

No. 44282-5

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

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IN RE THE PERSONAL RESTRAINT PETITION OF:

**STEVEN CRAIG CEARLEY,**

PETITIONER.

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**PERSONAL RESTRAINT PETITION**

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A. STATUS OF PETITIONER

Steven C. Cearley (hereinafter “Cearley”) challenges his judgment of convictions for five counts of first degree child rape and one count of first degree child molestation, as well as his “exceptional” sentences for his convictions. Mr. Cearley (DOC # 332286) is currently incarcerated at Clallam Bay Correction Center in Clallam Bay, Washington.

This is Mr. Cearley’s first collateral attack on his judgment.

B. FACTS

*Procedural History*

Steven Cearley was charged in Pacific County with child rape and molestation by an Information (No. 07-1-00269-1) filed on December 19, 2007. The information was amended on February 1, 2008. Cearley was tried by a jury. On June 30, 2009, the jury returned guilty verdicts. Cearley was sentenced to 800 months on September 24, 2009. *See* Judgment and Sentence attached as Appendix A.

Cearley appealed to this Court (Case No. 398231). This Court affirmed in an opinion dated November 1, 2011. This Court issued its mandate on December 13, 2011.

This timely PRP follows.

*Facts from Trial*

This Court summarized the facts as follows:

In the fall of 2005, Mary started dating Steven Craig Cearley; Mary eventually married and had children with Cearley. Some months later, Mary, ADM, and ADM's brother moved in with Cearley in a house in Raymond. In April 2006, Mary and Cearley moved to a residence in Montesano; at that time, ADM and ADM's brother moved into an apartment with Mary's mother. Approximately six to eight months later, ADM moved back in with Mary and Cearley; Medley moved back in with the family at the Montesano residence, too. "More than once" <sup>FN3</sup> over a two-year period, Cearley kissed ADM, groped her breasts, performed oral sex on her, and penetrated her anally and vaginally, with the last incident occurring in November 2007.

FN3. The record is not clear about how many times the incidents occurred.

#### B. ADM's Disclosures

At some point in 2006 or 2007, ADM told several of her friends at school that she "was being sexually abused." <sup>FN4</sup> Verbatim Report of Proceedings (VRP) (June 24, 2009) at 93. Initially, she did not disclose her abuser's identity; but eventually she told at least one friend that it was her "Uncle Steve" who was sexually abusing her. VRP (June 24, 2009) at 108. Two of ADM's friends told their parents about her disclosures; and one of these parents advised the elementary school's principal, Joan Leach. Leach contacted Child Protective Services (CPS) and the "Crisis Support Network." VRP (June 18, 2009) at 147. On November 20, Pacific County CPS received a referral about ADM and assigned Erin Miller to the case.

FN4. Although the dates of ADM's disclosures to her classmates are not clear from the record, these disclosures apparently occurred over a period of several months. The next day, Leach brought ADM from class to her office. With Miller and Crisis Support Network employee Kris Camenzind also present, Miller turned on a tape recorder and began to interview ADM. ADM denied repeatedly that anything was wrong or that "Uncle Steve" had done something to her. <sup>FN5</sup> Clerk's Papers (CP) at 657–69.

FN5. After 46 minutes of interviewing, Miller turned off the recorder and left ADM and Leach alone in Leach's office for approximately eight minutes. Below, the parties hotly disputed the conversation that took place between Leach and ADM during this break; the content of that conversation, however, has no bearing on our analysis.

About an hour into the interview, Miller stated to ADM, “[Y]ou said that if something happened, you would tell your friends, right? And, well, one of your friends said that something happened.... They said that you told them something happened. So I need to know more about that. You're looking very uncomfortable.” CP at 670. When ADM responded that she was “kind of” feeling uncomfortable, Miller asked why she felt uncomfortable. CP at 670. ADM replied, “[T]here's something I'm not telling you.... [H]e said it could break up the whole family.” CP at 670. When Miller asked, “Who said it could break up the whole family?” ADM said, “Uncle Steve.” CP at 670. Miller then asked ADM, “So can you tell me more?” And ADM responded, “I don't really like Uncle Steve.” CP at 671. When Miller stated, “Okay. Tell me why,” ADM answered, “He touches me.” CP at 671. ADM went on to describe Cearley's sexual abuse of her, describing in detail multiple episodes of anal penetration.

About an hour and a half into the interview, Pacific County Sheriff's Deputy Jonathan Ashley, whom Miller had contacted about ADM the day before, arrived at Leach's office and participated in the interview. Later that day, Ashley and another sheriff's deputy executed a search warrant at Cearley's residence, where they seized a pair of ADM's jeans; the semen in the interior crotch area of these jeans matched Cearley's DNA.

### C. Medical Examination

Also later that same day, Camenzind took ADM to the Providence St. Peter Hospital's Sexual Assault Clinic in Olympia. Before examining ADM, nurse practitioner Laurie Davis asked ADM with whom she lived. ADM replied, “My aunt and uncle right now. But my uncle [ ].” <sup>FN6</sup> CP at 709. When Davis asked, “Okay. Is your uncle the one who did this?” CP at 709. ADM replied, “Mm-hm.” CP at 709.

FN6. The transcript of Davis's examination of ADM reads exactly as quoted above: “But my uncle [ ].” CP at 709.

Later on, Davis told ADM, “[Y]ou need to tell me what has happened that brought you here today.” CP at 715. ADM responded, “My uncle ... sexually harasses me.” CP at 715. ADM told Davis that Cearley had “touche[d]” her both under and over her clothes. CP at 716. ADM also described one incident in which Cearley was “pushing” on her “tush.” CP at 718.

#### D. December 20, 2007 Interview

On December 20, Miller interviewed ADM at the South Bend Children's Administrative Office in the presence of Camenzind, who also recorded this second interview. The prosecutor listened and watched from behind a one-way mirror.<sup>FN7</sup> Miller told ADM, (1) “[W]e’re going to talk a little bit more about that time” when Miller first interviewed ADM in Leach’s office; and (2) “when we talked before, we talked about some things that were going on at home, um, in regards to your Uncle Steve.” CP at 733–34. ADM described incidents when Cearley had “stuck something in [her],” which she thought was his “male part” “touch[ing]” her “tush” and “girl area.” CP at 739, 759. ADM further described incidents of Cearley’s kissing her, groping her breasts, and having her perform sexual acts on him.

FN7. During the child hearsay hearing, Miller testified that the purpose of this second interview was “to more clearly define time frames and what kinds of incidents occurred.” VRP (June 10, 2009) at 297.

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#### B. Trial Testimony

ADM testified about Cearley’s sexual abuse. On cross-examination, Cearley (1) noted inconsistencies between ADM’s trial testimony and her earlier interview with Cearley’s defense counsel; (2) questioned ADM about the November 21 interview in which she had initially told Miller that Cearley had “never touched” her and that she “felt safe” with Cearley, VRP (June 17, 2009) at 105–06; and (3) suggested that it was Medley who had molested and raped her, not Cearley.

Miller testified about the statements that ADM made during the November 21 and December 20 interviews.<sup>FN9</sup> Davis testified about ADM’s statements during the medical examination and the examination itself. Cearley cross-examined Davis about Cearley’s having tested positive for herpes and ADM’s having tested negative. Leach testified that, during the November 21 interview, (1) she did not tell ADM that “she needed to say it was Uncle Steve” or that “[she] needed to disclose any particular type of activity that was going on at home”;<sup>FN10</sup> and (2) “[t]he only thing that I would have said to her was, ‘This is a safe place for you to be.’”<sup>FN11</sup> Leach also

recounted some of the statements that ADM had made during the November 21 interview.

FN9. VRP (June 17, 2009) at 257 (“[ADM] reported that she was being touched by her Uncle Steve.”); VRP (June 18, 2009) at 77 (“And then she described the incident of him and her laying [sic] down and him pushing on her tush.”), 78–88 (describing other hearsay statements).

FN10. VRP (June 18, 2009) at 149.

FN11. VRP (June 18, 2009) at 150.

Ashley testified that, in his presence, ADM had described an incident in which “she had been inappropriately touched by her uncle” by “ ‘push[ing] in her tush.’ ” VRP (June 23, 2009) at 17. Ashley also described ADM's other statements about this incident. After the State rested, Cearley testified and repeatedly denied having sexually abused ADM.

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The jury found Cearley guilty of five of the six first degree child rape counts (counts one and three through six) and of the sole first degree child molestation count. For the special verdicts on the five first degree child rape convictions, the jury unanimously answered “yes” to each question on each form, thus finding that both aggravating circumstances were present for each of the five first degree child rape convictions. *See* CP at 555, 557–60.

At sentencing, the trial court stated that the standard range for Cearley's five first degree child rape convictions was between 240 to 318 months of confinement. The trial court explained that the jury's “yes” answers on the special verdict forms for the first degree child rape convictions were an “exceptional and compelling” reason to impose exceptional sentences.<sup>FN13</sup> VRP (Sept. 24, 2009) at 25–26. The trial court imposed an exceptional sentence of 800 months by running the sentences consecutively. Next, the trial court imposed 198 months for Cearley's first degree child molestation conviction. The trial court ordered Cearley to serve his sentences for the first degree child rape convictions and the first degree child molestation conviction concurrently.

FN13. The trial court cited two additional reasons for the exceptional sentence: (1) Cearley “ha[d] crimes that would go unpunished”

under a standard range sentence because Cearley “was off the Richter scale in terms of how ... the sentencing guidelines go”; and (2) the Department of Corrections' Pre-Sentence Investigation Report noted that Cearley showed no “ ‘remorse for his actions,’ “ and Cearley did not refute that statement. VRP (Sept. 24, 2009) at 27–28, 31.

Facts relevant to the claims raised in this petition appear at the beginning of each claim, as well as in the appendices attached to this petition.

### C. ARGUMENT

#### **Trial Errors:**

1. MR. CEARLEY'S FAIR TRIAL RIGHTS WERE VIOLATED BECAUSE THE VICTIM ADVOCATE “COACHED” THE VICTIM DURING HER TESTIMONY.

#### *Introduction*

Although there are few reported cases, it is well established that it is improper to “coach” a witness about that witness’s testimony. Coaching is different from preparing a witness to testify. Coaching communicates that the witness should answer in conformity with the interests of the party, not the truth.<sup>1</sup>

The line is sometimes fine—even more so when children are involved. And, while there are undoubtedly benefits to the involvement of

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<sup>1</sup> The term “coaching” is used herein to denote any method or means by which a spectator, either through spoken words or through signaling with physical gestures such as nodding or shaking the head, movements of the arms or hands, or facial expressions, prompts a witness or gives her cues or suggestions as to how a question should be answered or what answer should be made.

victim advocates in the criminal justice system, there are also attendant risks to the truth-finding function. First, victim advocates often are employees of the prosecutor or are at least closely aligned with the interests of the prosecutor. Next, victim advocates accompany complaining witnesses to court, are often allowed to sit in a designated place during trial, frequently give witnesses items to take with them to the stand, and are usually not restricted in their ability to talk to the witness during breaks in testimony. This happens routinely without any showing of particularized need. It would likely not be tolerated with any other category of witness.

In this case, Cearley has made a *prima facie* case that the victim was coached during her testimony in subtle and not-so-subtle ways. As a result, this Court should either reverse or remand this claim for an evidentiary hearing.

#### *Facts*

When A.D.M., testified she was accompanied in the courtroom by several “victim advocates.” The trial court, trying to prevent coaching, noted: “Okay, so I’ll allow the victim advocate to walk the child up to the stand and then I will take it from there and then she’s welcome to sit in the front row. You’re to instruct her... that she’s not to use any type of facial gestures in terms of agreeing with or not agreeing with or smiling to try to encourage her to – she’s just to sit there so the child can see her and then we’ll just see how it goes.” R.P. (Vol. III)117.

The prosecutorial agent sat in the front row of seats.

When A.D.M. testified she kept near constant eye contact with the victim advocate. *See* Declaration of Cearley attached as Appendix C.

Cearley paid close attention to their interactions. He noticed that when A.D.M. was unsure of an answer and paused, if the victim advocate gave a slight smile, A.D.M. would continue with her answer. If the victim advocate looked down or away, then A.D.M. would either quickly finish her answer or change direction in her answer. This happened several times. *Id.*

When the court took a break during A.D.M.'s testimony, the jurors filed out into the hallway and saw A.D.M., who was clutching her "squeezy toy" which she was apparently given by the victim advocate, surrounded by multiple advocates who were talking to her and consoling her. *Id.* The toy that she was holding was the same toy that she held during both the pre trial hearing and trial. *Id. See also* R.P. (Vol. III) 135. In fact, the judge instructed A.D.M to wait outside the court room in the rotunda (breezeway) and said, "Officer, if you'd just wait out in the rotunda with her." This was all done in the presence of the jury. R.P. (Vol. VI) 133. The jury was then excused for lunch, walking past the witness and her entourage. *Id. See* Declaration of Cearley attached as Appendix C.

### *Argument*

It is a common practice for a judge to instruct a witness not to discuss his or her testimony with third parties until the trial is completed. See, e.g., *Jerry Parks Equipment Co. v. Southeast Equipment Co.*, 817 F.2d 340, 342-343 (5<sup>th</sup> Cir. 1987) (improper discussion of case by defense witness with defense counsel); *United States v. Greschner*, 802 F.2d 373, 375-376 (10<sup>th</sup> Cir. 1986) (circumvention of sequestration order where “witnesses indirectly defeat its purpose by discussing testimony they have given and events in the courtroom with other witnesses who are to testify”), Such non-discussion orders are a corollary of the broader rule that witnesses may be sequestered to lessen the danger that their testimony will be influenced by hearing what other witnesses have to say, and to increase the likelihood that they will confine themselves to truthful statements based on their own recollections. In other words, the criminal justice system takes steps to ensure that a witness’s testimony is her truthful testimony and not what she thinks someone wants her to say.

As a result, permitting a witness to consult with an agent of a party during her testimony grants the witness an opportunity to gain a “sense of strategy that the unaided witness would not possess.” “This is true even if we assume no deceit on the part of the witness; it is simply an empirical predicate of our system of adversary rather than inquisitorial justice that cross-examination of a witness who is uncounseled between direct

examination and cross-examination is more likely to lead to the discovery of truth than is cross-examination of a witness who is given time to pause and consult with his attorney.” *Perry v. Leeke*, 488 U.S. 272 (1989).

Children are susceptible to influence. While a trial court has discretion to permit someone known to the victim to calm a distressed victim on witness stand the presence of that person can never properly be used as an attempt to control or influence the witness's testimony. *Ricketts v. State*, 498 N.E.2d 1222 (Ind. 1986).

In this case, there is evidence that the victim advocate attempted to influence the victim’s testimony despite the trial judge’s admonition. The most obvious examples are the advocate’s facial reactions to the victim’s testimony. However, providing the victim with a toy and surrounding her , and talking to her during the break in her testimony were also subtle methods of attempting to influence her testimony.

If the victim advocate spoke to the witness during her break about her testimony that too constitutes coaching. Even an assurance that the witness was doing “good” or that they were “proud” of her could result in the witness conforming her testimony to the interests of the prosecutor.

If the State disputes this evidence with its own, then this Court should remand for an evidentiary hearing. Otherwise, this Court should reverse and remand for a new trial.

- 2A. MR. CEARLEY'S RIGHT TO AN OPEN AND PUBLIC TRIAL WAS VIOLATED WHEN JUROR FILLED OUT A QUESTIONNAIRE, WHICH WAS PLACED UNDER SEAL.
- 2B. MR. CEARLEY WAS DENIED HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHERE COUNSEL UNREASONABLY FAILED TO ADVISE HIM ABOUT HIS RIGHT TO AN OPEN AND PUBLIC TRIAL AND WHERE CEARLEY WOULD NOT HAVE WAIVED THE RIGHT IF HE HAD BEEN PROPERLY ADVISED.
- 2C. MR. CEARLEY WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL WHEN APPELLATE COUNSEL FAILED TO CHALLENGE THE SECRET QUESTIONNAIRE.

### *Introduction*

Prospective jurors were given a questionnaire that they were told was and would remain private. A blank version is attached to this PRP as Appendix B. The decision to use a secret and sealed questionnaire was not discussed with Mr. Cearley. He did not waive and did not wish to waive his right to an open and public trial, but neither counsel nor the Court inquired.

This issue is currently pending in the Washington Supreme Court in *State v. Tarhan*, No. 85737-7. While that case will almost certainly be applicable to this case, because there are differences in the two cases, Cearley sets forth his arguments in favor of reversal below.

### *Facts*

During his trial, jurors were given a confidential questionnaire. *See* Declaration of Cearley attached as Appendix C. Trial counsel did not

explain to Mr. Cearley that his right to an open and public trial included all of jury selection. If he had been told of this right, Mr. Cearley would not have agreed to secret questionnaires, but instead would have insisted that all of his trial be open to the public. *Id.*

The questionnaire in this case specifically told each juror on the panel, “the information you provide is confidential for use by the Court and the lawyers during voir dire. This questionnaire will be part of the sealed Court file and will not be available for inspection publicly or privately.”

*See Appendix B.*

The questionnaire asked a total of 14 questions with some questions having multiple parts. *Id.* At no time during trial was Mr. Cearley ever shown these questionnaires.

#### *The Constitutional Rights to an Open and Public Trial*

Juror questionnaires are routinely used in criminal trials. Questionnaires supplement oral voir dire. Questionnaires save time and allow for the court and parties to ask more questions of prospective jurors. Questionnaires also identify issues requiring follow-up questioning. Questionnaires are plainly part of the jury selection process.

Jury selection is presumptively open.

A judge’s decision to preclude public access to completed questionnaires is no different than the decision to remove spectators from

the conduct of oral questioning, especially where jurors are told that their answers will be kept private during and after trial.

Questionnaires or parts of questionnaires can sometimes be sealed. In some cases the privacy interests of jurors outweigh the right to a public trial. In some cases the parties believe privacy will lead to greater candor by prospective jurors. These are legitimate interests. However, a judge must hold a hearing *prior* to the decision to exempt the information from the public—no matter whether that information is written or spoken.

Making questionnaires available post-trial does not cure the error any more than releasing a post-trial transcript of “closed court” voir dire cures the error. Washington courts have consistently rejected the post-hoc conduct of a *Bone-Club* hearing.

Mr. Cearley’s constitutional right to an open and public trial was violated during jury selection when the Court used a confidential questionnaire without first holding a *Bone-Club* hearing.

The openness of criminal trials has historically been recognized as an indispensable attribute of the Anglo-American legal system. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569 (1980).

Voir dire is a part of trial and is presumably open. *State v. Strode*, 167 Wn.2d 222, 217 P.3d 310 (2009) (rejecting State’s argument that interviews of prospective jurors that took place in chambers occurred prior to the commencement of trial). *See also Presley v. Georgia*, \_\_\_ U.S. \_\_\_,

130 S.Ct. 721 (2010) (rejecting Georgia’s argument that the Sixth Amendment public trial guarantee did not extend to jury selection). Presumptively open proceedings can, of course, be closed. However, this Court has repeatedly and plainly articulated the guidelines that every trial court must follow before it closes a courtroom to the public in *State v. Bone-Club*, 128 Wn.2d 254, 258-59, 906 P.2d 325 (1995), and in numerous subsequent cases. See *State v. Lomor*, 172 Wn.2d 85, 257 P.3d 624 (2011) (summarizing cases).

Jury questionnaires perform a valuable function in the jury-selection process by expediting and assisting a court’s voir dire. Colquitt, Joseph; *Using Jury Questionnaires; (Ab)using Jurors*; 40 Conn. L. Rev. 1 (2007). The purpose of written questions is no different than oral questions: to gather information from the venire so that the court and the attorneys can adequately address challenges for cause and peremptory strikes. See, e.g., *Stevens v. State*, 770 N.E.2d 739, 751 (Ind. 2002) (“Jury questionnaires are a useful tool employed by courts to facilitate and expedite sound jury selection.”); *State ex rel. Beacon Journal Publ’g Co. v. Bond*, 781 N.E.2d 180, 188 (Ohio 2002) (reasoning that “the purpose behind juror questionnaires is merely to expedite” voir dire, and therefore “questionnaires are part of the voir dire process.”).

Because questionnaires are merely a part of the overall voir dire process, the use of questionnaires does not implicate a separate and distinct

proceeding. Based on this reasoning, courts in other jurisdictions have applied the presumption of openness to juror questionnaires. See, e.g., *Stephens Media, LLC v. Eighth Judicial Dist. Court of State ex rel. County of Clark*, 221 P.3d 1240 (Nev. 2009) (holding that use of the questionnaires is merely a part of the overall voir dire process, subject to public access and the same qualified limitations as applied to oral voir dire); *Forum Communications Co. v. Paulson*, 752 N.W.2d 177, 185 (N.D.2008) (concluding that a “written questionnaire serves as an alternative to oral disclosure of the same information in open court and is, therefore, synonymous with, and a part of, voir dire”). *State ex rel. Beacon Journal Publ'g Co. v. Bond*, 781 N.E.2d 180, 188-89 (Ohio 2002) (holding that “[c]onsistent with our reasoning, we note that virtually every court having occasion to address this issue has concluded that such questionnaires are part of voir dire and thus subject to a presumption of openness” and concluding “that the First Amendment guarantees a presumptive right of access to juror questionnaires . . .”).

The Washington Supreme Court recently rejected the State’s attempt to characterize the questionnaire process as separate and distinct from trial in the context of the constitutional right to be present in *State v. Irby*, 170 Wash.2d 874, 246 P.3d 796 (2011). In that case, jurors were excused after the court and the parties reviewed and discussed questionnaires through the exchange of emails. In *Irby*, the State argued that the questionnaire process

was not part of trial. The Supreme Court easily rejected that claimed distinction noting that the questionnaire itself in *Irby* indicated that the questionnaire process was “part of the jury selection process,” and “designed to elicit information with respect to your qualifications to sit as a juror *in this case*.” *Id.*

*A Hearing Must Precede Closure or Sealing*

Washington courts have not distinguished between public access to the courtroom and to documents in the court file. *Seattle Times Co. v. Ishikawa*, 97 Wash.2d 30, 36, 640 P.2d 716 (1982); *Dreiling v. Jain*, 151 Wn.2d 900, 908, 93 P.3d 861 (2004); *Tacoma News, Inc. v. Cayce*, 172 Wash.2d 58, 256 P.3d 1179 (2011) (excluding pretrial discovery documents that are never introduced in the case). In both cases, there is a presumption of openness which can be overcome in certain circumstances. In any case, a hearing must precede a closure or sealing order.

Questionnaires routinely seek personal information. However, questions asked of jurors in court routinely seek personal information, too. Once again, there is no reason to create a distinction between questions asked orally and those asked and answered in writing. Instead, this Court should adopt the same rule it has repeatedly affirmed for other portions of trial: a decision to limit public access must be preceded by a hearing where the court considers the *Bone-Club* factors. *Strode*, *supra*.

This is easy. Questionnaires can include a paragraph that states in

unambiguous language that they will become public records and, as an alternative to writing in sensitive personal data to a question, jurors can respond to the question by requesting a closed appearance before the judge with counsel and the accused present. The court can then evaluate that request.

For example, a questionnaire could state:

Please answer the questions honestly and completely. This questionnaire is part of the public record of a public trial. In the event that some of the questions call for sensitive personal information, which you wish not to disclose here, please indicate that in your response. You will be provided an opportunity to speak with the judge and/or the attorneys outside the presence of the other jurors.

A trial court should not offer a guarantee of protection from public disclosure of information contained in juror questionnaires. A blanket promise of protection from public disclosure of information on jury questionnaires is not legally effectual where public access is mandated under the constitution. It is misleading. See, e.g., *Copley Press, Inc. v. Superior Court*, 278 Cal. Rptr. 443, 450 (Cal. Ct. App. 1991) (“[T]he venirepersons shall be expressly informed the questionnaires are public records. . . . [T]he superior court shall provide access to the questionnaires of individual jurors when the individual juror is called to the jury box for oral voir dire. Public access shall not be provided to questionnaires filled out by venire persons who are not called to the jury box.”).

Questionnaires, like oral voir dire, sometimes seek highly personal information. The otherwise understandable desire to preserve juror privacy conflicts with the constitutional mandate requiring public access to most information about the private lives of potential jurors. This conflict is exacerbated by the apparently common practice of accompanying questionnaires with words of comfort promising eternal confidentiality for the completed questionnaires. It is not good policy to lie to jurors. Unsealing questionnaires after trial (and presumably without notice to jurors) conflicts with the promises made when jurors reveal private matters.

This is exactly when this Court has repeatedly held that a *Bone-Club* hearing must precede an order to close the proceedings. It is also why Washington courts have repeatedly held that an after-the-fact hearing does not suffice. *Bone-Club*, 128 Wn.2d at 261; *Strode*, 167 Wn.2d at 227. Likewise, a post-trial order unsealing questionnaires does not cure the prejudice any more than releasing a post-trial transcript of private, oral questioning cures the error.

The values associated with a public trial are not safeguarded by releasing information only after a trial is over. This Court should treat questionnaires the same as any other part of trial which is presumptively open. If that part of trial is improperly closed, then reversal is automatic. *Strode*, 167 Wn.2d at 231. The error does not become harmless by the later release of information. Otherwise, entire trials could be conducted in

secret, as long as the results were made public at some future date.

Trial courts are obligated to take every reasonable measure to accommodate public attendance at criminal trials and public access to criminal court files. This Court should include juror questionnaires as part of the public trial.

### *Conclusion*

“Prejudice is necessarily presumed where a violation of the public trial right occurs.” *Easterling*, 157 Wn.2d at 181, 137 P.3d 825. “The denial of the constitutional right to a public trial is one of the limited classes of fundamental rights not subject to harmless error analysis.” *Id.*

The remedy is reversal and a new trial. *Id.* at 174.

3. MR. CEARLEY WAS DENIED THE RIGHT TO BE PRESENT AND TO AN OPEN AND PUBLIC TRIAL WHEN THE COURT CONDUCTED NUMEROUS SIDEBARS AND FAILED TO PUT THOSE PROCEEDINGS ON THE RECORD.

### *Introduction*

A significant portion of Mr. Cearley’s trial was conducted in chambers and at sidebar. Both Mr. Cearley and the public were excluded from these parts of trial. Although the Court tried to summarize these sidebar hearings on the record at the end of many of the trial days, oftentimes the Court did this the next day, missing some of them. None appear to have been contemporaneously recorded. In short, significant parts of the trial were conducted in secret—neither the public nor Cearley

himself were able to learn—then or now—what happened during these parts of trial.

*Facts*

Before the public trial began, some of the court days would start with a chambers conference involving the attorneys and the judge. Cearley was not allowed to attend any of these hearings.

Each day during trial there were multiple sidebars. Cearley estimates that there were 5-10 sidebars each trial day. Cearley's trial was long. On a couple of occasions, judge put the sidebars on the record at the end of the day. Cearley noticed that several sidebars were never summarized. Cearley does not know whether the court accurately summarized the sidebars because he was not permitted to be present.

Sidebars occurred on June 17, 2009, and do not appear to have been placed on the record. R.P. (Vol. VI) 23, 143. A sidebar on June 18, 2009, was properly placed on the record. R.P. (Vol. VIII) 255, 268. On June 23<sup>rd</sup> there were four sidebars throughout the day. R.P. (Vol. IX) 26, 66 and R.P. (Vol. X) 224, 227. These four sidebars were all placed on the record at the end of that trial day. R.P. (Vol. X) 229-235.

On June 24, 2009, four sidebars occurred during the trial that day. R.P. (Vol. X) 81 and R.P. (Vol. XI) 122, 175, 205. These side bars were not placed on the record until the next day when three of those sidebars were placed on the record. R.P. (Vol. XI) 5-6. The Court went on to say,

“I show one back on day three, which would have been what? Tuesday, Wednesday, Thursday – 16<sup>th</sup>, 17<sup>th</sup> – it would have been the 18<sup>th</sup> of June. I must not have covered that one. There might be a few others I didn’t cover.” R.P. (Vol. XI) 7-8.

On June 25<sup>th</sup> there were five sidebars throughout the trial day and they were all placed on the record at the end of court that day. R.P. (Vol. XII) 207-212.

#### *Argument*

While Cearley acknowledges that some small portions of trial can be conducted in private, those “closed” conferences must be put on the record shortly after they occur in order to preserve the right to an open and public trial. In addition, a court reporter should be recording every one of these meetings. Because that did not happen in this case, Cearley was denied his right to an open and public trial under the state and federal constitutions. Cearley is not demanding a right to contemporaneous presence. Instead, he asserts the right to openness during the course of the proceeding—at the earliest available opportunity. This Court should reverse and remand for a new trial.

As the Supreme Court explained in *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980), the First Amendment right of the public to attend criminal trial serves to marshal support for the administration of justice by inducing public acceptance of both the process and its

results. *Id.* at 571-72, 575 (plurality opinion). The conduct of a criminal trial “is pre-eminently a matter of public interest” because its contemporaneous review by the public “ ‘is an effective restraint on possible abuse of judicial power.’ ” *Id.* at 596 (Brennan, J., concurring in the judgment) (quoting *In re Oliver*, 333 U.S. 257, 270 (1948)). The public does not have the “right to intrude uninvited into conferences at the bench and in chambers.” *Rovinsky v. McKaskle*, 722 F.2d 197, 201 (5th Cir.1984). As Justice Brennan noted in his separate opinion in *Richmond Newspapers, Inc. v. Virginia*, “the trial judge is not required to allow public or press intrusion upon the huddle” of a bench interchange, nor are judges restricted in their ability to conduct conferences in chambers distinct from trial proceedings. 448 U.S. at 598 n. 23.

