

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

DAVID WAYNE EVANS,

Petitioner.

RESPONSE OF THE
INDETERMINATE
SENTENCE REVIEW
BOARD

I. INTRODUCTION

Respondent, the Indeterminate Sentence Review Board (the Board), responds to David Wayne Evans’ personal restraint petition pursuant to RAP 16.9. Evans pled guilty to first-degree child rape and first-degree child molestation that involved the stepson of Evans’ close friend and a boy who was a member of the soccer team Evans was coaching. He received a “determinate plus” prison sentence. In 2019, the Board conducted a second hearing¹ under RCW 9.95.420(3) (.420 hearing). It reviewed extremely poor results of Evans’ 2015 SOTAP treatment that showed that he failed to internalize any of the treatment’s lessons and was still presenting multiple high risk factors. Evans’ 2019 hearing testimony demonstrated that he continues to present the same high risks identified in his SOTAP discharge summary. He showed lack of insight about his deviant attraction as he continued to deny it and blamed sex abuse on his sexual orientation. The

¹ In 2016, the Board conducted the first .420 hearing, finding Evans not releasable and adding 36 months to his minimum term. Evans did not appeal that decision.

Board did not abuse its discretion in finding Evans non-releasable. It reviewed the risk aggravation recommendation by the End of Sentence Review Committee (ESRC) that recommended aggravation of his risk level to III (highest), per the ESRC's review of actuarial instruments' findings that were based on the facts of Evans' crimes and additional aggravation factors. The Board also reviewed his poor SOTAP results and his demonstrated lack of insight into the root causes of his crimes and his denial of deviant attraction to boys per his testimony at the hearing. The Board's findings are based on careful and accurate review of the facts and its decision followed the Board's rules.

Evans claims that the Board's decision finding him, under preponderance standard, more likely than not to commit a sex offense upon release should be reversed. He alleges the Board abused its discretion because the facts do not support the Board's finding that he will commit a new sex crime if released on conditions, that the Board's decision is based on "presumption of reoffense", and that his case is similar to the case of *In re Brashear*, 6 Wn. App.2d 279, 430 P.3d 710 (2018) because allegedly there is no "affirmative evidence" that Evans would reoffend. Petition, at 2-5.

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II. BASIS OF CUSTODY

Evans is in the Department of Corrections' (DOC) custody and under the jurisdiction of the Board pursuant to the 2005 Clark County conviction. He pled guilty to first-degree child molestation and first-degree child rape committed between 2003 and 2004. Exhibit 1, Judgment and Sentence, *State v. Evans*, Clark County Superior Court Cause No. 04-1-01929-0. The court sentenced him to a "determinate plus" sentence with a minimum term of 144 months of confinement and a maximum term of life, plus community custody for any period that Evans is released prior to his maximum term. Exhibit 1, at 6.

III. STATEMENT OF THE CASE

Evans, a married man in his late forties, was a soccer coach when he molested the stepson of the other coach (the boy's family were Evans' close friends). He also molested another boy who was a member of his team. Exhibit 2, Criminal History Summary. In addition, while in SOTAP in prison, Evans finally revealed that several years prior to committing the above crimes, he sexually molested both of his sons (he was tried and acquitted of the molestation in 1997). Exhibit 3, 2019 ISRB Decisions and Reasons, at 4.

In 2015, Evans completed SOTAP where he did extremely poorly. The program staff authored a highly detailed treatment summary describing

Evans' total lack of progress and his utter failure to internalize any of the treatment lessons. Exhibit 4, 9/28/2015 SOTAP report.

After completion of SOTAP, Evans still exhibited five high risk areas - sexual attraction to minor boys, lack of concern and empathy for others, sexual secrecy and deceit, desire for power and control of others, and unwillingness to express feelings to others. *Id.* at 9-10. The report emphasized that “*there was no indication during this treatment...that Mr. Evans was ready to make the changes the rehabilitation requires.*” *Id.* at 11 (emphasis added). Evans made minimal progress in the areas, described in detail below, and continued to have ongoing high concerns in the areas of sexual self-regulation, attitudes supportive of sexual assault, intimacy deficits and compliance. He made minimal progress and displayed ongoing moderate concerns in the areas of social functioning and general self-regulation. *Id.* at 2.

The report highlighted the still present needs for Evans in the area of sexual self-regulation that included sexual pre-occupation, deviant sexual interests, lapses in sexual behavior control, sexual secrecy and deceit. *Id.* at 4. Evans made no observable progress in the treatment of these deviancy areas. *Id.* Only toward the end of the SOTAP, Evans finally admitted to having sexually molested his sons (he was tried and acquitted of these crimes in 1997). *Id.* The report noted that Evans' “pursuit of deviant sexual

arousal and behavior appears to be constant and not impacted even by time in prison.” *Id.*

The report identified multiple, still present needs Evans had in the realm of attitudes supportive of sexual offending, attitudes supportive of sexual entitlement, rape and child molestation. *Id.* at 5. Evans made no progress in addressing these needs. *Id.* Evans completely lacked any empathy for his victims and was very deliberate in pursuing his offending behavior. *Id.* at 6. Evans presented as an “*individual without any ability to care about the people he chooses to exploit or harm.*” *Id.* at 8 (emphasis added). He attributed reasons for his crimes to circumstances and other people. Even in treatment, he characterized his behavior as beyond his control. *Id.* at 6.

The report also identified his ongoing needs in the area of romantic intimacy including the relationship skilled deficits and emotional identification with adolescents and children. *Id.* at 5. Evans made no progress in treatment. *Id.* at 6. There was no evidence that Evans, despite treatment, moved beyond treating his victims as objects. *Id.* at 6. Evans finally acknowledged his identification with children and adolescents at the time of his crimes. *Id.* Evans displayed clear sexual preference for children and/or adolescents “*both in past offending and currently.*” *Id.* (emphasis added).

Evans had ongoing needs in the social functioning area, including communication and social skills deficits, callous/utilitarian attitude toward others and antisocial attitude and orientation. *Id.* at 7. He made no progress in those areas. *Id.* He made a conscious decision to alienate himself from his peer SOTAP treatment group and even sexually acted out in his living unit during treatment, *i.e. pursued the behavior similar to that resulting in his incarceration. Id.*

Evans had ongoing needs in the area of general self-regulation that included behavioral impulsivity, maladaptive problem solving and negative emotionality. *Id.* at 9. He made no progress in those areas. Evans does have an array of effective coping skills, but he chose not to apply these skills in sex offender treatment. *Id.* at 8.

Evans did not make any progress in the areas of compliance (with the goals of increased cooperation with custody and treatment staff, developing a practical relapse prevention and release plan). *Id.* at 8. Evans *chose not to cooperate* with the sex offender treatment. *Id.* at 9.

The report's summary presents a disturbing psychological picture of Evans:

Mr. Evans made minimal progress in treatment. *He was covert and dishonest about his offender history through the seventh month of treatment. He continued to engage in sexually inappropriate behavior [in] the living unit through his final day of treatment.* Mr. Evans has a longstanding

history of sexually deviant and sexual offending behavior.
*He has an equally long history of keeping his behavior
covert lying about the behavior when confronted.*

Id. at 11 (emphasis added).

Board's rules required the Board to review the ESRC's 2015 and 2018 recommendations. In 2015, ESRC recommended that Evans' risk level to be aggravated to III (highest risk) based upon its review of STATIC-99R and MnSOST-R actuarial instruments' findings. ESRC uses departures from the actuarial instruments' findings to incorporate additional aggravating information about Evans that was not captured by these instruments, specifically Evans using his position of trust to gain access to victims and the pattern of behavior that increased risk for sexual reoffense. Exhibit 5, November 3, 2015, ESRC Findings and Recommendation. In 2018, the ESRC submitted an updated recommendation to the Board confirming that its 2015 level III aggravation recommendation remained unchanged. Exhibit 6, November 29, 2018 ESRC letter to the ISRB. The updated recommendation described new information about Evans - he, despite being enrolled in SOTAP, sexually acted out by exposing his penis to another inmate and masturbating in front of him. Exhibit 5.

The .420 hearing took place in February of 2019. Exhibit 7 Transcript. At the hearing, counselor and Evans testified about the positive strides he made - since his 2016 .420 hearing, he completed

additional classes, he was employed and received positive evaluations, participated in the LGBTQ group, had a release plan and did not commit serious infractions. *Id.* at 4-6. The Board discussed Evans' release plans. *Id.* at 32-33.

However, Evans' testimony showed that he continued to demonstrate profound failure to comprehend the true reasons behind his molestation of boys, he lacked empathy toward his victims, and could not, despite completing treatment, to distinguish between his deviancy and sexual orientation.

In response to the Board member's question why he molested his sons, he responded, "I was... struggling with who I really was as a person [Evans came out as gay in prison]." *Id.* at 10. Consistently with his SOTAP discharge findings, *above*, Evans' testimony showed that he is a deceitful person who still had not come to terms with his deviancy. On the one hand, after much prodding by the Board, he finally grudgingly acknowledged that he had deviant sexual attraction to boys. On the other, he denied that attraction, claiming that the only reason why he molested boys was him "*wanting to be with a male. It had nothing to do with... the young children*". *Id.* at 11 (emphasis added), *compare with*, Evans' statement on p. 18 (Evans acknowledging that one of his high risks is deviant attraction to boys) and 25-26 (Evans proclaiming that he now has established "heathy boundaries" for himself.) In response to the Board member's question whether he thought he had a deviant attraction to boys, Evans first continued to maintain (despite the crimes involving minors)

that *he did not* have such an attraction. *Id.* at 15. He finally admitted that his deviant attraction to minor boys was a part of the reason why he abused them. *Id.* at 16.

He demonstrated inability to distinguish between his sexual orientation and deviant attraction. When the Board members continued to ask him what made him molest boys, Evans stated that he molested because he was afraid to admit that he was gay and he was afraid others would find out. *Id.* at 13.

He demonstrated a lack of empathy for his victims and his tendency to treat his victims as objects, consistent with the SOTAP findings, *above*. In response to the Board's question as to why molesting his sons was preferable to looking for a gay man in the community, Evans admitted that while he molested his sons, he had three adult gay affairs (he was still married at the time). *Id.* at 11. Evans revealed that it was convenient for him to molest boys, because it "*felt more safe with [the boys] that they would not say anything.*" *Id.* at 14 (emphasis added); 15-16 (molesting children was safer because they would not tell). Evans felt it was safer to molest children because if he continued to have adult gay affairs, he was afraid his family and friends would find out. *Id.* at 15. The Board specifically pointed out that even after he was acquitted of molesting his sons (the fact Evans finally admitted toward the end of his SOTAP treatment, *see above*), he continued to molest other boys. *Id.* at 31.

Evans acknowledged that his SOTAP history is “terrible.” *Id.* at 27. The Board noted that Evans took advantage of his position of authority as a coach and a parent to commit his crimes. *Id.* at 30.

The Board issued its Decision and Reasons (DAR) in March of 2019. It found, by preponderance, that Evans was more likely than not to commit a sex offense if released. Exhibit 3 at 1-2. The Board accurately summarized the programming Evans completed since his last hearing, his good disciplinary record and his transitional release plans. *Id.* at 4. It considered various information sources, including statistical estimate of risk, criminal history, ability to control behavior, programming, demonstrated offender change, release planning and other specific factors. *Id.* at 2.

The Board based its decision on several important factors that were supported by the records it reviewed, specifically ESRC Level III aggravation recommendation, Evans’s poor performance in SOTAP (as referenced in his 2015 SOTAP discharge summary, *above*) and his lack of insight into his offending behaviors (as evidenced by his 2015 SOTAP discharge findings and his testimony at the hearing.) *Id.* at 2. The Board correctly summarized his testimony at the hearing that he molested his sons because he was interested in being with a “male”; his admission that while molesting, he had at least three homosexual affairs reasoning that it was

more dangerous to be found to be gay by being with an adult man vs. sexually abusing a child. *Id.* at 4-5. The Board correctly described his hearing testimony where he blamed molestation on his sexual confusion and first denied his deviant attraction to boys that the Board found disingenuous. *Id.* at 6. He then admitted that he had such an attraction. *Id.* Thus, the Board found that Evans, despite having at least four minor victims, was still struggling to admit that he had deviant sexual attraction to them. *Id.* Consistent with the SOTAP discharge findings, *above*, the Board found that Evans was struggling to admit his deviant attraction to boys, showed little remorse, limited insight into his behavior, and did very poorly in the core SOTAP². *Id.* Based on these findings, the Board found him non-releasable and extended his minimal term by 36 months. *Id.* at 1-2.

IV. STANDARD OF REVIEW

A petitioner who challenges a decision from which he has had "no previous or alternative avenue for obtaining state judicial review" must show that he is under restraint and the restraint is unlawful. *In re Pers. Restraint of Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4(a), (c). A petitioner must show he is under unlawful restraint to succeed on a PRP challenge of an ISRB decision." *In re Dyer*, 164 Wn.2d 274, 285, 189 P.3d

² In August of 2019, Evans was admitted into the SOTAP treatment program for the second time.

759 (2008) (*Dyer II*) (citing RAP 16.4(b), (c)); *see also In re Addleman*, 151 Wn.2d 769, 774, 92 P.3d 221 (2004). Under RAP 16.4, a petitioner may obtain relief by showing either a constitutional violation or a violation of state law. RAP 16.4(c)(2), (6); *see Cashaw*, at 148.

A petitioner must set forth a statement of “the facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations, ... [and] why the petitioner’s restraint is unlawful for one or more of the reasons specified in rule 16.4(c).” RAP 16.7(a)(2). However, bare assertions and conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).

In regard to offenders serving indeterminate sentences, inmates generally have no liberty interest in being released before serving the full maximum sentence. *In re McCarthy*, 161 Wn.2d 234, 240, ¶ 12, 164 P.3d 1283 (2007). The statutory language of RCW 9.95.420, in particular, gives offenders only a limited liberty interest in “.420” releasability hearings. *Id.* 161 Wn.2d at 245, ¶ 19. To protect offenders' limited liberty interest, due process requires that offenders have minimum procedural protections at .420 hearings. *Id.*

The burden rests with the petitioner to prove the ISRB abused its discretion. *Addleman*, 151 Wn.2d 776. “The ISRB abuses its discretion

when it fails to follow its own procedural rules for parolability hearings or acts without consideration of and in disregard of the facts.” *In re Dyer*, 157 Wn.2d 358, 363, 139 P.3d 320 (2006) (*Dyer I*). “Reliance upon ‘speculation and conjecture’ with disregard of the evidence also constitutes an abuse of discretion.” *Dyer II*, 164 Wn.2d at 286. To support a determination of the decision being arbitrary and capricious, the Court must find that the ISRB acted willfully and unreasonably. *Dyer II*, 164 Wn.2d at 286.

An offender may seek relief by way of a personal restraint petition if he demonstrates that the Board failed to follow its own rules making minimum term determinations. *Cashaw*, 123 Wn.2d at 150. Otherwise, all Board decisions are subject to review only for an abuse of discretion. *In re Dyer*, 175 Wn.2d 186, 196, 283 P.3d 1103 (2012). An abuse of discretion may be found where the Board fails to follow its own procedural rules for parolability hearings or where the Board bases its decision on speculation and conjecture only. *Dyer*, 175 Wn.2d at 196 (citing *In re Dyer (Dyer II)*, 164 Wn.2d 274, 286, 189 P.3d 759 (2008)). “The petitioner bears the burden to prove the ISRB abused its discretion.” *Id.* (citation omitted).

The Court must approach the Board’s decisions “with substantial deference” because “the Courts are *not* a super [Board] and will not interfere with a [Board’s] determination in this area unless the [Board] is first shown to have *abused its discretion . . .*” *Dyer*, 175 Wn.2d at 196 (emphasis in

original; quotation marks and citations omitted). The Courts “will not substitute their discretion for that of the [Board].” *Id.* (quotation marks and citations omitted). A prisoner is “subject entirely to the discretion of the [Board], *which may parole him now or never.*” *Dyer*, 175 Wn.2d at 197 (emphasis in original; quotation marks and citations omitted).

V. ISSUE PRESENTED

Should the Court deny relief because the Board did not abuse its discretion when it followed its rules and carefully considered the facts and found Evans non-releasable because the evidence demonstrated his propensity to commit new sex crime if released on conditions?

VI. ARGUMENT

A. The Nature and Scope of a RCW 9.95.420 Hearing

In 2001, the Washington Legislature adopted former RCW 9.94A.712 and RCW 9.95.420, authorizing “determinate-plus” sentences for certain sex offenders and assigning responsibility to the Board to implement those sentences. Laws of 2001, 2d Spec. Sess., ch. 12, §§ 303, 306.³ In 2008, RCW 9.94A.712 was re-codified as RCW 9.94A.507.

Under the determinate-plus sentencing scheme, before the end of an offender’s minimum term, the Board holds a “.420 hearing” and decides

³ The Board is also responsible for indeterminate sentences imposed for crimes committed prior to the July 1, 1984, effective date of the Sentencing Reform Act. *See* RCW 9.95.011 and RCW 9.95.100.

whether it is more likely than not an offender will commit a sex offense if released on conditions set by the Board. RCW 9.95.420(3)(a). The statute provides that the Board shall release the offender to community custody with appropriate conditions, “unless the Board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released.” RCW 9.95.420(3)(a) (emphasis added); *see also* RCW 9.94A.704 (10) (general authority for the DOC to recommend conditions related to community custody for an offender sentenced under RCW 9.94A.507).

The nature of the offender’s interest in a .420 hearing is limited. The offender is still within the term of his or her criminal sentence. Unconditional release is never at stake in a .420 hearing, as RCW 9.95.420(2) contemplates only a possibility of conditional release to community custody. Neither the statute nor the Board policy allow for counsel at a .420 hearing. *McCarthy*, 161 Wn.2d at 245.

After the .420 hearing, if the Board does not order an offender released, it establishes a new minimum term not to exceed an additional five years in duration. RCW 9.95.011(2)(b). The Board makes a release decision by evaluating the offender and the information provided to the Board.

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B. The Board Did Not Abuse its Discretion When it Determined That Evans Was Not Releasable Because the SOTAP 2015 Records, ESRC Recommendation and His Testimony Indicated, on a Preponderance Basis, His Likelihood to Commit a New Sex Crime if Released

The Board’s decision was properly based on a preponderance of the evidence. *See* RCW 9.95.420(3)(a) (“The Board shall order the offender released . . . unless the Board determines by a preponderance of the evidence that . . . it is more likely than not that the offender will commit sex offenses if released.”). Evans fails to carry his burden that the Board abused its discretion in denying his release.

As the records and arguments, below, show, the Board, as authorized by WAC 381-90-050, -140 and -150, reviewed all relevant evidence, including testimonies of Evans and his counselor, the ESRC recommendation, the 2015 SOTAP discharge summary and the facts of his offenses (including his still-present, non-displaced by treatment high risk factors as reflected by his 2019 testimony and 2015 SOTAP discharge summary). The Board considered all these records, did not disregard the facts and did not use speculation or conjecture in reaching its decision.

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1. Evans' poor 2015 SOTAP results combined with his 2019 testimony showed his current multiple high risk factors, indicating, on a preponderance basis, the likelihood of re-offense if released

Evans claims that the evidence of his poor performance in SOTAP was insufficient for the Board to determine, on the preponderance basis, that he would reoffend, as the Board allegedly based its decision on Evans' past behavior. Motion to at 4-7. He claims that the Board's reliance on his failure in SOTAP is premised on the presumption of re-offense. *Id.* He argues that the factors other than the performance in treatment are "more robust predictors of re-offense risk." *Id.* at 7. He alleges that the Board "completely" failed to acknowledge several positive factors in his background. *Id.*

Evans is incorrect. The Board acknowledged several positive developments in Evans' life after his 2016 .420 hearing. In its decision, it described Evans's positive history of post-2016 .420 hearing programming, his LGBTQ group participation, him being employed in prison, his overall good disciplinary record after his last hearing and him having a post-release plan, as well as Evans' claim that his sons who he molested supported him now. Exhibit 3, at 4. This description is consistent with and is based on the facts as elicited at the hearing through the testimony of Evans and his counselor. *See also* Exhibit 7, at 3-6, 8, 32-33 (the Board discussing Evans'

participation in programming, his disciplinary record and his release housing plans, with Evans and his counselor testifying about his overall positive disciplinary and employment record).

Evans completely fails to name or discuss the other factors that he claims the Board should have considered. His claim also fails because the SOTAP summary showed the still present, in 2015, high risk factors that were behind his crimes a decade earlier. When the Board reviewed the results of SOTAP Evans conceded were “terrible” (Exhibit 3, at 27), it reviewed the *currently present*, non-displaced by years of classes and a 10-month SOTAP treatment high risk factors that, on a more likely than not basis, will continue to drive his future criminal behavior. The Board did not abuse its discretion when it determined, on a preponderance basis, that, in the absence of positive changes in Evans’ thinking, he was more likely than not to commit a new sex offense in the future. These factors include his outright denial of/continuous struggling with accepting his deviant sexual attraction, characterizing his crimes as beyond his control and attributable to other people or circumstances (supported by his 2019 testimony), dishonesty and attempts to cover his history and motivations behind the offense when confronted, his callousness/treating his victims as objects as (confirmed by his 2019 testimony); his preoccupation with sex (underscored by his sexual acting out during SOTAP treatment in 2015) and

his deliberateness in committing his crimes. Exhibit 4, at 4-11. Contrary to Evans' allegations, these factors do not solely characterize his past offenses - they were very much present in 2015 and at the time of the hearing in 2019 as demonstrated by Evans' testimony. SOTAP's purpose is to provide sex offenders like Evans with "opportunities...to learn the attitudes, thinking skills, and behaviors necessary to manage the risk of future sexual offenses." Exhibit 8, DOC Policy 570.000, Sex Offender Treatment and Assessment Programs, at 2. Evans's failure of SOTAP shows that he was unable or unwilling to control his high risk behavior and crime-oriented thinking even after spending more than a decade in prison. Therefore, in 2019, the SOTAP findings regarding Evans' failure in treatment in combination with his testimony presented him to the Board as a sex offender who was still unable, 15 years after commission of his latest crimes, to change his thinking patterns and manage his deviant sexual impulses. *See McKune v. Lile*, 536 U.S. 24, 33 (2002) ("Therapists and correctional officers widely agree that clinical rehabilitative programs can enable sex offenders to manage their impulses and in this way reduce recidivism.")⁴.

⁴ *See also Huffington Post*, "Sex Offenders: Recidivism, Re-Entry Policy and Facts," (11/08/2011) ("Independent studies of the effectiveness of in-prison treatment programs for sex offenders have shown that evidence-based programs can reduce recidivism by up to 15 percent.") (citing "Evidence-Based Adult Corrections Programs: What Works and What Does Not," Washington Institute for Public Policy Report 06-01-1201, at 5).

The first step toward rehabilitation of an offender is the offender's recognition that he was at fault. *In re Ecklund*, 139 Wn.2d 166, 176 (1999).

While Evans made this first step and took responsibility for the molestation (including the molestation of his sons), the Board, in assessing his suitability for release, was also obligated to consider, based on his responses at the hearing, whether he currently possesses the thinking skills, attitudes and behaviors that would help him avoid committing another sex crime. Evans's testimony - coupled with the abysmal SOTAP discharge summary that showed that four years after his SOTAP failure, Evans *still* internalized very little from his treatment and in fact continued to exhibit signs of sexual deviancy, lack of empathy toward the victims, and deception. In 2019, his testimony showed that was still struggling to accept the fact that his molestation was driven by his deviant attraction to minors, not by his sexual orientation. He, therefore, remains at risk to reoffend if released. The Board properly determined that having demonstrated his inability to come to terms with the root causes for his offenses – deviant sexual attraction to minor males, Evans, presents too high of a risk for committing another sex offense. Exhibit 3, at 2, 4-5.

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2. *Brashear* is inapplicable to Evans since Evans' crimes, unlike in *Brashear*, are relevant to his propensity to commit a new crime

Evans alleges that his case is similar to *In re Brashear*, 6 Wn. App. 2d 279, 430 P.3d 710 (2018) where the Board denied release based on juvenile offender's crimes of conviction, early prison infraction history, the effect of the crime, and the length of the original sentence. Petition, at 4-6.

His claim fails, because the Board did not find him non-releasable based on *any* factors that the Court of Appeals, Division I, found were improper in the juvenile offender's case of *Brashear*. See Exhibit 3, at 2. Evans also fails to recognize a critical difference between a juvenile offender committing a crime with the accompanying extreme difficulty in predicting new crimes after years of maturation and behavioral changes in prison vs. an adult sex offender committing crimes driven by the deep-seated deviancy and other still present high risk factors. Thus, while in the former case, the past crimes are not relevant for determination of propensity to commit future crimes, in the latter, they are critically important.

In this case, the Board was required to review ESRC's recommendations that were, in turn, based on the actuarial instruments analyzing facts of Evans' crimes as well as other factors, such as his use if position of authority to commit the crimes. WAC 381-90-050 requires the Board to review the ESRC recommendation. WAC prohibits the Board from

having a .420 hearing unless the Board received, *inter alia*, the results from ESRC review process, which are based on the facts of his crimes. *Id.* section (1)(a). ESRC, per the same WAC can review his criminal records. *Id.* section (2). In its findings and recommendation to the Board, the ESRC explained that its recommendation is based on its review of the actuarial instruments' findings. *See above.* These findings are based on the facts of Evans' crimes. Also, ESRC reviewed additional aggravation factors that the actuarial instruments did not review, specifically Evans' use of position of authority to commit his crimes. Exhibit 6.

