off at Mathes's house as all Toste's recorded interviews and statements (ex (4)(C). If she was so insistent on Mathes not coming to her house why then would she agree to have Mathes come to her house and get her. Common sense would advance the truth of the matter asserted Toste did get dropped off at Mathes's house that evening prior to incident. State v Stovall by aiding or agreeing to aid in the commission of a crime where Toste knew that a felony no-contact order was in effect. That Mathes was a convicted felon, and knew Mathes had a gun. Toste took actions with knowledge that a felony crime was being committed which does subject her to criminal sanctions (R.C.W 9A.08.020 (2)(A)(C) related to accomplice liability Toste willingly acted with a culpability which constitutes a crime which shows that Toste acted knowingly and willingly and was not abducted, which is a required element of 1<sup>st</sup> degree kidnapping. As a direct result of Toste's perjured, inconsistent statements and testimony Mathes was convicted in error, where had these inconsistencies been addressed. Those elements needed where Mathes had to abduct were not met and ultimately the trier of fact based decisions on fraudulent information. Creating an extremely high probability of a different outcome had these errors not occurred. Stephanie Vierra also testified at trial and gave recorded statements that Mathes picked Toste up at her home (ex)(4)(F) when in fact (ex (4)(B) is related to information taken from Stephanie's phone at incident scene showing Vierra did, by federal evidence provided, drop Toste off at Mathes's residence, only strengthening Mathes's argument that jury was affected by inconsistent perjured testimony. State v Pirtle The probability of a different outcome is all that is required by law to allow the court to determine the appropriate remedy to address these issues.

Detective Rodney Green, lead WSP investigator for prosecution, under penalty of perjury, within his written affidavits and case synopsis statements made inconsistent or perjured misstatements (ex (4)(A). Det Green did not arrive on scene until an hour after incident occurred (RP 530). Det. Green's affidavit relevant to probable cause for arrest was contradictory to, and inconsistent with, any other testimony provided by any witnesses on scene at the time of the incident in expanding argument also inconsistent with later misstatements by Det. Green (ex (4)(G). These inconsistent statements were used to assist in determining probable cause and original information and charging documents stating "Mathes exited residence with a revolver pointed at Toste" versus all on-scene witness testimony that no gun was seen when Mathes first exited house and even later statements from Det. Green under penalty of perjury stating that Mathes exited residence with gun in his waistband. These misstatements could have affected probable cause and charging documents, and also could have affected decisions determining excessively high bail, had these issues been addressed and used to help determine credibility, later inconsistencies by this prosecution key witness would have been more accurately determined by the trier of fact. The U.S. Constitution 4<sup>th</sup> Amendment's exclusionary rule 6.06 as in U.S. v Lopez-Zoto. The Ninth Circuit concluded: There is no good faith exception to the exclusionary rule for police who do not act in accordance with governing law. Evidence rule 613 State v Garland as shown in evidence in Mathes case these inconsistent statements may only be admissible to show that trial testimony is unreliable.

The purpose of the hearsay rule is to prevent witnesses from testifying to statements made by absentee individuals who can't be seen or cross-examined and statements made in police reports are

only admissible as prior inconsistent statements to cast doubt on the accuracy of officers' testimony. Several instances of inconsistent, inaccurate, or fraudulent statements made by Det. Green during testimony, heard by jury prejudiced defendant and violated due process guarantees to include (RP 528-532) which shows that the Washington State Patrol by policy was to conduct investigation. That it was a secure crime scene, and that Det. Hedstrom took pictures for Det. Green immediately after arriving on scene and starting investigation, completely contradictory to these inconsistent statements, evidence does show that information in Det. Green's possession show that it was not a secure crime scene. Kitsap County Sheriff's Office Deputy marked and secured evidence prior t scene being secure (ex (4))(H). Record of proceedings will also show that Det. Green arrived on scene an hour after incident and immediately started investigation (RP 530). According to Det. Hedstrom's investigative report (ex (4))(I) she left the incident scene almost immediately after arriving and did not arrive back on scene until 1704 hrs almost 5 hrs later and in (RP 600-01). Det Hedstrom did not go up driveway to scene until after reporting to fire station. This factual evidence shows that Det. Green's perjured misstatements affected the jurors' opinions regarding possible scene security and cumulative error that occurred in the chain of custody, of the fruits of a poisonous tree doctrine evidence where Mathes was charged with multiple charges and gun enhancements based on that evidence. Also seen in Det. Green's statements when questioned on why there was tape on the handgun when Det Green arrived (RP 580-81). In directly related issues (RP 542) Det. Green explaining how specifically evidence is securely sealed, and in later testimony (RP 562) Det. Green testifies he secured gun box, yet in previous testimony (RP 548-49) it states that Det Hedstrom not Det Green secured gun box, according to Det Green's instructions to jury on how evidence is effectively preserved. All these documented instances of perjury or at best misstatements show Det. Green testified to hearsay evidence of multiple instances of perjury when Det. Green's testimony is taken within context of proceedings. For the purpose of advancing this argument please also see further inconsistencies directly related to the evidence involving gun, live rounds, possible test fires, and actual bullets from gun directly from Det. Green's testimony (RP 543) inconsistencies (P 546-47) specifically (RP 547-48). If all evidence inspected by Washington State Crime Lab Seattle Wash. was marked and labeled by crime lab why is Det. Hedstrom's signature still on the gun box (RP 549) misstatements admitted by Det. Green (RP 550).

Our U.S. Constitution's 6<sup>th</sup> Amendment confrontation clause forbids prosecutors from proving a defendant's guilt with written statements from absent witnesses and a police report does not fit within the exception to the hearsay rule Crawford v Wash. A must in granting relief when 14<sup>th</sup> Amendment violations to the U.S. Constitution occur when false evidence was material and all false statements should have been objected to and witnesses impeached. Giglio v U.S., Locascio v Florida and State v Plumley. Perjured testimony relied on by the trier of fact to produce an adverse judgment prosecuted on the basis of perjured testimony should negate any implications. The prejudice Mathes incurred as a direct result of Det. Green's inconsistent and perjured misstatements were used by prosecution in closing arguments from evidence never admitted into evidence live rounds that were not present or presented into evidence (RP 775).

The courts have determined that under these and similar circumstances brought on motion of new evidence rules not allowed on direct appeal. The appropriate means to address issues would be through a personal restraint petition. *Michell v U.S.*, *Killian v Poole* and *State v Smith* all discuss reasonable remedies upon motion for relief, a new trial specifically through the evidence rules and appellate procedure and also in *U.S. v Perry* states when these particular circumstances exist the

conviction must be reversed and remanded for new trial with possible sanction or instruction to remedy evidence errors that affected overall trial outcome.

Mathes would respectfully request based on previously cited case decisions that the court determine the appropriate remedies to correctly or accurately address these errors to include possible reverse and remand for new trial.

## **GROUND V**

### Appearance of Fairness

In a case where the opportunity for an abuse of discretion or prejudicial error is so great the judiciary would have an obligation to protect, with a heightened level, the appearance of fairness as in U.S. v Surendo, State v Jacob Gamble and James Harris not only requires the judge to appear impartial, but also requires an impartial judge within the appearance of fairness doctrine. The entire judicial proceedings viewed in context will show examples of prejudicial treatment throughout the entire judicial process.

Court's decisions on ruling on admissibility of statements made by Mathes both on scene and at hospital (ex)(5)(A,B). All statements beneficial to prosecution were ruled admissible in violation of the U.S. Constitution's 14<sup>th</sup> Amendment. Gallegos v Nebraska prior statements being used, giving color to petitioner's allegations of unfairness, despite information of mental health history, voluntary abuse of drugs (ex)(1)(A,B,D) mental health history and factual proof that both methamphetamines and benzodiazapines were in Mathes's system on 13/31/13. The day of arrest while hospitalized Mathes was given extremely powerful pain and sedation medications for multiple gunshot wounds amounting to involuntary intoxication. The combination of these issues in direct violation to prior ruling in Miranda v Arizona considering the massive extent of Mathes's injuries sustained at the incident scene, the excited utterance hearsay rule as applied in State v Ramm would be applicable in Mathes. The court's rulings to allow Mathes's pre and post Miranda statements as seen in the fruits of a poisonous tree doctrine later in trial did have an impact on overall trial outcome. As seen in prosecution's closing argument where Mathes's statements were continually repeated to the trier of fact. However all statements they may have beneficial to defense to help the jury determine state of mind, mental disabilities, or any circumstances surrounding all statements and supporting defense theory heard in 35 hearings were all excluded.

Excluding expert testimony related to diminished capacity and or voluntary intoxication not only in misconstruction of the controlling authorities by also in rulings by court in direct contradiction to expert testimony requirements (RP 107-109, 611, 614) also see 2<sup>nd</sup> offer of proof (RP 633). "We know the case now" first showing that the court's continued attempts to apply the Edmon factors which is outdated and no longer applicable as shown in State v Ellis which was explained in State v Atbeha as shown in State v Pirtle related to unreasonable determinations in an unreasonable manner also seen in State v Gunderson. Secondly the courts saying "We know the case now" would strongly imply that in court's rulings on the 1<sup>st</sup> offer of proof the court did not know the case, however continued attempts to apply the incorrect legal standards shows the abuse of discretion and continued unfairness. In both rulings determining admissibility of expert testimony the court based part of that determination on contradictory, erroneous opinions related to Mathes's lawful self-defense (RP 108, 110) which in no possible way can be inferred from Dr. Muscatel's statements regarding lawful acts (RP 96, 100) directly

from State v Pirtle in regard to decisions made in an unreasonable manner to the facts before it. Although in State v Ramm analogous with Mathes Dr. Muscatel states it's possible Mathes thought he was defending himself (RP 87, 96) again showing the court's strict adherence to a misconstruction of controlling authority (RP 611, 613-14, 633) in regard to court's determinations on rulings and requirements of admissibility of expert testimony see court's statements after second offer of proof (RP 635). At this point the court having ruled on a separate offer of proof should at least know what the standard is on admissibility of expert testimony is the ample evidence requirement, does not have to meet the reasonable doubt requirements to convict expert witness admissibility requires only ample evidence which was more than shown by the second offer of proof. Thus showing the court's obvious appearance of unfairness and abuse of discretion.

In Mathes sentencing was concluded approximately three days after trial's end. Pre-sentence reports were not done, requested or denied in direct violation of R.C.W.9.9A.500 related to pre-sentence procedures with showing that defendant was mentally ill as defined in R.C.W.71.24.025 (ex (1)(A) and (RP 634) with factual undisputed evidence of mental disabilities acknowledged by the court a pre-sentence report should have been ordered to make allowable documented mitigating evidence in support of both sentencing requirements, and allowances for downward departures. R.C.W.9.94A.535 which Mathes was sentenced under, allow the court to consider mitigating issues such as mental illness, accomplice liability, coercion or duress where the operation of R.C.W.9.94A.589 also used in the Mathes case would result in a presumptive sentence that is clearly excessive in light of the purpose used as expressed in R.C.W.9.94A.90 State v Graham.

The trial record reflects that on Nov 6, 2015 after sentencing defense counsel requested the court get an appeal Board (RP 47) however as also seen in Quince v Florida as in the Mathes case the judge ignored every aspect of the appeal Board request State v Huckleby. The constitutional due process requirements violated when R.C.W.10.73.040 related to bail reform act was violated when the courts failed to acknowledge the appeal Board request to set bail. The federal rules of evidence plain error rule would apply where the judge's mistakes affect defendants substantial rights and the integrity of the trial process. In Mathes as in State v Nezaj were bail had already been set which negates the dangerous prong and since the appeal board which must be fixed and determined and is defense counsel's responsibility was never set and determined Mathes has currently been incarcerated for 27 months while appeal process is pending, showing not only the prejudicial effects of the court's unfair and erroneous actions fulfilling the abuse of discretion, appearance of fairness requirements where under the best of conditions Mathes was and is limited in the time and access to available means to attack conviction.

Although the sentencing judge was made aware that prior criminal history points calculations could be incorrect which would create an invalidity on the face of judgement and sentence, which would have clearly been seen by reviewing prior history. However even with this knowledge the court continued with sentencing in violation of R.C.W.9.94A.525 related to all class c felony convictions washing out evidenced by copies of current judgement and sentence showing of a prior class c felony not washing out (ex (2)(A) not only was certified copy of prior conviction introduced to prove prior conviction and accurate points calculations, but more importantly where acknowledgement of incorrect calculations was introduced by defense. The court having knowledge should have reviewed and researched prior to sentencing (RP 36) and these failures were an abuse of discretion and shows that even the appearance of fairness was not adhered to in the court's actions.

In this instance during proceedings defense was unable to get cooperation from law enforcement personnel (RP 21-25) in being able to conduct interviews favorable to defense theories. Rather than hearing dispositions or subpoenas or appropriate remedies, the court allowed the prosecution to question witnesses and conduct interviews (RP 160). The courts allowed the prosecution, where the courts allowed prosecution to conduct interviews for the defense which is an abuse of discretion and constitutional violations preventing a fair and full trial.

(RP 171) violating evidence rule 615 where in Mathes judges rulings to allow lead investigator for the prosecution to sit through entire trial prior to giving his testimony which was an abuse of discretion did have a prejudicial effect on trial outcome and an appearance of fairness violation.

The code of conduct that must be strictly adhered to by officers of the court to ensure a fair, full, and impartial trial was disregarded. The court did abuse its discretion and did violate the appearance of fairness doctrine. The arguments presented in this petition meet the requirements to allow the court to reverse and remand and order new trial or appropriate remedies to address these issues.

## **GROUND VI**

### **Prosecutorial Misconduct**

Within the rules of appellate procedure 164 as well as the U.S. and Wash. constitutions as previously argued and cited in re Taylor bringing up grounds previously rejected and allowed where the interest of justice would be served by allowing defense a fair and full opportunity to present defense, where relevant facts not previously cited or heard, under new evidence and new trial options. Also allowable under certain circumstances in Wash. Super. Ct R.7.6 (9)(3) which applies to the Mathes case in that although prosecutorial misconduct was previously argued and rejected, in this instance the issues argued are either new issues or those supported by new evidence outside the trial record which makes allowable the presentation of these issues.

Analogous with the Mathes case State v Michielli where multiple charges were added just days before actual trial start date, and the unjustified delay in amending the charges was a governmental mismanagement and the prejudice incurred will satisfy the misconduct element where in Wash. Super. Ct. Crim. R. G. 3 (1) simple mismanagement is sufficient and (2) inadequate time allowed defense in trial preparation is mismanagement and the abuse of discretion. Factual evidence outside trial record will show that emails sent between defense counsel and prosecuting attorney, sent both August 11, 2015 and Sept 9, 2015 (ex (3)(F) showing at that point only the three original charges and the options of an additional three totaling six based on plea possibilities. However after approximately 22 months eight additional charges were filed 10/19/15 as proven by the Superior Court case summary #76 (ex (3)(B). These additional charges were added less than 10 days from actual trial start date. State v Hall and the Sixth Amendment a delay does not violate the defendant's rights unless the delay is oppressive, unreasonable, or prejudicial and when these conditions are met dismissal is mandated.

State v Raschaka which addresses CrR 3.3 and speedy trial requirements. Factual evidence shows that prosecution was aware that in custody attached when Mathes was handcuffed at incident scene 13/31/13 (ex (3)(G). Kitsap County Jail booking and arrest info and also (ex (5)(A) finding of fact 35

hearings. Although speedy trial violations at that point had already occurred on the 15<sup>th</sup> day after arrest when Mathes made his first court appearance Jan 14<sup>th</sup> 2014 (ex (3)(A) district court docket.

Prosecution also showing mismanagement when Mathes was not bound-over to Superior Court until March 28 2014 (ex (3)(B). State v Swenson as in Mathes, prosecution's lack of good faith and due diligence as is State v Christopher. The misuse of CrR LJ 3.2.1 were also Mathes was arraigned in January and bound over until March 28<sup>th</sup> on two first-degree assault with a deadly weapon charges and one felony unlawful imprisonment charge that clearly would have never been pursued and tried in district court. This blatant disregard for the judicial process and manipulation of the speedy trial guarantees was an abuse of discretion showing prosecutorial misconduct.

State v Adamski. Also in Mathes prosecution's failure to subpoena witnesses in a manner that complies with Super. Ct. Crim. R. 45(A) as continuance prejudiced defendant and again violated speedy trial requirements. When these continuances were granted due to witness unavailability (ex (3)(D). After Mathes had already been in custody seventeen months request was granted however this continuance was granted due to prosecution's failure to subpoena witnesses, which only one those which the continuance was granted for did testify at trial and was not a main prosecution witness. See state's motion to continue and second amended witness list (ex (3)(D,E). Continued showings of mismanagement and manipulating the judicial process, an abuse of discretion and prosecutorial misconduct as justice should be administered openly and without delay.

State v Plumley. Testimony used to produce an adverse judgement was used to fulfill malicious prosecution requirements and as in Mathes. Napue v Illinois convictions obtained by the use of false evidence known to be such by representatives of the state will fall within the U.S. Constitution's 14<sup>th</sup> Amendment's due process guarantees and when revealed, relief should be granted. U.S. v Rewald. The Supreme Court has held that prosecution may not present or allow to go uncorrected testimony found to be false followed by Killian v Poole which goes on to say that if there is a likelihood that false testimony could have affected the outcome of the jury it is in fact a constitutional error and requires a new trial. Prosecution had text messages information between Vierra and others (ex (4)(B) evidence that Toste's testimony was perjured, and also (ex (4)(A,G,I) showing inconsistent, perjured testimony from Det. Green. Both main prosecution witnesses and prosecution had this information for at least 18 months prior to trial, and suppression of this evidence by prosecution vitiating conviction, where testimony known to be perjured by prosecution is a denial of due process and upon motion the appropriate remedy must be enforced. Brady v Maryland not only in Mathes did prosecution fail to disclose evidence favorable to the defense, Mathes will contend that prosecution, contradictory to Brady v Maryland, went further than failure to disclose, by suppression of evidence shown specifically by violating CrR 4.7 which states that prosecution shall disclose to the defendant no later than omnibus any record of prior criminal convictions of prosecution's witnesses expected to be called at hearings or trial. When in Mathes they failed to inform defense and or trier of fact that Roy Mathes had extensive criminal history including multiple years spent in prison. This vindictive misconduct by prosecution does meet the abuse of discretion prosecutorial misconduct requirements as well as due process violations.

State v Houston-Scourers. As in Mathes related to prosecutor's statements in closing arguments, and the substantial likelihood that the statements affected the jury verdict is factually proven by new evidence outside the trial record. Where post-trial newspaper articles quoting juror statements state that Mathes was guilty of all charges where intent was an element based solely on

Mathes's intent to flee or escape, prosecutor's statements led jury to believe that intent to escape met the required to convict elements. Although intent to escape or flee is not intent to assault, kidnap, imprison, harass, or Possos (RP 773, 775). Juror statements (ex (1)(E) prosecution's manipulation of the to convict elements where intent must be proven beyond a reasonable doubt to convict on 1<sup>st</sup> degree assault, 2<sup>nd</sup> assault, or 1<sup>st</sup> kidnap most serious offenses must exist. Prosecution's own statements are completely contradictory to charges charged, and their elements. Prosecutor's statements on record "we don't have any evidence that he wanted to hurt anybody" (RP 776).

In closing arguments prosecution states that at least two shots were fired at the incident scene although there is only factual evidence proving one shot was fired by Mathes (RP 569-571). Total station diagrams by Det. Green shows proof of one shot fired by Mathes, but also showing that, that one proven shot was fired uphill and away from officers which was consistent with prosecution witness Roy Mathes's testimony (RP 270-71, 275). However for the purpose of stacking 1<sup>st</sup> degree assault charges against separate victims prosecution attempted to manipulate evidence and testimony to prove that more than one shot was fired (RP 8-14). Mathes will contend factual evidence in combination with Roy Mathes's testimony prove the fact of the matter asserted that only one shot was fired, that the shot Roy Mathes seen, was the same shot fired into the side of the house. Prosecutors statements unsupported by fact did affect overall trial outcome. State v Graham as in Mathes these actions by prosecution were an abuse of discretion showing misconduct, where Mathes was tried and sentenced to significantly more time than allowable. As prosecution's statements, that more than one shot was fired at the scene allowed prosecution to charge and convict Mathes based on separate and distinct actions R.C.W.9.94A.535 however when coupled with R.C.W.9.94A.589 for charging and sentencing purposes results in a presumptive sentence that is clearly excessive in light of the purpose of this action. As Mathes was convicted of both separate and distinct and some criminal conduct based on prosecution's unfactual and supported statements that said that Mathes fired at least two shots. This blatant abuse of discretion for the purpose of excessive sentence is prosecutorial misconduct.

Miranda v Arizona from which our constitutional Miranda warnings and rights were born which states that both a defendant's disabilities and use of drugs at the time of confession are taken into consideration, which is seen in Mathes through Kitsap Mental Health documentation in discovery (ex (1)(D). New evidence seen in Social Security documents showing mental disabilities (ex (1)(A) and also hospital records showing that Mathes was highly intoxicated on methamphetamines and benzodiazapines shown by Tostes detecting such, and also proof of involuntary intoxication as Mathes was on several pain and sedation medications in the hospital. The 14<sup>th</sup> Amendment's due process clause's right to counsel under Miranda. The primary purpose of defense counsel during interrogation is to assure suspect's ability to choose whether to speak or remain silent is unfettered. The 5<sup>th</sup> Amendment's privilege against self-incrimination where being drunk, on drugs, and or a mental condition at the time of with police interfered with volitional abilities. The ability to make free and rational choices from a due process perspective. Two constitutional wrongs exist: 1) obtaining a confession by coercive police conduct 2) using statements at trial (fruits of a poisonous tree doctrine) not only did prosecution know of Mathes's mental health issues and both voluntary and involuntary intoxication issues. Mathes will contend that prosecution knew about the constitutional violations committed both on scene with multiple gun shot wounds but also while in hospital while sedated on multiple medications as a result of massive injuries. Yet prosecution used these statements multiple times in closing arguments (RP 750, 771-72) when viewed in context to closing arguments alone

prosecution made reference to Mathes's at scene (excited utterance *St v Ramm*) and in hospital (heavily sedated *Miranda v Arizona*) statements more than 20 times all shown in *Gallagos v Nebraska* where in Mathes undenied incidents of violations of the 14<sup>th</sup> Amendment are seen in view of prior statements giving color to petitioners allegations of unfairness in the prosecution which is an abuse of discretion despite the American Bar Association's standards for criminal justice fair trial and free press which expressly preclude comments such as performance of any tests or exams which prosecution could use to sub-rosa influence jurors with strict rules governing statements of public communication that could have substantial likelihood of prejudicing a criminal proceeding. Although in Mathes there were more than twenty plus newspaper articles written by several local newspapers to include the Port Orchard Independent and the Bremerton or Kitsap Sun. Throughout the course of proceedings pre-trial that could have been prejudicial on April 12, 2014 lead prosecuting attorney Russ Hauge released a report containing test results clearing officers involved of any wrongdoing saying shooting Mathes was absolutely justified which could infer that Mathes was somehow at fault (ex (6)(B)). This issue does create the showing of prejudicial error incurred by prosecutorial misconduct. *U.S. v Salerno* the 8<sup>th</sup> Amendment's due process clause protects individuals from government action depriving persons of life, liberty, property. In *Irvine v California* it is said that we must vindicate the abstract principle of the due process to curb the zeal of the police in the prosecutions brought on by methods that would offend a sense of justice CrR 7.5 and 59 both offer remedies upon motion where misconduct of the prevailing party substantially affected the rights of a defendant where an abuse of discretion prevents a fair trial.

Mathes would again respectfully request the court to upon this motion reverse and remand for a new trial or in the alternative order the appropriate remedy to correct the errors proven in this argument.

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT B

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IN THE KITSAP COUNTY DISTRICT COURT

STATE OF WASHINGTON,	)
	) No. 10120238P
Plaintiff,	)
	) FELONY COMPLAINT
v.	)
	) (Total Counts Filed – 3)
JAMES CHARLES MATHES,	)
Age: 44; DOB: 04/21/1969,	)
	)
Defendant.	)

COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney, CHAD M. ENRIGHT, WSBA NO. 34271, Deputy Prosecuting Attorney, and hereby alleges that contrary to the form, force and effect of the ordinances and/or statutes in such cases made and provided, and against the peace and dignity of the STATE OF WASHINGTON, the above-named Defendant did commit the following offense(s)–

**Count I**  
**Assault in the First Degree**

On or about December 31, 2013, in the County of Kitsap, State of Washington, the above-named Defendant did, with intent to inflict great bodily harm, assault another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm, to wit: BENJAMIN NMI HERRIN; contrary to the Revised Code of Washington 9A.36.011(1)(a) and/or (c).

(MAXIMUM PENALTY–Life imprisonment and/or a \$50,000.00 fine pursuant to RCW 9A.36.011(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.)



1 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
2 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
3 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
to RCW 9.94A.030 and 9.94A.570)

4 JIS Code: 9A.36.011 Assault 1

5  
6 **Count II**  
7 **Assault in the First Degree**

8 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
9 above-named Defendant did, with intent to inflict great bodily harm, assault another with a  
10 firearm or any deadly weapon or by any force or means likely to produce great bodily harm, to  
11 wit: KURTIS G. LONT; contrary to the Revised Code of Washington 9A.36.011(1)(a) and/or (c).

12 (MAXIMUM PENALTY—Life imprisonment and/or a \$50,000.00 fine pursuant to RCW  
13 9A.36.011(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.)

14 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
15 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
16 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
to RCW 9.94A.030 and 9.94A.570)

17 JIS Code: 9A.36.011 Assault 1

18  
19 **Count III**  
20 **Unlawful Imprisonment**

21 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
22 above-named Defendant did, knowingly restrain another person, to-wit: MICHELLE KAY TOSTE;  
23 contrary to the Revised Code of Washington 9A.40.040 and 9A.40.010(1).

24 (MAXIMUM PENALTY –Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW  
25 9A.40.040(2) and RCW 9A.20.021(1)(c), plus restitution and assessments.)

26 JIS Code: 9A.40.040 Unlawful Imprisonment

27 **Special Allegation—Domestic Violence**

28 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
29 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
30 members" means spouses, former spouses, persons who have a child in common regardless of  
31 whether they have been married or have lived together at any time, adult persons related by blood

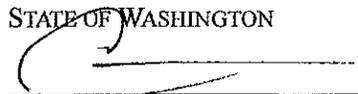


1 or marriage, adult persons who are presently residing together or who have resided together in the  
2 past, persons sixteen years of age or older who are presently residing together or who have  
3 resided together in the past and who have or have had a dating relationship, persons sixteen years  
4 of age or older with whom a person sixteen years of age or older has or has had a dating  
5 relationship, and persons who have a biological or legal parent-child relationship, including  
6 stepparents and stepchildren and grandparents and grandchildren.

7  
8 I certify (or declare) under penalty of perjury under the laws of the State of Washington  
9 that I have probable cause to believe that the above-named Defendant committed the above  
10 offense(s), and that the foregoing is true and correct to the best of my knowledge, information and  
11 belief.

12 DATED: January 9, 2014  
13 PLACE: Port Orchard, WA

STATE OF WASHINGTON

  
14 CHAD M. ENRIGHT, WSBA NO. 34271  
15 Deputy Prosecuting Attorney

16 All suspects associated with this incident are—

17 James Charles Mathes  
18 Kurtis G. Lont  
19 Benjamin Nmi Herrin  
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**DEFENDANT IDENTIFICATION INFORMATION**

JAMES CHARLES MATHES                      Alias Name(s), Date(s) of Birth, and SS Number  
Po Box 1444                                      Jim Nmi Mathes, 04/21/1969  
Port Orchard, Wa 98366                      Tim Nmi Mathes, 04/21/1969

[Address source—Pursuant to CrRLJ/CrR 2.2, Complainant has attempted to ascertain the Defendant’s current address by searching the Judicial Information System (JIS formerly called DISCIS) database, Department of Licensing abstract of driving record, Department of Corrections Felony Offender Reporting System, Kitsap County Jail records and law enforcement report]

Race: White                                      Sex: Male                                      DOB: 04/21/1969                                      Age: 44  
D/L: MATHEJC313J1                                      D/L State: Washington                                      SID: WA13606984                                      Height: 508  
Weight: 255                                      JUVIS: Unknown                                      Eyes: Blue                                      Hair: Brown  
DOC: Unknown                                      FBI: 176746HA4

**LAW ENFORCEMENT INFORMATION**

Incident Location: 8420 Bethel Burley Road, Port Orchard, WA [Incident Address Zip]  
Law Enforcement Report No.: 2013SP019754  
Law Enforcement Filing Officer: Rodney W. Green, SP715  
Law Enforcement Agency: Washington State Patrol - WAWSP0801  
Court: Kitsap County District Court, WA018013J  
Motor Vehicle Involved? No  
Domestic Violence Charge(s)? Yes  
Law Enforcement Bail Amount? None

**CLERK ACTION REQUIRED**

Arrest Warrant  
Appearance Date If Applicable: N/A

**PROSECUTOR DISTRIBUTION INFORMATION**

Superior Court	District & Municipal Court
<b>Original Charging Document—</b> Original +2 copies to Clerk 1 copy to file <b>Amended Charging Document(s)—</b> Original +2 copies to Clerk 1 copy to file	<b>Original Charging Document—</b> <b>Electronically filed with the Clerk</b> Original +1 copy to file <b>Amended Charging Document(s)—</b> <b>Electronically filed with the Clerk</b> Original +2 copies to file 1 copy clipped inside file on top of left side 1 copy to file

Prosecutor’s File Number—14-101202-38



WASHINGTON STATE PATROL  
ARRESTING AGENCY AFFIDAVIT  
Relevant to Probable Cause for Arrest



Date of Report 1-2-2014

Booking Date \_\_\_\_\_

Offense Assault in the First Degree/ Assault in the Third Gedree D.V./ Violation of Protection Order

**SUSPECT DEMOGRAPHIC INFORMATION**

Name (Last, First, Middle) MATHES JAMES C.

Address (Number, Street, City, State, Zip) 8420 BETHAL BURLEY RD PORT ORCHARD WA 98312

Date of Birth 04/21/1969 Sex M Race W

Height 5' 8" Weight 255 Hair Bold Eyes Blue

"Concisely set forth facts showing probable cause for each element of the offense and that the suspect committed the offense. If not provided, the suspect will be **AUTOMATICALLY RELEASED.**"

On Decenber 31<sup>st</sup>, 2013 at approximatly 1300, Kitsap County Sheriffs Office responded to the residence at 8420 Bethal Burley Rd in Port Orchard for a restraining order violation with a known subject to cause physical violence. Witnesses at the scene reported that Mathes James C. DOB04/21/1969 had a female Toste Michelle K. DOB 12/19/1971 at gunpoint. Five Kitsap County units responded to the residence. Several family members and friends were outside the residence inside two different vehicles. Once KCSO arrived on scene they requested Cencom attempt to make phone contact with people inside the residence and requested them to come outside.

The male suspect Mathes came out of the residence with a revolver pointed at the female victim Toste and was attempting to enter his vehicle in the dirve way with Totse. The first two responding Deputies Herrin and Lont challenged Mathes to drop the weapon as they approached from the driveway of the residence. Mathes opened fire on the two deputies with a revolver and the two deputies returned fire with one .40 caliber pistol and one .223 caliber rifle.

Mathes was struck three times and the vehicle was struck several times. The Deputies then approached Mathes and after handcuffing and securing the area they rendered first aid. Several witnesses were on scene and confirmed the events that transpired. Mathes was transported to ST Josephs, underwent emergency surgery for broken arm and two bullet wounds and is in serious but stable condition. WSP Troopers provided security on Mathes until 2300, when Kitsap County Sheriffs Office took over security.

"I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct."

Arresting Officer  Pers. No. D715  
Signature  
Detective Rodney Green  
Print Name

Agency Washington State Patrol Date 1/2/2014

Location Signed:

City Bremerton County Kitsap State Washington

Judge \_\_\_\_\_ Date \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

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FILED  
KITSAP COUNTY CLERK  
2014 MAR 25 PM 2:26  
DAVID W. PETERSON

IN THE KITSAP COUNTY SUPERIOR COURT

10	STATE OF WASHINGTON,	)	No. 14 1 00301 1
11		)	
12	Plaintiff,	)	INFORMATION
13	v.	)	(Total Counts Filed - 3)
14	JAMES CHARLES MATHES,	)	
15	Age: 44; DOB: 04/21/1969,	)	
16	Defendant.	)	

COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney, CHAD M. ENRIGHT, WSBA NO. 34271, Deputy Prosecuting Attorney, and hereby alleges that contrary to the form, force and effect of the ordinances and/or statutes in such cases made and provided, and against the peace and dignity of the STATE OF WASHINGTON, the above-named Defendant did commit the following offense(s)-

**Count I**  
**Assault in the First Degree**

On or about December 31, 2013, in the County of Kitsap, State of Washington, the above-named Defendant did, with intent to inflict great bodily harm, assault another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm, to wit: BENJAMIN NMI HERRIN; contrary to the Revised Code of Washington 9A.36.011(1)(a) and/or (c).

(MAXIMUM PENALTY—Life imprisonment and/or a \$50,000.00 fine pursuant to RCW 9A.36.011(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.)



Russell D. Hange, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949  
www.kitsapgov.com/pros

1 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
2 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
3 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
4 to RCW 9.94A.030 and 9.94A.570)

4 JIS Code: 9A.36.011 Assault 1

5  
6 Special Allegation—Armed With Firearm

7 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
8 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.602.

9 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
10 the commission of the crime, an additional sixty (60) months is added to the presumptive range of  
11 confinement for a first offense and an additional one-hundred-twenty (120) months is added to  
12 the presumptive range of confinement if the Defendant has previously been sentenced for any  
13 deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(a) and (d).)

13 **Count II**

14 Assault in the First Degree

15 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
16 above-named Defendant did, with intent to inflict great bodily harm, assault another with a  
17 firearm or any deadly weapon or by any force or means likely to produce great bodily harm, to  
18 wit: KURTIS G. LONT; contrary to the Revised Code of Washington 9A.36.011(1)(a) and/or (c).

19 (MAXIMUM PENALTY—Life imprisonment and/or a \$50,000.00 fine pursuant to RCW  
20 9A.36.011(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.)

21 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
22 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
23 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
24 to RCW 9.94A.030 and 9.94A.570)

24 JIS Code: 9A.36.011 Assault 1

25  
26 Special Allegation—Armed With Firearm

27 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
28 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.602.

29 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
30 the commission of the crime, an additional sixty (60) months is added to the presumptive range of  
31 confinement for a first offense and an additional one-hundred-twenty (120) months is added to  
the presumptive range of confinement if the Defendant has previously been sentenced for any



1 deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(a) and (d.)

2  
3 **Count III**  
4 **Unlawful Imprisonment**

5 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
6 above-named Defendant did, knowingly restrain another person, to-wit: MICHELLE KAY TOSTE;  
7 contrary to the Revised Code of Washington 9A.40.040 and 9A.40.010(1).