Although the public and press may be justifiably excluded from sidebar and chambers conferences even when substantive rulings are made, the public interest in the ruling is not diminished. The right to public presence and review can readily be effectuated by requiring that a court reporter record all proceedings in criminal cases. *See Edwards v. United States*, 374 F.2d 24, 26 (10th Cir.1966), *cert. denied*, 389 U.S. 850 (1967). A sidebar conference at which a question to a witness was proffered and an objection sustained is an integral part of a criminal trial. Thus, if there has been no contemporaneous observation, the public interest in observation and comment must be effectuated in the next best possible manner. This is

through the right of access to judicial records. By inspection of such transcripts, the public can monitor, observe, and comment upon the activities of the judge and of the judicial process.

- 4A. THE TRIAL COURT ERRED BY FAILING TO CONDUCT A HEARING WHEN IT LEARNED THAT VARIOUS VICTIM ADVOCATES HAD SPOKEN WITH JURORS DURING A BREAK IN TRIAL.
- 4B. TRIAL COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO REQUEST A HEARING AFTER CEARLEY INFORMED COUNSEL THAT INTERESTED THIRD PARTIES HAD BEEN SPEAKING WITH JURORS.

#### *Introduction*

During one of the court breaks, Mr. Cearley walked into breezeway and saw several jurors talking with several of the victim advocates. When he returned to court, he was directed to destroy the photo he took of the conversation. Despite the fact that jurors were talking to interested third parties during the course of trial, defense counsel did not ask and the court did not conduct a hearing to determine what was discussed during that break.

#### *Facts*

During one of the breaks, Cearley took a photo with his phone after he observed jurors talking with several victim advocates during a break in the trial. As Cearley's declaration states, he was disturbed to see his jurors speaking to interested third parties during the course of his trial. He showed the photo to his attorney and told him he was concerned. However,

defense counsel only agreed with the judge that Cearley was wrong to take a photo of the people talking. As a result, no hearing was requested or held—although that is exactly what concerned Cearley and why he took the photo. See Declaration of Cearley attached as Appendix C.

### *Argument*

Contact with jurors by third parties during a criminal trial can violate a defendant's right to an impartial jury. *Remmer v. United States*, 347 U.S. 227 (1954); *Smith v. Phillips*, 455 U.S. 209 (1982). See also *United States v. Console*, 13 F.3d 641, 666 (3d Cir.1993)(discussing the circumstances warranting the application of *Remmer*'s presumption of prejudice and those situations warranting *Smith*'s actual prejudice analysis). If the allegations of jury bias involve a third party's contact with a juror during a trial about the matter pending before the jury, the contact is deemed presumptively prejudicial to the defendant. *Remmer*, 347 U.S. at 229. The trial court must conduct a hearing to "determine the circumstances, the impact thereof upon the juror, and whether or not [the contact] was prejudicial, in a hearing with all interested parties permitted to participate." *Id.* at 230. The State has the burden of rebutting the presumption by showing that the "contact with the juror was harmless to the defendant," and "[i]f after [the] hearing [the incident] is found to be harmful," the trial court should grant a new trial. *Id.* at 229-30.

When the jury bias claim does not involve contact with a juror during a trial about a matter pending before the jury, then the *Remmer* presumption does not apply. *Console*, 13 F.3d at 666; *see Smith*, 455 U.S. at 215, 217-18. Although the trial court must still conduct a hearing regarding the jury taint allegations, a new trial will only be warranted if the defendant proves that he was actually prejudiced by the improper contact. *Smith*, 455 U.S. at 215, 217-18.

In short, once jury partiality allegations are made, both *Remmer* and *Smith* require a hearing in order to determine the effect any improper effect the contact had on the defendant's trial. *See Smith*, 455 U.S. at 215 (stating that “[t]his Court has long held that the remedy for allegations of juror partiality is a hearing in which the defendant has the opportunity to prove actual bias.”). The difference, however, is that when *Remmer* applies, the government must prove that the contact was harmless in order to avoid a re-trial, and when *Smith* applies, the defendant must prove that he was actually prejudiced by the contact in order to get a re-trial.

What both of the cases support is the fact that a hearing was required and it fell below a reasonable standard of practice for defense counsel not to request such a hearing. As a result, this Court should remand for an evidentiary hearing because there is a reasonable likelihood that a hearing would have been ordered, if counsel had requested. Indeed, the law

required such a hearing. If Cearley establishes the requisite level of prejudice at that hearing, he is entitled to a new trial.

5. MR. CEARLEY'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WAS VIOLATED BY COUNSEL'S FAILURE TO REQUEST A PSYCHOLOGICAL EVALUATION OF THE VICTIM.
6. MR. CEARLEY'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WAS VIOLATED BY COUNSEL'S FAILURE TO RETAIN AN EXPERT ON CHILD ABUSE INTERVIEW TECHNIQUES.

*Introduction*

Mr. Cearley was denied his right to effective assistance of counsel by (1) counsel's failure to request a psychological evaluation of the victim; (2) his failure to retain an expert on child interviewing techniques. If counsel had taken these obvious investigative steps, there is a reasonable likelihood of a different outcome.

*Facts*

In this case, there was evidence that the complaining witness, A.D.M., suffered from significant depression. *See* Appendix D. In 2007, she was diagnosed with a major depressive episode. One of the reports describes A.D.M. as a "severely emotionally disturbed child." Another report characterizes the "problem severity" as extremely high—nearly two standard deviations above the mean. The reports detail numerous symptoms experienced by A.D.M. However, the most significant is that she lies "most of the time." While defense counsel unsuccessfully moved

the court to cross examine about the medications being taken by A.D.M., he did not seek to have his own psychologist evaluate A.D.M.

Defense counsel also failed to retain an expert to testify about proper and improper child interview protocols. When AD.M. was first questioned about what was going on, she repeatedly denied it. RP 310-16. For 46 minutes she maintained clearly and consistently that nothing was wrong, that she felt perfectly safe at home. *Id.*; CP 283-312. She did so after affirming that she understood the difference between the truth and a lie and promising to only talk about the truth. CP 266. She then changed her mind under an onslaught of leading questions in a room full of powerful adults including her principal. CP 283- 313. Then at trial she gave wildly inconsistent information as to what precisely happened and when and where.

#### *Failure to Request Psychological Evaluation*

A trial court has discretion to grant or deny a motion for the mental examination of a complaining witness. *State v. Demos*, 94 Wn.2d 733, 738, 619 P.2d 968 (1980); *State v. Braxton*, 20 Wn.App. 489, 492, 580 P.2d 1116 (1978). A mental examination may be ordered when a compelling reason for one exists. *Demos*, 94 Wn.2d at 738. A compelling reason does not exist as a matter of law simply because it is a case of “his word against hers.” *State v. Tobias*, 53 Wn.App. 635, 637, 769 P.2d 868 (1989); *State v. R.W.*, 514 A.2d 1287 (N.J. 1986) (psychiatric testing of child witness in

sexual abuse trial may be sought when such testing has a reasonable probative bearing upon infant witness' competency or credibility and its results may be proffered on an adequate showing, by proponent of child's testimony, as well as by sexual abuse defendant).

In this case, there was evidence available to defense counsel that the complaining witness was suffering from a severe depressive disorder and was under the care of a psychologist. Her symptomology includes anger and lying. There was a good deal of evidence presented at trial that A.D.M. was angry at Cearly. As a result, there is a reasonable likelihood that a defense motion for an independent psychological evaluation would have been granted.

Cearley does not have the right to compel a psychological evaluation prior to the filing of a PRP. Instead, the right to conduct discovery attaches only after an evidentiary hearing is ordered. This Court should remand for an evidentiary hearing with directions for the court to evaluate prejudice based on the results of a psychological evaluation of A.D.M.

*Child Interview Protocol Expert*

AD.M.'s statements to Miller were far from spontaneous because Miller's questions got more and more leading as AD.M. continued to refuse to say what Miller wanted. CP 283- 313. Even if Deputy Ashley had asked no questions, her statements to him would not be spontaneous, coming as they did toward the end of AD.M.'s lengthy interview with Miller.

Moreover, Ashley also asked direct questions assuming certain answers. He testified he "asked her the nature of the improper touching." RP (6/10/09) 338. Nurse Davis began her interview with a direct question implicating Cearley, saying "Is your uncle the one who did this?" CP 709. Even if her answers had not already been tainted by Miller's highly suggestive questions, AD.M.'s response, "Mmm hmm," and her subsequent discussion of events could hardly be called spontaneous. CP 709. The questions reflected Miller, Ashley, and Davis's preconceived ideas about what had happened to AD.M. and more importantly, about who was to blame.

There is now a robust body of literature and a number of experts who are available to testify regarding how the dangers accompanying the improper interviewing of a child who claims she was sexually abused. Although children are capable of providing accurate, reliable, and useful information, they are vulnerable to suggestion. Leading, suggestive, and coercive questioning can not only result in a false accusation, it can lead to the creation of false memories. When children are asked the same question repeatedly, they can change their answers to conform to what they think the interviewer wants to hear.

Cearley has attached several studies which detail proper and improper interview techniques and the associated dangers. *See Appendix E.*

Trial counsel did not investigate the availability of an expert to testify to the improper and coercive interviews conducted in this case. Given the disparity between the protocols and what happened in this case, it is overwhelmingly clear that such testimony would have been helpful. In addition, there could not be a tactical reason for counsel not to conduct this investigation—it was completely consistent with the defense theory of the case. Such evidence is admissible. Specialized knowledge regarding the effects of specific interview techniques and protocols “is not likely within the common experience of the jury.” *State v. Willis*, 151 Wash.2d 255, 87 P.3d 1164 (2004). *See also In re PRP of Morris*, \_\_ Wash.2d \_\_ (11/21/12) (“Under *Willis*, the trial court should have considered whether testimony about the suggestibility of young children, as it related to specific interview techniques, would have been helpful to the jury.”). Further, the failure to consult with an expert undermines confidence in the reliability of the outcome of this trial.

As a result, Cearley has made out a prima facie claim of ineffective assistance of counsel. At a minimum, he is entitled to an evidentiary hearing.

6. CEARLEY WAS DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN COUNSEL WAS REPEATEDLY DISRESPECTFUL, RUDE, AND COLD TO CEARLEY DURING HIS TRIAL.

### *Introduction*

Mr. Cearley was denied Sixth Amendment right to effective counsel when his attorney was repeatedly rude to him during his trial because such behavior can have a disparaging effect on both the client and the jury who observes this behavior.

### *Facts*

During his trial, Cearley's counsel was purposefully rude to him in front of the jury. When his attorney introduced Cearley at the very beginning of the trial, counsel was nice to Cearley. Then, when the charges were read, several of the jurors on the panel became so upset they left the court room. *See* Declaration of Cearley attached as Appendix C.

After that point, his attorney became dismissive of Cearley and would not even respond to his questions during the trial. *Id.* If Cearley leaned over to ask his attorney about jurors during voir dire or try to ask questions during the trial, his attorney would ignore him and turn his shoulder to him.

It was especially frustrating when Cearley would try to point out something he felt was important, but would get no response or a frustrated look from his attorney. *Id.* His attorney would most often sit very stiffly and not even acknowledge his presence. A few times, his attorney even treated him like he was a "bad kid." *Id.* It was obvious to observers, including jurors, that Cearley's attorney was acting like he did not wish to be near

this man who was charged with such vile crimes.

Eventually, Cearley just quit trying to communicate with his attorney. When Cearley asked Mr. Healey why he was behaving like this during a break, he was told “Don’t pay attention to how I’m acting, it’s part of the plan” but gave no further explanation. *Id.*

### *Argument*

The Sixth Amendment right to effective counsel is clearly established. *See Strickland v. Washington*, 466 U.S. 668 (1984). In *Strickland*, the United States Supreme Court explained that a violation of that right has two components: *First*, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. *Second*, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. *Id.* at 687 (emphasis added); *see also Williams v. Taylor*, 529 U.S. 362, 390 (2000) (reaffirming *Strickland* standard). Thus, *Strickland* requires a showing of both deficient performance and prejudice. *Id.* However, a court deciding an ineffective assistance claim need not address both components of the inquiry if the defendant makes an insufficient showing on one. *Strickland*, 466 U.S. at 697. “If it is easier to dispose of an

ineffectiveness claim on the ground of lack of sufficient prejudice ... that course should be followed.” *Id.*; see also *United States v. Apfel*, 97 F.3d 1074, 1076 (8th Cir.1996) (“[A court] need not address the reasonableness of the attorney's behavior if the movant cannot prove prejudice.”).

To establish unreasonably deficient performance, a “defendant must show that counsel's representation fell below an objective standard of reasonableness.” *Strickland*, 466 U.S. at 688. The “reasonableness of counsel's challenged conduct [must be reviewed] on the facts of the particular case, viewed as of the time of counsel's conduct.” *Id.* at 690. There is a strong presumption of competence and reasonable professional judgment. *Id.*; see also *United States v. Taylor*, 258 F.3d 815, 818 (8th Cir.2001) (operating on the “strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance”) (quoting *Strickland*, 466 U.S. at 689); *Sanders v. Trickey*, 875 F.2d 205, 210 (8th Cir.1989) (affording counsel broad latitude to make strategic and tactical choices regarding the appropriate action to take or refrain from taking) (citing *Strickland*, 466 U.S. at 694). In sum, the court must “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” *Strickland*, 466 U.S. at 690.

To establish prejudice, “[i]t is not enough for the defendant to show that the errors had some conceivable effect on the outcome of the

proceeding.” *Id.* at 693. Rather, a defendant “must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. *Id.* at 694. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.* In other words, “the question is whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt.” *Id.* at 695. In answering that question, the court “must consider the totality of the evidence before the judge or jury.” *Id.*

In this case, counsel treatment of Cearley signaled his belief that Cearley was a bad man and that counsel disliked being near him. While such a strategy may have a place where the defense is that the defendant is guilty of some lesser, but still vile crime, it could only have served to communicate a perception that defense counsel himself felt Cearley was guilty.

*Rickman v. Bell*, 131 F.3d 1150 (6th Cir.1997) is similar.

In *Rickman*, counsel pursued a similar strategy of attempting to portray his client as a “sick” and “twisted” individual which should mitigate the death sentence. Trial counsel’s strategy in *Rickman* involved repeated attacks on his client’s character, eliciting damaging character evidence about his client, making disparaging comments to any witness who spoke favorably about his client, and apologizing to the prosecutors for his client’s crime. *Id.* at

1157. The reviewing court concluded that counsel's performance was “outrageous” because his attacks on Rickman equaled or exceeded those of the prosecution. *Id.* The court found that the defendant was effectively deprived of assistance of counsel in light of the severity of counsel's conduct. *Id.* at 1160.

Of course, defense counsel's conduct in this case was not as overt. It was, however, likely just as damaging. Counsel repeatedly sent messages to the jurors that Cearley's had nothing valuable to say to his own attorney during his own trial—where his credibility was very much at issue—and that counsel disliked having to fulfill his Sixth Amendment obligations for this man. Counsel did not need to call Cearley disparaging names before the jury—his actions spoke volumes.

Once again, the remedy is either reversal or remand for an evidentiary hearing.

- 6A. A JUROR SLEPT THROUGH A MATERIAL PORTION OF TRIAL DEPRIVING CEARLEY OF HIS RIGHT TO A FAIR JURY TRIAL.
- 6B. TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO NOTICE THE SLEEPING JUROR AND MOVING FOR A MISTRIAL.

### *Introduction*

Mr. Cearley was denied his Sixth Amendment right to jury because two of his jurors slept on a regular basis and missed a significant portion of the trial.

### *Facts*

At trial, Mr. Cearley observed two jurors sleeping on a regular basis. *See* Declaration of Cearley attached as Appendix C. It became so regular, that he is able to pinpoint these jurors – a white male juror in his mid 50’s who sat in the back row, in the right corner and a white male juror in his mid 40’s who sat in the front row in the left corner. *Id.* The two jurors slept most days after the lunch break. *Id.*

Mr. Cearley was obviously concerned. He tried to tell counsel, but counsel either did not listen to him or was unconcerned. *Id.*

### *Argument*

The Sixth Amendment grants criminal defendants the right to a trial by an impartial jury from the state and district in which the defendant allegedly committed the crime. U.S. Const. Amend. VI. Criminal defendants' right to a jury trial is defined by the right to a fair and impartial jury “capable and willing to decide the case solely on the evidence before it” under the watch of a trial judge “to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen.” *Smith v. Phillips*, 455 U.S. 209, 217, 102 S.Ct. 940, 71 L.Ed.2d 78 (1982)

A trial consists of a contest between litigants before a judge. When the judge is absent at a “critical stage” the forum is destroyed. *Gomez v. United States*, 490 U.S. 858, 873, 109 S.Ct. 2237, 104 L.Ed.2d 923 (1989). There is no trial. The structure has been removed. There is no way of

repairing it. The framework “within which the trial proceeds” has been eliminated. See *Arizona v. Fulminante*, 499 U.S. 279, 309-10, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991). The verdict is a nullity. *Gomez*, 490 U.S. at 876.

A slightly different test applies to a sleeping juror. See *United States v. Freitag*, 230 F.3d 1019, 1023 (7th Cir. 2000). For example, *United States v. Springfield*, 829 F.2d 860 (9<sup>th</sup> Cir. 1987), holds that the presence of a sleeping juror during trial does not, *per se*, deprive a defendant of a fair trial. Cast another way, *Springfield* makes clear that the presence of all awake jurors throughout an entire trial is not an absolute prerequisite to a criminal trial's ability to “reliably serve its function as a vehicle for determination of guilt or innocence.” A single juror's slumber is not *per se* plain error. See also *State v. Hughes*, 106 Wn.2d 176, 721 P.2d 902 (1986). Instead, a juror (or multiple jurors) must sleep through material portions of the trial. *Inattention of Juror From Sleepiness or Other Cause as Ground for Reversal or New Trial*, 88 A.L.R.2d 1275, 1276 (1963).

Mr. Cearley has presented sufficient evidence to justify an evidentiary hearing on these two related claims. If the State does not dispute his extra-record facts, then Cearley is entitled to relief. If the State disputes Cearley's facts with its own extra-record facts, then Cearley should be permitted to establish either of these claims at an evidentiary hearing.

7. MR. CEARLEY IS ENTITLED TO A NEW TRIAL BASED ON THE CUMULATIVE PREJUDICE FROM MULTIPLE ERRORS, ESPECIALLY THE MULTIPLE FAILURES OF DEFENSE COUNSEL.

Where the cumulative effect of multiple errors so infected the proceedings with unfairness a resulting conviction is invalid. *See Kyles v. Whitley*, 514 U.S. 419, 434-35, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995). As the Ninth Circuit pointed out in *Thomas v. Hubbard*, 273 F.3d 1164 (9th Cir.2001), “[i]n analyzing prejudice in a case in which it is questionable whether any single trial error examined in isolation is sufficiently prejudicial to warrant reversal, this court has recognized the importance of considering the cumulative effect of multiple errors and not simply conducting a balkanized, issue-by-issue harmless error review.” *Id.* at 1178 (internal quotations omitted) (citing *United States v. Frederick*, 78 F.3d 1370, 1381 (9th Cir.1996)); *see also Matlock v. Rose*, 731 F.2d 1236, 1244 (6th Cir.1984) (“Errors that might not be so prejudicial as to amount to a deprivation of due process when considered alone, may cumulatively produce a trial setting that is fundamentally unfair.”).

Mr. Cearley asserts that each of the errors described previously merits relief. However, considered cumulatively, they certainly resulted in sufficient prejudice to merit a new trial.

## Sentencing Error

- 8A. THE TRIAL COURT ERRED BY GIVING AN INSTRUCTION ON THE “POSITION OF TRUST” AGGRAVATOR THAT FAILED TO REQUIRE A NEXUS BETWEEN THE POSITION OF TRUST AND THE CRIME AND WHICH DEFINED POSITION OF TRUST IN AN OVERLY INCLUSIVE MANNER.
- 8B. CEARLEY WAS DENIED RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN COUNSEL PROPOSED THE SAME DEFICIENT INSTRUCTION.

### *Facts*

Cearley’s jury was instructed about two aggravating factors, one of which was relied on by the judge in imposing an “exceptional” minimum sentence of 800 months.

At the sentencing hearing, the State urged the State filed a *Withdrawal of State’s Initial Memorandum of Law* and said, “we are only seeking an exceptional sentence based on one aggravating factor.” The State clarified it’s belief that the Court could “sentence Mr. Cearley, as far fixing the minimum, without necessarily having a jury verdict support it because *Blakely* does not apply to minimum—exceptional minimum sentences. The State argued that because the victim “was living under the Defendant’s roof and [he] occupied a position of trust and authority in her life and that is essentially undisputed throughout the trial. RP (Vol XV) 3-4. In addition, the sentencing court relied on an additional aggravating factor (“multiple offenses”) based on its own finding. The *Judgment and*

*Sentence* further indicates that each aggravator was sufficient to support the sentence, but the judge never made such a finding in open court.

Instruction No. 28 stated:

A defendant uses a position of trust to facilitate a crime when the defendant gains access to the victim of the offense because of the trust relationship. In determining whether there was a position of trust, you should consider the length of the relationship between the defendant and the victim, the nature of the defendant's relationship to the victim, and the vulnerability of the victim because of age or other circumstance. There need not be a personal relationship of trust between the defendant and the victim. It is sufficient if a relationship of trust existed between the defendant and someone who entrusted the victim to the defendant's care.

There are two problems with the instruction. First, the instruction does not require a nexus between the position of trust and the commission of the crime. Indeed, it does not even require a trust relationship exist between the defendant and victim. At bottom, the instruction only requires that at some point the defendant met the victim and someone who has a trust relationship with the victim.

The law requires more.

The codified abuse of trust factor is narrower in scope than its common law predecessor. *See State v. Chadderton*, 119 Wash.2d 390, 398, 832 P.2d 481 (1992) (reckless abuse of trust may operate as an aggravating factor by analogy, rather than strictly under the statute, which by its literal language applies only to purposeful misconduct). *State v. Jackmon*, 55 Wn.App. 562, 778 P.2d 1079 (1989). Aggravating factors must be treated

as elements of an aggravated form of the crime for the purposes of jury instructions and the Sixth Amendment. *Gordon*, 153 Wash.App. 516, 533–34 n. 10, 223 P.3d 519 (citing *State v. Roswell*, 165 Wash.2d 186, 194, 196 P.3d 705 (2008)).

The instruction makes the “nexus” requirement irrelevant. The instruction does not require proof that defendant’s position of trust was used to facilitate the crime—that the exploitation of trust made it possible for defendant to commit the crime. Instead, the instruction only requires that the defendant gains “access” to the victim because of some “trust” relationship. The instruction requires less proof than what the statute demands.

The instruction also lessens the State’s ability to prove the position of trust requirement by not requiring that the defendant personally be in a position of trust, just that he has or had a relationship with someone who had a trust relationship with the victim.

Because the instruction allowed jurors to convict on less proof than was required by the plain language of the statute, the State was permitted to obtain a “yes” answer on less proof than is constitutionally required. If the error is not plain, it certainly constituted deficient performance. This Court should reverse and remand either for a new sentencing trial or for resentencing without the aggravator.

9. THE COURT ERRED BY IMPOSING MANDATORY MINIMUM  
BASED ON FACTS NOT FOUND BY JURY.

Contrary to this Court's recitation on direct appeal, Mr. Cearley was sentenced to a minimum of 800 months on each of the child rape convictions. He was sentenced to a minimum of 198 months on the molestation conviction. All of those sentences were ordered to run concurrently. The maximum for each conviction is life.

The judgment indicates that two aggravating factors support the "exceptional" sentence: abuse of trust and Cearley's "high offender score." The jury was not asked and did not find the second aggravating factor. As a result, the sentencing court violated Cearley's Sixth Amendment right to a jury trial. In addition, the sentence violates Cearley's state constitutional right to a jury trial.

Both the state and federal constitutions require a jury trial for facts that increase a sentence—including a minimum term for an indeterminate life sentence.

The United States Supreme Court is expected to decide this Term in *Alleyn v. United States* whether the right to a jury trial applies to a mandatory minimum. Given the Court's recent jurisprudence, the answer seems clear. Allen R. Alleyn got eighty-four months added to his basic sentence for the robbery, on the theory that he would have known that his accomplice in the robbery would wield a gun as they carried out the

robbery. The added sentence was based upon the finding by the judge, not the jury, that Alleyne would have known about the plan to “brandish” a gun — a factor that leads to a mandatory minimum sentence beyond a basic sentence for the crime itself.

Since it decided *Apprendi*, the Supreme Court has taken up numerous cases to address the scope of its constitutional rule regarding the right to a jury trial for facts that increase a sentence. The exception for minimum sentences is the clear outlier among these decisions. This incompatibility has been repeatedly recognized. See, e.g., *United States v. Krieger*, 628 F.3d 857, 867-69 (7th Cir. 2010) (noting that “[t]he thread by which *McMillan* hangs may be precariously thin” and that “it is difficult to reconcile *McMillan* with *Apprendi*”), *cert. denied*, 132 S. Ct. 139 (2011); *United States v. Tidwell*, 521 F.3d 236, 521 & n.11 (3d Cir. 2008) (noting that “distinguishing *Apprendi* from *McMillan* and *Harris*” is a “difficult task”); *United States v. Grier*, 475 F.3d 556, 575 (3d Cir.2007) (Ambro, J., concurring) (“To create a sentencing process that fully carries through on the promise of *Apprendi* and *Blakely*, I believe the Supreme Court would have to overrule at least, *McMillan* and *Harris*.”) (citations omitted); *United States v. Dare*, 425 F.3d 634, 641 (9th Cir. 2005) (“We agree that *Harris* is difficult to reconcile with the Supreme Court’s recent Sixth Amendment jurisprudence . . . .”); *United States v. Gonzalez*, 420 F.3d 111, 126 (2d Cir. 2005) (“The logic of the distinction drawn in *Harris* between

facts that raise only mandatory minimums and those that raise statutory maximums is not easily grasped.”); see also *United States v. Washington*, 462 F.3d 1124, 1140 (9th Cir. 2006); *United States v. Barragan-Sanchez*, 165 F. App’x 758, 760 (11th Cir. 2006); *United States v. Jones*, 418 F.3d 726, 731 (7th Cir. 2005); *United States v. Arias*, 409 F. Supp. 2d 281, 299 n.10 (S.D.N.Y. 2005); *United States v. Emmenegger*, 329 F. Supp. 2d 416, 432 n.15 (S.D.N.Y. 2004).

However, if the federal constitution does not require a jury trial for an increased minimum term for an indeterminate sentence, the state constitution does.

The Washington state constitution is more protective of the right to a jury trial than is the U.S. Constitution. In *Pasco v. Mace*, 98 Wn.2d 87, 99, 653 P.2d 618 (1982), the Washington Supreme Court explained of Wash. Const. art. I, § 21: It is the general rule that where the language of the state and federal constitutions is similar, the interpretation given by the United States Supreme Court to the federal provision will be applied to the state provision.... However, the state courts are at liberty to find within the provisions of their own constitutions a greater protection than is afforded under the federal constitution, as interpreted by the United States Supreme Court.... Here, there are significant differences not only in the language of the pertinent provisions of the state and federal documents but also in the circumstances existing at the time of their enactment. *Id.*, 98 Wn.2d at 96-

97 (citations omitted). The Court concluded: “It is evident, therefore, that the right to trial by jury which was kept ‘inviolable’ by our state constitution was more extensive than that which was protected by the federal constitution when it was adopted in 1789.” *Id.* 96 Wn.2d at 99.

This state constitutional right to a jury trial provides the criminal defendant with the right to have a jury determine every substantive fact bearing on the question of guilt or innocence. *See generally State v. Strasburg*, 60 Wash. 106, 110 P. 1020 (1910).

The Washington Supreme Court held that a court must consider certain factors when determining whether Washington's constitution should be interpreted as extending broader rights than the federal constitution. *State v. Gunwall*, 106 Wn.2d 54, 61-63, 720 P.2d 808 (1986). In assessing whether the Washington Constitution affords greater protection of a right than the federal constitution, the court considers six factors: (1) textual language, (2) differences between the texts, (3) constitutional history, (4) preexisting state law, (5) structural differences, and (6) matters of particular state or local concern. *Gunwall*, 106 Wash.2d at 58. Parties asserting a violation of the state's constitution must brief and discuss these factors. *Gunwall*, 106 Wn.2d at 62 (citing *In re Rosier*, 105 Wn.2d 606, 616, 717 P.2d 1353 (1986)).