WAC 381-90-050 is consistent with RCW 72.09.345(4) that authorizes ESRC to review the criminal records of sex offenders' crimes:

(4)...[T]he committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, *including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records....* (emphasis added).

Furthermore, WAC 381-90-050 authorizes the Board, when making its releasability decision, in addition to other factors, to consider "other pertinent information." WAC 381-90-050(4)(d). The Board's rules also provide that it can review the facts of the crimes at the .420 hearing per

WAC 381-90-140 which states that “[a]ll relevant information shall be admissible.”

Evans’ equating his case with *Brashear* must fail. In the cases of adult sex offenders, consideration of the evidence of the facts and the nature of their crimes is critical for the releasability determination, especially when combined with the offender denial, minimization, and absence of insight as in Evans’s case.

True, in Evans’ case, as in *Brashear*, the statutes applying involving juvenile offenders and sex offenders serving a determinate plus sentences RCW 9.94A.730(3) and 9.95.420(3) contain presumption of release language.

However, the nature of Evans’ crimes unquestionably matters when determining the likelihood of him committing a new sex crime upon release. It is well supported by research that child molesters are more likely than *any other* type of offender - sexual or non-sexual – to be arrested for a sex crime against a child following release from prison.⁵ One study showed that child molesters have lower rates of recidivism compared to non-sex offenders but much higher rate of sexual recidivism. *Id.* at 119. Based upon new charges

⁵ U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, Sex Offender Management Assessment and Planning Initiative (SMART), updated March of 2017, at https://www.smart.gov/SOMAPI/pdfs/SOMAPI_Full%20Report.pdf, at 118.

or convictions upon release, one study shows that the recidivism rate of child molesters increases the more time passes from release, from 9.2% within 5 years of release to 16.3 % within 15 years for molesters of girls. *Id.* at 118-19. As one study concluded, the lifetime prevalence of sexual recidivism for extra familial child molesters (Evans molested exclusively extra familial children) “should be thought of having a conservative approximation of about 52 percent.” *Id.* at 120.

The Board acted well within its discretion when it found that Evans had current risks that made it more likely than not that he would commit a sex offense if released under conditions. *Brashear* is inapplicable in the case of adult sex offender. *Brashear* applies when a court resentences an adult who committed the underlying crime as a juvenile. *See id.* at 286. In those circumstances, the Board’s assessment of the offender’s likelihood to reoffend if released should not rely on the underlying crime committed as a juvenile or the impact of that crime. But assessing the re-offense risk of a convicted sex offender who committed sex offenses as an adult is entirely different. The nature of the underlying sex crime is relevant to assess risk. Indeed, that is why actuarial tools that assess an adult sex offender’s re-offense risk consider the circumstances of the crime of conviction. Because the Board may consider the circumstances of a sex offender’s crimes to assess risk, the Board reasonably did so here. *In re Brashear* has no

application here, and there is no conflict.

The Board properly exercised its discretion when it determined Evans was not releasable. Evans claims that he Board ignored the evidence of his progress. Petition, at 7. But the Board did not ignore evidence of his progress in rehabilitation. Rather, it determined that, in its expert opinion, his remaining risks make him more likely than not to commit new sex crimes if released under conditions. That was a discretionary assessment based on the evidence. Evans' still-present risks are associated with his crimes and his psychological deviancy, and the 2015 findings of the SOTAP specialists highlight the remaining deviancies and high risk issues. These risks are current, as confirmed by his SOTAP discharge summary, ESRC records, as well as Evans' testimony at the 2019 hearing. These risks outweigh his rehabilitative efforts and warranted finding him not releasable at this time.

Further, it was appropriate for the Board to consider the nature of Evans' crime of conviction in assessing his risk to re-offend. Unlike juvenile offender Brashear whose crime was irrelevant for her propensity to commit new crimes, in Evans' case, the sex crimes committed by an adult offender are relevant to determine his propensity to commit new crimes if released.

The Washington Supreme Court and the Supreme Court's holdings show that the juveniles are psychologically different from adult offenders, and because the juveniles' characters are not yet fully formed, it is extremely difficult to predict a juvenile's future dangerousness. *State v. Delbosque*, 195 Wn. 2d 106, 121, 456 P.3d 806 (2020). *Delbosque* explained that "[p]redicting a juvenile's future dangerousness is extremely difficult" because a "'child's character is not as 'well formed' as an adult's; his traits are less fixed.'" *Id.* at 121 (quoting *Roper v. Simmons*, 543 U.S. 551, 570 (2005) and *Miller*, 567 U.S. 460, 471 (2012)).

Unlike Brashear who, at 15, committed an unprovoked murder, Evans was an adult when he planned and molested multiple children. In *Brashear*, the court pointed out her behavioral turnaround years prior to the Board's hearing "as probative of her maturation as a juvenile offender that the statute [RCW 9.94A.730(3)] intended to identify." *Id.* at 289. Evans' case is different because Brashear's crime was not relevant to her propensity to commit a new crime if released. In a case of adult sex offenders such as Evans, Static-99R and MnSOST-R, actuarial tool which measures an offender's likelihood of committing new sex offenses that was relied on by the ESRC when it made its aggravation recommendation, analyzes aspects of the offender's crime of conviction as risk factors, including whether the offender's victims were unrelated to them, were strangers, or were male.

Therefore, this Court should conclude that considering the circumstances of the crime of conviction is relevant to the risk of re-offense in adult sex offenders.

3. The Board did not abuse its discretion when it based its decision on several WAC 381-090-150 factors.

WAC 381-90-150 requires the Board to determine whether the offender is more likely than not to commit a new sex offense, and it provides an illustrative list of several factors the Board may, but is not limited to, considering.⁶ The Board considered these factors in this case, specifically factors three and five that were applicable in Evans' case. As the Board's decision shows, above, the Board reviewed the actuarial risk finding (used in the ESRC recommendation required to be received prior to the Board hearing per WAC 381-90-050). Exhibit 6, at 2; Exhibit 3.

⁶ WAC 381-90-150 states as follows:

The board shall make a finding of whether or not it is more likely than not that the inmate will commit another sex offense if released to the community.

A list of factors that the board may consider includes, but is not limited to:

- (1) Refusal to participate in available programs or resources designed to assist an inmate to reduce the risk of reoffense (e.g., stress and anger management, victim awareness, substance abuse treatment, sex offender treatment).
- (2) Serious and repetitive disciplinary infractions during incarceration.
- (3) Evidence of an inmate's continuing intent or propensity to engage in sex offenses.
- (4) Statements or declarations by the inmate of intent not to comply with conditions of community custody.
- (5) End of sentence review determination based on actuarial assessments identifying risk to sexually reoffend

Finally, as the arguments, above, show the Board paid special attention to whether Evans had a continued propensity to engage in sex offenses, a third factor it is authorized to consider by WAC 381-90-150. This is reflected in the Board's concern about his disingenuous attempt to deny his deviant attraction to children and explain his crimes by his fear of being found as gay or come out as gay, while the facts pointed out, and he was finally forced to admit, that he indeed had such an attraction. The Board's decision analyzing the propensity factor is also based on its accurate assessment of Evans's other high risk factors, based on the facts of his crimes (ESRC recommendation) and his present, non-displaced high risk factors as described in the 2015 SOTAP discharge summary. This Court should conclude that all these factors, combined, were sufficient for the Board to find while properly analyzing factors outlined in WAC 381-90-150 under preponderance standard, that Evans will more likely than not to commit a new offense if released.

4. The absence of a discussion of individual conditions of release in the Board's decision does not warrant a remand, or an order of release, because such a discussion would have been superfluous under the circumstances of Evans' case

Evans faults the Board for failing "to discuss any conditions associated with release and why, despite appropriate conditions, he would

be likely to reoffend.” Petition, at 8. This argument does not entitle him to the relief he seeks.

To be sure, the Board “shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released.” RCW 9.95.420(3)(a). But Evans points to no statute, court decision, or regulation mandating that the Board discuss, in each and every case, releasability conditions. Moreover, where, as in Evans’s case, an offender is still demonstrating the presence of multiple high risk factors, despite completing SOTAP, an explicit discussion of conditions of community custody would have been superfluous.

The Court of Appeals in *Brashear*, the case Evans analogizes his case with, did not hold that the Board must always document its discussion of conditions of release in its decisions. Rather, the Court merely observed that the “ISRB did not consider any conditions in reaching its decision.” *Brashear*, 6 Wn. App. 2d at 288. This observation, however, was important under the specific facts of *Brashear* because the offender in *Brashear* had turned her life around in prison to being a model inmate for years. *Id.* at 283. She also was assessed at a low risk to reoffend. *Id.* at 287. The significant amount of evidence in that case, therefore, pointed toward

releasing the juvenile offender. In that situation, discussing possible release conditions—and finding them insufficient to prevent the offender’s reoffending—could have countered evidence favoring releasability. But the Board failed to document its consideration of conditions.

As established above, Evans’ situation is markedly different from Brashear’s. Multiple significant risk factors were amply present in Evans’ case, preventing the Board from finding him releasable. Evans’ petition does not point to any factor favoring releasability because there is none (for example, there are no low risk findings, low risk ESRC recommendation, or successful completion of SOTAP). Explicitly discussing conditions under these circumstances would have been superfluous.

Evans, however, claims that the Board found him not releasable “on only part of the statutory criteria” because its decision does not contain a discussion of conditions. Petition, at 8. Evans seems to assume that conditions are one “part of the statutory criteria,” the offender’s likelihood to reoffend presumably being the other. Yet this piecemeal reading of the relevant statute is not persuasive. Rather, RCW 9.95.420 provides that the offender’s likelihood to reoffend must be considered holistically in light of possible community custody conditions. This is what the Board did when it concluded that Evans, even if released under conditions, is more likely than not to reoffend sexually for the three substantial reasons the Board gave.

Implicit in this decision is a consideration of possible community custody conditions, including those recommended in the ESRC report. *See* Exhibit 5, at 6-7. Evans' demonstration of multiple high risk factors makes it more likely than not that he currently would reoffend sexually if released, no matter what community conditions the Board may impose. As a result, Evans' argument fails to show the Board abused its discretion.

5. Even if this Court were to determine that the Board abused its discretion, the remedy is the remand for a new hearing

Evans requests the Court to remand the case directing the Board to release him. Petition at 8. However, even if the Court determines that the Board abused its discretion, the proper remedy is to remand for a new hearing in which the Board will apply the proper factors identified by the Court. To hold otherwise would be for this Court to usurp the function of the executive agency and substitute its judgment for the Board as to whether to release Evans.

The Washington State Constitution distributes governmental power into three branches of government, the legislative, the executive, and the judicial, and each branch may wield only the power given to that branch. *State v. Moreno*, 147 Wn.2d 500, 505, 58 P.3d 265 (2002); *State v. Bramme*, 115 Wn. App. 844, 850, 64 P.3d 60 (2003). The separation of powers doctrine prevents one branch of government from encroaching upon the

fundamental functions of another branch. *Bramme*, 115 Wn. App. at 850 (citing *Carrick v. Locke*, 125 Wn.2d 129, 135, 882 P.2d 173 (1994)).

The Legislature gave the ISRB the authority to determine whether a particular sex offender should receive early release under RCW 9.95.420. This grant of authority is consistent with historical practice. *See, e.g., Morrissey v. Brewer*, 408 U.S. 471, 486, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) (“The granting and revocation of parole are matters traditionally handled by administrative officers.”)

Therefore, even assuming, *arguendo*, the Board had abused its discretion in denying release, “the proper relief under these circumstances would be a remand to allow the Board to conduct another hearing, this time using the proper procedures.” *In re Cashaw*, 123 Wn.2d 138, 150, 866 P.2d 8 (1994) (not remanding because the petitioner had already served the full sentence).

The decisions of the Washington Supreme Court and the Courts of Appeals have consistently recognized that remand for a new hearing, applying the proper factors articulated by the Court, is the correct remedy when the Board abuses its discretion. *See, e.g., In re Dyer*, 157 Wn.2d 358, 139 P.3d 320 (2006) (remanding for a new parolability hearing after the ISRB abused its discretion); *In re Locklear*, 118 Wn.2d 409, 421, 823 P.2d 1078 (1992) (remanding for a new minimum term hearing after the ISRB

abused its discretion); *In re Shepard*, 127 Wn.2d 185, 193, 898 P.2d 828 (1995) (remanding for a parolability hearing after finding the ISRB had applied an invalid policy); *In re Myers*, 105 Wn.2d 257, 268, 714 P.2d 303 (1986) (recognizing remand for a new hearing was not necessary since the ISRB subsequently paroled offender); *In re Addleman*, 139 Wn.2d 751, 991 P.2d 1123 (2000) (remanding for a new parolability hearing); *In re Ayers*, 105 Wn.2d 161, 168, 713 P.2d 88 (1986) (remanding for new hearings after finding the parole Board did not comply with its own rules); *In re Marler*, 108 Wn. App. 799, 33 P.3d 743 (2001) (remanding for new minimum term hearing); *State v. Collins*, 46 Wn. App. 636, 641, 731 P.2d 1157, 1161 (1987) (same); *Matter of Sinka*, 92 Wn.2d 555, 570, 599 P.2d 1275, 1282 (1979) (same); *In re Martinez*, 2 Wn. App. 2d 904, 413 P.3d 1043 (2018) (remanding for the ISRB to reevaluate the conditions of community custody).

RCW 9.95.420 bestows upon the Board the discretion to determine whether to release a particular sex offender. Evans's suggestion that the Court must order his release deprives the Board of the statutory authority to decide whether he poses a risk of re-offense precluding release. Even if this Court agrees with Evans that the Board abused its discretion, he is only entitled to a new hearing.

VII. CONCLUSION

This Court should conclude that the Board acted within its discretion when it denied Evans' release and found, despite several positive factors reflecting Evans' progress in confinement, that it was more likely than not that if released, he would commit a new sex offense. It properly based its determination of the likelihood of him committing a new sex offense on his recorded failure to internalize his SOTAP treatment, with the treatment summary indicating the still present multiple high-risk factors, his continuous struggling with admitting deviant attraction to children, and the ESRC's aggravation recommendation based on the actuarial instruments findings analyzing the facts of his crimes and the additional factor of abuse of position of authority to commit his crimes. This Court should, therefore, deny relief and dismiss the petition.

RESPECTFULLY SUBMITTED this 11th day of May, 2020.

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s/ Alex Kostin
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the RESPONSE OF THE INDETERMINATE SENTENCE REVIEW BOARD with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service, Postage Prepaid, the document to the following non-electronic filing participant:

JEFFREY ERWIN ELLIS
LAW OFFICE OF ALSEPT & ELLIS
621 SW MORRISON ST., STE. 1025
PORTLAND OR 97205
JeffreyErwinEllis@gmail.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

EXECUTED this 11th day of May, 2020, at Olympia, Washington.

s/ Amy Jones
AMY JONES
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EXHIBIT 1

FILED
MAY 06 2005
JoAnne McBride Clerk Clark Co

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

879762

STATE OF WASHINGTON Plaintiff
v
DAVID WAYNE EVANS
Defendant
SID WA
DOB

No 04 1 01929 0
JUDGMENT AND SENTENCE (JS)✓
PRISON - COMMUNITY
PLACEMENT/COMMUNITY CUSTODY
NON PERSISTENT OFFENDER -
RCW 9 94A 712
 Clerk s action required Paragraph 5 7

I HEARING 05 9 02789 3

1 1 A sentencing hearing was held and the defendant the defendant s lawyer and the (deputy) prosecuting attorney were present

II FINDINGS

There being no reason why judgment should not be pronounced the Court FINDS

2 1 CURRENT OFFENSE(S) The defendant was found guilty on 2/14/05
(Date)
by plea jury verdict bench trial of

COUNT	CRIME	RCW	DATE OF CRIME
01	RAPE OF A CHILD IN THE FIRST DEGREE	9A 44 073	8/1/2003 to 6/30/2004
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A 44 083	8/1/2003 to 6/30/2004

as charged in the Second Amended Information

The court finds that the Defendant is subject to sentencing under RCW 9 94A 712

- A special verdict/finding for use of **firearm** was returned on Count(s) _____
RCW 9 94A 602 510
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on
Count(s) _____ RCW 9 94A 602

39
SP

- A special verdict/finding of **sexual motivation** was returned on Count(s) _____
RCW 9 94A 835
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on
Count(s) _____ RCW 69 50 401 and
RCW 69 50 435 taking place in a school school bus within 1000 feet of the perimeter of a school
grounds or within 1000 feet of a school bus route stop designated by the school district or in a public
park public transit vehicle or public transit stop shelter or in or within 1000 feet of the perimeter of
a civic center designated as a drug free zone by a local government authority or in a public housing
project designated by a local governing authority as a drug free zone
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person
driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a
vehicle in a reckless manner and is therefore a violent offense RCW 9 94A 030
- This case involves kidnapping in the first degree kidnapping in the second degree or unlawful
imprisonment as defined in chapter 9A 40 RCW where the victim is a minor and the offender is not
the minor's parent RCW 9A 44 130
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s)
RCW 9 94A 607
- The crimes charged in Count(s) _____ is/are Domestic Violence
offense(s) as that term is defined in RCW 10 99 020
- A special verdict/finding that the defendant committed a crime involving the manufacture of
methamphetamine when a juvenile was present in or upon the premises of manufacture was
returned on Count(s) _____ RCW 9 94A RCW 69 50 401(a) RCW 69 50 440
- Current offenses encompassing the same criminal conduct and counting as one crime in determining
the offender score are Count(s) _____ RCW 9 94A 589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate
Judgment and Sentence
- Other current convictions listed under different cause numbers used in calculating the offender score
are (list offense and cause number) _____

2 2 CRIMINAL HISTORY (RCW 9 94A 525)

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult Juv	TYPE OF CRIME
1. No known felonies					

- Additional criminal history is attached in Appendix 2 2
- The defendant committed a current offense while on community placement (adds one point to score)
RCW 9 94A 525
- The court finds that the following prior convictions are one offense for purposes of determining the
offender score RCW 9 94A 525 _____
- The following prior convictions are not counted as points but as enhancements pursuant to
RCW 46 61 520 _____
- The State has moved to dismiss count(s)

2 3 SENTENCING DATA

COUNT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	#3	XII	93 MONTHS to 123 MONTHS			LIFE \$50000
02	#3	X	51 MONTHS to 68 MONTHS			LIFE \$50000

S)
20 to 160 months
67 to 89 months

(F) Firearm (D) Other deadly weapons (V) VUCSA in a protected zone (VH) Veh Hom See RCW 46 61 520

- Additional current offense sentencing data is attached in Appendix 2 3
- 2 4 EXCEPTIONAL SENTENCE Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) _____ Findings of fact and conclusions of law are attached in Appendix 2 4 The Prosecuting Attorney did did not recommend a similar sentence
- 2 5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS The court has considered the total amount owing the defendant's past present and future ability to pay legal financial obligations including the defendant's financial resources and the likelihood that the defendant's status will change The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein RCW 9 94A 750/753
- 2 6 For violent offenses most serious offenses or armed offenders recommended sentencing agreements or plea agreements are attached as follows _____ If no formal written plea agreement exists the agreement is as set forth in the Defendant's Statement on Plea of Guilty

III JUDGMENT

- 3 1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2 1 and Appendix 2 1
- 3 2 The Court DISMISSES Counts
 The defendant is found NOT GUILTY of Counts
- 3 3 There do do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range

IV SENTENCE AND ORDER

IT IS ORDERED

4 1 Defendant shall pay to the Clerk of this Court

\$ to be set	Restitution to be paid to _____ <input checked="" type="checkbox"/> Victim(s) and amounts to be set by separate court order	RCW 9 94A 750/753
\$110 00	Criminal filing fee	RCW 9 94A 505
\$500 00	Victim assessment	RCW 7 68 035
\$ _____	DV Penalty Assessment	Chapter 15 Laws of 2004
\$100 00	Collection of biological sample (for crimes committed on or after July 1 2002)	Chapter 289 Laws of 2002

\$ _____	Fees for court appointed attorney	RCW 9 94A 505/760/030
\$500 00	Fine	RCW 9A 20 021
\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9 94A 760
\$ _____	Crime lab fee	RCW 43 43 690
\$ _____	Witness costs	RCW 10 01 160 and RCW 2 40 010
Court costs including		RCW 9 94A 030 9 94A 505 9 94A 760 10 01 160 10 46 190
\$ _____	Sheriff service fees	RCW 10 01 160 and RCW 36 18 040
\$ _____	Jury demand fee	RCW 10 01 160 and RCW 10 46 190
\$ _____	Court appointed defense expert and other defense costs	RCW 9 94A 505 760 RCW 9 94A 030
\$ _____	Extradition costs	RCW 9 94A 505
\$ _____	Emergency response costs (Vehicular Assault Vehicular Homicide only \$1000 maximum) To _____ (List Law Enforcement Agency)	RCW 38 52 430
\$ _____	Other Costs for _____	RCW 9 94A 760

- The above financial obligations do not include all restitution or other legal financial obligations which may be set by later order of the court. An agreed restitution order may be entered RCW 9 94A 750/753. A restitution hearing shall be set by the prosecutor is scheduled for _____
- The Department of Corrections may immediately issue a Notice of Payroll Deduction RCW 9 94A 7602
- All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections commencing immediately unless the court specifically sets forth the rate here. Not less than \$ _____ per month commencing _____ RCW 9 94A 760
- The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested RCW 9 94A 760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit 500

West 8th Street Suite 50

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____ RCW 9 94A 760

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full at the rate applicable to civil judgments RCW 10 82 090 An award of costs on appeal against the defendant may be added to the total legal financial obligations RCW 10 73 160 The defendant shall pay the cost of services to collect unpaid legal financial obligations This is an annual fee which will be automatically renewed until financial obligations are completed RCW 9 94A 780 and RCW 36 18 190

4 2 DNA TESTING The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing The appropriate agency the county or Department of Corrections shall be responsible for obtaining the sample prior to the defendant's release from confinement RCW 43 43 754

HIV TESTING The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling RCW 70 24 340

4 3 The defendant shall not have contact with G T A (male _____ J M D (male _____ including but not limited to personal verbal telephonic electronic written or contact through a third party for 1.5 years (not to exceed the maximum statutory sentence)

Supplemental Domestic Violence Protection Order or Antiharassment Order attached as Form 4 3

4 4 OTHER _____

4 5 **CONFINEMENT OVER ONE YEAR** The defendant is sentenced as follows

(a) **CONFINEMENT** RCW 9 94A 589 Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections

_____ days/months on Count 01

_____ days/months on Count 02

Actual number of months of total confinement ordered is _____
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts see Section 2 3 Sentencing Data above)

All counts shall be served concurrently except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2 3 and except for the following counts which shall be served consecutively _____

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein

Confinement shall commence immediately unless otherwise set forth here _____

(b) **CONFINEMENT** 9 94A 712 The Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections

COUNT	Minimum Term	Maximum Term
01	144 months	Life
02	89 months	Life

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number RCW 9 94A 505

Credit for 86 days time served prior to this date is given said confinement being solely related to the crimes for which the defendant is being sentenced

4 6 COMMUNITY PLACEMENT is ordered on Counts _____ for _____ months

COMMUNITY CUSTODY for count(s) I + II sentenced under RCW 9 94A 712 is ordered for any period of time the Defendant is released from total confinement before the expiration of the maximum sentence

COMMUNITY CUSTODY is ordered on Counts _____ for a range from _____ to _____ months or for the period of earned release awarded pursuant to RCW 9 94A 728(1) and (2) whichever is longer and standard mandatory conditions are ordered [See RCW 9 94A 700 and 705 for community placement offenses which include serious violent offenses second degree assault any crime against a person with a deadly weapon finding and Chapter 69 50 or 69 52 RCW offenses not sentenced under RCW 9 94A 660 committed before July 1 2000 See RCW 9 94A 715 for community custody range offenses which include sex offenses not sentenced under RCW 9 94A 712 and violent offenses committed on or after July 1 2000 Use paragraph 4 7 to impose community custody following work ethic camp]

On or after July 1 2003 DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories or DOC classifies the defendant in the C or D risk categories and at least one of the following apply

a) the defendant committed a current or prior		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9 94A 411)
iv) Domestic violence offense (RCW 10 99 020)		v) Residential burglary offense
vi) Offense for manufacture delivery or possession with intent to deliver methamphetamine		
vii) Offense for delivery of a controlled substance to a minor or attempt solicitation or conspiracy (vi vii)		
b) the conditions of community placement or community custody include chemical dependency treatment		
c) the defendant is subject to supervision under the interstate compact agreement RCW 9 94A 745		

While on community placement or community custody the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed (2) work at Department of Corrections approved education employment and/or community service (3) not consume controlled substances except pursuant to lawfully issued prescriptions (4) not unlawfully possess controlled substances while in community custody (5) pay supervision fees as determined by the Department of Corrections (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement or community custody Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence Violation of community custody imposed for a sex offense may result in additional confinement The defendant's conditions of Community Placement/Community Custody include the following

- The defendant shall not consume any alcohol
- Defendant shall have no contact with _____

- Defendant shall remain within outside of a specified geographical boundary to wit as determined by the Department of Corrections
- For Sentences imposed under RCW 9 94A 712 other conditions may be imposed during community custody by the Indeterminate Sentence Review Board or in an emergency by the Department of Corrections Emergency conditions shall not remain in effect longer than seven working days unless approved by the Indeterminate Sentence Review Board pursuant to law RCW 9 94A 713
- Other conditions may be imposed by the court or Department during community custody or are set forth here
-
- The conditions of community supervision/community custody shall begin immediately or upon the defendant s release from confinement unless otherwise set forth here
-
- Defendant shall not violate any federal state or local criminal laws and shall not be in the company of any person known by him/her to be violating such laws
- Defendant shall not commit any like offenses
- Defendant shall notify his/her community corrections officer within forty eight (48) hours of any arrest or citation
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons or presently on probation community supervision/community custody or parole for any offense juvenile or adult except immediate family Additionally the defendant shall not initiate or permit communication or contact with the following persons
-
- Defendant shall not have any contact with other participants in the crime either directly or indirectly
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers
- Defendant shall not possess use or deliver drugs prohibited by the Uniform Controlled Substances Act or any legend drugs except by lawful prescription The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed
- Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales pagers cellular phones police scanners and hand held electronic scheduling and data storage devices
- Defendant shall not frequent known drug activity areas or residences
- Defendant shall not use or possess alcoholic beverages at all to excess
- The defendant will will not be required to take monitored antabuse per his/her community corrections officer s direction at his/her own expense as prescribed by a physician
- Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item

- Defendant shall undergo an evaluation for treatment for substance abuse mental health anger management treatment and fully comply with all recommended treatment
- Defendant shall enter into cooperate with fully attend and successfully complete all in patient and outpatient phases of a substance abuse mental health anger management treatment program as established by the community corrections officer and/or the treatment facility
- Based upon the Pre Sentence Report the court finds reasonable grounds to exist to believe the defendant is a mentally ill person and this condition was likely to have influenced the offense Accordingly the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment Further the court may order additional evaluations at a later date if deemed appropriate
- Treatment shall be at the defendant s expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it
- Defendant shall submit to urine breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer
- Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs
- Defendant shall not wear or display any clothing apparel insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer
- Defendant shall not possess any gang paraphernalia as determined by the community corrections officer
- Defendant shall not use or display any names nicknames or monikers that are associated with gangs
- Defendant shall comply with a curfew the hours of which are established by the community corrections officer
- Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer
- Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer
- Defendant shall not accept employment in the following field(s) _____
- Defendant shall not possess burglary tools
- Defendant s privilege to operate a motor vehicle is suspended/revoked for a period of one year two years if the defendant is being sentenced for a vehicular homicide
- Defendant shall not operate a motor vehicle without a valid driver s license and proof of liability insurance in his/her possession
- Defendant shall not possess a checkbook or checking account
- Defendant shall not possess any type of access device or P I N used to withdraw funds from an automated teller machine
- Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections
- Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions

- Defendant shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.
- Defendant shall not have any contact with minors. Minors mean persons under the age of 18 years.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all inpatient and outpatient phases of a sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Cooperate with means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.
- Defendant shall submit to periodic polygraph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody.
- Defendant shall submit to periodic plethysmograph examinations at the direction of his/her community corrections officer to ensure compliance with the conditions of community placement/custody.
- Defendant shall not possess or use any pornographic material or equipment of any kind and shall not frequent establishments that provide such materials for view or sale.
- Defendant shall sign necessary release of information documents as required by the Department of Corrections.
- Defendant shall adhere to the following additional crime related prohibitions or conditions of community placement/community custody: As listed in the attached Department of Corrections Appendix F and the Prosecutor's Pretrial Offer Appendix A.