8 (MAXIMUM PENALTY –Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW  
9 9A.40.040(2) and RCW 9A.20.021(1)(c), plus restitution and assessments.)

10 JIS Code: 9A.40.040 Unlawful Imprisonment

11 **Special Allegation–Domestic Violence**

12 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
13 household member; contrary to Revised Code of Washington 10.99.020. “Family or household  
14 members” means spouses, former spouses, persons who have a child in common regardless of  
15 whether they have been married or have lived together at any time, adult persons related by blood  
16 or marriage, adult persons who are presently residing together or who have resided together in the  
17 past, persons sixteen years of age or older who are presently residing together or who have  
18 resided together in the past and who have or have had a dating relationship, persons sixteen years  
19 of age or older with whom a person sixteen years of age or older has or has had a dating  
20 relationship, and persons who have a biological or legal parent-child relationship, including  
21 stepparents and stepchildren and grandparents and grandchildren.

22  
23 **Special Allegation–Armed With Firearm**

24 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
25 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.602.

26 (MINIMUM PENALTY–If the Defendant is found to have been armed with a firearm at the time of  
27 the commission of the crime, an additional eighteen (18) months is added to the presumptive  
28 range of confinement for a first offense and an additional thirty-six (36) months is added to the  
29 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
30 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(c) and (d).)

31 (If the Defendant has previously been convicted on two separate occasions of a “most serious  
offense” as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the



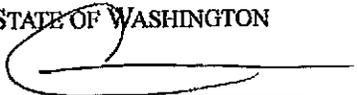
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mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant to RCW 9.94A.030 and 9.94A.570)

I certify (or declare) under penalty of perjury under the laws of the State of Washington that I have probable cause to believe that the above-named Defendant committed the above offense(s), and that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED: March 25, 2014  
PLACE: Port Orchard, WA

STATE OF WASHINGTON

  
CHAD M. ENRIGHT, WSBA NO. 34271  
Deputy Prosecuting Attorney

All suspects associated with this incident are—

James Charles Mathes  
Kurtis G. Lont  
Benjamin Nmi Herrin



1 **DEFENDANT IDENTIFICATION INFORMATION**

2 JAMES CHARLES MATHES  
3 Po Box 1444  
4 Port Orchard, Wa 98366

Alias Name(s), Date(s) of Birth, and SS Number  
5 Jim Nmi Mathes, 04/21/1969  
6 Tim Nmi Mathes, 04/21/1969

7 [Address source-Pursuant to CrRLJ/CrR 2.2, Complainant has attempted to ascertain the Defendant's current address by searching the  
8 Judicial Information System (JIS formerly called DISCIS) database, Department of Licensing abstract of driving record, Department  
9 of Corrections Felony Offender Reporting System, Kitsap County Jail records and law enforcement report]

10 Race: White Sex: Male DOB: 04/21/1969 Age: 44  
11 D/L: MATHEJC313J1 D/L State: Washington SID: WA13606984 Height: 508  
12 Weight: 255 JUVIS: Unknown Eyes: Blue Hair: Brown  
13 DOC: Unknown FBI: 176746HA4

14 **LAW ENFORCEMENT INFORMATION**

15 Incident Location: 8420 Bethel Burley Road, Port Orchard, WA [Incident Address Zip]

16 Law Enforcement Report No.: 2013SP019754

17 Law Enforcement Filing Officer: Rodney W. Green, SP715

18 Law Enforcement Agency: Washington State Patrol - WAWSP0801

19 Court: Kitsap County Superior Court, WA018015J

20 Motor Vehicle Involved? Yes

21 Domestic Violence Charge(s)? Yes

22 Law Enforcement Bail Amount? Unknown

23 **CLERK ACTION REQUIRED**

24 In Custody

25 Appearance Date If Applicable: N/A

26 **PROSECUTOR DISTRIBUTION INFORMATION**

Superior Court	District & Municipal Court
Original Charging Document-- Original +2 copies to Clerk 1 copy to file	Original Charging Document-- Electronically filed with the Clerk Original +1 copy to file
Amended Charging Document(s)-- Original +2 copies to Clerk 1 copy to file	Amended Charging Document(s)-- Electronically filed with the Clerk Original +2 copies to file 1 copy clipped inside file on top of left side 1 copy to file

27 Prosecutor's File Number-14-101202-38



WASHINGTON STATE PATROL  
ARRESTING AGENCY AFFIDAVIT  
Relevant to Probable Cause for Arrest



Date of Report 1-2-2014 Booking Date \_\_\_\_\_

Offense Assault in the First Degree/ Assault in the Third Degree D.V./ Violation of Protection Order

**SUSPECT DEMOGRAPHIC INFORMATION**

Name (Last, First, Middle) MATHES JAMES C.

Address (Number, Street, City, State, Zip) 8420 BETHAL BURLEY RD PORT ORCHARD WA 98312

Date of Birth 04/21/1969 Sex M Race W

Height 5' 8" Weight 255 Hair Bold Eyes Blue

"Concisely set forth facts showing probable cause for each element of the offense and that the suspect committed the offense. If not provided, the suspect will be **AUTOMATICALLY RELEASED.**"

On December 31<sup>st</sup>, 2013 at approximately 1300, Kitsap County Sheriffs Office responded to the residence at 8420 Bethal Burley Rd in Port Orchard for a restraining order violation with a known subject to cause physical violence. Witnesses at the scene reported that Mathes James C. DOB 04/21/1969 had a female Toste Michelle K. DOB 12/19/1971 at gunpoint. Five Kitsap County units responded to the residence. Several family members and friends were outside the residence inside two different vehicles. Once KC SO arrived on scene they requested Cencom attempt to make phone contact with people inside the residence and requested them to come outside.

The male suspect Mathes came out of the residence with a revolver pointed at the female victim Toste and was attempting to enter his vehicle in the driveway with Toste. The first two responding Deputies Herrin and Lont challenged Mathes to drop the weapon as they approached from the driveway of the residence. Mathes opened fire on the two deputies with a revolver and the two deputies returned fire with one .40 caliber pistol and one .223 caliber rifle.

Mathes was struck three times and the vehicle was struck several times. The Deputies then approached Mathes and after handcuffing and securing the area they rendered first aid. Several witnesses were on scene and confirmed the events that transpired. Mathes was transported to ST Josephs, underwent emergency surgery for broken arm and two bullet wounds and is in serious but stable condition. WSP Troopers provided security on Mathes until 2300, when Kitsap County Sheriffs Office took over security.

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

Arresting Officer

Signature



Pers. No. D715

Detective Rodney Green

Print Name

Agency Washington State Patrol

Date 1/2/2014

Location Signed:

City Bremerton

County Kitsap

State Washington

Judge

Signature

Date

Print Name

RECEIVED AND FILED  
IN OPEN COURT  
OCT 19 2015  
DAVID W. PETERSON  
KITSAP COUNTY CLERK

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,	)	
	)	No. 14-1-00301-1
Plaintiff,	)	
	)	FIRST AMENDED INFORMATION
v.	)	
	)	(Total Counts Filed -- 11)
JAMES CHARLES MATHES,	)	
Age: 46; DOB: 04/21/1969,	)	
	)	
Defendant.	)	

COMES NOW the Plaintiff, STATE OF WASHINGTON, by and through its attorney, CHAD M. ENRIGHT, WSBA NO. 34271, Deputy Prosecuting Attorney, and hereby alleges that contrary to the form, force and effect of the ordinances and/or statutes in such cases made and provided, and against the peace and dignity of the STATE OF WASHINGTON, the above-named Defendant did commit the following offense(s)-

**Count I**  
**Assault in the First Degree**

On or about December 31, 2013, in the County of Kitsap, State of Washington, the above-named Defendant did, with intent to inflict great bodily harm, assault another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm, to wit: BENJAMIN NMI HERRIN; contrary to the Revised Code of Washington 9A.36.011(1)(a) and/or (c).

(MAXIMUM PENALTY--Life imprisonment and/or a \$50,000.00 fine pursuant to RCW 9A.36.011(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.)

CHARGING DOCUMENT; Page 1 of 13



Tina R. Robinson, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949  
www.kitsapgov.com/pros

*[Handwritten signature]*  
STR(76)

1 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
2 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
3 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
4 to RCW 9.94A.030 and 9.94A.570)

4 JIS Code: 9A.36.011 Assault 1

6 Special Allegation—Armed With Firearm

7 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
8 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

9 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
10 the commission of the crime, an additional sixty (60) months is added to the presumptive range of  
11 confinement for a first offense and an additional one-hundred-twenty (120) months is added to  
12 the presumptive range of confinement if the Defendant has previously been sentenced for any  
13 deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(a) and (d).)

13 Special Allegation—Aggravating Circumstance—Crime Against Law Enforcement Officer

14 AND FURTHERMORE, the offense was committed against a law enforcement officer who  
15 was performing his or her official duties at the time of the offense, the Defendant knew that the  
16 victim was a law enforcement officer, and the victim's status as a law enforcement officer is not  
17 an element of the offense, contrary to RCW 9.94A.535(3)(v).

19 **Count II**

20 Assault in the Second Degree

21 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
22 above-named Defendant did assault another, to wit: BENJAMIN NMI HERRIN, with a deadly  
23 weapon; contrary to the Revised Code of Washington 9A.36.021(1)(c).

24 (MAXIMUM PENALTY—Ten (10) years imprisonment and/or a \$20,000.00 fine pursuant to RCW  
25 9A.36.021(2) and RCW 9A.20.021(1)(b), plus restitution and assessments.)

26 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
27 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
28 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
29 to RCW 9.94A.030 and 9.94A.570)

29 JIS Code: 9A.36.021.2A Assault-2







1 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(b) and (d).)

2 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
3 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
4 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
5 to RCW 9.94A.030 and 9.94A.570)

6 Special Allegation–Aggravating Circumstance–Crime Against Law Enforcement Officer

7 AND FURTHERMORE, the offense was committed against a law enforcement officer who  
8 was performing his or her official duties at the time of the offense, the Defendant knew that the  
9 victim was a law enforcement officer, and the victim's status as a law enforcement officer is not  
10 an element of the offense, contrary to RCW 9.94A.535(3)(v).

11  
12 **Count V**  
13 **Kidnapping in the First Degree**

14 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
15 above-named Defendant did, intentionally abduct another person, to-wit: MICHELLE KAY TOSTE,  
16 with intent to hold him or her for ransom or reward, or as a shield or hostage; and/or to facilitate  
17 the commission of any felony or flight thereafter; and/or to inflict bodily injury on him or her;  
18 and/or to inflict extreme mental distress on him or her or a third person; and/or to interfere with  
19 the performance of any governmental function; contrary to the Revised Code of Washington  
20 9A.40.020(1) and 9A.40.010(2).

21 (MAXIMUM PENALTY–Life imprisonment and/or a \$50,000 fine pursuant to RCW 9A.40.020(2)  
22 and RCW 9A.20.021(1)(a), plus restitution and assessments.)

23 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
24 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
25 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
26 to RCW 9.94A.030 and 9.94A.570.)

26 JIS Code: 9A.40.020 Kidnapping 1

27  
28 Special Allegation–Domestic Violence

29 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
30 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
31 members" means spouses, former spouses, persons who have a child in common regardless of

CHARGING DOCUMENT; Page 5 of 13



Tina R. Robinson, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
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(360) 337-7174; Fax (360) 337-4949  
www.kitsapgov.com/pros

1 whether they have been married or have lived together at any time, adult persons related by blood  
2 or marriage, adult persons who are presently residing together or who have resided together in the  
3 past, persons sixteen years of age or older who are presently residing together or who have  
4 resided together in the past and who have or have had a dating relationship, persons sixteen years  
5 of age or older with whom a person sixteen years of age or older has or has had a dating  
6 relationship, and persons who have a biological or legal parent-child relationship, including  
7 stepparents and stepchildren and grandparents and grandchildren.

8  
9 Special Allegation--Armed With Firearm

10 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
11 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

12 (MINIMUM PENALTY--If the Defendant is found to have been armed with a firearm at the time of  
13 the commission of the crime, an additional sixty (60) months is added to the presumptive range of  
14 confinement for a first offense and an additional one-hundred-twenty (120) months is added to  
15 the presumptive range of confinement if the Defendant has previously been sentenced for any  
16 deadly weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(a) and (d).)

17 **Count VI**  
18 **Unlawful Imprisonment**

19 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
20 above-named Defendant did, knowingly restrain another person, to-wit: MICHELLE KAY TOSTE;  
21 contrary to the Revised Code of Washington 9A.40.040 and 9A.40.010(1).

22 (MAXIMUM PENALTY --Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW  
23 9A.40.040(2) and RCW 9A.20.021(1)(c), plus restitution and assessments.)

24 JIS Code: 9A.40.040 Unlawful Imprisonment

25 Special Allegation--Domestic Violence

26 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
27 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
28 members" means spouses, former spouses, persons who have a child in common regardless of  
29 whether they have been married or have lived together at any time, adult persons related by blood  
30 or marriage, adult persons who are presently residing together or who have resided together in the  
31



1 past, persons sixteen years of age or older who are presently residing together or who have  
2 resided together in the past and who have or have had a dating relationship, persons sixteen years  
3 of age or older with whom a person sixteen years of age or older has or has had a dating  
4 relationship, and persons who have a biological or legal parent-child relationship, including  
5 stepparents and stepchildren and grandparents and grandchildren.

6  
7 Special Allegation—Armed With Firearm

8 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
9 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

10 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
11 the commission of the crime, an additional eighteen (18) months is added to the presumptive  
12 range of confinement for a first offense and an additional thirty-six (36) months is added to the  
13 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
14 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(c) and (d).)

15 (If the Defendant has previously been convicted on two separate occasions of a “most serious  
16 offense” as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
17 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
18 to RCW 9.94A.030 and 9.94A.570)

19 Count VII  
20 Assault in the Second Degree

21 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
22 above-named Defendant did assault another, to wit: MICHELLE KAY TOSTE, with a deadly  
23 weapon; contrary to the Revised Code of Washington 9A.36.021(1)(c).

24 (MAXIMUM PENALTY—Ten (10) years imprisonment and/or a \$20,000.00 fine pursuant to RCW  
25 9A.36.021(2) and RCW 9A.20.021(1)(b), plus restitution and assessments.)

26 (If the Defendant has previously been convicted on two separate occasions of a “most serious  
27 offense” as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
28 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
29 to RCW 9.94A.030 and 9.94A.570)

30 JIS Code: 9A.36.021.2A Assault-2

31 Special Allegation—Domestic Violence

AND FURTHERMORE, the Defendant did commit the above crime against a family or



1 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
2 members" means spouses, former spouses, persons who have a child in common regardless of  
3 whether they have been married or have lived together at any time, adult persons related by blood  
4 or marriage, adult persons who are presently residing together or who have resided together in the  
5 past, persons sixteen years of age or older who are presently residing together or who have  
6 resided together in the past and who have or have had a dating relationship, persons sixteen years  
7 of age or older with whom a person sixteen years of age or older has or has had a dating  
8 relationship, and persons who have a biological or legal parent-child relationship, including  
9 stepparents and stepchildren and grandparents and grandchildren.

10  
11 Special Allegation—Armed With Firearm

12 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
13 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

14 (MINIMUM PENALTY--If the Defendant is found to have been armed with a firearm at the time of  
15 the commission of the crime, an additional thirty-six (36) months is added to the presumptive  
16 range of confinement for a first offense and an additional seventy-two (72) months is added to the  
17 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
18 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(b) and (d).)

19 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
20 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
21 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
22 to RCW 9.94A.030 and 9.94A.570)

22 **Count VIII**  
23 Assault in the Second Degree

24 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
25 above-named Defendant did assault another, to wit: ROY MATHES, with a deadly weapon;  
26 contrary to the Revised Code of Washington 9A.36.021(1)(c).

27 (MAXIMUM PENALTY--Ten (10) years imprisonment and/or a \$20,000.00 fine pursuant to RCW  
28 9A.36.021(2) and RCW 9A.20.021(1)(b), plus restitution and assessments.)

29 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
30 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
31 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
32 to RCW 9.94A.030 and 9.94A.570)



1 JIS Code: 9A.36.021.2A Assault-2

2  
3 Special Allegation—Domestic Violence

4 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
5 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
6 members" means spouses, former spouses, persons who have a child in common regardless of  
7 whether they have been married or have lived together at any time, adult persons related by blood  
8 or marriage, adult persons who are presently residing together or who have resided together in the  
9 past, persons sixteen years of age or older who are presently residing together or who have  
10 resided together in the past and who have or have had a dating relationship, persons sixteen years  
11 of age or older with whom a person sixteen years of age or older has or has had a dating  
12 relationship, and persons who have a biological or legal parent-child relationship, including  
13 stepparents and stepchildren and grandparents and grandchildren.

14  
15 Special Allegation—Armed With Firearm

16 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
17 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

18 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
19 the commission of the crime, an additional thirty-six (36) months is added to the presumptive  
20 range of confinement for a first offense and an additional seventy-two (72) months is added to the  
21 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
22 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(b) and (d).)

23 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
24 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
25 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
26 to RCW 9.94A.030 and 9.94A.570)

26 **Count IX**  
27 **Violation of a Court Order [Felony]**

28 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
29 above-named Defendant, with knowledge that the Kitsap County District Court had previously  
30 issued a foreign protection order, protection order, restraining order, no contact order, or  
31 vulnerable adult order pursuant to state law in Cause No. 10120237P, did violate said order by

CHARGING DOCUMENT; Page 9 of 13



Tina R. Robinson, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949  
[www.kitsapgov.com/pros](http://www.kitsapgov.com/pros)

1 knowingly violating the restraint provisions therein, and/or by knowingly violating a provision  
2 excluding him or her from a residence, a workplace, a school or a daycare, and/or by knowingly  
3 coming within, or knowingly remaining within, a specified distance of a location, and/or by  
4 knowingly violating a provision of a foreign protection order for which a violation is specifically  
5 indicated to be a crime; and furthermore, the Defendant did have at least two prior convictions for  
6 violating the provisions of a court order issued under Chapter 10.99, 26.09, 26.10, 26.26, 26.50,  
7 26.52, and/or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020;  
8 contrary to Revised Code of Washington 26.50.110.

9 (MAXIMUM PENALTY-Five (5) year in imprisonment and/or \$10,000 fine, pursuant to RCW  
10 26.50.110(5) and RCW 9A.20.021(1)(c), plus restitution, assessments and court costs.)

11 JIS Code: 26.50.110.5 Protection Order Vio/Over 2 Conv

12  
13 Special Allegation—Domestic Violence

14 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
15 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
16 members" means spouses, former spouses, persons who have a child in common regardless of  
17 whether they have been married or have lived together at any time, adult persons related by blood  
18 or marriage, adult persons who are presently residing together or who have resided together in the  
19 past, persons sixteen years of age or older who are presently residing together or who have  
20 resided together in the past and who have or have had a dating relationship, persons sixteen years  
21 of age or older with whom a person sixteen years of age or older has or has had a dating  
22 relationship, and persons who have a biological or legal parent-child relationship, including  
23 stepparents and stepchildren and grandparents and grandchildren.

24  
25 Special Allegation—Armed With Firearm

26 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
27 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

28 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
29 the commission of the crime, an additional eighteen (18) months is added to the presumptive  
30 range of confinement for a first offense and an additional thirty-six (36) months is added to the  
31 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(c) and (d).)

CHARGING DOCUMENT; Page 10 of 13



Tina R. Robinson, Prosecuting Attorney  
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1  
2 (If the Defendant has previously been convicted on two separate occasions of a "most serious  
3 offense" as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
4 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
5 to RCW 9.94A.030 and 9.94A.570)

6  
7 **Count X**  
8 **Harassment [Felony] – Threat to Kill**

9 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
10 above-named Defendant did, knowingly and without lawful authority threaten to kill,  
11 immediately or in the future, the person threatened, or any other person, and the threat was made  
12 in a context, or under such circumstances, wherein a reasonable person would foresee that the  
13 statement would be interpreted as a serious expression of intention to kill, and the Defendant, by  
14 words or conduct, placed the person threatened, to-wit: MICHELLE KAY TOSTE, in reasonable fear  
15 that the threat would be carried out; contrary to the Revised Code of Washington 9A.46.020(1)  
16 and (2).

17 (MAXIMUM PENALTY—Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW  
18 9A.46.020(2)(b) and 9A.20.021(1)(c), plus restitution and assessments.)

19 JIS Code: 9A.46.020.2B Harassment-Prev Conv/Death Threat

20 **Special Allegation—Domestic Violence**

21 AND FURTHERMORE, the Defendant did commit the above crime against a family or  
22 household member; contrary to Revised Code of Washington 10.99.020. "Family or household  
23 members" means spouses, former spouses, persons who have a child in common regardless of  
24 whether they have been married or have lived together at any time, adult persons related by blood  
25 or marriage, adult persons who are presently residing together or who have resided together in the  
26 past, persons sixteen years of age or older who are presently residing together or who have  
27 resided together in the past and who have or have had a dating relationship, persons sixteen years  
28 of age or older with whom a person sixteen years of age or older has or has had a dating  
29 relationship, and persons who have a biological or legal parent-child relationship, including  
30 stepparents and stepchildren and grandparents and grandchildren.  
31



1 Special Allegation—Armed With Firearm

2 AND FURTHERMORE, at the time of the commission of the crime, the Defendant or an  
3 accomplice was armed with a firearm; contrary to the Revised Code of Washington 9.94A.825.

4 (MINIMUM PENALTY—If the Defendant is found to have been armed with a firearm at the time of  
5 the commission of the crime, an additional eighteen (18) months is added to the presumptive  
6 range of confinement for a first offense and an additional thirty-six (36) months is added to the  
7 presumptive range of confinement if the Defendant has previously been sentenced for any deadly  
8 weapon enhancements after July 23, 1995; pursuant to RCW 9.94A.533(3)(c) and (d).)

9 (If the Defendant has previously been convicted on two separate occasions of a “most serious  
10 offense” as defined by RCW 9.94A.030, in this state, in federal court, or elsewhere, the  
11 mandatory penalty for this offense is life imprisonment without the possibility of parole pursuant  
12 to RCW 9.94A.030 and 9.94A.570)

13 **Count XI**

14 Unlawful Possession of a Firearm in the Second Degree

15 On or about December 31, 2013, in the County of Kitsap, State of Washington, the  
16 above-named Defendant did knowingly own, possess, or have in his or her control a firearm, after  
17 having been previously convicted of VIOLATION OF A COURT ORDER - DOMESTIC VIOLENCE;  
18 contrary to the Revised Code of Washington 9.41.040(2)(a)(i).

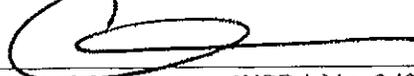
19 (MAXIMUM PENALTY—Five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW  
20 9.41.040(2)(b) and 9A.20.021(1)(c), plus restitution and assessments.)

21 JIS Code: 9.41.040.2A Firearm Possession Unlawful-2

22 I certify (or declare) under penalty of perjury under the laws of the State of Washington  
23 that I have probable cause to believe that the above-named Defendant committed the above  
24 offense(s), and that the foregoing is true and correct to the best of my knowledge, information and  
25 belief.

26 DATED: July 30, 2015  
27 PLACE: Port Orchard, WA

STATE OF WASHINGTON



CHAD M. ENRIGHT, WSBA NO. 34271  
Deputy Prosecuting Attorney

28 All suspects associated with this incident are—

29 James Charles Mathes  
30 Benjamin Nmi Herrin  
31 Kurtis G. Lont



**DEFENDANT IDENTIFICATION INFORMATION**

JAMES CHARLES MATHES	<u>Alias Name(s), Date(s) of Birth, and SS Number</u>
Po Box 1444	Jim Nmi Mathes, 04/21/1969
Port Orchard, Wa 98366	Tim Nmi Mathes, 04/21/1969

[Address source--Pursuant to CrRLJ/CrR 2.2, Complainant has attempted to ascertain the Defendant's current address by searching the Judicial Information System (JIS formerly called DISCIS) database, Department of Licensing abstract of driving record, Department of Corrections Felony Offender Reporting System, Kitsap County Jail records and law enforcement report]

Race: White	Sex: Male	DOB: 04/21/1969	Age: 46
D/L: MATHEJC313J1	D/L State: Washington	SID: WA13606984	Height: 508
Weight: 255	JUVIS: Unknown	Eyes: Blue	Hair: Brown
DOC: Unknown	FBI: 176746HA4		

**LAW ENFORCEMENT INFORMATION**

Incident Location: 8420 Bethel Burley Road, Port Orchard, WA [Incident Address Zip]  
 Law Enforcement Report No.: 2013SP019754  
 Law Enforcement Filing Officer: Rodney W. Green, SP715  
 Law Enforcement Agency: Washington State Patrol - WAWSP0801  
 Court: Kitsap County Superior Court, WA018015J  
 Motor Vehicle Involved? No  
 Domestic Violence Charge(s)? Yes  
 Law Enforcement Bail Amount? Unknown

**CLERK ACTION REQUIRED**

No Action Required  
 Appearance Date If Applicable: N/A

**PROSECUTOR DISTRIBUTION INFORMATION**

Superior Court	District & Municipal Court
Original Charging Document-- Original +2 copies to Clerk 1 copy to file	Original Charging Document-- Electronically filed with the Clerk Original +1 copy to file
Amended Charging Document(s)-- Original +2 copies to Clerk 1 copy to file	Amended Charging Document(s)-- Electronically filed with the Clerk Original +2 copies to file 1 copy clipped inside file on top of left side 1 copy to file

Prosecutor's File Number--14-101202-38

CHARGING DOCUMENT; Page 13 of 13



Tina R. Robinson, Prosecuting Attorney  
 Adult Criminal and Administrative Divisions  
 614 Division Street, MS-35  
 Port Orchard, WA 98366-4681  
 (360) 337-7174; Fax (360) 337-4949  
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FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT C

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IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON, )  
 ) No. 14-1-00301-1  
 Plaintiff, )  
 ) PLEA AGREEMENT  
 v. )  
 )  
 JAMES CHARLES MATHES, )  
 Age: 44; DOB: 04/21/1969, )  
 )  
 Defendant. )

The State and the Defendant enter into this Plea Agreement, consistent with the interests of justice. The State may withdraw this plea agreement at any time prior to the court's acceptance of a plea of guilty. Unless otherwise agreed, this plea offer expires at the Omnibus Hearing. All prior offers, whether oral or written, are hereby withdrawn.

2.1 CURRENT OFFENSE(S) <i>Asterisk (*) denotes same criminal conduct (RCW 9.94A.525).</i>		RCW	Date(s) of Crime from to		Special Allegations*
I	Assault in the First Degree	9A.36.011.1 AIC	12/31/2013	12/31/2013	
II	Assault in the First Degree	9A.36.011.1 AIC	12/31/2013	12/31/2013	
III	Unlawful Imprisonment	9A.40.040	12/31/2013	12/31/2013	
III	Domestic Violence	10.99.020	12/31/2013	12/31/2013	

2.2 CRIMINAL HISTORY (RCW 9.94A.525) <i>Asterisk (*) denotes prior convictions that were same criminal conduct.</i>	Date of Crime	Date of Sentence	Sentencing Court	Juv (x)
Assault in the 3 <sup>rd</sup> Degree	9/9/13	Pending	Kitsap County	
VUCSA - Poss	5/10/05		Kitsap County	
Violation of a NCO	3/9/05	8/4/06	Kitsap County	



2.2 CRIMINAL HISTORY (RCW 9.94A.525) <i>Asterisk (*) denotes prior convictions that were same criminal conduct.</i>	Date of Crime	Date of Sentence	Sentencing Court	Juv (x)
Hit and Run – Felony	10/1/00	5/7/01	Kitsap County	
Bail Jumping	3/19/01	5/7/01	Kitsap County	
Violation of a NCO	6/13/98	7/17/98	Kitsap County	
Attempting to Elude	4/9/98	6/22/98	Kitsap County	
VUCSA - Poss	12/18/92	1/29/93	Kitsap County	
Taking a Motor Vehicle w/o Permission	2/7/92	7/8/92	Kitsap County	
Assault in the Third Degree	12/18/92	1/29/93	Kitsap County	
Taking a Motor Vehicle w/o Permission	1/11/88	8/8/88	Kitsap County	
Taking a Motor Vehicle w/o Permission	5/18/87	7/7/87	Kitsap County	
Burglary – 2 <sup>nd</sup> Degree	1/16/84	5/15/84	Kitsap County	X
Burglary – 2 <sup>nd</sup> Degree	1/13/84	5/15/84	Kitsap County	X
Burglary – 2 <sup>nd</sup> Degree	1/8/84	5/15/84	Kitsap County	X

2.3 SENTENCING DATA									
Count	Offender Score	Seriousness Level	Standard Range	Days (x)	Mo. (x)	Special Allegations Type*	Mo.	Total Standard Range (Mo.)	Maximum Term
I.	14	XII	240 to 318	-	X	F	60	300 to 378	Life
II	0	XII	93 to 123	-	X	F	60	153 to 183	Life
III.	15	III	51 to 60	-	X	F	18	69 to 78	5 years

Defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

\*SPECIAL ALLEGATION KEY (RCWs)- F=Firearm (9.94A.533), DW=Deadly Weapon (9.94A.602,533); DV=Domestic Violence (10.99.020); SZ=School Zone (69.50.435,533); SM=Sexual Motivation (9.94A.835, and/or 9.94A.533); VH=Vehicular Homicide Prior DUI (46.61.520,5055); CF=drug crime at Corrections Facility (9.94A.533); JP=Juvenile Present at manufacture (9.94A.605); P=Predatory (9.94A.836); <15=Victim Under 15 (9.94A.837); DD=Victim is developmentally disabled, mentally disordered, or a frail elder or vulnerable adult (9.94A.838, 9A.44.010); CSG=Criminal Street Gang Involving a Minor (9.94A.833); AE=Endangerment While Attempting to Elude (9.94A.834).

**NO FURTHER CHARGES**—The State agrees to file no further charges or sentence enhancements for this incident that are in the exclusive jurisdiction of Kitsap County based on the discovery issued by the State for this cause number.

**NOTICE**—Any RCW 69.50 felony offense with a firearm or deadly weapon special verdict is a Level III offense (e.g. 0 to 6 month range converts to 51 to 60 month range). RCW 9.94A.518.

**FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES (RCW 9.94A.530)**—The parties stipulate that the sentencing court may consider the discovery and/or certification(s) for probable cause as the material facts.

**SENTENCING RECOMMENDATIONS AND AGREEMENTS**

PLEA AGREEMENT; Page 2



Russell D. Hauge, Prosecuting Attorney  
 Adult Criminal and Administrative Divisions  
 614 Division Street, MS-35  
 Port Orchard, WA 98366-4681  
 (360) 337-7174; Fax (360) 337-4949  
 www.kitsapgov.com/pros

**SENTENCING RECOMMENDATIONS AND AGREEMENTS**

1		
2	X	<b>471 months</b> to be served in the Kitsap County Corrections Center (term 365 days or less) or the Department of Corrections (term more than 365 days). (Counts I and II run consecutive).
3		No objection to <b>Jail Alternatives/Partial Confinement</b> if available and defendant is found eligible at the discretion of the Kitsap County Jail (may include electronic home monitoring, supervised community service, work crew and work release).
4		
5		<b>Straight Time-Confinement</b> to be served in the Kitsap County Jail.
6		Any sentence within the standard range.
7		<b>Joint Agreement</b> —The sentence recommendation above is a joint agreement between the defendant and the State. Failure to abide by this agreement will constitute a breach of the plea agreement.
8	X	<b>Credit for Time Served</b> —The Defendant shall receive credit for any time served prior to sentencing solely for this cause number as computed by the jail, unless specifically set forth—_____ days.
9		
10	X	<b>Community Custody</b> —The State will recommend supervision and crime-related conditions to be ordered by the Court and DOC as follows: <b>For Offenders Sentenced to the Custody of DOC</b> (sentences of a-year-and-a-day or more) <input checked="" type="checkbox"/> 36 months for: Serious Violent Offenses; Sex Offenses not sentenced under 9.94A.507 or SSOSA, (including felony Failure to Register as a Sex Offender if the defendant has at least one prior felony failure to register conviction); <input type="checkbox"/> 18 months for Violent Offenses <input type="checkbox"/> 12 months for: Crimes Against Persons; felony offenses under chapter 69.50 or 69.52 RCW; felony Failure to Register as a Sex Offender (if the defendant has no prior convictions for failure to register) <input type="checkbox"/> Duration required by law for SSOSA, DOSA or Work Ethic sentence <input type="checkbox"/> Duration required per RCW 9.94A.507 (Release from total confinement until expiration of maximum term) (see data table). <b>For Offenders Sentenced to a term of one year or less</b> (to be served in the Kitsap County Jail) <input type="checkbox"/> 12 months for: violent offenses; crimes against persons; felony offenses under chapter 69.50 or 69.52 RCW; sex offenses; or felony Failure to Register as a Sex Offender (regardless of the number of prior felony failure to register convictions ) <b>For Offenders Sentenced for a misdemeanor or gross misdemeanor conviction</b> <input type="checkbox"/> 12 months <input type="checkbox"/> 24 months supervised probation for misdemeanor or gross misdemeanor convictions
11		
12		
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20		<b>Domestic Violence Perpetrators Program</b> —The Defendant agrees to successfully complete a certified domestic violence perpetrators treatment program, pursuant to RCW 9.94A.505(11).
21		
22		<b>First Offender</b> —Waiver of standard range pursuant to RCW 9.94A.650.
23		<b>Work Ethic Camp</b> —The State will consider recommending if recommended by Pre-Sentence Report.
24	X	<b>Forfeiture Agreement</b> —The Defendant agrees to forfeit all seized property referenced in the discovery to the originating law enforcement agency unless otherwise stated.
25		<b>Agreed Exceptional Sentence</b> — The Parties stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, that they will recommend the following exceptional sentence provisions, and that a factual basis exists for this exceptional sentence, predicated upon <i>In re Breedlove</i> , 138 Wn.2d 298 (1999) and <i>State v. Hilyard</i> , 63 Wn.App. 413 (1991), <i>review denied</i> , 118 Wn.2d 1025 (1992), RCW 9.94A.421(3) and RCW 9.94A.535: _____
26		
27		
28		<b>Plea to Lesser Uncommitted Crime</b> —The Defendant admits that the State has sufficient evidence to convince a jury that he or she committed the offense(s) of _____. The Defendant wishes to plead guilty to the lesser, related offense(s) listed above in the "Current Offenses" to avoid greater punishment. The Defendant understands that the court will accept the guilty plea if it finds that a factual basis exists for the greater charge(s), pursuant to <i>In re Barr</i> , 102 Wn.2d 265 (1984).
29		
30		
31		<b>Cooperation Agreement</b> —: The Defendant agrees: (1) to fully cooperate with law enforcement in the investigation



**Russell D. Hauge, Prosecuting Attorney**  
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**SENTENCING RECOMMENDATIONS AND AGREEMENTS**

of co-participants; (2) to honor all subpoenas and testify fully and truthfully at any hearings regarding this incident despite any privileges the Defendant believes the Defendant may possess; (3) to be sentenced on a date selected by the State; and, (4) that in the event of rescission of the Defendant's guilty plea in this action for any reason, the Defendant affirmatively waives any privileges contained in Evidence Rule 410 to the extent that ER 410 would bar admission of the Defendant's testimony given in any judicial proceeding related to this incident.