A party need not provide a *Gunwall* analysis, however, if the Washington Supreme Court has already analyzed the constitutional

provision in the context at issue. *State v. Reichbach*, 153 Wn.2d 126, 101 P.3d 80, 84 n.1 (2004) (citing *State v. White*, 135 Wn.2d 761,769, 958 P.2d 982 (1998)). The Washington Supreme Court has previously analyzed Article I, Sections 21 and 22, under the *Gunwall* factors and has concluded that the right to a jury trial may be broader under Article I, Section 21 and 22 than under the Federal Constitution. *State v. Smith*, 150 Wn.2d 135 (2003). Nevertheless, a brief review of the *Gunwall* factors provides sufficient evidence that broader protections include the right to a jury trial on the fact of an aggravating factor to support an exceptional minimum mandatory sentence under RCW 9.94A.712(3).

Article I, Section 21 reads:

SECTION 21 TRIAL BY JURY. The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto.

Article I, Section 21 provides that the right to jury trial shall remain inviolate *Webster's* defines “inviolate” as “free from change or blemish: PURE, UNBIEN ... free from assault or trespass: UNTOUCHED” INTACT.’ WEBSTER'S THIRD INTERNATIONAL DICTIONARY 1190 (1993). As stated in *Sofie v. Fibreboard Corp.*, 112 Wash.2d 636, 656, 771 P.2d 711, 780 P.2d 260”(1989), “[the term “inviolate' connotes deserving of the highest protection.” “Inviolate” indicates that a jury trial must be

provided to determine whether an aggravating factor exists before an exceptional sentence may be imposed under RCW 9.94A.712(3). In *State v. Smith*, 150 Wn.2d 135 (2003), the Washington Supreme Court concluded that although “inviolable” in Article I, section 21 indicates a strong protection of the jury trial right, Article I, Section 22, limits that right to trials for offenses, and not sentencing proceedings. This limited application and distinction of Article I, Section 22, is no longer acceptable under *Apprendi*, *Blakely*, and recent amendments to the sentencing reform act.

Unlike the United States Constitution, the Washington Constitution contains two provisions regarding the right to trial by jury: “The right of trial by jury shall remain “Inviolable....” and in addition, Article I, Section 22 provides that “[i]n criminal prosecutions the accused shall have the right to ... have a speedy public trial by an “impartial jury.” Article I, section 21 has no federal equivalent. *State v. Schaaf*, 109 Wn.2d 1, 13 - 14, 743 P.3d 240 (1987). The fact that the Washington Constitution mentions the right to jury trial in two provisions instead of one indicates the general importance of the right under Washington's State Constitution. *State v. Smith*, 150 Wn.2d 135 (2003).

To determine the scope of the jury trial right under Washington's Constitution, it must be analyzed in light of the Washington law at the time of the adoption of the State constitution. *State v. Smith*, 150 Wn.2d 135 (2003), *Pasco v. Mace*, 98 Wn.2d 87, 99, 653 P.2d 618 (1982).

In *Smith*, Smith argued that Code of 1881 limited a court's right to impose punishment to that which was authorized by the jury's verdict. Although the court agreed that defendant's must be convicted of their offenses by a jury, the issue in *Smith* - whether a jury needs to determine persistent offender - was a sentencing factor and not an element of the offense. *State v. Smith*, 150 Wn.2d 135 (2003), citing *State v. Thorne*, 129 Wn.2d at 780, 921 P.2d 514 (“A defendant's criminal history is a factor which has traditionally been considered by sentencing courts, and the legislature is well within its discretion in defining past crimes as sentencing factors rather than elements of a charge.”). By contrast, the factors set forth in RCW 9.94A.535 and incorporated by reference in RCW 9.94A.712(3) are not sentencing factors, but rather factors or elements that significantly alter the punishment. Consistent with the Code of 1881, the court's right to impose punishment is limited to that which is authorized by the jury's verdict. *See Blakely v. Washington*, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004).

Thus, even if the U.S. Supreme Court ultimately concludes that *Apprendi/Blakely* rights apply only to statutory maximum sentences, and never to statutory mandatory minimum sentences, the same conclusion does not necessarily follow under the state constitution.

In this case, the imposition of an “exceptional” minimum term is no different than the imposition of an exceptional maximum punishment. In both cases, the judge imposes a sentence in excess of what the jury verdict alone authorizes. As a result, a jury was required to find the aggravating fact justifying the increased sentence.

D. CONCLUSION AND PRAYER FOR RELIEF

This Court should call for a response from the State. If the State contests Cearley’s evidence, this Court should remand to the trial court for either an evidentiary hearing or for a determination on the merits. RAP 16.11-.13. Otherwise, this Court should reverse and remand for a new trial and/or for a new sentencing hearing.

DATED this 10<sup>th</sup> day of December, 2012.

Respectfully Submitted:

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## Appendix A – Judgment and Sentence



- [ ] The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count \_\_\_\_\_. RCW 9.94A.839.
- [ ] The offense was predatory as to Count \_\_\_\_\_. RCW 9.94A.836.
- [ ] The victim was under 15 years of age at the time of the offense in Counts \_\_\_\_\_ RCW 9.94A.837.
- [ ] The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count \_\_\_\_\_. RCW 9.94A.838, 9A.44.010.
- [ ] The defendant acted with **sexual motivation** in committing the offense in Count \_\_\_\_\_. RCW 9.94A.835.
- [ ] 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 defendant used a **firearm** in the commission of the offense in Count \_\_\_\_\_. RCW 9.94A.602, 9.94A.533.
- [ ] The defendant used a **deadly weapon other than a firearm** in committing the offense in Count \_\_\_\_\_ RCW 9.94A.602, 9.94A.533.
- [ ] Count \_\_\_\_\_, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took 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 committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count \_\_\_\_\_ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- [ ] Count \_\_\_\_\_ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that **minor** in the commission of the offense. RCW 9.94A.833.
- [ ] Count \_\_\_\_\_ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.\_\_\_\_\_.
- [ ] The defendant committed [ ] **vehicular homicide** [ ] **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- [ ] Count \_\_\_\_\_ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [ ] Count \_\_\_\_\_ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- [ ] The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- [ ] The crime(s) charged in Count \_\_\_\_\_ involve(s) **domestic violence**. RCW 10.99.020.
- [ ] Counts \_\_\_\_\_ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- [ ] **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

	<b>Crime</b>	<b>Cause Number</b>	<b>Court (county &amp; state)</b>
1.			
2.			

- Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

**2.2 Criminal History (RCW 9.94A.525):**

	<b>Crime</b>	<b>Date of Crime</b>	<b>Date of Sentence</b>	<b>Sentencing Court (county &amp; state)</b>	<b>A or J Adult, Juv.</b>	<b>Type of Crime</b>
1	NONE					
2						
3						
4						
5						

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)
- The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

**2.3 Sentencing Data:**

<b>Count No.</b>	<b>Offender Score</b>	<b>Seriousness Level</b>	<b>Standard Range (not including enhancements)</b>	<b>Plus Enhancements*</b>	<b>Total Standard Range (including enhancements)</b>	<b>Maximum Term</b>
I	9+	XII	240-318 MONTHS			LIFE/\$50,000
III	9+	XII	240-318 MONTHS			LIFE/\$50,000
IV	9+	XII	240 - 318 MONTHS			LIFE/\$50,000
V	9+	XII	240-318 MONTHS			LIFE/\$50,000
VI	9+	XII	240-318 MONTHS			LIFE/\$50,000
VII	9+	X	149-198 MONTHS			LIFE/\$50,000

- \* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.
- Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are  attached  as follows: \_\_\_\_\_

**2.4 [X] Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

- below the standard range for Count(s) \_\_\_\_\_
  - above the standard range for Count(s) I, III, IV, V, VI
  - The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
  - Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury, by special interrogatory, and by the Judge at sentencing hearing.
  - within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_
- Findings of fact and conclusions of law are attached in Appendix 2.4.  Jury's special interrogatory is attached. 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.753.
- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): \_\_\_\_\_
- The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

Reserved

**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 \_\_\_\_\_ in the charging document.

**IV. Sentence and Order**

**It is ordered:**

**4.1 Confinement.** The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

\_\_\_\_\_ months on Count \_\_\_\_\_ months on Coun \_\_\_\_\_

\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

- The confinement time on Count(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.

The confinement time on Count \_\_\_\_\_ includes \_\_\_\_\_ months as enhancement for  firearm  deadly weapon  sexual motivation  VUCSA in a protected zone  manufacture of methamphetamine with juvenile present  sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: \_\_\_\_\_

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

- (b) **Confinement.** RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC: All counts to run concurrently.  
Count I, III, IV, V, VI minimum term: 800 months maximum term: Life  
Count VII minimum term: 198 months maximum term: Life
- (c) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.
- (d)  **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

**4.2 Community Custody.** (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or  
(2) the period imposed by the court, as follows:

Count(s) \_\_\_\_\_ 36 months Sex Offenses  
Count(s) \_\_\_\_\_ 36 months for Serious Violent Offenses  
Count(s) \_\_\_\_\_ 18 months for Violent Offenses  
Count(s) \_\_\_\_\_ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(Sex offenses, only) For count(s) I, III, IV, V, VI, VII, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm

compliance with the orders of the court; (9) for sex offenses, submit to electronic monitoring if imposed by DOC; and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody. For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence.

The court orders that during the period of supervision the defendant shall:

- consume no alcohol.
- have no contact with: \_\_\_\_\_
- remain  within  outside of a specified geographical boundary, to wit: \_\_\_\_\_
- not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).
- participate in the following crime-related treatment or counseling services: \_\_\_\_\_
- undergo an evaluation for treatment for  domestic violence  substance abuse  mental health  anger management, and fully comply with all recommended treatment. \_\_\_\_\_
- comply with the following crime-related prohibitions: \_\_\_\_\_
- Other conditions: SEE ATTACHED APPENDIX F

(C) For sentences imposed under RCW 9.94A.507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

**4.3a Legal Financial Obligations:** The defendant shall pay to the clerk of this court:

<u>JASS CODE</u>		
PCV	\$ 500	Victim assessment RCW 7.68.035
PDV	\$ _____	Domestic Violence assessment RCW 10.99.080
CRC	\$ 200	Court

costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

	Criminal filing fee	\$ _____	FRC
	Witness costs	\$ _____	WFR
	Sheriff service fees	\$ _____	SFR/SFS/SFW/WRF
	Jury demand fee	\$ _____	JFR
	Extradition costs	\$ _____	EXT
	Other	\$ _____	
PUB	\$ <del>250.00</del>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760

FCM/MTH \$ \_\_\_\_\_ Fine RCW 9A.20.021; [ ] VUCSA chapter 69.50 RCW, [ ] VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD \$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_ RCW 9.94A.760  
 NTF/SAD/SDI

CLF \$ \_\_\_\_\_ Crime lab fee [ ] suspended due to indigency RCW 43.43.690  
 \$ 100 DNA collection fee RCW 43.43.7541

FPV \$ \_\_\_\_\_ Specialized forest products RCW 76.48.140  
 \$ \_\_\_\_\_ Other fines or costs for: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI, only, \$1000 maximum) RCW 38.52.430  
 Agency: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
 \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
 \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)

\$ ~~1,250.00~~ <sup>800</sup> Total RCW 9.94A.760

[X] The above total does 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.753. A restitution hearing:

[X] shall be set by the prosecutor.

[ ] is scheduled for \_\_\_\_\_ (date).

[X] The defendant waives any right to be present at any restitution hearing (sign initials): JA

[ ] Restitution Schedule attached.

[ ] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant      Cause Number      (Victim's name)      (Amount-\$)

RJN

[ ] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[ ] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, 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 to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

[ ] The court orders the defendant to pay costs of incarceration at the rate of \$ \_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR) 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.

**4.3b[ ] Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse \_\_\_\_\_ (name of electronic monitoring agency) at \_\_\_\_\_, for the cost of pretrial electronic monitoring in the amount of \$ \_\_\_\_\_.

**4.4 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 shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[ ] **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

**4.5 No Contact:**

[X] The defendant shall not have contact with A.D.M. DOB:  
1/4/98 \_\_\_\_\_ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until FOR  
LIFE \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

[ ] The defendant is excluded or prohibited from coming within \_\_\_\_\_ (distance) of:  
[ ] \_\_\_\_\_ (name of protected person(s))'s [ ] home/  
residence [ ] work place [ ] school [ ] (other location(s)) \_\_\_\_\_, or  
[ ] other location: \_\_\_\_\_,  
until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

[ ] A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

**4.6 Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4.7 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 county jail or Department of Corrections: \_\_\_\_\_  
\_\_\_\_\_

**V. Notices and Signatures**

**5.1 Collateral Attack on Judgment.** If you wish to petition or move 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, you must do so 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.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the

date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**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 (DOC) or the clerk of the court 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.760 may be taken without further notice. RCW 9.94A.7606.

**5.4 Community Custody Violation.**

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

**5.5 Firearms.** You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court 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 and RCW 9.41.047.

**5.6 Sex and Kidnapping Offender Registration.** RCW 9A.44.130, 10.01.200.

**1. General Applicability and Requirements:** Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, 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.

**2. Offenders Who Leave the State and Return:** If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business 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 on a vocation in Washington, or attend school in Washington, you must register within three business 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.

**3. Change of Residence Within State and Leaving the State:** If you change your residence within a county, you must send signed 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 signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed 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 send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

**4. Additional Requirements Upon Moving to Another State:** 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 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.

**5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12):** 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. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

**6. Registration by a Person Who Does Not Have a Fixed Residence:** Even if you do not have 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. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. 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. You may be required to provide a 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 an 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.

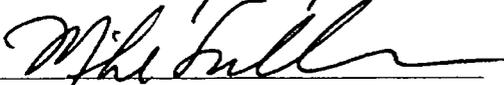
**7. Reporting Requirements for Persons Who Are Risk Level II or III:** If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

**8. Application for a Name Change:** 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 five days of the entry of the order. RCW 9A.44.130(7).

**5.7 Motor Vehicle:** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

**5.9 Other:** \_\_\_\_\_

*Done* in Open Court and in the presence of the defendant this date: 7/24/09

  
Judge/MICHAEL SULLIVAN

*David Bustamante*

Senior Deputy Prosecuting Attorney  
DAVID BUSTAMANTE,  
WSBA#30668

*[Signature]*

Attorney for Defendant  
TIMOTHY HEALEY, WSBA#  
58210

*Steven C. Cearley*

Defendant  
STEVEN C. CEARLEY

**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: \_\_\_\_\_

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: \_\_\_\_\_

**VI. Identification of the Defendant**

SID No. WA24277579  
(If no SID complete a separate Applicant card  
(form FD-258) for State Patrol)

Date of Birth 01/07/1963

FBI No. 426358VC5

Local ID No. \_\_\_\_\_

PCN No. \_\_\_\_\_

Other \_\_\_\_\_

Alias name, DOB: \_\_\_\_\_

**Race:**

Asian/Pacific Islander     Black/African-American     Caucasian  
 Native American     Other: \_\_\_\_\_

**Ethnicity:**

Hispanic     Male  
 Non-Hispanic     Female

**Sex:**

**Fingerprints:** I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, \_\_\_\_\_

*[Handwritten Signature]*

Dated: 9-24-2009

**The defendant's signature:**

*Sten C...*

Left four fingers taken simultaneously

Left  
Thumb

Right  
Thumb

Right four fingers taken simultaneously



1584

Superior Court of Washington  
County of PACIFIC

State of Washington, Plaintiff,

No. 07-1-00269-1

vs.

STEVEN C. CEARLEY

Defendant.

Findings of Fact and Conclusions of Law for  
an Exceptional Sentence  
(Appendix 2.4 Judgment and Sentence)  
(Optional)  
(FNFL)

The court imposes upon the defendant an exceptional sentence [ X ] above [ ] within [ ] below the standard range based upon the following Findings of Fact and Conclusions of Law:

**Findings of Fact**

- I. The exceptional sentence is justified by the following aggravating circumstances:
- (a) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished, pursuant to RCW 9.94A.535(2)(c).
  - (b) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense, pursuant to RCW 9.94A.535(3)(n).
- [ X ] The grounds listed in the preceding paragraph, taken together or considered individually, constitute sufficient cause to impose the exceptional sentence. This court would impose the same sentence if only one of the grounds listed in the preceding paragraph is valid.

**Conclusions of Law**

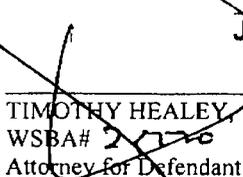
- I. There are substantial and compelling reasons to impose an exceptional sentence above the standard range pursuant to RCW 9.94A.535.
- II. The Court has jurisdiction of the parties and subject matter of this action.
- III. A sentence above the standard range is in the interest of justice and is consistent with the purposes of the Sentencing Reform Act.
- IV. A sentence of 800 months is appropriate to ensure that punishment is proportionate to the seriousness of the offense.

Dated: \_\_\_\_\_

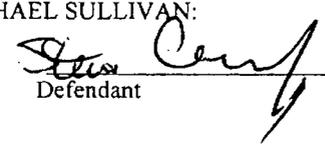
9/24/09



DAVID BUSTAMANTE,  
WSBA No. #30668  
Senior Deputy Prosecutor

  
TIMOTHY HEALEY,  
WSBA# 20776  
Attorney for Defendant

  
Judge/MICHAEL SULLIVAN:

  
Defendant

FILED

2009 JUN 30 PH 4:26

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PACIFIC

VIRGINIA LEACH DEPUTY  
COUNTY CLERK  
PACIFIC CO. WA

BY LB

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	NO. 07-1-00269-1
	)	
vs.	)	SPECIAL VERDICT FORM M
	)	
STEVEN C. CEARLEY,	)	
	)	
Defendant.	)	

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count VI, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: Yes (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: Yes (Write "yes" or "no")

DATE: 6/30/09

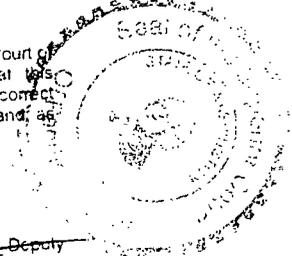
[Signature]  
Presiding Juror

STATE OF WASHINGTON } ss.  
COUNTY OF PACIFIC }  
I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that this document, consisting of 1 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date.

2-21-2009  
Virginia A. Leach, County Clerk

By [Signature] Deputy



FILED

2009 JUN 30 PM 4:26

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PACIFIC

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	NO. 07-1-00269-1
	)	
vs.	)	SPECIAL VERDICT FORM L
	)	
STEVEN C. CEARLEY,	)	
	)	
Defendant.	)	

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count V, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: Yes (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: Yes (Write "yes" or "no")

DATE: 6/30/09

[Signature]  
Presiding Juror

STATE OF WASHINGTON ) ss.  
COUNTY OF PACIFIC )  
I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that this document, consisting of \_\_\_\_\_ page(s) is a true and correct copy of the original now on file and to be returned in my office and as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date: 6-24-2009  
Virginia A. Leach, County Clerk  
By [Signature] Deputy



FILED

2009 JUN 30 PM 4:26

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PACIFIC

STATE OF WASHINGTON, )  
 )  
 Plaintiff, ) NO. 07-1-00269-1  
 )  
 vs. ) SPECIAL VERDICT FORM K  
 )  
 STEVEN C. CEARLEY, )  
 )  
 Defendant. )

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count IV, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: Yes (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: Yes (Write "yes" or "no")

DATE: 6/30/09

Presiding Juror

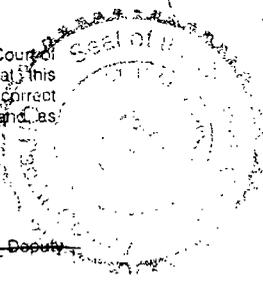
STATE OF WASHINGTON } ss.  
COUNTY OF PACIFIC }

I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that this document, consisting of \_\_\_\_\_ pages, is a true and correct copy of the original now on file and of record in my office and as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date:

Virginia A. Leach, County Clerk

By \_\_\_\_\_ Deputy



FILED

2009 JUN 30 PM 4:26

VIRGINIA LEACH, CLERK  
COUNTY OF PACIFIC, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PACIFIC

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	NO. 07-1-00269-1
	)	
vs.	)	SPECIAL VERDICT FORM J
	)	
STEVEN C. CEARLEY,	)	
	)	
Defendant.	)	

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count III, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: Yes (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: Yes (Write "yes" or "no")

DATE: 6/30/09

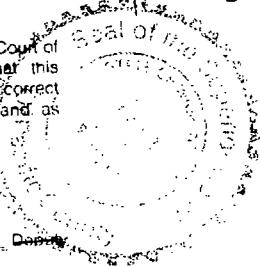
[Signature]  
Presiding Juror

STATE OF WASHINGTON } ss.  
COUNTY OF PACIFIC }  
I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County Washington, DO HEREBY CERTIFY that this document, consisting of \_\_\_\_\_ page(s), is a true and correct copy of the original now on file and on record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date:

9-25-2009  
Virginia A. Leach, County Clerk

By [Signature] Deputy



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FILED

IN AND FOR THE COUNTY OF PACIFIC

2009 JUN 30 PM 4:26

VIRGINIA LEACH CLERK  
PACIFIC CO. WA

STATE OF WASHINGTON, )

Plaintiff, )

vs. )

STEVEN C. CEARLEY, )

Defendant. )

NO. 07-1-00269-1

SPECIAL VERDICT FORM I

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count II, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: \_\_\_\_\_ (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: \_\_\_\_\_ (Write "yes" or "no")

DATE: \_\_\_\_\_

\_\_\_\_\_  
Presiding Juror

STATE OF WASHINGTON }  
COUNTY OF PACIFIC } ss.

I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that the document, consisting of \_\_\_\_\_ pages, is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date.

\_\_\_\_\_  
Virginia A. Leach, County Clerk

By \_\_\_\_\_

FILED

2009 JUN 30 PM 4:26

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
VIRGINIA A. LEACH, CLERK  
PACIFIC CO. WA

IN AND FOR THE COUNTY OF PACIFIC

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	NO. 07-1-00269-1
	)	
vs.	)	SPECIAL VERDICT FORM H
	)	
STEVEN C. CEARLEY,	)	
	)	
Defendant.	)	

We, the jury, having found the defendant, Steven C. Cearley, guilty of rape of a child in the first degree as charged in Count I, return a special verdict by answering as follows:

QUESTION 1: Was the crime part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time?

ANSWER: Yes (Write "yes" or "no")

QUESTION 2: Did the defendant use his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the crime?

ANSWER: Yes (Write "yes" or "no")

DATE: 6/30/09

[Signature]  
Presiding Juror

STATE OF WASHINGTON } ss.  
COUNTY OF PACIFIC }  
I, Virginia A. Leach, County Clerk and Clerk of the Superior Court of Pacific County, Washington, DO HEREBY CERTIFY that this document, consisting of \_\_\_\_\_ pages, is a true and correct copy of the original now on file and on record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at South Bend, Washington, this date:  
9-24-2009  
Virginia A. Leach, County Clerk  
By [Signature] Deputy



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PACIFIC

STATE OF WASHINGTON ) Cause No.: 07-1-00269-1  
)  
Plaintiff )  
v. ) JUDGEMENT AND SENTENCE (FELONY)  
CEARLEY, Steven C. ) APPENDIX F  
Defendant ) ADDITIONAL CONDITIONS OF SENTENCE  
)  
DOC No. 332286 )

**CRIME RELATED PROHIBITIONS:**

1. Comply with all conditions of community custody/placement as imposed by the Department of Corrections and the Community Corrections Officer.
2. While on community custody the defendant shall report and be available for contact with the assigned Community Corrections Officer as directed
3. Work at a Department of Corrections approved education/employment and or community service site.
4. Pay supervision fees as determined by Department of Corrections.
5. Follow affirmative acts as necessary to monitor compliance with the orders of the Court as required by the Department of Corrections.
6. Have prior Department of Corrections approval for all resident locations and living arrangements.
7. No contact with the victim while on community custody.
8. Not to possess, own or control firearms or ammunition.
9. Not to consume or possess controlled substances or drug paraphernalia without a valid prescription.
10. Submit to random urinalysis testing as directed by the Community Corrections Officer.
11. Follow all sex offender registration requirements.

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Steven C. CEARLEY 332286  
Page 1 of 2

12. Have no contact with juveniles under the age of 18 years old unless under the supervision of an adult who is aware of this conviction and the conditions of supervision and approved by the therapist and Community Corrections Officer.
13. Have no contact or communication either oral or written or through a third party with the victim's family <sup>or home guardian.</sup> while on community custody.
14. Submit to polygraph examinations to monitor compliance with the conditions and or treatment at the direction of the Community Corrections Officer and/or therapist.
15. Comply with any other recommendations made by the Department of Corrections in the Pre-Sentence Report and Investigation.

DATE

9/24/09 

JUDGE, PACIFIC COUNTY SUPERIOR COURT

RPT/RPT/09-130.rtf  
9/9/09

Steven C. Cearley  
332286  
09/10/2009  
Page 2 of 2

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR PACIFIC COUNTY

STATE OF WASHINGTON, )  
)  
)  
Plaintiff, )  
)  
vs. )  
)  
STEVEN C. CEARLEY, )  
Defendant. )

NO. 07-1-00269-1

WARRANT OF COMMITMENT

STATE OF WASHINGTON

TO: The Sheriff of Pacific County.

The defendant: STEVEN C. CEARLEY was convicted in the Superior Court of the State of Washington of the crime of RAPE OF A CHILD IN THE FIRST DEGREE FOUR COUNTS AND 1 COUNT OF CHILD MOLESTATION IN THE FIRST DEGREE and the Court has ordered that the defendant be punished by serving the determined sentence of:

*I, III, IV, V, VI ALL COUNTS TO RUN CONCURRENTLY*  
[X] 900 (month(s)) on Count No. I; \_\_\_\_\_ months on Count No. III;  
\_\_\_\_\_ months on Count No. IV; \_\_\_\_\_ months on Count No. V; \_\_\_\_\_ months  
on Count VI; 198 months on Count VII; \_\_\_\_\_ months on Count VII;  
\_\_\_\_\_ months on Count VIII; \_\_\_\_\_ months on Count IX

[ ] \_\_\_\_\_ (day(s) (month(s)) of partial confinement in the County jail.

[X] \_\_\_\_\_ (month(s)) of total confinement in the Pacific County jail.

Defendant shall receive credit for time served to this date.

[X] YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for classification,

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confinement and placement as ordered in the Judgment and Sentence in the Pacific County Jail.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

The defendant is committed for up to thirty (30) days evaluation at Western State Hospital or Eastern State Hospital to determine amenability to sexual offender treatment.

YOU THE SHERIFF ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections pending delivery of the proper officers of the Secretary of the Department of Social and Health Services.

YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED, to receive the defendant for evaluation as ordered in the Judgment and Sentence.

DATED this 24<sup>th</sup> day of September, 2009.

By Direction of the Honorable

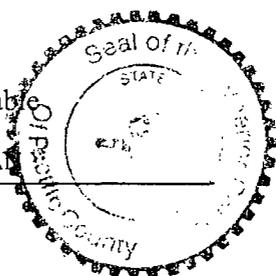
MICHAEL SULLIVAN

JUDGE

CLERK

BY:

DEPUTY CLERK



- cc: Prosecuting Attorney
- Defendant's Lawyer
- Defendant
- Jail ✓
- Institutions (3) (a)
- SA ✓

## Appendix B – Jury Questionnaire



dian rogers <rogers.dian@gmail.com>

---

## State v. Cearley, Pacific County Superior Court Case Number 07-1-00269-1

---

dian rogers <rogers.dian@gmail.com>

Fri, Jun 12, 2009 at 9:08 AM

To: vleach@co.pacific.wa.us

Cc: David Bustamante <dbustamante@co.pacific.wa.us>

Dear Ms. Leach,

Attached to this email is a revised Confidential Juror Questionnaire, which has been changed per Judge Sullivan's instructions.

Respectfully yours,  
Dian Rogers, Assistant to Timothy L. Healy  
Law Offices of Benjamin & Healy PLLC

---

 confidential juror questionnaire 061209.pdf  
239K

---

**CONFIDENTIAL JUROR QUESTIONNAIRE**

**I. INTRODUCTION**

**DO NOT DISCUSS THESE QUESTIONS OR YOUR ANSWERS WITH ANYONE**

This questionnaire is being filled out under your oath as jurors. You are bound by that oath to answer truthfully the questions in this questionnaire. It is intended to provide the court and the attorneys with information about your qualifications to sit as a juror on this case. Please answer the following questions openly, fully, and truthfully. **IF YOU ANSWER YES TO ANY QUESTION, PLEASE PROVIDE AN EXPLANATION USING THE SPACE PROVIDED OR ADDITIONAL SPACE, IF NECESSARY, AT THE END OF THE QUESTIONS OR ON THE BACK OF ANY OF THE PAGES.**

The information you provide is confidential for use by the Court and the lawyers during voir dire. This questionnaire will be part of the sealed Court file and will not be available for inspection publicly or privately. The questionnaires will remain sealed unless the Court signs an order directing that they be unsealed.

The court will permit questioning about your answers to these questions.