4.7 The Bail or release conditions previously imposed are hereby exonerated and the clerk shall disburse it to the appropriate person(s).

4.8 This case shall not be placed on inactive or mail in status until all financial obligations are paid in full.

4.9 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the Department of Corrections:

4.10 Other

V NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT**. Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100, RCW 10.73.090.

5.2 **LENGTH OF SUPERVISION**. For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender for the purposes of the offender's compliance with payment of the legal financial obligations until the obligation is completely satisfied, regardless of the statutory maximum for the crime, RCW 9.94A.760 and RCW 9.94A.505(5).

5 3 **NOTICE OF INCOME WITHHOLDING ACTION** If the court has not ordered an immediate notice of payroll deduction in Section 4 1 you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month RCW 9 94A 7602 Other income withholding action under RCW 9 94A may be taken without further notice RCW 9 94A 7606

5 4 **RESTITUTION HEARING**

Defendant waives any right to be present at any restitution hearing (sign initials) _____

5 5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation RCW 9 94A 634

5 6 **FIREARMS** You must immediately surrender any concealed pistol license and you may not own use or possess any firearm unless your right to do so is restored by a court of record (The court clerk shall forward a copy of the defendant s driver s license identicard or comparable identification to the Department of Licensing along with the date of conviction or commitment) RCW 9 41 040 9 41 047

5 7 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used The court clerk is directed to immediately forward an Abstract of Court Record to the Department of Licensing who must revoke the defendant s driver s licenses RCW 46 20 285

Cross off if not applicable

5 8 **SEX AND KIDNAPPING OFFENDER REGISTRATION** RCW 9A 44 130 10 01 200 Because this crime involves a sex offense or kidnapping offense (e g kidnapping in the first degree kidnapping in the second degree or unlawful imprisonment as defined in Chapter 9A 40 RCW where the victim is a minor and you are not the minor s parent) you are required to register with the sheriff of the county of the state of Washington where you reside If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington you must register with the sheriff of the county of your school place of employment or vocation You must register immediately upon being sentenced unless you are in custody in which case you must register within 24 hours of your release

If you leave the state following your sentencing or release from custody but later move back to Washington you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state s Department of Corrections If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington carry out a vocation in Washington or attend school in Washington you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state or within 24 hours after doing so if you are under the jurisdiction of this state s Department of Corrections

If you change your residence within a county you must send written notice of your change of residence to the sheriff within 72 hours of moving If you change your residence to a new county within this state you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving If you move out of Washington state you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state

If you are a resident of Washington and you are admitted to a public or private institution of higher education you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution whichever is earlier If you become employed at a public or private institution of higher education you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution whichever is earlier If your enrollment or employment at a public or private institution of higher education is terminated you are required to notify the sheriff for the county of your residence of your termination of enrollment or

employment within 10 days of such termination

Even if you lack a fixed residence you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4 24 550.

If you move to another state or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing a residence or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you apply for a name change you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order. RCW 9A 44 130(7)

5 9 Persistent Offense

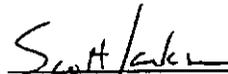
- The crime(s) in count(s) I + II is/are most serious offense(s). Upon a third conviction of a most serious offense the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind such as parole or community custody. RCW 9 94A 030 (28 & 32(a)) 9 94A 505
- The crime(s) in count(s) I + D is/are one of the listed offenses in RCW 9 94A 030 (32)(b). Upon a second conviction of one of these listed offenses the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind such as parole or community custody.

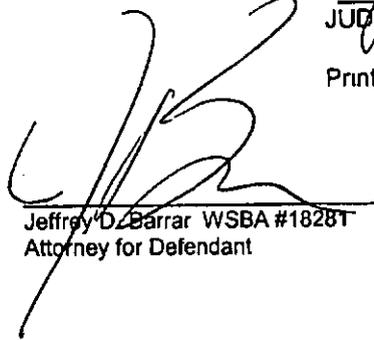
5 10 OTHER _____

DONE in Open Court and in the presence of the defendant this date 5/6/05


JUDGE OF THE SUPERIOR COURT

Print Name John Nichols


Scott Jackson WSBA #16330
Deputy Prosecuting Attorney


Jeffrey D. Barrar WSBA #1828T
Attorney for Defendant


DAVID WAYNE EVANS
Defendant

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON)	Cause No 04-1-01929 0
)	
Plaintiff)	JUDGEMENT AND SENTENCE (FELONY)
v)	APPENDIX F
EVANS David Wayne)	ADDITIONAL CONDITIONS OF SENTENCE
Defendant)	
)	
DOC No 879762)	

CRIME RELATED PROHIBITIONS

STANDARD CONDITIONS

You shall report to and be available for contact with the assigned Community Corrections Officer as directed

- 1 You shall work at a Department of Corrections approved education program employment Program and/or community service program
- 3 You shall not consume controlled substances except pursuant to lawfully issued prescriptions
- 4 If in community custody you shall not unlawfully possess controlled substances
- 5 You are to pay a community placement/supervision fee as determined by the Department of Corrections

SPECIAL CONDITIONS

- 1 You shall not have any direct or indirect contact with the victim, including, but not limited to personal, verbal, telephonic, written or through a third party without prior written permission from your Community Corrections Officer therapist, and the Court, after an appropriate hearing
- 2 You shall not loiter in parks, arcades, malls or any area routinely used by minors as areas of play/recreation.
- 3 You shall not enter or remain in areas where children are known to congregate
- 4 You shall not have any contact with minors This provision shall not be changed without prior written approval of your Community Corrections Officer, therapist and the Court, after an appropriate hearing.
- 5 You shall remain within or outside of a specified geographical boundary as ordered by your Community Corrections Officer
- 6 Your residence location and living arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not change without the knowledge and permission of the Officer
- 7 Your employment location and arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not be changed without the knowledge and permission of your Officer
- 8 You shall not possess use or own firearms, ammunition or deadly weapons Your Community Corrections Officer shall determine what those deadly weapons are
- 9 You shall not possess or consume alcohol
- 10 You shall not possess use, or deliver drugs prohibited by the Uniform Controlled Substance Act, except by lawful prescription
- 11 You shall submit to urine, breath, or other screening whenever requested to do so by the program staff or your Community Corrections Officer
- 12 You shall not possess any paraphernalia for the use of ingestion of controlled substances
- 13 You shall not be in any place where alcoholic beverages are the primary sale item

- 14 You shall take antabuse per your Community Corrections Officer s direction, if so ordered
- 15 You shall attend and successfully complete all inpatient and/or outpatient phases of an alcohol/drug/ mental health/anger management treatment program as established by your Community Corrections Officer and/or treatment facility if available
- 16 You shall participate in sexual deviancy treatment as directed by your Community Corrections Officer and you shall not terminate treatment until successfully discharged by the therapist
- 17 At the request of your Community Corrections Officer and at your own expense, you shall submit to periodic polygraph examinations Said examinations will be used to ensure compliance with the conditions of the Community Corrections Officer
- 18 You shall submit to plethysmograph examinations at your own expense at the direction of your Community Corrections Officer
- 19 You shall register as a sex offender with the shenff's office in the county of residence as defined by RCW9 94A 030
- 20 You shall not possess/use pomographic material or equipment of any kind
- 21 You shall sign necessary release of information documents as required by the Department of Corrections
- 22 You shall not associate with people known to be on probation, parole or community placement
- 23 You shall submit to HIV/DNA testing as required by law

AFFIRMATIVE CONDUCT REQUIREMENTS (First Time Offender Warver Only)

May 6, 2005
DATE

CN/sy/09 130 rtf


JUDGE CLARK COUNTY SUPERIOR COURT

04/29/2005
Page 3 of 3

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S3

MAY 06 2005

JdAnne McBride Clerk Clark Co

2
3
4
5
6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF CLARK

8 STATE OF WASHINGTON

9 Plaintiff

10 v

11 DAVID WAYNE EVANS

12 Defendant

13 Date of Birth

14 SID # WA

No 04 1 01929 0

FINDINGS OF FACT CONCLUSIONS OF
LAW AND JUDGMENT AND SENTENCE
(MISDEMEANOR)

EXECUTION SUSPENDED

IMPOSITION DEFERRED

05 9 02789 3

15 THIS MATTER having come on regularly for sentencing on the 6 day of May
16 2005 the defendant being present and represented by his/her undersigned attorney with the
17 State being represented by the undersigned Deputy Prosecuting Attorney and the defendant
18 having previously entered valid pleas of guilty to been convicted at jury bench trial
of the crime(s) of

19

COUNT	CRIME	RCW	DATE OF CRIME
03	COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES	9 68A 090	8/1/2003 to 6/30/2004

20
21

22 as charged in the Second Amended Information and the court having afforded each counsel
23 the right to speak having asked the defendant if he/she wished to make a statement in
24 mitigation of punishment and having heard and considered the arguments presented now
25 therefore the Court makes the following

26
27 FINDINGS CONCLUSIONS AND JUDGMENT AND
SENTENCE (MISDEMEANOR) 1
(Rev 10/16/98)

CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN STREET PO BOX 5000
VANCOUVER WASHINGTON 98666 5000
(360) 397 2261 (OFFICE)
(360) 397 2230 (FAX)

40
SR

I FINDINGS OF FACT

- 1 The defendant is guilty of the above listed crime(s)
- 2 The maximum terms for the above crimes are

COUNT	TERM
03	1 YEAR \$5000

3 The defendant has served _____ days of confinement prior to sentencing said confinement being solely related to the crimes for which the defendant is being sentenced

4 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS** The Court has considered the defendant's past present and future ability to pay legal financial obligations including the defendant's financial resources and the likelihood that the defendant's status will change The Court finds that the defendant has does not have the ability to pay legal financial obligations as imposed below

5 The offense charged in Count(s) _____ is/are Domestic Violence offense(s) as that term is defined in RCW 10 99 020(3)

6 The State has moved to dismiss Count(s)

II CONCLUSIONS OF LAW

- 1 The Court has jurisdiction over the defendant and the subject matter
- 2 The defendant is GUILTY of the crime(s) set forth above
- 3 The Court DISMISSES Counts

III JUDGMENT AND SENTENCE

The court having determined that no legal cause exists to show why sentence should not be pronounced now therefore

IT IS HEREBY ORDERED ADJUDGED AND DECREED AS FOLLOWS

1 The defendant is sentenced to the Clark County Jail as follows

365 days/months on Count 03

said sentences to run concurrently consecutively to each other

a 365 days of the sentence shall be suspended deferred for 48 months on the conditions listed in Appendix A

b Defendant shall serve a total of 10 days of the sentence as follows

(a) 10 days credit for time served

(b) _____ days/months of additional total confinement in the Clark County Jail

(c) _____ days of partial confinement if eligible and approved may be served as

_____ days of work or education release

_____ days of Work Crew

If in custody the defendant shall be screened while in custody A map with specific instructions on when and where to report has been provided to the defendant that contains the escape warning

(d) _____ days of community service (8 hours = 1 day)

(e) The defendant's term of confinement is to commence immediately unless otherwise indicated _____

The sentence imposed herein shall be served consecutively to any sentences which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein

2 The defendant shall pay the following to the Clerk of the Superior Court

\$ _____ Restitution To be Paid to _____

Victim(s) and amounts to be set by separate court order The addresses of the victims may be withheld and provided confidentially to the Clerk

\$ _____ Victim's Assessment RCW 7 68 035

\$ _____ DV Penalty Assessment Chapter 15 Laws of 2004

\$110 00 Criminal Filing Fee (Court Costs)

\$ _____ Witness Costs RCW 10 01 160 and 2 40 010

\$ _____ Sheriff's Service Fees RCW 10 01 160 and 36 18 040

\$ _____ Jury Fees RCW 10 01 160 and 10 46 190

\$ _____ Sheriff Fees for service of warrant (\$100 max) RCW 10 01 160

\$ _____ Appointed Attorney Fees with credit for \$ _____ prepaid to Indigent Defense Cost Recovery

\$ _____ Court Appointed Defense Investigator/Expert and other defense costs

\$500 00 Fine RCW 9A 20 021

\$ _____ Drug Fund Contribution Fund # 1015 1017 (TF) To be paid within 2 years

\$ _____ Crime Lab Fee RCW 43 43 690

\$ _____ Extradition Costs

\$ _____ Costs for Emergency Response (DWI Offenses \$ 1 000 Maximum RCW 38 52)

Responding Agencies _____

\$ _____ Other Costs for _____

\$ _____ Costs of Incarceration The Court specifically finds that the defendant does does not have the means to pay for the cost of incarceration at the rate of \$ 50 00 per day

Payment shall not be less than \$ _____ per month or if left blank the amount shall be set by the Community Corrections Officer and shall be paid in full prior to expiration of the suspended/deferred sentence Payments shall commence on _____ or as set by the Department of Corrections All payments shall be in accordance with the policies of the Clerk

3 Pursuant to RCW 10 82 090 the financial obligations imposed in this Judgment shall bear interest from the date of the Judgment until payment in full at the rate applicable to civil judgments

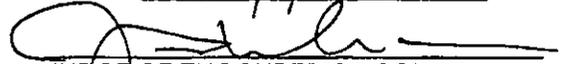
4 The defendant shall pay a monthly community supervision fee to the Department of Corrections The amount manner and due dates of the payments shall be as established by the policies and procedures of Department of Corrections and state law

5 FIREARMS You must immediately surrender any concealed pistol license and you may not own use or possess any firearm unless your right to do so is restored by a court of record (The court clerk shall forward a copy of the defendant's driver's license identicard or comparable identification to the Department of Licensing along with the date of conviction or commitment) RCW 9 41 040 9 41 047

6 The defendant shall pay the costs of services to collect unpaid legal financial obligations RCW 36 18 190

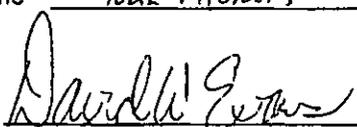
7 The bail or release conditions previously imposed are hereby exonerated and the Clerk shall disburse it to the appropriate person

DONE in Open Court and in the presence of the defendant this date 5/6/05


JUDGE OF THE SUPERIOR COURT
Print Name John Nichols


Scott Jackson WSBA #16330
Deputy Prosecuting Attorney


Jeffrey D. Barrar WSBA #18281
Attorney for Defendant


DAVID WAYNE EVANS
Defendant

APPENDIX A'

STATE OF WASHINGTON V DAVID WAYNE EVANS

CLARK COUNTY SUPERIOR COURT CAUSE NUMBER 04 1 01929 0

CONDITIONS OF PROBATION

GENERAL CONDITIONS

- 1 LAW Defendant shall not violate any federal state or local criminal laws and shall not be in the company of any person known by him to be violating such laws
- 2 Defendant shall not commit any like offenses
- 3 Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation
- 4 PROBATION
 - a Defendant shall be under the supervision of a Community Corrections Officer of the Department of Corrections and shall follow the conditions in this order and the rules imposed by the probation officer/Department of Corrections Defendant shall report in person to the probation officer before 4 00 p m on the first business day after defendant s release and shall thereafter fully and truthfully report to such officer as directed
 - b The defendant shall be required to have face to face in person contact with his Community Corrections Officer and this shall occur a minimum of once per month
- 5 RESIDENCE Defendant shall not move from his present address unless given prior permission by the court or the Community Corrections Officer
- 6 EMPLOYMENT Defendant shall devote not less than forty (40) hours per week to gainful employment or education or shall be actively seeking full time employment
- 7 Defendant shall not accept employment in the following fields

- 8 Defendant shall notify the Court or his/her Community Corrections Officer in advance of any change in his/her employment
- 9 Defendant shall personally obtain written permission from his/her Community Corrections Officer prior to leaving the County permanently

1 **SPECIAL CONDITIONS**

- 2 1 **EVALUATION** Defendant shall undergo an evaluation for treatment for alcohol
3 drug mental health anger management treatment and fully comply with
4 all recommended treatment
- 5 2 **TREATMENT PROGRAM** Defendant shall enter into cooperate with fully attend
6 and successfully complete all in patient and outpatient phases of an alcohol
7 drug mental health anger management treatment program as established
8 by the Community Corrections Officer and/or the treatment facility
- 9 3 Treatment shall be at the defendant s expense and he/she shall keep his account
10 current if it is determined that the defendant is financially able to afford it
- 11 4 **ALCOHOL** Defendant shall not possess or consume alcoholic beverages at all
12 to excess The defendant will will not be required to submit to a program
13 of monitored antabuse Defendant shall not be in any place where alcoholic
14 beverages are sold by the drnk for consumption or are the primary sale item
15 Defendant shall submit to random unne breath and/or other testing to detect
16 usage of alcohol as requested by his/her Community Corrections Officer
- 17 5 **CONTROLLED SUBSTANCES** Except by lawful prescription defendant shall not
18 possess use or deliver any item prohibited by the Uniform Controlled Substances
19 Act The defendant shall notify his Community Corrections Officer on the next
20 working day when a controlled substance has been medically prescribed
21 Defendant shall submit to random urine breath and/or other testing to detect
22 usage of drugs as requested by his Community Corrections Officer
- 23 6 Defendant shall not possess or use any paraphernalia that can be used for the
24 ingestion or processing of controlled substances or that can be used to facilitate
25 the sale or transfer of controlled substances including scales pagers cellular
26 phones police scanners or hand held electronic scheduling and data storage
27 devices Defendant shall not frequent known drug activity areas or residences
- 7 Defendant shall not have any contact with other participants in the crime either
directly or indirectly
- 8 **GUNS AND WEAPONS** Defendant shall not possess or use any firearm deadly
weapon or ammunition except for military duty
- 9 **ASSOCIATION** Defendant shall not initiate or permit communication or contact
with persons known to him/her to be convicted felons or presently on probation
community supervision or parole for any offense juvenile or adult except
immediate family Additionally the defendant shall not initiate or permit
communication or contact with the following persons
-
- 10 Defendant shall not initiate or permit communication or contact with persons
known to him/her to be substance abusers

11 **VICTIM CONTACT**

The defendant shall not have any contact with the victim(s) G T A (male DOB) and J M D (male DOB) including but not limited to personal verbal written electronic telephonic or through a third person

This condition is for the statutory maximum sentence of 48 ~~months/years~~

DOMESTIC VIOLENCE VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10 99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST ANY ASSAULT DRIVE BY SHOOTING OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY

A Domestic Violence Protection Order is separately entered and the clerk of the court shall forward a copy of the Domestic Violence order on or before the next judicial day following filing to the Clark County Sheriff s Department

HARASSMENT VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A 46 RCW AND WILL SUBJECT A VIOLATOR TO ARREST

A Harassment No Contact Order is separately entered and the clerk of the court shall forward a certified copy of the order to the victim The Clerk shall contact the Clark County Prosecuting Attorney s Victim/ Witness unit to obtain the address for mailing

12 Defendant shall not possess burglary tools

13 Defendant s privilege to operate a motor vehicle is suspended/revoked for a period of _____

14 Defendant shall not operate a motor vehicle without a valid driver s license and proof of liability insurance in his/her possession

15 Defendant shall not go to _____

16 Defendant is required to undergo HIV testing which is mandated by law and covered by a separate written order of this Court

17 Defendant shall not associate with any persons known to be gang members or associated with gangs

18 Defendant shall not wear or display any clothing apparel insignia or emblems that are associated with or represent gang affiliation or membership as determined by the Community Corrections Officer

19 Defendant shall not possess any gang paraphernalia as determined by the Community Corrections Officer

20 Defendant shall not use any names nicknames or monikers that are associated with gangs

21 Defendant shall comply with a curfew the hours of which are established by the Community Corrections Officer

22 Other

IDENTIFICATION OF DEFENDANT

DAVID WAYNE EVANS

SID No WA (If no SID take fingerprint card for State Patrol)		Date of Birth	
Driver License No		Driver License State	
FBI No 575924EB1		Local ID No (CFN) 141645	
SSN		Corrections No	
PCN No _____		Other _____	
Alias name SSN DOB			
Race W		Ethnicity	Sex M

FINDINGS CONCLUSIONS AND JUDGMENT AND
SENTENCE (MISDEMEANOR) 8
(Rev 10/16/98)

CLARK COUNTY PROSECUTING ATTORNEY
1200 FRANKLIN STREET PO BOX 5000
VANCOUVER WASHINGTON 98666 5000
(360) 397 2261 (OFFICE)
(360) 397 2230 (FAX)

**APPENDIX A
(9 94A.712)**

For the following crimes which occurred after September 1 2001 Rape I Rape II Rape Child I Rape Child II Child Molest I Indecent Liberties (w/force) and the following crimes if charged with Sexual Motivation Kidnap I Kidnap II Assault I Assault II Assault Child I or an attempt to commit any of the above

STATE v DAVID WAYNE EVANS

CAUSE NUMBER 04 1-01929-0

DATE January 24, 2005

PROSECUTOR Scott Jackson

**Should the defendant wish to accept the following offer,
this form shall be attached to the Statement of The
Defendant of Plea of Guilty and Judgment and Sentence**

THE FOLLOWING IS THE STIPULATION OF PROSECUTION AND DEFENSE ATTORNEY

(1) Should the Defendant plead guilty to

**Count I RAPE OF A CHILD IN FIRST DEGREE (W/ABUSE OF TRUST)
Count II CHILD MOLEST IN FIRST DEGREE (W/MULTIPLE OCCASIONS
OVER PROLONGED PERIOD OF TIME & ABUSE OF TRUST)
Count III COMMUNICATING WITH A MINOR FOR AN IMMORAL PURPOSE**

PRETRIAL OFFER 1

Revised January 25 2005

	OFFENDER SCORE	SERIOUSNESS LEVEL	MINIMUM STANDARD RANGE SENTENCE	MAXIMUM TERM SENTENCE
Count 1	3	XII	120 - 160 Months	Life
Count 2	3	X	67 - 89 Months	Life
Count 3	N/A	Unranked	0 - 12 Months	

On Counts 1 & 2 the defendant shall also be sentenced to Community Custody under the supervision of the Department of Corrections and the ISRB for any period of time the person is released from confinement before the expiration of the maximum sentence. Count 3 has 2 years of supervision.