In addition, [check one of the following]:

- The Defendant agrees that his or her statements provided to law enforcement and described in discovery are truthful and accurate and a deviation from those facts in future testimony would be a breach of the plea agreement;
- The Defendant agrees to provide the State with a written summary of expected testimony that is truthful and accurate and will be the basis of the cooperation agreement, and to provide this summary to the State before the entry of a guilty plea, subject to ER 410.

**Juvenile Declination**—The Defendant understands that he or she has a right to appeal the juvenile court's decision to transfer this case to adult court. As part of this plea agreement, the Defendant knowingly, intelligently, and voluntarily waives the right to appeal the juvenile court's decline decision.

**Other Agreement**—

**FINANCIAL OBLIGATIONS**

The Defendant agrees to pay costs for this action (RCW 9.94A.760, 9.94A.030(27), 10.01.160, 10.46.190), including restitution for the charged crimes and the costs set out in the table below. Witness fees, sheriff service/subpoena fees, and additional court costs will be ordered when ascertainable. The Defendant agrees to waive his or her presence at any restitution hearings in this action.

*Note—Restitution may be ordered for double the amount of the victim's loss.*

<input checked="" type="checkbox"/>	<b>\$500</b> Victim Assessment, RCW 7.68.035 [PCV]	\$ _____ Sheriff service/sub. fees [SFR/SFS/SFW/SRF]
<input checked="" type="checkbox"/>	<b>\$1135</b> Court-appointed attorney fees [PUB]	\$ _____ Witness Costs [WFR]
<input checked="" type="checkbox"/>	<b>\$200</b> Filing Fee; \$110 if filed before 7/24/2005 [FRC]	\$ _____ Jury Demand fee [JFR]
<input checked="" type="checkbox"/>	<b>\$100</b> DNA / Biological Sample Fee, RCW 43.43.7541	\$ _____ Court-appointed defense fees/other costs
<input type="checkbox"/>	<b>\$1,000</b> <input type="checkbox"/> <b>\$2,000</b> Mandatory fine for drug crimes, RCW 69.50.430	<b>\$100</b> Domestic Violence Assessment, RCW 10.99.080 <input type="checkbox"/> Kitsap Co. YWCA <input type="checkbox"/> Kitsap Sexual Assault Ctr
\$ _____	Contribution to SIU—Washington State Patrol, RCW 9.94A.030, 9.94A.760.	<input checked="" type="checkbox"/> <b>\$100</b> Contribution—Kitsap County Expert Witness Fund [Kitsap County Ordinance 139.1991]
<b>\$100</b>	Crime Lab fee, RCW 43.43.690(1)	<input checked="" type="checkbox"/> <b>\$500</b> Contribution—Kitsap Co. Special Assault Unit
<b>\$3,000</b>	Methamphetamine / amphetamine Cleanup Fine, RCW 69.50.440 or 69.50.401(2)(b)	<b>\$100</b> Contribution—Anti-Profitereing Fund of Kitsap Co. Prosecuting Attorney's Office, RCW 9A.82.110
	Emergency Response Costs – DUI, Veh. Homicide or Veh. Assault, RCW 38.52.430, per separate order.	<b>\$200</b> DUC-DUI/DP Account Fee – Imposed on any DUI, Physical Control, Vehicular Homicide, or Vehicular Assault. RCW 46.61.5054.

**Payment Incentive:** If the Defendant makes timely payment on his/her legal financial obligations, the Defendant may avoid assessment of a 50% collection penalty and a 12% annual interest rate.

**RESTITUTION FOR UNCHARGED CRIMES**

The Defendant agrees to pay restitution to victims of uncharged crimes contained in the discovery or as otherwise stated—

**DEFENDANT UNDERSTANDS BY SIGNING THIS AGREEMENT—**



- 1 1. The Defendant hereby declares, under penalty of perjury as provided by RCW 9A.72.020 or  
2 030, that the criminal history listed in this agreement is true, correct and complete, that the  
3 Defendant has no additional criminal convictions or adjudications that would count toward  
4 the offender score, and that the Defendant's community custody/placement status at the time  
5 of the current offense(s) is correctly noted herein.
- 6 2. The Defendant understands and agrees to the following:
- 7 a. The Defendant agrees that any attempt to withdraw the Defendant's guilty plea(s), or any  
8 attempt to appeal or collaterally attack any conviction or agreed sentence entered under  
9 this cause number will constitute a breach of this agreement.
- 10 b. The Defendant agrees that any violation of any cooperation agreement associated with  
11 this plea agreement will constitute a breach of this agreement
- 12 c. The Defendant agrees that any misstatement of his or her criminal history will constitute  
13 a breach of this agreement.
- 14 d. The Defendant agrees that it will constitute a breach of this agreement if he or she  
15 commits any new crimes after acceptance of this agreement but before the time of  
16 sentencing or before the time the Defendant presents himself or herself to the jail or  
17 correctional facility to commence actual service of his or her sentence as ordered by the  
18 court.
- 19 e. The Defendant agrees that if he or she violates any condition of release pending  
20 sentencing or fails to appear for sentencing, it will constitute a breach of this agreement.
- 21 f. The Defendant agrees that it will constitute a breach of this agreement if he or she fails to  
22 report to the jail or correctional facility after sentencing as required by the court's  
23 commitment order concerning service of sentence or warrant of commitment. Note:  
24 failure to report to the jail or correctional facility as required by the court is also a crime.  
25 See RCW 9A.76.170.
- 26 g. The Defendant either agrees to waive his or her presence at any restitution hearing or  
27 agrees that he or she will be solely responsible for making arrangements to appear at the  
28 hearing by telephone. The Defendant further agrees that it will constitute a breach of this  
29 agreement if he or she: (1) requests the Court or the State to make arrangements for, and  
30 be responsible for, the Defendant's presence at any restitution hearing; or (2) requests the  
31 Court to continue any restitution hearing solely for the purpose of permitting the  
Defendant to attend the restitution hearing.
- h. The Defendant agrees that upon a finding by the Court that the Defendant has breached  
any term of this agreement:
- (i) That the State will be released from its obligations under this agreement, but that the  
Defendant will still be bound by the guilty plea(s); and
- (ii) That the State will be authorized to file any additional charges, any greater offenses  
based on the same conduct, and/or any statutory enhancements that were not filed or  
were dismissed as part of this plea agreement, and that neither double jeopardy nor  
mandatory joinder rules will be cause for dismissal of the new and/or additional



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charges or enhancements; and

(iii) That the Defendant may be sentenced anew; and

(iv) That the State's exercise of any of its rights under this agreement shall not be grounds to vacate any guilty plea, conviction or sentence entered under this cause number.

3. The Defendant understands that if the Court orders a pre-sentence investigation (PSI), it will be conducted by a person who is an agent of the Court, not of the State. The PSI writer will have access to all police reports and to this plea agreement, but will not be bound by it.
4. The Defendant understands that if the PSI writer, victim, or other interested party does not agree with the State's sentencing recommendations, it will not be grounds for the Defendant to withdraw from this agreement.
5. The Defendant understands that if the parties agree to an exceptional sentence, the Defendant is waiving the right to have facts supporting such a sentence decided by a jury.
6. The Defendant understand that if the court finds that any one of the charged crimes was a felony and that a motor vehicle was used in the commission of the crime, then the court will direct the clerk to forward an Abstract of Court Record to the Department of Licensing, which, in turn, must revoke the Defendant's driver's license. RCW 46.20.285.

**DEFENDANT'S ACKNOWLEDGEMENT**—I enter into this agreement freely and voluntarily. No one has threatened me or any other person to cause me to enter into this agreement. My attorney has explained the above paragraphs to me and we have fully discussed them. I understand them all, and understand that I waive substantial rights by entering into this agreement.

\_\_\_\_\_  
JAMES CHARLES MATHES  
Defendant

\_\_\_\_\_  
CHAD M. ENRIGHT, WSBA No. 34271  
Deputy Prosecuting Attorney  
Plea Agreement Prepared January 27, 2014

\_\_\_\_\_, WSBA No. \_\_\_\_\_  
Attorney for Defendant

**COURT'S APPROVAL**—I find that the Defendant knowingly, voluntarily and intelligently entered into this plea agreement, and the Defendant understands the consequences of the agreements, recommendations and waivers therein.

PLEA AGREEMENT APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

Prosecutor's File Number—14-101202-38

Prosecutor Distribution—Original (Court Clerk); 1 copy (Prosecutor), 1 copy (DOC), 1 copy (Defense Atty); 1 copy (Pros Stat Keeper)



FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT D

DATE: 09-17-2013 09:58:35 AM Type: Received  
SUBJECT: QR: C, LSM KPENDRAS ASLT, 176746HA4  
Message:

PAGE 1  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984  
WASHINGTON STATE PATROL  
IDENTIFICATION AND CRIMINAL HISTORY SECTION  
P.O. BOX 42633  
OLYMPIA, WASHINGTON 98504-2633

\*\*\*\*\*  
CRIMINAL HISTORY INFORMATION AS OF 09/17/2013  
\*\*\*\*\*

NOTICE

THE FOLLOWING TRANSCRIPT OF RECORD IS FURNISHED FOR OFFICIAL USE ONLY.  
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COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE  
WASHINGTON STATE PATROL.

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MASTER INFORMATION  
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\*\*\*\*\*  
NAME: MATHES, JAMES C DOB: 04/21/1969  
SID NUMBER: WA13606984 FBI NUMBER: 176746HA4  
DOC NUMBER: 931439  
\*\*\*\*\*

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PERSON INFORMATION  
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\*\*\*\*\*  
SEX RACE HEIGHT WEIGHT EYES HAIR PLACE OF BIRTH CITIZENSHIP  
M W 508 230 GRN BRO WA US  
\*\*\*\*\*

OTHER NAMES USED OTHER DATES OF SOC SEC MISC NUMBER  
MATHES, JAMES BIRTH USED NUMBER  
MATHES, JAMES CHARLES 533-74-4110  
MATHES, JIM 533-74-6110  
536-74-6110  
733-74-4110

DNA TAKEN: Y DNA TYPED: Y  
DLO: WSP CRIME LABORATORY-SEATTLE, CODIS UNIT (206) 262-6020

\*\*\*\*\*  
SCARS, MARKS, TATTOOS, AMPUTATIONS  
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LOCATION DESCRIPTION LOCATION DESCRIPTION  
ORTH SCREW  
SC FHD SC ABDOM  
SC R LEG SC R HIP  
SC R WRIST SC R THGH  
SC UL ARM SC UL ARM BODY  
TAT BACK FLOWERS TAT BACK BODY  
TAT L BRST RELIGIOUS TAT BACK SHAPES  
TAT L CALF BODY TAT L CALF BODY  
TAT L CALF SHAPES TAT L SHLD  
TAT LF ARM INSIGNIA TAT R BRST REPTILES  
TAT R SHLD INSIGNIA TAT RF ARM INSIGNIA  
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CONVICTION AND/OR ADVERSE FINDING SUMMARY  
\*\*\*\*\*

\*\*\*\*\*  
7 FELONY(S) DISPOSITION DATE  
DOMESTIC VIOL COURT ORD VIOL CLASS C FELONY 08/04/2006  
ATTEMPT TO ELUDE CLASS C FELONY 06/22/1998  
ASSAULT-3 CLASS C FELONY 01/29/1993  
VUCSA-POSS MARIJ MORE THAN 40 GRAMS CLASS C FELONY 01/29/1993  
TAKING MOTOR VEHICLE WITHOUT PERMISSIONCLASS C FELONY 07/08/1992  
TAKING MOTOR VEHICLE WITHOUT PERMISSIONCLASS C FELONY 08/08/1988  
TAKING MOTOR VEHICLE WITHOUT PERMISSIONCLASS C FELONY 07/07/1987  
\*\*\*\*\*

5 GROSS MISDEMEANOR(S)  
 DRIVING UNDER THE INFLUENCE 03/24/2005  
 MALICIOUS MISCH-3 DMG > \$50 03/24/2005  
 HIT AND RUN-ATTENDED-PROPERTY DAMAGE 05/07/2001  
 ASSAULT-4 12/24/1997  
 DRIVING UNDER THE INFLUENCE 04/29/1992  
 2 MISDEMEANOR(S)  
 VUCSA-POSS MARIJ 40 GRAMS OR LESS 04/29/1992  
 NO CONTACT ORDER VIOLATION- PRECONVICTION 02/05/1992  
 3 CLASSIFICATION(S) UNKNOWN  
 BAIL JUMPING 05/07/2001  
 DOMESTIC VIOLENCE COURT ORDER VIOLATION - NO CONTACT ORDER 02/13/1998  
 DRIVING WHILE LIC SUSP OR REVOKED 04/29/1992

\*\*\*\*\*  
 DOC SUMMARY  
 \*\*\*\*\*

DOMESTIC VIOL COURT ORD VIOL	COMMITMENT	08/31/2006
CONT SUB-POSS NO PRESCRIPTION	COMMITMENT	08/31/2006
HIT AND RUN - INJURY	COMMITMENT	05/08/2001
BAIL JUMPING	COMMITMENT	05/08/2001
ASSAULT/RECK ENDANG IN VIOLATION NO-CONTACT	COMMITMENT	07/21/1998
VUCSA-POSS MARIJ MORE THAN 40 GRAMS	COMMITMENT	02/02/1993
ASSAULT-3	COMMITMENT	02/02/1993

\*\*\*\*\*  
 CRIMINAL HISTORY INFORMATION  
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THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

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 ARREST 30 DATE OF ARREST: 03/09/2005  
 -----

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: 737034208 TCN: WA1800002200199403

ARREST OFFENSES	DISPOSITION
0044400 DOMESTIC VIOL COURT ORD VIOL RCW: 26.50.110(4) CLASS C FELONY ORIGINATING AGENCY: WA0180000 KITSAP COUNTY SHERIFF DISPO RESPONSIBILITY: WA018015J DATE OF OFFENSE: 03/09/2005 COMMENT: NON CONTACT ORDER VIOL.	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018015J KITSAP COUNTY SUPERIOR COURT COURT CASE NO: 05100003233  STATUS: GUILTY 0044410 DOMESTIC VIOL COURT ORD VIOL RCW: 26.50.110(5) DOMESTIC VIOLENCE CLASS C FELONY STATUS DATE: 08/04/2006 COUNTS: 1
0739900 DRUG RELATED CHARGE RCW: 69.00.000 CLASS UNKNOWN ORIGINATING AGENCY: WA0180000 KITSAP COUNTY SHERIFF DISPO RESPONSIBILITY: WA018015J DATE OF OFFENSE: 03/09/2005 COMMENT: POSS OF M/J	SENTENCE: SUPERVISION: X, SENT. DESC.: SENTENCED 17 MONTHS CONFINEMENT WITH 9- 18 MONTHS COMMUNITY CUSTODY, \$500 VICTIM ASSESSMENT AND \$100 DNA SAMPLE FEE. TERMS OF CONFINEMENT TO RUN CONCURRENT WITH 05-1-00652- 6.     COURT COSTS: 110.00;

-----  
 ARREST 29 DATE OF ARREST: 10/30/2004  
 -----

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: 737008380 TCN: WA1800002200172462

ARREST OFFENSES	DISPOSITION
0219000 MALICIOUS MISCHIEF 3 RCW: 9A.48.090 DOMESTIC VIOLENCE	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018013J KITSAP COUNTY DISTRICT COURT

CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
\$50  
DATE OF OFFENSE: 10/30/2004  
COMMENT: MALICIOUS MISCHIEF 3-DV

COURT CASE NO: 10120232  
STATUS: GUILTY  
0219200 MALICIOUS MISCH-3 DMG >  
RCW: 9A.48.090(2) (A)  
GROSS MISDEMEANOR  
STATUS DATE: 03/24/2005  
  
SENTENCE: JAIL: 365 DS,  
JAIL SUS.: 355 DS  
SUPERVISION: 2 YRS,  
FINE: \$5000.00, FINE SUS.:  
\$4250.00

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ARREST 28 DATE OF ARREST: 10/28/2004  
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NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: 737007839 TCN: WA1800002200171911  
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ARREST OFFENSES DISPOSITION  
0764400 DRIVING UNDER THE INFLUENCE CONTRIBUTOR OR RESPONSIBLE AGENCY:

END OF PAGE 1 - PAGE 2 TO FOLLOW  
09/17/2013, 09:58:35  
- MKE: UNKNOWN  
- Source: WWCIC  
- To: KP153  
- ISN: 03V5004D0Q  
- REF: 03V400000K  
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DATE: 09-17-2013 09:58:36 AM Type: Received  
SUBJECT: QR: C, LSM KPENDRAS ASLT, 176746HA4  
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PAGE 2  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

RCW: 46.61.502(5) GROSS MISDEMEANOR ORIGINATING AGENCY: WAWSP0000 WASHINGTON STATE PATROL DISPO RESPONSIBILITY: WA018013J COURT CASE NO: 10120231 INFLUENCE DATE OF OFFENSE: 10/28/2004 COMMENT: PR REVOKE CAUSE 10120231	WA018013J KITSAP COUNTY DISTRICT COURT COURT CASE NO: 10120231 STATUS: GUILTY 0764400 DRIVING UNDER THE RCW: 46.61.502(5) GROSS MISDEMEANOR STATUS DATE: 03/24/2005  SENTENCE: JAIL: 365 DS, JAIL SUS.: 360 DS SUPERVISION: 5 YRS, FINE: \$5000.00, FINE SUS.: \$4100.00
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ARREST 27  
DATE OF ARREST: 03/22/2001

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NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: 736747391 TCN: N/A

ARREST OFFENSES	DISPOSITION
07623 HIT AND RUN - INJURY RCW: 46.52.020(4)(b) CLASS C FELONY ORIGINATING AGENCY: WA0180000 KITSAP COUNTY SHERIFF DISPO RESPONSIBILITY: WA018015J COURT CASE NO: 001014188 DATE OF OFFENSE: 03/22/2001	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018015J KITSAP COUNTY SUPERIOR COURT COURT CASE NO: 001014188 REFER TO 10/10/2000

-----  
ARREST 26  
DATE OF ARREST: 10/10/2000

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NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES	DISPOSITION
07620 HIT AND RUN RCW: 46.52.020 CLASS UNKNOWN ORIGINATING AGENCY: WA0180000 KITSAP COUNTY SHERIFF DISPO RESPONSIBILITY: WA0180000 DATE OF OFFENSE: 10/10/2000	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA0180000 KITSAP COUNTY SHERIFF STATUS: DISPOSITION NOT RECEIVED CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018015J KITSAP COUNTY SUPERIOR COURT COURT CASE NO: 001014188 STATUS: GUILTY 07626 HIT AND RUN-ATTENDED- PROPERTY DAMAGE RCW: 46.52.020(5) GROSS MISDEMEANOR STATUS DATE: 05/07/2001  SENTENCE: SENT. DESC.: CHG 01: PRISON-60 MOS **CHG 02: PRISON-60 MOS, CONCURRENT  STATUS: GUILTY 05150 BAIL JUMPING RCW: 9A.76.170

CLASS UNKNOWN  
STATUS DATE: 05/07/2001

ARREST 25

DATE OF ARREST: 02/16/1999

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES  
09930 FAIL TO COMPLY  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: 10120219  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 02/16/1999  
COMMENT: ALST DOM VIOL

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120219  
REFER TO 12/18/1997

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120220  
REFER TO 02/10/1998

09930 FAIL TO COMPLY  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: 10120220  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 02/16/1999  
COMMENT: VIOL CONT SUBST

ARREST 24

DATE OF ARREST: 06/20/1998

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES  
01135 ASSAULT-4  
RCW: 9A.36.041  
PROSECUTOR  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 06/20/1998  
COMMENT: 2 CTS

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY

STATUS: DISPOSITION NOT RECEIVED

00476 NO CONTACT ORDER VIOLATION  
RCW: 10.99.040(4)  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 06/20/1998

ARREST 23

DATE OF ARREST: 04/09/1998

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180100 BREMERTON POLICE DEPARTMENT  
LOCAL ID: 27223 PCN: N/A TCN: N/A

ARREST OFFENSES  
07618 ATTEMPT TO ELUDE  
RCW: 46.61.024  
PROSECUTOR  
CLASS C FELONY  
ORIGINATING AGENCY: WA0180100  
BREMERTON POLICE DEPARTMENT  
OIN: 9803679  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 04/09/1998

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY

COURT CASE NO: 981004884

STATUS: GUILTY  
07618 ATTEMPT TO ELUDE  
RCW: 46.61.024  
CLASS C FELONY  
STATUS DATE: 06/22/1998

SENTENCE: SENT. DESC.:

CHG 01: COSTS-110.00, JAIL-  
6 MOS, SUPV-12 MOS

ARREST 22

DATE OF ARREST: 02/10/1998

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES  
00476 NO CONTACT ORDER VIOLATION  
RCW: 10.99.040(4)  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: 10120220  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 02/10/1998  
COMMENT: C#10120220

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120220  
STATUS: GUILTY  
00483 DOMESTIC VIOLENCE COURT  
ORDER VIOLATION - NO CONTACT  
ORDER  
RCW: 10.99.040  
CLASS UNKNOWN  
STATUS DATE: 02/13/1998

END OF PAGE 2 - PAGE 3 TO FOLLOW  
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- MKE: UNKNOWN  
- Source: WWCIC  
- To: KP153  
- ISN: 03V5004D12  
- REF: 03V400000K

DATE: 09-17-2013 09:58:37 AM Type: Received  
SUBJECT: QR: C, LSM KPENDRAS ASLT, 176746HA4  
Message:

PAGE 3  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

SENTENCE: SENT. DESC.:  
CHG 01: FINE-1000.00/  
SUSPENDED 750.00, JAIL-365  
DS/SUSPENDED 335 DS, SUPV-  
2 YRS

ARREST 21

DATE OF ARREST: 12/18/1997

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 1011592 PCN: N/A TCN: N/A

ARREST OFFENSES

01135 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: 10120219  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 12/18/1997

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120219  
STATUS: GUILTY  
01134 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
STATUS DATE: 12/24/1997

SENTENCE: SENT. DESC.:  
CHG 01: FINE-5000.00/  
SUSPENDED 4000.00, JAIL-  
365 DS/SUSPENDED 335 DS,  
SUPV-2 YRS

ARREST 20

DATE OF ARREST: 07/09/1997

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0230000 MASON COUNTY SHERIFFS OFFICE  
LOCAL ID: 971062 PCN: 002497689 TCN: N/A

ARREST OFFENSES

01135 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
OIN: 9709105  
DISPO RESPONSIBILITY: WA023013J  
DATE OF OFFENSE: 07/09/1997  
COMMENT: CR01267

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA023013J MASON COUNTY DISTRICT  
COURT  
COURT CASE NO: CR1267  
STATUS: DISMISSED  
01135 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
STATUS DATE: 08/13/1997

ARREST 19

DATE OF ARREST: 09/27/1995

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: K9415816S  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K9416562S  
REFER TO 06/01/1995  
CONTRIBUTOR OR RESPONSIBLE AGENCY:

COURT CASE NO: K9415816S  
DATE OF OFFENSE: 09/27/1995  
COMMENT: HIT/RUN

WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K94158165

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: 9416562S  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
COURT CASE NO: 9416562S  
DATE OF OFFENSE: 09/27/1995  
COMMENT: MALIC MISCH

STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 09/27/1995

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 145687

STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 09/27/1995

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: K9415309  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
COURT CASE NO: K9415309  
DATE OF OFFENSE: 09/27/1995  
COMMENT: HARRASS DOM VIOL

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: K9412733S  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
COURT CASE NO: K9412733S  
DATE OF OFFENSE: 09/27/1995  
COMMENT: NVOL

ARREST 18

DATE OF ARREST: 09/25/1995

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0230000 MASON COUNTY SHERIFFS OFFICE  
LOCAL ID: 951383 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

00816 RAPE OF A CHILD-1  
RCW: 9A.44.073  
CLASS A FELONY  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
DISPO RESPONSIBILITY: WA023013A  
WARRANT  
DATE OF OFFENSE: 09/25/1995

02210 HARASSMENT  
RCW: 9A.46.020  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
WARRANT  
DISPO RESPONSIBILITY: WA0230000  
DATE OF OFFENSE: 09/25/1995  
COMMENT: WRNT #K94165625 KITSAP CO

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA0230000 MASON COUNTY SHERIFFS  
OFFICE  
STATUS DATE: 09/25/1995  
STATUS: OTHER AGENCY

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA0230000 MASON COUNTY SHERIFFS  
OFFICE  
STATUS DATE: 09/25/1995  
STATUS: OTHER AGENCY

07629 HIT AND RUN - UNATTENDED -  
PROPERTY DAMAGE  
RCW: 46.52.010  
WARRANT  
MISDEMEANOR  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
DISPO RESPONSIBILITY: WA0230000  
DATE OF OFFENSE: 09/25/1995  
COMMENT: WRNT #K94127335 KITSAP CO

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA0230000 MASON COUNTY SHERIFFS  
OFFICE  
STATUS DATE: 09/25/1995  
STATUS: OTHER AGENCY

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA0230000 MASON COUNTY SHERIFFS  
OFFICE  
STATUS DATE: 09/25/1995  
STATUS: OTHER AGENCY

WARRANT  
02152 MALICIOUS MISCHIEF-1  
RCW: 9A.48.070(1)  
CLASS B FELONY

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA023013A MASON COUNTY

PROSECUTORS  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
DISPO RESPONSIBILITY: WA0230000  
DATE OF OFFENSE: 09/25/1995  
COMMENT: WRNT #K94153085 KITSAP  
  
07630 DRIVING WHILE LIC SUSP OR REVOKED  
RCW: 46.20.342  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0230000  
MASON COUNTY SHERIFFS OFFICE  
DISPO RESPONSIBILITY: WA0230000  
DATE OF OFFENSE: 09/25/1995  
COMMENT: WRNT #94127335 KITSAP

OFFICE  
COURT CASE NO: 951002226  
STATUS: DISMISSED  
00816 RAPE OF A CHILD-1  
RCW: 9A.44.073  
CLASS A FELONY  
STATUS DATE: 09/26/1995

ARREST 17

DATE OF ARREST: 06/01/1995

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES  
02012 ARSON-2  
RCW: 9A.48.030  
PROSECUTOR

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY

END OF PAGE 3 - PAGE 4 TO FOLLOW  
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- MKE: UNKNOWN  
- Source: WWCIC  
- To: KP153  
- ISN: 03V5004D1A  
- REF: 03V400000K

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Message:

PAGE 4  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

CLASS B FELONY  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 06/01/1995

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: K9415308S  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 06/01/1995  
COMMENT: WRNT HARASS

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: K9416562S  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 06/01/1995  
COMMENT: WRNT ASLT 4

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: K9415816S  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 06/01/1995  
COMMENT: WRNT HIT/RUN

05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
OIN: K9501417S  
DISPO RESPONSIBILITY: WA018013J  
DATE OF OFFENSE: 06/01/1995  
COMMENT: DWLS

COURT CASE NO: 951004812  
STATUS: DISMISSED  
02012 ARSON-2  
RCW: 9A.48.030  
CLASS B FELONY  
STATUS DATE: 04/20/1996

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 9415308S  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K9416562S  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K9415816S  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K9501417S  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/01/1995

ARREST 16

DATE OF ARREST: 06/01/1995

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180100 BREMERTON POLICE DEPARTMENT  
LOCAL ID: 27223 PCN: N/A TCN: N/A

ARREST OFFENSES  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180100  
BREMERTON POLICE DEPARTMENT  
OIN: 9506467  
DISPO RESPONSIBILITY: WA018011J  
DATE OF OFFENSE: 06/01/1995  
COMMENT: DWLS

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018011J BREMERTON MUNICIPAL  
COURT  
COURT CASE NO: 180019  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 06/21/1995

ARREST 15

DATE OF ARREST: 09/20/1994

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: 94127335  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
COURT CASE NO: 94127335  
DATE OF OFFENSE: 09/20/1994  
COMMENT: ASLT 4 DV

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K94127335  
STATUS: NO CHARGE FILED  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
STATUS DATE: 09/20/1994

ARREST 14

DATE OF ARREST: 01/11/1993

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES  
07300 VUCSA  
RCW: 9A.50.401  
PROSECUTOR  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 12/10/1992  
COMMENT: WRNT #92015308  
PROSECUTOR  
01103 ASSAULT-3  
RCW: 9A.36.031  
DOMESTIC VIOLENCE  
CLASS C FELONY  
ORIGINATING AGENCY: WA0180000  
PROSECUTOR  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 01/11/1993  
COMMENT: WRNT #92015308

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
STATUS DATE: 01/29/1993  
STATUS: NO CHARGE FILED  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
STATUS DATE: 01/29/1993  
STATUS: NO CHARGE FILED  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: 921008571  
REFER TO 12/18/1992

02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A

DATE OF OFFENSE: 01/11/1993  
COMMENT: WRNT #92100928

09910 PROBATION/SUPERVISION VIOLATION  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 01/11/1993  
COMMENT: WRNT #881000105 #871002331  
#921008571

ARREST 13

DATE OF ARREST: 12/18/1992

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES

07300 VUCSA  
RCW: 69.50.401  
PROSECUTOR  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 12/18/1992

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
STATUS DATE: 12/18/1992  
STATUS: NO CHARGE FILED  
CONTRIBUTOR OR RESPONSIBLE AGENCY:

END OF PAGE 4 - PAGE 5 TO FOLLOW

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- MKE: UNKNOWN  
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- To: KP153  
- ISN: 03V5004D1G  
- REF: 03V400000K

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QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

PROSECUTOR  
05090 CONTEMPT OF COURT  
RCW: 7.21.000  
CLASS UNKNOWN  
WARRANT NO: 9202379S  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
PROSECUTOR  
DISPO RESPONSIBILITY: WA018013A  
COURT CASE NO: 9202379S  
DATE OF OFFENSE: 12/18/1992  
01022 ASSAULT-2  
RCW: 9A.36.021  
CLASS B FELONY  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 12/18/1992

WA018013A KITSAP COUNTY  
STATUS DATE: 12/18/1992  
STATUS: NO CHARGE FILED  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: 921008571  
STATUS: GUILTY  
01102 ASSAULT-3  
RCW: 9A.36.031  
CLASS C FELONY  
STATUS DATE: 01/29/1993  
SENTENCE: SENT. DESC.:  
CHG 01: PRISON-12 MOS + 1  
DY, SUPV-12 MOS \*\*CHG 02:  
JAIL-8 MOS, SUPV-12 MOS  
STATUS: GUILTY  
07378 VUCSA-POSS MARIJ MORE THAN  
40 GRAMS  
RCW: 69.50.401(D)  
CLASS C FELONY  
STATUS DATE: 01/29/1993  
STATUS: NOT FILED  
01103 ASSAULT-3  
RCW: 9A.36.031  
DOMESTIC VIOLENCE  
CLASS C FELONY  
STATUS DATE: 01/29/1993

ARREST 12

DATE OF ARREST: 10/20/1992

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A3422 PCN: N/A TCN: N/A

ARREST OFFENSES  
09930 FAIL TO COMPLY  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180400  
PORT ORCHARD POLICE DEPARTMENT  
OIN: 922437  
DISPO RESPONSIBILITY: WA018021J  
DATE OF OFFENSE: 10/20/1992

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018021J PORT ORCHARD MUNICIPAL  
COURT  
COURT CASE NO: 41533  
REFER TO 09/24/1991

ARREST 11

DATE OF ARREST: 02/13/1992

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES  
07644 DRIVING UNDER THE INFLUENCE  
RCW: 46.61.502  
PROSECUTOR  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
STATUS DATE: 04/29/1992  
STATUS: NO CHARGE FILED

DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 02/13/1992  
PROSECUTOR  
07630 DRIVING WHILE LIC SUSP OR REVOKED  
RCW: 46.20.342  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 02/13/1992  
07369 VUCSA-POSS MARIJ 40 GRAMS OR LESS  
RCW: 69.50.401(E)  
MISDEMEANOR  
PROSECUTOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 02/13/1992  
07749 NON APPEARANCE AFTER WRITTEN  
PROMISE  
RCW: 46.64.020  
MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
PROSECUTOR  
DATE OF OFFENSE: 02/13/1992

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: K9202379S  
STATUS: GUILTY  
07644 DRIVING UNDER THE INFLUENCE  
RCW: 46.61.502  
GROSS MISDEMEANOR  
STATUS DATE: 04/29/1992

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY

COURT CASE NO: K92023790  
STATUS: GUILTY  
07630 DRIVING WHILE LIC SUSP OR  
REVOKED  
RCW: 46.20.342  
CLASS UNKNOWN  
STATUS DATE: 04/29/1992

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY

COURT CASE NO: K922380S  
STATUS: GUILTY  
07369 VUCSA-POSS MARIJ 40 GRAMS OR  
LESS  
RCW: 69.50.401(E)  
MISDEMEANOR  
STATUS DATE: 04/29/1992

ARREST 10

DATE OF ARREST: 12/27/1991

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
PROSECUTOR  
RCW: 9A.56.070  
CLASS C FELONY  
ORIGINATING AGENCY: WA0180400  
PORT ORCHARD POLICE DEPARTMENT  
OIN: 912247  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 11/04/1991

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: 921000928  
STATUS: GUILTY  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 07/08/1992

SENTENCE: SENT. DESC.:  
CHG 01: JAIL - 2 MOS, COMM  
SUPV - 12 MOS

ARREST 9

DATE OF ARREST: 12/26/1991

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES  
09930 FAIL TO COMPLY  
CLASS UNKNOWN  
ORIGINATING AGENCY: WA0180400  
PORT ORCHARD POLICE DEPARTMENT  
OIN: 912590  
DISPO RESPONSIBILITY: WA018021J  
DATE OF OFFENSE: 12/26/1991

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018021J PORT ORCHARD MUNICIPAL  
COURT  
COURT CASE NO: 42940  
STATUS: NO CHARGE FILED  
09930 FAIL TO COMPLY

CLASS UNKNOWN  
STATUS DATE: 04/28/1993

-----  
ARREST 8

DATE OF ARREST: 09/24/1991  
-----

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A  
-----

ARREST OFFENSES  
00469 NO CONTACT ORDER VIOLATION-  
PRECONVICTION  
RCW: 10.99.040(4)  
DOMESTIC VIOLENCE  
MISDEMEANOR  
ORIGINATING AGENCY: WA0180400  
PORT ORCHARD POLICE DEPARTMENT  
OIN: 9101882  
DISPO RESPONSIBILITY: WA018021J  
DATE OF OFFENSE: 09/24/1991