**II. QUESTIONS**

1. Do you have a High School diploma? \_\_\_\_\_ GED? \_\_\_\_\_
2. Have you attended college or vocational school? \_\_\_\_\_  
If so, please state:  
Name of college or vocational school: \_\_\_\_\_  
Years attended: \_\_\_\_\_  
Degrees awarded: \_\_\_\_\_

3. If you have children, please provide the age(s), sex, education, and occupation in the space below:

<u>Age</u>	<u>Sex</u>	<u>Education</u>	<u>Occupation</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. Do you know anybody who is involved in the criminal justice system as a prosecutor, defense lawyer, court personnel, or law enforcement person? Please describe briefly. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Have you or any family member or close friend ever been:
- (a) charged with a crime? \_\_\_\_\_
  - (b) the victim of a crime? \_\_\_\_\_
  - (c) convicted of a crime? \_\_\_\_\_

If your answer to any of the above was yes, please briefly describe who it was and the circumstances. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If your answer to any part of question 7 was yes, how do you feel you or the person you knew was treated by the criminal

justice system? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Have you, any member of your family, or any close friend ever been falsely accused of a crime? If so, please explain.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Have you or any member of your family had any training or experience regarding allegations of domestic violence or sexual misconduct? If so, what? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Have you, any member of your family, or anyone you know been accused of domestic violence? Please describe briefly. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Have you, any member of your family, or anyone you know been accused of sexual misconduct? Please describe briefly. \_\_\_\_\_

\_\_\_\_\_

---

---

11. Have you, any member of your family, or anyone you know been the victim of domestic violence? Please describe briefly.

---

---

12. Have you, any member of your family, or anyone you know been a victim of sexual misconduct? Please describe briefly.

---

---

13. What is your personal opinion of the criminal justice system and why? \_\_\_\_\_

---

---

14. Do you wish to be questioned in private about your answers to any of the above questions? \_\_\_\_\_ If yes, which one(s)?

**RETURN THIS QUESTIONNAIRE TO THE CLERK**

Appendix C – Declaration of Cearley

## DECLARATION OF STEVEN CEARLEY

I, Steven Cearley, declare:

1. I am the petitioner in this Personal Restraint Petition.
2. In July of 2009 I was in trial for this case in Pacific County, Washington and a number of things occurred during the course of my trial that seemed really unfair.
3. During trial, as part of jury selection, the trial court used a confidential questionnaire for all prospective jurors. My attorney did not go over this questionnaire with me and I was not allowed to see any of the questionnaires that were given to the jury either before they filled them in or after they filled in their answers. The questionnaires were given to prospective jurors before they were brought to the trial court so I never even saw it in court.
4. The first time I even learned about what was in the questionnaires was when one of my appeal attorneys read it to me over the phone. I remember them talking about a "questionnaire" at the beginning of my trial, but no one explained it to me and then it was never mentioned again.
5. My attorney never talked to me about the questionnaires. He never told me that these questionnaires would be sealed or that sealing them would violate my right to an open and public trial. I would not have waived my right to a public trial if I had been asked about it.
6. The judge did not discuss this questionnaire with me either.
7. My attorney Mr. Healey was nice to me until the day that the jury came in to be questioned for voir dire. I will never forget what happened at the very beginning of my trial. My attorney introduced me to the jury and at that point he was still being nice to me. After the judge read my charges to the large panel of jurors though, several of the jurors got really upset and two of them ran out of the court room. After they got things settled down, my attorney was never nice to me again.
8. My attorney would not look at me and for most of the trial, he kept his shoulder turned against me. When I would try to talk to my attorney and ask him questions, he was very short with me and would not answer my questions. He even got angry with me when I tried to ask questions and so I just quit asking questions after a while. My attorney only acted like this in front of the jury though. During breaks he was nicer.

9. At one point I asked him why he was mad and he told me not to pay any attention to how he was acting because it was just "part of the plan." He never explained to me what this plan was and his treatment was so embarrassing that I would often turn red and like I said before, I just quit trying to ask questions or make suggestions because I was so afraid of being embarrassed.
10. During the trial there were a lot of times that the two attorneys would go up and meet with the judge in a side bar. It happened so many times that I just lost track of it after a while. Not once did my attorney ever explain to me what had occurred. Many of times the judge would explain what had at the end of the day but I believe they missed a lot. I really wanted to know what was occurring in those sidebars because it felt like a secret trial. I was afraid to ask my attorney.
11. During the testimony of the complaining witness, A.D.M., she came into court accompanied by five women and the main advocate who was also a witness and the CPS caseworker, Kris Camenzind. Ms. Camenzind sat right in front of A.D.M. and kept her eyes right on her the whole time. A couple of times when A.D.M. would hesitate, she would look at Ms. Camenzind who would nod at her. When she nodded, A.D.M. would continue with her answer. When the advocate looked away, A.D.M. would stop or change the direction of her answer.
12. Another time, when A.D.M., was standing in the hallway holding a "squeeze toy" surrounded by her advocates. This bothered me because the jury walked right by them all and I do not understand why A.D.M. was not taken to the witness room. It made a very "sympathetic" picture to see them surrounding her and making her feel better outside of the court room. I recall complaining to my attorney about it, but I don't think her cared.
13. A couple of the jurors also talked with one of the advocates in the "breezeway" outside of the court room. I took a picture of it with my cell phone, but the judge got upset and told me to delete it during the break. I also told my attorney about this. Once again, he did not do anything.
14. My PRP attorney also asked me if I saw any of the jurors sleeping during my trial and I did. The first juror sat in the back row in the right corner. He was an older white male in his mid 50's. The second juror was in the front left corner and he was a white male in his mid 40's.
15. Both of these jurors slept nearly every day and it was always after lunch. It made sense that they slept a bit because the trial was very long and we had a lot of long days because they were trying to get the trial done before the holiday weekend when one of the attorneys had to leave on vacation.
16. I did not know that know that it made a difference if any of the jurors slept because, once again, my attorney seemed unconcerned.

I, Steven Cearley, certify under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

11-23-12  
Date and Place

Steve Cearley  
Steven Cearley

---

## Appendix D – Psychological Records of ADM

**Client Name:** A [REDACTED] M [REDACTED]  
**Date:** 4/27/2007

You have received the following diagnosis at Willapa Counseling Center:

-----  
**296.21 Major Depressive Disorder, Single Episode, Mild**  
-----

based on the following diagnostic criteria:

A. Presence of a single Major Depressive Episode

*Criteria for Major Depressive Episode*

A. Five (or more) of the following symptoms have been present during the same 2-week period and represent a change from previous functioning; at least one of the symptoms is either (1) depressed mood or (2) loss of interest or pleasure:

**Note:** Do not include symptoms that are clearly due to a general medical condition, or mood-incongruent delusions or hallucinations.

1. depressed mood most of the day, nearly every day, as indicated by either subjective report (e.g., feels sad or empty) or observation made by others (e.g., appears tearful). **Note:** In children and adolescents, can be irritable mood.
2. markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation made by others)
3. significant weight loss when not dieting or weight gain (e.g., a change of more than 5% of body weight in a month), or decrease or increase in appetite nearly every day. **Note:** In children, consider failure to make expected weight gains.
4. insomnia or hypersomnia nearly every day
5. psychomotor agitation or retardation nearly every day (observable by others, not merely subjective feelings of restlessness or being slowed down)
6. fatigue or loss of energy nearly every day
7. feelings of worthlessness or excessive or inappropriate guilt (which may be delusional) nearly every day (not merely self-reproach or guilt about being sick)
8. diminished ability to think or concentrate, or indecisiveness, nearly every day (as indicated by either subjective account or observation made by others)
9. recurrent thoughts of death (not just fear of dying), recurrent suicidal ideation without a specific plan, or a suicide attempt or a specific plan for committing suicide

B. The symptoms do not meet criteria for a Mixed Episode.

C. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning

D. The symptoms are not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition

E. The symptoms are not better account for by Bereavement, i.e., after the loss of a loved one, the symptoms persist longer than 2 months or are characterized by marked functional impairment, morbid preoccupation with worthlessness, suicidal ideation, psychotic symptoms, or psychomotor retardation.

B. The Major Depressive Episode is not better accounted for by Schizoaffective Disorder and is not superimposed on Schizophrenia, Schizophreniform Disorder, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified.

C. There has never been a Manic Episode, a Mixed Episode, or a Hypomanic Episode. **Note:** This exclusion does not apply if all the manic-like, mixed-like, or hypomania-like episodes are substance or treatment induced or are due to the direct physiological effects of a general medical condition.

*Specify:*

**Severity/Psychotic/Remission Specifiers**

**Chronic**

**With Catatonic Features**

**With Melancholic Features**

**With Atypical Features**

**With Postpartum Onset**

*(Source: Diagnostic and Statistical Manual IV)*

**Best Practice (based upon empirical research) suggests that the most effective treatment for this disorder is:**

Approaches like cognitive-behavioral therapy and interpersonal therapy are the ones most likely to be effective in the treatment of depression. Many studies have demonstrated that these approaches to treatment are likely to have a significant and relatively rapid impact on the symptoms of Major Depressive Disorder. Cognitive-behavioral therapy has demonstrated a slight but not usually significant superiority to interpersonal therapy in the treatment of Major Depressive Disorder, and both approaches have demonstrated a slight superiority over treatment by medication alone. Good results have been obtained in as few as eight sessions, but at least sixteen sessions seem indicated for the treatment of severe depression.

*(Source: Selecting Effective Treatments: A Comprehensive Systematic Guide to Treating Mental Disorders, 1998)*

### **Prognosis**

The prognosis for fairly rapid symptom relief via medication and/or psychotherapy is very good: approximately 85 percent of people treated for Major Depressive Disorder experience remission of their symptoms within one year. Nevertheless, 15 to 20 percent of people treated for Major Depressive Disorder do not fully recover from a given episode and have persistent symptoms. Moreover, recurrences ranging from mild, transient symptoms to full-blown Major Depressive Disorder are reported in 37 to 65 percent with the first year after treatment, and approximately half of those people will have yet another recurrence. Those people who have had a rapid and complete response to treatment are the ones least likely to have a recurrence. Overall, then, the prognosis for recovery from a given episode of a Major Depressive Disorder is good, but there is high likelihood of relapse, particularly for those with preexisting mild depression and a history of dysfunction.

*(Source: Selecting Effective Treatments: A Comprehensive Systematic Guide to Treating Mental Disorders, 1998)*

### **Risks and Benefits of Therapy**

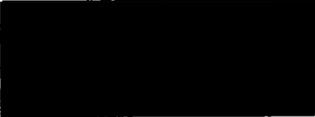
There are certain risks and discomforts which may result from participating in therapy and gaining an

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Willapa Counseling Center Client Diagnosis

increased understanding of your mental illness or psychological disorder. You may experience emotional discomfort in recalling unpleasant experiences or in answering questions of a personal nature. You may refuse to answer any specific questions or discontinue therapy at any time without affecting any services you may be receiving through Willapa Counseling Center.

You may benefit from participating in therapy by gaining an increased understanding of your mental illness or psychological disorder. You may learn how to better cope with the illness or experience a significant reduction in psychological symptoms. You may learn to better cope with your mental illness (if you have one) and may experience an increased quality of life as a result. Participation in therapy could reduce relapse of any mental illness you suffer from and decrease the number of days lost from work as a result of a mental illness.

 \_\_\_\_\_  
C

5-7-07  
Date

EXIT DOCUMENT

CLIENT NAME: [Redacted] **CONFIDENTIAL** Date: 8/30/07 ID.#: 11572

Exit Diagnosis: Axis I Primary: R10 Axis I Secondary: PTSD

Axis II Diagnosis: V71.09 none

Exit GAF, CGAS, OR DC03: 51 LOC:  B  I  II  III PRIORITY:  A Acute  C Chronic  D Serious  E Severely Emotionally Disturbed Child  O Other

REASON FOR EXIT

No covered diagnosis

Does not meet definition of Medical Necessity

Does not meet min. score of GAF/CGAS/DC03

Psychiatric impairment is not at level of Moderate or higher.

Tx completed

Tx dc'd at Client's request

Tx dc'd at Therapist's request

Moved away

Ref./trsf to other facility

Deceased

Death by suicide

Failed to return: Date 10-day letter sent: 8/29/07

LIVING SITUATION (see back for expanded definitions)

Private Res. w/o support

Private Res. w/ support

Foster Home

24-hr Res. Care, incl. congregate care facility

Institutional Setting, incl. skilled nursing home

Jail/Juvenile Correction Facility

Homeless/Shelter

Other specify

Unknown

EMPLOYMENT (see back for definitions):  Full Time  Part Time  Supported Employ  Sheltered Workshop  Volunteer  Retired  Not Employed (includes children)  Unknown

EDUCATION (see back for definitions):  Full Time  Part Time  Not in educational program  Unknown

GRADE LEVEL (see back for definitions): 4 List Specific Grade (12<sup>th</sup> Grade or less)  00  13  14  16  18  99 Unknown

Intake Date: \_\_\_\_\_

SERVICES PROVIDED:

Intake only

Individual Counseling

Group Counseling

Family Counseling

COD

Psychiatric Evaluation

Medication Mgmt

Case Mgmt

Employment Serv.

LIFE DOMAINS Addressed Per Care Plan

1. Mental /Emotional

2. Safety/Risk

3. Daily Living Skills

4. Cultural Spiritual

5. Drug/Alcohol

6. Physical Health

7. Family

8. Education/Work

9. Social / Recreational

10. Finances

11. Housing

12. Legal

Presenting concerns: Crying a lot, sleep problems, anger, overeating.

Extent goals and objectives achieved.  Achieved  Not Achieved  Partial

Current Assessment: 1. Progress in recovery or move toward well-being 2. Gains achieved during program participation 3. Strengths, needs, abilities, preferences. Rapport was being established.

Current status and needs for support or other type of service needed for ongoing recovery or well-being: u could benefit from continuation of counseling.

Referrals: none

Linkage To PCP and person responsible for ongoing medications  Na  Yes

Focus of future services, recommendations for services or supports: cont. to be a community support

HOSPITALIZATIONS:  none in last 24 months  once in last 12 months  three or more times in last 24 months

NOTE: If hospitalized within last 24 months copy to TRSN Clinical Director (Date copied \_\_\_\_\_)

Referral Source:  Self  Other Family Copy sent (if appl.: \_\_\_\_\_)

Physician:  None Seamar Clinic Copy sent (if appl.: \_\_\_\_\_)

Client Did Not Receive medications from agency

Client Received medications from agency.

Agency Medical Staff Signature \_\_\_\_\_ Date \_\_\_\_\_

Pearle Hutz, MS LHC CMHS 8/30/07 C. Wash, MA 8-31-07

Primary Clinician \_\_\_\_\_ Date \_\_\_\_\_ Supervisor \_\_\_\_\_ Date \_\_\_\_\_

**ENTERED**  
8/30/07  
 KEMAR

# CONFIDENTIAL

Willapa Counseling Center  
P.O. Box 863 Long Beach, WA 98631 (360) 642-3787  
P.O. Box 65 South Bend, WA 98586 (360) 875-9426

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August 28, 2007

Mary E. [REDACTED] earley  
268 SR 105  
Raymond, WA 98577

RE: A [REDACTED] M [REDACTED]

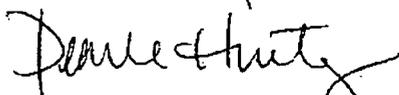
Dear Mary:

Please let me know if you would like to reschedule A [REDACTED]'s therapy appointment. If I do not hear from you by September 7, 2007, I will assume that you no longer desire services for A [REDACTED] at Willapa Counseling Center.

If you decide to terminate A [REDACTED]'s services at Willapa Counseling Center at this time and desire to reengage in services later, the process of reengaging is easy. Simply call the office to schedule an appointment with an intake clinician. Please note that crisis services are available 24 hours a day and 7 days a week. Please do not hesitate to utilize these services if needed.

I hope that you are doing well, and look forward to hearing from you.

Very truly yours,



Pearle Hintz, M.S., LMHC, CMHS

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WILLIAM GOUNSELLING CENTER

MENTAL HEALTH SERVICES

DEVELOPMENTAL DISABILITIES

June 27, 2007

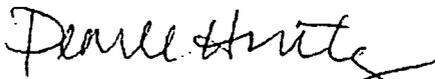
M ■ E ■ -Cearley  
268 SR 105  
Raymond, WA 98577

RE: A ■ ■ a M ■ ■

Dear Mary:

I have been unable to reach you by phone and the recording would not permit leaving a voice message. Please give me a call to reschedule Anastasia's therapy appointment.

Very truly yours,



Pearle Hintz, M.S., LMHC, CMHS

~~CONFIDENTIAL~~

TOWARD RECOVERY PLAN GOALS / SHORT TERM OBJECTIVES

CLIENT: ( [redacted] M [redacted] 11572 ) DATE OF CONTACT: 6/25/07

LIFE DOMAIN: \_\_\_\_\_ SHORT TERM OBJECTIVE: \_\_\_\_\_

Location: \_\_\_\_\_ Activity Code: \_\_\_\_\_ Duration: \_\_\_\_\_ minutes

NARRATIVE: (Identify and describe Life Domain(s) and insight / activities / behaviors consistent with Recovery Plan / client voice.)

Call to Mary, got recording "At the subscriber's request, this phone does not accept incoming calls"

ASSESSMENT: (Review of Recovery Plan with Client to determine measurable, behavioral progress towards Short Term Objectives identified on Recovery Plan.)

PLAN: Homework assigned to Client to focus on achievement of Recovery Goals and Short Term Objectives. (How will client work on Short Term Objectives listed above?)

Clinician's Signature: Pearle Huntz MS, LMHC, CMHS Date: 6/25/07  
Printed name: Pearle Huntz MS, LMHC, CMHS

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Willapa Counseling Center  
Progress Note

Client Name: A [REDACTED] M [REDACTED] Date: 5/30/2007 MIS #: 11572

Domain: Mental Health

Short Term Objective:

Location: 53 Activity Code: CF Duration: Client failed today's session.

Narrative:

Assessment:

Plan:

*Pearle Hintz, LMHC, CMHS*

---

Pearle Hintz, DMHC, CMHS

OK

# CONFIDENTIAL

## Willapa Counseling Center Progress Note

Client Name: A [REDACTED] M [REDACTED] Date: 5/23/2007 MIS #: 11572

Domain: Mental Health

Short Term Objective:

Location: 53 Activity Code: 77632 Duration: 15

**Narrative:** Returned call to Mary who stated cl upset upon hearing a song on the radio. "She came screaming out of her room saying, 'That used to be me and my mom's song!' She's taking it out on me." Mary concerned with cl's recent increased bx outbursts. Mary said she has been spending 1:1 time with cl, went to cl's classroom recently for a project. Discussed labeling cl's emotions when Mary sees them and inviting cl to talk about it, modeling calm and coaching cl to identify feelings and identify what is bothering her, while sending the message cl needs to speak respectfully to Mary. Mary concerned cl won't do so; discussed coaching/guiding process to empower cl's approp self-expression.

**Assessment:** Mary upset with cl's escalated bx but calmed with discussion and seemed to take in interventions discussed.

**Plan:** Rescheduled cl appt to 5/30/07 LBO.

Pearle Hintz, LMHC, CMHS  
Pearle Hintz, LMHC, CMHS

OK

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Willapa Counseling Center  
Progress Note

Client Name: A [REDACTED] M [REDACTED] Date: 5/23/2007 MIS #: 11572

Domain: Mental Health

Short Term Objective:

Location: 53 Activity Code: CC Duration: 0 Client canceled today's session.

Narrative: Message from Mary cancelling.

Assessment:

Plan:

Pearle Hintz, LMHC, CMHS  
Pearle Hintz, LMHC, CMHS

OK

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DOCTOR REFERRAL FORM

Date of Referral: 5/14/07 Therapist: Pearl Hintz

MIS# 11572  Raymond Office  Long Beach Office

PCP: Seamar Clinic Address: \_\_\_\_\_

PCP Phone: \_\_\_\_\_

Consumer Name: A [REDACTED] M [REDACTED] Age: 9 DOB: 1/4/98

Phone #: 360-350-5192

First Offered Appt.: 7/22/07 First Accepted Appt.: 8/2/07 @ 9:30

Consumer's Self-Reported Need: ↑ episodes of sadness crying, difficulty handling conflicts w/ peers & resultant hurt feelings. Difficulty falling asleep & staying asleep.

Diagnosis: 296.21 Major Depression Single Episode  
R/O PTSD

Brief History: Living w/ aunt x 4 yrs. Early by 2 bio parents included exposure to DV, adult substance abuse.

History of Hospitalizations: NONE

What are symptoms present and indicate psychopathology Depressed mood, insomnia, emotionally labile, feelings of worthlessness, episodic difficulty finding things that are fun.

The Client's Current Medications are: NONE

- Previous provider unwilling to refill/PCP unwilling to Rx
- client has been out of meds since \_\_\_\_\_
- client has meds to last until approximately \_\_\_\_\_
- Emergency Room physicians/PCP   used  will be used to help cover medication coverage gap

Past Medications: NONE - ?

Alcohol/Drug Use - Be specific - frequency, amount, type, duration: none

Psychiatric Nurse Review (initial and date): [Signature] 5/19/07

Priority Scale Rating =  3  2  1

Please refer to information on the back of this form

*Needs  
App. w/ Dr. Schlegel*  
*[Signature]*

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Priority Scale

**3**

- Client unstable and at risk for hospitalization
- Psychotic:

- 
- Manic/Hypomanic
  - No Rx currently
  - Recent hospital/institution discharge; to be seen within 30 days
  - Client's symptoms manifest significant deterioration which meds adjustment may stabilize
  - Client has been seen  once  twice  several times by crisis staff due to

Increasingly severe symptoms: \_\_\_\_\_

Other \_\_\_\_\_

**2**

- Unstable client in need of med monitoring
- Needs diagnosis or  diagnostic clarification

Symptoms moderate

Prodromes of decompensation: \_\_\_\_\_

Other \_\_\_\_\_

**1**

- Client needs medication evaluation
- Stable or relatively stable

- PCP unwilling to write Rx
- Transfer in w/o Rx
- Needs diagnosis or  diagnostic clarification

Symptoms mild to moderate: \_\_\_\_\_

Not at risk for hospitalization at this time

Other \_\_\_\_\_

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WILLIAMS TOWNSHIP CENTER  
CONFIDENTIAL  
PROGRESS NOTE

TOWARD RECOVERY PLAN GOALS / SHORT TERM OBJECTIVES

CLIENT: A [REDACTED] M [REDACTED] 11572

DATE OF CONTACT: 5/7/07

LIFE DOMAIN: Mental Health

SHORT TERM OBJECTIVE: Initial session

Location: 53 WCC Activity Code: 77310 Duration: minutes 30

**NARRATIVE:** *(Identify and describe Life Domain(s) and insight / activities / behaviors consistent with Recovery Plan / client voice.)*

Cl, aunt Mary, cl's brother attended. Discussed initial documents, confidentiality and limits thereto. Mary identified cl's needs re conflicts with peers, subsequent hurt feelings/lowered self esteem, sadness/crying; Mary expressed concern re cl's adjustment to Mary's new baby (now 4 mos old) and confusion re Mary as aunt or mother. Cl was able to frankly confirm these issues and elaborate re conflicts with peers and resulting painful emotions. Uncle works full time, has job stressors. Mary works, goes to school, has new baby; Mary concern re children sensing caregiver stress. *Mary would like referral to Dr. Schlegel. pl*

**ASSESSMENT:** *(Review of Recovery Plan with Client to determine measurable, behavioral progress towards Short Term Objectives identified on Recovery Plan. )*

- |  |
|--|
| <input checked="" type="checkbox"/> Psychoeducation Done   |
| <input checked="" type="checkbox"/> Treatment Plan Completed   |
| <input checked="" type="checkbox"/> Therapist Disclosure Form Given  |
| <input type="checkbox"/> Crisis Plan Offered to Client   |
| <input type="checkbox"/> Groups Discussed with Client  |
| <input checked="" type="checkbox"/> Discussed with client modes of access into how services are delivered and client satisfaction w/ services. |

Cl was participatory, good eye contact and identification of issues of concern.

**PLAN:** *Homework assigned to Client to focus on achievement of Recovery Goals and Short Term Objectives. (How will client work on Short Term Objectives listed above?)*

Cont to build rapport and work on tx goals. Next appt 5/23/07 LBO. *Refer to Dr. Schlegel. pl*

Clinician's Signature: Pearle Hintz LMHC CMHS

Date: 5/7/07

Printed name: Pearle Hintz, LMHC CMHS  
(Revised 02/09/05)

PROGRESS NOTE



# CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A[REDACTED] M[REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

MIS

<p><b>GENERAL PRESENTATION</b></p> <ul style="list-style-type: none"> <li>• Age, gender, ethnicity, referral source, client involvement / motivation, &amp; appearance.</li> </ul>	<p>CI is a 9 y/o Caucasian female who is casually dressed, well groomed, makes appropriate eye contact. Referral source is her aunt, who also is in attendance. Aunt is casually dressed, well groomed, makes appropriate eye contact. Motivation for service is to have some counseling. Information in this intake will be coming from CI and CI's aunt.</p>						
<p><b>DOMAIN 1: MENTAL / EMOTIONAL</b></p>	<input type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input checked="" type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	3
<p><b>PRESENTING PROBLEM:</b></p> <ul style="list-style-type: none"> <li>• Client's, Parent's / Guardian's definition of problem, level of distress, etc.</li> <li>• Symptoms (detail).</li> <li>• Precipitators (who, what, when, where?)</li> <li>• Expectations for services: (Client, parent, guardian)</li> <li>• Client's understanding of treatment.</li> </ul>	<p><i>None-Serious: In last 6 mos., often down, dysphoric for little or no reason, tantrums frequently</i>  <i>Severe: Psychiatric hospitalization in last 6 mos. Experienced severe distress that caused harm to self, others, animals.</i></p> <p><b>STRENGTHS &amp; SKILLS: CI is cooperative and open to the intake process.</b></p> <p>When asked CI why she was here, she was here, she raised her hands in a perplexed motion and said, "my aunt thinks I, I don't know. Why am I here?" Aunt responded, "she has some emotional issues. She takes things the wrong way. She breaks down and cries all the time. She is very angry inside." CI is shaking her head no as if she doesn't agree with that. Reports she has a hard time falling asleep, reports sometimes she wakes up in the middle of the night and has a hard time returning to sleep. She likes to eat a lot. Reports CI is frequently negative and has a difficult time finding things that are fun. CI is irritable as well.</p>						
<p><input checked="" type="checkbox"/> None</p>	<b>CURRENT PSYCHIATRIC MEDS</b>		<b>DOSAGE</b>	<b>PURPOSE</b>	<b>PRESCRIBING MD</b>		
<p>Mental Health Treatment History: (for at least 2 years)</p>	<b>Outpatient</b>	<b>Dates</b>	<b>Agency / Hospital</b>		<b>Clinician</b>	<b>Outcomes</b>	
	<b>Inpatient</b>						
<p><input checked="" type="checkbox"/> None</p>	<p>Client perception of what has been most helpful: N/A</p> <p>Family History of Mental Illness: Depression bio-mother.</p>						

# CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

MENTAL HEALTH STATUS SUMMARY				Clinician Detail		
Appearance	<input checked="" type="checkbox"/> Neat	<input type="checkbox"/> Meticulous	<input type="checkbox"/> Unkempt	<input type="checkbox"/> Unusual	<input type="checkbox"/> Other:	
Hygiene	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Adequate	<input type="checkbox"/> Poor	<input type="checkbox"/> Very poor	<input type="checkbox"/> Other:	
Facial Expressions	<input checked="" type="checkbox"/> Alert	<input type="checkbox"/> Smiling	<input type="checkbox"/> Tearful	<input type="checkbox"/> Other:		
	<input type="checkbox"/> Frowning	<input type="checkbox"/> Expressionless	<input type="checkbox"/> Grimacing			
Eye Contact	<input checked="" type="checkbox"/> Normal	<input type="checkbox"/> Limited	<input type="checkbox"/> Poor	<input type="checkbox"/> Fixed/Stare	<input type="checkbox"/> Other:	
Psychomotor Activity	<input checked="" type="checkbox"/> Normal	<input type="checkbox"/> Accelerated	<input type="checkbox"/> Peculiar			
	<input type="checkbox"/> Agitated	<input type="checkbox"/> Calculated	<input type="checkbox"/> Inappropriate			
	<input type="checkbox"/> Restless	<input type="checkbox"/> Retarded	<input type="checkbox"/> Other:			
Quality of Speech	<input checked="" type="checkbox"/> Clear	<input type="checkbox"/> Stammer	<input type="checkbox"/> Rapid	<input type="checkbox"/> Loud	<input type="checkbox"/> Other	
	<input type="checkbox"/> Slurred	<input type="checkbox"/> Slow	<input type="checkbox"/> Pressured	<input type="checkbox"/> Quiet		
Client's Interaction w/Interviewer	<input checked="" type="checkbox"/> Cooperative	<input type="checkbox"/> Manipulative	<input type="checkbox"/> Hostile	<input type="checkbox"/> Scared/Uncomfortable		
	<input type="checkbox"/> Uncooperative	<input type="checkbox"/> Domineering	<input type="checkbox"/> Suspicious/Guarded	<input type="checkbox"/> Excessive familiarity		
			<input type="checkbox"/> Other			
Affect (Observation)	<input type="checkbox"/> Euphoric	<input type="checkbox"/> Hostile	<input type="checkbox"/> Fearful	<input type="checkbox"/> Sad		
	<input type="checkbox"/> Blunt	<input type="checkbox"/> Flat	<input type="checkbox"/> Anxious	<input type="checkbox"/> Constricted		
	<input type="checkbox"/> Incongruent	<input type="checkbox"/> Labile	<input type="checkbox"/> Congruent	<input checked="" type="checkbox"/> Other: congenial		
Mood (Subjective)	<input type="checkbox"/> Euphoric	<input type="checkbox"/> Hostile	<input type="checkbox"/> Fearful	<input type="checkbox"/> Other:		mildly
	<input type="checkbox"/> Labile	<input type="checkbox"/> Sad	<input checked="" type="checkbox"/> Anxious			
Biological Signs of Depression	<input type="checkbox"/> None	<input type="checkbox"/> Significant Weight Loss/Gain		<input type="checkbox"/> Psychomotor Agitation / Retardation		
	<input type="checkbox"/> Poor Appetite	<input checked="" type="checkbox"/> Sleep Disturbance		<input type="checkbox"/> Other:		
	<input type="checkbox"/> Fatigue	<input checked="" type="checkbox"/> Loss of Interests / Pleasure				
	<input checked="" type="checkbox"/> Social W/drawal	<input checked="" type="checkbox"/> Irritability				
Delusions	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Thought Withdrawal		<input type="checkbox"/> Somatic		
	<input type="checkbox"/> Grandiose	<input type="checkbox"/> Thought Broadcast		<input type="checkbox"/> Religious		
	<input type="checkbox"/> Persecutory	<input type="checkbox"/> Paranoid		<input type="checkbox"/> Other:		
Hallucinations	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Auditory	<input type="checkbox"/> Visual	<input type="checkbox"/> Tactile	<input type="checkbox"/> Taste	<input type="checkbox"/> Olfactory
Estimated Intellectual Functioning	<input checked="" type="checkbox"/> Above Average	<input type="checkbox"/> Below Average				
	<input checked="" type="checkbox"/> Average	<input type="checkbox"/> Developmentally Delayed				
			<input type="checkbox"/> Other:			
Orientation	<input checked="" type="checkbox"/> Oriented all spheres		Disoriented to: <input type="checkbox"/> Person <input type="checkbox"/> Place <input type="checkbox"/> Time.			
			<input type="checkbox"/> Present Circumstance			
Insight	<input type="checkbox"/> Recognizes Problem	<input type="checkbox"/> Denies Problem	<input type="checkbox"/> Recognizes Need for Treatment			
	<input checked="" type="checkbox"/> Recognizes Contributing Factors	<input type="checkbox"/> Projects Blame	<input type="checkbox"/> Denies Need for Treatment			
			<input type="checkbox"/> Other:			
Judgment	<input checked="" type="checkbox"/> Good	<input checked="" type="checkbox"/> Fair	(Examples) cl knows he gets over aggressive			
	<input type="checkbox"/> Poor	<input type="checkbox"/> Severely Impaired				
Recent Memory (short term)	<input type="checkbox"/> Good	<input type="checkbox"/> Fair	<input type="checkbox"/> Poor	<input type="checkbox"/> Severely Impaired		
Remote memory	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Fair	<input type="checkbox"/> Poor	<input type="checkbox"/> Severely Impaired		
Thought Content	<input type="checkbox"/> Normal	<input type="checkbox"/> Delusional	<input checked="" type="checkbox"/> Depressive	<input type="checkbox"/> Ideas of Reference / Influence		
	<input type="checkbox"/> Obsessive	<input type="checkbox"/> Irrational	<input type="checkbox"/> Depersonalized	<input type="checkbox"/> Other:		
Stream of Thought (form)	<input checked="" type="checkbox"/> Logical	<input type="checkbox"/> Tangential	<input type="checkbox"/> Circumstantial (Circular)	<input type="checkbox"/> Incoherent		
	<input type="checkbox"/> Blocked	<input type="checkbox"/> Flight of ideas	<input type="checkbox"/> Loose associations	<input type="checkbox"/> Other:		
Thinking Style	<input type="checkbox"/> Abstract	<input checked="" type="checkbox"/> Concrete				
Attention Span	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Fair	<input type="checkbox"/> Poor	Concentration: <input checked="" type="checkbox"/> Good	<input type="checkbox"/> Fair	<input checked="" type="checkbox"/> Poor

# CONFIDENTIAL

## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<p><b>DOMAIN 2:</b> <b>SAFETY / RISK</b></p> <ul style="list-style-type: none"> <li>• Behavior that puts self / others at risk (illegal activity, unsafe sex, etc.).</li> <li>• Suicidal / Homicidal involvement.</li> </ul>	<input type="checkbox"/> None 0	<input checked="" type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	1										
	<p><i>None-Serious: Some history of self-harm from others; episodic running away; some history of striking/hurting others; some emotional abuse by peer/family/others.</i></p> <p><i>Severe: Injuries from self harm or harm by others requiring medical attention/evaluation; medical problems due to an eating disorder; regular running away; documented emotional abuse by others resulting in acting out behaviors.</i></p>																
	<p><b>CI reports she does not harm herself or others or animals.</b></p>																
	<p><b>Explore for Current / Historical Behaviors:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><input type="checkbox"/> Self Harm</td> <td>None</td> </tr> <tr> <td><input type="checkbox"/> Harm to Others</td> <td>None</td> </tr> <tr> <td><input type="checkbox"/> Cruelty to animals</td> <td>None</td> </tr> <tr> <td><input type="checkbox"/> Fire starting</td> <td>None</td> </tr> <tr> <td><input checked="" type="checkbox"/> Property Destruction</td> <td>Aunt prompted CI that she and her brother destroy each other's property in retaliation for things that bother them.</td> </tr> </table>								<input type="checkbox"/> Self Harm	None	<input type="checkbox"/> Harm to Others	None	<input type="checkbox"/> Cruelty to animals	None	<input type="checkbox"/> Fire starting	None	<input checked="" type="checkbox"/> Property Destruction
<input type="checkbox"/> Self Harm	None																
<input type="checkbox"/> Harm to Others	None																
<input type="checkbox"/> Cruelty to animals	None																
<input type="checkbox"/> Fire starting	None																
<input checked="" type="checkbox"/> Property Destruction	Aunt prompted CI that she and her brother destroy each other's property in retaliation for things that bother them.																
<p><b>SUICIDAL IDEATION / BEHAVIOR</b></p>	Past None	# Attempts	# Gestures	Last attempt	Last gesture	Precipitating Events											
<p><b>HOMICIDAL IDEATION / BEHAVIOR</b></p>	Past None	Circumstances:		Current Risk: <input checked="" type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High	No Harm Contract: <input type="checkbox"/> Yes (document in chart) <input type="checkbox"/> No												
<p><b>DOMAIN 3:</b> <b>DAILY LIVING SKILLS</b></p> <ul style="list-style-type: none"> <li>• Accomplish Developmental Tasks</li> <li>Needs Help With:</li> </ul>	<input type="checkbox"/> None 0	<input checked="" type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	1										
<p><i>Moderate: Ability to function independently in a skill that is developmentally appropriate is compromised; needs assistance in some personal self care activities some of the time.</i></p> <p><i>Severe: Unwilling or unable to perform personal care activities by him/herself most of the time.</i></p>																	
<p><b>STRENGTHS &amp; SKILLS: CI does require prompts with homework.</b></p>																	
<p><input type="checkbox"/> bath / shower <input type="checkbox"/> dressing <input type="checkbox"/> personal grooming <input type="checkbox"/> eating <input type="checkbox"/> toilet use <input type="checkbox"/> chores</p> <p><input type="checkbox"/> homework <input type="checkbox"/> Other:</p>																	
<p><b>DOMAIN 4:</b> <b>CULTURAL / SPIRITUAL</b></p> <ul style="list-style-type: none"> <li>• Harassment / Discrimination as a result of minority status.</li> <li>• Tribal affiliation, involvement, and interest.</li> </ul>	<input checked="" type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	0										
<p><i>Moderate: Conflict or distancing due to culture, subculture, and beliefs.</i></p> <p><i>Severe: Extreme level of conflict or distancing due to culture and beliefs.</i></p>																	
<p><b>STRENGTHS &amp; SKILLS: CI is Catholic but is not currently attending Mass. CI likes to read, likes indoor activity, and she likes to do things that are not quite that social. She is somewhat introverted. She needs to be pushed to go outside. Reports that people at the school make fun of her because she can't run well, which causes her to be inhibited about going outside.</b></p>																	
<p>Sexually active: <input type="checkbox"/> Y <input type="checkbox"/> N      Awareness of safe sex practices: <input type="checkbox"/> Y <input type="checkbox"/> N</p> <p>Sexual Orientation: (teens only) <input type="checkbox"/> Heterosexual <input type="checkbox"/> Gay, Lesbian, Bisexual or Transgendered</p> <p><input type="checkbox"/> Not Voluntarily Given</p>																	
Minority, Racial, Ethnic, or Religious Identification / Involvement: Caucasian				What are your family values / beliefs? Catholic													

# CONFIDENTIAL

## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<b>DOMAIN 5:</b>	<input type="checkbox"/> None 0	<input checked="" type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	1								
<b>DRUG/ ALCOHOL</b>	<p><i>Moderate: Has experienced some personal, school, job, health, legal or other losses due to substance use; occasionally engages in high risk behaviors because of, or to support use.</i></p> <p><i>Severe: Extreme negative impact or impairment due to substance use; addiction; engages in high-risk behaviors because of or to support habit. Addicted caretaker.</i></p>														
<input checked="" type="checkbox"/> N/A	<p><b>STRENGTHS &amp; SKILLS:</b></p> <p>Describe your usual pattern of substance use (including alcohol, illicit drugs or over the counter drugs):</p> <p>In the past three months, have you ever:</p> <p>a. Felt the need to cut down on your drinking or drug use (including over the counter drugs)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Become angry when someone questioned you about your drinking or drug use? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c. Felt guilty about your drinking or drug use? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>d. Felt the need for an eye opener – a drink or drug to start the day? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: center;"><b>**If answer is "yes" to any question(s), please complete the table below.**</b></p>														
	<i>Substance</i>	<i>Age at 1<sup>st</sup> use</i>	<i>Last Use</i>	<i>Duration</i>	<i>Frequency</i>	<i>Social / Legal / Physical Problems</i>	<i>Abuse</i>	<i>Dependence</i>							
	Prescription Drug														
	Alcohol														
	Marijuana														
	Cocaine														
	Opiates														
	Hallucinogens														
	Barbiturates														
	Inhalants / Huffing / Sniffing														
	Stimulants														
	Amphetamines														
	Other:														
<input checked="" type="checkbox"/> None	<p><b>Detoxification</b></p> <p><b>CD Treatment History:</b> <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"><b>FACILITY</b></td> <td style="width: 10%; text-align: center;"><b>YEAR</b></td> <td rowspan="3" style="width: 30%;">                     Referrals to:  <input type="checkbox"/> MICA  <input type="checkbox"/> 12-Step Meetings  <input type="checkbox"/> Other:                 </td> </tr> <tr> <td>Outpatient:</td> <td></td> </tr> <tr> <td>Inpatient:</td> <td></td> </tr> </table>								<b>FACILITY</b>	<b>YEAR</b>	Referrals to: <input type="checkbox"/> MICA <input type="checkbox"/> 12-Step Meetings <input type="checkbox"/> Other:	Outpatient:		Inpatient:	
<b>FACILITY</b>	<b>YEAR</b>	Referrals to: <input type="checkbox"/> MICA <input type="checkbox"/> 12-Step Meetings <input type="checkbox"/> Other:													
Outpatient:															
Inpatient:															
<input checked="" type="checkbox"/> None	<p><b>Current Recovery Activities:</b>  <input type="checkbox"/> 12-Step Meetings <input type="checkbox"/> Currently <input type="checkbox"/> Previously</p>														
• Obtain parental history and note addicted caretaker (if applicable).	<p><b>FAMILY DRUG/ALCOHOL HISTORY &amp; ATTITUDE:</b> CI's parents did drugs &amp; alcohol problem and that is part of the reason she is living with her aunt.</p> <p><b>COMMENTS:</b></p>														

# CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<b>DOMAIN 6:</b> <b>PHYSICAL HEALTH</b>	<input checked="" type="checkbox"/> None 0 <input type="checkbox"/> Mild 1 <input type="checkbox"/> Moderate 2 <input type="checkbox"/> Serious 3 <input type="checkbox"/> Severe 4					Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician			0	
	<i>Moderate: A chronic illness/health problem that compromises daily life; inattention to preventive health activities.</i> <i>Severe: Incapacitated or needs daily attention to an illness or health problem.</i>									
	<b>STRENGTHS &amp; SKILLS: CI appears to be in good physical health.</b>									
	<b>HEALTH CARE NEEDS: None</b>									
	Pregnancy, Birth & Delivery History:      Mother's age at birth of child: 21 <input checked="" type="checkbox"/> Mother's pregnancy normal <input checked="" type="checkbox"/> Normal Prenatal Care <input checked="" type="checkbox"/> Delivery normal <input type="checkbox"/> Premature birth <input type="checkbox"/> Prenatal Care Limited <input type="checkbox"/> Prenatal Alcohol Use <input type="checkbox"/> Prenatal Drug Use <input type="checkbox"/> Prenatal Smoking <b>Significant prenatal or delivery history: ci would like us to know that she came out in a very odd position</b>									
	Developmental Milestones: <input checked="" type="checkbox"/> Walking <input checked="" type="checkbox"/> Speech <input checked="" type="checkbox"/> Toilet training <input checked="" type="checkbox"/> Fine motor skills Describe problematic, difficult or unusual developmental areas, if any: Currently Bed Wetting? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes									
	Current or history of major illness: <input type="checkbox"/> Acute <input type="checkbox"/> Chronic <input type="checkbox"/> Associated w/substance abuse <input type="checkbox"/> History of DT's None									
	<b>History of hospitalizations/injuries/surgeries: tonsillectomy</b>									
	Pregnant <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Level of supervision & support needed & available):						Request for screening to PCP <input checked="" type="checkbox"/> Y <input type="checkbox"/> N If no PCP, packet & rights given <input type="checkbox"/> Y <input type="checkbox"/> N Diagnostic letter to PCP <input checked="" type="checkbox"/> Y <input type="checkbox"/> N			
	<b>MEDICAL CONDITION(S): (Current &amp; past)</b>									
	Never	Past	Current		Never	Past	Current			
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Abdominal pain/vomiting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fractures		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Indigestion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Headaches		
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cancer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dizziness		
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Thyroid problem	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Convulsions		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Diabetes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Seizures			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Arthritis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Head Injury			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Jaundice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Eye problems			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bloody Stool/Hemorrhoids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hearing Problems			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Urinary Incontinence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wheezing/Asthma			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Blood in urination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chronic Cough/SOB			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Frequency/Pain Urination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Veneral Disease			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Constipation/Diarrhea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hepatitis A B C			
<b>COMPLETE REGARDLESS OF LOF SCORE</b>	<b>FAMILY HISTORY OF MEDICAL ILLNESS: Check if family/relatives have/had any of the following:</b>									
	<input checked="" type="checkbox"/> Diabetes			<input type="checkbox"/> Tuberculosis		<input checked="" type="checkbox"/> Heart Disease		<input checked="" type="checkbox"/> Stroke		<input checked="" type="checkbox"/> High Blood Pressure
	<input checked="" type="checkbox"/> Mental/Emotional Problems depression			<input type="checkbox"/> Cancer Type		<input type="checkbox"/> Suicide		<input checked="" type="checkbox"/> Drug/Alcohol problems		<input type="checkbox"/> Other disease
	<b>IN CASE OF EMERGENCY NOTIFY: Mary Elliott</b> (Relationship to you) Aunt							<b>PHONE: 360-350-8192</b>		
	<input type="checkbox"/> None    Name: Seamar Clinic If None, Referral Made: <input type="checkbox"/> No <input type="checkbox"/> Yes: <input type="checkbox"/> Valley View		<input checked="" type="checkbox"/> ROI Obtained					<b>Physician Phone:</b> <b>Last Contact:</b>		
	<input type="checkbox"/> None    Name: Seamar Clinic Obtained		<input type="checkbox"/> ROI					<b>Dentist Phone:</b> Seen in past year: <input type="checkbox"/> Yes <input type="checkbox"/> No		
	If None, Referral Made: <input type="checkbox"/> No <input type="checkbox"/> Yes: <input type="checkbox"/> Olympic Dental Center									
	<b>SPECIAL DIETARY NEEDS</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Explain):									
	<b>CURRENT NON-PSYCHIATRIC MEDICATIONS</b>			<b>DOSAGE</b>		<b>PURPOSE</b>		<b>PRESCRIBING MD</b>		
	None									
<b>OVER THE COUNTER DRUGS USED:</b> <input type="checkbox"/> NONE							<b>DRUG ALLERGIES:</b> <input checked="" type="checkbox"/> NONE			

# CONFIDENTIAL

## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<b>DOMAIN 7</b>	<input type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input checked="" type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	2
<i>Moderate: Frequent family fighting or overt provocative defiance of family rules. Severe: Abuse or neglect severe enough to necessitate removal from home.</i>							
<ul style="list-style-type: none"> <li>• Indicate relationship of primary care provider.</li> </ul>	<b><u>PARENT/GUARDIAN</u></b>		<b><u>NAME</u></b>		<b><u>AGE</u></b>	<b>LIVES W/ CLIENT</b>	<b>INVOLVED W/ CLIENT</b>
	<b><u>ROLES</u></b>		<i>CHECK box of Primary Caregiver</i>				
	Bio-Father	<input type="checkbox"/>	Charles Miller	32		no	
	Bio-Mother	<input type="checkbox"/>	Terl Miller	30		no	
	Aunt	<input checked="" type="checkbox"/>	Mary Elliott	27	x		
	Uncle	<input type="checkbox"/>	Steven Cearley	44	x		
		<input type="checkbox"/>					
		<input type="checkbox"/>					
	<b><u>SIBLINGS</u></b>		<b><u>NAME</u></b>		<b><u>AGE</u></b>	<b>LIVES W/ CLIENT</b>	<b>INVOLVED W/ CLIENT</b>
	brother		Charles Samuel Miller	6	x		
cousin		Harlin Cearley	4 mo	x			
<p><b>FAMILY STRENGTHS &amp; SKILLS:</b> CI appears to have a good relationship with her aunt. They are very easy with each other.</p> <p><b>FAMILY NEEDS:</b> CI needs to be able to redirect some of her emotions around the loss of her parents and also around bonding in with her family.</p> <p><b>FAMILY HISTORY / STORY:</b> CI was raised by her parents until age 5. CI reports there was drug use and a lot of running from the law. CI has negative memories of parents. Reports she also saw DV. CI reports she doesn't remember that she was beat up at all, but she did observe DV. CI has lived with her aunt the last 4 yrs. Aunt reports CI has difficulty establishing self-esteem and is somewhat introverted. Time-outs and grounding to room is the form of discipline in the household. Aunt reports CI rarely needs discipline.</p>							
<p><b>Paternal Grandparents:</b></p> <p>No contact</p>				<p><b>Maternal Grandparents:</b></p> <p>Sees Grandmother. lives here in Raymond.</p>			
<ul style="list-style-type: none"> <li>• Family provision of basic needs &amp; emotional support.</li> <li>• Recent family changes/losses.</li> <li>• Domestic violence or abuse, even substance abuse.</li> <li>• Family culture &amp; belief.</li> <li>• Family attitude toward mental health services &amp; willingness to be involved.</li> <li>• Discipline style.</li> <li>• Explore history of substance / sexual / physical abuse, domestic violence, abandonment, strict religious beliefs, and/or alienation.</li> <li>• Father's relationship with parents.</li> <li>• Mother's relationship with parents.</li> <li>• Current involvement in client's life.</li> </ul>							

# CONFIDENTIAL

## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<p><b>DOMAIN 8</b> <b>EDUCATION / WORK</b></p> <ul style="list-style-type: none"> <li>• Education &amp; employment history.</li> <li>• Current needs and level of support needed.</li> <li>• School successes.</li> <li>• School difficulties.</li> <li>• Areas of special talent, interest, skills, etc.</li> <li>• Special recognitions.</li> </ul>	<input checked="" type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	0	
	<p><i>Moderate:</i> Behavior severe enough to influence programming at school (e.g. SBD classroom); frequent or recurring problems at school or work, or in obtaining age-appropriate work.  <i>Severe:</i> Long-term expulsion from school; chronic truancy; unable or unwilling to secure an education or age-appropriate work</p>							
	<p><b>STRENGTHS &amp; SKILLS:</b> CI is in the 3<sup>rd</sup> grade. Reports she is passing all of her classes.</p>							
	<p><b>COMMENTS:</b> CI does have difficulty going outside and doing things outside. Prefers to do studious activities inside and is somewhat introverted.</p>							
	<p>Interest in <input type="checkbox"/> employment <input type="checkbox"/> school <input type="checkbox"/> volunteer work <input type="checkbox"/> involvement in community organizations            Referral to supported vocational training appropriate <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Work First/ TANF (<input type="checkbox"/> Self <input type="checkbox"/> Parent)</p>							
School: Raymond Elementary School		Teacher: Miss Lewis			Grade: 3		Phone:	
		Counselor:						
<p>Special Education: <input type="checkbox"/> No <input type="checkbox"/> Yes Reason: <input type="checkbox"/> Learning Disabilities <input checked="" type="checkbox"/> Behavior Problems            Has an IEP: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Received copy of IEP: <input type="checkbox"/> Yes <input type="checkbox"/> No Subjects:</p>								
<p><b>DOMAIN 9</b> <b>SOCIAL / RECREATIONAL</b></p> <ul style="list-style-type: none"> <li>• Current supportive social network (family, friends, community organizations, etc.).</li> <li>• Recreational activities.</li> <li>• Social / Subculture activities.</li> </ul>	<input type="checkbox"/> None 0	<input checked="" type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	1	
	<p><i>Moderate:</i> Child has few positive interests but can enjoy activity when available. Child has few friends, frequently associates with negative peer group.  <i>Severe:</i> Has no hobbies or activities. Assaultive or cannot name one friend.</p>							
	<p><b>STRENGTHS &amp; SKILLS:</b> Reports she has 6 friends. CI reports her perspective is that she gets along well with her friends. Aunt reports there is someone at the school trying to help this particular peer group be able to not name-call and get in power struggles. Aunt reports CI has the tendency to want to be over corrective with her friends and her friends somewhat resent it.</p>							
	<p><b>COMMENTS:</b></p>							
	<p>Current risk for Victimization: <input type="checkbox"/> No <input type="checkbox"/> Yes <i>If yes, describe:</i></p>							
<p><b>DOMAIN 10</b> <b>FINANCES</b></p> <ul style="list-style-type: none"> <li>• Explore individual client needs</li> </ul>	<input checked="" type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	0	
	<p><i>Moderate:</i> Unemployment of one or both providers, but receives public assistance; budgeting skills very limited; impulsive spending; sometimes without food and utilities.  <i>Severe:</i> Without funds and other benefits.</p>							
	<p><b>STRENGTHS &amp; SKILLS:</b> There is adequate access to resources. CI is on foster/adopt and CI's uncle works.</p>							
	<p><b>COMMENTS:</b></p>							
	<p><input type="checkbox"/> SSI PENDING <input type="checkbox"/> Caregiver referred to Credit Counseling  <input type="checkbox"/> Caregiver Has Current Payee <input type="checkbox"/> Caregiver Needs Payee</p>							

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## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

<b>DOMAIN 11</b> <b>HOUSING</b>	<input checked="" type="checkbox"/> None 0	<input type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	<b>0</b>
<i>Moderate: Housing needs such as additional space, more affordability, safer neighborhoods, minor repairs to meet code.</i>							
<i>Severe: Homeless or living in a time-limited ltr.</i>							
<b>STRENGTHS &amp; SKILLS: CI has her own room in the household.</b>							
<b>COMMENTS:</b>							
Housing is <input checked="" type="checkbox"/> Safe <input checked="" type="checkbox"/> Affordable <input checked="" type="checkbox"/> Client/Parent/Guardian is Satisfied with Living Arrangement							
<input checked="" type="checkbox"/> Appropriate for Numbers of Persons in Household Others in Household: 5							
<b>DOMAIN 12</b> <b>LEGAL</b>	<input type="checkbox"/> None 0	<input checked="" type="checkbox"/> Mild 1	<input type="checkbox"/> Moderate 2	<input type="checkbox"/> Serious 3	<input type="checkbox"/> Severe 4	Priority: <input type="checkbox"/> Client <input type="checkbox"/> Family <input type="checkbox"/> Clinician	<b>1</b>
<i>Moderate: May have been arrested once recently and/or referral to diversion or open DCFS case.</i>							
<i>Severe: Multiple arrests, recent or current incarcerations; dependency or guardianship imminent.</i>							
<b>STRENGTHS &amp; SKILLS: No difficulties in this domain.</b>							
<b>COMMENTS:</b>							
<ul style="list-style-type: none"> <li><input type="checkbox"/> None</li> <li>▪ Explore for parent(s) involvement in legal system.</li> <li>▪ Pending custody issues.</li> <li>▪ Client legal involvement / proceedings.</li> <li>▪ Juvenile Court involvement.</li> </ul>							
Court-Ordered Treatment <b>AND</b> Under JRA/DOC Supervision: <input type="checkbox"/> No <input type="checkbox"/> Yes							
JRA/DOC Notified: <input type="checkbox"/> No <input type="checkbox"/> Yes (Notified on _____)							
<b>TOTAL LOF SCORE</b>							<b>9</b>

OTHER SYSTEM INVOLVEMENT		<input checked="" type="checkbox"/> None	Current	Needs Referral
Agency Name	Contact Person	Law Enforcement: <input type="checkbox"/> DJR <input type="checkbox"/> JRA <input type="checkbox"/> Probation		
		Children's Protective Services		
		Div. of Child / Family Services		
		Div. of Developmental Disabilities		
		Other DSHS services: (specify)		
		Alcohol / Drug Treatment		
		Guardian ad Litem		
		Other:		

**The following persons may be contacted regarding Client needs: Client**

Need for Specialized Assessments: **(Complete if needed)**  None

Educational Assessment  Psychological  Psychiatric  Pediatric Developmental Specialist  Medical  
 Neurological  Neuropsychological  Drug / Alcohol Services  Assessment for Individual Support Team  
 Other:

# CONFIDENTIAL

## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [REDACTED] M [REDACTED]

MIS ID#: 11572

INTAKE DATE: 4/26/07

**CLIENT'S / FAMILY'S EXPECTATIONS AND GOALS FOR SERVICES:** When asked what cl she expected from services, cl pointed to her aunt and said she is the one who is brining me her. Aunt reports that she would like to see cl get out her anger, be able to feel like she fits in, and deal with anxiety, also aunt reports she would like to see cl sleep better.

**SYNTHESIS OF ASSESSMENT INFORMATION / DIAGNOSIS**

Cl is a 9 y/o Caucasian female who is currently residing with her aunt after 4 yrs. Parents are no longer able to meet with cl. Cl is currently exhibiting the following symptoms: depressed mood, insomnia, feelings of worthlessness, lability, and episodically having difficult time being able to find things that are fun and amusing. Consequently, Major Depression single episode is diagnosed. Cl also observed domestic violence in childhood, had experiences where her parents were running from the law and has negative thoughts about those things. R/O Posttraumatic Stress Disorder is diagnosed. Cl would benefit from psychotherapy and possibly a medication evaluation for sleep and also anxiety.