(2) then the State and the defense stipulate that the sentence shall be

x The State shall remain free to recommend any sentence but the Defense may argue for SSOSA with the following stipulated preconditions

- A) The Court finds the defendant amenable to treatment and safe to be at large after a state licensed sexual offender treatment evaluation which shall include in addition to the requirements of RCW 9 94A 670(3) the full polygraph report (on the issue of full disclosure and other child victims) A plethysmograph may be included if requested by the evaluator Failure to provide a full disclosure polygraph will result in the State exercising its right pursuant to RCW 9 94A 670(4) to demand a second evaluation.
- B) Defense shall provide to the Prosecutor's Office no later than 7 days prior to sentencing
 - a complete SSOSA evaluation
 - the full polygraph report
 - pre- and post-test polygraph interview
 - the sexual history questionnaire and responses
 - any and all other documents as requested by the State
- C) The defendant shall sign the attached Waiver of Confidentiality Regarding Sex Offender Evaluation at the time of plea of guilty
- D) If the SSOSA option is used the parties stipulate to 114 months of the above-listed standard range in prison suspended upon successful entry and completion of all phases of a state licensed sex offender treatment program to be entered into by the sentencing date if out of custody or within 30 days of release from custody
- E) 180 days of local jail to be served

PRETRIAL OFFER - 2

Revised January 23 2005

- straight time
 work release (if qualified and accepted)

F) The State reserves the right pursuant to RCW 9 94A 670(4) to request a second SSOSA evaluation. If the State makes such a request the defense stipulates such evaluation shall include a full disclosure polygraph.

G) Court Costs	\$ 110 00
Victim's Comp Fee	\$ 500 00
Court Appointed Attorney Fee	\$ TO BE SET
Court Appointed Investigator Fee	\$ TO BE SET
Restitution for Victim	\$ TO BE SET
Rape Exam (if applicable)	\$ TO BE SET
SSOSA Evaluation Fee	\$ TO BE SET
Fine	\$ 500 00
Sheriff's Office Service Fee	\$ TO BE SET
DNA Sample Fee	\$100 00
Other _____	\$
_____	\$

H) The Defendant shall follow all conditions as set by the Pre-Sentence Investigator and the SSOSA evaluator that do not conflict with conditions of supervision/community custody as set forth herein.

I) Should additional criminal history be discovered prior to sentencing the Defendant stipulates to the higher standard ranges and the alteration to this recommendation.

(3) Should the defendant be placed on any release conditions prior to sentencing and violate any of those conditions then the State's above offer is null and void and the State shall be free to make any recommendation.

(4) Defense stipulates to a waiver of RCW 9 94A 753 for the setting of restitution and waives the defendant's presence at a restitution hearing. The hearing shall consist of documents, affidavits, and argument only pursuant to ER 1101.

(5) By accepting this offer the defendant stipulates to the conditions as set forth herein of the conditions of sentence/community custody and/or supervision.

PRETRIAL OFFER 3

(6) This stipulated agreement and recommendation is binding on the Prosecuting Attorney the Defense Attorney and the defendant only and shall not bind any investigating officer

(7) The defense shall only use the Statement of Defendant on Plea of Guilty form as provided by the Child Abuse Intervention Center

STIPULATED CONDITIONS OF SENTENCE/COMMUNITY CUSTODY

- 1 You shall commit no law violations
- 2 You shall report to and be available for contact with the assigned community corrections officer as directed
- 3 You shall work at a Department of Corrections approved education program employment program and/or community service program as directed.
- 4 You shall not possess consume or deliver controlled substances except pursuant to a lawfully issued prescription
- 5 You shall pay a community placement/supervision fee as determined by the Department of Corrections
- 6 You shall not have any direct or indirect contact with the victims including but not limited to personal verbal telephonic written or through a third person without prior written permission from his community corrections officer his therapist the prosecuting attorney and the court only after an appropriate hearing This condition is for the statutory maximum sentence of Life and shall also apply during any incarceration

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10 99 RCW AND WILL SUBJECT THE VIOLATOR TO ARREST ANY ASSAULT OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY

- 7 You shall not loiter enter or remain in parks arcades malls schools or any area routinely used by minors or where they are known to congregate
- 8 You shall not have any contact with minors This provision begins at time of sentencing This provision shall not be changed without prior written approval by the community corrections officer the therapist the prosecuting attorney and the court after an appropriate hearing
- 9 You shall remain within or outside of a specified geographical boundary as ordered by your community corrections officer

PRETRIAL OFFER 5

Revised January 25 2005

- 10 Your residence location and living arrangements shall be subject to the prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer
- 11 Your employment locations and arrangements shall be subject to prior approval of your community corrections officer and shall not be changed without the prior knowledge and permission of the officer
- 12 You shall not possess use or own any firearms ammunition or deadly weapon Your community corrections officer shall determine what those deadly weapons are
- 13 You shall not possess or consume alcohol
- 14 You shall submit to urine breath or other screening whenever requested to do so by the program staff or your community corrections officer
- 15 You shall not possess any paraphernalia for the use of controlled substances
- 16 You shall not be in any place where alcoholic beverages are the primary sale item
- 17 You shall take antabuse per community corrections officer's direction
- 18 You shall attend an evaluation for abuse of drugs alcohol mental health anger management or parenting and shall attend and successfully complete all phases of any recommended treatment as established by the community corrections officers and/or treatment facility
- 19 You shall participate in Sexual Offender Treatment with a state certified sex offender therapist as directed by your community corrections officer and you shall not terminate nor transfer your treatment provider without prior approval of the therapist your community corrections officer the Prosecuting Attorney and the court after an appropriate hearing
- 20 During the time you are under order of the court you shall at your own expense submit to polygraph examinations at the request of the Community Corrections Order and/or the Prosecuting Attorneys office (but in no event less than twice yearly) Copies shall be provided to the Prosecuting Attorneys office upon request Such exams will be used to ensure compliance with the conditions of community supervision/placement and the results of the polygraph examination can be used by the State in revocation hearings

PRETRIAL OFFER - 6

Revised January 25 2005

- 21 You shall submit to plethysmography exams at your own expense at the direction of the community corrections officer and copies shall be provided to the Prosecutor's Office upon request
- 22 You shall register as a sex offender with the County Sheriff's Office in the county of residence as defined by RCW 9 94A 030
- 23 You shall not use/possess pornographic material or equipment of any kind
- 24 You shall sign necessary release information documents as required by Department of Corrections or the Prosecuting Attorney to monitor your compliance with any of the conditions of this Judgment and Sentence
- 25 You shall have no association with persons known to be on probation parole or community placement
- 26 If you are in the SSOSA program you shall enter into sex offender treatment with a State certified provider within thirty (30) days of sentencing or release from custody whichever comes first
- 27 If you are in the SSOSA program your treatment plan shall include polygraph exams as set forth in condition number 19 Your treatment provider and/or the defendant will be required to provide quarterly reports on March 1 June 1 September 1 and December 1 (including the polygraph results) of your compliance with the conditions of treatment These reports shall go to the community corrections officer and the prosecuting attorneys office Failure to comply with this provision shall be grounds for the court to mandate transfer of the patient to a different treatment provider

PRETRIAL OFFER 7

Revised January 25 2005

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON)	Cause No.: 04-1-01929-0
)	
Plaintiff)	JUDGEMENT AND SENTENCE (FELONY)
v.)	APPENDIX F
EVANS, David Wayne)	ADDITIONAL CONDITIONS OF SENTENCE
Defendant)	
)	
DOC No. 879762)	

CRIME RELATED PROHIBITIONS:

STANDARD CONDITIONS:

You shall report to and be available for contact with the assigned Community Corrections Officer as directed.

1. You shall work at a Department of Corrections' approved education program, employment Program, and/or community service program.
3. You shall not consume controlled substances except pursuant to lawfully issued prescriptions.
4. If in community custody, you shall not unlawfully possess controlled substances.
5. You are to pay a community placement/supervision fee as determined by the Department of Corrections.

SPECIAL CONDITIONS:

1. You shall not have any direct or indirect contact with the victim, including, but not limited to, personal, verbal, telephonic, written or through a third party without prior written permission from your Community Corrections Officer, therapist, and the Court, after an appropriate hearing.
2. You shall not loiter in parks, arcades, malls or any area routinely used by minors as areas of play/recreation.
3. You shall not enter or remain in areas where children are known to congregate.
4. You shall not have any contact with minors. This provision shall not be changed without prior written approval of your Community Corrections Officer, therapist and the Court, after an appropriate hearing.
5. You shall remain within or outside of a specified geographical boundary as ordered by your Community Corrections Officer.
6. Your residence location and living arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not change without the knowledge and permission of the Officer.
7. Your employment location and arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not be changed without the knowledge and permission of your Officer.
8. You shall not possess, use or own firearms, ammunition or deadly weapons. Your Community Corrections Officer shall determine what those deadly weapons are.
9. You shall not possess or consume alcohol.
10. You shall not possess, use, or deliver drugs prohibited by the Uniform Controlled Substance Act, except by lawful prescription.
11. You shall submit to urine, breath, or other screening whenever requested to do so by the program staff or your Community Corrections Officer.
12. You shall not possess any paraphernalia for the use of ingestion of controlled substances.
13. You shall not be in any place where alcoholic beverages are the primary sale item.

14. You shall take antabuse per your Community Corrections Officer's direction, if so ordered.
15. You shall attend and successfully complete all inpatient and/or outpatient phases of an alcohol/drug/mental health/anger management treatment program as established by your Community Corrections Officer and/or treatment facility, if available.
16. You shall participate in sexual deviancy treatment as directed by your Community Corrections Officer and you shall not terminate treatment until successfully discharged by the therapist.
17. At the request of your Community Corrections Officer, and at your own expense, you shall submit to periodic polygraph examinations. Said examinations will be used to ensure compliance with the conditions of the Community Corrections Officer.
18. You shall submit to plethysmograph examinations, at your own expense, at the direction of your Community Corrections Officer.
19. You shall register as a sex offender with the sheriff's office in the county of residence as defined by RCW9.94A.030.
20. You shall not possess/use pornographic material or equipment of any kind.
21. You shall sign necessary release of information documents as required by the Department of Corrections.
22. You shall not associate with people known to be on probation, parole, or community placement.
23. You shall submit to HIV/DNA testing as required by law.

AFFIRMATIVE CONDUCT REQUIREMENTS: (First Time Offender Waiver Only)

DATE

JUDGE, CLARK COUNTY SUPERIOR COURT

CN/sy/09-130.rf

04/29/2005
Page 3 of 3

SUPERIOR COURT OF WASHINGTON COUNTY OF CLARK

STATE OF WASHINGTON Plaintiff

NO 04 1 01929 0

v

DAVID WAYNE EVANS

**WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS**

Defendant

SID WA
DOB

THE STATE OF WASHINGTON to the Sheriff of Clark County Washington and the State of Washington Department of Corrections Officers in charge of correctional facilities of the State of Washington

GREETING

WHEREAS the above named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of

COUNT	CRIME	RCW	DATE OF CRIME
01	RAPE OF A CHILD IN THE FIRST DEGREE	9A 44 073	8/1/2003 to 6/30/2004
02	CHILD MOLESTATION IN THE FIRST DEGREE	9A 44 083	8/1/2003 to 6/30/2004

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington Department of Corrections as shall be designated by the State of Washington Department of Corrections pursuant to RCW 72 13 all of which appears of record a certified copy of said judgment being endorsed hereon and made a part hereof

NOW THIS IS TO COMMAND YOU said Sheriff to detain the defendant until called for by the transportation officers of the State of Washington Department of Corrections authorized to conduct defendant to the appropriate facility and this is to command you said Superintendent of the appropriate facility to receive defendant from said officers for confinement classification and placement in such correctional facilities under the supervision of the State of Washington Department of Corrections for a term of confinement of

COUNT	CRIME	Minimum Term	Maximum Term
01	RAPE OF A CHILD IN THE FIRST DEGREE	144 months	life
02	CHILD MOLESTATION IN THE FIRST DEGREE	87 months	life

These terms shall be served concurrently to each other unless specified herein

The defendant has credit for 86 days served

And these presents shall be authority for the same

HEREIN FAIL NOT

WITNESS Honorable

[Handwritten signature]

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE

5/6/05

JOANNE McBRIDE Clerk of the
Clark County Superior Court

By *[Handwritten signature]*
Deputy



EXHIBIT 2



FACILITY/LIVING UNIT: **AHCC / T-UNIT**

PREPARED BY Hartsell, Paul CC2	DATE 11-01-05	REVIEWED BY Watkins, James CC3	DATE 11-01-05
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SOURCE/REFERENCE DOCUMENTS

Judgment and Sentence, dated 02-14-05; Presentence Investigation Report, dated 04-29-05; DISCIS; and OBTS Screens; DT02, DT03, DI14, and DI17.

CRIMINAL HISTORY

A. CURRENT OFFENSE (S):

08-01-03: CT I Rape of a Child First Degree and CT II Child Molestation in the First Degree (Clark Co. Cause # 04-1-01929-0): Evans was a soccer coach and over the course of a year molested the stepson of the other coach. The boy was 11 years old and he did not play on the soccer team. He fondled his penis and masturbated the boy as well as continual inappropriate touching; there was no penetration. The boy's family was real close friends with Evans and he was like an uncle to the children in the family. There is a tremendous amount of feelings of betrayal on the part of the boy's family. The father of the boy and Evans have been working at the same company for 15 years and have been very good friends all this time. Evans also attempted to touch the thigh of another boy, age 13. He was a member of the team, this boy told his mother that Evans was a pervert and wanted never to be alone with him. This boy's mother did not disclose the inappropriate touching until it was made public that Evans has been molesting another boy. The mother of this victim feels very guilty that she did not report the molestation earlier. **DISPOSITION:** OAA sentence of 144 months minimum to maximum of life **ERD: 11-23-15**

Violence Type: The above offense meets the RCW criteria as a violent offense.

Facility Adjustment: Evans has no major infractions or loss of good time.

B. PRIOR OFFENSE (S):

Juvenile:

None were found.

(Continued on page 2)

NUMBER	NAME LAST	FIRST	MIDDLE
879762	EVANS	DAVID	WAYNE

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

Distribution: **ORIGINAL** - Facility Central File **COPY** - HEADQUARTERS
 DOC 21-148 (F&P Rev. 12/29/04) POL DOC 590.200 DOC 300.380 DOC 350.300 DOC 350.270 DOC 350.275



CRIMINAL HISTORY Continued

Adult:

None were found.

- C. OFFENSE BEHAVIOR PATTERN:** Evans developed a close relationship with his victims and with one of the victims he was considered a family member. He would visit the home when the parents were gone. He would take the victim out to dinner on his birthdays. Evans looked for times when he knew he would be alone with the victim. This shows a pattern of grooming his victim and the victim's parents to allow for the continued victimization.

NUMBER	NAME LAST	FIRST	MIDDLE
879762	EVANS	DAVID	WAYNE

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

Distribution: **ORIGINAL** - Facility Central File **COPY** - HEADQUARTERS
DOC 21-148 (F&P Rev. 12/29/04) POL DOC 590.200 DOC 300.380 DOC 350.300 DOC 350.270 DOC 350.275

EXHIBIT 3



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME: Evans, David
DOC #: 879762
FACILITY: Monroe Correctional Complex-Twin Rivers Unit
DATE OF HEARING: February 19, 2019
TYPE OF HEARING: .420
PANEL MEMBERS: Lori Ramsdell-Gilkey and Jeff Patnode
FINAL DECISION DATE: March 11, 2019

This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for his third .420 hearing in accordance with RCW 9.95.420. In preparation for the hearing, the Board reviewed Mr. Evans's ISRB file. Mr. Evans appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Melinda Murray and Sex Offender Treatment and Assessment Program (SOTAP) Specialist Blaine Leal.

LAST BOARD DECISION:

At the January 5, 2016 hearing, the Board found Mr. Evans not releasable and added 36 months to his minimum term. The Board recommended that Mr. Evans participate in Thinking for a Change or other programming that may help him to be more open and honest.

CURRENT BOARD DECISION:

Based on the burden of proof set out in RCW 9.95.420 and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that

Mr. Evans is more likely than not to commit a sex offense if released on conditions. Consequently, the Board finds Mr. Evans not releasable and adds 36 months to Mr. Evans's minimum term

NEXT ACTION:

Schedule a .420 hearing approximately 120 days prior to ERD.

REASONS FOR DECISION:

This was a deferred decision using a structured decision-making framework that takes into consideration; the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Mr. Evans is not releasable based on the following:

- **Aggravated to a Risk level III by the End of Sentence Review Committee (ESRC)**
- **Lack of insight into his offending behavior even after treatment**
- **Did poorly in the SOTAP**

RECOMMENDATIONS:

The Board recommends Mr. Evans be screened for possible participation in the SOTAP core program for a second time. Although he completed this program previously in 2015, he appears to have internalized little of the curriculum. In addition, the curriculum has changed since then and the new program may offer continued benefits. Mr. Evans should continue to work on understanding more fully the motivation behind his offenses.

JURISDICTION:

David Evans is under the jurisdiction of the Board on a May 6, 2005 conviction of Rape of a Child in the First Degree, Count I, and Child Molestation in the First Degree, Count II, in Clark County Cause #04-1-01929-0. His time start is May 13, 2005. On Count I, his minimum term was set at 144 months from a Sentencing Reform Act (SRA) range of 120 to 160 months. On Count II, his minimum term was set at 89 months from an SRA range of 67 to 89 months, to be served

concurrently. His maximum term on each count is Life. Mr. Evans has served approximately 165 months, plus 118 days of jail time credit.

It should be noted that there is a third count under this Cause #, Communication with a Minor for Immoral Purposes, for which he received a 365 day suspended sentence.

OFFENSE DESCRIPTION:

According to file materials, between May 2001 and June 2004, Mr. Evans (age 45 to 47) sexually assaulted two known males. Victim #1 was the son of a good friend with whom he coached a soccer team. Mr. Evans was very involved with the family and sexually assaulted this victim on his 11th birthday. He took him out to dinner then back to his residence to watch television. He had the victim lie on the couch then pressed his groin against the victim's buttocks. Mr. Evans also went to this victim's residence during times he knew no one else would be home and took advantage of this to put his hands down the victim's pants, touch his penis and buttocks and hug him. On at least one occasion Mr. Evans orally raped this victim. This offending behavior happened multiple times and came to an end when the victim was told that Mr. Evans wanted to take him out for his birthday again. The victim did not want to go so told his mother what had occurred. This behavior resulted in convictions for Rape of a Child in the 1st Degree and Child Molestation in the 1st Degree.

When the soccer team learned about the offense above, parents began asking their sons if Mr. Evans had ever touched them inappropriately. A second victim reported that at age 12, while he was a member of the team, Mr. Evans picked him up to take him to a game but first they went to his house for a while. At the house Mr. Evans told him to lie down and rest then laid down near him and wrapped his legs around him and rubbed his thigh. The victim got up and got away from Mr. Evans. This action resulted in the conviction for Communication with a Minor for Immoral Purposes.

PRIOR RISK RELATED CRIMINAL CONDUCT:

Mr. Evans was charged with Child Molestation in the First Degree, Count I, and Child Molestation in the Second Degree, Count II, in Clark County in 1997. It was alleged that Mr. Evans, when he was aged 37 to 41, fondled his youngest son's penis and masturbated his son's penis when he was 10-13 years old. Mr. Evans was **acquitted** by a jury verdict in 1997 of both counts.

Mr. Evans' oldest son reported he was also sexually assaulted by his father beginning at his age of 3, however, no charges were filed regarding this victim apparently because this occurred in Alabama where they were living at the time. **Mr. Evans has since admitted he did indeed sexually abuse both of his sons.**

Additional allegations were brought forth by Mr. Evans' wife during the course of their divorce. She told authorities that Mr. Evans had been suspected of several occasions of inappropriate contact with minors that were in their care or otherwise involved in church ministry with them over the past 12 years. No new charges were filed as a result of any of these allegations.

PROGRESS/BEHAVIOR:

CC Murray testified that since the last Board hearing Mr. Evans was able to enter the SOTAP Aftercare. He completed this as well as Bridges to Life and Making it Work. He works in the CI Laundry as a machine operator. He participates in the Twin Rivers Unit LGBTQ support group. His plan regarding release is to DOC Transitional Housing in the King County area. He has incurred no serious infractions since his last hearing.

Mr. Evans stated he has support from his children all of whom are adults now. He claims he wrote a letter of apology to his two sons whom he had molested previously. (He was tried and acquitted of this in in 1997) He said he told his sons that he had been struggling with "who he really was" as a person (his sexuality) at the time. Mr. Evans stated he offended against his two sons because he was interested in knowing what it was like to be with a "male". In practically his next breath he admitted he had been involved in homosexual affairs during his marriage at least three

different times. He seemed to reason that it was more threatening to be found out for “being gay” by being sexual with a grown man than it did to be involved sexually with a minor male. He said felt safer with the minor aged males. He continuously blamed his involvement with the boys on his own sexual confusion. He denied he had a deviant sexual attraction to minor aged males which this Board finds disingenuous. He maintained the sex wasn’t his main focus. He later admitted that he had an attraction to “teen” males. He was reminded most of his victims were not yet teens before he started touching them. He said he now “embraces who he is as a gay man” as if this alone has solved his problem.

Mr. Evans offended against those closest to him. He shows little remorse other than to repeatedly state, “I don’t ever want to create another victim”. Mr. Evans minimizes his behavior and verbalizes little insight into his behavior. He has completed the SOTAP and Aftercare. He did very poorly in the core program and he was about 2/3 of the way done before he even admitted having offended against his sons. He has at least four minor male victims yet struggled to admit he had a deviant sexual attraction to them. He remains too high of a risk for sexual re-offense to consider him for release at this time.

LRG: ts

March 4, 2019

March 11, 2019

March 12, 2019

cc: MCC-TRU
Offender
File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

TO: Full Board

FROM: Lori Ramsdell-Gilkey (Teresa Schmidt, CRT)

RE: EVANS, David DOC #879762

Panel recommends: Not releasable, add 36 months to minimum term.

Next action: Schedule .420 120 days prior to ERD.

Agree	Disagree
LR-G 3-11-2019 JP 3-11-2019 EB 3-11-2019 KR 3-11-2019	

EXHIBIT 4

CONFIDENTIAL

WASHINGTON STATE DEPARTMENT OF CORRECTIONS
SEX OFFENDER TREATMENT PROGRAM (SOTP)
MONROE CORRECTIONAL COMPLEX-TWIN RIVERS UNIT (MCC-TRU)

TREATMENT SUMMARY

Disclosable¹

Disclosure and dissemination of this report shall be in accordance with RCW 70.02 and DOC Policy 640.020. It shall not be released to individuals outside DOC without the inmate's consent or unless otherwise authorized by law. Classification and other staff who have a legitimate need to know this health care information may use it to effectively manage the inmate within the Department of Corrections.

IDENTIFYING DATA

Name: Evans, David W.	DOC Number: 879762
Date of Birth (Age): (58)	Treatment Preparation Group: N/A
Crime of Conviction: Rape of a Child 1, Molestation of A Child 1, Communication with a Child for Immoral Purposes	Date Entered SOTP: 10/14/2014
Sentence Structure: CCB	ERD/PERD: 09/24/2016
Report Date: 09/28/2015	MAX: Life

ACTUARIAL RISK ASSESSMENT

This risk assessment was completed by Paul Victor, MA, Psychology Associate. This Actuarial Risk Assessment is intended only for the purpose of assessing appropriateness for admission to SOTP and priority on the SOTP waiting list.

MnSOST-R = -3

Static 2002 = 4

Static 99-R = 2

SYNOPSIS OF PROGRESS AND CONCERN

Based on clinical impressions and observations with the treatment provider and supervisor the following is an assessment of treatment related progress and ongoing concerns. Detailed information is located in the body of this document.

This assessment is only provided to assist Mr. Evans' community treatment provider and Community Correction Officer navigate the treatment document, and is not intended to be a predictor of future offending. In order to understand the full picture of his treatment, the entire treatment summary will need to be read.

¹ This evaluation has been reviewed with the inmate and he/she has been offered a copy for his/her own records. If the inmate requests another copy of this evaluation at a later date, he/she must attend an interpretive meeting with the author, a licensed psychologist, or licensed psychologist designee.

Progress in treatment:

Ongoing treatment-related concerns:

Sexual Self-Regulation

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

Attitudes Supportive of Sexual Assault

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

Intimacy Deficits

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

Social Functioning

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

General Self-Regulation

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

Compliance

- Minimal progress
- Adequate progress
- Significant progress
- Not a need area

- Low concern
- Moderate concern
- High concern

Responsivity Needs

- No Barrier to treatment
- Mild Barrier to treatment

- Moderate Barrier to treatment
- Significant Barrier to treatment

NATURE & SCOPE OF SUMMARY

The purpose of this document is to summarize:

- (a) Mr. Evans' dynamic risk and responsivity needs identified at intake to the Sex Offender Treatment Program (SOTP);
- (b) His treatment goals and progress toward those goals;
- (c) His current status with regard to his goals;

(d) His ongoing needs for management in the community.

This summary is not presented as an assessment of this individual's risk to re-offend. The undersigned has not been asked to conduct a risk assessment of this individual, nor is such an assessment within the scope of the current summary. The use of this summary for such a purpose, or for any purpose other than to facilitate treatment planning and delivery, has not been authorized by the undersigned. For a more detailed summary of the offense history, refer to the Initial Treatment Plan.

OVERVIEW OF TREATMENT COURSE

Mr. Evans has completed 10 months of primary group and also completed the following adjunct treatment groups and classes as part of his Treatment Plan:

Community Transition Course	Stress and Anger Management
Healthy Sexuality Course	Smart Recovery
Non-Violent Communication Course	

DYNAMIC RISK NEEDS

The following is a summary of potentially relevant treatment data that were assessed in the context of Mr. Evans' intake assessment and ongoing treatment progress. Particular consideration was given to risk-based principles associated with effective treatment of criminal offenders, including dynamic risk and responsivity needs.