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018021J PORT ORCHARD MUNICIPAL  
COURT  
COURT CASE NO: 41533  
STATUS: GUILTY  
00469 NO CONTACT ORDER VIOLATION-  
PRECONVICTION  
RCW: 10.99.040(4)  
DOMESTIC VIOLENCE  
MISDEMEANOR

END OF PAGE 5 - PAGE 6 TO FOLLOW

09/17/2013, 09:58:37

- MKE: UNKNOWN

- Source: WWCIC

- To: KP153

- ISN: 03V5004D1M

- REF: 03V400000K  
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Message:

PAGE 6  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

02192 MALICIOUS MISCHIEF-3 RCW: 9A.48.090 GROSS MISDEMEANOR ORIGINATING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT OIN: 9101882 DISPO RESPONSIBILITY: WA018021J DATE OF OFFENSE: 09/24/1991	STATUS DATE: 02/05/1992  STATUS: DISMISSED 02192 MALICIOUS MISCHIEF-3 RCW: 9A.48.090 GROSS MISDEMEANOR STATUS DATE: 02/05/1992  STATUS: NO CHARGE FILED 09930 FAIL TO COMPLY CLASS UNKNOWN STATUS DATE: 02/05/1992
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ARREST 7 DATE OF ARREST: 10/09/1989

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES 01135 ASSAULT-4 RCW: 9A.36.041 DOMESTIC VIOLENCE GROSS MISDEMEANOR ORIGINATING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT OIN: 891972 DISPO RESPONSIBILITY: WA018021J DATE OF OFFENSE: 10/09/1989	DISPOSITION CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018021J PORT ORCHARD MUNICIPAL COURT COURT CASE NO: 37721  STATUS: DISMISSED 01135 ASSAULT-4 RCW: 9A.36.041 DOMESTIC VIOLENCE GROSS MISDEMEANOR STATUS DATE: 02/15/1993
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ARREST 6 DATE OF ARREST: 09/27/1989

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES 07618 ATTEMPT TO ELUDE RCW: 46.61.024 PROSECUTOR CLASS C FELONY ORIGINATING AGENCY: WA0180000 KITSAP COUNTY SHERIFF DISPO RESPONSIBILITY: WA018013A DATE OF OFFENSE: 09/27/1989 COMMENT: FEL	DISPOSITION CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018013A KITSAP COUNTY  STATUS DATE: 04/04/1990  STATUS: NO CHARGE FILED
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ARREST 5 DATE OF ARREST: 09/27/1989

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES 01135 ASSAULT-4 RCW: 9A.36.041 DOMESTIC VIOLENCE GROSS MISDEMEANOR ORIGINATING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT	DISPOSITION CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018021J PORT ORCHARD MUNICIPAL COURT STATUS DATE: 08/14/1997  STATUS: UNAVAILABLE
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OIN: 891873  
DISPO RESPONSIBILITY: WA018021J  
DATE OF OFFENSE: 09/27/1989

ARREST 4 DATE OF ARREST: 11/01/1988

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES  
09930 FAIL TO COMPLY  
CLASS UNKNOWN  
WARRANT NO: 889763  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013J  
COURT CASE NO: 889763  
DATE OF OFFENSE: 11/01/1988  
COMMENT: ASLT

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: K8814736S  
STATUS: NO CHARGE FILED  
09930 FAIL TO COMPLY  
CLASS UNKNOWN  
STATUS DATE: 02/22/1992

ARREST 3 DATE OF ARREST: 01/05/1988

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 3000259 PCN: N/A TCN: N/A

ARREST OFFENSES  
09325 FOREST/FOREST PRODUCTS VIOLATION  
RCW: 76.48.130  
PROSECUTOR  
GROSS MISDEMEANOR  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 01/05/1988

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
STATUS DATE: 12/16/1988  
STATUS: NO CHARGE FILED

ARREST 2 DATE OF ARREST: 10/22/1987

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES  
02312 BURGLARY-2  
RCW: 9A.52.030  
PROSECUTOR  
CLASS B FELONY  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF  
DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 10/22/1987

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: 881000105  
STATUS: GUILTY  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 08/08/1988  
SENTENCE: SENT. DESC.:  
CHG 01: JAIL - 60 DS, COMM  
SUPV - 24 MOS

ARREST 1 DATE OF ARREST: 05/17/1987

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES  
02552 THEFT-2  
RCW: 9A.56.040(1)  
PROSECUTOR  
CLASS C FELONY  
ORIGINATING AGENCY: WA0180000  
KITSAP COUNTY SHERIFF

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY  
COURT CASE NO: 871002231  
STATUS: GUILTY

DISPO RESPONSIBILITY: WA018013A  
DATE OF OFFENSE: 05/17/1987

02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 07/07/1987

SENTENCE: SENT. DESC.:  
CHG 01: JAIL - 30 DS, COMM  
SUPV - 24 MOS

\*\*\*\*\*  
STATE DEPARTMENT OF CORRECTIONS  
\*\*\*\*\*

-----  
CUSTODY HISTORY  
-----

\*COMMITMENT\*  
NAME USED:

MATHES, JAMES CHARLES

DATE: 08/31/2006  
DOC NUMBER: 931439

END OF PAGE 6 - PAGE 7 TO FOLLOW  
09/17/2013, 09:58:37  
- MKE: UNKNOWN  
- Source: WWCIC  
- To: KP153  
- ISN: 03V5004D1Q  
- REF: 03V400000K  
=====

DATE: 09-17-2013 09:58:41 AM Type: Received  
SUBJECT: QR: C, LSM KPENDRAS ASLT, 176746HA4  
Message:

PAGE 7  
QR.WA018153A.FBI/176746HA4.PUR/C.ATN/LSM KPENDRAS ASLT

ATN/LSM KPENDRAS ASLT  
WASHINGTON STATE CRIMINAL HISTORY RECORD FOR SID/WA13606984

CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 051003233 COUNTY/STATE: KITSAP  
CHARGE: 0044000 DOMESTIC VIOL COURT ORD VIOL CLASS UNKNOWN  
26.50.110  
DOMESTIC VIOLENCE

DOO: 08/31/2006

COURT CASE NO: 051006526 COUNTY/STATE: KITSAP  
CHARGE: 0736110 CONT SUB-POSS NO PRESCRIPTION CLASS C FELONY  
69.50.4013(2)

DOO: 08/31/2006

\*COMMITMENT\* DATE: 05/08/2001  
NAME USED: MATHES, JAMES CHARLES DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 001014188 COUNTY/STATE: KITSAP  
CHARGE: 07623 HIT AND RUN - INJURY CLASS C FELONY  
46.52.020(4)(b)

DOO: 05/08/2001

COURT CASE NO: 001014188 COUNTY/STATE: KITSAP  
CHARGE: 05158 BAIL JUMPING CLASS C FELONY  
9A.76.170(2)(C)

DOO: 05/08/2001

\*COMMITMENT\* DATE: 07/21/1998  
NAME USED: MATHES, JAMES C DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 981008189 COUNTY/STATE: KITSAP  
CHARGE: 00466 ASSAULT/RECK ENDANG IN VIOLATION NO-CONTACT  
ORDER-PRECONV CLASS C FELONY  
10.99.040(4)  
DOMESTIC VIOLENCE

DOO: 07/21/1998

\*COMMITMENT\* DATE: 02/02/1993  
NAME USED: MATHES, JAMES C DOC NUMBER: 3293  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 921008571 COUNTY/STATE: KITSAP  
CHARGE: 07378 VUCSA-POSS MARIJ MORE THAN 40 GRAMS CLASS C  
FELONY  
69.50.401(D)

DOO: 02/02/1993

COURT CASE NO: 921008571 COUNTY/STATE: KITSAP  
CHARGE: 01102 ASSAULT-3 CLASS C FELONY  
9A.36.031

DOO: 02/02/1993

-----  
CUSTODY STATUS INFORMATION  
-----

NAME: MATHES, JAMES C  
DATE: 12/30/2008  
DOC NUMBER: 931439  
CUSTODY STATUS: INACTIVE  
LOCATION: PORT ORCHARD

(NON-VERIFIED CUSTODY STATUS INFORMATION-PROVIDED BY DEPARTMENT OF CORRECTIONS)

\*\*\*\*\*  
NO KNOWN SEX/KIDNAPPING OFFENDER REGISTRATIONS  
\*\*\*\*\*

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*****
NO KNOWN APPLICANT DETAILS
*****
*****
GLOSSARY OF TERMS IS AVAILABLE IN THE CRIMINAL JUSTICE TRAINING MANUAL (CJTM)
LOCATED AT http://www.wsp.wa.gov/crime/crimhist.htm
*****
RESOURCES
*****
ADMINISTRATIVE OFFICE OF THE COURTS (AOC)-----WWW.COURTS.WA.GOV
WSP CHRU -----CRIMHIS@WSP.WA.GOV OR
(360) 534-2000
DEPARTMENT OF CORRECTIONS (DOC)-----WWW.DOC.WA.GOV
WSP SOR UNIT----- (360) 534-2000
WSP CRIME LAB CODIS----- (206) 262-6020
RCW-----HTTP://APPS.LEG.WA.GOV/RCW/
LEGISLATION-----HTTP://APPS.LEG.WA.GOV
END OF RECORD
09/17/2013, 09:58:37
- MKE: UNKNOWN
- Source: WWCIC
- To: KP153
- ISN: 03V5004D1V
- REF: 03V400000K
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DATE: 09-17-2013 09:58:42 AM Type: Received  
SUBJECT: QR: C, LSM KPENDRAS ASLT, 176746HA4  
Message:

WA018153A

THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR  
RECORD REQUEST FOR FBI/176746HA4. THE RECORD MAY BE OBTAINED FROM  
FILES WITHIN YOUR STATE. THE INTERSTATE IDENTIFICATION INDEX CONTAINS  
NO ADDITIONAL DATA.

END

09/17/2013, 09:58:37

- MKE: UNKNOWN  
- Source: NCIC  
- To: KP153  
- ISN: 03V5004D1Y  
- REF: 03V400000K

=====

D0091I Top of list

DN2000SX

01/08/14 15:34:22

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 1 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Violation		--- Status ---					
						Date	Short Title	DV	Jg	CD	W	F	O
-	-	10120237P	POP	CF	KIT	09/09/13	ASSAULT - THIRD DEGREE	Y			I	A	
-	-	220332024	KTC	IT	KIT	04/04/12	FAIL NOTIFY DOL ADDRESS CHANG	N	D		CL		
-	-	XY0438627	WSP	IT	MAD	09/02/10	FAIL TO WEAR SAFETY BELT	N	C		CL		
-	-	8Y5617702	WSP	IT	KIT	02/01/08	FAIL TO USE CHILD RESTRAINT	N	C			A	
-	-	10120232	KPR	CN	KIT	10/30/04	MALICIOUS MISCHIEF-3 HARM >\$5	Y	G			N	T
-	-	Y44189498	WSP	IT	KIT	10/27/04	OPEN ALCOHOLIC CONTAINER	N	C			I	
-	-					10/27/04	SPEEDING TOO FAST FOR CONDITI	N	C				
-	-	10120231	KPR	CT	KIT	10/27/04	DUI	N	G			N	I
-	-	10120227	DFW	CN	KIT	06/26/99	RECREATIONAL FISHING 2ND DEGR	N	DO		CL		
-	-	10120226	KPR	CN	KIT	07/01/98	NO CONTACT ORDER VIOLATION	Y	D		CL		

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:35

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 2 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Violation		--- Status ---					
						Date	Short Title	DV	Jg	CD	W	F	O
-	-	10120220	KPR	CN	KIT	02/10/98	NO CONTACT ORDER VIOLATION	Y	G		CL	N	
-	-	10120219	KPR	CN	KIT	12/18/97	DV ASSAULT 4TH	Y	G		CL	N	
-	-	10120218	KPR	CT	KIT	09/25/97	DWLS 1ST DEGREE	N	G		CL		
-	-	CR0001267	MCS	CN	MAD	07/08/97	DV ASSAULT 4TH	N	DO		CL		
-	-	180019	BMP	CT	BRM	02/07/95	DWLS 2ND DEGREE	G			CL		
-	-	11238	KTC	CT	KIT	01/20/95	DWLS 3RD DEGREE		AM		CL	A	
-	-					01/20/95	DWLS 2ND DEGREE	G					
-	-	K9416562S	KPR	CN	KIT	09/20/94	ASSAULT 4TH DEGREE	G			CL		
-	-					09/20/94	MALICIOUS MISCHIEF 3 DEGREE	D					
-	-	180301	BAT	CN	BRM	07/17/94	ASSAULT	N	GD		CL		

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:36

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 3 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481 45 Cases

AKA's:

S N Case	LEA Ty Crt	Violation		--- Status ---						
		Date	Short Title	DV	Jg	CD	W	F	O	
180301	BAT CN BRM	07/17/94	ASSAULT	GD	CL					
180300	BAT CT BRM	07/17/94	DUI	N	GD	CL				
		07/17/94	DWLS 3RD DEGREE	GD						
K9415816S	KPR CT KIT	07/16/94	HIT AND RUN ATTENDED VEHICLE	G	CL		A			
145687	KTC CT KIT	07/16/94	DWLS 3RD DEGREE	AM	CL		A			
		07/16/94	NO VALID DRIVERS LICENSE	G						
		07/16/94	NO VALID DRIVERS LICENSE	D						
7770204	WSP CT KIT	06/03/94	DWLS 3RD DEGREE	G	CL					
926823952	WSP CT PD2	04/03/92	FTR APTER WRITTEN PROMISE TO	G	CL	N	A			
6736582	WSP CN KIT	02/13/92	POSS OF MARIJUANA	N	G	CL				

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:37

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 4 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481 45 Cases

AKA's:

S N Case	LEA Ty Crt	Violation		--- Status ---						
		Date	Short Title	DV	Jg	CD	W	F	O	
6736581	WSP CT KIT	02/13/92	DUI	G	CL		A			
		02/13/92	DWLS 3RD DEGREE	G						
42949	POP CN POM	12/18/91	HARASSMENT	N	D	CL	N			
42940	POP CN POM	12/10/91	NO CONTACT ORDER VIOLATION	N	G	CL	N			
		12/10/91	HARASSMENT	N	D					
44456	POP CT POM	11/04/91	RECKLESS DRIVING	N	D	CL	N			
		11/04/91	HIT AND RUN ATTENDED VEHICLE	N	D					
41533	POP CN POM	09/24/91	MALICIOUS MISCHIEF 3 DEGREE	N	D	CL	N			
		09/24/91	NO CONTACT ORDER VIOLATION	N	G					
41708	POP CN POM	09/23/91	ASSAULT 4TH DEGREE	G	CL		N			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:38

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 5 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Violation		--- Status ---						
						Date	Short Title	DV	Jg	CD	W	F	O	
		41708	POP	CN	POM	09/23/91	MALICIOUS MISCHIEF 3 DEGREE	D	CL	N				
		916620155	WSP	CT	PD1	09/14/91	DUI	N	G	CL		A		
		916620155	WSP	CT	PD2	09/14/91	DUI		CV	TR	N	N		
		107785	KTC	IT	KIT	11/17/90	OP MOT VEH W/OUT LIAB INS		C	CL		A		
		37722	POP	CN	POM	10/09/89	POSS OF MARIJUANA		N	D	CL	N		
		37721	POP	CN	POM	10/08/89	ASSAULT 4TH DEGREE		Y	DO	CL	N		
						10/08/89	ASSAULT 4TH DEGREE			DO				
		05-1-00652-6	S1	S18		05/10/05	CONT SUBS POSSESS-NO PRESCRIP		N	G	CM			
		05-1-00323-3	S1	S18		03/09/05	PROTECTION ORDER VIOL-PREV CO		Y	G	CM		E	
		00-1-01418-8	S1	S18		10/01/00	HIT/RUN ATTENDED VEHICLE (FEL		N	G	CM	N		

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:38

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 6 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Violation		--- Status ---						
						Date	Short Title	DV	Jg	CD	W	F	O	
		00-1-01418-8	S1	S18		03/19/01	BAIL JUMPING		N	G	CM	N		
		98-1-00818-9	S1	S18		06/13/98	ORDER PROHIBIT CONTACT-VIOLAT		Y	G	CM			
						06/13/98	ASSAULT 4TH DEGREE		Y	G				
		98-1-00488-4	S1	S18		04/09/98	ATTMPT ELUDE PURSUING POLICE		N	G	CM			
		95-1-00481-2	S1	S18		05/31/95	RECKLESS BURNING 1ST DEGREE		D		CM			
		95-1-00222-6	S1	S23		06/01/93	RAPE OF A CHILD 1ST DEGREE		D		CM	N		
		92-1-00857-1	S1	S18			CONT SUBST VIO A: MFG/DELVR/P		G		CM	N		
							ASSAULT 3RD DEGREE		G					
		92-1-00092-8	S1	S18			TAKING VEHICLE W/O PERMISSION		G		CM	N		
		88-1-00010-5	S1	S18			TAKING VEHICLE W/O PERMISSION		G		CM	N		

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

15:34:40 Wednesday, January 08, 2014

D0092I Bottom of list

DN2000SX

01/08/14 15:34:39

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 7 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ Stid: D MATHEJC313J1 WA

Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES

IN 245 76481

45 Cases

AKA's:

Violation

--- Status ---

S N Case LEA Ty Crt Date Short Title DV Jg CD W F O

-----  
87-1-00223-1 S1 S18 TAKING VEHICLE W/O PERMISSION G CM N  
-----

-----  
PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT  
-----

01/10/14 12:09:53

DG1000MU Individual Information (PER)

KITSAP DISTRICT

PUB 1 of 2

Case: 10120237P POP CF Csh:

Pty: \_\_\_\_\_

StID: D MATHEJC313J1 WA

Name: MATHES, JAMES CHARLES

NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

NmCd: IN 245 76481

Name Updated on 03/10/2005 By BAW from Court S18

Name: MATHES, JAMES CHARLES

Addr: 948 SW WILDWOOD RD PO BOX 1444

City: PORT ORCHARD St: WA Zip: 98367 Cy: US Co: 18

Hm Ph: 360 895 2456 Wk Ph: \_\_\_\_\_ Resides With:

Race: W Ethnicity: U ICWA: Sex: M DOB: 04 21 1969 Age: 44 DOD: \_\_\_\_\_

Dr Lic No: MATHEJC313J1 St: WA Expires: 04 21 2015

Address Last Updated on 04/04/2012 by RMG From Court KIT SC

More addresses (PF4)

---- Identifying Information Updated on 11/20/2013 By CMB from Court S18 ----

Wash St Id: 13606984 Height: 5 8 Weight: 255 JUV #: 115567

Eyes: BLU Hair: BRO True Name: \_\_\_\_\_ DOC Number: 931439

SSN : 533746110 FBI Nu: 176746HA4 Emp Name: \_\_\_\_\_

Interpretr: \_\_\_\_\_

Phy Desc : \_\_\_\_\_

Enter-PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11---PF12---  
Help ADH Rfsh AKA Bwd Fwd Exit

01-10-14 01 ABSTRACT OF COMPLETE DRIVING RECORD

LIC# MATHEJC313J1 LH STATUS: PDL CLEAR

MATHES, JAMES CHARLES DOB 04-21-1969

948 SW WILDWOOD RD SEX M EYES BLU LICENSE ISSUED 06-30-10

PORT ORCHARD WA 98367 HGT 5'08" WGT 255 LICENSE EXPIRES 04-21-15

M/PO BOX 1444

M/PORT ORCHARD WA 98366

CURRENT R/ADDR CHG REA/REQ/EFF IP 05-08-2012 05-08-2012

CURRENT M/ADDR CHG REA/REQ/EFF IP 08-28-2007 08-28-2007

NOTE: R/IP 082807 082807 DO 040707 040907 M/BD 040707 040907 IP 111804 111804

> 102704 OPEN CONTAINER LAW (3) FTA D KITSAP CO S

Y44189498

> 102704 DRIVING UNDER INFLUENCE FTA D KITSAP CO S

10120231

\* 071794 DUI - PRIOR CONVICTION 071698 M BREMERTON

000180300

\* 102704 DUI - <0.15 BAC .09 032405J D KITSAP CO S

10120231

+ 040998 2ND/SUBSE - REF BAC TEST 060898 F WA DMV

\* 090210 SEAT BELT LAW VIOLATION 120710 D MASON CO.

XY0438627



**NO WA DOC JURIS: MATHES, James**

**FORS**

Home  
Search For An Offender

DOC Number: 931439      SID Number: WA13606984      Current Status: NO WA DOC JURIS      Current Location: COMMUNITY

**Offender**

General Information  
Conviction Information (Non-Law Enforcement)  
Offender Movement History  
Legal Financial Obligations  
Legal Financial Obligations Scheduled Payment History

**Legal Financial Obligations**

Offender Mailing Address		SSNs			
PO BOX 1444	Date Last Updated: 7/03/2008	733-74-4110	536-74-6110	533-74-6110	533-74-4110
Port Orchard WA 98366					

Last Date Of Contact: 01/21/09      Cost Of Supervision/Intake Fee Balance: \$332.95

**Help**

FORS User's Guide (.pdf)

**Legal Financial Obligations**

Closed?	County	Cause Number	Date Of Sentence	Scheduled End Date	Statutory Maximum Date	Monthly Payment Scheduled Or Billing Interrupt	Effective Date	Collectable?
<input checked="" type="checkbox"/>	Kitsap	05-1003233	8/28/2006	EXPIRED	8/27/2011			P
<input checked="" type="checkbox"/>	Kitsap	05-1006526	8/28/2006	EXPIRED	12/05/2011			P
<input checked="" type="checkbox"/>	Kitsap	00-1014188	5/07/2001	EXPIRED				N
<input checked="" type="checkbox"/>	Kitsap	98-1008189	2/16/1999	EXPIRED				P
<input checked="" type="checkbox"/>	Kitsap	98-1008189	7/17/1998	EXPIRED				P
<input checked="" type="checkbox"/>	Kitsap	98-1004884	6/22/1998	EXPIRED				P
<input checked="" type="checkbox"/>	Kitsap	92-1008571	1/29/1993	EXPIRED				N
<input checked="" type="checkbox"/>	Kitsap	92-1000928	7/08/1992	EXPIRED				N
<input checked="" type="checkbox"/>	Kitsap	88-1000105	8/08/1988	EXPIRED				N
<input checked="" type="checkbox"/>	Kitsap	87-1002231	7/07/1987	EXPIRED				N



01-08-14 01 ABSTRACT OF COMPLETE DRIVING RECORD

LIC# MATHEJC313J1 LH STATUS: PDL CLEAR  
 MATHES, JAMES CHARLES DOB 04-21-1969  
 948 SW WILDWOOD RD SEX M EYES BLU LICENSE ISSUED 06-30-10  
 PORT ORCHARD WA 98367 HGT 5'08" WGT 255 LICENSE EXPIRES 04-21-15  
 M/PO BOX 1444  
 M/PORT ORCHARD WA 98366

CURRENT R/ADDR CHG REA/REQ/EFF IP 05-08-2012 05-08-2012  
 CURRENT M/ADDR CHG REA/REQ/EFF IP 08-28-2007 08-28-2007  
 NOTE: R/IP 082807 082807 DO 040707 040907 M/BD 040707 040907 IP 111804 111804  
 > 102704 OPEN CONTAINER LAW (3) FTA D KITSAP CO S  
 Y44189498  
 > 102704 DRIVING UNDER INFLUENCE FTA D KITSAP CO S  
 10120231  
 \* 071794 DUI - PRIOR CONVICTION 071698 M BREMERTON  
 000180300  
 \* 102704 DUI - <0.15 BAC .09 032405J D KITSAP CO S  
 10120231  
 + 040998 2ND/SUBSE - REF BAC TEST 060898 F WA DMV  
 \* 090210 SEAT BELT LAW VIOLATION 120710 D MASON CO.  
 XY0438627

LIC# MATHE-JC-313J1 LH \*\* STATUS: PDL CLEAR  
 MATHES, JAMES CHARLES DOB 04-21-1969  
 948 SW WILDWOOD RD SEX M EYES BLU LICENSE ISSUED 06-30-10  
 PORT ORCHARD WA 98367 HGT 5'08" WGT 255 LICENSE EXPIRES 04-21-15

021296	PROB DI DEFERRED PROSECUTION	021201	021296	0000
071698	VIOL DEFERRED PROSECUTION		000000618037	
042005	DI IGNITION INTERLOCK-1YR	062206	062205 1027040009	0000
082205	DI PROOF IID INSTALLED	062206	082205	0000
082907	DI PROOF IID INSTALLED	082817	082907	0000
012208	DI NO FUNCTIONING IID	012908	012208 0122080000	0000
020608	DI PROOF IID INSTALLED	020518	020608	0000
082808	DI NO FUNCTIONING IID	082818	082808 0828080000	0000
060898	REV DR 2ND/SUBSE - REF BAC TEST	060803	060800 040998 02	0000
072100	DR PROBATIONARY LIC STATUS	062210	072100	0000
012705	DR RELEASE HEARING	122709	012705 102704.09 .09	0000
042105	DR PROBATIONARY STATUS	062210	062205 1027040000	0000
032405	SUSP SS DUI-<0.15 BAC	062208	062205 102704.00 .09	0000
082505	REIN SS DUI-<0.15 BAC	062208	082505 1027040009	0000

D0091I Top of list

01/08/14 15:34:22

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 1 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA

Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES

IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Date	Violation Short Title	DV	Jg	CD	W	F	O	Status
-	-	10120237P	POP	CF	KIT	09/09/13	ASSAULT - THIRD DEGREE	Y						I A
-	-	2Z0332024	KTC	IT	KIT	04/04/12	FAIL NOTIFY DOL ADDRESS CHANG	N	D		CL			
-	-	XY0438627	WSP	IT	MAD	09/02/10	FAIL TO WEAR SAFETY BELT	N	C		CL			
-	-	8Y5617702	WSP	IT	KIT	02/01/08	FAIL TO USE CHILD RESTRAINT	N	C					A
-	-	10120232	KPR	CN	KIT	10/30/04	MALICIOUS MISCHIEF-3 HARM >\$5	Y	G			N		T
-	-	Y44189498	WSP	IT	KIT	10/27/04	OPEN ALCOHOLIC CONTAINER	N	C					I
-	-					10/27/04	SPEEDING TOO FAST FOR CONDITI	N	C					
-	-	10120231	KPR	CT	KIT	10/27/04	DUI	N	G			N		I
-	-	10120227	DFW	CN	KIT	06/26/99	RECREATIONAL FISHING 2ND DEGR	N	DO		CL			
-	-	10120226	KPR	CN	KIT	07/01/98	NO CONTACT ORDER VIOLATION	Y	D		CL			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:35

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 2 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA

Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES

IN 245 76481

45 Cases

AKA's:

S	N	Case	LEA	Ty	Crt	Date	Violation Short Title	DV	Jg	CD	W	F	O	Status
-	-	10120220	KPR	CN	KIT	02/10/98	NO CONTACT ORDER VIOLATION	Y	G		CL			N
-	-	10120219	KPR	CN	KIT	12/18/97	DV ASSAULT 4TH	Y	G		CL			N
-	-	10120218	KPR	CT	KIT	09/25/97	DWLS 1ST DEGREE	N	G		CL			
-	-	CR0001267	MCS	CN	MAD	07/08/97	DV ASSAULT 4TH	N	DO		CL			
-	-	180019	BMP	CT	BRM	02/07/95	DWLS 2ND DEGREE	G			CL			
-	-	11238	KTC	CT	KIT	01/20/95	DWLS 3RD DEGREE	G			CL			A
-	-					01/20/95	DWLS 2ND DEGREE	G						
-	-	K9416562S	KPR	CN	KIT	09/20/94	ASSAULT 4TH DEGREE	G			CL			
-	-					09/20/94	MALICIOUS MISCHIEF 3 DEGREE	D						
-	-	180301	BAT	CN	BRM	07/17/94	ASSAULT	N	GD		CL			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 3 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES IN 245 76481

45 Cases

AKA's:

S N Case	LEA Ty Crt	Violation Date	Short Title	DV Jg CD W F O	--- Status ---
180301	BAT CN BRM	07/17/94	ASSAULT	GD CL	
180300	BAT CT BRM	07/17/94	DUI	N GD CL	
		07/17/94	DWLS 3RD DEGREE	GD	
K9415816S	KPR CT KIT	07/16/94	HIT AND RUN ATTENDED VEHICLE	G CL A	
145687	KTC CT KIT	07/16/94	DWLS 3RD DEGREE	AM CL A	
		07/16/94	NO VALID DRIVERS LICENSE	G	
		07/16/94	NO VALID DRIVERS LICENSE	D	
7770204	WSP CT KIT	06/03/94	DWLS 3RD DEGREE	G CL	
926823952	WSP CT PD2	04/03/92	FTR AFTER WRITTEN PROMISE TO	G CL N A	
6736582	WSP CN KIT	02/13/92	POSS OF MARIJUANA	N G CL	

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 4 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
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True Name: MATHES, JAMES CHARLES

IN 245 76481

45 Cases

AKA's:

S N Case	LEA Ty Crt	Violation Date	Short Title	DV Jg CD W F O	--- Status ---
6736581	WSP CT KIT	02/13/92	DUI	G CL A	
		02/13/92	DWLS 3RD DEGREE	G	
42949	POP CN POM	12/18/91	HARASSMENT	N D CL N	
42940	POP CN POM	12/10/91	NO CONTACT ORDER VIOLATION	N G CL N	
		12/10/91	HARASSMENT	N D	
44456	POP CT POM	11/04/91	RECKLESS DRIVING	N D CL N	
		11/04/91	HIT AND RUN ATTENDED VEHICLE	N D	
41533	POP CN POM	09/24/91	MALICIOUS MISCHIEF 3 DEGREE	N D CL N	
		09/24/91	NO CONTACT ORDER VIOLATION	N G	
41708	POP CN POM	09/23/91	ASSAULT 4TH DEGREE	G CL N	

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

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DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 5 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES IN 245 76481  
 AKA's:

45 Cases

S N Case	LEA Ty Crt	Violation Date	Short Title	DV	Jg	CD	W	F	O	Status
41708	POP CN POM	09/23/91	MALICIOUS MISCHIEF 3 DEGREE			D	CL			N
916620155	WSP CT PD1	09/14/91	DUI			N	G			CL A
916620155	WSP CT PD2	09/14/91	DUI			CV	TR			N N
107785	KTC IT KIT	11/17/90	OP MOT VEH W/OUT LIAB INS			C	CL			A
37722	POP CN POM	10/09/89	POSS OF MARIJUANA			N	D			CL N
37721	POP CN POM	10/08/89	ASSAULT 4TH DEGREE			Y	DO			CL N
		10/08/89	ASSAULT 4TH DEGREE							DO
05-1-00652-6	S1 S18	05/10/05	CONT SUBS POSSESS-NO PRESCRIP			N	G			CM
05-1-00323-3	S1 S18	03/09/05	PROTECTION ORDER VIOL-PREV CO			Y	G			CM E
00-1-01418-8	S1 S18	10/01/00	HIT/RUN ATTENDED VEHICLE (FEL			N	G			CM N
PF1	PF2	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

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DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 6 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

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True Name: MATHES, JAMES CHARLES IN 245 76481  
 AKA's:

45 Cases

S N Case	LEA Ty Crt	Violation Date	Short Title	DV	Jg	CD	W	F	O	Status
00-1-01418-8	S1 S18	03/19/01	BAIL JUMPING			N	G			CM N
98-1-00818-9	S1 S18	06/13/98	ORDER PROHIBIT CONTACT-VIOLAT			Y	G			CM
		06/13/98	ASSAULT 4TH DEGREE			Y	G			
98-1-00488-4	S1 S18	04/09/98	ATTMPT ELUDE PURSUING POLICE			N	G			CM
95-1-00481-2	S1 S18	05/31/95	RECKLESS BURNING 1ST DEGREE							D CM
95-1-00222-6	S1 S23	06/01/93	RAPE OF A CHILD 1ST DEGREE							D CM N
92-1-00857-1	S1 S18		CONT SUBST VIO A: MFG/DELVR/P			G				CM N
			ASSAULT 3RD DEGREE							G
92-1-00092-8	S1 S18		TAKING VEHICLE W/O PERMISSION			G				CM N
88-1-00010-5	S1 S18		TAKING VEHICLE W/O PERMISSION			G				CM N
PF1	PF2	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

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DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 7 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA

Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES

IN 245 76481

45 Cases

AKA's:

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
-	-	87-1-00223-1	S1	S18			TAKING VEHICLE W/O PERMISSION	G	CM	N			

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PF1	PF2	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

01-08-14 01 ABSTRACT OF COMPLETE DRIVING RECORD

LIC# MATHEJC313J1 LH STATUS: PDL CLEAR  
 MATHES, JAMES CHARLES DOB 04-21-1969  
 948 SW WILDWOOD RD SEX M EYES BLU LICENSE ISSUED 06-30-10  
 PORT ORCHARD WA 98367 HGT 5'08" WGT 255 LICENSE EXPIRES 04-21-15  
 M/PO BOX 1444  
 M/PORT ORCHARD WA 98366

CURRENT R/ADDR CHG REA/REQ/EFF IP 05-08-2012 05-08-2012  
 CURRENT M/ADDR CHG REA/REQ/EFF IP 08-28-2007 08-28-2007  
 NOTE: R/IP 082807 082807 DO 040707 040907 M/BD 040707 040907 IP 111804 111804  
 > 102704 OPEN CONTAINER LAW (3) FTA D KITSAP CO S  
 Y44189498  
 > 102704 DRIVING UNDER INFLUENCE FTA D KITSAP CO S  
 10120231  
 \* 071794 DUI - PRIOR CONVICTION 071698 M BREMERTON  
 000180300  
 \* 102704 DUI - <0.15 BAC .09 032405J D KITSAP CO S  
 10120231  
 + 040998 2ND/SUBSE - REF BAC TEST 060898 F WA DMV  
 \* 090210 SEAT BELT LAW VIOLATION 120710 D MASON CO.  
 XY0438627

LIC# MATHE-JC-313J1 LH \*\* STATUS: PDL CLEAR  
 MATHES, JAMES CHARLES DOB 04-21-1969  
 948 SW WILDWOOD RD SEX M EYES BLU LICENSE ISSUED 06-30-10  
 PORT ORCHARD WA 98367 HGT 5'08" WGT 255 LICENSE EXPIRES 04-21-15