**PROVISIONAL DIAGNOSIS AT INTAKE:** **ACCESS DIAGNOSIS CODE** **A** **B**

Axis I: DSM IV Code: 296.21	DSM- IV Name: Major Depression single episode mild	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DSM IV Code:	DSM- IV Name:	<input type="checkbox"/>	<input type="checkbox"/>
Rule Out:	DSM- IV Name: Posttraumatic Stress Disorder	<input type="checkbox"/>	<input type="checkbox"/>
Axis II: DSM IV Code: V71.09	DSM- IV Name: None	<input type="checkbox"/>	<input type="checkbox"/>
Axis III: (General Medical Conditions) V71.09	DSM- IV Name: None	<input type="checkbox"/>	<input type="checkbox"/>

**Axis IV: Psychosocial and Environmental Problems (Specify)**

- None
- Problems with Primary Support Group:
- Problems Related to the Social Environment:
- Educational Problems:
- Occupational Problems:
- Housing Problems:
- Economic Problems:
- Problems With Access to Health Care Services:
- Problems Related to Interaction with Legal System/Crime:
- Other Psychosocial and Environmental Problems:

Axis V: Children's Global Assessment Scale 50

***If "B" Access Diagnosis Code: Must meet at least one of the following criteria; behaviors/symptoms must be result of a mental illness.***

- High risk behavior demonstrated during previous 90 days -
  - aggressive and/or dangerous
  - puts self or others at risk of harm
  - at risk of grave disability
  - at risk of psychiatric hospitalization
  - at risk of loss of current placement due to the symptoms of a mental illness
  - at risk of out of home placement due to the symptoms of an emotional disorder or mental illness
- At risk of escalating symptoms due to repeated physical or sexual abuse or neglect and there is significant impairment in the adult caregiver's ability to adequately address the child's needs.
- Two or more hospital admissions due to a mental health diagnosis during the previous two years.
- Psychiatric hospitalization or residential treatment due to mental health diagnosis of more than six months duration in the previous year **OR**
  - is currently being discharged from a psychiatric hospitalization.
- Received public mental health treatment on an outpatient basis within the PIHP system during the previous 90 days and will deteriorate if services are not resumed (*crisis intervention is not considered outpatient treatment*).
- Child is under six years of age*** and there is a severe emotional abnormality in the child's overall functioning as indicated by one of the following:
  - Atypical behavioral patterns as a result of an emotional disorder or mental illness (odd disruptive or dangerous behavior which is aggressive, self injurious, or hypersexual; display of indiscriminate sociability/excessive familiarity with strangers).*
  - Atypical emotional response patters as a result of an emotional disorder or mental illness which interferes with the child's functioning (e.g. inability to communicate emotional needs; inability to tolerate age-appropriate frustrations; lack of positive interest in adults and peers or a failure to initiate or respond to most social interaction; fearfulness or other distress that doesn't respond to comfort from caregivers.)*

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**CHILD & ADOLESCENT INTAKE EVALUATION**

10

CLIENT: **Amelia M**

MIS ID#: 11572

INTAKE DATE: 4/26/07

EPSDT CHILD (Medicaid through age 20):  yes  no

EPSDT Review:  Child meets EPSDT criteria for Level 1 per ACS:  yes  no

Child meets EPSDT criteria for Level 2 per ACS:  yes  no

Individual Support Team Referral (required for ALL multi-system Level 2 children)

Involved with one or more of the following systems in addition to mental health:

Children's Administration (DCFS)  Division of Developmental Disabilities

Juvenile Rehabilitation Administration or  Dept. of Corrections

Diagnosed with substance abuse or addiction

Receiving special education services and has an IEP

Has a chronic and disabling medical condition

**LEVEL OF CARE INDICATED PER LOF SCORE: 9**

LEVEL ONE LOF 8-16 <input type="checkbox"/> BI <input checked="" type="checkbox"/> CMI		LEVEL TWO LOF 17-43 <input type="checkbox"/> CM2 <input type="checkbox"/> CM3	
Brief Intervention Treatment/short term crisis resolution is provided OR long term low intensity treatment is provided allowing a person who has previously received treatment at a higher level of care to maintain their recovery. The period of authorization may be up to six months of care for Brief Intervention Treatment OR may be up to twelve months of care when an individual is receiving long term, low intensity treatment.		Needs long term treatment to achieve or maintain stability OR requires high intensity treatment to minimize highly dangerous behavior, prevent return to grave disability and/or decrease the use of other costly services. The period of authorization may be up to six months of care OR may be up to twelve months of care as determined by medical necessity and treatment goal(s).	
Must demonstrate moderate (2) functional impairment resulting from a mental illness, in at least one life domain requiring assistance in order to meet the identified need AND impairment is evidenced by CGAS Score of 60 or below.		Must demonstrate severe (3) functional impairment resulting from a mental illness, in at least one life domain requiring assistance in order to meet the identified need AND impairment is evidenced by a CGAS Score of 50 or below.	
Domains include: Health and self-care, including ability to access medical, dental, mental health care; access to psychiatric medications, cultural factors, home and family life, safety and stability, work, school, daycare, pre-school or other daily activities; ability to use community resources to fulfill needs.			
REQUEST FOR EXCEPTIONAL LEVEL OF CARE: <input type="checkbox"/> BI <input type="checkbox"/> CMI <input type="checkbox"/> CM2 <input type="checkbox"/> CM3 (Describe additional factors that indicate a different Level of Care is appropriate): IEP			
SPECIALIST CONSULTATION:		<input type="checkbox"/> NONE <input checked="" type="checkbox"/> CHILD <input type="checkbox"/> HISPANIC ORIGIN: Specify: <input type="checkbox"/> ETHNIC MINORITY: Specify:	
DISABILITY CONSULTATION:		<input type="checkbox"/> DEAF <input type="checkbox"/> DEVELOPMENTALLY DISABLED <input type="checkbox"/> SERIOUS PHYSICAL HANDICAP: Specify:	
MEETS CRITERIA FOR MEDICAL NECESSITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Medical Necessity: Determine whether the need is "medically necessary": 1) The service is appropriate for the symptoms, diagnosis and treatment of a particular disease or condition that is defined under DSM-IV, or its successor; 2) The service is provided in accordance with generally accepted standards of mental health professional practice, including a biopsychosocial approach to rehabilitation; 3) The service is provided for the diagnosis or direct care and treatment of a disease or condition that is defined under DSM-IV or its successor; 4) The type, level and length of treatment services are needed to provide safe, adequate and appropriate care, and are deemed likely to improve the recipient's condition. Treatment geared toward simply maintaining the recipient's current level of functioning is only acceptable when, without such treatment, the individual would be likely to suffer a relapse which is serious enough to require the provision of services which are more intensive than those currently being received. Medical Necessity does not include "custodial care."			
RCW PRIORITY CODE: <input type="checkbox"/> Acutely Mentally Ill (A) <input type="checkbox"/> Chronically Mentally Ill Adult (C) <input type="checkbox"/> Seriously Disturbed Person (D) <input checked="" type="checkbox"/> Severely Emotionally Disturbed Child (E) <input type="checkbox"/> Other (O)			
Intake Clinician's Signature: <i>Amelia M</i>		Agency Care Manager Review & Rec. LOC: <i>Amelia M</i>	
Date: 4/27/07		Date: 4/27/07	
<input checked="" type="checkbox"/> BI <input type="checkbox"/> CMI <input type="checkbox"/> CM2 <input type="checkbox"/> CM3 <input type="checkbox"/> ACS criteria not met		Authorized from 4/26/07 to 10/26/07 <input type="checkbox"/> NOA sent: _____	
TRSN Care Manager Signature: <i>MA, CMHS</i>		Review Date: 5/1/07	

Reviewed by Assigned Clinician \_\_\_\_\_ Date \_\_\_\_\_ Supervisor's Signature \_\_\_\_\_ Date \_\_\_\_\_

FAX to Jenae Henry (TRSN Quality Specialist) at 360-795-3126

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## CHILD & ADOLESCENT INTAKE EVALUATION

CLIENT: A [redacted] M [redacted]

MIS ID#: 11572

INTAKE DATE: 4/26/07

EPSDT CHLD (Medicaid through age 20):  yes  no

EPSDT Review:  Child meets EPSDT criteria for Level 1 per ACS:  yes  no

Child meets EPSDT criteria for Level 2 per ACS:  yes  no

Individual Support Team Referral (required for ALL multi-system Level 2 children)

Involved with one or more of the following systems in addition to mental health:

Children's Administration (DCFS)  Division of Developmental Disabilities

Juvenile Rehabilitation Administration or  Dept. of Corrections

Diagnosed with substance abuse or addiction

Receiving special education services and has an IEP

Has a chronic and disabling medical condition

### LEVEL OF CARE INDICATED PER LOF SCORE: 9

LEVEL ONE LOF 8-16 <input type="checkbox"/> BI <input checked="" type="checkbox"/> CM1		LEVEL TWO LOF 17-48 <input type="checkbox"/> CM2 <input type="checkbox"/> CM3	
Brief Intervention Treatment/short term crisis resolution is provided OR long term low intensity treatment is provided allowing a person who has previously received treatment at a higher level of care to maintain their recovery. The period of authorization may be up to six months of care for Brief Intervention Treatment OR may be up to twelve months of care when an individual is receiving long term, low intensity treatment.		Needs long term treatment to achieve or maintain stability OR requires high intensity treatment to minimize highly dangerous behavior, prevent return to grave disability and/or decrease the use of other costly services. The period of authorization may be up to six months of care OR may be up to twelve months of care as determined by medical necessity and treatment goal(s).	
Must demonstrate moderate (2) functional impairment resulting from a mental illness, in at least one life domain requiring assistance in order to meet the identified need AND impairment is evidenced by CGAS Score of 60 or below.		Must demonstrate serious (3) functional impairment resulting from a mental illness in at least one life domain requiring assistance in order to meet the identified need AND impairment is evidenced by a CGAS Score of 50 or below.	
<u>Domains include:</u> Health and self-care, including ability to access medical, dental, mental health care; access to psychiatric medications, cultural factors, home and family life, safety and stability, work, school, daycare, pre-school or other daily activities, ability to use community resources to fulfill needs.			
REQUEST FOR EXCEPTIONAL LEVEL OF CARE: <input type="checkbox"/> BI <input type="checkbox"/> CM1 <input type="checkbox"/> CM2 <input type="checkbox"/> CM3 (Describe additional factors that indicate a different Level of Care is appropriate): IEP			
SPECIALIST CONSULTATION:		<input type="checkbox"/> NONE <input checked="" type="checkbox"/> CHILD <input type="checkbox"/> HISPANIC ORIGIN: Specify: <input type="checkbox"/> ETHNIC MINORITY: Specify:	
DISABILITY CONSULTATION:		<input type="checkbox"/> DEAF <input type="checkbox"/> DEVELOPMENTALLY DISABLED <input type="checkbox"/> SERIOUS PHYSICAL HANDICAP: Specify:	
<b>MEETS CRITERIA FOR MEDICAL NECESSITY:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Medical Necessity: Determine whether the need is "medically necessary": 1) The service is appropriate for the symptoms, diagnosis and treatment of a particular disease or condition that is defined under DSM-IV, or its successor; 2) The service is provided in accordance with generally accepted standards of mental health professional practice, including a biopsychosocial approach to rehabilitation; 3.) The service is provided for the diagnosis or direct care and treatment of a disease or condition that is defined under DSM-IV or its successor; 4.) The type, level and length of treatment services are needed to provide safe, adequate and appropriate care, and are deemed likely to improve the recipient's condition. Treatment geared toward simply maintaining the recipient's current level of functioning is only acceptable when, without such treatment, the individual would be likely to suffer a relapse which is serious enough to require the provision of services which are more intensive than those currently being received. Medical Necessity does not include 'custodial care.'			
RCW PRIORITY CODE: <input type="checkbox"/> Acutely Mentally Ill (A) <input type="checkbox"/> Chronically Mentally Ill Adult (C) <input type="checkbox"/> Seriously Disturbed Person (D) <input checked="" type="checkbox"/> Severely Emotionally Disturbed Child (E) <input type="checkbox"/> Other (O)			
Intake Clinician's Signature <i>Tom Beison for Bob Longree</i>		Agency Care Manager Review & Rec. LOC <i>Tom Beison, L.L.C.</i>	
Date 4/27/07		Date 4/27/07	
<input type="checkbox"/> BI <input type="checkbox"/> CM1 <input type="checkbox"/> CM2 <input type="checkbox"/> CM3 <input type="checkbox"/> ACS criteria not met		Authorized from _____ to _____ <input type="checkbox"/> NOA sent: _____	
TRSN Care Manager Signature		Review Date	

Reviewed by Assigned Clinician \_\_\_\_\_ Date \_\_\_\_\_ Supervisor's Signature \_\_\_\_\_ Date \_\_\_\_\_

FAX to Jenae Henry (TRSN Quality Specialist) at 360-795-3126

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## INTAKE EVALUATION ADDENDUM

### LIFE DOMAIN

#### #1 Mental Health

Mental Health Treatment History

Diagnostic history: *none*

Psychiatric Medication History

Efficacy and history of previously used psychiatric medications:

*none*

Individual's Needs Abilities, Interests and Preferences:

*likes to read, do math*

Adjustment to Disabilities and/or disorder:

*none*

#### # 5 Drug/Alcohol

Use of Tobacco: *none*

#### #6 Physical Health

Adjustment to Disabilities and/or disorder:

*none*

Level of Educational Functioning:

*3rd grade*



**CONFIDENTIAL**



May 1, 2007

Willapa Counseling Center  
PO Box 863  
Long Beach, WA 98631

**Provider Name:** Willapa Counseling Center  
**Client Name:** A [REDACTED] D. M [REDACTED]  
**Date of Birth:** 01/04/1998

**Authorized Service(s):** 04/26/2007-10/26/2007  
**Authorized Level of Care:** Level I (B-1)

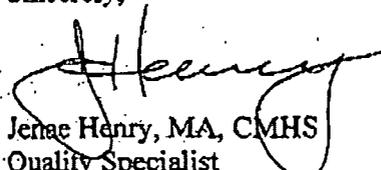
Dear Willapa Counseling Center,

We are pleased to inform you that we have approved the services noted in the client's Provisional Plan of Care as being medically necessary. These approved services are: **Psychiatric Diagnostic Evaluation, Medication Management, Individual Psychotherapy, and Family Psychotherapy.** Other services may also be available for the client based on his/her medical necessity and/or need.

Just as a reminder, the above services are subject to the client's eligibility at the time the services are rendered and are according to the Access to Care Standards.

If you have questions regarding this authorization or the authorization process, please contact me at 360-795-3118.

Sincerely,

  
Jenae Henry, MA, CMHS  
Quality Specialist  
Timberlands RSN

MIS# 11572  
A# 3749

**Midge R. Burmaster**  
Administrator

P.O. Box 217  
Cathlamet, WA 98612

Phone: 360 795 3118

1 800 392 6298

Fax: 360 795 3126

burmaster@trsn.org

TTY 1 800 833 6388

**Ann Rockway**  
Clinical Director

57 West Main, Ste 125  
Chehalis, WA 98532

Phone: 360 740 8847

1 877 377 6789

Fax: 360 740 7746

trsn@localaccess.com

TTY 1 800 833 6388

Working together  
to deliver quality  
mental health services  
in Lewis, Pacific &  
Wahkiakum Counties

OH 5/1/07 20

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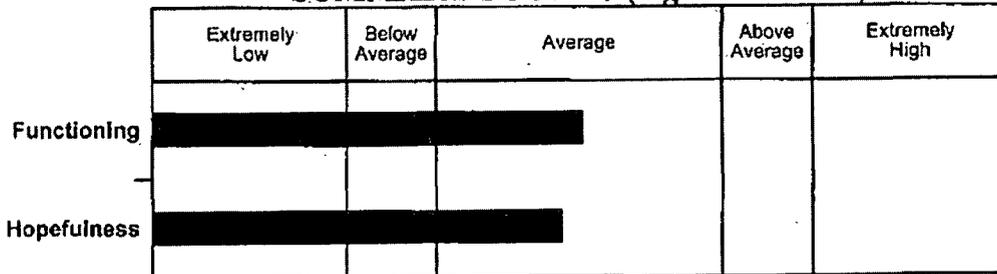
## Washington State Consumer Outcomes Survey Report for Youths

Survey completed by: Guardian (e.g. foster parent, social worker, etc.)

The information provided below can assist in treatment planning and monitoring consumer progress during the course of treatment. Clinical decisions should never be based solely on the content of this report.

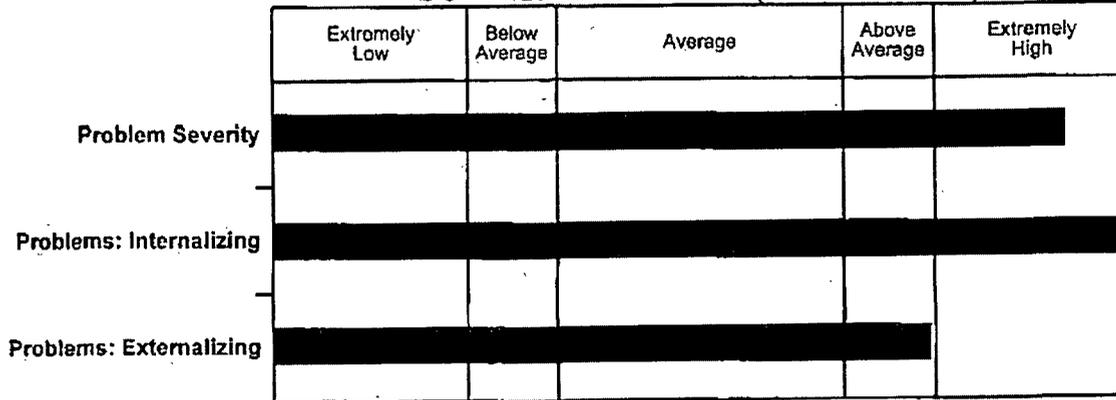
Responses are missing from the current survey. Please use caution when interpreting the results.

### SUMMARY SCORES (higher is better)



4/26/2007

### SUMMARY SCORES (lower is better)



4/26/2007

**Scoring Key:** Scores in the "Above Average" range reflect responses that are 1.0 standard deviation (84th percentile) higher than the mean score of a community-sector consumer population. Scores in the "Extremely High" range reflect responses 1.65 standard deviations (95th percentile) or more above the mean.

**Medication:** The parent/guardian indicated that the child is not on medication for emotional/behavioral problems.

**Legal:** The parent/guardian indicated that the child has not been arrested or gone to court in the last month.

**School:** The parent/guardian reported that the child was absent from school 2 days in the last month.

**Substance Use:** The parent/guardian reported that the child used drugs or alcohol "not at all" in the past 30 days.

**Self-Harm:** The parent/guardian reported that the child has hurt him/herself "not at all" and talked or thought about death "not at all" in the past 30 days.

Clinician: 529  
 Agency Name: Willapa Counseling Center  
 Facility Name: South Bend Office  
 RSN Name: Timberlands RSN  
 Survey taken on: 4/26/2007 at 7:36 p.m. via Paper

Consumer ID: 11572  
 Date of Birth: 1/4/1998  
 Interval: Initial survey (new client)

Last Name: [REDACTED]  
 Gender: Female

Clinician Initials: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

# CONFIDENTIAL

## EXTREME RESPONSES

<b>Background</b>	4/26/2007
How old was your child when he/she first experienced emotional or behavior problems?	5 Years Old
<b>Problem Severity</b>	4/26/2007
In the past 30 days, to what degree has your child experienced:	
(EXT) Arguing with others?	All of the Time
(EXT) Getting into fights?	All of the Time
(EXT) Fits of anger?	Most of the Time
(EXT) Lying?	Most of the Time
(EXT) Being unable to sit still or having too much energy?	All of the Time
(INT) Feeling worthless or useless?	Most of the Time
(INT) Feeling lonely and having no friends?	All of the Time
(INT) Feeling anxious or fearful?	All of the Time
(INT) Worrying that something bad is going to happen?	All of the Time
(INT) Feeling sad or depressed?	All of the Time
(INT) Nightmares?	All of the Time
(INT) Eating problems?	All of the Time
<b>Functioning</b>	4/26/2007
How much have your child's problems interfered with:	
Getting along with friends?	Extreme Troubles
Getting along with family?	Extreme Troubles

Clinician: 529  
 Agency Name: Willapa Counseling Center  
 Facility Name: South Bend Office  
 RSN Name: Timberlands RSN  
 Survey taken on: 4/26/2007 at 7:36 p.m. via Paper

Consumer ID: 11572  
 Date of Birth: 1/4/1998  
 Interval: Initial survey (new client)

Last Name: XXXXXXXXXX  
 Gender: Female

Clinician Initials: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

# CONFIDENTIAL

## EXTREME RESPONSES

Functioning (Continued)		4/26/2007
Controlling emotions and staying out of trouble?		Quite a Few Troubles
Feeling good about self?		Extreme Troubles
Accepting responsibility for actions?		Quite a Few Troubles
Ability to express feelings?		Extreme Troubles
Hopefulness		4/26/2007
How much stress or pressure is in your life right now?		Unbearable Amounts

Clinician: 529  
Agency Name: Willapa Counseling Center  
Facility Name: South Bend Office  
RSN Name: Timberlands RSN  
Survey taken on: 4/26/2007 at 7:36 p.m. via Paper

Consumer ID: 11572  
Date of Birth: 1/4/1998  
Interval: Initial survey (new client)

Last Name: [REDACTED]  
Gender: Female

Clinician Initials: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_



# CONFIDENTIAL

Consumer ID: \_\_\_\_\_

\*\*\*\*\*

**SECTION ONE (1): Please answer the following 3 questions if this is your first time taking the survey.**

1. How old was your child when he or she first experienced emotional or behavior problems?  
  5   Years Old
  
2. How old was your child when he or she first received counseling for emotional or behavior problems?  
\_\_\_\_\_ Years Old
  
3. How did your child become involved with this treatment program?
  - 1  He/she decided to come in on his/her own.
  - 2  Someone else recommended that he/she come in.
  - 3  He/she came in against his/her will.

\*\*\*\*\* P\_PROB \*\*\*\*\*

**SECTION TWO (2): For the following questions please rate the degree to which your child has experienced the following problems in the past 30 days.**

	Not at all (0)	Once or twice (1)	Several times (2)	Often (3)	Most of the time (4)	All of the time (5)
1. Arguing with others						✓
2. Getting into fights						✓
3. Yelling, swearing, or screaming at others				✓	✓	
4. Fits of anger					✓	
5. Refusing to do things teachers or parents ask			✓			
6. Causing trouble for no reason	✓					
7. Using drugs or alcohol	✓					
8. Breaking rules or breaking the law (for example, out past curfew or stealing)	✓					
9. Skipping school or classes	✓					
10. Lying					✓	
11. Being unable to sit still or having too much energy						✓
12. Hurting self (for example, cutting or scratching self or taking pills)	/					
13. Talking or thinking about death	/					
14. Feeling worthless or useless					✓	
15. Feeling lonely and having no friends						✓
16. Feeling anxious or fearful						✓
17. Worrying that something bad is going to happen						✓
18. Feeling sad or depressed						✓
19. Nightmares						✓
20. Eating problems - <i>Comfort eats</i>						✓

# CONFIDENTIAL

Consumer ID: \_\_\_\_\_

\*\*\*\*\* P\_HOPE \*\*\*\*\*

**SECTION THREE (3): Please answer the following questions.**

1. Overall, how satisfied are you with your relationship with your child right now?

- 1  Extremely satisfied
- 2  Moderately satisfied
- 3  Somewhat satisfied
- 4  Somewhat dissatisfied
- 5  Moderately dissatisfied
- 6  Extremely dissatisfied

2. How capable of dealing with your child's problems do you feel right now?

- 1  Extremely capable
- 2  Moderately capable
- 3  Somewhat capable
- 4  Somewhat incapable
- 5  Moderately incapable
- 6  Extremely incapable

3. How much stress or pressure is in your life right now?

- 1  Very little stress
- 2  Some stress
- 3  Quite a bit of stress
- 4  A moderate amount of stress
- 5  A great deal of stress
- 6  Unbearable amounts of stress

4. How optimistic are you about your child's future right now?

- 1  The future looks very bright
- 2  The future looks somewhat bright
- 3  The future looks OK
- 4  The future looks both good and bad
- 5  The future looks bad
- 6  The future looks very bad

\*\*\*\*\* P\_SAT \*\*\*\*\*

**Skip to Section Four (4) if your child is a new client.**

1. How satisfied are you with the services your child has received at this agency so far?

- 1  Extremely satisfied
- 2  Moderately satisfied
- 3  Somewhat satisfied
- 4  Somewhat dissatisfied
- 5  Moderately dissatisfied
- 6  Extremely dissatisfied

# CONFIDENTIAL

Consumer ID: \_\_\_\_\_

	A great deal (1)	Moderately (2)	Quite a bit (3)	Somewhat (4)	A little (5)	Not at all (6)
2. To what degree have you been included in the treatment planning process for your child?						
3. Staff involved in my child's care here listen to and value my ideas about treatment planning.						
4. To what extent does your child's treatment plan include your ideas about your child's needs?						

\*\*\*\*\* P\_FUNC \*\*\*\*\*

**SECTION FOUR (4):** For the following questions please rate the degree to which your child's problems affect his or her current ability in everyday activities. Consider your child's current level of functioning.

	Doing very well (4)	OK (3)	Some troubles (2)	Quite a few troubles (1)	Extreme troubles (0)
1. Getting along with friends					/
2. Getting along with family					/
3. Dating or developing relationships with boyfriends or girlfriends					
4. Getting along with adults outside the family (for example, teachers or principal)		/			
5. Keeping neat and clean and looking good		/			
6. Caring for health needs and keeping good health habits (for example, taking medicines or brushing teeth)	/				
7. Controlling emotions and staying out of trouble				/	
8. Being motivated and finishing projects		/			
9. Participating in hobbies (for example, baseball cards, coins, stamps, or art)		/			
10. Participating in recreational activities (for example, sports, swimming or bike riding)			/		
11. Completing household chores (for example, cleaning room or other chores)		/			
12. Attending school and getting passing grades in school	/				
13. Learning skills that will be useful for future jobs	/				
14. Feeling good about self					/
15. Thinking clearly and making good decisions		/			

# CONFIDENTIAL

Consumer ID: \_\_\_\_\_

	Doing very well (4)	OK (3)	Some troubles (2)	Quite a few troubles (1)	Extreme troubles (0)
16. Concentrating, paying attention, and completing tasks		/			
17. Earning money and learning how to use money wisely			/		
18. Doing things without supervision or restrictions		/			
19. Accepting responsibility for actions				/	
20. Ability to express feelings					/

\*\*\*\*\* P\_YSS \*\*\*\*\*

## SECTION FIVE (5): Please answer the following questions.

1. Is your child on medication for emotional/behavioral problems?  
2  Yes  
1  No (Skip to #3)
2. If yes, did the doctor or nurse tell you what side effects to watch for?  
2  Yes  
1  No
3. In the last month, did your child get arrested by the police?  
2  Yes  
1  No
4. In the last month, did your child go to court for something he or she did?  
2  Yes  
1  No
5. How often was your child absent from school during the last month?  
1  1 day or less  
2  2 days  
3  3 to 5 days  
4  6 to 10 days  
5  More than 10 days  
6  Not applicable/ not in school  
7  Do not remember

*Thank you for completing this survey!*

CONFIDENTIAL  
PROGRESS NOTE

TOWARD RECOVERY PLAN GOALS / SHORT TERM OBJECTIVES

CLIENT: A [redacted] M [redacted]

DATE OF CONTACT: 4-26-27

LIFE DOMAIN: Mental Health SHORT TERM OBJECTIVE: *John*

Location: 53 WCC Activity Code: 66310 Duration: 60 minutes

NARRATIVE: *(Identify and describe Life Domain(s) and insight / activities / behaviors consistent with Recovery Plan / client voice.)*

Intake done on this date. Discussed HIPAA, Mental Health Advanced Directive, & Client Fees and Rights.

ASSESSMENT: *(Review of Recovery Plan with Client to determine measurable, behavioral progress towards Short Term Objectives identified on Recovery Plan.)*

LOF *9*  
LOC *cm*  
GAFSO

PLAN: *Homework assigned to Client to focus on achievement of Recovery Goals and Short Term Objectives. (How will client work on Short Term Objectives listed above?)*

*needs child contact*

Clinician's Signature: *Robert R. Pingree*

Date: *4-26-07*

Printed name: Robert R. Pingree, LICSW, CMHS

*RC*

New  Reopen ID# 11592

# CONFIDENTIAL

ALL REQUESTS FOR SERVICES

Date/Time of Request: 4/18/07 Referred By: Mary Cearley Person Taking RFS: Mary Cearley

Full-Legal Name: [Redacted] (M) (F)  SS#: [Redacted] 8

Mailing Address: 248 8th St. 105 Raymond, WA

Physical Address: 248 8th St 105 Raymond

Phone: (H) 360/350-8922 (W) RFS Made By:  Self  Mary Cearley Relationship: Parent

If child, name of Parent/Guardian: Mary Cearley Phone: 360-8122

Ethnicity: Cauc DOB: 1/4/98 Age: 9 School: Ray, Elara Grade: 3 PCP: Jensen

In Effect? Power of Attorney for health care  Yes  No Guardianship  Yes  No Documentation Requested?  Yes  No

Funding Source:  Medicaid (PIC# \_\_\_\_\_)  GAX  Medicare  Self  Ins.  State only  FBG

Additional funding info:  Benefits verified by  Informed of Healthy Option Choice

SPECIAL ACCOMMODATIONS:  Intake out of office  Evening appts.  Interpreter  Other: \_\_\_\_\_

Client's choice of Clinician: \_\_\_\_\_ 1<sup>st</sup> Offered Appt: 4/24/07 2:00 1<sup>st</sup> Accepted Appt: 4/26/07 2:00

Client requested extension:  Y  N Provider requested extension:  Y  N Staff Name & ID: \_\_\_\_\_

Letter Sent Rescheduled:

Nature of Problem/Services Requested:  Hospital discharge  Health & Safety

mom of her past exp w/ mom - moodiness, depressed very irritable.