Risk Principle

This principle indicates that offender treatment should focus on factors that are associated with an individual's risk to re-offend and that are amenable to change. These include stable risk factors (i.e. that exist for weeks, months, or years prior to a sexual offense) and acute factors (i.e. that exist for days, hours, or minutes prior to a sexual offense; see Hanson & Morton-Bourgon, 2004,² for a recent review of dynamic risk factors) and that are also amenable to change). For sexual offenders, these factors generally fall into one of two domains, that are referred to here as "sexual and relational" need areas (i.e. attitudes and behaviors that may be associated with a sexually maladaptive lifestyle, including sexual offending), and "antisocial" need areas (i.e. attitudes and behaviors that may be associated with a generally non-prosocial lifestyle, including general criminal offending).

Information from a variety of sources, including records and interview data were used in the initial assessment of Mr. 's stable dynamic risk needs. Treatment goals were established to target these needs and behavioral criteria were identified to evaluate his progress toward those goals. His treatment progress was evaluated on an ongoing basis and his treatment goals were modified as needed at each review. The following is a summary of Mr. 's needs at intake, his treatment goals and his progress toward those goals:

"SEXUAL AND RELATIONAL" RISK-NEEDS

Mr. David Evans is a 58 year-old Caucasian male who is currently incarcerated on his convictions for Rape of a Child 1, Child Molestation 1, and Communication with a Minor for Immoral Purposes. According to his 4/05 Pre-sentence Investigation Report (PSI), these offenses involves his sexual assault

² Hanson, R.K., & Morton-Bourgon, K. (2004). Predictors of sexual recidivism: An updated meta-analysis. (User Report 2004-02). Ottawa: Public Safety and Emergency Preparedness Canada. Available at www.psepc.gc.ca

and abuse of two male minors. The incidents occurred on multiple occasions from on or about 8/23 to 6/04; the offender was 47 - 48 years old. His offense-related behaviors towards the year-old victim (JMD) includes taking the victim to his apartment, sexual touching as well as wrapping his legs around him. His offense-related behaviors towards the other year-old victim (GTA) includes a repeated pattern of putting his hands down the victim's pants and touching or rubbing his penis, as well as putting his hand on or pressing his penis against his buttocks. On one occasion he also kissed and sucked on the victim's penis. (Note: There was no clear indication that his above-noted conviction for Communication with a Minor for Immoral Purposes was a no-contact sex offense.)

According to his record, Mr. Evans has a prior 1997 arrest and charge for Child Molestation I for which he was acquitted. However, his documented history of sex-related interests and experience also includes sexually deviant ideation and urges that, for the most part, he is able to control. There was no sexual deviancy evaluation contained in the available file material; therefore, the true nature and extent of his sexual deviance is unknown.

Sexual Self-Regulation

Needs Identified: Sexual Pre-occupation, Deviant Sexual Interests, Lapses in Sexual Behavioral Control, Sexual Secrecy & Deceit

SOTP/MCC-TRU Goal(s)

- Decrease sexual preoccupation in general; Increase other rewarding non-sexual thoughts and behaviors
- Decrease deviant maladaptive sexual behaviors and thoughts; Increase non-deviant/adaptive sexual behaviors and thoughts
- Increase awareness of circumstances in which sexual behavioral control is impaired; Increase self-control over sexual behavior
- Increase awareness of motivation for and circumstances in which sexual behavior is utilized to meet other needs; increase use of other healthy, non-sexual skills to get needs met
- Increase openness, honesty and accountability for sexual behaviors and thoughts
- Increase understanding of male and/or female anatomy and sexual response

Summary of Progress/Ongoing Sexual Self-Regulation Needs toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

Mr. Evans reported that he monitored the frequency, intensity and nature of his sexual arousals by way of the weekly sexual arousal log. Data from those logs indicates a low to moderate frequency of arousal and at a moderate level of intensity when experienced. He described the nature of his arousals as age appropriate, consenting and involving both male and female. He specifically denied the presence of deviant sexual fantasies, particularly those which were characteristic of his offending.

At the seventh month of treatment, Mr. Evans acknowledged having sexually molested his sons when they were children. (He was tried for this and found not guilty). He reported two additional unadjudicated, minor, male victims at the time of the index offense. Approximately six weeks after this disclosure, he acknowledged pursuing an inmate half his age based upon sexual desire. This behavior is completely inconsistent with the facade of treatment compliance and progress that Mr. Evans manufactured for himself. His pursuit of deviant sexual arousal and behavior appears to be constant and not impacted even by time in prison. Furthermore, Mr. Evans works diligently to keep his behavior covert.

Attitudes Supportive of Sexual Offending

Needs Identified: Attitudes Supportive of Sexual Entitlement, Attitudes Supportive of Rape, Attitudes Supportive of Child Molestation

SOTP/MCC-TRU Goal(s)

- Decrease attitudes/beliefs supporting sexual entitlement; Increase attitudes/beliefs that facilitate adaptive responses to sexual interest/arousal
- Identify sexual misinterpretations/misattributions; Learn to effectively observe social and/or sexual cues in the environment
- Decrease use of externalized/uncontrollable attributions for "cause" of sexual offending; Increase use of causal attributions that accept personal responsibility/behavioral control
- Decrease use of cognitive distortions about sexual offense behaviors; Increase use of realistic descriptions of offense-related behaviors

Summary of Progress/Ongoing Attitudes Supportive of Sexual Offending Needs Toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

At the seventh month of treatment substantial evidence emerged that Mr. Evans had sexually abused his two sons when they were minors. (He had been charged, tried and found not guilty of these offenses). When asked to describe the possible impact of his offending, denying the offense, taking the case to trial and being found not guilty, upon his victims, Mr. Evans responded 'I had talked to my wife about it and I felt it was pretty much swept up'. This comment is indicative of Mr. Evans utter lack any empathy for the victims of his sexual offending behavior.

Over the course of nine months in sex offender treatment, Mr. Evans gave no indication that he was subject to sexual misinterpretations / misattributions during his sexual offending. Neither was there evidence that he was subject to cognitive distortions while offending. To appearances, Mr. Evans was very aware and deliberate in pursuing his offending behavior.

From the outset of treatment, through to its conclusion, Mr. Evans attributed responsibility for his sexual offending to circumstances and people only peripherally related to his behavior. For instance, he blamed loneliness for his choice to offend his index victims, yet he was married, had multiple adult friends and engaged in multiple extra-marital affairs. He blamed the mother of his first index victim for leaving the child with him; describing her as 'overwhelmed and mentally disorganized'. Mr. Evans attempted to avoid culpability for offending while at the same time stating repeatedly that he accepts full responsibility for his behavior. This obvious contradiction was a constant in Mr. Evans' treatment experience.

Romantic Intimacy

Needs Identified: Relationship Skills Deficits, Emotional Identification with Adolescents / Children

- SOTP/MCC-TRU Goal(s)
- Increase awareness and understanding of own patterns within relationship development/failed development

- Decrease sexual objectification of intimate partners - increase positive attitudes about/interest in non-sexual aspects of partner/potential partners/intimate romantic relationships
- Increase understanding of own use of violence/and or behavioral extremes within intimate relationships
- Decrease emotional identification with children/teenagers - increase emotional identification with consenting, peer-aged partners

Summary of Progress/Ongoing Romantic Intimacy Needs toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

Mr. Evans has been involved in one long term relationship; his now terminated marriage of twenty-two years. During this marriage, there were multiple allegations of child sexual abuse involving unrelated children that were in the care of Evans and his then wife. It was during this time-frame that he sexually abused both of his biological children. Furthermore, Mr. Evans reported being involved with multiple extramarital same sex relationships during his marriage. There is no identifiable pattern to this relationship. It is characterized by multiple allegations of child sexual abuse and extramarital affairs. The marriage ended in divorce in 1997.

Mr. Evans acknowledges reducing his victims to the status of objects during his offending episodes. This allowed him to offend and go on offending without emotional or ethical repercussions interfering. There is no evidence that Mr. Evans has moved beyond this view of his victim. Indeed, when confronted with evidence of his sexual abuse of his sons, he appeared to dismiss these revelations as something that had been "swept up" by a conversation with his wife. This ongoing approach to victims is remarkable in its absolute lack of empathy for others.

Mr. Evans has been involved in treatment for almost eleven months. For the majority of that time, he has presented as devoted to sex offender treatment and rehabilitation. With the disclosure that he had, in fact, sexually abused his biological sons when they were minors, this pretense collapsed. Mr. Evans seemed to characterize his offending as something that was beyond his control. He appeared to blame both the victims and the victims' parents for his behavior. There was no indication that he saw his behavior as violent or extreme. He appeared closed to the notion that his behavior was both.

Over the course of treatment, Mr. Evans has gone from denying any ongoing emotional identification with children and adolescents to acknowledging the existence of such identification, but only at the time of his offending. Mr. Evans has continued his predatory sexual behavior while incarcerated. The targets of this behavior have been as close to his victim demographic as the prison environment allows. It is unclear whether Mr. Evans identifies emotionally with children and/or adolescents; however, documentation and observations are clear in noting Mr. Evans' sexual preference for this age and gender, both in past offending and currently.

"ANTISOCIAL" RISK-NEEDS:

The following two paragraphs regarding Mr. Evans' history were taken from Mr. Paul Victor, M.A.'s Pre-Admission Risk Screen dated 04/17/2013:

File information indicates that Mr. Evans has no other known prior offense history as a juvenile or adult. There was no indication of substantial alcohol or substance abuse. As a juvenile, at some point Mr. Evans

experimented with alcohol and marijuana. At this writing, the offender's major institutional infraction history is limited to Theft, with a minor infraction for Lying to Staff.

Mr. David Evans' file material, in part, reflects his above-noted history of sexual acting out. Although there was some limited counseling in the latter part of 2004, there was no known history of mental health treatment. Also, there was no indication or need for chemical dependency treatment. In regard to Mr. Evans' family-of-origin, his above-noted Pre-sentence Investigation Report indicates that his parents were divorced when he was approximately 9 - 10 years old. His mother re-married and had two additional children in addition to his four other full siblings. His father apparently never re-married. Prior to his arrest, Mr. Evans experienced stable employment. Also, he was married for at least two years. (Please see file for further information and details.)

Social Functioning

Needs Identified: Communication and Social Skills Deficits, Callous / Utilitarian Attitude toward Others, Anti-Social Attitude / Orientation

SOTP/MCC-TRU Goal(s)

- Decrease contact with/access to negative peers/family; Increase contact with/access to pro-social peers/family
- Increase skills to develop and maintain adaptive, pro-social relationships; Decrease social isolation/withdrawal; Increase contact with/access to pro-social peers/family
- Decrease callous/indifferent/utilitarian orientation toward others; Increase breadth of emotional responding to include warmth, concern, caring, compassion for others
- Decrease antisocial/asocial attitudes/orientation; Increase pro-social attitudes/orientation
- Decrease antisocial/asocial activities; Increase pro-social activities
- Decrease lifestyle chaos/instability/irresponsibility; Increase stability, responsibility, personal accountability

Summary of Progress/Ongoing Social Functioning Needs Toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

Mr. Evans' contacts outside of the institution appear to have been limited to his former wife and siblings. By his report, these are appropriate people without any history of interaction with the legal system or drugs/alcohol. (They are not available to serve as post release social supports). As treatment has progressed Mr. Evans appears to have moved from substantial involvement with his fellow group members to ever decreasing interaction. His group peers report that this alienation is associated with Mr. Evans' choice to behave in a sexually inappropriate manner on the living unit while presenting as treatment compliant in the group setting. Mr. Evans appears to have made a conscious choice to alienate himself from appropriate, pro-treatment peers in order to pursue behavior similar to that which resulted in his incarceration.

Mr. Evans has been involved in a variety of exercises devoted to development and practice of empathy. He appeared to demonstrate that quality during his group interaction with treatment peers. Unfortunately, with the revelation that he had offended against his children when they were minors, this progress in empathy disappeared. This was noted in his group interaction with peers, in his attribution of partial blame for the victims' sexual victimization to their parents, and finally his comment that he "thought the issue of his offending his children had been swept up" during a discussion with his former wife

subsequent to his being found not guilty of those offenses. Mr. Evans presents as an individual without any ability to care about the people that he chooses to exploit or harm.

Mr. Evans entered treatment and progressed to the seventh month presenting as orderly in his approach and competent in his rehabilitation efforts. Following the revelation that he had, in fact, offended against his children, he became far less stable and responsible. Indeed, his approach to treatment became so erratic that he was considered for termination.

General Self-Regulation

Needs Identified: Behavioral Impulsivity, Maladaptive Problem Solving, Negative Emotionality

SOTP/MCC-TRU Goal(s)

- Decrease impulsivity/behavioral dyscontrol; Decrease harmful outcomes associated with behavioral dyscontrol; Increase behavioral control
- Decrease use of maladaptive problem solving skills; Increase effective problem solving skills
- Decrease negative emotionality; Increase positive/neutral emotionality
- Increase adaptive coping skills and/or rewards

Summary of Progress/Ongoing General Self-Regulation Needs Toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

Subsequent to a review of official file material and Mr. Evans' performance in treatment, impulsivity does not appear to be a need area for him. Mr. Evans presents as calm and deliberate in most all of his undertakings. This is particularly true of his approach to sex offender treatment prior to the discovery that he offended his children and had two additional unadjudicated offenses.

Outside of issues associated with sexuality and sexual offending, Mr. Evans' problem solving skills appear to be advanced and effective. Given his current circumstances, (having had an unsuccessful treatment episode), it is apparent that he chose not to apply those skills in sex offender treatment.

There was no indication during his time in treatment that Mr. Evans experienced unusual issues with negative emotionality.

During the first seven months of treatment, Mr. Evans presented as aware of and effective in his use of adaptive coping skills. Subsequent to the disclosure of additional victims and Mr. Evans' choice not to be honest and straight-forward, his use of adaptive coping skills was re-evaluated. It was concluded that Mr. Evans has an array of effective coping skills; however, his choices in the use of those skills have not been appropriate or useful in furthering his treatment efforts.

Compliance

Needs Identified: Increased Cooperation with Custody and Treatment Staff, Develop a Practical Relapse Prevention and Release Plan

SOTP/MCC-TRU Goal(s)

- Increase cooperation with supervisors
- Increase understanding of positive outcomes associated with cooperation with supervisors

- Develop a post-release plan that is realistic, pro-social, stable and adaptive

Summary of Progress/Ongoing Non-Compliance Needs Toward SOTP/MCC-TRU Goal(s)

There has been no observable progress in the current treatment domain.

Mr. Evans has incurred two serious infractions (2011) and eight general infractions (the last in 07/2013). A review of OMNI and Liberty records indicates that Mr. Evans has not been a behavioral management problem on the living unit. Upon entry to the Sex Offender Treatment Program (SOTP), Mr. Evans presented as invested in rehabilitation efforts and committed to creating no further victims. At the seventh month of treatment two letters (written by his former wife) were intercepted by the mailroom and ultimately provided to Mr. Evans' sex offender treatment provider. These letters described the result of Mr. Evans' longstanding history of sexually offending his two sons when they were minors. Mr. Evans acknowledged the offending of his children and two additional unadjudicated victims in Vancouver, WA, offended against at the same time as the index victims. This was a significant episode of Mr. Evans directly working against those charged by the Department of Corrections (DOC) with facilitating his progress in treatment. Subsequent to this development, it was disclosed that Mr. Evans had been pursuing sexual interaction with an offender half his age on his living unit.

There is no indication that Mr. Evans suffers from a cognitive impairment that would limit his ability to understand the positive outcomes associate with cooperation with supervision. He has chosen not to cooperate with sex offender treatment. This is also a violation of the condition of his Judgement and Sentence. To all appearances, Mr. Evans has decided not to cooperate with those charged with providing supervision by the DOC.

Mr. Evans has generated an appropriate post-release plan. That plan is described in the Relapse Prevention and Release Plan addressed below.

RELAPSE PREVENTION WORK

Relapse prevention is the utilization of learned adaptive coping responses to high risk situations to ensure the continuance of the benefits of treatment over time. A list of high risks, interventions, and cycle were developed with Mr. Evan to address relapse prevention. These assignments should be viewed as "works in progress". As Mr. Evans learns more about his risk situations and cycle, he should update his plans/management strategies, to include when he releases to the community.

Five most relevant High Risks and Internal and External Interventions

Most relevant High Risks and Interventions

- **Sexual Attraction to Minors (males):**

Intervention: Leave the area immediately and report the situation to phase 3 therapist, CCO, and support person

Therapist Comment: Mr. Evans has a long history of offending without being discovered. It is critically necessary that he be routinely accountable to someone outside himself for any attraction or interaction with minors.

- **Lack of Concern and Empathy for Others:**

Intervention: Practice empathy and don't behave selfishly.

Therapist Comment: During treatment, Mr. Evans repeatedly demonstrated a profound lack of empathy for his primary and secondary victims. No improvement in this area was observed during treatment. This will continue to be an ongoing critical need area for him.

- **Sexual Secrecy and Deceit:**

Intervention: Be accountable; open and honest.

Therapist Comment: Mr. Evans has a longstanding history of hiding his offending behavior and being dishonest with the court, the Department of Corrections and treatment providers. Accountability for his sexual behavior should be independent of Mr. Evans to ensure that he does not return to offending.

- **Desire for Power and Control over Others:**

Intervention: Consider consequences to myself and others.

Therapist Comment: Mr. Evans has repeatedly used his position of power and authority to further his sexual offending. He must be diligent in ensuring that he does not find himself in such a position where minors or other vulnerable people are involved.

- **Unwillingness to Express Feelings to Others:**

Intervention: Be mindful that not everyone will accept you for you, and be okay with that.

Therapist Comment: Mr. Evans' unwillingness to share his feelings with others is important as it relates to the development of his offending cycle. By communicating about his feelings in this regard, he can appeal for help in managing high risk situations. As this treatment episode concludes, Mr. Evans' progress in addressing this high risk is non-existent.

Mr. Evans' offending cycle appears to emerge from a childhood/adolescent relationship with a peer age male friend. That relationship apparently provided stability and companionship that he did not find in his family of origin. As he has matured, he appears to have repeatedly sought to reproduce that relationship. Unfortunately, he does this with early adolescent males. Triggers for his cycle of offense, appear to be loneliness, social rejection, self-isolation, and the presence of adolescent males or young adults.

RESPONSIVITY NEEDS

Responsivity Principle

This principle indicates that treatment plans should be developed and implemented with consideration for approaches that have demonstrated effectiveness with managing offense-related behaviors (e.g. cognitive-behavioral approaches), and that account for the offender's ideographic needs that may impact the effectiveness of treatment delivery. For the purposes of providing sex offender treatment, the following responsivity considerations were identified for Mr. Evans.

Physical/Sensory: Mr. Evans' wears corrective lenses. No other significant physical or sensory needs have been communicated to this writer.

Cognitive/Learning: Mr. Evans' has an earned high school diploma and several junior college units. There are no apparent deficits in this area.

Mental & Behavioral Health: No significant needs in this area have been identified.

Cultural: Mr. Evans is Caucasian and from the southern part of the United States.

Readiness to Change: There was no indication during this treatment episode that Mr. Evans is ready to make the changes that rehabilitation requires.

Skills & Strengths: Mr. Evans is an intelligent and well-spoken individual.

Other Considerations: None identified at this time.

COMMUNITY TRANSITION PLANS

Community Residential Plans: Mr. Evans does not have an approved address at this time.

Community Occupational/Vocational Plans: Mr. Evans plans to seek employment assistance through Work-Source. Additionally, he wants to pursue licensing as a commercial truck driver and studies in computer science.

Community Social/Relational Plans: None identified at this time.

Community Treatment Expectations: Mr. Evans will pursue treatment through the DOC community treatment program.

SUMMARY & CONCLUSIONS

Mr. Evans made minimal progress in treatment. He was covert and dishonest about his offending history through the seventh month of treatment. He continued to engage in sexually inappropriate behavior on the living unit through his final day of treatment. Mr. Evans has a longstanding history of sexually deviant and sexual offending behavior. He has an equally long history of keeping this behavior covert and lying about the behavior when confronted.

I hope this information has been helpful. Please contact the undersigned for further questions or clarification.



John Crowley, MA, MSW
Sex Offender Treatment Specialist
Sex Offender Treatment Program
Monroe Correctional Complex-Twin Rivers Unit



Elsbeth Stebbins, MS
Sex Offender Treatment Supervisor
Sex Offender Treatment Program
Monroe Correctional Complex-Twin Rivers Unit

SOTP PARTICIPANT:

I have had the opportunity to review this Treatment Summary and provide additional comments and input below:

Signature: _____

Date: _____

Printed Name: _____

DOC#: _____

Offender declines to sign JTR 09/30/2015

- cc: Original – SOTP File
- Central Records
- Classification Counselor
- Community Corrections Officer
- Community Treatment Therapist
- Indeterminate Sentence Review Board
- Offender
- End of Sentence Review Committee*

PAGE 4 LAST PARAGRAPH.

THERE WAS NO DEVIANT SEXUAL PURSUING OF IMMITE OR ANY DEVIANT SEXUAL AROUSAL. THERE WERE SEXUAL TAKING BUT NO PURSUING OR AROUSAL. THERE HAS BEEN ALOT OF IMPACT BY MY TIME IN PRISON. MY BEHAVIOR HAS NOT BEEN CONVERT DURING MY TIME DOWN. IT HAS BEEN GOOD BEHAVIOR. IT WAS WRONG TO BE TALKING SEXUAL WITH THE 26 YR OLD MALE. BUT NO PURSUING OR DEVIANT AROUSAL HAPPENED.

PAGE 5 1ST PARAGRAPH

AND I ALSO SAID THAT THE ABUSE TO MY SONS WAS AWFUL AND I WAS SO ASHAMED OF WHAT I DID.

PAGE 5 2ND PARAGRAPH

I HAD TALKED ABOUT ALOT OF DISTORTIONS IN MY OFFENDING. I ALWAYS WAS THE GOOD GUY AND I GROOMED MY VICTIMS FROM THE START. AND I HAD NO BOUNDARIES AND SO I DIDN'T SET ANY EITHER. SO THAT ENABLE ME TO GO ON OFFENDING. I ALWAYS WANTED EVERYONE TO LIKE ME. AND WAS AFRAID TO LET ANYONE KNOW WHO I REALLY WAS. THAT WAS CLOSE TO ME.

PAGE 5 3RD PARAGRAPH.

I ~~NEVER~~ ^{NEVER} BLAMED THE 1ST VICTIMS MOTHER FOR LEAVING HIM WITH ME. I SAID SHE DROPPED HIM OFF AT MY APT. AND I WAS LONELY AND I DIDN'T WANT PEOPLE TO KNOW I WAS GAY BECAUSE I DIDN'T WANT TO BE REJECTED. AND I HAVE TAKEN FULL RESPONSIBILITY FOR ALL MY BEHAVIOR. BUT I DID HAVE DESIRES TO BE WITH A MALE ALSO.

OVER

Evans 879762 Attachment to SOTP To Sum recd 9/30/15

Page 6 Paragraph 1

There were 2 allegations of touching and none of them came out to be true. And as far as the 2 kids who stayed with us there was no abuse of them. They were interviewed and said nothing happened. I did use verbal abuse to them but never sexual abuse.

Page 6 Paragraph 2

I have showed empathy for my sons. I wrote victim letters on them just like I did for my 2 index victims. I was ashamed of what I did to them. And it will always be with me everyday. And I have empathy for my victims.

Page 6 paragraph 3

I never blamed the victims or their parents for what I did. And I did see my behavior as violent and extreme. And I can't see how you can say that I was closed to my behavior.

Page 6 paragraph 4

I haven't continued any predatory sexual behavior while in prison. If you call taking sexual with an adult predatory that isn't true. I made a bad decision and should have set some boundaries but I did identify with adolescents before I was turned in. But the last 11 yrs has been age + gender of adults.

EVANS 879762 Attachments to SOTPTX Sum roud 9/30/15

PAGE 7 Paragraph 2

I NEVER ALIENED MYSELF FROM MY GROUP MEMBERS. THEY STOPPED COMING TO THE SUB GROUPS THAT I SIGNED UP FOR. THERE WERE SEVERAL GROUP MEMBERS WHO CONTINUED TO SUBGROUP WITH ME. SO I DON'T SEE HOW YOU CAN SAY I ALIENATE MYSELF FROM THEM. I DIDN'T PUESUE ANY SEXUAL BEHAVIOR TO KEEP FROM GOING TO SUBGROUPS.

Paragraph 3 PAGE 7

I NEVER SAID THAT I DIDN'T HAVE ANY EMPATHY FOR MY SON'S I HAVE ALOT. IF YOU HAD READ THE VICTIMS LETTERS THAT I WROTE ON THEM YOU WOULD HAVE SEEN IT. I NEVER SAID THAT IT WAS SWEEPED UP WITH MY SON'S. NOW WITH MY EX YES. WE DID TALK ABOUT IT AND WORKED THRU IT. I DO CARE ABOUT THEM AND I FEEL SHAME FOR ALL THE PEOPLE I HURT. THERE ISN'T A DAY THAT GOES BY THAT I DON'T FEEL SHAME + SICK TO MY STOMACH OR EMPATHY FOR WHAT I DID TO THEM.

PAGE 8 ~~Paragraph 3~~ Paragraph 3

I HAVE HAD SUCCESS IN MY TREATMENT AND I HAVE APPLIED ALOT OF SKILLS I HAVE LEARNED IN TREATMENT. BUT I STILL HAVE ALOT MORE TO GO. AND LEARN.