021296	PROB DI	DEFERRED PROSECUTION	021201	021296	0000
071698	VIOL	DEFERRED PROSECUTION		000000618037	
042005	DI	IGNITION INTERLOCK-1YR	062206	062205 1027040009	0000
082205	DI	PROOF IID INSTALLED	062206	082205	0000
082907	DI	PROOF IID INSTALLED	082817	082907	0000
012208	DI	NO FUNCTIONING IID	012908	012208 0122080000	0000
020608	DI	PROOF IID INSTALLED	020518	020608	0000
082808	DI	NO FUNCTIONING IID	082818	082808 0828080000	0000
060898	REV DR	2ND/SUBSE - REF BAC TEST	060803	060800 040998 02	0000
072100	DR	PROBATIONARY LIC STATUS	062210	072100	0000
012705	DR	RELEASE HEARING	122709	012705 102704.09 .09	0000
042105	DR	PROBATIONARY STATUS	062210	062205 1027040000	0000
032405	SUSP SS	DUI-<0.15 BAC	062208	062205 102704.00 .09	0000
082505	REIN SS	DUI-<0.15 BAC	062208	082505 1027040009	0000

D0091I Top of list

DN2000SX

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DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 1 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: MATHES, JAMES CHARLES IN 245 76481 45 Cases

AKA's:

S N Case	LEA Ty Crt	Violation		--- Status ---					
		Date	Short Title	DV	Jg	CD	W	F	O
10120237P	POP CF KIT	09/09/13	ASSAULT - THIRD DEGREE	Y			I	A	
2Z0332024	KTC IT KIT	04/04/12	FAIL NOTIFY DOL ADDRESS CHANG	N	D	CL			
XY0438627	WSP IT MAD	09/02/10	FAIL TO WEAR SAFETY BELT	N	C	CL			
8Y5617702	WSP IT KIT	02/01/08	FAIL TO USE CHILD RESTRAINT	N	C			A	
10120232	KPR CN KIT	10/30/04	MALICIOUS MISCHIEF-3 HARM >\$5	Y	G		N	T	
Y44189498	WSP IT KIT	10/27/04	OPEN ALCOHOLIC CONTAINER	N	C			I	
		10/27/04	SPEEDING TOO FAST FOR CONDITI	N	C				
10120231	KPR CT KIT	10/27/04	DUI	N	G		N	I	
10120227	DFW CN KIT	06/26/99	RECREATIONAL FISHING 2ND DEGR	N	DO	CL			
10120226	KPR CN KIT	07/01/98	NO CONTACT ORDER VIOLATION	Y	D	CL			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:35

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 2 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES IN 245 76481 45 Cases

AKA's:

N Case	LEA Ty Crt	Violation		--- Status ---					
		Date	Short Title	DV	Jg	CD	W	F	O
10120220	KPR CN KIT	02/10/98	NO CONTACT ORDER VIOLATION	Y	G	CL	N		
10120219	KPR CN KIT	12/18/97	DV ASSAULT 4TH	Y	G	CL	N		
10120218	KPR CT KIT	09/25/97	DWLS 1ST DEGREE	N	G	CL			
CR0001267	MCS CN MAD	07/08/97	DV ASSAULT 4TH	N	DO	CL			
180019	BMP CT BRM	02/07/95	DWLS 2ND DEGREE		G	CL			
11238	KTC CT KIT	01/20/95	DWLS 3RD DEGREE		AM	CL		A	
		01/20/95	DWLS 2ND DEGREE		G				
K9416562S	KPR CN KIT	09/20/94	ASSAULT 4TH DEGREE		G	CL			
		09/20/94	MALICIOUS MISCHIEF 3 DEGREE		D				
180301	BAT CN BRM	07/17/94	ASSAULT		N	GD	CL		

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

01/08/14 15:34:36

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 3 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES  
AKA's:

IN 245 76481

45 Cases

S N Case	LEA Ty Crt	Violation		Status		
		Date	Short Title	DV	Jg	CD W F O
180301	BAT CN BRM	07/17/94	ASSAULT	GD	CL	
180300	BAT CT BRM	07/17/94	DUI	N	GD	CL
		07/17/94	DWLS 3RD DEGREE	GD		
K9415816S	KPR CT KIT	07/16/94	HIT AND RUN ATTENDED VEHICLE	G	CL	A
145687	KTC CT KIT	07/16/94	DWLS 3RD DEGREE	AM	CL	A
		07/16/94	NO VALID DRIVERS LICENSE	D		
		07/16/94	NO VALID DRIVERS LICENSE	G		
7770204	WSP CT KIT	06/03/94	DWLS 3RD DEGREE	G	CL	
926823952	WSP CT PD2	04/03/92	FTR AFTER WRITTEN PROMISE TO	G	CL	N A
6736582	WSP CN KIT	02/13/92	POSS OF MARIJUANA	N	G	CL

PF1	PF2	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

01/08/14 15:34:37

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 4 of 7

Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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AKA's:

IN 245 76481

45 Cases

S N Case	LEA Ty Crt	Violation		Status		
		Date	Short Title	DV	Jg	CD W F O
6736581	WSP CT KIT	02/13/92	DUI	G	CL	A
		02/13/92	DWLS 3RD DEGREE	G		
42949	POP CN POM	12/18/91	HARASSMENT	N	D	CL N
42940	POP CN POM	12/10/91	NO CONTACT ORDER VIOLATION	N	G	CL N
		12/10/91	HARASSMENT	N	D	
44456	POP CT POM	11/04/91	RECKLESS DRIVING	N	D	CL N
		11/04/91	HIT AND RUN ATTENDED VEHICLE	N	D	
41533	POP CN POM	09/24/91	MALICIOUS MISCHIEF 3 DEGREE	N	D	CL N
		09/24/91	NO CONTACT ORDER VIOLATION	N	G	
41708	POP CN POM	09/23/91	ASSAULT 4TH DEGREE	G	CL	N

PF1	PF2	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

01/08/14 15:34:38

DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 5 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
 Name: MATHES, JAMES CHARLES NmCd: IN 245 76481

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True Name: MATHES, JAMES CHARLES IN 245 76481 45 Cases  
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S N Case	LEA Ty Crt	Violation		--- Status ---						
		Date	Short Title	DV	Jg	CD	W	F	O	
41708	POP CN POM	09/23/91	MALICIOUS MISCHIEF 3 DEGREE	D	CL	N				
916620155	WSP CT PD1	09/14/91	DUI	N	G	CL	A			
916620155	WSP CT PD2	09/14/91	DUI	CV	TR	N	N			
107785	KTC IT KIT	11/17/90	OP MOT VEH W/OUT LIAB INS	C	CL	A				
37722	POP CN POM	10/09/89	POSS OF MARIJUANA	N	D	CL	N			
37721	POP CN POM	10/08/89	ASSAULT 4TH DEGREE	Y	DO	CL	N			
		10/08/89	ASSAULT 4TH DEGREE	DO						
05-1-00652-6	S1 S18	05/10/05	CONT SUBS POSSESS-NO PRESCRIP	N	G	CM				
05-1-00323-3	S1 S18	03/09/05	PROTECTION ORDER VIOL-PREV CO	Y	G	CM				E
00-1-01418-8	S1 S18	10/01/00	HIT/RUN ATTENDED VEHICLE (FEL	N	G	CM	N			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

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DN2001MI Defendant Case History (DCH) STATEWIDE COURT DB2P PUB 6 of 7  
 Case: \_\_\_\_\_ Csh: \_\_\_\_\_ Pty: \_\_\_\_\_ StId: D MATHEJJC313J1 WA  
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N Case	LEA Ty Crt	Violation		--- Status ---						
		Date	Short Title	DV	Jg	CD	W	F	O	
00-1-01418-8	S1 S18	03/19/01	BAIL JUMPING	N	G	CM	N			
98-1-00818-9	S1 S18	06/13/98	ORDER PROHIBIT CONTACT-VIOLAT	Y	G	CM				
		06/13/98	ASSAULT 4TH DEGREE	Y	G					
98-1-00488-4	S1 S18	04/09/98	ATTMPT ELUDE PURSUING POLICE	N	G	CM				
95-1-00481-2	S1 S18	05/31/95	RECKLESS BURNING 1ST DEGREE	D		CM				
95-1-00222-6	S1 S23	06/01/93	RAPE OF A CHILD 1ST DEGREE	D		CM	N			
92-1-00857-1	S1 S18		CONT SUBST VIO A: MFG/DELVR/P	G		CM	N			
			ASSAULT 3RD DEGREE	G						
92-1-00092-8	S1 S18		TAKING VEHICLE W/O PERMISSION	G		CM	N			
88-1-00010-5	S1 S18		TAKING VEHICLE W/O PERMISSION	G		CM	N			

PF1 PF2 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12  
 HELP PER CDK PLS CDT BWD FWD DOL COS CFHS EXIT

Wednesday, May 9, 2018



## Web Search Transcript

Washington State Patrol

Identification and Criminal History Section

P. O. Box 42633

Olympia, Washington 98504-2633

Telephone (360) 534-2000 Option 2

This report was generated from a transaction run on 5/9/2018 at 5:39 PM  
Conviction Criminal History RCW 10.97.050(1)

Pursuant to the purpose of inquiry, a possible match was found in the Washington State Criminal History Repository based on the descriptors provided:

**MATHES, JAMES DOB 04/21/1969 SEX U RAC U**

WASHINGTON STATE PATROL  
CRIMINAL HISTORY RECORD SECTION  
P.O. BOX 42633  
OLYMPIA, WASHINGTON 98504-2633

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CRIMINAL HISTORY INFORMATION AS OF 05/09/2018  
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COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE  
WASHINGTON STATE PATROL.

THIS CONVICTION RECORD MAY INCLUDE INFORMATION FOR WHICH A PERSON IS CURRENTLY BEING  
PROCESSED BY THE CRIMINAL JUSTICE SYSTEM.

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MASTER INFORMATION  
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NAME: MATHES, JAMES C DOB: 04/21/1969  
SID NUMBER: WA13606984  
DOC NUMBER: 3293

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PERSON INFORMATION  
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SEX	RACE	HEIGHT	WEIGHT	EYES	HAIR	PLACE OF BIRTH	CITIZENSHIP
M	W	509	245	GRN	RED	WA	US

OTHER NAMES USED	OTHER DATES OF BIRTH USED	SOC SEC NUMBER
MATHES, JAMES		
MATHES, JAMES CHARLES		
MATHES, JIM		

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CONVICTION AND/OR ADVERSE FINDING SUMMARY  
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15 FELONY(S)		DISPOSITION DATE
ASSAULT-1	CLASS A FELONY	11/03/2015
ASSAULT-1	CLASS A FELONY	11/03/2015
KIDNAPPING-1	CLASS A FELONY	11/03/2015
ASSAULT-2	CLASS B FELONY	11/03/2015
ASSAULT-2	CLASS B FELONY	11/03/2015
DOMESTIC VIOL COURT ORD VIOL	CLASS C FELONY	11/03/2015
HARASSMENT PREV CONV OR THREAT TO KILL	CLASS C FELONY	11/03/2015
FIREARM POSSESSION UNLAWFUL-2	CLASS C FELONY	11/03/2015
DOMESTIC VIOL COURT ORD VIOL	CLASS C FELONY	08/04/2006
ATTEMPT TO ELUDE	CLASS C FELONY	06/22/1998
ASSAULT-3	CLASS C FELONY	01/29/1993
VUCSA-POSS MARIJ MORE THAN 40 GRAMS	CLASS C FELONY	01/29/1993

TAKING MOTOR VEHICLE WITHOUT PERMISSION	CLASS C FELONY	07/08/1992
TAKING MOTOR VEHICLE WITHOUT PERMISSION	CLASS C FELONY	08/08/1988
TAKING MOTOR VEHICLE WITHOUT PERMISSION	CLASS C FELONY	07/07/1987
7 GROSS MISDEMEANOR(S)		
DRIVING UNDER THE INFLUENCE		03/24/2005
MALICIOUS MISCH-3 DMG > \$50		03/24/2005
HIT AND RUN-ATTENDED-PROPERTY DAMAGE		05/07/2001
DOMESTIC VIOLENCE COURT ORDER VIOLATION		07/17/1998
ASSAULT-4		07/17/1998
ASSAULT-4		12/24/1997
DRIVING UNDER THE INFLUENCE		04/29/1992
2 MISDEMEANOR(S)		
VUCSA-POSS MARIJ 40 GRAMS OR LESS		04/29/1992
NO CONTACT ORDER VIOLATION- PRECONVICTION		02/05/1992
3 CLASSIFICATION(S) UNKNOWN		
BAIL JUMPING		05/07/2001
DOMESTIC VIOLENCE COURT ORDER VIOLATION - NO CONTACT ORDER		02/13/1998
DRIVING WHILE LIC SUSP OR REVOKED		04/29/1992

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DOC SUMMARY

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ASSAULT-1	COMMITMENT	11/17/2015
ASSAULT-1	COMMITMENT	11/17/2015
KIDNAPPING-1	COMMITMENT	11/17/2015
ASSAULT-2	COMMITMENT	11/17/2015
HARASSMENT PREV CONV OR THREAT TO KILL	COMMITMENT	11/17/2015
FIREARM POSSESSION UNLAWFUL-2	COMMITMENT	11/17/2015
DOMESTIC VIOL COURT ORD VIOL	COMMITMENT	08/31/2006
CONT SUB-POSS NO PRESCRIPTION	COMMITMENT	08/31/2006
HIT AND RUN - INJURY	COMMITMENT	05/08/2001
BAIL JUMPING	COMMITMENT	05/08/2001
ASSAULT/RECK ENDANG IN VIOLATION NO-CONTACT	OCOMMITMENTNV	07/21/1998
VUCSA-POSS MARIJ MORE THAN 40 GRAMS	COMMITMENT	02/02/1993
ASSAULT-3	COMMITMENT	02/02/1993

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CRIMINAL HISTORY INFORMATION

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THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

AN ARREST IS NOT A CONVICTION OR FINDING OF GUILT.

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ARREST 19 DATE OF ARREST: 01/13/2014  
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NAME USED:	MATHES, JAMES CHARLES		
CONTRIBUTING AGENCY:	WA0180000	KITSAP COUNTY SHERIFF	
LOCAL ID:	10011592	PCN: 737740994	TCN: WA1800000100611224

ARREST OFFENSES		DISPOSITION
		CONTRIBUTOR OR RESPONSIBLE AGENCY:
		WA018015J KITSAP COUNTY SUPERIOR
		COURT
		COURT CASE NO: 141003011

|  
| STATUS: GUILTY  
| 0100200 ASSAULT-1  
| RCW: 9A.36.011(2)  
| CLASS A FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| SENTENCE: SENT. DESC.:  
| SENTENCED TO 260 MONTHS  
| CONFINEMENT ON COUNT I,  
| 104 MONTHS CONFINEMENT ON  
| COUNT III, 68 MONTHS  
| CONFINEMENT ON COUNT V, 84  
| MONTHS CONFINEMENT ON  
| COUNT VII, 84 MONTHS  
| CONFINEMENT ON COUNT VIII,  
| 42 MONTHS CONFINEMENT ON  
| COUNT IX, 42 MONTHS  
| CONFINEMENT ON COUNT X AND  
| 57 MONTHS CONFINEMENT ON  
| COUNT XI. MULTIPLE COUNTS-  
| TOTAL CONFINEMENT ORDERED  
| 720 MONTHS. ENHANCEMENTS:  
| COUNT I TO BE SERVED  
| CONSECUTIVE TO COUNTS II  
| AND V, COUNT III TO BE  
| SERVED CONSECUTIVE TO  
| COUNTS I AND V, COUNT V TO  
| BE SERVED CONSECUTIVE TO  
| COUNTS I AND III, COUNT  
| VII TO BE SERVED CONCURRENT  
| TO ALL OTHER COUNTS, COUNT  
| VIII TO BE SERVED  
| CONCURRENT TO ALL OTHER  
| COUNTS, COUNT IX TO BE  
| SERVED CONCURRENT TO ALL  
| OTHER COUNTS, COUNT X TO  
| BE SERVED CONCURRENT TO ALL  
| OTHER COUNTS AND COUNT XI  
| TO BE SERVED CONCURRENT TO  
| ALL OTHER COUNTS. 36  
| MONTHS COMMUNITY CUSTODY  
| ON COUNTS I, III AND V &  
| 18 MONTHS COMMUNITY  
| CUSTODY ON COUNTS VII AND  
| VIII. ALCOHOL/DRUG  
| CONDITIONS IMPOSED. \$500  
| VICTIM ASSESSMENT AND \$100  
| DNA SAMPLE FEE.  
|

| STATUS: GUILTY  
| 0100200 ASSAULT-1  
| RCW: 9A.36.011(2)  
| CLASS A FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|

|  
|  
| STATUS: GUILTY  
| 0061200 KIDNAPPING-1  
| RCW: 9A.40.020 (2)  
| DOMESTIC VIOLENCE  
| CLASS A FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| STATUS: GUILTY  
| 0102200 ASSAULT-2  
| RCW: 9A.36.021 (2) (A)  
| DOMESTIC VIOLENCE  
| CLASS B FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| STATUS: GUILTY  
| 0102200 ASSAULT-2  
| RCW: 9A.36.021 (2) (A)  
| DOMESTIC VIOLENCE  
| CLASS B FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| STATUS: GUILTY  
| 0044410 DOMESTIC VIOL COURT ORD  
| VIOL  
| RCW: 26.50.110 (5)  
| DOMESTIC VIOLENCE  
| CLASS C FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| STATUS: GUILTY  
| 0221500 HARASSMENT PREV CONV OR  
| THREAT TO KILL  
| RCW: 9A.46.020 (2) (B)  
| DOMESTIC VIOLENCE  
| CLASS C FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

| STATUS: GUILTY  
| 0054500 FIREARM POSSESSION  
| UNLAWFUL-2  
| RCW: 9.41.040 (2) (C)  
| CLASS C FELONY  
| STATUS DATE: 11/03/2015  
| COUNTS: 1  
|  
|

ARREST 18

DATE OF ARREST: 03/09/2005

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: 737034208 TCN: WA1800002200199403

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY:
	WA018015J KITSAP COUNTY SUPERIOR COURT
	COURT CASE NO: 051003233
	STATUS: GUILTY
	0044410 DOMESTIC VIOL COURT ORD VIOL
	RCW: 26.50.110(5) DOMESTIC VIOLENCE
	CLASS C FELONY
	STATUS DATE: 08/04/2006
	COUNTS: 1
	SENTENCE: SUPERVISION:
	X,
	SENT. DESC.: SENTENCED 17 MONTHS CONFINEMENT WITH 9-18 MONTHS COMMUNITY CUSTODY. \$500 VICTIM ASSESSMENT AND \$100 DNA SAMPLE FEE. TERMS OF CONFINEMENT TO RUN CONCURRENT WITH 05-1-00652-6.     COURT COSTS: 110.00;

ARREST 17

DATE OF ARREST: 10/30/2004

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: 737008380 TCN: WA1800002200172462

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY:
	WA018013J KITSAP COUNTY DISTRICT COURT
	COURT CASE NO: 10120232
	STATUS: GUILTY
	0219200 MALICIOUS MISCH-3 DMG > \$50
	RCW: 9A.48.090(2)(A) GROSS MISDEMEANOR
	STATUS DATE: 03/24/2005
	SENTENCE: JAIL: 365 DS, JAIL SUS.: 355 DS, SUPERVISION: 2 YRS,

FINE: \$5000.00, FINE SUS.:  
\$4250.00

ARREST 16

DATE OF ARREST: 10/28/2004

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: 737007839 TCN: WA1800002200171911

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018013J KITSAP COUNTY DISTRICT COURT COURT CASE NO: 10120231
	STATUS: GUILTY 0764400 DRIVING UNDER THE INFLUENCE RCW: 46.61.502(5) GROSS MISDEMEANOR STATUS DATE: 03/24/2005
	SENTENCE: JAIL: 365 DS, JAIL SUS.: 360 DS SUPERVISION: 5 YRS, FINE: \$5000.00, FINE SUS.: \$4100.00

ARREST 15

DATE OF ARREST: 03/22/2001

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: 736747391 TCN: N/A

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018015J KITSAP COUNTY SUPERIOR COURT COURT CASE NO: 001014188 REFER TO 10/10/2000

ARREST 14

DATE OF ARREST: 10/10/2000

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018015J KITSAP COUNTY SUPERIOR COURT COURT CASE NO: 001014188
	STATUS: GUILTY 07626 HIT AND RUN-ATTENDED-

PROPERTY DAMAGE  
 RCW: 46.52.020 (5)  
 GROSS MISDEMEANOR  
 STATUS DATE: 05/07/2001  
 SENTENCE: SENT. DESC.:  
 CHG 01: PRISON-60 MOS  
 \*\*CHG 02: PRISON-60 MOS,  
 CONCURRENT  
 STATUS: GUILTY  
 05150 BAIL JUMPING  
 RCW: 9A.76.170  
 CLASS UNKNOWN  
 STATUS DATE: 05/07/2001

ARREST 13

DATE OF ARREST: 02/16/1999

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
 CONTRIBUTOR OR RESPONSIBLE AGENCY:  
 WA018013J KITSAP COUNTY DISTRICT  
 COURT  
 COURT CASE NO: 10120219  
 REFER TO 12/18/1997  
 CONTRIBUTOR OR RESPONSIBLE AGENCY:  
 WA018013J KITSAP COUNTY DISTRICT  
 COURT  
 COURT CASE NO: 10120220  
 REFER TO 02/10/1998

ARREST 12

DATE OF ARREST: 06/20/1998

NAME USED: MATHES, JAMES CHARLES  
 CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
 LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
 CONTRIBUTOR OR RESPONSIBLE AGENCY:  
 WA018015J KITSAP COUNTY SUPERIOR  
 COURT  
 COURT CASE NO: 981008189  
 STATUS: GUILTY  
 50440 DOMESTIC VIOLENCE COURT  
 ORDER VIOLATION  
 RCW: 26.50.110  
 DOMESTIC VIOLENCE  
 GROSS MISDEMEANOR  
 STATUS DATE: 07/17/1998

SENTENCE: SENT. DESC.:  
SENTENCED TO 12 M PLUS 1D  
FOR COUNT 1 AND 365D WITH  
185D SUSPENDED FOR COUNT 2  
TO RUN CONCURRENTLY. \$500.  
00 CVF.

STATUS: GUILTY  
01134 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
STATUS DATE: 07/17/1998

ARREST 11

DATE OF ARREST: 04/09/1998

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180100 BREMERTON POLICE DEPARTMENT  
LOCAL ID: 27223 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: 981004884

STATUS: GUILTY  
07618 ATTEMPT TO ELUDE  
RCW: 46.61.024  
CLASS C FELONY  
STATUS DATE: 06/22/1998

SENTENCE: SENT. DESC.:  
CHG 01: COSTS-110.00, JAIL-  
6 MOS, SUPV-12 MOS

ARREST 10

DATE OF ARREST: 02/10/1998

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 10011592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120220

STATUS: GUILTY  
00483 DOMESTIC VIOLENCE COURT  
ORDER VIOLATION - NO CONTACT  
ORDER  
RCW: 10.99.040

CLASS UNKNOWN  
STATUS DATE: 02/13/1998  
  
SENTENCE: SENT. DESC.:  
CHG 01: FINE-1000.00/  
SUSPENDED 750.00, JAIL-365  
DS/SUSPENDED 335 DS, SUPV-  
2 YRS

ARREST 9

DATE OF ARREST: 12/18/1997

NAME USED: MATHES, JAMES CHARLES  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: 1011592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013J KITSAP COUNTY DISTRICT  
COURT  
COURT CASE NO: 10120219  
  
STATUS: GUILTY  
01134 ASSAULT-4  
RCW: 9A.36.041  
DOMESTIC VIOLENCE  
GROSS MISDEMEANOR  
STATUS DATE: 12/24/1997  
  
SENTENCE: SENT. DESC.:  
CHG 01: FINE-5000.00/  
SUSPENDED 4000.00, JAIL-  
365 DS/SUSPENDED 335 DS,  
SUPV-2 YRS

ARREST 8

DATE OF ARREST: 01/11/1993

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: 921008571  
REFER TO 12/18/1992

ARREST 7

DATE OF ARREST: 12/18/1992

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

| CONTRIBUTOR OR RESPONSIBLE AGENCY:  
| WA018013A KITSAP COUNTY PROSECUTOR  
| COURT CASE NO: 921008571  
|  
| STATUS: GUILTY  
| 01102 ASSAULT-3  
| RCW: 9A.36.031  
| CLASS C FELONY  
| STATUS DATE: 01/29/1993  
|  
| SENTENCE: SENT. DESC.:  
| CHG 01: PRISON-12 MOS + 1  
| DY, SUPV-12 MOS \*\*CHG 02:  
| JAIL-8 MOS, SUPV-12 MOS  
|  
| STATUS: GUILTY  
| 07378 VUCSA-POSS MARIJ MORE THAN  
| 40 GRAMS  
| RCW: 69.50.401(D)  
| CLASS C FELONY  
| STATUS DATE: 01/29/1993  
|  
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ARREST 6

DATE OF ARREST: 10/20/1992  
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NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A3422 PCN: N/A TCN: N/A  
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ARREST OFFENSES

| DISPOSITION  
| CONTRIBUTOR OR RESPONSIBLE AGENCY:  
| WA018021J PORT ORCHARD MUNICIPAL  
| COURT  
| COURT CASE NO: 41533  
| REFER TO 09/24/1991  
|

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ARREST 5

DATE OF ARREST: 02/13/1992  
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NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A  
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ARREST OFFENSES

| DISPOSITION  
| CONTRIBUTOR OR RESPONSIBLE AGENCY:  
| WA018013A KITSAP COUNTY PROSECUTOR  
| COURT CASE NO: K9202379S  
|  
| STATUS: GUILTY  
| 07644 DRIVING UNDER THE INFLUENCE  
| RCW: 46.61.502  
| GROSS MISDEMEANOR  
| STATUS DATE: 04/29/1992  
|  
| CONTRIBUTOR OR RESPONSIBLE AGENCY:

WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: K92023790

STATUS: GUILTY  
07630 DRIVING WHILE LIC SUSP OR  
REVOKED  
RCW: 46.20.342  
CLASS UNKNOWN  
STATUS DATE: 04/29/1992

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: K922380S

STATUS: GUILTY  
07369 VUCSA-POSS MARIJ 40 GRAMS OR  
LESS  
RCW: 69.50.401(E)  
MISDEMEANOR  
STATUS DATE: 04/29/1992

ARREST 4

DATE OF ARREST: 12/27/1991

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: 921000928

STATUS: GUILTY  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 07/08/1992

SENTENCE: SENT. DESC.:  
CHG 01: JAIL - 2 MOS, COMM  
SUPV - 12 MOS

ARREST 3

DATE OF ARREST: 09/24/1991

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180400 PORT ORCHARD POLICE DEPARTMENT  
LOCAL ID: A2422 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018021J PORT ORCHARD MUNICIPAL  
COURT

COURT CASE NO: 41533  
STATUS: GUILTY  
00469 NO CONTACT ORDER VIOLATION-  
PRECONVICTION  
RCW: 10.99.040(4)  
MISDEMEANOR  
STATUS DATE: 02/05/1992  
SENTENCE: JAIL: 270 D,  
JAIL SUS.: 270 D  
FINE: \$3000.00, FINE SUS.:  
\$3000.00

ARREST 2

DATE OF ARREST: 10/22/1987

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: 881000105  
STATUS: GUILTY  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 08/08/1988  
SENTENCE: SENT. DESC.:  
CHG 01: JAIL - 60 DS, COMM  
SUPV - 24 MOS

ARREST 1

DATE OF ARREST: 05/17/1987

NAME USED: MATHES, JAMES C  
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF  
LOCAL ID: A11592 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION  
CONTRIBUTOR OR RESPONSIBLE AGENCY:  
WA018013A KITSAP COUNTY PROSECUTOR  
COURT CASE NO: 871002231  
STATUS: GUILTY  
02724 TAKING MOTOR VEHICLE WITHOUT  
PERMISSION  
RCW: 9A.56.070  
CLASS C FELONY  
STATUS DATE: 07/07/1987

|  
| SENTENCE: SENT. DESC.:  
| CHG 01: JAIL - 30 DS, COMM  
| SUPV - 24 MOS  
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STATE DEPARTMENT OF CORRECTIONS  
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CUSTODY HISTORY  
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\*COMMITMENT\* DATE: 11/17/2015  
NAME USED: MATHES, JAMES CHARLES DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
TCN: WA2325000200187179  
COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0100200 ASSAULT-1 CLASS A FELONY  
9A.36.011(2)  
  
DOO: 12/31/2013  
OFFENSE COMMENTS: 1 CT- FIREARM  
CDD: 11/17/2015  
CPL: 260 MOS(+60 MOS CS FA ENH) CT I;  
  
COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0100200 ASSAULT-1 CLASS A FELONY  
9A.36.011(2)  
  
DOO: 12/31/2013  
OFFENSE COMMENTS: 1 CT- FIREARM  
CDD: 11/17/2015  
CPL: 104 MOS(+60 MOS CS FA ENH) CT III, CS;  
  
COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0061200 KIDNAPPING-1 CLASS A FELONY  
9A.40.020(2)  
  
DOO: 12/31/2013  
OFFENSE COMMENTS: 1 CT- FIREARM  
CDD: 11/17/2015  
CPL: 68 MOS (+60 MOS CS FA ENH) CT V, CS;  
  
COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0102200 ASSAULT-2 CLASS B FELONY  
9A.36.021(2) (A)  
  
DOO: 12/31/2013  
OFFENSE COMMENTS: 2 CTS-FIREARM  
CDD: 11/17/2015  
CPL: 84 MOS(+36 MOS CS FA ENH ) CTS VII, VIII;  
  
COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0221500 HARASSMENT PREV CONV OR THREAT TO KILL CLASS  
C FELONY  
9A.46.020(2) (B)  
  
DOO: 12/31/2013  
OFFENSE COMMENTS: 1 CT-FIREARM

CDD: 11/17/2015  
CPL: 42 MOS(+18 MOS CS FA ENH) X;

COURT CASE NO: 141003011 COUNTY/STATE: KITSAP  
CHARGE: 0054500 FIREARM POSSESSION UNLAWFUL-2 CLASS C FELONY  
9.41.040(2)(C)

DOO: 12/31/2013  
OFFENSE COMMENTS: 1 CT  
CDD: 11/17/2015  
CPL: 57 MOS CT XI, = 720 MOS TOTAL

\*COMMITMENT\* DATE: 08/31/2006  
NAME USED: MATHES, JAMES CHARLES DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 051003233 COUNTY/STATE: KITSAP  
CHARGE: 0044000 DOMESTIC VIOL COURT ORD VIOL CLASS UNKNOWN  
26.50.110  
DOMESTIC VIOLENCE

DOO: 08/31/2006

COURT CASE NO: 051006526 COUNTY/STATE: KITSAP  
CHARGE: 0736110 CONT SUB-POSS NO PRESCRIPTION CLASS C FELONY  
69.50.4013(2)

DOO: 08/31/2006

\*COMMITMENT\* DATE: 05/08/2001  
NAME USED: MATHES, JAMES CHARLES DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 001014188 COUNTY/STATE: KITSAP  
CHARGE: 07623 HIT AND RUN - INJURY CLASS C FELONY  
46.52.020(4)(b)

DOO: 05/08/2001

COURT CASE NO: 001014188 COUNTY/STATE: KITSAP  
CHARGE: 05158 BAIL JUMPING CLASS C FELONY  
9A.76.170(2)(C)

DOO: 05/08/2001

\*COMMITMENT\* DATE: 07/21/1998  
NAME USED: MATHES, JAMES C DOC NUMBER: 931439  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 981008189 COUNTY/STATE: KITSAP  
CHARGE: 00466 ASSAULT/RECK ENDANG IN VIOLATION NO-CONTACT  
ORDER-PRECONV CLASS C FELONY  
10.99.040(4)  
DOMESTIC VIOLENCE

DOO: 07/21/1998

\*COMMITMENT\* DATE: 02/02/1993  
NAME USED: MATHES, JAMES C DOC NUMBER: 3293  
CONTRIBUTING AGENCY: WA023025C WA DOC-SHELTON CORRECTIONS  
COURT CASE NO: 921008571 COUNTY/STATE: KITSAP

CHARGE: 07378 VUCSA-POSS MARIJ MORE THAN 40 GRAMS CLASS C  
FELONY  
69.50.401 (D)

DOB: 02/02/1993

COURT CASE NO: 921008571 COUNTY/STATE: KITSAP  
CHARGE: 01102 ASSAULT-3 CLASS C FELONY  
9A.36.031

DOB: 02/02/1993

\*\*\*\*\*  
NO KNOWN SEX/KIDNAPPING OFFENDER REGISTRATIONS  
\*\*\*\*\*

\*\*\*\*\*  
NO KNOWN APPLICANT DETAILS  
\*\*\*\*\*

\*\*\*\*\*  
NO KNOWN MONITORED POPULATION REGISTRATION TRACKING INFORMATION  
\*\*\*\*\*

\*\*\*\*\*  
GLOSSARY OF TERMS IS AVAILABLE IN THE CRIMINAL JUSTICE TRAINING MANUAL (CJTM)  
LOCATED AT [HTTP://WWW.WSP.WA.GOV/\\_SECURED/IDENT/RESOURCE.HTM](http://www.wsp.wa.gov/_secured/ident/resource.htm)  
\*\*\*\*\*

\*\*\*\*\*  
RESOURCES  
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ADMINISTRATIVE OFFICE OF  
THE COURTS (AOC)-----[WWW.COURTS.WA.GOV](http://www.courts.wa.gov)  
WSP CRIMINAL HISTORY  
RECORDS SECTION-----[CRIMHIS@WSP.WA.GOV](mailto:CRIMHIS@wsp.wa.gov) OR (360) 534-2000  
WSP CRIMINAL HISTORY &  
FINGERPRINT TRAINING-----[HTTP://WWW.WSP.WA.GOV/\\_SECURED/IDENT/RESOURCE.HTM](http://www.wsp.wa.gov/_secured/ident/resource.htm)  
DEPARTMENT OF CORRECTIONS (DOC)---[WWW.DOC.WA.GOV](http://www.doc.wa.gov)  
WSP SEX/KIDNAPPING  
OFFENDER REGISTRY (SOR) UNIT--(360) 534-2000  
REVISED CODE OF WASHINGTON (RCW)--[HTTP://APPS.LEG.WA.GOV/RCW/](http://apps.leg.wa.gov/rcw/)  
WSP WASHINGTON ACCESS TO CRIMINAL  
HISTORY (WATCH) WEBSITE-----<https://fortress.wa.gov/wsp/watch>  
WSP IDENTIFICATION AND  
BACKGROUND CHECK SECTION-----[WATCH.HELP@wsp.wa.gov](mailto:WATCH.HELP@wsp.wa.gov) OR (360) 534-2000

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT E

**ATTORNEY-CLIENT FEE AGREEMENT (Flat Fee)**

This fee agreement (hereafter the "Agreement") is entered into between Ronald D. Ness, on behalf of the law firm of Ness & Associates, (hereafter the "Firm" or "Attorney") and James Mathes (hereafter "Client"). Attorney agrees to represent Client in connection with of Assault  
Blunder Imprisonment (hereafter the "Matter").