Disposition of this RFS:  Reviewed w/MHP/Care Mgmt.  Intake Appt. Scheduled  Referred to:

INTAKE OUTCOME: Date/Time: 4-20-07 2pm Location: RJ LOF AT INTAKE: 9

LOC INDICATED:  LOF 8-16 LEV 1 (B-1)  LOF 8-16 LEV 1 (CM-1)  LOF 17-24 LEV 2 (CM-2)  LOF 25-48 LEV 2 (CM-3)

CLINICIAN'S SUMMARY OF FINDINGS: child has mild symptoms of anxiety and full symptoms of ADHD depression needs community and medication around sleep

Clinician Signature: Robert R. Jones, LCSW, CHHLS Assessment Completion Date: 4-26-07

### PROVISIONAL PLAN OF CARE AND RECOMMENDATIONS

COVERED DX:  YES  NO SERVICES MEDICALLY NECESSARY:  YES  NO REFERRALS TO: \_\_\_\_\_

AXIS V SCORE/DC03: \_\_\_\_\_ <OR> CGAS: 30 <OR> GAF: \_\_\_\_\_  ACS CRITERIA NOT MET

Psychiatric Diagnostic Evaluation  Medication Management  >PCP

Brief Intervention Treatment  Individual Psychotherapy  COD Assessment/Services

Group Psychotherapy  Family Psychotherapy

Case Management  High Intensity Services  CM issues to be addressed:  housing  entitlements  legal issues

Medication Monitoring  Peer Support  healthcare access  transportation  safety

Group Education Services  Supported Employment  Coord. with other providers: \_\_\_\_\_

Therapeutic Psychoeducation  Other: \_\_\_\_\_

PRIORITY:  (C) Chronic  (D) Serious  (E) Severely Emotional Disturbed Child  (O) Other  (A) Acute

LOF 8-16 Level 1 (B-1)  LOF 8-16 Level 1 (CM-1)  LOF 17-24 Level 2 (CM-2)  LOF 25-48 Level 2 (CM-3)  To TRSN Clinical Director for exceptions and review

Clinician Assigned: Paula Hunt 1<sup>st</sup> Offered Appt. Date/Time: Mon May 7<sup>th</sup> 10A-12 Confirmed Appt. Date/Time: same No. of Hours Auth. for Brief Int. (B-1): \_\_\_\_\_  Letter Sent

AGENCY CARE MANAGER REVIEW: [Signature] DATE REVIEWED: 4/27/07

Return FAX numbers:  CMHC Adults 360 748-0627 fax  WCC 360 642-2096 fax  CMHC Children 360 736-3139 fax  WCMHS 360 795-6224 fax

FAXING INSTRUCTIONS:  
ADULTS: BHO (877-425-5012 fax)  
CHILDREN: Jenae Henry, TRSN (360-795-3126 fax)

9 4/20/07

## Appendix E – Child Interview Protocols



## Toward a Better Way to Interview Child Victims of Sexual Abuse

by Sara Harris

A study tests interview protocols in the hope of getting better case outcomes.

Child protection authorities substantiated 68,000 cases of child sexual abuse in 2008, according to the Department of Health and Human Services.<sup>1</sup> In many child sexual abuse cases, there is no witness other than the child and no corroborating evidence — the entire case can hang on a child's recollection of the alleged abuse. One way to help avoid false accusations and ensure justice in these cases is to strengthen law enforcement's ability to elicit accurate information from children. As the authors of the study discussed in this article note, "The quality of forensic interviewing practices is of utmost importance if child victims are to be protected, at the same time as the rights of the innocent suspects are to be upheld."<sup>2</sup>

We have gained considerable knowledge in the last two decades about child development, memory and cognition, and researchers have developed several techniques for improving the way child victims of sexual abuse are interviewed. One technique that showed promise in a laboratory has now been tested in the field in Utah's criminal justice system. The interview protocol was developed by the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD). The NICHD began developing its interview protocol in the 1990s. According to Margaret-Ellen Pipe, a member of the team that has developed and tested the protocol, "In the '80s people started recognizing children could provide reliable

evidence. There had been real skepticism prior to that whether you would believe children.”

In an NIJ-funded study, a team of researchers led by Pipe investigated how the NICHD protocol might affect prosecution outcomes. Their findings make it clear that the training and NICHD protocol elicit more information from possible victims. The findings cannot, of course, determine whether the information is more accurate — that is, the findings cannot definitively confirm details of what happened. But it is clear that after the protocol was introduced, prosecutors accepted more cases; and more cases that went to trial resulted in conviction than before the protocol was introduced.

### The NICHD Protocol

The techniques employed by the NICHD protocol were designed to integrate advances in scientific understanding about memory and children’s linguistic and cognitive development.

Over the years, various aspects of the NICHD protocol have been evaluated in the field. In fact, the authors note, the techniques developed under the auspices of the NICHD constitute the *only* protocol for forensic interviews with children to have been evaluated systematically. “The NICHD protocol has been researched in the field; that’s what sets it apart,” Pipe said.

Training in forensic interviewing techniques often increases interviewer knowledge without resulting in any meaningful change in how interviewers conduct the interviews.<sup>3</sup> NICHD training is effective in getting interviewers to use the new information learned. Studies testing the protocol have examined how best to train

“The quality of forensic interviewing practices is of utmost importance if child victims are to be protected, at the same time as the rights of the innocent suspects are to be upheld.”

people in its use and, in particular, how to ensure that interviewers reliably acquire and actively use the new skills. Training can raise awareness, Pipe et al. note in their report, but it is important to guarantee that new techniques are adopted as a matter of practice. The NICHD training model promotes this by providing guidance and feedback for interviewers even after training has concluded.

The NICHD interview protocol includes three phases:

- Introductory
- Rapport-building
- Substantive or free recall

At the beginning of the conversation, the child and the interviewer discuss expectations and set ground rules: this is the introductory phase. Interviewers then ask children to talk about events unrelated to the suspected abuse; the idea is to encourage the child to be comfortable leading the conversation by developing this rapport. In this phase, the “child learns the conversational rules, because they are different from many conversations in which children take part,” Pipe explained.

Later, interviewers encourage children to recall the target incident and talk about it in a narrative stream,

as opposed to answering directed questions about it, one after another. Evidence indicates open-ended prompts draw out more accurate information than ones that simply elicit a child’s recognition. The techniques discourage suggestive leads or questions with yes/no or either/or answers: “Where were his clothes?” for example, is preferred over, “Were his clothes on the floor?”

Nearly a decade of research confirms that when interviewers follow the guidelines outlined in the NICHD protocol, children give both more and higher-quality information. Their narrative accounts reveal greater detail when the NICHD protocol is implemented.

### How the Study Was Conducted

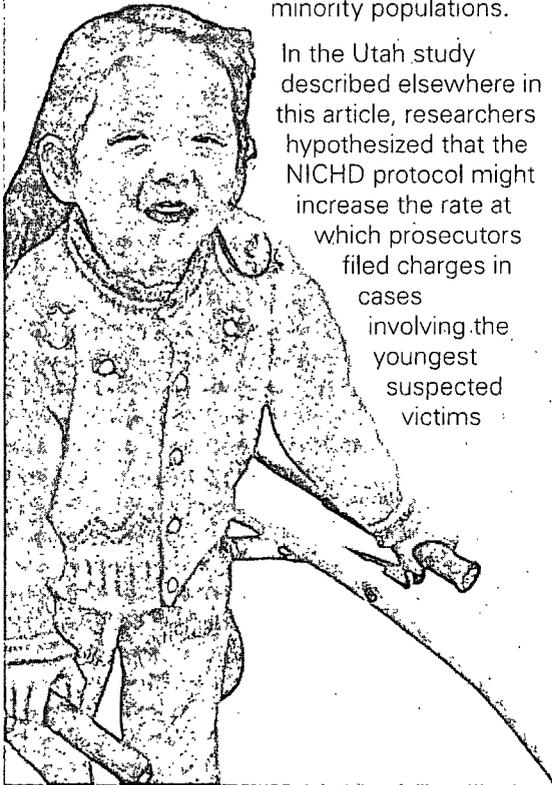
The study examined the outcomes of cases before and after police detectives were trained on the NICHD Investigative Interview Protocol. The 11 detectives in the study performed forensic interviews at the Salt Lake County Children’s Justice Center (CJC), an arm of the Utah Attorney General’s Office. They were all experienced in conducting child abuse investigations and child forensic interviews but had never been trained in the NICHD protocol. The detectives’ NICHD training took place over several days, included both simulated and actual forensic interviews, and included ongoing contact and feedback from the trainers.

Researchers from the City University of New York, Cambridge University in England, the NICHD and the CJC examined 1,280 sexual abuse cases between 1994 and 2000 that were referred to authorities in Salt Lake County, Utah, and investigated by the 11 detectives. Of the total sample, these detectives conducted 551 interviews before receiving

## Tailoring the Interview for Special Populations

Evidence shows the NICHD protocol is an effective forensic interviewing technique for eliciting information from children in general, but researchers want to know how to develop similar techniques to be used in a wider range of situations. There is now a sufficient body of research on child interviewing using the NICHD protocol to see if the same methods can be adapted for use in other populations that need specialized protocols, such as the youngest victims, particularly reluctant victims, victims with developmental disabilities and minority populations.

In the Utah study described elsewhere in this article, researchers hypothesized that the NICHD protocol might increase the rate at which prosecutors filed charges in cases involving the youngest suspected victims



included in the study (2.8- to 4-year-olds). While that rate increased, children in this age group were still the least likely to have charges filed against the suspect; and when charges were filed, a higher proportion of them were dismissed than in cases involving older children.

Researcher Margaret-Ellen Pipe and her colleagues note that young children typically give less complete accounts and relay less information in interviews than older children, requiring interviewers to use more prompts. Of greater concern are studies showing that, when compared with their older counterparts, more suspected victims in this age group do not reveal abuse in interviews — perhaps because they do not understand that the information is significant. Findings suggest they might also be more likely to keep a secret when someone asks them to. The vulnerability of these children is understandable, said Pipe, but it “highlights the need to further develop protocol for these youngest suspected victims.”

Professionals in the field also work to adapt interviewing techniques to a variety of cultural environments. In April 2009, the Office of Justice Program’s Office for Victims of Crime hosted a Web

forum to encourage discussion of approaches to forensic interviewing in Native American communities. Participants with expertise in this area emphasized how important it is for interviewers to understand the importance of the family and ceremonies and to pay attention to non-verbal behaviors.

Sometimes adaptations to the standard guidelines are a matter of raising awareness among interviewers about differences among particular groups of children, but the need for modifications also suggests potential new avenues for research. Interview techniques that are appropriate to the developing linguistic and cognitive abilities of children at younger ages, for example, require specific approaches researchers are still developing. This is a particularly urgent message regarding children who are more vulnerable to abuse because of age or developmental delays.

In addition to tailoring its use to specific children’s needs, researchers also hope to test the use of the NICHD protocol for a greater variety of investigations. Other research efforts in expanding the uses of the protocol may focus on its applicability to interviews about children’s exposure to family violence.



Read the April 2009 OVC Web Forum on Forensic Interviewing in Tribal Communities at [http://ovc.ncjrs.gov/ovcproviderforum/asp/sub.asp?Topic\\_ID=117](http://ovc.ncjrs.gov/ovcproviderforum/asp/sub.asp?Topic_ID=117).

training on the NICHD protocol and 729 after they had implemented the protocol. The same detectives, prosecutors and judges who handled the cases were used throughout the study period.<sup>4</sup>

Among the cases of alleged abuse that the researchers reviewed, nearly 60 percent involved improper touching and 5 percent were characterized by exposure; penetration was alleged in 35 percent of the cases

reviewed. Detectives interviewed children between the ages of 2 and 14 and then presented their evidence to the district attorney, who decided whether or not to prosecute.<sup>5</sup>

### Impact of Using the Interview Protocol

Researchers compared the outcomes of the cases that used the interview protocol with cases that did not. They found that after local detectives adopted the NICHHD interview protocol, the percentage of investigated cases in which the district attorney filed charges rose from 45 percent to over 54 percent. Furthermore, these cases held up as they progressed through the system.

Although the number of cases that went to trial was small — 30 of a total of 513 cases in which charges were filed — 94 percent of those prosecuted after implementation of the NICHHD protocol resulted in conviction (16 of 17 cases), compared with 54 percent before its introduction (7 of 13 cases). In the majority of cases, both before and after the NICHHD protocol was implemented, a plea agreement was reached. Of those, 81 percent led to a guilty plea on one or more charges. See Table 1 for more details on case outcome.

While the percentage of cases in which charges were filed increased for three of the four age groups after the protocol was implemented, the impact of the protocol was strongest in cases in which the children were between 7 and 9 years old. This age group accounted for approximately 26 percent of the pre-protocol and post-protocol samples (135 and 167

**Table 1. Case Outcome by Interview Type**

	Pre-Protocol	Protocol
<b>Total</b>	<b>551</b>	<b>729</b>
Cases accepted for prosecution	198 (35.9%)	315 (43.2%)
Cases with plea agreements	160 (80.8%)	255 (81%)
Pled guilty	105 (53%)	177 (56.2%)
Reduced	52 (26.3%)	76 (24.1%)
Cases with charges dismissed	15 (7.5%)	36 (11.4%)
Cases that went to trial	13 (6.6%)	17 (5.4%)
Not guilty verdict	6 (3%)	1 (0.3%)
Guilty verdict	7 (3.5%)	16 (5.1%)

(Cases that were diverted or were active/had no outcome information available were omitted from this table.)

cases respectively). For children in this age group, the rate at which prosecutors filed charges rose from 42 percent before to 64 percent after detectives were trained.

Given the nature of testing an interview protocol in the field, results like those in this study cannot definitively determine whether or not a protocol elicits more *complete* or *accurate* information from children; there is usually no way for researchers to know with absolute certainty if the alleged sexual abuse occurred.

Previous studies have established that use of the NICHHD protocol increases the amount of information children report with little or no interviewer input, a core feature of the NICHHD protocol. There is a significant body of research demonstrating that interview techniques emphasizing

the use of open-ended prompts and other methods that encourage a child's free recall elicit more accurate details than more focused prompts — ultimately, the kind of details on which investigators build their case. These techniques have proven effective at getting better information from preschoolers, elementary school children and teenagers alike. The evidence-based nature of the NICHHD protocol lends credence to the researchers' assertion that, when employed by well-trained interviewers, the protocol likely improves the detail and accuracy of information elicited from children in most age groups during forensic interviews and positively affects case outcome.

Sara Harris is a writer at Palladian Partners, Inc.

NCJ 233282

### Notes

1. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *Child Maltreatment 2008*, Washington, DC: U.S. Government Printing Office, 2010, <http://www.acf.hhs.gov/programs/cb/pubs/cm08/cm08.pdf>.
2. Pipe, M., Y. Orbach, M. Lamb, C. Abbott, and H. Stewart, *Do Best Practice Interviews with Child Sexual Abuse Victims Influence Case Outcomes?*, Final report for the National Institute of Justice, Washington, DC: National Institute of Justice, November 2008, NCJ 224524, <http://www.ncjrs.gov/pdffiles1/nij/grants/224524.pdf>.
3. Lamb, M., Y. Orbach, I. Hershkowitz, P. Esplin, and D. Horowitz, "Structured Forensic Interview Protocols Improve the Quality and Informativeness of Investigative Interviews with Children: A Review of Research Using the NICHHD Investigative Interview Protocol," *Child Abuse & Neglect* 31 (2007): 1201-1231.
4. The judges and prosecutors were likely aware that the detectives received new training on a forensic interview protocol.
5. The study divided the children into four age groups: 2- to 4-year-olds; 5- to 6-year-olds; 7- to 9-year-olds; and 10- to 13-year-olds. The youngest child in the study was 2.80 years old; the oldest was 13.97 years old.

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## Forensic interviewing in child sexual abuse cases: Current techniques and future directions

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# Forensic interviewing in child sexual abuse cases: Current techniques and future directions

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University of Nebraska-Lincoln, USA

Submitted 22 July 2005; accepted 27 July 2005. Available online 8 September 2005.

## Abstract

In child sexual abuse cases, skillful forensic interviews are important to ensure the protection of innocent individuals and the conviction of perpetrators. Studies have examined several factors that influence disclosure during interviews, including both interviewer and child characteristics. Numerous interviewing techniques have received attention in the literature, including allegation blind interviews, open-ended questioning, cognitive interviewing, the Touch Survey, truth-lie discussions, and anatomical dolls. Recent studies have examined new directions in forensic interviewing, such as structured interview protocols and the extended forensic evaluation model. In addition, the child advocacy center model has been established as a strategy to prevent repeated interviewing. Child Advocacy Centers provide a safe, child-friendly atmosphere for children and families to receive services. Limitations of the research are discussed and empirically based recommendations for interviewers are provided.

**Keywords:** Sexual abuse; Forensic interviews; Children

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Child sexual abuse is an alarmingly prevalent problem in the United States. According to reports from child protective service agencies, 78,188 children were sexually abused in 2003 at the rate of 1.2 per 1000 children (U.S. Department of Health and Human Services, 2005). These numbers represent only substantiated cases of abuse, and it is commonly assumed that actual rates of sexual abuse are most certainly much greater. Failure to substantiate and underreporting have led to gross underestimates of the incidence of sexual abuse (Hsu et al., 2002 and Tyler, 2002). Furthermore, of the children with substantiated sexual abuse cases in 2003, only 4% were actually removed from the home (U.S. Department of Health and Human Services, 2005). These statistics are unsettling, in light of research suggesting that a history of sexual abuse greatly increases the risk for future revictimization (e.g., Boney-McCoy & Finkelhor, 1995). For these reasons, skillful forensic interviews in child sexual abuse cases are extremely important in ensuring that victims and falsely accused individuals are protected and perpetrators are convicted.

According to the American Professional Society on the Abuse of Children (APSAC), the purpose of the forensic interview is "to elicit as complete and accurate a report from the alleged child or adolescent victim as possible in order to determine whether the child or adolescent has been abused (or is in imminent risk of abuse) and, if so, by whom" (APSAC, 2002, p. 2). Interviews are typically conducted by law enforcement officers, child protective services personnel, or specialized forensic interviewers, although medical and mental health professionals often participate as well (APSAC, 2002, Carnes, 2000, Lanning, 2002, National Children's Advocacy Center, 2005a and National Children's Advocacy Center, 2005b). As demonstrated by highly publicized cases, such as that of Kelly Michaels and the abuse allegations involving her daycare center (Bruck & Ceci, 1995), bad interviewing can lead to serious consequences. These may include eliciting false allegations, putting children and families through unnecessary stress, decreasing a child victim's credibility in court, contaminating facts, reducing probability of conviction, draining resources through unsuccessful trials and investigations, and reducing resources available for legitimate abuse cases (Wood & Garven, 2000). To avoid these negative outcomes, current interviewing techniques must be continuously examined and revised as necessary. The purpose of this paper is to examine the current techniques used in forensic interviews with child sexual abuse victims, as well as new directions in research and practice. Empirically based recommendations for interviewers will be discussed.

### **1. Factors influencing disclosure during interviews**

Children are understandably reluctant to disclose information about abuse. Sexual abuse is often a very private, embarrassing, and shameful topic to discuss and many children are unlikely to ever tell their story (Hsu et al., 2002 and Tyler, 2002). For these reasons, it is important that research examine barriers to disclosure and factors that are likely to improve disclosure rates during forensic interviews. Several factors that appear to influence the disclosure of sexual abuse have been explored in the literature. These factors include individual characteristics of the interviewer (i.e., gender), the child or adolescent (i.e., age), and the interview itself.

The interviewer carries enormous responsibility in child sexual abuse cases, as he or she can single-handedly determine the probability of disclosure and, thereby, the likelihood of prosecution. An interviewer has the power to elicit false allegations (e.g., Bruck & Ceci, 1995, Lamb & Fauchier, 2001, Saywitz et al., 2002 and Wood & Garven, 2000), to determine accuracy and amount of details provided by the victim (e.g., Davies et al., 2000, Hershkowitz et al., 2002, Lamb & Garretson, 2003, Sternberg et al., 1996 and Wood & Garven, 2000), and to prevent the victim from disclosing altogether (e.g., Saywitz et al., 2002 and Wood & Garven, 2000). The interviewer's influence may stem from personal characteristics, but is often a function of interviewing skill. Wood and Garven (2000) suggest that a distinction be made between improper interviewing and clumsy interviewing. The authors define improper interviewing as the use of techniques that research has shown to be risky and ineffective. Four categories of improper interviewing techniques are described, including use of reinforcement (i.e., punishments and rewards), social influence (i.e., telling the child what others have said), asking suggestive or leading questions (i.e., introducing information that the child has not disclosed), and removing the child from

direct experience (i.e., asking what might have happened). These techniques are likely to lead to negative consequences, such as false allegations and reduced likelihood of conviction (e.g., Bruck & Ceci, 1995 and Wood & Garven, 2000).

On the other hand, clumsy interviewing is defined by Wood and Garven (2000) as failure to use recommended interviewing techniques. Clumsy interviews may occur even with highly trained interviewers, as a result of forgetfulness, lack of skill, and lack of supervision. Consequences of clumsy interviewing may include lack of detail in children's responses, reduced credibility of children's statements, and reduced likelihood of conviction. Wood and Garven recommend that law enforcement personnel and caseworkers be trained to recognize and avoid using improper interviewing techniques. Furthermore, supervision is highly beneficial in reducing improper and clumsy interviewing (e.g., Lamb, Sternberg, Orbach, Esplin, & Mitchell, 2002). Interviews should be taped, and interview transcripts and tapes should be regularly reviewed by supervisors. To avoid improper and clumsy interviewing, certain interviewer qualities are helpful. Wood and Garven recommend that interviewers have experience working with children, previous training in interviewing or counseling, a master's level education, the ability to establish rapport through warmth and friendliness, and the ability to take feedback constructively and change accordingly.

In addition to these characteristics, interviewer gender has also been examined as a factor related to disclosure in child sexual abuse cases. Lamb and Garretson (2003) reviewed 672 forensic interviews of children between ages 4 and 14 across Britain, Israel, and the United States. Their results showed that female interviewers asked significantly more suggestive questions with boys than with girls, while male interviewers did not show a distinction. In addition, girls provided significantly more details to female interviewers than male interviewers, while boys did not show a difference. Children between 4 and 6 years old gave more detailed responses to suggestive utterances made by interviewers of the opposite gender. These results suggest that the match between interviewer gender and child gender may have an important influence on disclosure.

While child gender is an important consideration for interviewers, age has been the most widely studied child characteristic influencing disclosure. Overall, younger children tend to provide fewer details and shorter responses during interviews than older children (e.g., Davies et al., 2000, Hershkowitz et al., 2002, Lamb & Garretson, 2003, Sternberg et al., 1996 and Sternberg et al., 2001). In a study that included 142 forensic interviews with Israeli children ranging from 4 to 13 years old, Hershkowitz et al. (2002) found that 4- to 6-year-olds gave shorter responses and fewer details than older children in response to specific questions and invitations. However, in response to suggestive and option-posing questions, the youngest children gave significantly more details than older children. Davies et al. (2000) found similar results in their study of 36 videotaped interviews with children between age 4 and 14. Open-ended questions elicited longer and more accurate responses from 12- to 14-year-olds, while children between 4 and 11 years provided longer answers and more accurate information in response to closed questions and specific yet non-leading questions. Overall, length of responses significantly increased with age.

In both 1996 and 2001, Sternberg and colleagues found that younger children provided shorter and less detailed responses than older children. Invitations (i.e., questions or statements that prompt a response from the child) such as "What happened next?" and open-ended questions such as "Where were you when this happened?" were found to be much more effective with older children than with younger children. Finally, Lamb et al. (2003) examined forensic interviews of 130 children between 4 and 8 years old and found that older children provided significantly more details in response to invitations than younger children. The number of details elicited by invitations increased with age of the child. These studies highlight the importance of considering the child's age when choosing interviewing techniques (Carnes, 2000). In general, open-ended questions and invitations should be primarily used with older children and adolescents.

Age differences in disclosure are also likely to impact decisions regarding substantiation. Haskett, Wayland, Hutcheson, & Tavana (1995) examined the factors involved in the decision to substantiate abuse across 175 child protective services (CPS) cases involving children between 2 and 19 years of age. These cases were handled by 20 different CPS workers across seven counties. This study found that cases with older children were more likely to be substantiated than those with younger children. The most important factors related to substantiation, as cited by CPS workers, were the degree of detail, consistency, and logic of the report. Considering the research showing that younger children provide less detail overall, this finding is not surprising. However, it underscores the need for effective interviewing techniques for use with young children.

Age differences can also be seen in the way disclosures are made. Campis, Hebden-Curtis, & Demaso (1993) examined developmental differences between preschool children (ages 23 months to 6 years) and school age children

(ages 7 to 17 years) in disclosures of sexual abuse. They found that preschool children tend to disclose in an accidental way, often following a triggering event, while school age children typically make intentional disclosures. Preschool children were also more likely to exhibit physical (i.e., abdominal pain, swelling, vaginal pain) and/or behavioral symptoms (i.e., nightmares, masturbation, aggression) than school age children. It may be helpful to consider these developmental differences when interviewing children of different ages. For example, when interviewing preschool children, physical and behavioral symptoms should be strongly considered in addition to verbal statements.

## 2. Techniques used in forensic interviews

While personal characteristics of the child and the interviewer may impact disclosure rates, specific interviewing techniques often play a greater role in disclosure. Several techniques have been examined in the literature, some of which appear to be very effective at eliciting detailed and accurate disclosures (e.g., Cantlon et al., 1996, Craig et al., 1999, Davies et al., 2000, Hewitt & Arrowood, 1994, Huffman et al., 1999, Saywitz et al., 1992 and Wyatt, 1999). The focus of this discussion will be on techniques that are commonly used in forensic interviews and those with strong or mixed empirical support. These include allegation blind interviewing, open-ended questioning, cognitive interview techniques, truth-lie discussions, the Touch Survey, and anatomically detailed dolls.

### 2.1. Allegation blind interviews

APSAC states that it is acceptable to gather information about the allegation before conducting the interview (APSAC, 2002). This information may be useful in orienting the interviewer and clarifying the child's statements. However, prior knowledge of allegations may increase interviewer bias and lead to suggestive and leading questioning (APSAC, 2002, Bruck & Ceci, 1995, Cantlon et al., 1996 and Wyatt, 1999). Cantlon et al. (1996) compared allegation blind interviews (no information about allegations) to allegation informed interviews (prior information about allegations) across 1535 child sexual abuse cases over a 4-year period. In this study, higher disclosure rates were found with the allegation blind interview technique. The authors attributed this finding to increased attentiveness and patience on the part of the interviewer in allegation blind interviews, which likely increased rapport between the child and interviewer. In light of these findings and the higher perceived objectivity of allegation blind interviews in the courts (Cantlon et al., 1996), interviews should be allegation blind whenever possible. However, regardless of prior knowledge of the allegations, the interviewer should always take an objective and nonjudgmental stance toward the interview (APSAC, 2002, Bruck & Ceci, 1995, Carnes, 2000, Lanning, 2002 and Saywitz et al., 2002).

### 2.2. Open-ended questions

Research has repeatedly shown that open-ended questions and invitations elicit longer, more detailed, and more accurate responses than other types of interviewer utterances in school age children and adolescents (Craig et al., 1999, Davies et al., 2000, Lamb & Fauchier, 2001, Lamb & Garretson, 2003 and Sternberg et al., 1996). However, as mentioned previously, this type of question is not as effective with very young children and often elicits shorter and less detailed responses than other types of interviewer utterances (Davies et al., 2000, Hershkowitz et al., 2002 and Sternberg et al., 1996). Lamb et al. (2003) examined 130 forensic interviews with children between 4 and 8 years old and found that nearly half of all information elicited from the children was in response to open-ended questions. Although older children provided more details overall, the proportion of details elicited by invitations and open-ended questions did not differ with age. However, cued invitations ("You mentioned that he touched you...tell me more about that") proved useful with younger children, particularly as a safer alternative than option-posing or closed questions.

Sternberg et al. (1996) examined 45 videotaped interviews with children ranging from 4 to 12 years old. This study found that invitations produced significantly more words and more details than focused types of utterances (i.e., directive, leading, suggestive), although this finding was much greater for older than for younger children. Overall, children's statements were three times richer in details and four times longer in response to open-ended or invitational

questions than in response to focused questions. Open-ended questions may also be less likely to elicit self-contradictions in children's statements. Lamb and Fauchier (2001) examined 24 forensic interviews of seven children who were allegedly sexually abused in a daycare center and whose allegations led to convictions. The authors found that every self-contradiction that occurred was in response to a focused question. In contrast, no self-contradictions occurred in response to open-ended questions.

Craig et al. (1999) used Criteria-Based Content Analysis (CBCA) to assess the accuracy of children's statements in forensic interviews. CBCA is a procedure for rating the validity of children's statements based on 14 content criteria (e.g., quantity of details, logical structure). Their sample included 48 children, ranging in age from 3 to 16 years. Results of this study indicate that open-ended questions produced more free narrative responses and more accurate information than closed or direct questions. In contrast, direct questions were found to inhibit free narrative responses. A study by Davies et al. (2000) also used CBCA to assess the credibility of children's statements made in videotaped interviews conducted in England. Participants included 36 children between 4 and 14 years of age. They found that children between 12 and 14 years produced more accurate information (i.e., more CBCA criteria) and longer responses to open-ended questions than to other types of questions. However, specific yet non-leading questions elicited longer responses and more accurate information than other types of questions for children under age 12. In combination with research on young children's suggestibility (e.g., Bruck & Ceci, 1995, Ceci & Bruck, 1993 and Saywitz et al., 2002), these findings suggest overall that specific yet non-leading questions and cued invitations are most appropriate for young children, while open-ended questions should be used with school age children and adolescents.

### 2.3. Cognitive interviewing

In recent years, a set of four interviewing techniques known as the cognitive interview has been increasingly used in forensic interviews involving child sexual abuse cases (APSAC, 2002, Hayes & Delamothe, 1997, Hershkowitz et al., 2002, Saywitz et al., 1992 and Saywitz et al., 2002). The cognitive interview was developed by Geiselman and colleagues in the 1980s for use with adult witnesses and victims (Geiselman et al., 1984). The techniques include mentally reconstructing the event (i.e., mental context reinstatement), reporting every detail of the event (regardless of perceived importance), recalling the event in different sequences, and describing the event from various perspectives (Fisher & Geiselman, 1992 and Saywitz et al., 1992). In general, research has shown the cognitive interview to be effective in improving children's recall of events, although it appears to be more practical and effective with older children (e.g., APSAC, 2002, Hayes & Delamothe, 1997 and Saywitz et al., 1992).