PAGE 9 Paragraph 2

I CAN'T SEE HOW YOU CAN SAY THAT I DIDN'T COOPERATE WITH SEX OFFENDER TREATMENT. I TOUGHT EVERY STEP OF THE WAY TO CONTINUE MY TREATMENT. AND I HAVE NOT VIOLATED MY JUDGMENT AND SENTENCE. I HAVE COOPERATE IN EVERY WAY WITH THE PEOPLE PROVIDING MY SUPERVISION.

EVANS 87762 Attachment to SOTPTC Sun read 9/30/15

PAGE 10 1ST paragraph

Again I have shown a lot of empathy for all my victims AND how can you say that there was NO improvement. A lot of the group members saw it.

PAGE 10 2ND paragraph

I was open and honest with everything the last 3 months of treatment. AND I was open & honest about everything on my index victims. But not my son's + 2 wifes.

PAGE 10 4TH paragraph

I have addressed my high risks AND will continue to do so for the rest of my life. I have made great progress with this from the first day I started group. But I still have a lot of work to do.

PAGE 11 2ND sentence

I have made changes AND I was ready to do so AND have made a lot from the start of treatment.

PAGE 11 LAST paragraph

I had one encounter in the living unit. The way you have it that I had been doing it for a long time.

PAGE 2 2ND item

I need that it should be Moderate Concern

PAGE 2 1ST item

I feel should be Moderate Concern

EXHIBIT 5



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P. O. Box 41127 • Olympia, Washington 98504-1127

November 3, 2015

Indeterminate Sentence Review Board
4317 Sixth Avenue SE
Olympia, WA 98504

RE: Evans, David W.
DOC #: 879762
AGE: 59

Dear Sirs/Madams:

The End of Sentence Review Committee (ESRC) initially reviewed this case on 04/02/15. At that time, the STATIC-99R rated him as a Low/Moderate risk and the MnSOST-R rated him as a Low risk. In addition, the ESRC recommended a Level III community notification. This is an aggravation from a Level I risk classification because Evans used a position of trust to gain access to victims; a pattern of behavior that increases the risk for sexual re-offense.

Subsequently, the Law Enforcement Notification Program reviewed Evan's case again, in preparation for a scheduled .420 hearing. The actuarial risk assessments (STATIC-99R and MnSOST-R) were reviewed and updated where appropriate. The STATIC-99R was updated to reflect that since his last .420 hearing, Evans was found guilty of the Institution Infraction: Unauthorized Display of Affection. In short, Evans intentionally exposed his penis to an adult male inmate, and masturbated in front of him. Evans was sanctioned on 10/02/15 to five days of room/cell confinement. This infraction changes the total score on the STATIC-99R from +2 points to +3 points and he remains a Low/Moderate risk on this tool. No changes were made to the MnSOST-R. In addition, the ESRC recommendation on 04/02/15 for a Level III community notification remains unchanged. It should be noted that Evans completed the DOC Sex Offender Treatment Program on 09/30/15; however, there are no actuarial risk assessment scoring changes as a result. In addition, please note that Evans was reviewed by the ESR Sexually Violent Predator (SVP) Subcommittee on 07/09/15. The committee recommends that the Board contact the ESR/Civil Commitment Program Manager prior to a finding of releasability in order to process a forensic psychological evaluation to assess whether he meets civil commitment criteria as defined under RCW 71.09.020.

In the event that the Board finds this offender releasable to community custody, in addition to the Court ordered conditions, the following conditions are recommended to mitigate his risk of sexual re-offense in the community:

- As per the Letter to Board dated May 14, 2015.

Sincerely,



Jacob Bezaanson, Acting Program Manager
Law Enforcement Notification Program
(360) 725-8659

Attachments

cc: Offender Sinka Review Packet, Classification Counselor, ESR File LF

"Working Together for SAFE Communities"

EXHIBIT 5



END OF SENTENCE REVIEW COMMITTEE DECISIONS

SCANNED

Offender Name EVANS, DAVID W.	DOC Number 879762
Date of Birth	Agency DOC
Earned Release Date 11/01/15	Max Date LIFE
	Projected Release Date

STATIC-99R Score

Up to and including 3
4-5
6 and above

MnSOST-R Score

Up to and including 3
4-7
8 and above

Risk Level Classification

Level I
Level II
Level III

STATIC-99R Score: 22 (+3) vs 11/3/15

MnSOST-R Score: -4

The recommended risk level classification is based on the highest actuarial risk score unless ESRC decides by simple majority to aggravate or mitigate the risk level classification.

Aggravation/Mitigation from I to III

Justification:

used position of trust to gain access to victims; pattern of behavior that increases risk for sexual re-offense.

Recommended Risk Level Classification (circle one)

I II **III**

Additional referral recommendations:

- Deferred Decision *Reschedule for July 2015 Sub for additional investigation*
- Law Enforcement Alert
- Child Protective Services
- Division of Developmental Disabilities
- Adult Protective Services
- Offender Re-entry Community Safety Program Referral
- DOC Victim Services screening
- RCW 71.05 assessment
- Other

5/7/15
M. Adka

Refer to ESR Sexually Violent Predator Subcommittee Clark County

Referred for SVP Forensic Psychological Evaluation 7/9/15 Date

Not Referred for SVP Forensic Psych Evaluation _____ Date

Lou Ramondell-Gilkey
ESRC Chair or Designee
M. Adka

4-2-15
Date
7/9/15

DECISIONS AND DEPARTURES

Sex offenders required to register will be placed in one of three classifications. The goal of classification and the notification statute is to provide the proper amount of information about a releasing sex offender to individuals within the community. **The risk level classification and resulting notification should be rationally related to the risk the offender poses to the community at large:**

- Level 1 – Low risk of sexual re-offense within the community at large. Law enforcement officials share information with other law enforcement agencies and may disclose information to the public upon request
- Level 2 – Moderate risk of sexual re-offense within the community at large. Law enforcement officials may share information with schools, child care centers, family day care providers, public libraries, businesses, neighbors and community groups near the offender's expected residence or places where they are regularly found.
- Level 3 – High risk of sexual re-offense within the community at large. In addition to the type of disclosures made for Level 2 sex offenders, law enforcement can provide information to the public at large.

In order to establish a baseline level of the risk that an individual will commit another sex offense, the End of Sentence Review Committee scores the Static-99 R and the MnSOST-R, which are actuarial measures of risk for sexual offense recidivism. These instruments have shown to be a moderate predictor of sexual re-offense (defined as an arrest or conviction for a new sexual crime). These tools are used by researchers, parole and probation officers, psychologists, sex offender treatment providers, and police personnel involved in treatment and risk assessment activities. Actuarial instruments give different estimates for sexual re-offense, which can be explained by what each scale is measuring.

- The Static-99 R is based on convictions. This risk assessment tool reveals the long-term probability that an adult male sexual offender will be "convicted" of a new sexual offense; however, it underestimates the probability that a new sexual offense will be committed. Many sexual offenses go unreported and detected. Therefore, the probability that an individual will commit a new sexual offense is somewhat higher than the probability that the person will be detected, arrested, prosecuted, and convicted for a new sexual crime.
- The MnSOST-R predicts re-arrest for a sexual offense. This risk assessment tool is designed to predict sexual recidivism in rapists and extra-familial child molesters. The probability of re-arrest for a sexual offense is much higher for an individual who has only one sex offense conviction, but was arrested for one or more additional sex offenses that did not result in conviction.

The End of Sentence Review Committee uses these actuarial instruments to establish a recommended risk level classification for community notification purposes. However, the committee may elect to depart from the initial risk level score if special circumstances warrant. Objective risk instruments include a number of factors relevant to re-offending, but do not consider unique circumstances or unusual characteristics of offenders. Also, the instruments are not appropriate for all populations, such as juvenile and female sex offenders, and are not designed for the purpose of assigning community notification levels. Although the instruments help to inform us about the probability of an individual being like, or unlike, other offenders who, when released, were detected for having committed new sex offenses, they cannot tell us about the method used to re-offend, the degree of violence that might occur in a re-offense, or whether the offender will be most likely to offend against a stranger, a family member, or someone with whom the offender has established a relationship primarily in order to commit a sexual offense. Therefore, departures give the committee the ability to incorporate a breadth of information about the individual under review and exercise its judgment and expertise in order to better inform the community about an individual offender's risk to the community at large. If a departure in either direction is recommended by the committee, the reasons for the departure will be justified in writing and have the support of the Committee majority and/or the Chair of the Committee.

The following are examples of aggravating and mitigating factors not otherwise captured by the actuarial risk instruments, which may increase or decrease the risk the offender poses to the community at large:

Aggravating factors:

- Statements of intent/threat to sexually re-offend
- Past interventions and/or treatment have not deterred sexually deviant behavior
- Pattern of behavior that increases risk for sexual re-offense
 - inability to control impulses
 - repeated pattern of placing self in high risk situations and/or locations in order to gain access to individuals of similar age/circumstance as prior sex offense victims
 - deviant sexual preoccupation/acting out during incarceration
- Documented information that increases risk for sexual re-offense
- Relationship with sex offense victim(s) was established or promoted for the primary purpose of victimization
- Offender used a position of community trust (e.g. coach, teacher, group leader, clergy, or police officer) to gain access to sex offense victim(s)

Mitigating factors:

- Familial or known sex offense victim(s)
- Current offense is not sexual in nature
- Previously released or classified as Risk Level I
- 24-hour supervised placement
- Disability or terminal illness that decreases ability to sexually re-offend
- Non-contact sex offense (e.g. possession of pornographic depictions)
- Sexual offending appears opportunistic in nature

STATIC-99 R CODING FORM

Name	EVANS, DAVID W.	DOC Number	879762	Date	02/2/15
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Question Number	Risk Factor	Codes	Score
1.	<u>Young</u> Date of Birth:	Aged 18 to 34.9 Aged 35 to 39.9 Aged 40 to 59.9 (59 YD AS ERD) Aged 60 or Older	1 0 -1 -3
2.	<u>Ever Lived With</u>	Ever lived with lover for at least two years? Yes No	0 1
3.	Index non-sexual violence - Any Convictions	No Yes	0 1
4.	Prior non-sexual violence - Any Convictions	No Yes	0 1
5.	Prior Sex Offenses	<u>Charges</u> <u>Convictions</u> None None 1 (2) 1 3-5 (4) 2-3 (3) 6+ 4+	0 1 2 3
6.	Prior sentencing dates (excluding index)	3 or less 4 or more	0 1
7.	Any convictions for non-contact sex offenses	No Yes	0 1
8.	<u>Any Unrelated Victims</u>	No Yes	0 1
9.	<u>Any Stranger Victims</u>	No Yes	0 1
10.	<u>Any Male Victims</u>	No Yes	0 1
	Total Score	Add up scores from individual risk factors	2 (+3) LF 11/3/15

For the shaded items, self-report can be used if it seems credible and reasonable.

TRANSLATING STATIC 99 R SCORES INTO NOTIFICATION LEVELS:

Score	Level
-3 to 3	I
4 to 5	II
6+	III

MnSOST-R SCORE RECORDING SHEET

Name EVANS, DAVID W.	DOC Number 879762	Date 02/02/15
--------------------------------	-----------------------------	-------------------------

<u>Historical/Static Variables</u>			
1. Number of sex/sex-related convictions (including current conviction): One..... 0 Two or more..... +2	+2		
2. <u>Length of sexual offending history:</u> Less than one year -1 One to six years..... +3 More than six years (PAGES 1 & 2 TO X?) 0	0		
3. Was the offender under any form of supervision when they committed any sex offense for which they were eventually charged or convicted? No..... 0 Yes..... +2 IF yes, please describe:	0		
4. Was any sex offense (charged or convicted) committed in a public place? No..... 0 Yes (PUBLIC ELEVATOR) +2	+2		
5. Was force or the threat of force ever used to achieve compliance in any sex offense (charged or convicted)? No force in any offense -3 Force present in at least one offense..... 0	-3		
6. Has any sex offense (charged or convicted) involved multiple acts on a single victim within any single contact event? No..... -1 Probable but not fully documented 0 Yes (FONDLED PENIS & KISSED AREA ABOVE IT) +1	+1		
7. Number of different age groups victimized across all sex/sex-related offenses (charged or convicted): Age group of victims: (check all that apply) <input type="checkbox"/> Age 6 or younger <input checked="" type="checkbox"/> Age 7 to 12 years <input type="checkbox"/> Age 13 to 15 years and the offender is more than five years older than the victim <input type="checkbox"/> Age 16 or older No age group or only one age group checked 0 Two or more age groups checked..... +3	0		
8. Offended against a 13- to 15-year-old victim and the offender was more than five years older than the victim at the time of the offense (charged or convicted): No..... 0 Yes..... +2	0		
9. Was the victim a stranger in any sex/sex-related offense (charged or convicted)? No victims were strangers..... -1 At least one victim was a stranger +3 Uncertain due to missing information..... 0	-1		
	-3	<u>Historical/Static Subtotal:</u>	-3
		<u>Institutional/Dynamic Variables</u>	
		10. Is there evidence of adolescent antisocial behavior in the file? No indication..... -1 Some relatively isolated antisocial acts..... 0 Persistent, repetitive pattern +2	-1
		11. <u>Pattern of substantial drug or alcohol abuse (12 months prior to arrest for instant offense or revocation):</u> No..... -1 Yes..... +1	-1
		12. <u>Employment history (12 months prior to arrest for instant offense):</u> * Stable employment for one year or longer -2 Homemaker, retired, full-time student, or disabled/ unable to work -2 Part-time, seasonal, unstable employment 0 Unemployed or significant history of unemployment ... +1 File contains no information 0	-2
		<u>Historical/Static Subtotal:</u>	-3
		13. Discipline history while incarcerated (does not include discipline for failure to follow treatment directives): No major discipline reports or infractions 0 One or more major discipline reports +1	+1
		14. Chemical dependency treatment while incarcerated: No treatment recommended/Not enough time/ No opportunity 0 Treatment recommended and successfully completed or in program at time of release..... -2 Treatment recommended but offender refused, quit, or did not pursue +1 Treatment recommended but terminated by staff..... +4	0
		15. Sex offender treatment history while incarcerated: No treatment recommended/Not enough time/ No opportunity 0 Treatment recommended and successfully completed or in program at time of release..... -1 Treatment recommended but offender refused, quit, or did not pursue 0 Treatment recommended but terminated +3	-1
		16. Age of offender at time of release: Age 30 or younger +1 Age 31 or older (39 Y.O. AT ERD) -1	-1
		<u>Institutional/Dynamic Subtotal:</u>	-1
		TOTAL SCORE (static+dynamic):	-4

For the shaded items, self-report can be used

Translating MnSOST-R scores into Notification Levels:

MnSOST-R score

Up to and including 3

4-7

8 and above

Notification Level

I

II

III

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.

EXHIBIT 6



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P. O. Box 41127 • Olympia, Washington 98504-1127

November 29, 2018

Indeterminate Sentence Review Board
4317 Sixth Avenue SE
Olympia, WA 98504

RE: Evans, David W.
DOC #: 879762
AGE: 62

Dear Sirs/Madams:

The End of Sentence Review Committee (ESRC) initially reviewed this case on 04/02/15. At that time, the Static-99R rated him as a Low/Moderate risk, and the MnSOST-R rated him as a Low risk. In addition, the ESRC recommended a Level III community notification. This was an aggravation up from a Level I risk classification because Evans used a position of trust to gain access to victims, and a pattern of behavior that increases the risk for sexual re-offense.

Subsequently, the Law Enforcement Notification Program reviewed Evans' case again, in preparation for a scheduled .420 hearing. The actuarial risk assessments (Static-99R and MnSOST-R) were reviewed and no changes were made. It should be noted that Evans completed SOTAP Aftercare since his last .420 hearing; however, there are no risk assessment scoring changes as a result. In addition, the ESRC recommendation on 04/02/15 for a Level III community notification remains unchanged.

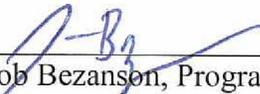
In addition, the DOC Sex Offender Treatment and Assessment Program completed a Stable 2007 on 03/03/16 which rates him as having Moderate needs.

This offender was reviewed by the ESR Sexually Violent Predator (SVP) Subcommittee on 07/09/15. The committee recommends that the ISRB submit a written request to the Civil Commitment Program Administrator to process a forensic psychological evaluation to assess whether he meets civil commitment criteria as defined under RCW 71.09.020 prior to finding the offender eligible for release.

In the event that the Board finds this offender releasable to community custody, in addition to the Court ordered conditions, the following conditions are recommended to mitigate his risk of sexual re-offense in the community:

- As previously recommended in the ESRC letter to the Board dated 05/14/15.

Sincerely,



Jacob Bezanson, Program Manager
Law Enforcement Notification Program
(360) 725-8659

Attachments

cc: Offender Sinka Review Packet, Classification Counselor, ESR File
LF

EXHIBIT 7

1 EVANS: Uh, yeah.

2 RAMSDELL-GILKEY: It involves, it includes the End of Sentence Review report. It
3 kind of has a synopsis of stuff.

4 EVANS: Yes.

5 RAMSDELL-GILKEY: Ok, good. Cause that's when the documents, we always rely
6 upon and I will note that you were aggravated to a Level 3. Um,
7 by the End of Sentence Review Committee. Um, you're looking
8 at me like, huh?

9 EVANS: I have some questions on that, but we can ask...

10 RAMSDELL-GILKEY: Ok, they aggravated you to a Level 3 and um, the um, sub-
11 committee, the sexually violent predators sub-committee has
12 also recommended that you uh, undergo forensic psychological
13 evaluation um, before you're released from prison.

14 EVANS: And I have questions on that, also.

15 RAMSDELL-GILKEY: Ok, good then, we will try to answer those for you as we go
16 along. Um, I need to have each of you identify yourselves by
17 your full name and title, if you have one, and we will start with
18 you.

19 LEAL: Blane Leal, Sex Offender Treatment Specialist.

20 RAMSDELL-GILKEY: And could you spell your last name for me?

21 LEAL: Sure. L-E-A-L.

22 RAMSDELL-GILKEY: Ok.

23 EVANS: David Evans, uh, 879762, Inmate.

24 MURRAY: Melinda Murray, Classification Counselor.

25 RAMSDELL-GILKEY: Ok. Are you a CC2 or 3?

26 MURRAY: Three.

1 RAMSDELL-GILKEY: Ok. I always like to put that in there if I know. Alright, and I
2 swear all of you in because you will be testifying today. So if
3 y'all raise your right hand, do you swear or affirm that you'll tell
4 the truth in this matter today?

5 EVANS: Yes.

6 LEAL: Yes.

7 MURRAY: Yes.

8 RAMSDELL-GILKEY: Ok, thank you. Uh, you've had a hearing with us before, so you
9 know how they go. Um, your counselor will go first and Ms.
10 Murray will tell us how you've been doing since we last saw you
11 in January 2016. We want to know what additional
12 programming you may have completed and any other jobs that
13 you've held, or your behavior has been like, have you incurred
14 any more serious infractions, um, is there any patterns to any
15 behavioral observations that have been entered, uh, what's your
16 general demeanor like, do you have any visitors, if so, uh, who
17 are they and how often do they visit and have you had any
18 chance to talk about release planning what that might be. Once
19 she's done talking to us, if there's anything that you've
20 participated in that she's forgotten to mention to us, then you
21 could uh, mention that to us. Sometimes um, things like AA, NA
22 or church related things don't end up in OMNI or in the
23 computer system, but I still would like to know about them. So
24 you could tell me about them, if that's the case, and because uh,
25 Mr. Leal is here, I assume you've been uh, participating in sex
26 offender treatment in some manner since we last saw you, so are

1 going to want to hear about that. But she will go first and you'll
2 add whatever you want and then we're going to talk to you a
3 little about uh, what's going on in your life at the time of the
4 offending. What additional things have you learned that you
5 think that will keep you from re-offending, if released? And then
6 when you're done, we're going to turn to uh, your counselor uh,
7 the specialist here, and ask him how things went in treatment.
8 Ok? Alright, do you have any questions before we uh, go on or
9 do you want to ask your questions at the end?

10 EVANS: I'll ask them at the end.

11 RAMSDELL-GILKEY: Ok. Alright, go ahead Ms. Murray.

12 MURRAY: Ok. Uh, since his last court hearing, uh, he was able to get into
13 CBT Aftercare and I have a completion date of January 24th,
14 2017. Um, he also completed Bridges to Life, June 16th, 2017,
15 and then he started working in the CI laundry as a machine
16 operator, um, August 28th, 2017, and he's been maintaining
17 stable employment there and receiving positive performance
18 evaluations. Uh, he also participates in the LGBT support group,
19 here, at Twin Rivers. He doesn't receive any visits. He has an
20 older brother in Oregon and he remains in contact with. His plan,
21 if found releasable, is to um, look for transitional housing. He
22 does have some funds saved in his um, mandatory saving
23 account. I think he might also try to apply for the voucher
24 depending on the amount that he has saved at the time he is
25 found releasable. Um, and that's pretty much it since his last
26 board hearing. He hasn't received any serious infractions or

1 negative behavioral observations that are concerning since his
2 last board hearing.

3 RAMSDELL-GILKEY: Ok, good. Pretty much mind his own business and fly under the
4 radar?

5 MURRAY: He stays busy. His work is full time, so he's pretty much off the
6 unit for most of the day – working.

7 EVANS: And before that, she forgot, I didn't want to interrupt, but before
8 that I worked ship office for the lieutenant and for the captain.

9 RAMSDELL-GILKEY: And what did you do for them?

10 EVANS: I was a porter for the captain.

11 RAMSDELL-GILKEY: Ok.

12 EVANS: And for three in a half years and I was a, I worked in a ship office
13 as a porter for the lieutenant for two years.

14 RAMSDELL-GILKEY: Ok. Any church related, AA, NA related stuff?

15 EVANS: Church. I attend church regularly on Sundays, but as far as any
16 um, no AA, because I never had a drinking problem or NA,
17 because I never had a drug problem. So...

18 RAMSDELL-GILKEY: Alright.

19 EVANS: And I completed the uh, *Making it Work* uh, program that the CI
20 offers, which is compatible to the uh, um the *Thinking for a*
21 *Change*. I did a six weeks uh, course in that. And uh...

22 RAMSDELL-GILKEY: You did *Thinking for a Change*?

23 EVANS: No. I said it's, I said the program is like *Thinking for a Change*.

24 RAMSDELL-GILKEY: Were you able to get into *Thinking for a Change* at all?
25
26

1 EVANS: No. It was not offered here, so that's the reason we opted to
2 between Ms. Murray and Stacey Ricky, my advocate. We
3 decided on *Bridges to Life*.
4 RAMSDELL-GILKEY: And how did you like *Bridges to Life*?
5 EVANS: *Bridges to Life* was fantastic. It changed my life. I wish every
6 inmate was required to go through this program.
7 RAMSDELL-GILKEY: Mhm.
8 EVANS: I was uh, participated in it. I was very open, very honest. My um,
9 volunteer people were very uh, supportive, very uh, happy
10 with...
11 RAMSDELL-GILKEY: So you shared your offense?
12 EVANS: I, I shared everything. I was open.
13 RAMSDELL-GILKEY: Not everybody does.
14 EVANS: No. I was open with that and you're right. There were some
15 people that didn't and I was uh, kinda disappointed because that
16 program uh, it really opened my eyes to as a, what I had done to
17 my victims.
18 RAMSDELL-GILKEY: Do you think you have a better understanding the impact...
19 EVANS: Oh, I have a huge understanding of that, of what I actually, you
20 know, the pain that I actually caused them. And that is
21 something that haunts me every day and that's something that I
22 don't want to be, to ever uh, for someone else to have to go
23 through.
24 RAMSDELL-GILKEY: Ok. Were you ever married?
25 EVANS: Yes, I was married. I have three children and um, they are...
26 RAMSDELL-GILKEY: They are all fully grown now?

1 EVANS: They are fully grown.
2 RAMSDELL-GILKEY: Ok, and do they have children?
3 EVANS: They have children.
4 RAMSDELL-GILKEY: Ok.
5 EVANS: And...
6 RAMSDELL-GILKEY: So how many grandkids do you think you have?
7 EVANS: I have three grandchildren.
8 RAMSDELL-GILKEY: Ok.
9 EVANS: And one great grandchild. Um, I was a year ago I was in, I got
10 in touch with the um, prosecuting attorney of the county. And
11 we had communications, a bit of communications back and forth
12 and I had my J&S amended so that I am able to be around my
13 grandchildren as long as I have an adult present.
14 RAMSDELL-GILKEY: And that was in 2018.
15 EVANS: Yes.
16 RAMSDELL-GILKEY: Ok.
17 PATNODE: Do you know the exact language? Does it say with a, something
18 about a supervision or with a chaperone or approved by...
19 EVANS: It, it, it just, it's not approved, it has to be approved by DOC, but
20 they, it says that it does have to be an adult present and uh, as
21 long as my CCO is notified.
22 RAMSDELL-GILKEY: Ok.
23 PATNODE: Does it list who you can have contact with? Or does it just say
24 your grandchild?
25 EVANS: It says any minor.
26 PATNODE: It says any minor?