ATTORNEY AND CLIENT MUTUALLY AGREE AS FOLLOWS:

1. **Scope and Representation:** The Firm will provide services reasonably necessary to defend Client in the Matter, including pre-charge investigation and representation from arraignment through trial or other resolution.

This Agreement does not include representation of Client in any of the following: appeal; retrial after a mistrial or hung jury; civil or administrative proceedings, even if related to the Matter; or post-trial or post-sentencing motions of any kind.

Client understands that the Matter may conclude without a trial. In the event that the Matter is resolved by a deferred prosecution, stipulated order of continuance, pre-trial diversion, deferred sentence or other deferred disposition, the Firm's obligations will be satisfied, and the Firm will be entitled to withdraw subject to court approval. In the event that the Matter proceeds to trial and the trial results in a mistrial or hung jury, the Firm's obligations will be satisfied, and the Firm will be entitled to withdraw subject to court approval.

2. **Attorney Fees:** Upon signing this agreement, Client agrees to pay a flat fee in the amount of \$ 0 to compensate the Firm for accepting the Matter, for all legal services contemplated by this Agreement, and for the loss of the opportunity to accept other matters. This fee becomes the property of the Firm upon receipt.

This flat fee is not refundable so long as it is "reasonable" as that term is defined in Rule 1.5 of the Rules of Professional Conduct. Examples of circumstances which could render the fee unreasonable and thus trigger an obligation to refund some or all of the fee include, but are not limited to: death of the client or lawyer, lawyer's loss of his license, client's termination of lawyer prior to the conclusion of the Matter, or failure of lawyer to perform the services described in this Agreement. A fee is not unreasonable simply because the Matter is resolved more quickly or easily than anticipated.

Client \_\_\_\_\_  
(Initial)  
Payor VM  
(Initial)

3. **Schedule of Payments:** Client will provide the Firm with the fee set forth above at the time this Agreement is signed and according to the following schedule:

The sum of \$ 5,000 in addition to the above flat fee, payable in monthly installments of \$ 200 per Month beginning on May 15, 2014. (Total fee exclusive of trial and appeal.)

The sum of \$ already included for trial at \$ \_\_\_\_\_ per day estimated to be at least \_\_\_\_\_ days.

4. **Costs and Expenses:** Client agrees to pay costs and expenses (hereafter "Costs") related to the Matter, including, but not limited to: investigation; depositions; interviews; expert witnesses; consultants; interpreters; court reporters; transcription; postage; copies; collect calls; long distance telephone calls; messenger services; service of process; filing fees; obtaining records; travel (including transportation, mileage computed at the current IRS rate, lodging, meals, and related costs); and trial exhibits. Costs that are advanced by Attorney shall be reimbursed by Client.

Client understands that he or she is responsible for all Costs regardless of any limitation on the total amount of attorney fees.

5. **Advance Deposit for Costs:** Client agrees to provide the Firm with \$ \_\_\_\_\_ as an advance on Costs. This advance cost deposit and any additional advances for costs will be deposited into a trust account which does not bear interest to Client or the Firm and which will be drawn upon by the Firm to pay Costs.

6. **Billing Statements:** Attorney will provide Client with periodic statements to reflect billings for Costs incurred in the Matter. Fourteen days after mailing or delivering statement, the Firm will withdraw from the trust account the amount due for Costs, unless Client objects. In the event that the Client has not provided sufficient funds to cover the Costs billed, Client agrees to remit the balance owed within 14 days of receipt of the billing statement and to supplement the trust account to meet the minimum balance requirement specified above.

7. **Independence or Counsel and Payments by a Third Party:** A third party (hereafter "Payor") may provide funds to Attorney to satisfy Client's financial obligations under this Agreement only if Client consents to such an arrangement and Payor signs this Agreement. By signing this Agreement, Payor acknowledges and agrees to the following:

(a) that no attorney-client relationship exists between Attorney and Payor and that Attorney has not and will not provide legal advice to Payor, including advice regarding the wisdom of entering this Agreement;

Client \_\_\_\_\_  
(Initial)  
Payor DM  
(Initial)

- (b) that Attorney has an ethical duty to Client to maintain confidentiality and that Attorney will not disclose confidential information relating to Client's Matter to Payor without Client's consent;
- (c) that Payor cannot interfere with Attorney's independent professional judgment or with the attorney-client relationship;
- (d) that in the event that Payor disagrees with Client's decisions regarding the Matter, Attorney has an ethical obligation to abide by the Client's decisions despite Payor's objections;
- (e) that all funds provided for deposit into the trust account on Client's Matter may be used by the Attorney for payment of fees and Costs for the duration of the Matter and that Attorney will not issue any refund until the Client's final invoice has been paid at the conclusion of the Matter; and
- (f) that any funds provided to Attorney by Payor that that are not used to satisfy Client's financial obligations under this Agreement will be returned to the Payor.

Client and Attorney have discussed the issue of payments from a third party, and Client specifically consents to such payments.

8. **Refund of Balance in Trust Account:** At the conclusion of the Matter, any funds deposited in the trust account that are not used to pay Client's financial obligations under this Agreement will be returned to Payor.
9. **Non-Payment, Costs of Collection and Interest:** Client will be charged interest of 0 % per month on the balance of any amount that is past due. Client will be charged \$ 0 for any check his or her bank refuses to honor. In the event of a dispute regarding this Agreement, Client agrees to pay the costs of collection and enforcement of this Agreement, including, if necessary, attorney fees and costs. Washington law shall govern the resolution of any dispute relating to the enforcement of this Agreement, and the venue of any action shall be Kitsap County, Washington.
10. **Discharge or Withdrawal from Representation:** Client may discharge the Firm at any time. The Firm may withdraw from representation of the Client upon resolution of the Matter. Prior to resolution, the Firm may withdraw either with Client's consent or upon reasonable notice to Client, for good cause, including but not limited to, breach of this Agreement, refusal to cooperate with the Firm on a material issue, or failure or inability of Client to pay fees, Costs, and advances as set forth in this Agreement.

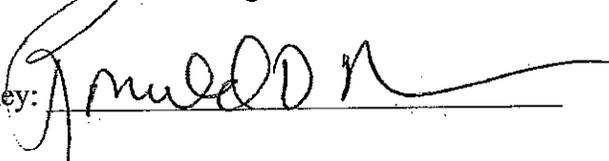
Client \_\_\_\_\_  
 (Initial)  
 Payor VM  
 (Initial)

In addition, the Firm will withdraw if circumstances arise that would render continuing representation unlawful or a violation of the Rules of Professional Conduct.

Client understands that once the Firm has formally appeared in court as the representative of Client, withdrawal or discharge may be subject to court approval. In the event of discharge by Client or withdrawal by the Firm, the Firm is entitled to compensate for fees and Costs up to the date of withdrawal or discharge, or the date the Court permits withdrawal, whichever is later.

11. **File Retention Policy:** \_\_\_\_\_ years from the date the Firm's representation has concluded, the Firm may destroy the Client's file unless Client makes a specific written request for the file and provides a current address at the time the file is to be provided. Attorney is entitled to maintain an archival copy of the file, and the Client is responsible for the costs of reproduction.
12. **No Guarantee of Results:** Client acknowledges that the Firm has made no guarantees regarding the outcome of the Matter and that any statements Attorney has made regarding the merits of the case are professional opinions only, and not a guarantee.
13. **Cooperation of Client:** Client agrees to keep the Firm advised of his or her address and contact information, to appear at office appointments and court hearings, and to cooperate with reasonable requests of the Firm related to the Matter.
14. **Final Agreement:** This Agreement represents the final and mutual understanding of the parties. It replaces and supersedes any prior agreements or understandings, whether written or oral. This Agreement may not be modified, amended, or replaced except by another signed written agreement of the parties.

By signing below, I acknowledge that I have read this Agreement in its entirety, understand its terms and agree to them.

Attorney: 

Dated: 4-22-14

Client: \_\_\_\_\_

Dated: \_\_\_\_\_

Payor: Valerie Mathes

Dated: 4-24-14

Client \_\_\_\_\_

Payor VM  
(Initial)

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT F

**Ron Ness**

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**From:** "Chad M. Enright" <CEnright@co.kitsap.wa.us>  
**Date:** Tuesday, August 11, 2015 10:22 AM  
**To:** "Ron Ness" <info@nesslaw.com>  
**Subject:** RE: Mathes

Here's what I was thinking --

I could drop one firearm enhancement, but add 3 more felony counts. This would set his range at about 24 years to 30.5 years. I could argue top, you could argue bottom. I can tell the deputies that I tried to get 30 years, you can tell your client you tried to get 24. Plus, your guy earns more good time without the 2<sup>nd</sup> enhancement.

I haven't heard back from the deputies on this idea, but I think it might be a reasonable resolution.

Chad

---

**From:** Ron Ness [mailto:info@nesslaw.com]  
**Sent:** Monday, August 10, 2015 11:26 AM  
**To:** Chad M. Enright  
**Subject:** Mathes

Chad, e-mail your latest offer on Mathes. I will see him as soon as I can. I left you a message that I can't start a trial next week. I am having some issues health wise and my doctor told me I can't do a two week trial right now. I hope we can settle this. I am going to Doctor this afternoon and will have more info on when he will release me to do trial.

8/11/2015

**Ron Ness**

---

**From:** "Chad M. Enright" <CEnright@co.kitsap.wa.us>  
**Date:** Wednesday, September 09, 2015 8:15 AM  
**To:** "RON NESS" <info@nesslaw.com>  
**Subject:** James Mathes Offer

Ron,

I'm going to be at a conference the rest of the week, but here's my offer on Mathes-

- I. Assault 1, with a firearm enhancement
- II. Assault 1
- III. Unlawful imprisonment - DV
- IV. Violation of a Court Order- DV
- V. Harassment - DV
- VI. Unlawful Poss. of a Firearm

So, I drop the 2<sup>nd</sup> enhancement, but add 3 counts. This actually reduces his range and allows him to earn more good time. His range would be 291 months to 367 months. (198 to 244 on count I, 93-123 on count II, consecutive. Everything else concurrent). He can argue bottom and I'll argue top. Toste will ask for bottom and you can prepare all the mitigating evidence you want for the judge.

He would also plea on his second case, but plea after sentencing on the first and run it concurrent.

I'll be around next week to talk about it.

Chad

60 MO  
291

231  
48  
-----  
183

2y  
4

12 | 183  
    12  
    ---  
    63

15

20 straw w



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## HARRIS INVESTIGATIONS

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P.O. Box 22 · Port Orchard, WA 98366 · Phone: (360) 377-1302 · Fax: (360) 377-2541

**Client: James Mathes**  
**Attorney: Ron Ness**  
**Interview Of: James Mathes**  
**Interviewed By: Jim Harris/Harris Investigation**  
**Date of Interview: September 24, 2015**

On September 24, 2015 Attorney Ron Ness and I met with James Mathes to talk with him about his plea offer. Ron informed James that the Prosecutor agreed to knock an other point off of his sentencing guidelines and that would give James an offer of 23.5 and 29.5.

James said that he would not plead to that and he wants a sentence that does not include the Assault 1 and the Firearms Enhancement so that he would get 1/3 good time on his sentence. James said that this would still mean that he would do 16.4 months and he would agree to be sentenced to a 25 year sentence.

Ron explained to James that he would talk with the Prosecutor about this and he doubts and the Prosecutor will drop the Enhancement or the Assault 1. James said that if not, he would prefer to go to trial.

James also talked about the newspaper article that just came out and how the officers received a Medal of Honor for saving James's life. Ron told James that he does not want to deal with that at trial because what occurred after this case has no bearing on the trial. We also explained to James that the court will not allow how many shootings these officers have been involved in or how justified those shootings were.

James also wanted to bring up in trial how he was concerned for everyone else's safety after the shooting and how he wants to bring out that this was suicide by cop. Ron explained to him that his statements would come out through other sources.

We ended the interview by agreeing that we would prepare for the October 19<sup>th</sup> trial date and that James would receive a haircut and his clothes would be arranged.



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## HARRIS INVESTIGATIONS

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P.O. Box 22 · Port Orchard, WA 98366 · Phone: (360) 377-1302 · Fax: (360) 377-2541

**Client: James Mathes**

**Attorney: Ron Ness**

**Interview Of: James Mathes**

**Interviewed By: Jim Harris/Harris Investigations**

**Date of Interview: October 1, 2015**

On October 1, 2015 I met with Attorney Ron Ness, Chief Criminal Prosecutor Chad Enright and James Mathes to allow Mathes to speak directly to Enright. Mathes took this opportunity to ask Enright to come off of the Assault 1 charges so that he could get 1/3 good time instead of the 10 percent good time.

Enright explained to Mathes that he could not come off of the Assault 1 charges and that he had already gotten rid of one of the Firearm Enhancements. It was explained to James by Enright and by Ness that Mathes had good material to argue at the time of sentencing and there would be a fair chance that the judge may go mid range after hearing Mathes talk about the last ten years of his life and how he had been clean and sober for the past nine years.

The meeting was concluded, by Mathes being told by Enright, that Mathes should consider the states offer, because if he does not, there is likelihood that Mathes would be convicted and sentenced with much more time than the offer. It was agreed by everyone that if Mathes goes to trial and if he is convicted he has very little hope of ever getting out of prison.

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Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT G

Ron,

Here's what I think the range is -

Count I -

Count only the priors (one prior that doesn't wash) and other counts that are NOT serious violent offenses. = 8 pts. 209-277 months. But, consecutive to III and V. Plus 60 month enhancement consecutive to everything.

Count III

Automatically 0 pts, 93-123 months, but consecutive to I and V. 60 month enhancement

Count V

0 pts, 51-68 months, but consecutive to I and III. 60 month enhancement

Count VII

12 pts, 63-84 months, concurrent to all other counts. 36 month enhancement

Count VIII

12 pts, 63-84 months, concurrent to all other counts. 36 month enhancement

Count IX

8 points, because there are no multipliers for other violent offenses. 51-60 month range. 18 month enhancement. **However**, a standard range sentence exceeds the statutory maximum of 60 months. So, pursuant to RCW 9.94A.533(3)(g), we do an exceptional down of 42 months, plus the 18 month enhancement.

Count X

8 points, because there are no multipliers for other violent offenses. 51-60 month range. 18 month enhancement. **However**, a standard range sentence exceeds the statutory maximum of 60 months. So, pursuant to RCW 9.94A.533(3)(g), we do an exceptional down of 42 months, plus the 18 month enhancement.

Count XI

8 points, 51-60 months.

So, I think his standard range is -

$(209 \text{ to } 277) + (93 \text{ to } 123) + (51 \text{ to } 68) = 353 \text{ to } 468 \text{ months (everything else concurrent)}$

Plus, 288 months of enhancements

So, the grand total range is 641 to 756 months (53.5 to 63 years).

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT H

SUPPLEMENTAL REPORT

Kitsap County Sheriffs Office

OCA K13013119

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: (58) DAWSON, PATRICK J

Date / Time: 01/15/2014 07:40:07

Wednesday

Contact:

Reference: SUPPLEMENTAL REPORT

On 01/11/2014, I was requested to respond to St. Joseph's Hospital in Tacoma to watch a patient (James C. MATHES) there that was under arrest for a criminal offense.

I responded there to the hospital and took over from Deputy Adams #137 who advised MATHES that I was coming as MATHES had advised Deputy Adams that he knew me.

I know MATHES as we attended the same schools in the area and I am best friends with a cousin to MATHES. I had also employed MATHES to do roofing on my house and garage a while back as he was clean and sober. I know him fairly well but not in any consistent way.

Today when I arrived, MATHES said that he wanted to talk to me and I advised him that I am there in Official capacity as a Deputy Sheriff and anything he says will be added to the case. MATHES said that he knows that as well as he said that he trusts me and wants me to document this.

MATHES first tells me that he wanted us to kill him that day and that is why he fired his gun, he said that he wasn't aiming at them and just wanted to be killed. He said that he was unhappy when he woke up alive after the incident. He also said that he thought that was his only way out after what had happened.

MATHES stated that it started a few months ago as he thought his girlfriend, Shelly TOSTE was seeing someone else. He said that she denied it but he knew she was. He also said that he kept selling things at her request and it came down to her wanting money for her to come and see him. He said that she came over one time and wanted \$500 from him for having sex with him and he refused and only gave her \$50 to buy groceries.

MATHES said that day he had her come over as he agreed to give her \$150 to come and hang out with him. He said that she showed up and she ended up telling him that she was married to another guy (Mike TRENT) as well as was pregnant with TRENT's child. MATHES said that he lost it as he was on the drugs and was angry, so he pulled the gun he had and was pointing it at her head and his own going back and forth. He said that he was demanding her to tell him everything.

MATHES said that she told him that his (MATHES's) mother had gotten a large sum of money from an insurance policy that she had on MATHES to the sum of about \$1,000,000. He then went on to say that his mother had paid TRENT to kill MATHES at TRENT's earliest convenience as well as TRENT had been provided a new truck (gray 2013 Ford pickup), a down payment on a house, as well as TRENT's and TOSTE marriage in Las Vegas. He said that was all paid for by his mother for TRENT to kill MATHES. He added that it was supposed to be done at his mothers house while he was having sex with her (TOSTE).

MATHES advised that it started a few months ago as he had tried to overdose on pills and ended up in the hospital. He said that at some point he died for a few moments and somehow his mother got a document that showed this so she was paid on an insurance policy that she had taken out on him when he was a young boy.

MATHES also said that he was told by TOSTE that there is money in his (MATHES) account as well to the tune of about \$21,000.

MATHES also said that he got the gun a while back as he knew someone was after him due to hearing people under his house and other things. He said that he got the gun for protection. He also said that he has been piecing things together for a few months now as he got STD's from TOSTE (even though she denied it).

MATHES was adamant that his mother wanted him dead due to the insurance payout she received, since he didn't die.

MATHES broke down and cried a few times during this. I did not actually ask him any questions on the incident. The only thing I asked was names of the people he was talking about.

MATHES also advised me that he wanted me to know there is "crank" in the car if it was not found. He said that it is located behind a pull out tray of some sort in the dash area by the speedometer. He said that it is behind that tray if you pull the tray out. He said that he wants it gone so no one else gets to it.

MATHES was also very relieved that he didn't hurt any Officer's as that was not his intent just a situation to shoot him. He also said that he was worried as he realized after the incident I could have been involved.

I certify or declare under penalty of perjury under the laws of the state of Washington that the foregoing is true

RECEIVED

JAN 21 2014 1-21-14  
COPY TO PA + WSP  
KITSAP COUNTY SHERIFF  
RECORDS DIVISION Page 1

SUPPLEMENTAL REPORT

OCA KI3013119

Kitsap County Sheriff's Office

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and correct to the best of my knowledge, information and belief.

Deputy P. Dawson #58  
Kitsap County Sheriff's Office

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

P. Dawson #58 1/10/14  
(Signature, Date)  
(58) DAWSON, PATRICK J

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Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT I

# SUPPLEMENTAL REPORT

OCA K13013119

Kitsap County Sheriffs Office

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Investigator: (145) GRAY, BRITTANY

Date/Time: 01/21/2014 13:22:47

Tuesday

Contact:

Reference: SUPPLEMENTAL REPORT

(WI) Her, Pheng  
DOB: 02/27/81  
ADDRESS: 1770 South K. St.  
Tacoma, WA 98405  
PHONE: 253-426-4888

ORIGINAL

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JAN 24 2014

COPY TO PA 1241455  
KITSAP COUNTY SHERIFF  
RECORDS DIVISION

On January 10, 2014 at approximately 1415hrs. I reported to St. Joseph's Hospital in Tacoma, WA to St with JAMES Mathes who was the suspect in an officer involved shooting that occurred December 31, 2014 in Kitsap County. From what I was told, JAMES had been unconscious for several days but was now coming out of sedation.

Upon arrival, I was met by St. Joseph's Hospital security guard PHENG Her. He informed me that JAMES was asking if he had hurt anybody. PHENG also said that he heard JAMES talking to the doctor about him firing shots and inquiring if anyone had been injured. PHENG referred JAMES to me for further questions. As soon as I walked in the room, JAMES immediately asked me if he had hurt anyone stating "I fired shots". I asked JAMES to hold on a second while I sat my things down.

JAMES was very coherent and asked multiple times if he had hurt anyone. I advised him that I would need to read him his rights before I spoke with him. I read JAMES Miranda from a department issued card that I carry on my person at 1426hrs. JAMES said that he understood his rights.

He told me that he had not talked to anyone about what had happened and was wondering what the charges were against him. I told him that I would call and see if I could get a detective to come and speak with him. JAMES was conversing with me normally and appropriately. He appeared awake and very much alert.

As I was placing a call, a nurse walked into JAMES' room. JAMES told the nurse "I fired shots which put me in this position" and that he wanted to know if he hurt anybody.

I called Lt. S. Duckworth (#9) to inform him that JAMES was awake and requesting to speak with someone reference his case. While on the phone with Lt. Duckworth, JAMES asked me if I thought that he should get an attorney. I reminded JAMES of his rights and he told me that he thought that he should talk to an attorney. He was also requesting to make other phone calls.

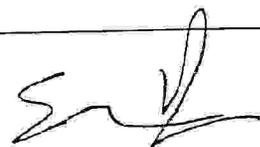
JAMES began telling me that he had other charges pending before this incident and wanted to know if I thought that the same attorney handling those charges would be able to help him with this. JAMES was talking aloud stating that David LaCrosse was his attorney for his pending charges and that he is sure that he would be able to assist him with this case as well.

JAMES was provided a phone by hospital staff around 1600hrs. I told JAMES that he was free to call anyone he wanted but that I needed to remain in his room where I could see him at all times. I told him that if he was to contact his attorney I would get as far away from him as possible to give him privacy but that I would again, have to stay within sight of him. He told me that he understood. The nurse explained to JAMES that he can only make local (253 area code) calls from his bedside and that all others would have to be made by them at their desk.

JAMES could not remember David's number so the nurse found a listing online for him. JAMES was told that David's office was closed and scheduled to reopen Monday. JAMES was asked by the nurse if he wanted a

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Page 1

  
1/22/14  
PROS.  
000050

# SUPPLEMENTAL REPORT

OCA K13013119

Kitsap County Sheriffs Office

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message left. JAMES asked him to notify David that he had called and was at St. Joseph's Hospital.

At approximately 1616hrs, JAMES made a call from his bedside to who I believe to be his father since he called him "Dad" and "Pop" multiple times.

He asked him almost immediately "Did you figure everything out about SHELLY?" and "Did you try to get her to act right with the police?" adding "act right about the situation". JAMES told him that it would be "wise to find out if she's going to tell the truth about the whole thing" and that "SHELLY'S the only answer you have for clearing me on this deal".

I heard JAMES say "I'm going to go to prison forever for this" and that his dad is "the only one that's going to save my ass". He told his dad to get an attorney and to start interviewing people.

He said "My mom's a fucking liar! She's the one trying to get me killed!". JAMES told his dad "don't believe anything mom says she was the fucking one trying to have me fucking killed". JAMES stated that "I believe what SHELLY said" and then made the comment "I don't think it had anything to do with that gun".

JAMES stated that if SHELLY and his mother were telling the truth, he should have \$20,000.00 in the bank to pay the attorney. He told his dad that he would give him the rest if he helps "clear me of this deal". JAMES also begged his father to go pick up his dog.

The call ended at approximately 1620hrs.

At approximately 1645hrs, a nurse informed JAMES that his mother was on the line. He said that he would take the call and for the next several seconds, JAMES tried to prove to his mother that it was him on the line. He referred to himself as "JIMMY" Mathes at one point and also told her that "I was shot three times...one in the chest, one in the arm..." and that "they took the dog, they took the house, they took my girl, they took my kids...". He finally said "Well then fuck you". JAMES was angry at his mother because it was the "fuck you" comment that confirmed to her that she was speaking to JAMES. He told the nurse the story later about how his mother knew it was him because nobody else talked to her that way.

During their conversation, JAMES told her "the end result of what happened is what happened" stating "you wouldn't listen to me and look at me now!". He said, "I told you something bad was going to happen". He stated "you ripped me off" and also that "everything she said was a lie, huh?".

He eventually told her that he had to go because he thought he was having a heart attack because she got him so worked up. The call ended at approximately 1630hrs.

I finished my shift at approximately 1900hrs. PHENG asked for the case number and stated that he would be doing a report. He advised that both he and his report would be available to investigators should they need it.

FORWARD TO PROSECUTOR FOR REVIEW

Deputy B. Gray #145  
Kitsap County, WA

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

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Page 2

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SUPPLEMENTAL REPORT

OCA K13013119

Kitsap County Sheriffs Office

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

B. Gray 145 1/22/14  
(Signature, Date)

FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT J

SUPPLEMENTAL REPORT

Kitsap County Sheriffs Office

OCA K13013119

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: (76) MCDONALD, KRISTA R

Date/Time: 01/14/2014 07:47:25

Tuesday

Contact:

Reference: SUPPLEMENTAL REPORT

ORIGINAL

K13-013119

OF-1/ Mathes, James Charles 4.21.1969

On 1.10.2014 at approximately 1900 hours, I arrived at St. Joseph's Hospital in Tacoma, WA for a security detail watching suspect James Mathes while he recovers. I relieved Deputy Gray #145 who advised she received guidance from Chief White who stated James was allowed phone calls but no visitors. Deputy Gray told me she had advised James of his constitutional rights but he did proceed to make admissions to her.

Once Deputy Gray cleared I entered James' room (5C6) and introduced myself. I explained to him he was not under arrest but at the same time he was not free to go insomuch that when he is discharged from the hospital he would immediately be taken into custody and transferred to Kitsap County Jail. I advised him I did not know what charges he would be booked on as the investigation is being conducted by Washington State Patrol (WSP) but once at the jail he would be apprised. Furthermore, I explained to him the same conditions he had with Deputy Gray would be with me - phone calls only and no visitors. He stated he understood. Lastly, I told him even though Deputy Gray advised him of his constitutional rights (Miranda) I would be doing so again. At approximately 1909 hours, I read James his constitutional rights from my department issued card. James stated he understood and would need to talk with his attorney.

I asked James whom is attorney was. James stated, "Dave LaCross." James then proceeded to say, "I only shot because I didn't see any other way." He continued telling me, "I didn't want to hurt anyone I just felt I didn't have any other option." He stated, "I've probably said too much I should wait for my attorney." I asked James if he had been in contact with his attorney. James stated the office was closed when he called but his father was going to the attorney's office Monday morning for him. The statements made to me by James were all unsolicited.

In the early morning hours, while I sat in James' darken hospital room reading from my e-reader James inquired if I was "prepared to protect" him. I asked him what he meant. James provided me the following tale:

When he was 13 or 14 years old his mother took a 1.5 million dollar life insurance policy out on him. James' mother then created a forged death certificate on him when he was 36-years-old to receive the life insurance money. The insurance company found out he is still live because of his recent arrest he is out on bond for. James stated his mother did not want to lose the 1.5 million from the life insurance policy and face fraud charges so hired "Mike Trent" for \$40,000 to kill him. James only found out about this in the few days prior to being shot and discovered his whole family has conspired against him. This is the reason why he shot at the police because he didn't see any other way.

He concluded his tell that I needed my "pistol at the ready" to defend his life because he thinks "Mike" will come to the hospital to "finish the job." I advised him he should let WSP and his attorney know.

My security watch detail ended at 0700 hours on 1.11.2014 when I was relieved by Deputy E. Adams. James made no other comments or admissions to me during my watch.

I certify or declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge, information, and belief.

Krista McDonald

RECEIVED  
JAN 15 2014  
COPY TO RA @ WSP 1-15-14  
KITSAP COUNTY SHERIFF  
RECORDS DIVISION

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Krista McDonald #76 1/14/2014  
(Signature, Date)  
(76) MCDONALD, KRISTA R

PROSECUTOR

DATE 1/25/14

Page 1

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WSP

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FILED  
Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT K



**P**HILIP G. BARNARD, Ph.D., DABPS

**PSYCHOLOGICAL ASSOCIATES, P.S.**

Clinical Psychology  
Clinical Neuropsychology

Amon Building

92 Lee Boulevard  
P.O. BOX 72  
Richland, WA 99352  
Phone (509) 943-6666  
Fax (509) 943-0223

Tax ID # 91-1084373

May 29, 2018

Mr. Craig Suffian, Attorney at Law  
Law Offices of John Henry Browne, P.S.  
csuff@jhblawyer.com

**RE: James Mathes**  
**DOB: April 21, 1969**

Dear Mr. Suffian:

You asked me to comment on the forensic psychological evaluations by Dr. Muscatel, Ph.D., and Dr. Yocum, Ph.D.

Dr. Muscatel's evaluation was seriously hampered by the fact that he was not provided with the extremely important information about Mr. Mathes' extensive mental health history. Dr. Muscatel administered the Personality Assessment Inventory (PAI). The test was invalid, however, since Mr. Mathes answered several items with more than one response. Dr. Muscatel did not monitor that part of the test administration. Doing so would have likely resulted in a valid profile. Dr. Muscatel did not reach conclusions as to whether or not Mr. Mathes demonstrated diminished capacity at the time of the alleged offense. His report was basically equivocal in terms of reaching a definite opinion as to the existence of diminished capacity.

With respect to Dr. Yocum's evaluation, Dr. Yocum, as well as Dr. Muscatel, rendered no opinion as to whether Mr. Mathes qualified for the defense of diminished capacity. Dr. Yocum did indicate that it was his opinion that Mr. Mathes had the capacity to form the requisite mental state. However, he was not definite as to whether or not Mr. Mathes had the mens rea at the time of the alleged incident.

Diplomate as a Professional  
Disability Consultant

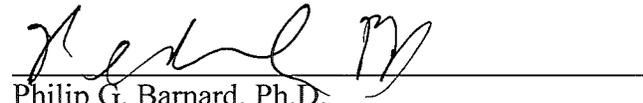
Diplomate in Professional Psychotherapy

Diplomate, American Board  
of Psychological Specialities

International Academy of Behavioral Medicine,  
Counseling and Psychotherapy

I hope this provides you with useful information. If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip G. Barnard", is written over a horizontal line.

Philip G. Barnard, Ph.D.  
Clinical Psychology/Neuropsychology

PGB/mj



**PHILIP G. BARNARD, Ph.D., DABPS**

**PSYCHOLOGICAL ASSOCIATES, P.S.**

Clinical Psychology  
Clinical Neuropsychology

Amon Building

92 Lee Boulevard  
P.O. BOX 72  
Richland, WA 99352  
Phone (509) 943-6666  
Fax (509) 943-0223

Tax ID # 91-1084373

May 23, 2018

Mr. Craig Suffian, Attorney at Law

**RE: James Mathes**

**DOB: April 21, 1969**

Dear Mr. Suffian:

On May 19, 2018, I interviewed Mr. Mathes, which included a clinical history. A battery of psychological tests was administered to him on that date. Those tests included a screening intelligence test, namely the Shipley Institute of Living Scale-2 (SILS-2), as well as the Beck's Depression Inventory-2 (BDI-2), and the Personality Assessment Inventory (PAI).

In addition to the clinical interview and psychological testing, this psychologist also reviewed the following records provided:

Washington State Patrol consent to search dated December 13, 2013. This document indicates that Angela Faucett gave permission for a search of her black iPhone;

Kitsap County District Court Victim Impact Statement and Restitution Estimate by Michelle Toste dated January 15, 2014;

Law enforcement information DV No Contact Order, Port Orchard Police Department;

Kitsap County District Court State of Washington DV No Contact Order dated September 17, 2013;

Investigative report from Port Orchard Police Department dated September 10, 2013;

Supplemental report dated December 31, 2013;

Statements by Michelle Toste;

Diplomate as a Professional  
Disability Consultant

Diplomate in Professional Psychotherapy

Diplomate, American Board  
of Psychological Specialities

International Academy of Behavioral Medicine,  
Counseling and Psychotherapy

Kitsap County Sheriff's Office property report dated December 31, 2013;

Kitsap County Sheriff's Department supplemental report dated January 03, 2014;

Washington State Patrol Crime Investigation Division victim's statement dated January 09, 2014;

Tape-recorded witness statement from Washington State Patrol dated January 09, 2014;

Recorded interview with Michelle Toste dated December 18, 2013. Of note of interest in this document is the date at the top states that it is December 18, 2013, but the first line of the document states that the date is January 31, 2014;

Harris Investigations report of interview with Michelle Toste dated November 08, 2014. Of note in this document is Ms. Toste's statement that Mr. Mathes was clean for eight years up until September 2013. She indicates that their relationship had been six years in duration. This document also indicates that Mr. Mathes was having difficulties with doctors being switched on him in the weeks prior to the September domestic violence incident, and that he indicated to her that the medications were not working. Ms. Toste also indicated that she noticed mood swings at that time. Also noted in this document is a notation that Ms. Toste knew several weeks prior to December 30<sup>th</sup> that Mr. Mathes had a gun, which he had indicated to her was a gun for "bad people." She further stated that he had begun talking about these "bad people" in the weeks prior to the December 30<sup>th</sup> incident. She also indicated that Mr. Mathes was paranoid prior to the September 10<sup>th</sup> incident. In this document, Ms. Toste indicated that during the December 30<sup>th</sup> incident, Mr. Mathes told her that he was hearing someone in the house and asked her to go with him to check the home. This appears to be a continual factor through the night of the incident as Ms. Toste indicated several times that Mr. Mathes could hear these people and accused her of knowing these people. She also indicated that at one point, she began cleaning Mr. Mathes' home and telling him that if he was holding her hostage, he could take her to her coffee place.

Email from Jim Harris to Ron Ness dated December 05, 2014. This email is regarding a letter Ms. Toste wrote in which she indicates that she wants to rescind or modify the no contact order against her fiance, Mr. Mathes. Again, she indicates in this letter of a relapse in September 2013 and changes in regards to Mr. Mathes' mental health doctor;

Department of Licensing IDL system for Roy Lee Mathes;

Supplemental report from Kitsap County Sheriff dated December 31, 2013, which included a witness statement of Roy Lee Mathes. Of note in this document is Roy Mathes' indication that Mr. Mathes had been on "crank" and heroin for five days and was very paranoid. There is also an indication by Roy Mathes that Mr. Mathes forced the officers to fire at him;

Recorded interview of Roy Mathes dated December 31, 2013;

Harrison Investigations interview with Roy Mathes dated June 24, 2014. In this document, Roy Mathes indicates that during the time of the incident, in December 2013, Mr. Mathes told him that Roy Mathes and Valerie were planning on killing Mr. Mathes.