1 EVANS: Yeah. As long as there's an adult present.
2 RAMSDELL-GILKEY: Do you have that amended...
3 EVANS: I don't have, I didn't have, I don't have that with me. I didn't
4 even think to bring that.
5 RAMSDELL-GILKEY: I'll look it up in the computer and see if I can find it.
6 EVANS: Yes.
7 RAMSDELL-GILKEY: And that was in Clark County?
8 EVANS: Yes.
9 RAMSDELL-GILKEY: Ok. And did you tell them you had completed treatment and...
10 EVANS: I, I listed everything just like I did with the letter that I sent you
11 guys.
12 RAMSDELL-GILKEY: Ok.
13 EVANS: I completed my aftercare, my program. Um, I completed my
14 aftercares and um, and I also had modifications on, cause it had
15 said in my J&S that I wasn't allowed to be around any felons, so
16 I had that part amended, also, that I can be around anyone under
17 supervision or whatever.
18 PATNODE: It's Clark County J&S.
19 RAMSDELL-GILKEY: Clark County always puts that on there...
20 EVANS: I know.
21 RAMSDELL-GILKEY: ... when we ask them to modify to say that you can be with them
22 in...
23 PATNODE: Treatment.
24 RAMSDELL-GILKEY: Treatment.
25 EVANS: Well, and so then...
26 RAMSDELL-GILKEY: Circumstances.

1 EVANS: ... they also said that as long as my CCO was aware.

2 RAMSDELL-GILKEY: Ok. Alright. Are you hoping to stay in touch with some of the

3 guys that you've been in here with?

4 EVANS: A lot of them will be my support. I'm wanting to release in King

5 County because uh, that will give me a greater opportunity for

6 employment plus it will also give me a great need for support. I

7 have no family here in this State. Um, I am um, in still in contact,

8 you know, I stay in contact with my family back east. I, I asked

9 them not to come.

10 RAMSDELL-GILKEY: Mhm.

11 EVANS: You know because it's a financial burden. Um...

12 RAMSDELL-GILKEY: Are you in contact with your adult children?

13 EVANS: Yes.

14 RAMSDELL-GILKEY: Which ones? All of them?

15 EVANS: All of them.

16 RAMSDELL-GILKEY: Ok.

17 EVANS: And uh, they all was supposed to have sent letters of support um,

18 and um, so I uh...

19 RAMSDELL-GILKEY: I'll check because I didn't read any, so I am going to go back

20 and look.

21 EVANS: Well, the last letter I got which was a week and a half ago, my

22 ex-wife said that she has received a letter back thanking her for

23 sending in those letters.

24 RAMSDELL-GILKEY: Ok. Now are these the two sons that you previously abused?

25 EVANS: Yes ma'am.

26 RAMSDELL-GILKEY: And apparently they've forgiven you and you've moved on.

1 EVANS: Yes.
2 RAMSDELL-GILKEY: Ok.
3 EVANS: I wrote and apologized and, you know, gave them to, the reason
4 uh, I learned a great deal in aftercare.
5 RAMSDELL-GILKEY: Tell me what you told them about the reason why you molested
6 them when they were children?
7 EVANS: I told them that I was uh, struggling with who I really was as a
8 person.
9 RAMSDELL-GILKEY: You mean your sexuality?
10 EVANS: My sexuality.
11 RAMSDELL-GILKEY: Ok.
12 EVANS: Um, and I really was able to come to terms with that while I was
13 going through um, um, my aftercare. I hid for so many years
14 because as a teenager, I grew up in the South. And I seen where
15 a young man was beaten and drug out and beaten and hung
16 because he was gay and I just couldn't do that. I couldn't, you
17 know, I was so afraid, and fear was a huge factor. Because fear
18 and it kinda just embraced me and that fear never left and then I
19 thought, you know, I could, I was so afraid of losing my family
20 I didn't, you know I love my dad, my grandparents and I knew
21 that if I came out, you know, with that kind of news, that they
22 would disown me and...
23 RAMSDELL-GILKEY: Yeah, but once you're married and you have your children and
24 stuff, at what point did you start looking at your sons as sexual
25 beings?
26

1 EVANS: They, to me, it was more of just wanting to be, you know, those
2 feelings never left.

3 RAMSDELL-GILKEY: Mhm.

4 EVANS: You know? They have always come back up, but it was more of
5 a fact that it was just the feelings of wanting to be with a male.
6 It had nothing to do with, you know, the young children. It had
7 to do with just being more, just wanting to be with a male and
8 so those, they were the closest, you know, to me and it was safe.
9 It, it was, you know, and...

10 RAMSDELL-GILKEY: But they were very young. One of them was pretty young,
11 wasn't he, when you started?

12 EVANS: No, they were all about anywhere from ten to eleven years old.

13 RAMSDELL-GILKEY: Well, I'd still say that's young.

14 EVANS: That's young. It is. And I'm not...

15 RAMSDELL-GILKEY: And that was preferable to looking for a gay man out in the
16 community?

17 EVANS: Well, I had three affairs while I was married.

18 RAMSDELL-GILKEY: Ok.

19 EVANS: With different men.

20 RAMSDELL-GILKEY: Ok, so that wasn't enough?

21 EVANS: Well, um...

22 RAMSDELL-GILKEY: Because you just told me that you, you had sexual relations with
23 your children because you wanted to know what it was like to
24 be with a man.

25 EVANS: Well, I meant, it's because I wanted to be with a male, not a man,
26 a male.

1 RAMSDELL-GILKEY: Ok, alright. And you've already been with three males.
2 EVANS: Well, this was uh, before and after, I mean, you know, the affairs
3 were in between.
4 RAMSDELL-GILKEY: Ok.
5 EVANS: But me using my, you know, my children.
6 PATNODE: Did you use other minor males? Besides your children?
7 EVANS: Two.
8 PATNODE: And what was your relationship to them?
9 EVANS: One was my best friend's son and the other one was uh, one of
10 my players on my soccer team.
11 PATNODE: How is that safe?
12 EVANS: Well, at, with that particular person um, I that was the charge
13 that I got for communicating with a minor for immoral purposes.
14 It was, I, uh, rubbed his leg and it made him feel very
15 uncomfortable, which was uh, inappropriate. And so that was
16 the only contact that I had ever had with any of my players. Um,
17 and...
18 PATNODE: So you're saying it wasn't sexual?
19 EVANS: It was sexual. I'm not, that's not what I...
20 RAMSDELL-GILKEY: But there was one of them that you fondled his penis?
21 EVANS: That was my best friend's son.
22 RAMSDELL-GILKEY: Right. Ok.
23 EVANS: And uh, but uh, he, I had known him.
24 PATNODE: I'm trying to get at how it was safe for you to be touching these
25 minor males in a sexual way that were not your children?
26

1 EVANS: Well, like I said, I was, I was always hiding who I was. And, and
2 I was always afraid even when after I got married that I was
3 going to, you know, lose my family cause I love them and, and
4 I know it's hard to believe sometimes you hurt the people you
5 love the most. But uh, and I didn't want for anyone to find out,
6 even my friends, that I was gay. Even after my divorce, I
7 thought, you know, if I wanted to go out and have a relationship
8 with a male, an adult male, but it was always that fright and, you
9 know, being afraid that if I did go out and do that, that I'm going
10 to be found out.

11 RAMSDELL-GILKEY: Weren't you afraid you'd be found out from molesting children?

12 PATNODE: You don't think that would be a little worse?

13 EVANS: Yes, I did. I'm not saying that it was right, what I did. It was
14 wrong.

15 RAMSDELL-GILKEY: I'm trying to understand how that kind of reasoning works here.
16 If you're afraid to be found out that you're a gay man and having
17 sex with men...

18 EVANS: I was always under the...

19 RAMSDELL-GILKEY: ... why are you not more afraid being found out for being a gay
20 man and having sex with children?

21 EVANS: I was, I felt more safe with them that they would not say
22 anything.

23 RAMSDELL-GILKEY: Ok.

24 EVANS: And that, you know, that it was just something that I would not
25 uh, I knew it was wrong, but I did it because I, you know, I was
26 trying to fulfill a need that if I was, if I could have been open

1 with who I really was then uh, I could be uh, I, you know, I
2 would be able to have that relationship, but I couldn't. At that
3 time, I was so afraid to be open.

4 PATNODE: You thought there was a better chance that these children would
5 not tell anyone than these other gay men that you had relations
6 with?

7 EVANS: No, I wasn't afraid that the gay men were not going to say
8 anything, I was more concerned with losing, my family didn't
9 even know, my children, you know, at the time didn't uh, know.
10 Me ex, uh, brothers and sisters, my, no one knew. I, I had the, I
11 hid...

12 PATNODE: I'm still trying to get, I'm confused as to what was stopping you
13 from ongoing having affairs with gay men. [Inaudible].

14 EVANS: Well, I could have went and had affairs and stuff like that, but I,
15 I, I just didn't. I didn't want that. I wanted to be able to, you
16 know, I felt like if I started doing that, then I could keep my
17 friends and family would find out what I was doing.

18 RAMSDELL-GILKEY: Are you sure you don't have a deviant attraction to the minors?

19 EVANS: I don't think I do now. I mean...

20 PATNODE: Do you think you did then?

21 EVANS: Um...

22 PATNODE: Cause you're describing it as not that.

23 EVANS: I don't think it was a deviant attraction. I, I, I really don't. I
24 mean...

25 PATNODE: Do you think you had an attraction to minor males during those
26 times?

1 EVANS: They were just like I was trying to get across as, as they were
2 just, it wasn't like I, being with a male, you know? I wanted to
3 be with a male, you know, and uh...

4 PATNODE: And you were.

5 EVANS: And I were.

6 PATNODE: Adult males.

7 EVANS: I was.

8 PATNODE: You were then.

9 EVANS: But I wanted to be with someone, you know, uh, that I could,
10 that was older and, but I was too afraid to do that, you know.
11 Like I said, at least, being with uh, the younger ones was, they
12 were close friends...

13 PATNODE: Mhm.

14 EVANS: ... and family and, it was just more, it felt safe because I felt: oh,
15 they weren't going to say anything to anybody. They are not
16 going to tell anybody.

17 PATNODE: It had nothing to do with being attracted to minor males?

18 EVANS: I'm sorry.

19 PATNODE: It had nothing to do with being attracted to minor, sexually
20 attracted to minor males?

21 EVANS: Um.

22 PATNODE: That's what I hear you saying. Am I getting it right?

23 EVANS: Um, they had to be an attraction there, for me to be able to do
24 what I did.

25 PATNODE: I would think so.

26 EVANS: Yes.

1 PATNODE: But it sounds like you are saying there wasn't.

2 EVANS: Well, I mean that wasn't my main, the main focus...

3 PATNODE: But it was part of it.

4 EVANS: ... but it was part of it.

5 PATNODE: Ok. Alright. Now we are getting somewhere.

6 EVANS: Like I said, I hid for so long and once I got into my aftercare

7 um...

8 PATNODE: Cause you could also hide behind being gay, as a means for why

9 you were abusing these boys instead of admitting that I am

10 sexually attracted to minor males.

11 EVANS: Right.

12 PATNODE: It's just another way of [inaudible] smoke screen, right?

13 EVANS: Right, but I'm not that, that's not, no.

14 PATNODE: Ok.

15 EVANS: Uh, and, with me being in aftercare, I was able to work through

16 and embrace who I really was as a gay man. And that gave me

17 the opportunity to be open and honest with my family and finally

18 be who I was. Uh, I mean I was going uh, trying to describe what

19 I was going through growing up and how I was living and my

20 therapist were finishing my sentences and telling me things that

21 I didn't think that nobody knew: how I was feeling, what was

22 going on. And they knew exactly what it was. I had the privilege

23 of, of not only having just one or two therapists, I had five that I

24 was able to work with. Uh, with Sue, and with Kelly, and Naomi

25 uh, Blaine, and Stacey and then I had some time with Joan Hall.

26 I had one on ones with her and I talked to her and she was very

1 supportive and very understanding and same way with Stacey
2 and Blaine, they listened, they knew what I was going through,
3 they were able to help me, help me to finally uh, admit to who I
4 was and to embrace who I was and to be the uh, you know, that
5 I didn't have to do the things that I was doing and uh, I have my
6 family as uh, was devastated at first and, you know, it was a
7 strain there for a while, but then now they've accepted who I am
8 and they've rallied around me now and they want me to be
9 happy. They want me to be the person that I should've been all
10 along.

11 PATNODE: Ok, I think that's all great, Mr. Evans, but I'm wondering do you
12 think it's also important to acknowledge that you touched minor
13 males because you had a deviant attraction to minor males?

14 EVANS: Um, yes, because one of my five highs is uh, attraction to minor
15 teen males.

16 PATNODE: Ok, good, good.

17 EVANS: And that's uh, uh...

18 RAMSDELL-GILKEY: Teen?

19 EVANS: Teen males.

20 RAMSDELL-GILKEY: Ok. What about ten year old?

21 EVANS: Well, I, took from ten to, I took teens from about ten years old
22 up to uh, uh, ten and up, is where I figured in minor teen males.

23 PATNODE: All I'm saying is, and you're speaking, it doesn't sound there's
24 much of an acknowledgment there about the deviant attraction
25 and I would just say you want to be careful about that and when
26

1 you are talking to people like us, cause it sounds almost like
2 you're, you're saying that it didn't exist.

3 EVANS: No, no, sir, I'm not. It, it was that, it's there, it's the reason why
4 I have one of my five highs. My five highs are...

5 RAMSDELL-GILKEY: Let's hear it.

6 EVANS: ... are the need for power and control uh, secrecy, hiding and
7 deceit um, not expressing my uh, feelings and emotion uh,
8 attraction to minor teen males and uh, engaging and distorted
9 thinking. Those are my five highs.

10 RAMSDELL-GILKEY: Then what do you have in place to address these issues and keep
11 you from re-offending?

12 EVANS: Um, my, like with the engaging um, I mean uh, the need for
13 power and control um, there's a um, I have to remember that uh,
14 well, I will just say this, for the, the attraction to minor teen
15 males, um, uh, my interventions are uh, you need to not act on
16 the attraction, that you are the adult and they are too young. And
17 then I have to cold water words which is prison and family. And
18 for the exterior interventions that means uh, leave the area
19 immediately, call your CCO, your [inaudible] therapist and call
20 your support people. So that's, I felt like that was a major thing
21 of uh, specially being uh, you know, were I have had that
22 attraction for minor, you know, males that uh, uh, uh, big high
23 risk for me, so that I need to make sure that um, I'm with uh, you
24 know, an adult, another adult if I'm around any minors.

25 RAMSDELL-GILKEY: So what are you masturbating to now?
26

1 EVANS: Um, masturbating to now, I was to being able to have a, to older,
2 older males.

3 RAMSDELL-GILKEY: Do you have anyone in your head? Anyone that you think about?

4 EVANS: Um, a friend of mine, you know, he's in his late forties, early
5 fifties, and um, um, we hope that to um, connect up after, you
6 know, we're both released.

7 RAMSDELL-GILKEY: Ok, is he single?

8 EVANS: He's single.

9 RAMSDELL-GILKEY: Ok, so he's an inmate currently?

10 EVANS: Uh, he should be getting out any, within the next month.

11 RAMSDELL-GILKEY: Ok. Alright, so this will be an adult relationship...

12 EVANS: Yes, an adult relationship, which I will get it approved through
13 my CCO because I want to be totally open and honest with my
14 CCO.

15 RAMSDELL-GILKEY: Ok.

16 EVANS: And uh, you know, that's the same way with the secrecy, hiding
17 and deceit, I want to be open and honest, you know, about
18 everything. Uh, I want to be able to do house, do self-checks on
19 myself, make sure, for my exterior [inaudible] on there. I want
20 to be able to make sure that I'm uh, talking to my uh, CCO and
21 my uh, my phase three aftercare therapist and my support
22 people. I want to be totally open and honest about it. Same way
23 with not expressing my feelings and uh, emotions. I want to be
24 open and honest with everyone uh, uh, you know, and I have to
25 remember that not everyone is going to like me. That was a big
26 thing for me. I wanted everybody to like me and in my mind if,

1 if they found out that I was gay, I didn't think they wanted
2 anything to do with me, you know. And religion played a, at that
3 time, you know, being in the South, religion played a big factor,
4 you know. And me coming, wanting to come out and to, you
5 know, be who I am and I am so much happier and, and alive now
6 than I was before because I felt like I was almost dead and I was
7 just, you know, this hole, this, this being afraid, you know, it's
8 like a cancer, it almost, you know, just um, it crippled me. You
9 know, and...

10 RAMSDELL-GILKEY: You know most people are going to care less that you are gay.
11 They are going to care less [sic] that you molested children,
12 though.

13 EVANS: I'm sure of that. And I'm not, listen, I take full responsibility for
14 what I did, and it was wrong. And I don't ever want to hurt
15 another child again and...

16 RAMSDELL-GILKEY: Let's hear from Mr. Leal. So what's been your experience with
17 Mr. Evans?

18 LEAL: Um, so I haven't worked with uh, Mr. Evans, as much as like a
19 primary client. It was more of a support role and I'm the one
20 available who's worked with Mr. Evans the most, so um, the
21 capacity I've worked with him was a within the LGBTQ support
22 group so for about one year I was facilitating that group um, until
23 we changed formats and then we was no longer eligible, but
24 during that time, he always participated actively and discussed
25 his upbringing and how challenging that was being a gay man in
26 that environment and he seems to have embraced that side of

1 him now and that seems to have decreased I can say his, from
2 what he's told me, a devious sexual interest and um, lack of
3 concerns for others were a couple that he expressed, not having
4 a sexual outlet that was healthy, not being a, clear way of having
5 that openly. So, I can't speak to all of his risk factors, but those
6 ones did come out and he talked about it on multiple occasions
7 about how um, he's um, he's, he's, um found ways of mitigating
8 those uh...

9 RAMSDELL-GILKEY: What made him not eligible after this change to be part of that
10 support group?

11 LEAL: Yeah, so, once I started working here, we had this same group
12 of clients who had completed treatment and were LGBTQ who
13 were allies and then we changed the format to where it was just
14 people who were in treatment and making it for them while they
15 were in treatment, so there was like a clear start date and a
16 completing date, so there weren't just clients in there indefinitely
17 which doesn't have a lot of research behind it, just [inaudible]
18 treatment, so we were able to make it so while they are in
19 treatment, they have that.

20 RAMSDELL-GILKEY: Ok.

21 PATNODE: Do you have any concern at all about, even just hearing him
22 speak today about him minimizing as a motivations for his
23 offending behind um, I'm a gay man and now that I'm open that
24 uh, that those are no longer issues for me?

25 LEAL: Um, I think...

26 PATNODE: Do you understand what I'm asking?

1 LEAL: Mhm, I think, yeah, I, I, he's been in aftercare programs where
2 you're not going to be challenged that much on your minimizing
3 and so I can see that as something that could influence that,
4 where if he was in treatment, actively, he would probably be
5 called out for more of that stuff, so it seems like I don't know
6 what your treatment experience was, when it was primary, but it
7 seems like you could use um, some um, challenging of that,
8 minimizing and distortion um...

9 PATNODE: Even his description of teen males, when I look at ten, eleven,
10 eleven, or ten, eleven, ten, were the onset of three of these
11 victims, one of them was onset was age of thirteen, according to
12 our file materials, those are not teen males. I know you're saying
13 it's a range, but even just that you, you describing it as teen, is
14 almost like somehow that's better.

15 RAMSDELL-GILKEY: Yes, saying I had an underage girlfriend.

16 PATNODE: Yeah

17 RAMSDELL-GILKEY: I was eighteen and she was fifteen.

18 EVANS: Right. I'm not trying to...

19 PATNODE: I'm not saying it's your intention...

20 EVANS: It's not.

21 PATNODE: I'm just saying it's coming across like that.

22 EVANS: I understand and it's not, I'm not trying to minimize what I did.

23 PATNODE: Ok. I'm just letting you know that type of [inaudible] for me,
24 hearing you say that.

25 EVANS: I understand that. That's not my uh...

26 PATNODE: Ok.

1 EVANS: I am not minimizing the fact that what I did, you know, was
2 wrong and the...
3 PATNODE: I'm not saying whether, I'm talking about making it sound less
4 wrong.
5 EVANS: Well, no, it's not, none of, none of that is less wrong.
6 PATNODE: Ok.
7 EVANS: None of it.
8 PATNODE: I'm just worried about that.
9 EVANS: Believe me. It's very serious and uh, like I said I don't want to
10 be able to ever create another victim again. I...
11 PATNODE: It's the same thing we want.
12 EVANS: ... and I am, I have, you know, worked very hard to uh, on
13 myself and, and knowing that I uh, had my, I worked very hard
14 on my five highs. I wanted to make sure that it covered a lot of
15 the person I used to be and, and not the, and, you know, help to
16 for it to help be the person that I am today and make sure that
17 uh, what I did back here is not going to happen here anymore.
18 PATNODE: I'm going to cut you off, Mr. Evans.
19 EVANS: I'm sorry.
20 PATNODE: I just wanted to make sure you had a chance to finish, if, if you
21 had anything left you wanted to add.
22 LEAL: Yeah, just that's just how it was coming across and that's where
23 you are coming from, Mr. Evans, um, but yeah, just a couple
24 thoughts I would share.
25 ???: Correct.
26

1 EVANS: But um, there again, like I said I, I never want to create another
2 victim and I uh, uh, had my interventions and I've used those
3 interventions and I know when I had made a statement in my last
4 Board hearing about, oh, I'm sorry. Oh, there is a plug there. I
5 made a statement about uh, my uh, um, I'd um, how did I say it?
6 When I was talking about my, um, oh I tell you my mind
7 sometimes I lose thoughts, right just a snap of a finger.

8 PATNODE: How do you describe your offending, maybe?

9 EVANS: No.

10 PATNODE: No.

11 EVANS: It was when I was doing uh, my ok, here it is, I had made a
12 statement in my last Board hearing that I was so nervous that it
13 kinda didn't come out the way, that I meant for it to say was my
14 boundaries. And I indicated that uh, well, that I didn't have any
15 boundaries before but I have boundaries now. What I wanted to
16 say and what I was hoping that was going to come out that way,
17 but it probably didn't come out that way is, I, I indicated that I
18 didn't have any boundaries but I did have healthy boundaries,
19 but I did have some areas where I did not have healthy
20 boundaries. And so now that I uh, put in place healthy
21 boundaries in those areas that I didn't, I've been able to, you
22 know, um, function, or to live a whole life better, you know,
23 because I'm not uh, it's just like there, there, there, it's like it's
24 so easy, those boundaries are in place, you know, I, I, I'm happy
25 with who I am. And, and with the boundaries that I have set. And
26 uh, for myself and that way it keeps me from getting into the,

1 what I call a danger zone. I have set myself up uh, for the, here's
2 the danger zone and this is where I don't want to be able to cross,
3 into any kind of a danger zone and those boundaries have helped
4 me a whole lot, in the three years that I, since the last time, uh,
5 actually almost four years that I put those in place and uh, I have,
6 like I said, uh, being able to, to come to terms and embrace who
7 I am um, it has the walls have fallen down where uh, with me
8 being in aftercare and being able to be open and honest with not
9 only myself, with others, you know. Those walls have come
10 down and I am uh, totally different person than I, you know,
11 because I am not hiding anymore of who I really am and I think
12 that I can live a productive life on the outside and um, never
13 create another victim again and be the productive uh, part of
14 society that I need to be and, and to um, um, be um, instead, you
15 know, honor and protect the children and not abuse the children,
16 is what I want, you know, what I have for myself, a goal and,
17 and for the rest of my life. I want to enjoy the, my life, the rest
18 of my life with my family and, and work and just uh, be a
19 productive part of society.

20 RAMSDELL-GILKEY:

Ok. You said in the beginning when you had some questions or
concerns, so what are those?

22 EVANS:

Uh.

23 RAMSDELL-GILKEY:

We can answer for you.

24 EVANS:

Well, one of the questions I have is, is um, I was wondering how
25 that decision is were being made about me and without checking
26 and, and seeing how much progress I had made. Uh...

1 RAMSDELL-GILKEY: What decision?
2 EVANS: Uh, well...
3 RAMSDELL-GILKEY: You mean like being a Level 3 sex offender?
4 EVANS: That and of the, uh, the psych eval [sic].
5 RAMSDELL-GILKEY: That is based on your history.
6 EVANS: Right.
7 PATNODE: You mean FPE recommendation?
8 EVANS: Right.
9 PATNODE: Is that what you are saying?
10 EVANS: And I did learn a lot to and aftercare about adjudicated and
11 unadjudicated. Um, beforehand I, because my therapist in the
12 beginning demanded that I put down two unadjudicated that
13 were really um, of age. It was over eighteen and it was, uh, uh
14 about my affairs and he wanted me to put down that those as a
15 two unadjudicated, so um, so now I understood after going
16 through aftercare and working with Stacey, she uh, let me, we
17 worked through and I see now that those are not adjudicated. I
18 mean unadjudicated victims.
19 RAMSDELL-GILKEY: Yeah, not if they were over eighteen.
20 PATNODE: I don't see [inaudible] sentence review.
21 RAMSDELL-GILKEY: I don't think that, that's why.
22 PATNODE: Yeah, so I'm still not clear about your question. Cause, quite
23 frankly, if they are looking at your [inaudible] material including
24 your sex offender treatment summary is terrible.
25 EVANS: It is.
26

1 PATNODE: It is. And that's what they're, that's what is going to be reflected
2 in [inaudible] material around your progress and sex offender
3 treatment world.

4 RAMSDELL-GILKEY: And there's a lot of information that came out uh, I believe it
5 was when your boys first accused you and you went to trial over
6 that. Although you were acquitted, you know you offended
7 against your sons and during that investigation, your wife
8 provided a lot of information to the authorities. And that's in this
9 report and they have...

10 EVANS: Right. Which were the, uh, stuff that she uh, provided was uh, a
11 lot of stuff, see what it didn't include in the report was that we
12 were going through a nasty divorce.