Also indicated in this document is that at one point during this incident, Mr. Mathes stood at the end of a hallway in the home and yelled that there was someone in one of the bedrooms that was going to kill him. Roy Mathes indicates that Mr. Mathes has had mental health issues his entire life;

Department of Licensing IDL system for Hannah Caulder;

Washington State Patrol consent to search a white iPhone of Hannah Caulder dated December 31, 2013;

Recorded interview with Hannah Caulder dated December 31, 2013;

Supplemental report for Hannah Caulder dated January 01, 2014. Of note in this document is a statement Mr. Mathes made as he was being transported from the scene stating that he did not do anything wrong and that the cops came there to kill him;

Investigation log report beginning in January 03, 2014 through January 09, 2014;

Harris Investigations report interview of Janelle Jones dated July 16, 2015;

Harris Investigations report interview of Norman Reinhardt Jr. dated May 03, 2015. There is an indication in this document that Mr. Mathes had been involved in AA meetings and had stopped taking his medication approximately four or five months prior to the incident in September. There is also an indication that Mr. Mathes had talked about suicide approximately two years before the December incident. In this document it states that if Mr. Mathes ever committed suicide, it would be suicide by cop. There is also an indication that approximately four months before the December incident, Mr. Mathes complained to this individual about people being under his house and following him. Mr. Reinhardt felt that Mr. Mathes was unstable at that time. There is also an indication that Mr. Mathes appeared to have scratches on his arms, and when asked where he got them, he said he got them by chasing people through the woods;

Supplemental report from Kitsap County Sheriff's Department dated January 13, 2014. This report is a summary of a police officer who was guarding Mr. Mathes while in the hospital. There is an indication that Mr. Mathes made an unprompted statement to this officer that he had decided to commit suicide by cop. There is also an indication that Mr. Mathes stated that he was tired of living;

Supplemental report from Kitsap County Sheriff's Department dated January 14, 2014. In this document, there is an indication that Mr. Mathes stated, "I only shot because I did not see any other way." Also stating, "I did not want to hurt anyone, I just felt I did not have any other option." Of note in this document is a statement that reads, "In the early morning hours while I sat in James' darkened hospital room reading from my E-reader, James inquired if I was "prepared to protect him." I asked him what he meant. James provided me the following tale.

When James was 13 or 14 years old, his mother took a 1.5 million dollar life insurance policy on him. James' mother created a forged death certificate on him when he was 36 years old to receive the life insurance money. The insurance company found out he was still alive because of his recent arrest. James stated that his mother did not want to lose the 1.5 million dollars from the life insurance policy and faced fraud charges, so she hired "Mike Trend" for \$40,000.00 to kill him. James only found out about this in the few days prior to being shot and discovered his whole family was conspiring against him. This is the reason why he shot at the police, because he did not see any other way. He concluded his tale that "I needed my pistol at the ready," because he thinks "Mike" will come to the hospital to "finish the job." This supplemental report was completed by Krista McDonald;

Supplementary report from Kitsap County Sheriff's Office, dated January 15, 2015, by Patrick J. Dawson. There is an indication in this document that Mr. Mathes wanted the police officers to kill him that day. It is also indicated again that there is a belief of insurance fraud by his mother;

Supplementary report from Kitsap County Sheriff's Department dated January 21, 2014. There is an indication in this report that Mr. Mathes calls his mother a liar and states that she is trying to get him killed;

Department of Licensing IDL system for Stephanie Vierra dated January 09, 2014;

Washington State Patrol consent to search Stephanie Vierra's iPhone dated December 31, 2013;

Recorded interview with Stephanie Vierra dated December 31, 2013;

Kitsap County Sheriff's Office property report dated December 31, 2013;

Supplemental report from Kitsap County Sheriff's Office dated January 01, 2014 by Robert R. Parker and Stephanie Vierra;

Kitsap County Superior Court Findings of Fact and Conclusions of Law for hearing of diminished capacity;

Superior Court of Washington Kitsap County defense response regarding diminished capacity dated October 19, 2015;

Franciscan Health System dated January 08, 2014 from D'arcy Figuracion, Social Service Specialist;

Physician progress notes by Dr. Bahriathan Krishnadsan dated January 08, 2014;

Franciscan Health System by Dr. Ekaterina Knowlton. There are history and psychical notes, lab results,

CHI Franciscan Health System dated December 31, 2013 through January 03, 2014;

CHI Franciscan Health ED notes by Dr. Keith F. Batts dated October 09, 2013;

Co-med Healthcare Management Corporation authorization for release of confidential information. It appears it is dated September 16<sup>th</sup>. However, the year is difficult to read. There is a date received stamp that shows the year as being 2013;

Assessment notes regarding James Mathes dated February 03, 2014;

Medical history notes dated February 03, 2015. Of note in this document is an indication of a diagnosis of bipolar, ADHD, schizophrenia, and mild PTSD;

Initial evaluation and treatment plan undated;

Kitsap Mental Health Services FAX cover sheet dated September 17, 2013;

Kitsap Mental Health Services progress notes dated November 12, 2013. There is an indication that Mr. Mathes had been in treatment for several years. There is a report in this document of paranoia and auditory and visual hallucinations at night, and just before he takes his medication;

Kitsap Mental Health Services by Dr. Reyes dated December 02, 2013. Indicated in this document is Seroquel has been ineffective in terms of auditory hallucinations and paranoia. There is an indication of having a psychotic and/or anxiety-related episode in the summer of 2013, with increasing paranoia. Diagnosis codes on this document are: Axis-I 298.9 Psychotic Disorder, Not Otherwise Specified, Primary; Axis-I 309.81 Rule out PTSD; Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, Secondary; Axis-I Stimulant Dependence and Abuse Disorder; Axis-II 301.9 Personality Disorder, Not Otherwise Specified. The next visit was on December 16, 2013, which was a no-show appointment;

News Bank Kitsap County Sun dated November 04, 2015;

Journal Media Group entitled "*Trial starts for a man shot by deputies*" dated October 26, 2015.

News Bank Kitsap County Sun dated September 22, 2015. "*Trial set for man who tried to get shot.*"

News Bank Kitsap County Sun dated November 03, 2015 entitled "*Kidnap Trial Goes to Jury Essentially Life if found guilty.*"

News Bank Kitsap County Sun dated November 07, 2015 entitled "*Man sentenced in shooting case. Mathes may spend rest of life in prison.*"

Forensic psychologist evaluation by Dr. Kenneth Muscatel dated December 16, 2014. Of note in this document is Dr. Muscatel's statements of his belief that Mr. Mathes was psychotic at the time of the incident with grossly distorted beliefs that his girlfriend and his family are trying to kill him.

Dr. Muscatel's diagnoses were methamphetamine abuse/addiction, heroin abuse/addiction, alcohol use disorder, severe; unspecified psychotic disorder, stating paranoid and delusional features noted, both associated with chronic mental health impairment and exasperated by his sustained and severe substance abuse; unspecified depressive disorder; unspecified personality disorder, with paranoid antisocial features;

Direct examination by Dr. Muscatel dated October 29, 2015. In this document, Dr. Muscatel states that Mr. Mathes suffers from a mental disorder with symptoms of paranoia and probable auditory hallucinations that were present at the time of the incident. In this document, the lawyers talk about the fact that Dr. Muscatel goes back and forth on his opinion. Ultimately, this is the document that shows that the judge decides that Dr. Muscatel is not able to offer an opinion.

Testimony of Dr. Muscatel dated October 20, 2015. In this document, Dr. Muscatel states that Mr. Mathes was only in a mild-moderate psychological distress at the time of his interview with Mr. Mathes. Much of this document is a discussion between an insanity defense and a diminished capacity defense. Dr. Muscatel states that he does not feel he can interpret evidence for the court, for example, where the gun was pointed and fired, etc. In this document, Dr. Muscatel also states that there is evidence to indicate that Mr. Mathes was in a highly impaired mental state at the time of the incident. However, Dr. Muscatel states that he could not state if this would prevent Mr. Mathes from being able to form the requisite intent. One of the arguments by the prosecutor in this case is that Mr. Mathes entered a store during this incident and appeared normal to the cashier. Dr. Muscatel shares that at times, individuals in this state can appear highly normal to people they don't find threatening or concerning, and then go back into the same disordered thinking patterns;

Release of information for Mr. Mathes to the Washington State Patrol;

Medical records from St. Joseph Medical Center dated December 31, 2013 through January 07, 2014;

Physician progress notes by Dr. Baahirathan Krishnadasan dated January 08, 2014;

Discharge plan and assessment by case manager, Joanne Leuver, dated January 07, 2014;

Physician note by Dr. Lawrence W. Snow dated January 06, 2014;

Surgical operative report by Dr. Katrina Ekaterina Knowlton dated January 05, 2014;

Surgical operative report by Dr. Katrina Ekaterina Knowlton dated January 04, 2014;

Case management note by Joanne Leuver dated January 02, 2014;

Physician progress note by Dr. Katrina Ekaterina Knowlton dated January 01, 2014;

Operative note by Dr. Lawrence Snow dated December 31, 2013;

Physician note by Dr. Katrina Ekaterina Knowlton dated December 31, 2013;

Initial consult note by Dr. Katrina Ekaterina Knowlton dated December 31, 2013;

Imaging results by Dr. Aditya Sunidja from St. Joseph Medical Center dated December 31, 2013;

Letter requesting medical records from the law office of Wecker Hunko dated October 03, 2013;

Progress notes by Dr. Antonio Gutierrez from Kitsap Mental Health Services dated January 05, 2010. Diagnoses: Axis-I 314.9 Attention Deficit Hyperactive Disorder, Not Otherwise Specified; Axis-I 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified with antisocial characteristics; Axis-III Obesity and Hypertension. At that time, Mr. Mathes' medications were Seroquel, 100 mg, clonidine 0.1 mg, and Lunesta 3.0 mg;

Progress notes by Dr. Antonio Gutierrez dated February 02, 2010. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified; 298.9 Psychotic Disorder, Not Otherwise Specified, rule out sleep disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder with antisocial characteristics; Axis-III Obesity and hypertension;

Progress notes by Dr. Antonio Gutierrez dated March 03, 2010. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified; 298.9 Psychotic Disorder, Not Otherwise Specified, rule out sleep disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder with antisocial characteristics; Axis-III Obesity and hypertension; At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg;

Progress notes by Dr. Antonio Gutierrez dated May 17, 2010. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified; Axis-III Obesity and hypertension WPW. At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg;

Progress notes by Dr. Antonio Gutierrez dated August 17, 2010. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified; Axis-III Obesity and hypertension WPW. At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg;

Progress notes by Dr. Antonio Gutierrez dated November 23, 2010. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified; Axis-III Obesity and hypertension WPW. At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg;

Progress notes by Dr. Antonio Gutierrez dated January 19, 2011. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified; Axis-III Obesity and hypertension WPW. At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg. At the time of this visit, the statement was made that Mr. Mathes was not psychotic and was not suicidal or homicidal;

Progress notes by Dr. Antonio Gutierrez dated April 20, 2011. Diagnoses were Axis-I 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, 298.9 Psychotic Disorder, Not Otherwise Specified; Axis-II 301.9 Personality Disorder, Not Otherwise Specified; Axis-III Obesity and hypertension WPW. At that time, Mr. Mathes' medications were Seroquel, 100 mg, bupropion SR 100 mg, and clonidine 0.1 mg;

Medication management report by Patrick Graham, ARNP dated July 21, 2011. Mr. Mathes did not show for the visit;

Medication management report by Patrick Graham, ARNP dated October 13, 2011. Mr. Mathes did not show for the visit;

Medication management report by Patrick Graham, ARNP dated October 19, 2011. There is some indication that Mr. Mathes is having sleep difficulties at this time;

Medication management report by Patrick Graham, ARNP dated December 14, 2011. Mr. Mathes did not show for the visit;

Medication management report by Patrick Graham, ARNP dated January 26, 2012;

Medication management report by Patrick Graham, ARNP dated April 26, 2012;

Medication management report by Patrick Graham, ARNP dated May 31, 2012. Mr. Mathes did not show for the visit;

Medication management report by Patrick Graham, ARNP dated June 28, 2012. It was noted that Mr. Mathes continues to have difficulties with sleep. There is a comment that Mr. Mathes indicated at this appointment that he occasionally hears voices, has bad moods, and these have been somewhat problematic. Medication at this time is Seroquel, clonidine, and Latuda;

Medication management report by Patrick Graham, ARNP dated August 08, 2012. Mr. Mathes did not show for the visit;

Medication management report by Patrick Graham, ARNP dated October 09, 2012;

Medication management report by Patrick Graham, ARNP dated January 23, 2013;

Medication management report by Patrick Graham, ARNP dated March 26, 2013. There was a discussion in this record about changing medications. Mr. Mathes was reluctant to add medications, but did consider the option. He was experiencing low levels of auditory hallucinations and some paranoia;

Medication management report by Patrick Graham, ARNP dated April 23, 2013. It appears that the medication Strattera had been added;

Medication management report by Patrick Graham, ARNP dated May 15, 2013. Mr. Mathes canceled this appointment;

Medication management report by Patrick Graham, ARNP dated July 02, 2013. Mr. Mathes reports mild paranoia concerning his girlfriend, but not global. "He knows that it may not be reality based."

Medication management report by Patrick Graham, ARNP dated October 04, 2013. There is an indication that Mr. Mathes had an episode of either PTSD-like flashbacks or frank psychosis. The diagnoses in this document are 314.9 Attention Deficit Hyperactivity Disorder, Not Otherwise Specified, Psychotic Disorder, Not Otherwise Specified, possible 298.9, rule out 309.81 Post Traumatic Stress Disorder; Axis-II 301.9 Personality Disorder. Medications are to be dispensed biweekly;

Progress notes by John Macaulay, B.S. dated January 05, 2010; February 02, 2010; March 03, 2010 (no show); May 17, 2010; May 26, 2010 (no show); June 23, 2010 (no show); July 13, 2010 (no show); July 30, 2010;

Progress notes by Carol Varney dated August 03, 2010; November 18, 2010; January 19, 2011; May 16, 2011; July 22, 2011; August 16, 2011; August 29, 2011;

Progress notes by Tracy Evanson, R.N. dated October 13, 2011;

Progress notes by Carol Varney dated February 13, 2012; April 26, 2012; August 20, 2012; October 09, 2012; March 26, 2013; June 10, 2013; and September 30, 2013. At this appointment, Mr. Mathes stated that his medications are not working right and that he is gradually becoming more unstable and paranoid. There is an indication that this appointment is just before court for Mr. Mathes' Domestic Violence-3 charge;

Progress notes by Carol Varney dated October 08, 2013. At this appointment, there is an indication that Mr. Mathes will be transferred to Timothy Wecks;

Progress notes by Timothy Wecks, MA. Mr. Mathes failed to show for his appointment;

Washington State Patrol arresting agency affidavit dated January 02, 2014 for assault in the second degree, assault in the third degree, DV violation of protection order;

Washington State Patrol investigative report by Detective Rodney Green dated January 18, 2014;

Social Security Administration Retirement, Survivors and Disability notice of award dated June 20, 2000;

Social Security Administration notice of decision fully favorable dated May 22, 2000;

Social Security Administration Office of Hearing and Appeals decision. In this document, it states that Mr. Mathes alleged an inability to work beginning August 15, 1997 due to chronic dysthymic disorder, mixed personality disorder with antisocial and paranoid features, status post multiple head injuries, and a long history of substance abuse, including alcohol dependence, methamphetamine dependence, and cannabis dependence. There is a statement that the judge concluded that a favorable decision was warranted without the need for testimony. In the findings, it states that medical evidence establishes that Mr. Mathes has chronic dysthymic disorder, mixed personality disorder with antisocial and paranoid features, and alcohol, amphetamine, and cannabis dependence;

Washington State Department of Social and Health Services Western State Hospital dated February 27, 2015;

Community forensic evaluation services forensic mental health report by Dr. Richard Yocum. The diagnoses were amphetamine or other stimulant use disorder with perceptual disturbances, opioid use disorder, and alcohol use disorder, unspecified schizophrenia spectrum or other psychotic disorder by history. Dr. Yocum's conclusion states the review of available information fails to establish that Mr. Mathes' capacity to act intentionally or knowingly was impaired with respect to the alleged crime.

Kitsap County Superior Court memorandum of authorities regarding diminished capacity dated July 29, 2015;

Kitsap County Correctional resident transaction receipt dated January 27, 2014;

Newspaper article deputies cleared in holiday shooting by Andrew Binlon;

Handwritten civil rights complaint by Mr. Mathes. This document was undated. However, I would suggest that this was in January 2014;

Document protection of inmate rights;

Co-med Healthcare Management Health Services request by Kitsap County dated January 28, 2014 and January 31, 2014. Both of these documents indicated need for pain medication;

Kitsap County Residential account summary dated February 02, 2014;

Co-med Healthcare Management Health Services request Kitsap County dated February 2014. The date itself is illegible. The request was also made on February 13, 2014; February 14, 2014; February 18, 2014; February 20, 2014 and February 2014 with an illegible date;

Inmate grievance form Kitsap County Jail dated February 21, 2014;

Co-med Healthcare Management Health Services request Kitsap County Jail dated February 25, 2014;

Kitsap County Sheriff inmate grievance follow-up response report dated March 06, 2014;

Co-med Healthcare Management Health Services request Kitsap County dated March 10, 2014;

Co-med Healthcare Management Health Services request Kitsap County dated March 16, 2014; March 27, 2014; March 30, 2014; April 06, 2014;

Inmate request dated April 26, 2014.

### **DISCLOSURE STATEMENT:**

At the beginning of the clinical interview, this psychologist reviewed the parameters of the information to be disclosed. This psychologist indicated to Mr. Mathes that the report of the clinical interview and the psychological testing would be sent to his attorney, but there were limits to the confidentiality and privilege of information regarding that report. This psychologist informed Mr. Mathes that the prosecuting attorney could also have access to the report via a subpoena. Mr. Mathes appeared to understand the parameters and signed the appropriate documents.

Mr. Mathes' assumption is that this evaluation is part of the appeal process for diminished capacity defense. He understood that Dr. Muscatel was not allowed to testify because his report was "wishy washy." Mr. Mathes also feels that his former lawyer did not do a good job. He was referred to his current lawyer by people he had met. He reports that he then asked his family to do some research before hiring his current attorney. Mr. Mathes shared that the incident in question happened on December 31, 2013. He was sentenced in October or November of 2015 in Kitsap County, Washington. He was charged with two counts of first degree assault on a law enforcement officer, two counts of second degree assault on a law enforcement officer, first degree kidnapping, unlawful imprisonment, second degree unlawful possession of a firearm, and breaking a no-contact order.

Mr. Mathes stated that he had a jury trial. The only witness on his behalf was a woman who had worked in a small store he had gone into approximately 15 minutes prior to the incident. He shared that he believes that there were other names on the witness list, but they did not testify.

In regards to Dr. Muscatel, Mr. Mathes states that the doctor was not allowed to testify because his opinion was unclear. Mr. Mathes also stated that after it was decided that Dr. Muscatel was not going to testify, no information about Mr. Mathes' mental health status was brought into the case. However, the prosecutor referred to Mr. Mathes' mental health multiple times during his closing arguments.

According to Mr. Mathes, his attorney, Ron Ness, did not object to this, even when Mr. Mathes begged him to object. Mr. Mathes reported that his attorney's closing arguments lasted 10 minutes, while the prosecutor's closing arguments lasted for two hours.

Mr. Mathes shared that he had significant difficulties with his former attorney, Ron Ness. He reported that he had paid \$20,000.00 for the attorney to take the case. The contract Mr. Mathes signed stated that this amount was needed for all the preparation and the trial. However, when it came close to trial, the attorney asked for more money. Mr. Mathes believes that Mr. Ness "dropped the ball" after this happened. Mr. Mathes shared that he hired Mr. Ness because Mr. Ness had practiced law in Kitsap County for a long time. Mr. Mathes shared that he wanted someone who was known in the area to be his lawyer. Mr. Mathes also acknowledges that Mr. Ness was having heart problems at the time of Mr. Mathes' trial, which could have contributed to his problems during court. When this psychologist asked what his understanding of diminished capacity was, Mr. Mathes reported that it could "radically affect" his ability to make decisions due to mental health issues and/or toxication. He also understood that it was not a "get out of jail free" situation, but could possibly modify or lessen his charges. When it was mentioned that it appeared that he had done a lot of studying on this issue, Mr. Mathes shared that he spent his time in the law library. Mr. Mathes states that he had reviewed Dr. Muscatel's report and was confused as how "wishy washy" he was in his conclusions. Additionally, Mr. Mathes reports that he is scheduled for a hearing in June or July, but was unsure of the exact date, only that it was coming up within a few weeks.

Mr. Mathes reports that he had been clean and sober for approximately nine months, but relapsed in September of 2013. On September 11, 2013, he had a fight with his girlfriend, Michelle Toste. Ms. Toste and Mr. Mathes had been together for approximately seven and one half years. He feels they had a "picture perfect" relationship and were making plans to marry. They have a son together, who is now nine and one half years of age. On September 11, 2013, Mr. Mathes assaulted Ms. Toste. He states that they had been having problems prior to the assault. He had heard that she had been with another man which upset him. After this incident, he did not talk to his girlfriend for approximately one and one half weeks. A no contact order was put into place.

At this time, Mr. Mathes also had custody of his 15-year-old son from another relationship. Mr. Mathes shared that he sent his son to live with the son's mother in October 2013 due to his relapse.

Mr. Mathes shared that he began using methamphetamines and alcohol. He reports that he was an IV drug user. His drugs of choice were heroin and methamphetamines. He states that he would take a large amount of heroin and then use a large amount of Seroquel to pass out.

Mr. Mathes reports that he was hearing people in the ceilings and under his home. These individuals would be right outside of his window when he slept and behind him in his car. Mr. Mathes believes that they could "hurt and abuse him anyway they wanted, but had been told not to kill him." He would often attempt to speed away from them in his car. He would also blast his music to keep them away, but they would come in over the radio. He shared that he believed that they were trying to kill him.

Mr. Mathes stated that when he was not high, he could identify these people as hallucinations, but could not discriminate in this way when he was high. He states that the voices were constant.

In the months between September 2013 and December 2013 incident, Mr. Mathes reports that his paranoia, stress, and anxiety were “ramping up,” getting significantly worse in the months prior to the December incident. He reports feeling out of control. Approximately one week before December 31, 2013, Mr. Mathes moved into his mother’s home. He shared that his mother told him that he was “a mess.” He shared that Ms. Toste would come to visit him in his mother’s home. He would not go to her home because of the no contact order, but she would come to his home and his mother’s home. He reports that these visits involved sex, but also “quiet time” just to be together.

Mr. Mathes states that on the night of December 30, 2013, Ms. Toste was dropped off at his home by her daughter. They “fooled around” for a couple of hours. During this time, he had “shot up” with methamphetamines and heroin at least three times. He describes himself as being unable to go without heroin for any length of time. He believes that he did at least one gram of methamphetamine and one and one half gram of heroin. Ms. Toste was also using methamphetamines that night. Mr. Mathes reports that he then confronted Ms. Toste about the man she had been seeing. According to Mr. Mathes, she first denied that she was seeing anyone. This was the point where he pulled the gun on Ms. Toste. His gun is a 357. He reports that he just wanted her to tell him the truth. He believes he may have threatened her with the gun, but is very “foggy” about what exactly he said.

Mr. Mathes shared that he had gotten the gun approximately one month prior to this incident. He shared that the voices had become so bad that he felt he needed protection. He also stated, “All the people trying to get me have guns.” When this psychologist asked questions about what kind of bullets were in the gun, Mr. Mathes did not know. He believes they were just “regular bullets.”

Mr. Mathes reports that after he pulled his gun, Ms. Toste admitted that she was married to someone else. She told him that this man was going to kill him at the first opportunity. At this point, they went into the living room. He recalls setting the gun down on a table. According to Mr. Mathes, he and Ms. Toste talked until approximately 2:00 AM. He shared that he was hearing voices and that they were outside of the window while he was talking. At about 2:00 AM, he used another two grams of methamphetamines. Ms. Toste told him not to do this because it was too much. According to Mr. Mathes, Ms. Toste then came onto him, but he refused because he was not a “rapist.”

Mr. Mathes stated that at this point, they were out of drugs, so they called Ms. Toste’s daughter to bring them more. The daughter arrived at approximately 5:00 AM. When Ms. Toste’s daughter was ready to leave, she wanted her mother to come with her. However, Mr. Mathes refused, saying that they were going shopping. Mr. Mathes believes that they left to go shopping at about 5:30 AM. However, he is unclear about what exactly happened between 2:00 AM and 5:30 AM. He recalls that Ms. Toste was “tripping” about the gun. He offered to give her the gun several times. She refused to take the gun.

When this psychologist asked how high he was at this point, on a scale of 0-10, with 10 being severe, Mr. Mathes stated that he was at a "12." He also shared that he had not slept for five days. He was surviving on Otter Pops and ice cream.

Mr. Mathes reports that when they got into the car to go shopping, he kept the radio off, because there were people in cars following them. Mr. Mathes stated that he fired the gun out the window to let the people following them know that he had live rounds in the gun. When a large truck came up alongside them, he reports that he believed the people were going to kill him. He recalls pushing Ms. Toste down to save her life. He states that she told him, "You really love me." He believes they went to a coffee shop and a couple of stores. One of the stores he recalls going to was across the street from the fire station. He reports that there was a police officer sitting in his car in the fire station parking lot. Mr. Mathes left Ms. Toste in the car while he went into the store. He reports that his gun was in the car, as were the car keys. He states that he was in the store for approximately 15 minutes. He cannot understand why Ms. Toste would not have gotten out of the car or notify the police officer in some way if she were afraid of him. He feels that she had no desire to run away from him.

When they arrived back at Mr. Mathes' house, Mr. Mathes' father was there. Mr. Mathes reports that when they went inside the house, he pointed the gun at his father. When this psychologist asked why he did so, he believed that Ms. Toste had told him that she had slept with his father. Mr. Mathes also felt that his father was "in cahoots" with his mother to kill him. At this point, Ms. Toste's daughter returned to the house again to try to get her mother to leave. Mr. Mathes describes there being a lot of noise in the house at this time. The police then called and Ms. Toste's daughter hung up on them. When they called a second time, Ms. Toste told them that there were no guns in the home. Mr. Mathes describes himself as "freaking out." He decided that what he needed to do was leave before the police arrived at the residence. Mr. Mathes states that they all left the home. At that time, his father was parked behind his car. His father went to get into his car to move it. Ms. Toste got into Mr. Mathes' car. At this point, Mr. Mathes realized the police were coming up the driveway. He recalls recognizing them as police officers. He reports that they yelled at them to get out of the car. He shared that Ms. Toste got out of the car to tell his father to hurry up and move his car. Mr. Mathes states that he knew when Ms. Toste got out of the car, the police would kill him.

Mr. Mathes states that he put his Mitsubishi Eclipse into neutral and pulled on the emergency brake. He then dived for the driver's door. He shared that he had his gun in his hand when he put his hands up. He recalls the window on the back of his car exploded from a bullet shot. He states that he went spinning. He assumed this was when he was shot, because he does not recall hearing the shots. He was then spun the other way. His next memory is waking up on the ground. He does not recall firing his gun. He believes that his gun went flying when he was spun around. He does not know how many bullets were in the gun and does not recall reloading his gun after shooting it out the window. He also does not recall how many times he shot out of the window of his car.

Mr. Mathes shared that for the most part, the location of his bullets is unknown. One of the bullets hit the house in the opposite direction. No fragments were found. He reports that the police were approximately 30 feet away and down an incline.

Mr. Mathes shared that he denied he hit any of the officers. He feels that the officers were trying to kill him. He states that he was not trying to kill the officers because he was trying to get away from them. Mr. Mathes states that his father testified that Mr. Mathes shot straight up into the air. His father describes seeing a four foot flame coming from Mr. Mathes' gun. Mr. Mathes feels that he was most likely suicidal at the time of this incident.

Mr. Mathes recalls waking up on the ground in a large pool of blood. He states that he knew that he was dying when he began "coughing up a lung." He recalls hearing one of the officers saying to forget the ambulance and to get the chaplain. He believes that being high on methamphetamines was part of what saved his life. However, he did not explain why he believed this. Mr. Mathes reports that the police did nothing to save his life. When he regained consciousness, he began yelling. According to Mr. Mathes, one of the officers kicked him in the back of the head. He states that he remembers being in the ambulance. He shared that he coded in the ambulance. One of the emergency medical technicians kept telling him to take one more breath. Mr. Mathes stated that he told the EMT "F-you."

Mr. Mathes states that his next memory is waking up in the hospital. He shared that the doctor had to decide whether or not to continue working on him. He was on a ventilator until he woke up.

### **EARLY CLINICAL HISTORY:**

Mr. Mathes was born in Bremerton, Washington. He has one brother, as well as one half-brother and two half-sisters. His parents separated when he was 12 or 13 years of age. He describes his father as a "raging alcoholic." His father was abusive. He recalls watching his father shoot at his mother and stomp on her head. He states that his father later remarried. Mr. Mathes describes his stepmother as an alcoholic and a "drug phene." When he was 14 years of age, his mother and father decided that he needed to have a relationship with his father. He would visit his father and hang out with his stepmother, half-siblings, and father. He would get high with his stepmother.

Mr. Mathes was placed in foster care for approximately one and one half years when he was 12 years of age. While in the foster care system, he had a sexual relationship with an 18-year-old girl. He did not recognize it as abuse at that time. He states that he just thought he was pretty cool for being with an older woman. Mr. Mathes shared that he began using marijuana at eight years of age. He would steal the marijuana from his father and share it with his cousins. He began selling drugs when he was in the sixth grade. He reports using drugs on a daily basis by the time he was 12 years of age. His drug of choice is heroin. However, he has dabbled on and off with other drugs for approximately 28 years. He shared that he has had several bad trips while on methamphetamines. Mr. Mathes has participated in 17 substance abuse treatment programs. Only seven of these had been inpatient programs. He attended one such program at Kitsap Recovery Center in Bremerton, Washington. He has also participated in outpatient treatment on an "off and on basis."

Mr. Mathes shared that the courts would say “treatment or jail,” so he would chose treatment. He states that at the time of this evaluation, he has not used drugs since 2013. He feels that if wanted to get high, he would be able to find the means to do so while in prison.

When this psychologist asked about prior felonies, Mr. Mathes stated that he has no prior violent felonies. He had obtained 17 felony points, but those had been “watched” due to staying sober for such a significant period of time. His prior felonies were for drugs, burglary, and property crimes. He has had a total of eight years in prison. He served time at Stanford Creek, McNeil Island, and Walla Walla State Penitentiary. He also had a “few assaults.” He describes these as due to anger issues in high school, which the drugs had increased.

Mr. Mathes dropped out of school in the 11<sup>th</sup> grade. He shared that he completed his GED at McNeil Island. He was in special education classes when he was in the fourth and fifth grades. His reading is adequate. However, he occasionally has to read items several times to understand what he is reading.

Mr. Mathes reported that his mother drank throughout her pregnancy with him. He was diagnosed with ADHD in 2002 or 2003. Mr. Mathes first applied for Social Security in 1991. He was approved for Social Security in 1997 due to a mental disorder. Mr. Mathes states that these were explosive disorder and bipolar disorder. He was also diagnosed with schizophrenia in 2002. There is a history of schizophrenia on his mother’s side of the family. Mr. Mathes believes that this includes his aunts and cousins. He has also been diagnosed with PTSD. Mr. Mathes reports that he does experience mood swings.

Mr. Mathes shared that he does not recall having an issue with hearing voices until he was 16 or 17 years of age. He believes that he started experiencing paranoia when he was 12 or 13 years of age. However, he did not vocalize what he was experiencing until he was 17 years of age. He wanted to hide that he was having problems. He felt that people were out to get him or watching him. He describes himself as having trust issues.

At the time of this evaluation, Mr. Mathes had not been hearing voices for approximately three months. He reports that he was taking the medications neuroleptic, clonidine, and amoxapine. However, approximately six months prior to this evaluation, he began thinking that the people of his cell block were going to kill him. He also believed that the people in the next cell had hookers in their cell with them. Mr. Mathes reports that his medication has helped him with sleep, paranoia, and the voices over the last three months. He shared that he is not taking Seroquel at this time. In part, this is due to the fact that he attempted to overdose on Seroquel in November 2013. Mr. Mathes stated that he has attempted suicide three or four times. He describes his suicide attempts as most likely involving an overdose.

When this psychologist asked how he keeps himself busy while in prison, Mr. Mathes replied that he exercises a lot and reads in the law library. He also has a groundskeeper job. When he was on the outside, Mr. Mathes was self-employed. He would work in the woods clearing brush and doing other forestry tasks. He shared that after he became sober; he chose to leave the forestry industry because many of the people in the industry are high. He then began his own mechanics business. He ran this business from 2001 until he relapsed in 2013.

Mr. Mathes also stated that he worked as a cabinet maker for approximately five years. He describes himself as being a good worker, but not a good employee. He reports that he does not like taking orders.

Mr. Mathes has been married one time. He has three children with his ex-wife. His children are 9 years of age, 21 years of age, and 29 years of age.

Mr. Mathes reports that he has had at least five significant head injuries. He has lost consciousness with these head injuries. He does not know if there have been any lasting effects with these injuries. He has no history of high fevers. He reports that he quite breathing in the ambulance after the incident in December 2013. Mr. Mathes also has Wolff Parkinson white syndrome. This syndrome causes his heartbeat to increase to approximately 250-300 bmp. He shared that he has had two corrective surgeries and three exploratory surgeries. He reports that he has been shocked 15-25 times to restart his heart. Mr. Mathes reports that he has had toxic exposures to drugs and solvents. He believes that he has had three to four peak exposures.

Mr. Mathes reports that before he was arrested, his relationship with his son was good. However, after he relapsed, his relationship with his son suffered. Mr. Mathes reports that his son, his mother and his aunt visits him in prison. Other family members are being cleared at this time.

Mr. Mathes states that when he looks back, it would have been better to leave the gun in the car. He does not believe that he had a conscious intent to attack the police. He states that when he is on drugs, he has a "Dr. Jekyll and Mr. Hyde personality."

### **BEHAVIORAL OBSERVATIONS:**

Mr. Mathes appeared to be his reported age. He was attired in typical jail attire. He wore a silver ring on his left hand and had tattoos on both forearms. He is bald and has a mustache and a goatee. He was cooperative and pleasant. It is felt the test results are valid.

### **PSYCHOLOGICAL TEST RESULTS:**

A screening intelligence test was administered, namely the Shipley Institute of Living Scales-2 (SILS-2). On this task, Mr. Mathes obtained a Vocabulary Standard Score of 102, which yielded a percentile rank of 55, placing him in the Average range. An average Standard Score is 100. Fifty percent of the population obtains a Standard Score between 90 and 110. On Abstract Thinking, Problem-Solving, Mr. Mathes obtained a Standard Score of 86, which yielded a percentile rank of 18, placing him in the Below Average range. The Total Combined Estimate was 94, which yielded a percentile rank of 34, placing him in the Average range.

On Beck's Depression Inventory-2 (BDI-2), Mr. Mathes obtained a Raw Score of 17, indicating a mild-moderate level of depression. He reports feelings of being punished, blaming himself, and being disappointed in himself.