13 RAMSDELL-GILKEY: Mhm.

14 EVANS: And when you go through a nasty divorce, you know, things are
15 thrown out that cause you're trying to get back at the other
16 person and a lot of the stuff that had come out, yes, it was poor
17 choices on my part as far as handling some discipline and uh, on
18 two of those people...

19 RAMSDELL-GILKEY: Mhm.

20 EVANS: ... and it was, it was, it was on discipline and not anything, it
21 had nothing to do with anything sexual. And then the other one
22 was, about when the kids that lived with us, I was, I did not want
23 the kids, the two kids to live with us to start with and my wife
24 insisted on having them anyway. It was hard enough for me at
25 the time because my wife wasn't working, I was the sole, you
26 know, bread winner, and we were struggling as it was and then

1 she wanted to bring in two more mouths in to feed, so it was a
2 lot of really more...

3 PATNODE: Back to your original question. That is not information in this
4 file material, that's not information that the committee is going
5 to have when they are making their determination [inaudible].

6 RAMSDELL-GILKEY: Well, those two boys did know about it cause his wife talked
7 about them.

8 PATNODE: Yeah, not the two unadjudicated. I mean your explanation for
9 that's...

10 RAMSDELL-GILKEY: Yeah.

11 PATNODE: ... not what the file material said, so wasn't that your question?
12 Is how is it...

13 EVANS: No, no, I asked, why I, my question was how could they make
14 uh, decisions like that without checking in and, and, and
15 checking on the progress that I may have made before, you
16 know...

17 RAMSDELL-GILKEY: The progress that you've made now is not change your history.

18 EVANS: No, it doesn't.

19 RAMSDELL-GILKEY: It's still stuff that happened and it still concerns. I mean the
20 progress that you've made that could believe maybe you've
21 learned enough, but you know probably, I don't know, I don't
22 know if you will ever be a lower risk offender than a Level 3.

23 PATNODE: And if you're talking about the FPE then, you know, those kinds
24 of things that you are describing might get picked up in the
25 interview.

26 RAMSDELL-GILKEY: Because he will ask you about all of these incidents.

1 PATNODE: But that kind of stuff is not in your file material. It's not reflected
2 there. They are going based off a file, we sat in that committee
3 for years, both of us did, and you are looking at your history and
4 that's what's going to drive the decision. So, really the kind of
5 things you are describing are not going to get picked up until you
6 actually have the evaluation.

7 EVANS: And they indicated and I think you indicated at the last time that
8 we met that the reason why they elevated me from a Level One
9 to a Level Three because of the position of authority I held.

10 RAMSDELL-GILKEY: Mhm. You were in a position of trust. As a parent and as a soccer
11 coach.

12 EVANS: Correct.

13 RAMSDELL-GILKEY: Those were both positions of trust that you took advantage of.

14 PATNODE: And you made specific statements about targeting particularly
15 vulnerable kids on that team. There are statements to that effect
16 of this file information as well.

17 EVANS: I...

18 PATNODE: Which directly leads to your role as a position of authority.

19 EVANS: Right.

20 PATNODE: The ability to assess that and that's how you were sort of how
21 you [inaudible].

22 EVANS: I, I, I don't, I'm not arguing. I don't recall making any kind of
23 statements of targeting. I mean there was the one kid.

24 PATNODE: Maybe targeting is not the right word. How you chose, how
25 about that?

26 EVANS: The one, the one, the one kid.

1 RAMSDELL-GILKEY: Mhm.
2 PATNODE: Yeah.
3 RAMSDELL-GILKEY: Right.
4 EVANS: The other ones had nothing to do with, with me being a coach.
5 RAMSDELL-GILKEY: Well, it was kind of...
6 EVANS: I'm not justifying that.
7 RAMSDELL-GILKEY: Yeah.
8 EVANS: I'm just saying that they did.
9 RAMSDELL-GILKEY: It was kind of a big deal, too, that you were acquitted of
10 molesting your sons even though you did it. You were acquitted.
11 That should've been like a, "Oh, geez, I got through that by the
12 skin of my teeth" and then you still offended against boys later.
13 EVANS: Right.
14 RAMSDELL-GILKEY: That's a biggie [sic].
15 EVANS: You're right.
16 RAMSDELL-GILKEY: Because you had an intervention that wasn't a big enough of a
17 wake up for you. For most people, you would've been thanking
18 your lucky stars you weren't in prison. Instead, you molested
19 more boys. So, that's a big part of that as well.
20 EVANS: Yeah, I can see that. On that, as far as that one.
21 RAMSDELL-GILKEY: Ok.
22 EVANS: So the question there, but other than that uh, I do want to add
23 that I do have a release plan. I hope you got copies of that.
24 RAMSDELL-GILKEY: Transitional housing?
25 EVANS: Transitional housing. I have a transitional house already set up,
26 all ready to take me.

1 RAMSDELL-GILKEY: Which one is it?
2 EVANS: What the transitional house?
3 RAMSDELL-GILKEY: What's the name of it?
4 EVANS: It's uh, it's owned by Dory Wright.
5 RAMSDELL-GILKEY: Ok. What city?
6 EVANS: Uh, it's up in um, right above Seattle. Right there on the Seattle
7 line, Shoreline.
8 MURRAY: Did you say that before I moved caseloads?
9 EVANS: I found out just within the last week or so that they were that if
10 I'm found releasable, they will, she will take me.
11 RAMSDELL-GILKEY: And is this a DOC transition approved transition house?
12 EVANS: Yes.
13 RAMSDELL-GILKEY: Ok.
14 MURRAY: So they are on the statewide housing database?
15 EVANS: Oh, they take, all they have is sex offenders in their houses.
16 MURRAY: But do they take like the voucher?
17 EVANS: Yes.
18 MURRAY: Ok. I'm not familiar with that one.
19 RAMSDELL-GILKEY: I'm not familiar with that one either. I know most of the sex
20 offender houses out there. I have never heard of Dori Wright or
21 of a house in Shoreline, so.
22 EVANS: Yeah, Dora Wright.
23 RAMSDELL-GILKEY: Alright.
24 EVANS: And uh, my backup is House of Mercy.
25 RAMSDELL-GILKEY: Ok.
26 EVANS: But uh...

1 RAMSDELL-GILKEY: I've got a note to go back and uh, look for letters from your
2 family as well.
3 EVANS: Right.
4 RAMSDELL-GILKEY: Cause [sic] I did not...
5 EVANS: And I was, it was also a letter of support from a mentor that was
6 sent in also.
7 RAMSDELL-GILKEY: Ok. And who was that? What's his name? Alright. So he's an ex
8 inmate?
9 MURRAY: He's a current inmate.
10 RAMSDELL-GILKEY: Oh, ok.
11 MURRAY: And I think I had scanned and emailed that to the uh...
12 PATNODE: So we have it.
13 MURRAY: ...records [inaudible].
14 PATNODE: Ok.
15 RAMSDELL-GILKEY: Ok.
16 EVANS: This was part of the, my goals for...
17 MURRAY: And those were the things that you gave me to scan and send it
18 so [inaudible] so you guys should have that.
19 RAMSDELL-GILKEY: Ok.
20 EVANS: And I also, you know, have been very proactive as far as uh,
21 making sure that I uh, am planning, you know, doing the right
22 planning for um, well, lack of budget and everything of that sort.
23 And making sure that I financial planning.
24 RAMSDELL-GILKEY: Alrighty.
25 EVANS: And other than that, I appreciate you guys being here today and
26 listening and like I said, I uh, do take full responsibility. I don't

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ever want to create another victim and I am thrilled and happy
with who I am today.

RAMSDELL-GILKEY: Alright. Thank you.

EVANS: I don't want to minimize anything.

PATNODE: Best of luck to you, Mr. Evans.

EVANS: Thank you. I appreciate it.

[RECORDING ENDS]

I, Amy Jones, hereby certify that I transcribed, to the best of my ability, a true and correct
copy of the above Hearing.

EXECUTED this 7th day of May, 2020



AMY JONES
Legal Assistant 3

EXHIBIT 8



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/WORK RELEASE/FIELD
OFFENDER MANUAL

REVISION DATE
5/19/16

PAGE NUMBER
1 of 12

NUMBER
DOC 570.000

POLICY

TITLE
SEX OFFENDER TREATMENT AND ASSESSMENT PROGRAMS

REVIEW/REVISION HISTORY:

Effective: 9/1/91
 Revised: 8/20/03
 Revised: 5/28/08
 Revised: 8/16/10
 Revised: 12/7/15
 Revised: 5/19/16

SUMMARY OF REVISION/REVIEW:

VII.C.1., and VII.D.2.a. - Adjusted form usage
 VII.D.2.b.2) - Added language for clarification
 Removed VII.D.2.b.3) that the offender will pay all copy expenses in advance at the prevailing rate

APPROVED:

Signature on file

RICHARD "DICK" MORGAN, Secretary
Department of Corrections

4/15/16

Date Signed

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL		
	REVISION DATE 5/19/16	PAGE NUMBER 2 of 12	NUMBER DOC 570.000
	TITLE SEX OFFENDER TREATMENT AND ASSESSMENT PROGRAMS		

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 9.94A.810](#); [RCW 9.94A.820](#); [RCW 70.02](#); [DOC 280.510 Public Disclosure of Records](#); [DOC 300.380 Classification and Custody Facility Plan Review](#); [DOC 350.200 Offender Transition and Release](#); [DOC 460.000 Disciplinary Process for Prisons](#); [Sex Offender Treatment Program \(SOTP\) Prioritization Matrix](#)

POLICY:

- I. The Sex Offender Treatment and Assessment Program (SOTAP) provides:
 - A. Risk assessment,
 - B. Prison-based sexual deviancy treatment to incarcerated adult sex offenders, as well as aftercare for offenders who successfully complete the treatment, and
 - C. Follow-up treatment services in the community upon release from Prison.
- II. Three main goals of SOTAP are to:
 - A. Provide opportunities for offenders to learn the attitudes, thinking skills, and behaviors necessary to manage their risk of future sexual offense.
 - B. Assist decision makers within the Department and in the community with managing offender risk by providing relevant and timely offense-related information and consultation.
 - C. Evaluate the effectiveness of the program through data collection and research to develop more effective treatment and management practices.

DIRECTIVE:

- I. Eligibility Criteria
 - A. To be considered for SOTAP, offenders must meet eligibility criteria as follows:
 1. Convicted of a sex offense(s) for the current or a previous term of confinement.
 2. Eligible for release from Prison at some point in the future.
 3. Acknowledge/recall having committed a sex offense(s).
 4. Agree to attend SOTAP and follow treatment rules and expectations.
 - B. Offenders who cannot read or speak English, who otherwise meet the criteria, may be eligible for treatment based on available resources. Counselors should consult with the SOTAP Program Specialist 3 (PS3), and the SOTAP

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Psychologist 4 will make a recommendation to the SOTAP Director, who will make the final admission decision.

II. Program Referral/Application

A. Offenders will be referred for SOTAP as follows:

1. Offenders with a current or previous sex offense conviction will automatically be referred to SOTAP during the intake process at the Washington Corrections Center (WCC) or Washington Corrections Center for Women (WCCW) Reception Diagnostic Center (RDC).
2. Manual referrals may be made for offenders who were not convicted of a sex offense, but report having committed a sex offense(s) that has not led to a charge/conviction, or who believe they may commit sex offenses upon release. The SOTAP Director will consider these offenders on a case-by-case basis.
 - a. Counselors should communicate the circumstances to the SOTAP Director through the SOTAP PS3 to manually create a referral in OMNI Programs.
3. If an offender who is referred for SOTAP declines treatment services at the time of eligibility screening, the referral will be closed in OMNI Programs.

B. The SOTAP Director may also consider offenders within 24 months to their Earned Release Date (ERD) who request sexual deviancy treatment and do not have an open referral.

1. Offenders may apply for SOTAP who:
 - a. Seek sexual deviancy treatment, but are identified as low priority through the SOTAP Risk Assessment.
 - b. Initially declined treatment and wish to be reassessed.
 - c. Seek readmission to SOTAP, including those who:
 - 1) Participated in SOTAP during a previous term of confinement.
 - 2) Left SOTAP before completion.
 - 3) Completed SOTAP and had community release revoked.

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- 4) Previously terminated from treatment or subsequently had time added by the Community Custody Board (CCB)/ Indeterminate Sentence Review Board (ISRB).
2. Offenders will submit DOC 02-194 Sex Offender Treatment Program Statement, Program Screening, and Application and any supporting materials to their Counselor, who will enter a manual referral in OMNI Programs.
 - a. Offenders sentenced to a term of confinement less than 18 months must apply for treatment upon arrival at the RDC and will be considered for treatment at the discretion of the SOTAP Director or designee.
 - b. Requests made by offenders with less than 12 months to their ERD will not be considered.
 - C. Counselors will encourage offenders from non-RDC facilities to apply for sexual deviancy treatment.
- III. Risk Assessment
- A. SOTAP will use Department approved, validated instruments and measures to assess offender risk to commit future sex offenses.
 1. Only one type of static risk assessment instrument needs to be completed for each offender, except for priority code overrides, in which case additional risk assessment instruments may be used. The specific risk instrument(s) used to determine admission priority may change over time as research dictates.
 - B. Male sex offenders under Department jurisdiction will be assessed as follows:
 1. The SOTAP Corrections Specialist 3 will assess male sex offenders entering Prisons through the WCC RDC with more than 12 months to ERD. The assessment will be used for determining risk to commit future sex offenses, treatment prioritization, and resource planning and for classification purposes.
 2. The SOTAP Community Corrections Specialist will assess male sex offenders released to the community from Prisons or jail. The assessment will be used for determining risk to commit future sex offenses, which will be used to calculate the offender's Risk Level Classification (RLC).

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3. Assessment data will be entered on the SOTAP assessment screen in OMNI Programs.
 - a. Upon completing an override of an offender's RLC, the SOTAP Community Corrections Specialist will communicate the updated RLC with the assigned Community Corrections Officer (CCO) and the Community Corrections Supervisor (CCS).
- C. No validated risk assessment instrument is available for the female population. All female sex offenders volunteering for treatment services, who meet eligibility criteria, will be placed in treatment within available resources.
 1. Female offenders under ISRB/CCB jurisdiction will be placed in treatment at 16 months to ERD. All other female offenders will be prioritized for treatment at 12 months to ERD.

IV. Admission Priority

- A. SOTAP provides treatment services to as many as 180 offenders each at the Twin Rivers Unit of Monroe Correctional Complex and Airway Heights Corrections Center. Treatment is also available for up to 12 female offenders at WCCW.
- B. Based on program availability, treatment beds will be prioritized by the SOTAP PS3 and coordinated with the Sex Offender Treatment Program (SOTP) Manager using the Sex Offender Treatment Program (SOTP) Prioritization Matrix.
 1. Once a priority code is assigned, offenders with less time to their ERD will be prioritized before those with more time to serve. Priority code overrides must be approved by the SOTAP Director.
 2. Within available resources, SOTAP may provide programming for higher risk sex offenders who have been determined ineligible for treatment.
 3. Within available resources, offenders with intellectual/developmental disabilities and/or major mental illness may be prioritized before those with more time to serve to ensure offenders have sufficient time to complete the program.
 4. Offenders releasing to Washington State will be prioritized before offenders with detainers to other states or countries and offenders that reside in other states.

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- C. If the offender's interest or ability to participate changes before transfer to treatment facility and/or placement, a classification employee will notify the SOTAP PS3, who will enter a Sexual Deviancy Chronological Event (chrono) in the offender's electronic file and update the referral screen in OMNI Programs.

V. Transfers

- A. The SOTAP PS3 will coordinate with the Transportation Manager and Corrections Specialists at Headquarters to arrange for offender transfers.
- B. Once eligibility is determined, and upon transfer to the treatment facility, failure to participate in/complete the program will result in a 557 violation per DOC 460.000 Disciplinary Process for Prisons.

VI. Treatment Services

- A. A Department approved, validated needs assessment will be completed on all male SOTAP participants. The assessment will be used for treatment planning, determining dosage, establishing the Sex Offender Risk Category in OMNI Programs, and identifying targeted interventions related to the individual criminogenic risk factors empirically linked to sexual recidivism.
1. Assessment data will be entered in OMNI Programs.
- B. Based on the needs assessment, the assigned sexual deviancy treatment provider will complete an initial treatment plan within 30 days of intake to SOTAP Prison and community-based programs. Every effort will be made to engage offenders in their treatment plan.
1. Offenders who object to specific, assigned tasks and procedures will, whenever possible, be given an option to perform alternate tasks to achieve the same clinical goals.
 2. Offenders who object to a number of treatment components or the basic treatment philosophy may be asked to withdraw from the program.
- C. SOTAP clinical personnel will use cognitive behavioral principles of intervention and relapse prevention during the course of treatment.
- D. The SOTAP Psychologist 4 provides clinical consultation, conducts research, and prepares comprehensive reports using psychological testing for program participants at the request of the SOTAP Director or designee.

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1. The SOTAP Psychologist 4 is not the offender's primary mental health care provider, but consults with Health Services regarding any mental health-related concerns.

E. SOTAP employees/contract staff will be responsible for preparing the summary for all offenders discharging from treatment.

F. Within available resources, Prison-based aftercare treatment services may be provided to male offenders consistent with the Sex Offender Treatment Program (SOTP) Prioritization Matrix. Aftercare may also be available for female offenders at WCCW.

G. The SOTAP employees will provide the offender with DOC 02-330 Sex Offender Treatment Program Rules of Confidentiality and Informed Consent.

VII. Prison-Based Treatment Records and Confidentiality

A. Throughout the course of treatment, SOTAP clinical personnel will keep written group and individual notes documenting progress towards addressing dynamic risk factors.

B. All offender risk assessment reports will be made available to SOTAP employees to assist in treatment planning. The risk assessment will be uploaded into the offender's electronic imaging file and documented in the offender's electronic file.

C. Information provided by offenders and described in any non-psychological reports prepared by SOTAP personnel will be shared with Department employees and criminal justice entities on a need-to-know basis.

1. Unless authorized by law, offenders must sign DOC 02-406 Sex Offender Treatment and Assessment Programs Release of Confidential Information to share relevant information with other parties (e.g., family members, private treatment providers).

2. Treatment documentation and other treatment-related material will be maintained by SOTAP in the offender's treatment file.

D. Psychological testing and reports completed by the SOTAP Psychologist 4 will be treated as confidential, protected health information.

1. Records will be maintained in a secure location separate from the central file, offender health record, and treatment file. Psychological testing, including raw scores, reports, and diagnoses, will only be disclosed as

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authorized by law and will only be photocopied for official Department purposes.

2. Disclosure with Offender Authorization
 - a. Any authorization by an offender for voluntary disclosure of his/her psychological testing reports must be made in writing per RCW 70.02.030 using DOC 02-406 Sex Offender Treatment and Assessment Programs Release of Confidential Information.
 - 1) An offender may revoke a disclosure authorization by written request to the SOTAP Psychologist 4 at any time before a disclosure is made per RCW 70.02.040.
 - b. Offenders may request to examine or obtain a copy of their own SOTAP psychological testing results.
 - 1) Offender requests to examine their own testing results will be submitted in writing to the SOTAP Psychologist 4/designee. A response will be made within 15 working days of receiving the request.
 - a) The records should be reviewed in the presence of the SOTAP Psychologist 4 or, in his/her absence, a duly qualified and licensed mental health provider.
 - b) Examination may be denied if the SOTAP Psychologist 4 concludes the knowledge of the information may be injurious to the offender's health, could reasonably be expected to endanger the life or safety of any person, or for other reasons cited in RCW 70.02.090.
 - 2) Offender requests for copies of their own testing results will be submitted to the Department Public Disclosure Unit per DOC 280.510 Public Disclosure of Records.
3. Disclosure without Offender Authorization
 - a. The SOTAP Psychologist 4 will share information with the SOTAP Director, Superintendent, and health services personnel related to protecting and preserving the safety/security of the facility.

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- b. Information may be disclosed to Prison and Field Office classification/supervision employees and contract staff on a need-to-know basis.
 - c. Information may be disclosed and/or exchanged with health services providers in the community to ensure the continuity of care per RCW 70.02.050(1)(a) and RCW 74.09.555.
 - d. Psychological reports will be disclosed without the offender's permission when required by law or court order. Reports will also be released to fulfill the Department's obligation to warn or to protect the public while preserving details (e.g. diagnosis).
 - e. Records will be released to the ISRB upon written request. A copy of such requests will be placed in the treatment and SOTAP psychological files.
 - f. Records may be disclosed in other circumstances, as permitted by court order or by RCW 70.02.050, RCW 70.02.900, or other statute.
4. In the course of official duties, access to the SOTAP psychological file is granted to SOTAP employees and Department mental health providers.
 5. Employees, contract staff, volunteers, interns, and researchers within the Department having access to SOTAP psychological reports will:
 - a. Receive orientation and/or training regarding the expectations for use and treatment of confidential SOTAP records,
 - b. Sign DOC 14-003 Confidentiality Statement, and
 - c. Be advised of the consequences for misuse or abuse of health information, including disciplinary action.

VIII. Voluntary Withdrawal/Involuntary Termination

- A. Offenders may voluntarily withdraw from treatment at any time. Offenders who voluntarily withdraw will be subject to disciplinary action.
 1. If an offender reconsiders participation, a request to return must be submitted to the SOTP Manager within 3 days of the withdrawal notice.
- B. Offenders may be terminated from treatment for the following reasons and may be subject to disciplinary action:

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1. Intentional violation of confidentiality of other participants
 2. Fighting or assaultive behavior
 3. Prohibited sexual behavior with others
 4. Behaviors that are disruptive to the orderly operation of the program or the secure and orderly operation of the facility
 5. Classification into close or maximum custody, unless granted an override by Headquarters
 6. Lack of progress in treatment, as determined by the SOTP Manager.
 7. The use of alcohol, marijuana, or illicit substances
- C. Offenders who are terminated from treatment may appeal to the SOTAP Director or designee. Appeals must be submitted within 3 days of the termination notice.

IX. Community Treatment

- A. Offenders who have completed the Prison-based portion of SOTAP are expected to participate in follow-up treatment services in the community, not to exceed the period of supervision. These services will be provided by the SOTAP Community Corrections Specialist.
1. In areas where SOTAP Community Corrections Specialists are unavailable, SOTAP may contract with certified sexual deviancy providers to provide community-based treatment.
 2. The SOTAP Community Clinical Supervisor will provide clinical supervision direction, and major decisions (e.g., worksites, personnel, policy decisions affecting SOTAP and its employees) will be made by the SOTAP Director.
- B. Upon transfer from Prison to Work Release or community supervision, information regarding the offender and his/her participation in SOTAP will be forwarded to the SOTAP Community Corrections Specialist. This typically includes the SOTAP Treatment Summary, Community Consent Agreement, and the offender's release/relapse prevention plan.
- C. A Department-approved, validated needs assessment will be completed on all male SOTAP participants upon intake and successful discharge from treatment. The assessment will be used for treatment planning, determining dosage, establishing the Sex Offender Risk Category in OMNI Programs, and identifying targeted interventions related to the individual criminogenic risk factors empirically linked to sexual recidivism.
1. The SOTAP Community Corrections Specialist will enter assessment outcomes into OMNI Programs within 48 hours of completion of treatment.

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D. The SOTAP Community Corrections Specialist will regularly share pertinent information and collaborate with the assigned CCO about the offender, including updates concerning the offender's progress in treatment and any other information that may affect public safety or the offender's status on supervision.

E. When an offender completes treatment in the community, the SOTAP Community Corrections Specialist will complete a discharge summary. The summary and community treatment file will be forwarded to the SOTAP Administrative Assistant 3 at Headquarters.

X. Quality Assurance

A. Within available resources, SOTAP will engage in regular, ongoing quality assurance activities and develop a quality assurance program to:

1. Develop standards for the treatment model based on established best practices in the field of sex offender treatment.
2. Measure and demonstrate:
 - a. Adherence to the established treatment model standards by SOTAP clinical personnel.
 - b. Outcomes of treatment interventions on offender behaviors.
3. Direct the supervision of SOTAP clinical personnel to improve adherence to treatment model standards.

B. SOTAP clinical personnel will participate in ongoing Motivational Interviewing (MI) training, working towards a minimum skill level of competency as defined by the Department's approved tool.

C. The SOTAP Correctional Specialist 3 and SOTAP Community Corrections Specialists conducting risk assessments will:

1. Within available resources, become certified by an approved trainer in the use of the Department-approved validated risk assessment as close to their start date as training is available.
2. Participate in ongoing training and recertification when available.
3. Participate in monthly interrater reliability exercises to ensure adherence to established risk assessment tool standards.

XI. Sex Offender Program Consultation and Collaboration

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A. The SOTAP Director will collaborate on a regular basis with:

1. The Extended Leadership Team
2. Offender Change Programs
3. Members of the Association for the Treatment of Sexual Abusers (ATSA) and the Washington Association for the Treatment of Sexual Abusers (WATSA)
4. Internal/external victim services
5. The ISRB

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Sex Offense. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

- [DOC 02-194 Sex Offender Treatment Program Statement, Program Screening, and Application](#)
- [DOC 02-330 Sex Offender Treatment Program Rules of Confidentiality and Informed Consent](#)
- [DOC 02-406 Sex Offender Treatment and Assessment Programs Release of Confidential Information](#)
- [DOC 14-003 Confidentiality Statement](#)

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

May 11, 2020 - 8:29 AM

Transmittal Information

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Appellate Court Case Number: 54254-4
Appellate Court Case Title: Personal Restraint Petition of David Wayne Evans
Superior Court Case Number: 04-1-01929-0

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