The Personality Assessment Inventory (PAI) was administered. Mr. Mathes obtained a valid profile. He indicates that he has a significant history of substance abuse and alcohol abuse. This has led to negative consequences in his life. He is preoccupied with fears of abandonment and rejection. He endorses unusual perceptual and sensory events. He indicates that he is having hallucinations. He is wary and sensitive in his interpersonal relationships. He is self-critical. He does not handle setbacks well. He views relationships as a means to an end.

### **SUMMARY AND RECOMMENDATIONS:**

In summary, Mr. Mathes is a 49-year-old who participated in a psychological evaluation. He is currently incarcerated at the Walla Walla State Penitentiary. He is serving a 60-year sentence for assault on police officers, kidnapping, unlawful imprisonment, unlawful possession of a firearm, and breaking a no contact order.

Mr. Mathes reported that he is attempting to get some reconsideration of his case in the area of diminished capacity. He shared that during his original trial, there was some question in regards to the mental health report.

Mr. Mathes has been a lifelong drug user. His drugs of choice are methamphetamine and heroin. He reports that he began hallucinating when he was 16 or 17 years of age and began experiencing paranoid ideation when he was 12 or 13 years of age.

Mr. Mathes has a criminal history prior to this incarceration. He reports that up until these charges, he had no history of violent felonies. He had been sober for approximately nine years at the time of the current incident.

Mr. Mathes was cooperative and pleasant throughout the testing procedure. It is felt the test results are valid.

A screening intelligence test was administered, namely the Shipley Institute of Living Scales-2. On this task, Mr. Mathes obtained a Vocabulary Standard Score of 102, which yielded a percentile rank of 55, placing him in the Average range. On Abstract Thinking, Problem-Solving abilities, he obtained a Standard Score of 86, which yielded a percentile rank of 18, placing him in the Below Average range. The Total Combined Estimate was 94, which yielded a percentile rank of 34, placing him in the Average range.

On Beck's Depression Inventory-2 (BDI-2), Mr. Mathes scored in a range indicating mild-moderate levels of depression. He reported feelings of being punished, blaming himself, and feeling disappointed in himself.

The Personality Assessment Inventory (PAI) was administered. Mr. Mathes obtained a valid profile. His profile suggests the negative impacts of drugs in his life, as well as the impact from his alcohol use. He is preoccupied with the fear of being abandoned. He is wary and sensitive in interpersonal relationships. There were scale elevations on the Drugs Scale, with secondary elevations on the Paranoid and Schizophrenia Scales.

Mr. Mathes indicates that the presence of peculiar thinking, including unusual perceptual and sensory events, as well as ideas that may include magical thinking or delusional beliefs. He describes no problems with empathy.

Diagnostically, Mr. Mathes demonstrates a Generalized Depressive Disorder, Dysthymia (ICD-10-CM-F34.1). He also exhibits Paranoid Schizophrenia, Multiple Episodes, currently in partial remission (ICD-10-CM-F20.0), as well as Borderline Personality Disorder (ICD-10-CM-F60.3). He demonstrates an Other Stimulant Use Disorder, Unspecified, Amphetamine and Heroin (ICD-10-CM-F15.9). He also exhibits an Alcohol Abuse Disorder, Uncomplicated (ICD-10-CM-F10.10).

Maladaptive patterns of interpersonal function are components of personality disorders, Daffern et al 2013. Interpersonal behaviors are those that an individual uses to relate to others and how they perceive in relations to others, Daffern et al 2013. Individuals with a borderline personality disorder have the pattern of fearing the abandonment of others around them, unstable relationships, as well as unstable self-images. They are often impulsive and engage in risky behaviors. They are more likely to engage in self-harm behaviors or have suicide attempts. They often experience intense mood swings and have chronic feelings of emptiness. According to much of the current research, this makes it extremely difficult, however, not impossible to treat individuals with personality disorders, Daffern et al 2013, Hatchett 2015, Krampen 2009, Wilson 2014. According to McRay 2013, one of the most important questions about the effect of treatment is actually the individual's rejection of treatment due to the perception that they do not need treatment in the first place. The ultimate goal of any treatment is to integrate the individual back into society with a more prosocial perspective, McRay 2013.

Mr. Mathes demonstrates a mental disorder that would rise to the level that would prevent him from being able to form intent, i.e., having the requisite mental state intended to kidnap an individual and to assault a police officer. Therefore, he does qualify as exhibiting diminished capacity. In this psychologist's opinion the combination of a very severe mental illness (paranoid schizophrenia) as well as his high level of intoxication (methamphetamines) rendered him incapable of having the requisite state of mind (*mens rea*) to be able form intent. His distorted psychotic thought processes with delusions that people were planning to kill him (including police officers) rendered him incapable of forming intent.

Mr. Mathes' hallucinations placed him in a paranoid state. He indicated through the interview that he has had hallucinations since he was 17 years of age. When he relapsed in September 2013, his paranoia, in addition to his drug use, placed him in a vulnerable state. This combination along with his borderline personality disorder and the characteristics of fearing abandonment and unstable relationships combined to create a situation where Mr. Mathes was unable to consciously consider his actions and reactions in the given situation. His thinking process through both the records and his own recollection indicate that his thought processes were distorted even after this incident and he was placed in the hospital after being shot, specifically his comments to the police officer that was guarding him, asking if he was ready to protect him because his mother had taken out a life insurance policy and was going to have him killed.

Throughout the records, there are strong indications by both Ms. Toste and Mr. Mathes' father that Mr. Mathes was not thinking correctly at the time of this incident, e.g., the threats Mr. Mathes made to his father, stating that his father was working with his mother to kill him.

It would be beneficial for Mr. Mathes to be in individual psychotherapy on a weekly basis with a provider that is familiar with working with individuals with personality disorders and comorbid schizophrenia. In part, this therapy should focus on Mr. Mathes' ability to deal with stress and the reactions that can occur when he is placed in a stressful life situation. He also should be receiving ongoing substance abuse treatment.

Thank you very much for this referral. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,



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Philip G. Barnard, Ph.D.  
Clinical Psychology/Neuropsychology

PGB/vb

## CURRICULUM VITAE

### EDUCATION

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November 14 - 17, 2017	Brain Matters: Shame, Trauma, and Addiction; Summit for Clinical Excellence; Atlanta, GA - 24 hours (6 hours in Ethics)
April 6 - 9, 2017	Thirty-third Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Diego, CA - 23 hours
October 28-30, 2015	Young Adult Conference: Failure to Launch, Ben Franklin Institute, Tempe, AZ - 18 hours
March 26-29, 2015	Thirty-first Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Diego, CA - 23 hours
September 18-20, 2014	Young Adult Conference: Failure to Launch, Ben Franklin Institute, Denver, CO - 18 hours
March 26-29, 2014	Thirtieth Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Diego, CA - 23 hours (4 hours in Ethics and Law)
April 4 - 6, 2013	Twenty-ninth Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Diego, CA - 23 hours (4 hours in Ethics and Law)
June 25 - 28, 2010	Eleventh International Congress on Psychological Stress and Trauma; Buenos Aires, Argentina - 36 hours
April 22 - 25, 2010	Twenty-sixth Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Francisco, CA - 23 hours (4 hours in Ethics and Law)
June 24 - 27, 2009	Tenth International Congress on Psychological Stress and Trauma; Buenos Aires, Argentina - 36 hours
October 1 - 4, 2008	Sixth Annual Conference on Brain Injury; New Orleans, LA
April 10 - 13, 2008	Twenty-fourth Annual Symposium in Forensic Psychology; American College of Forensic Psychology; San Francisco, CA - 32 hours
September 27 - 29, 2007	Fifth Annual Conference on Brain Injury; San Antonio, TX - 14.5 hours
May 3 - 6, 2007	Twenty-third Annual Symposium in Forensic Psychology; American College of Forensic Psychology; Santa Fe, NM - 23 hours
April 14 - 17, 2005	Twenty-first Annual Symposium in Forensic Psychology; Newport Beach, CA - 23 hours

October 2 - 3, 2004                      Second International Conference on the Etiology of Panic Disorders; London, England - 10 hours

April 1 - 4, 2004                         Twentieth Annual Symposium in Forensic Psychology; San Francisco, CA - 23 hours

April 10 - 13, 2004                      American College of Forensic Psychology; Palm Springs, CA - 23 hours

June 15 - 16, 2002                       *Significant Clinical Issues; Bringing the Brain Back Into Neuropsychology*; Ralph Reitan, Ph.D.; Tucson, AZ - 10 hours

April 18 - 21, 2002                      American College of Forensic Psychology; San Francisco, CA - 22 hours

March 9, 2002                             *Structural, Functional and Three Dimensional Neuroimaging in Evaluating Traumatic Brain Injury: Relationships with Neuropsychology Outcome*; Dr. Bigler - 6 hours

October 14, 2001                         *Ethics*; Washington State Psychological Association; Tacoma, WA - 6 hours

October 24 - 27, 2000                   *Professional Ethics in Forensic Examination*; Dr. Rabinoff - 7 hours

*Practical Issues in Forensic Psychology*; Dr. Annon - 2 hours

*Civil Issues in Forensic Psychology*; Dr. McClain - 2.5 hours

*Assessment of Deception, Distortion and Malingering*; Dr. Annon - 2 hours

*Forensic Psychological Evaluations*; Dr. Demuth - 2 hours

*Daubert and the Design of the Forensic Neuropsychological Examination*; Dr. Reynolds - 2 hours

*Forensic Child and Family Evaluation*; Dr. Hynan - 2 hours

April 29 - May 2, 1999                   Eighth Annual National Forensics Conference; American Board of Psychological Specialties; Las Vegas, NV

January 22, 1999                         Fifteenth Annual Symposium in Forensic Psychology; American College of Forensic Psychology; Santa Fe, NM

*Assessment of Violent Juvenile Offenders*; Thomas Grisso, Ph.D.; American Board of Forensic Psychology; Palm Springs, CA

January 21, 1999                         *Childhood Trauma: Forensic-Psychological Issues and Applications*; Steven Sparta, Ph.D.; Herbert Weissman, Ph.D.; American Board of Forensic Psychology; Palm Springs, CA

January 20, 1999                         *Effective Expert Testimony: Law and Practice*; Charles Ewing, J.D., Ph.D.; American Board of Forensic Psychology; Palm Springs, CA

September 5 - 6, 1999                   *Forensic Neuropsychology and the Halstead-Reitan Battery*; Ralph Reitan, Ph.D.; Southern Arizona Psychological Association and the Reitan Society; Tucson, AZ

November 2, 1996 *The Practice of Forensic Neuropsychology*; Jerid Fisher, Ph.D.; National Academy of Neuropsychology; New Orleans, LA

*The Controversial Post-Concussive Syndrome*; James Youngjohn, Ph.D.; National Academy of Neuropsychology; New Orleans, LA

October 31, 1996 *Advances in the Clinical Assessment of Malingering*; Richard Rogers, Ph.D.; National Academy of Neuropsychology; New Orleans, LA

October 30, 1996 *How to Manage ADHD Referrals of Children, Adolescents and Adults*; Michael Gordon, Ph.D.; National Academy of Neuropsychology; New Orleans, LA

*Expert Witness: Testifying Tips for Neuropsychologists*; Joseph Scuro, J.D.; National Academy of Neuropsychology; New Orleans, LA

July 25, 1996 *Attention Deficits in Children and Adults*; Leo Christie, Ph.D.; Denver, CO

May 23 - 24, 1996 *Brief Psychotherapy for Managed Care*; Cloe Madanes; Ph.D.; Family Therapy Institute; Denver, CO

March 2, 1996 *Personal Injury Evaluation: Ethics, Practice and Case Law*; Stuart Greenberg, Ph.D.; American Academy of Forensic Psychology; Hilton Head, SC

March 1, 1996 *Child Custody Evaluation: Concepts, Methods and Complications*; Herbert Weissman, Ph.D.; American Academy of Forensic Psychology; Hilton Head, SC

May 18 - 19, 1995 *Millon Adolescent Clinical Inventory-III*; George Everly, Ph.D.; Miami, FL

April 23, 1995 *Domestic Mediation*; Dr. Jay Finkelstein, Ph.D.; Bellevue, WA

April 22, 1995 *Supervised Child Visitation*; Dr. William C. Proctor, Ph.D.; Bellevue, WA

*Attention Deficit Hyperactivity Disorder*; Dr. Robert Resnick, Ph.D.; Bellevue, WA

April 24, 1994 *Solution-Focused Therapy - The Pursuit of Effective Brief Therapy*; Dr. Stephen Langer; Washington State Psychological Association; Spokane, WA

*Psychopharmacology*; Dr. See; Washington State Psychological Association; Spokane, WA

*Ethical Issues in Supervision*; Dr. Asbell; Washington State Psychological Association; Spokane, WA

*Family Evaluations for Dependency, Paternity or Divorce Litigation*; Dr. Andy Benjamin; Washington State Psychological Association; Spokane, WA

- April 23, 1994 *Psychopharmacology*; Dr. See; Washington State Psychological Association; Spokane, WA
- Ethical Issues in Supervision*; Dr. Asbell; Washington State Psychological Association; Spokane, WA
- Family Evaluations for Dependency, Paternity or Divorce Litigation*; Dr. Andy Benjamin; Washington State Psychological Association; Spokane, WA
- April 22, 1994 *A Matter of Life and Death*; Dr. Ron Klein; Washington State Psychological Association; Spokane, WA
- Managing Suicidal Clients*; Dr. Paul Quinnette; Washington State Psychological Association; Spokane, WA
- Health Care Reform Task Force*; Dr. Margaret Heldring; Washington State Psychological Association; Spokane, WA
- Hospital Practices*; Dr. Margaret Heldring; Washington State Psychological Association; Spokane, WA
- In Defense of Unpopularity*; Dr. Mark Mays; Washington State Psychological Association; Spokane, WA
- April 21, 1994 *Ethics - Dilemmas and Discussion*; Dr. Ed Shau; Washington State Psychological Association; Spokane, WA
- October 30, 1993 *Issues in Interpretation of Difficult Cases*; Ralph Reitan, Ph.D.; National Academy of Neuropsychology; Phoenix, AZ
- October 29, 1993 *Strategies of Malingering*; J. Michael Williams, Ph.D.; National Academy of Neuropsychology; Phoenix, AZ
- Cerebral Mechanisms Underlying Attention Deficit Disorder*; Valerie Scaramel, Ph.D.; National Academy of Neuropsychology; Phoenix, AZ
- October 28, 1993 *Treating Acquired Disorders of Memory*; Catherine Mateer, Ph.D.; National Academy of Neuropsychology; Phoenix, AZ
- Forensic Aspects of Minor Traumatic Brain Injury in Children*; Lawrence C. Hartlag, Ph.D.; National Academy of Neuropsychology; Phoenix, AZ
- April 23 - 25, 1993 *Personal Injury Litigation and Expert Testimony*; Ted Blau, Ph.D.; Nova University; Ft. Lauderdale, FL
- November 7, 1992 *Clinical Neurology of Attention*; Dr. Stowe; National Academy of Neuropsychology; Pittsburgh, PA
- Neuropsychologists as Expert Witnesses*; Dr. Blau; National Academy of Neuropsychology; Pittsburgh, PA
- November 6, 1992 *Computer Technology for Neuropsychologists*; Dr. Condor; National Academy of Neuropsychology; Pittsburgh, PA

November 6, 1992 *Malingering*; Dr. Weight; National Academy of Neuropsychology; Pittsburgh, PA

*Applied Cognitive Rehabilitation*; Dr. McCue; National Academy of Neuropsychology; Pittsburgh, PA

November 5, 1992 *Malingering and Pseudoneurologic States*; Dr. Bender; National Academy of Neuropsychology; Pittsburgh, PA

*Forensic Testimony*; Dr. McCaffrey; National Academy of Neuropsychology; Pittsburgh, PA

October 9 - 10, 1992 *Mild Traumatic Brain Injury*; Dr. Ruff; San Diego Neuropsychological Society; San Diego, CA

January 13 - 18, 1992 *Assessment Skills: Recent Innovations and Applications (Minnesota Multiphasic Personality Inventory-II and the Rorschach Test)*; James Butcher, Ph.D., and Philip Erdberg, Ph.D.; Pacific University; Maui, HI

December 12 - 15, 1991 *Clinical Hypnosis in Advanced Psychotherapy*; Dr. Mutter and Dr. Hammond; American Society of Clinical Hypnosis; Tampa Bay, FL

October 10, 1991 *Hypnosis and the Treatment of Sexually Abused Patients*; Michael Nash, Ph.D. and William Smith, Ph.D.; Society of Clinical and Experimental Hypnosis and Tulane University; New Orleans, LA

October 8 - 9, 1991 *Hypnosis and the Treatment of Anxiety and Related Disorders*; Dr. Richard Horevitz, Ph.D.; Society of Clinical and Experimental Hypnosis and Tulane University; New Orleans, LA

May 17 - 18, 1990 *Cognitive Behavioral Psychotherapy*; Dr. Meichenbaum; Denver, CO

February 16 - 17, 1990 *MMPI-2*; Dr. Caldwell, Ph.D.; Portland, OR

October 12 - 15, 1989 *Successful Treatment of Sexual Disorders*; Alan M. Matez, D.O.; The American Academy of Medical Hypnoanalysts; Sahara Hotel; Las Vegas, NV

February 10, 1989 *Current Perspectives in Sexual Abuse*; Dr. Rich, Ph.D., and Dr. Vein, Ph.D.; Pendleton, OR

January 21, 1989 *AIDS Workshop*; Mary Hughes, Benton-Franklin AIDS Coordinator; Kennewick General Hospital; Kennewick, WA

October 28 - 30, 1988 *Neurological Foundations of Behavior*; George Prigitano, Ph.D.; San Francisco, CA

May 15, 1988 *Psychological Consequences of Trauma*; Gerald M. Rosen, Ph.D.; Seattle, WA

May 12, 1988 *The Assessment of Borderline Disorders Through the Rorschach and TAT*; Leslie Y. Rabkin, Ph.D.; Seattle, WA

September 26 - 27, 1987 *Cognitive Rehabilitation*; Ben Yishay, Ph.D.; Good Samaritan Hospital; Portland, OR

May 28, 1987 *Advanced MMPI from a Computerized Perspective*; Lawrence Weathers, Ph.D.; Spokane, WA

*Psychological Treatment of Chronic Pain*; Allen Bostwick, Ph.D. Lecture; Spokane, WA

April 27, 1986 *Interpretation of Millon Inventory*; Dr. Carlsyn and Dr. McFall; Washington State Psychological Association; Wenatchee, WA

April 24, 1986 *Assessment of Aggressive Children*; Elizabeth Robinson, Ph.D.; Washington State Psychological Association; Wenatchee, WA

November 1, 1985 Washington State Psychological Association; Seattle, WA; *Assessment and Treatment of the Sex Offender*; Dr. Comte and Dr. Peterson

October 23, 1985 *Evaluation and Treatment of the Child Molester*; Kevin McGovern, Ph.D.; Spokane, WA

*Interviewing Victims of Sexual Assault*; Sharon Krause; Spokane, WA

October 21 - 22, 1985 *Sexual Assault*; Nicholas Groth, Ph.D. Lecture; Spokane, WA

August 9 - 11, 1985 *Advanced Course in Child Neuropsychology and Learning Disabilities*; Ralph Reitan, Ph.D., Workshop; Denver, CO

November 29 - December 4, 1983 *International Congress on Ericksonian Approaches to Hypnosis and Psychotherapy*; Dr. Zeig and Dr. Barber; University of Arizona; Phoenix, AZ

May 19 - 22, 1983 *Healing Power of Laughter and Play*; Joan E. Piaget; Institute for the Advancement of Human Behavior; Seattle, WA

October 7 - 10, 1982 *The Power of Imagination*; Ted Barber, Ph.D.; Institute for the Advancement of Human Behavior; Portland, OR

February 26 - 27, 1982 *The Psychologist as Expert Witness*; Dr. Stan Brodsky and Dr. Kevin B. McGovern; Seattle, WA

October 13 - 16, 1981 *Hypnosis for the Psychotherapist*; Erika Fromm, Ph.D.; American Society of Experimental Hypnosis; Portland, OR

May 17, 1981 *Sex Offender*; Irv Dreiblatt, Ph.D.; Washington State Psychological Association; Ocean Shores, WA

May 16, 1981 *Child Abuse*; Barry Nyman, Ph.D.; Washington State Psychological Association; Ocean Shores, WA

May 14, 1981 *Hypnosis*; Jarrett Kaplan, Ph.D.; Washington State Psychological Association; Ocean Shores, WA

October 19, 1980 *Values Clarification*; Gerald Forster; Washington State Psychological Association; Ocean Shores, WA

October 17, 1980 *DSM III*; Sylvia Thorpe, Ph.D.; Washington State Psychological Association; Ocean Shores, WA

## EDUCATION

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- 1979 *Applications of Neuropsychological Evaluation: From Rehabilitation to Litigation*; Ralph Reitan, Ph.D.; Thirty-hour Post-Doctoral Institute; Post- Graduate Institute in Psychology; Central Washington University; Ellensburg, WA
- 1978 *Neuropsychological Assessment-I, Neuropsychological Assessment-II*; Ralph Reitan, Ph.D.; Sixty-hour Post-Doctoral Institute; Post- Graduate Institute; Central Washington University; Ellensburg, WA
- 1968 - 1969 Certificate in Community Psychiatry; Laboratory of Community Psychiatry; One year Post-Doctoral Fellowship; Harvard Medical School; Boston, MA
- 1963 Ph.D. in Clinical Psychology; *The Interaction Effects Among Certain Experimenter-Subject Characteristics on a Projective Test*; University of Washington; Seattle, WA
- 1962 M.S. in Clinical Psychology; *The Effects of Intra-gastric Tubing Upon the Lateral Hypothalamic Syndrome*; University of Washington; Seattle, WA
- 1960 B.S. from the University of Denver; Major in Psychology, Minor in Zoology; Denver, CO

## WORK EXPERIENCE

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- March 1972 - Present *Private Practice*; Amon Building; 92 Lee Boulevard; Richland, WA  
Psychological assessments; neuropsychological evaluations; and individual, marital and family psychotherapy. Previous consultant to Battelle Northwest (Human Subjects Committee and member of a task force writing a Comprehensive Health Plan for Spokane County). Consultant to the Mental Health Center (trained the inpatient staff, planned and wrote a treatment program for the Inpatient and Intermediate Care Units, Utilization Review Committee). Consultant to the Center for Youth Services, Juvenile Court, Goodwill Industries, Department of Labor and Industries, Richland Pain Clinic and Department of Social and Health Services. Evaluations for custody, dependency and termination of parental rights. Pre-adoption assessments and permanent placement planning.
- 2007 - Present *Adjunct Professor to the Psy.D. Clinical Psychology Program*; Antioch University; Seattle, WA
- 1986 - Present Cognitive Rehabilitation Program
- 1984 - 1986 *Neuropsychological Consultant*; Three Rivers Rehabilitation Center  
Cognitive Rehabilitation Program. Supervised clinical neuropsychological experience.
- 1982 - 1993 *Medical Advisor*; Department of Health and Human Services; Social Security Administration
- 1982 - 1983 *Adjunct Professor*; San Francisco Theological Seminary; San Francisco, CA

- 1974 - 1976 *Consultant*; Hanford Environmental Health Foundation; Richland, WA
- January - March 1971 *Instructor*; Eastern Washington State College; Walla Walla, WA.  
Taught a graduate level course in Advanced Counseling Techniques.
- September 1969 - March 1972 *Director*; Walla Walla Mental Health Center; 328 West Poplar Street; Walla Walla, WA  
Administered and directed mental health program for Walla Walla and Columbia Counties to provide direct clinical services to individuals eighteen years of age and older and to provide evaluation and other treatment services to children on referral from the Center for Youth Services and Juvenile Probation Department of Walla Walla. These direct services included individual and group psychotherapy, family therapy and marital therapy. In most instances, such contacts were of short duration and employed the utilization of crisis-intervention techniques. Indirect services provided were mental health consultation to schools, law enforcement agencies and other agencies within the community, and community education. Contractual arrangements were made with the Department of Vocational Rehabilitation and the Center for Family and Youth Services. Administrative and supervisory responsibilities for two psychologists, a part-time psychiatrist and a secretary; also overall responsibility for twelve associate (volunteer) therapists and two graduate students doing practicum for Eastern Washington State College.  
Supervisor: Robert Shearer, M.D.
- September 1968 - September 1969 *Post-Doctoral Fellow*; Laboratory of Community Psychiatry; Harvard Medical School; Boston, MA (40 hours/week)  
Attended seminars in community psychiatry three days a week. These seminars included community consultation, developing a mental health program, mental health program administration, system theory, health information systems and ecology. Two days a week were spent in field placements in 1) the Boston School Department, 2) the Neighborhood Employment Center in Brighton, 3) the Area Planning Action Council in Brighton, 4) the United Community Services Agency of Boston, and 5) the Brighton Mental Health Association. Time was also spent accomplishing independent research at Boston State Hospital.  
Supervisors: Gerald Caplan, M.D., and Ralph Hirschewitz, M.D.
- March 1967 - September 1968 *Clinical Psychologist*; Stanislaus County Mental Health Clinic, Beaty Building; Modesto, CA (8 hours/week)  
Psychological evaluation of children, adolescents and adults. Individual, marital and family therapy with children, adolescents and adults. Supervisor: William T. Doidge, Ph.D.
- September 1965 - September 1968 *Assistant Chief Psychologist*; Modesto State Hospital; Modesto, CA (40 hours/week)  
Administration and supervisory responsibility for five staff psychologists in the Chief Psychologist's absence; unit administrator for acute and subacute female units for a period of three months; administered and supervised psychology program for acute psychiatric division; chairman of the Committee for Program Planning, Project 15, for the Acute Psychiatric Division of the hospital to be submitted to the Department of Mental Hygiene; supervision and training in group psychotherapy for seven psychiatric nurses and technicians involved in a National Institute of Mental Health (NIMH)-supported demonstration project; participated in writing and implementing the aforementioned NIMH demonstration project; instrumental in initiating and implementing an adolescent inpatient treatment program and a day-hospital treatment program; teaching responsibility for some portions of the psychiatric technician training program and for the Licensed Vocational Nurse students from Modesto Junior College; participated in community education programs; and implemented and conducted sensitivity training for psychiatric nurses and technicians.  
Supervisor: William T. Doidge, Ph.D., Chief Psychologist
- October 1963 - September 1965 *Staff Psychologist (Clinical)*; Modesto State Hospital; Modesto, CA (40 hours/week)  
Interviewing, individual and group psychotherapy with adolescents and adults on an inpatient and outpatient basis, marital and family therapy, psychodiagnostic evaluation, presentation of cases to staff and psychodrama.  
Supervisor: William T. Doidge, Ph.D.

September 1963 - October 1963                      *Clinical Psychology Trainee*; Veterans Administration Hospital;  
American Lake, WA (24 hours/week)  
Interviewing, individual and group psychotherapy, psychodiagnostic evaluation, presentation of cases to staff,  
evaluation and planning of milieu therapy program, part-time teaching of nursing trainees and supervision of first-  
year psychology trainee.  
Supervisor: Robert D. Quinn, Ph.D., Staff Clinical Psychologist

September 1962 - July 1963                      *Clinical Psychology Trainee*; U.S.P.H.S. Fellowship, Pediatrics  
Division, University of Washington Hospital; Seattle, WA (20  
hours/week)  
Training in the psychodiagnostic evaluation of premature infants, mentally retarded children, learning disabled and  
emotionally disturbed adolescents; presentation of finding to medical staff; and consultation to pediatric residents  
concerning treatment planning.  
Supervisor: Theodore D. Tjossem, Ph.D.; Assistant Professor; Departments of Psychiatry and Pediatrics; University  
of Washington; Seattle, WA 98195

June 1962 - September 1962                      *Clinical Psychology Trainee*; Veterans Administration Hospital;  
American Lake, WA (39 hours/week)  
Interviewing, individual and group psychotherapy, psychodiagnostic evaluation, presentation of cases to staff, and  
evaluation and planning of milieu therapy program.  
Supervisor: Robert J. Maroney, Ph.D., Staff Clinical Psychologist

June 1961 - June 1962                              *Clinical Psychology Trainee*; Veterans Administration Outpatient  
Services; 819 Smith Tower, Seattle, WA (20 hours/week)  
Intake interviewing, psychodiagnostic evaluation, individual psychotherapy and presentation of intake cases to staff.  
Supervisor: Michael Admas, Ph.D., Chief Psychologist

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## **MEMBERSHIP IN THE FOLLOWING ORGANIZATIONS**

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American Psychological Association (Division of Clinical Psychology; Division of Clinical Neuropsychology)  
National Academy of Neuropsychology (Professional Member)  
Washington State Psychological Association  
American College of Forensic Psychology  
Academy of Learning and Developmental Disorders (Fellow)  
Charter Member of the Coalition of Clinical Practitioners in Neuropsychology

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## **PUBLICATIONS**

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“Early Separation and Loss as Contributing Factors in Homicide,” *American Journal of Forensic Psychology*,  
Volume 31, Issue 2, 2013

“Psychological Trauma Associated With the Fear of Imminent Death;” *American Journal of Forensic Psychology*,  
Volume 29, Issue 3, 2011

“Panic and Other Anxiety Disorders Associated with Near-Death Experiences;” *American Journal of Forensic  
Psychology*, Volume 23, Issue 3, 2005

“Diminished Capacity and Automatism as a Defense;” *American Journal of Forensic Psychology*, Volume 12, Issue  
2, 1998

“The Psychologist as an Expert Witness in Determining Mental Competency and Insanity as a Defense;” *American Journal of Forensic Psychology*; Volume 15, Number 1, 1997

“The Interaction Effects Among Certain Experimenter-Subject Characteristics on a Projective Test;” *Journal of Consulting and Clinical Psychology*, October 1968

## **LICENSURE AND DIPLOMATE STATUS**

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Licensed Psychologist, State of Washington, 1969, License No. 281

Diplomate in Professional Psychotherapy; International Academy of Behavioral Medicine, Counseling and Psychotherapy

Diplomate as a Professional Disability Consultant; American Board of Professional Disability Consultants

National Register of Psychologists

Meets criteria as a clinical neuropsychologist established by the National Academy of Neuropsychology and the Division of Clinical Neuropsychology of the American Psychological Association

Diplomate in Forensic Clinical Psychology, Forensic Neuropsychology and Child Custody Evaluations; American Board of Psychological Specialties

## **PRESENTATIONS**

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Presentation “Disability and Personal Injury: Referral for a Psychological Evaluation and/or Treatment;” Washington State Trial Lawyers Association; Richland, WA; June 2015

Presentation of paper entitled “Early Separation and Loss as Contributing Factors in Homicide;” 11<sup>th</sup> International Congress on Psychological Stress and Trauma; Buenos Aires, Argentina; June 2010

Presentation of paper entitled “Psychological Trauma Associated with Fear of Imminent Death;” 10<sup>th</sup> International Congress on Psychological Stress and Trauma; Buenos Aires, Argentina; June 2009

Presentation of paper on panic disorders at International Conference on the Etiology of Panic Disorders; London, England; October 2004

Presentation “Establishing a Neuropsychological Practice;” WA State Psychological Association, Seattle, WA 1978

## **FACULTY**

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Adjunct Faculty Member, Department of Clinical Psychology; Antioch University (Seattle)

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Court of Appeals  
Division II  
State of Washington  
6/12/2018 8:00 AM

# EXHIBIT L



## HARRIS INVESTIGATIONS

P.O. Box 22 - Port Orchard, WA 98366 · Phone: (360)990-2718 · Fax: (360)876-7408

**Client: James Mathis**

**Attorney: Ron Ness**

**Interview Of: Norman Reinhardt Jr.**

**Interviewed By: Jim Harris/Harris Investigations**

**Date of Interview: May 3, 2015**

On May 3, 2015 I met with Norman Reinhardt. Norman advised me that he met Jimmy Mathis about 25 years ago at a Alcohol Anonymous meeting. Norman stated that he has been sober now for 26 years. And when he met Jimmy, he could tell at that time that Jimmy was not ready to commit himself to the program. He said that Jimmy would pop in and out of meetings, and Jimmy did not get serious about the AA meetings until about four years ago.

Four years ago, Jimmy asked Norman to be his sponsor for his AA. Jimmy had already done prison time, and Norman thought he was serious four years ago when Jimmy asked him to sponsor. Four years ago, Jimmy began going to meetings twice a week. I asked Norman that he and Jimmy hung out personally, and he said they did not. He indicated that he did take Jimmy and his cousin fishing for some work that Jimmy had done on his vehicle.

Norman said that Jimmy was involved in the 12 step program. Jimmy told him four years ago, while he was in prison Jimmy was diagnosed with Attention Deficit Disorder. Jimmy began taking medication for that disorder, and he took him while he was in prison and when he got out. When Jimmy got out of prison, he complained because his doctors frequently change his medication.

Norman said that he was impressed with Jimmy four years ago when Norman became a sponsor because Jimmy began thinking about his future. Jimmy talked about opening a Ira for future retirement. At this time, Jimmy would talk about the future and Jimmy was staying involved in Alcoholics Anonymous.

Norman said that Jimmy had the same girlfriend four years ago that he has now. Jimmy often times complained that his girlfriend would not pay much attention to him, and Jimmy complained about giving her money all the time. About a year ago, Norman saw a change coming over Jimmy. He said Jimmy was not focused anymore and Jimmy was quite frustrated with his work and with his relationship. Norman asked Jimmy a year ago what was going on in his life, and Jimmy told him he really did not know, but he was not doing well. Jimmy was

still going to AA meetings twice a week at this time. About four or five months before the shooting incident Jimmy told Norman he had stopped taking his medications.

~~Shortly after stopping his medications Norman did not see Jimmy for the last four or five months. I asked Norman if Jimmy ever talked about suicide and he said that he did. Norman said about two years before the shooting incident Jimmy talked about committing suicide. Jimmy talked about suicide, and stated that if he committed suicide, it would be suicide by cop.~~

**Interviewed: Norman L. Reinhardt Jr.**

**Page 2 of 2**

About four months before the shooting incident, and the last time he saw Jimmy prior to the shooting incident, Jimmy was complaining of people being under his house and following him. I asked Norman where this conversation took place and he said that took place at his residence. Norman said that Jimmy was unstable at the time and he was very concerned about that. Jimmy had scratches on both arms, and when asked where he got them he said that he got them by chasing people through the woods.

I asked Norman how he would feel about testifying and he said he had no problems with that. It should also be noted with a record that Norman has no criminal history and that he is retired from 30+ years in the Puget Sound Naval Shipyard.

**Person interviewed**

Norman L Reinhardt Jr. W/M 5 - 12 - 1950

4135 Kimball Rd.

Port Orchard, WA 98366

Home 360 - 871 - 4216

Cell 360 - 271 - 0519

**LAW OFFICES OF JOHN HENRY BROWNE, P.S.**

**June 11, 2018 - 5:25 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 48401-3  
**Appellate Court Case Title:** State of Washington, Respondent v James C. Mathes, Appellant  
**Superior Court Case Number:** 14-1-00301-1

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