Saywitz et al. (1992) adapted the original cognitive interview for use with children. They also conducted a randomized controlled trial examining the utility of doing a practice cognitive interview about an unrelated innocuous event prior to interviewing the child about the event under investigation. The innocuous event involved an undergraduate research assistant dressed as a "surfer dude" introducing himself to the child participants in a waiting room. The event under investigation involved an argument over the use of a slide projector during a slide show witnessed by the child participants. Participants included 92 children between 8 and 12 years of age. Findings indicated that the cognitive interview was associated with 26% improvement in recalling correct facts over standard interviewing techniques. However, the practice interview was associated with 45% improvement over standard interviewing techniques. Improvement was greater when all four cognitive techniques were used than when a subset was used, but each technique was also beneficial on its own. These results provide support for the use of the cognitive interview, but are limited by their lack of generalizability to child sexual abuse victims participating in forensic interviews.

Hayes and Delamothe (1997) examined effectiveness of two components of the cognitive interview (mental context reinstatement and reporting every detail) with 128 children ranging in age from 5 to 11 years. These components were chosen because they were seen as the most appropriate for use with children and had been shown in previous studies to be effective in isolation from other techniques. The other two components of the cognitive interview (i.e., recalling in different sequences, describing the event from different perspectives) are often very difficult for young children to perform. The cognitive interviewing techniques in this study significantly increased the amount of correct information recalled compared to standard interviewing techniques, even after controlling for other procedural differences. This finding was greater for older children than younger children and suggests that a subset of the cognitive interview may be a useful and practical alternative to the full cognitive interview. However, a small increase in confabulations during children's free recall was noted, indicating that caution may be necessary when using cognitive interviewing techniques.

In a randomized controlled trial, Hershkowitz et al. (2002) compared one component of the cognitive interview, mental context reinstatement, to physical context reinstatement. Physical context reinstatement involved exposing an individual to the actual setting in which the event occurred (i.e., taking the child to the alleged crime scene). They examined 142 forensic interviews conducted in Israel with children between 4 and 13 years of age. Their study found that, in response to invitations, children in the mental context reinstatement group provided longer responses than children in the control group and the physical context reinstatement group, as well as more detailed responses than children in the physical context reinstatement group. These findings suggest that mental context reinstatement may be a useful component of the cognitive interview.

#### *2.4. Truth–lie discussions*

Interviewers often assess children's understanding of the difference between the "truth" and a "lie" before beginning the abuse-focused questioning. This discussion may demonstrate the child's competency and increase the credibility of his or her statements in court (APSAC, 2002 and Huffman et al., 1999). Wyatt (1999) recommends that children be asked if they have ever told a lie and what consequences result from telling lies. Wyatt also suggests that interviewers further test children's understanding of these concepts through the use of examples ("Tell me a lie about this chair"). APSAC also recommends that interviewers use concrete examples during truth–lie discussions (APSAC, 2002). It is often useful to obtain a verbal agreement from the child to tell the truth throughout the interview (Huffman et al., 1999 and Talwar et al., 2002). Huffman et al. (1999) examined the impact of truth–lie discussions (TLD) on 67 young children's responses during interviews. The children were interviewed about a neutral staged event that occurred at school. The study compared the effects of a control condition (no truth–lie discussion) to a standard truth–lie discussion and one that had been extended to include questions about the consequences of lying. Findings revealed no differences between the control group and the standard TLD group, while more accurate reports were made by children in the extended TLD group. These results suggest that it is important to include questions in the truth–lie discussion about the moral consequences of lying.

#### *2.5. Touch survey*

Another interviewing technique that has gained popularity in recent years is the Touch Survey, developed by Sandra Hewitt in the early 1980s (Carnes, 2000, Hewitt, 1998 and Hewitt & Arrowood, 1994). It was developed as a screening for child abuse and was based on the idea that touches fall along a continuum, ranging from good to neutral to bad (Hewitt, 1998). Because preschool children often lack self-representational skills, Hewitt recommends that the Touch Survey be used with children over 3 years of age. Children between 4 and 8 years old are first given a warm-up exercise that involves reviewing various feelings and the faces associated with each. This exercise is intended to assess the child's self-representational skills, build rapport, and assess their attention span. The warm-up exercise is not necessary for children over 8 years old. The Touch Survey itself includes a discussion of various touches the child has experienced (i.e., hugging, kissing, hitting, sexual touches), feelings associated with the touches, locations on their body where they have received the touches, and who gave them the touches. Hewitt and Arrowood (1994) conducted a pilot study comparing the results from the Touch Survey to the results of complete case investigations for 42 children between the ages of 4 and 8 years. Findings revealed that none of the children claimed that abuse had occurred when the full evaluation determined it had not occurred (no false positives were found). However, 29% of the children did not disclose that abuse had occurred when the full evaluation determined that it had occurred. Therefore, the Touch Survey appears to err on the side of fewer but more accurate disclosures. This suggests that the Touch Survey is likely to be a useful tool, but should be used in combination with other empirically supported interviewing techniques. Further research is needed by individuals other than the author to determine its utility across settings.

#### *2.6. Anatomically detailed dolls*

One of the most controversial interviewing techniques discussed in the literature is the use of anatomically detailed dolls. While some claim they are useful in helping children to remember and describe the details of the abuse (APSAC, 2002, Boat & Everson, 1996, Britton & O'Keefe, 1990, Carnes, 2000 and Melton et al., 1997),

others argue that they may decrease the quality of children's responses and can elicit sexual play even from non-abused children (Bruck & Ceci, 1995, Ceci & Bruck, 1993, DeLoache, 1993 and Santtila et al., 2004). Ceci and Bruck (1993) interviewed 3-year-old children using anatomically detailed dolls immediately after visiting their pediatrician. Half of the children received a genital examination and half of them did not, although 55% of the children who did not receive the examinations falsely reported that they received genital exams when they were interviewed using the dolls. A study by DeLoache (1993) involved interviews of 2- to 4-year-old children using dolls. This study found that preschoolers were more accurate in their reports when dolls were not used than when they were used.

Santtila et al. (2004) examined 27 transcribed forensic interviews conducted in Finland and found that interviews in which anatomically detailed dolls were used included more suggestive utterances and less detailed responses by the children. Another study by Britton and O'Keefe (1990) compared anatomically detailed dolls to nonanatomically detailed dolls across 136 forensic interviews in child sexual abuse cases and found no differences between groups in children's behavior with the dolls. However, results of this study were limited in that subjects were not randomized into groups, the primary investigator conducted all interviews herself, and children using nonanatomical dolls were allowed to choose from a selection of popular brand-name dolls. Overall, research in this area indicates that anatomically detailed dolls should be avoided with preschool children, due to the suggestibility and lack of self-representational skills found in this age group. They may be useful tools with school age children, but should be used with caution and only when necessary to facilitate communication (APSAC, 2002 and Carnes, 2000).

### 3. New directions in forensic interviewing

#### 3.1. Structured interviews

While current techniques are continuously being examined through research and updated as needed, there are a few novel directions in which the field appears to be headed. A promising new approach to forensic interviews in child sexual abuse cases is the use of structured interviews, in which the interviewer utilizes a specific interviewing format (e.g., Orbach et al., 2000, Sternberg et al., 2001, Wells et al., 1997 and Wood & Garven, 2000). Benefits of using a structured approach include limited training requirements, user-friendly and flexible protocols, past evidence that structured interviews are effective (i.e., Structured Clinical Interview for the DSM-IV), and improvement in quality of interviews (Wood & Garven, 2000). Two examples of structured interviews intended for use with child sexual abuse victims are the Structured Interview of Symptoms Associated with Sexual Abuse (SASA) and the National Institute of Child Health and Human Development (NICHD) structured interview protocol (e.g., Orbach et al., 2000 and Wells et al., 1997).

The SASA was developed by Robert Wells and colleagues to be used as a structured interview with the alleged victim's parents (Wells et al., 1997). This interview is based on research findings regarding emotional, behavioral, and physical symptoms commonly associated with sexual abuse. It involves 26 areas of questioning, covering symptoms such as nightmares, difficulty concentrating, frequent stomachaches, increased knowledge about sex, aggression, seductive behavior towards others, and bedwetting. Wells (1992) examined the test-retest reliability of the SASA with 39 school age females undergoing sexual abuse evaluations. Average test-retest reliability for the full interview was found to be 74%, while the test-retest reliability of individual items ranged from 48% to 94%. Utility of the SASA was later examined for boys between the ages of 3 and 15 years (Wells et al., 1997). This study included 121 boys who were divided into a substantiated sexually abused group, an alleged abuse group, and a nonabused group. The authors found statistically significant differences between groups, with higher rates of symptoms in the sexually abused group and overall internal consistency of .83. Based on the results, the authors developed an Abbreviated SASA, consisting of the 12 items that were found to be significantly different between groups. This version demonstrated a specificity of 88% and sensitivity of 91%. Though more research is needed, preliminary findings suggest that the SASA may be a useful tool for interviewing parents in child sexual abuse cases.

The NICHD investigative protocol was published in 2000 "to translate professional recommendations into everyday practice in the field" (Lamb & Fauchier, 2001, p. 998). It was developed by Yael Orbach and colleagues based on research regarding effective interviewing techniques (Orbach et al., 2000). The NICHD protocol begins with

an introduction, truth-lie discussion, and establishment of ground rules for the interview. Next, the interviewer focuses on building rapport and asks the child to describe a neutral event. The interviewer then transitions into the abuse-specific questioning by asking the child to describe why they are being interviewed. The interviewer is instructed to use nonsuggestive invitations and open-ended questions as much as possible, followed by focused nonsuggestive questions and option-posing questions if necessary. Each incident of possible abuse is examined in this way. Interviewers using the NICDH protocol also receive individual feedback and are required to attend regular group sessions to discuss interviews.

Several studies have demonstrated the NICHD protocol's effectiveness in reducing leading and suggestive questioning, increasing the use of open-ended questions, and increasing the number of details elicited from children (e.g., Lamb & Garretson, 2003, Lamb et al., 2002, Orbach et al., 2000 and Sternberg et al., 2001). Orbach et al., 2000 compared 55 interviews in which the NICHD protocol was used to 50 interviews in which it was not used. They found that interviews using the protocol contained more open-ended questions and elicited more details from children than the non-protocol interviews. Sternberg et al. (2001) also compared 50 interviews using the NICHD protocol to 50 interviews conducted before the protocol was introduced. Results showed that NICHD interviews included 3 times more open-ended questions and significantly fewer suggestive and option-posing questions than non-protocol interviews. Furthermore, children interviewed with the NICHD protocol provided significantly more details overall and the protocol was found to be equally effective for all ages.

A study by Lamb et al. (2003) utilized the NICHD protocol during interviews of 130 children conducted in the United Kingdom and the United States. They also found no significant differences across age groups in interviewer utterances. This could be a positive finding, in that interviewers are not asking more suggestive questions to younger children than older children. However, it could also be a negative finding, based on the research that suggests interviewing techniques should be tailored to the age of the child (e.g., Davies et al., 2000, Hershkowitz et al., 2002, Lamb et al., 2003, Sternberg et al., 1996 and Sternberg et al., 2001). Lamb et al. (2002) examined necessity of requiring interviewers using the NICHD protocol to participate in ongoing intensive feedback. Participants included 74 children between 4 and 12 years old who were interviewed about sexual abuse allegations. Findings revealed that interview quality decreased dramatically when ongoing supervision ended. The proportion of suggestive and option-posing questions increased significantly and fewer details were elicited from children with interviewers who were not receiving supervision. This finding suggests that ongoing supervision and feedback are necessary components of the NICHD structured interview process.

### 3.2. *Extended forensic evaluation*

In addition to structured interviews, another promising development in the area of forensic interviewing is the extended forensic evaluation model. It has been suggested that multiple interviews are often necessary due to young children's brief attention spans, the discomfort they may feel in disclosing to a stranger, need for rapport in eliciting a disclosure, and utility of assessing the consistency of children's reports (APSAC, 2002, Carnes, 2000, Haskett et al., 1995 and Hewitt, 1998). The extended forensic evaluation model was developed by Connie Carnes at the National Children's Advocacy Center in Huntsville, Alabama to address the problem of children who do not disclose abuse during the first interview, but whose cases include other indicators that abuse has occurred (Carnes, 2000 and Carnes, 2005). During a two-year pilot study, 26% of cases fit this description (Carnes, 2000 and Carnes et al., 1999). Children may also be referred for an extended forensic evaluation if information from the initial interview requires clarification or if the extent of the abuse is not disclosed during the initial interview (Carnes, 2000, Carnes, 2005 and Carnes et al., 1999). Goals of the extended forensic evaluation are to allow the child to disclose over time in a non-threatening environment, to determine if abuse has occurred and by whom, and to gather information to assist in legal and treatment decision-making (Carnes, 2000 and Carnes, 2005). Carnes (2000) recommends that interviewers should be graduate level mental health professionals who have previous experience working with children, training in child sexual abuse and child development, and experience conducting forensic interviews and testifying in court.

The structure of the extended forensic evaluation model includes five stages of information-gathering (Carnes, 2000 and Carnes, 2005). During the first stage, the interviewer gathers background information on the case from law enforcement and child protective services, medical information from physicians, and an interview is conducted with the non-offending caregiver. The second stage focuses on rapport-building, developmental assessment, and establishing ground rules for the interview process. In the third stage, social and behavioral assessments are conducted and

behavioral checklists (i.e., Child Behavior Checklist, Trauma Symptom Checklist for Children, Child Sexual Behavior Inventory) are reviewed. The fourth stage consists of abuse-specific questioning, incorporating the use of various techniques, including open-ended questions, the Touch Survey, cognitive interviewing techniques, free-style drawings, and nonanatomical dolls if necessary. Finally, during the fifth stage, the interviewer reviews and clarifies the child's statements, provides body safety information, and makes treatment referrals if necessary. The interviewer then uses the Forensic Evaluation Critical Analysis Guide (Carnes, 2000) to assess all of the information that has been gathered and to prepare a written report for the multidisciplinary team.

Though research is limited on this model, Carnes and colleagues have examined the effectiveness of the extended forensic evaluation on a few occasions (Carnes et al., 1999 and Carnes et al., 2001). Carnes et al. (1999) evaluated 51 children ages 2 to 16 using the extended forensic evaluation model and found that in 77% of cases, a clear determination was made regarding the credibility of disclosures. Thus, in the majority of cases, the evaluation accomplished its purpose. Carnes et al. (2001) also examined interviews of 147 children across 12 states using the extended forensic evaluation model. They found that in 64% of cases, a clear determination was made regarding credibility. They also compared a 4-session condition to an 8-session condition and found that 95% of new disclosures were obtained by the sixth session, suggesting that 6 sessions is ideal. They found no difference in age, race, and gender on outcomes. Based on these findings, the recommended length is six sessions, including one session with the non-offending caregiver and five weekly 50-min sessions with the child (Carnes, 2000).

The extended forensic evaluation model appears to be a promising alternative for the subset of children who do not disclose in the first interview. However, several concerns with this model have been noted (e.g., APSAC, 2002, Bruck & Ceci, 1995, Carnes, 2000, Santtila et al., 2004 and Wyatt, 1999). Extending the interview process over several sessions could potentially pose a risk to the child's safety. Sending a child home after the first or second session to a potentially abusive household and waiting a full week to conduct the next interview may put the child at risk for further abuse. In an ideal situation, a full disclosure would be obtained in the first interview and safety precautions could be taken immediately. Nevertheless, if the intention of the initial interview is to obtain a disclosure and this does not happen, the extended interview model appears to be the next best option. Another concern is related to the risks of repeated interviewing. Research has shown that repeated interviewing can lead to distortions in reporting, higher rates of self-contradictions, and increases in children's levels of distress (e.g., APSAC, 2002, Bruck & Ceci, 1995 and Wyatt, 1999). In addition, a study by Santtila et al. (2004) examined 27 transcribed interviews conducted in Finland and found that significantly more new details were obtained in the first interview than in subsequent interviews and interviewers were more likely to use specific suggestive utterances in later interviews. However, these effects can likely be eliminated through training, supervision, and adherence to the protocol (APSAC, 2002 and Carnes, 2000).

A final criticism of the model is the need for separating clinical and forensic roles. Clinicians may use techniques that are beneficial in treatment, but that may hinder the investigation process (Carnes et al., 1999 and Wyatt, 1999). Forensic examiners and mental health professionals have very different goals when working with children who have made sexual abuse allegations (Carnes, 2000 and Wyatt, 1999). The goal of the forensic examiner is to obtain accurate information, while the goal of the mental health professional is to encourage the child to express his or her feelings and thoughts, regardless of their accuracy. For this reason, it is important that forensic examination be separated from therapy (Carnes, 2000 and Wyatt, 1999). The extended forensic evaluation model addresses this concern through rigorous training of forensic interviewers, requiring interviewers to collaborate with an investigative team, and referring the child to a different therapist after the evaluation is completed (Carnes, 2000 and Carnes et al., 1999).

### 3.3. *Child Advocacy Center model*

While multiple interviews may be necessary for some children, it may be best to limit the number of interviews and the range of locations and interviewers involved. According to some estimates, the average child may be interviewed ten times before going to court (Wyatt, 1999). Repeated interviewing and repeatedly asking similar questions have both been associated with inaccurate reporting and recanting allegations, particularly if early interviews are conducted inappropriately (e.g., APSAC, 2002, Bruck & Ceci, 1995, Santtila et al., 2004 and Wyatt, 1999). Furthermore, the child's suffering is exacerbated when they are repeatedly and unnecessarily subjected to stressful and upsetting interviews with multiple strangers. In response to this problem, the Child Advocacy Center (CAC) model was developed in Huntsville, Alabama in 1985. The goal of all Child Advocacy Centers is to "ensure that children are not further victimized by the intervention systems designed to protect them" (National Children's Advocacy Center, 2005a and National Children's Advocacy Center, 2005b).

Accreditation, training, practice standards, and services for Child Advocacy Centers are provided by the National Children's Alliance, a nationwide non-profit organization (Murray, 2005). In 2004, the National Children's Alliance had 41 state chapters and 330 member centers (National Children's Alliance, 2003). Approximately 124,900 children were served by Child Advocacy Centers in 2003 alone. Though the majority of cases seen at Child Advocacy Centers involve sexual abuse (73% in 2003), cases involving physical abuse, neglect, domestic violence, and other forms of abuse are also seen (National Children's Alliance, 2003).

Child Advocacy Centers are safe, neutral, child-friendly facilities where children and families can receive a range of services. These include forensic interviews conducted by trained interviewers, medical examinations, mental health services, victim support and advocacy, case review by the multidisciplinary team, and tracking of case progress and outcomes. In addition, Child Advocacy Centers provide specialized training and support for professionals in the community and strive to enhance community awareness of child abuse (Murray, 2005, National Children's Advocacy Center, 2005a, National Children's Advocacy Center, 2005b and National Children's Alliance, 2003). The CAC model is based on a multi-disciplinary approach to child abuse cases. This approach is beneficial because it is in the best interests of the child, reduces the number of interviews, provides the victim with support, promotes understanding of other disciplines, increases access to training opportunities, and leads to better informed decisions (APSAC, 2002, Lanning, 2002, National Children's Advocacy Center, 2005a and National Children's Advocacy Center, 2005b). Professionals from various disciplines (i.e., law enforcement, mental health, prosecution, medicine, child protection, victim advocacy) coordinate their efforts and work together to make team decisions. Communities with Child Advocacy Centers are believed to have more efficient referrals to physicians and mental health professionals, fewer child interviews, and more efficient follow-up procedures than communities without them (National Children's Advocacy Center, 2005a and National Children's Advocacy Center, 2005b). For these reasons, the Child Advocacy Center model appears to be a commendable model for addressing child sexual abuse allegations.

#### 4. Implications for research and practice

Several limitations were found in the research reviewed in this paper. First, studies examining interviewing techniques tended to use a wide variety of definitions for various types of interviewer utterances (e.g., Craig et al., 1999, Davies et al., 2000, Lamb & Fauchier, 2001, Lamb et al., 2003, Santtila et al., 2004, Sternberg et al., 1996 and Sternberg et al., 2001). Some studies included invitations and open-ended questions in the same category (e.g., Craig et al., 1999, Davies et al., 2000 and Lamb & Fauchier, 2001), while others examined one or the other alone (e.g., Lamb et al., 2003 and Santtila et al., 2004). The terms "open-ended questions" and "directive utterances" were at times used interchangeably (e.g., Lamb et al., 2003), while at other times "directive utterances" was used to describe questions which limited the child's responses (Craig et al., 1999). The confusion over definitions and names of interviewer utterances may have hindered interpretation of research findings. Future studies should adhere to an agreed-upon coding scheme, such as that outlined by Lamb and colleagues or guidelines such as the Memorandum of Good Practice in England (e.g., Davies et al., 2000 and Lamb et al., 1996).

A second area of limitation was that much of the research on certain interviewing techniques (i.e., Touch Survey, NICHD structured protocol, SASA, extended forensic evaluation model) was limited to the developers of these techniques. Few studies have been conducted by researchers who were not involved in the development process, leaving the readers unable to draw conclusions regarding the effectiveness of these techniques. Therefore, more research is needed by individuals who are unrelated to the development process. Third, while several of the studies discussed in this paper included adolescents in their samples (e.g., Carnes et al., 1999, Carnes et al., 2001, Craig et al., 1999, Davies et al., 2000, Hershkowitz et al., 2002, Lamb & Garretson, 2003 and Wells et al., 1997), very little research has focused on adolescents alone. Future research should be conducted using samples of adolescents and examining issues specific to adolescents in relation to forensic interviewing.

A fourth area of limitation involved outcome variables used in these studies. In much of the research reviewed here, the investigators were unable to know for certain if the abuse allegations were true. As a result, they relied on other variables (i.e., absence of self-contradictions, number of details elicited, length of child responses) to determine the effectiveness of various interviewing techniques (e.g., Lamb et al., 2003, Santtila et al., 2004, Sternberg et al., 1996 and Sternberg et al., 2001). While this is often necessary when conducting research in the field, it is certainly not ideal. More research is needed using samples of children for which abuse allegations have been substantiated. The use of Criteria-Based Content Analysis (CBCA) is also a promising solution to this problem (Craig et al., 1999 and Davies et al., 2000). As mentioned previously, CBCA is an empirically based procedure for rating children's statements during forensic interviews. The 14 content criteria used to assess

the accuracy of children's statements have been shown to successfully discriminate accurate from inaccurate abuse allegations (Craig et al., 1999). This appears to be a useful outcome variable for use in research related to forensic interviewing.

Despite the above-mentioned limitations, research in the area of forensic interviewing provides a basis for several recommendations. The following recommendations for forensic interviewers are empirically derived and based on the information in this literature review.

1. Whenever possible, interviews should be conducted in a safe, neutral, and preferably child-friendly environment, such as a Child Advocacy Center (e.g., APSAC, 2002, Carnes, 2000, Lanning, 2002, National Children's Advocacy Center, 2005a, National Children's Advocacy Center, 2005b and National Children's Alliance, 2003).
2. A multidisciplinary approach to child abuse investigations is preferable when the option is available (e.g., APSAC, 2002, Carnes, 2000, Lanning, 2002, National Children's Advocacy Center, 2005a and National Children's Advocacy Center, 2005b).
3. The child's age should be considered when choosing interviewing techniques. Open-ended questions should be used with older children when possible, while cued invitations and specific yet non-leading questions should be used with younger children (Carnes, 2000, Davies et al., 2000, Hershkowitz et al., 2002, Lamb et al., 2003, Sternberg et al., 1996 and Sternberg et al., 2001). Leading and suggestive questions should always be avoided.
4. Interviewer gender should be considered when scheduling appointments and training new interviewers. Based on the findings of Lamb and Garretson (2003), it might be particularly helpful to pair female interviewers with female victims.
5. Forensic interviewers should possess the ability to establish rapport through warmth and friendliness, experience working with children, previous training in interviewing or counseling, training in child sexual abuse and child development, a master's level education, an objective and nonjudgmental stance toward interviews, and the ability to take feedback constructively and change accordingly (APSAC, 2002, Carnes, 2000 and Wood & Garven, 2000).
6. Structured interview protocols (i.e., NICHD investigative interview) are recommended, due to their effectiveness, ease of use, and limited training requirements (Lamb & Garretson, 2003, Lamb et al., 2002, Lamb et al., 2003, Orbach et al., 2000, Sternberg et al., 2001 and Wood & Garven, 2000). However, they should be used in combination with ongoing supervision and feedback.
7. Ground rules should be outlined for the child at the onset of the interview, including what should happen if the child does not know an answer, does not understand the question, does not remember something, does not want to answer a question, or if the interviewer makes a mistake (e.g., APSAC, 2002 and Carnes, 2005).
8. Before discussing the abuse allegations, the interviewer should discuss with the child the difference between a truth and a lie, the consequences of telling a lie, and obtain the child's agreement to tell the truth (e.g., APSAC, 2002, Huffman et al., 1999, Talwar et al., 2002 and Wyatt, 1999).
9. The Touch Survey can be used as a technique to elicit details about good and bad touches that the child has experienced, although it should be used in combination with other empirically supported techniques (Carnes, 2000, Hewitt, 1998 and Hewitt & Arrowood, 1994).
10. Cognitive interviewing techniques should be used whenever possible (particularly with older children) to obtain further details about the abuse (APSAC, 2002, Hayes & Delamothe, 1997, Hershkowitz et al., 2002 and Saywitz et al., 1992). The child's developmental level should be considered when determining which techniques may be most useful (e.g., Hayes & Delamothe, 1997).
11. Anatomically detailed dolls should be used cautiously, should be avoided with very young children, and should be introduced to obtain further details only after the child has already disclosed (e.g., APSAC, 2002, Bruck & Ceci, 1995, Carnes, 2000, Ceci & Bruck, 1993, DeLoache, 1993 and Santtila et al., 2004).
12. If conducted appropriately, extended forensic evaluation appears to be a valuable option for children who do not disclose during the initial interview and should be used only when necessary (Carnes, 2000, Carnes, 2005, Carnes et al., 1999 and Carnes et al., 2001).

Forensic interviewing in child sexual abuse cases has evolved greatly through the years. Research in the area has provided valuable information regarding effective and appropriate interviewing techniques. Though more research is needed to further explore these techniques, forensic interviewers can benefit considerably from the guidance that research provides.

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VERIFICATION BY PETITIONER

I, Steven Cearley, declared that I have received a copy of the petition prepared by my attorney and that I consent to the petition being filed on my behalf.

11.23.12  
Date and Place

Steven Cearley  
Steven Cearley

1  
2  
3  
4 **IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**  
5 **DIVISION II**

6 *In re Personal Restraint of*  
7  
8 STEVEN CEARLEY

NO.  
ADDENDUM TO PRP

10  
11 Attached is a declaration from Mr. Cearley's trial counsel that should be added to  
12  
13 an included with Mr. Cearley's Personal Restraint Petition.

14  
15  
16 DATED this 11<sup>th</sup> day of December, 2012.

17 /s/Jeffrey E. Ellis  
18 Jeffrey E. Ellis #17139  
19 *Attorney for Mr. Cearley*  
20 Law Offices of Alsept & Ellis  
21 621 SW Morrison St., Ste 1025  
22 Portland, OR 97205  
23 JeffreyErwinEllis@gmail.com

## **DECLARATION OF TIMOTHY L. HEALY**

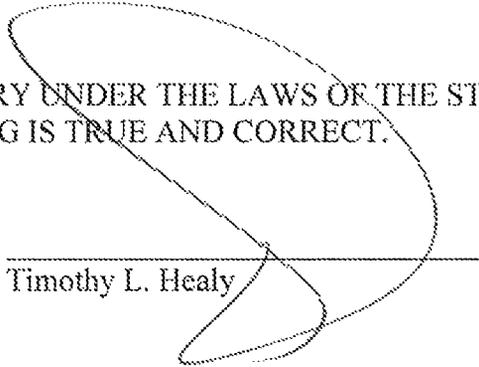
I, Timothy L. Healy, declare:

1. I am an attorney. I have been licensed to practice since 1995.
2. I represented Steven Cearley in Pacific County Superior Court Case No. 07-1-00269-1.
3. During trial, as part of jury selection, the trial court used a confidential questionnaire for all prospective jurors.
4. I recall the questionnaires were given to prospective jurors before they were brought to the trial court.
5. I recall copies of the completed questionnaires were then provided to the Court, the prosecutor, and me.
6. Eventually, I assume, those questionnaires were destroyed. I do not have any copies of any of the completed questionnaires.
7. To the best of my knowledge, there never was a time when those questionnaires were available to the public. I recall the questionnaires were private—only the Court, the lawyers, and the defendant were permitted to view the questionnaires.
8. I do not recall explaining to Mr. Cearley that he had a right to an open and public trial which might be violated by the use of confidential questionnaires. I do not recall discussing with him the requirements of a hearing to close the courtroom regarding the questionnaires. I do not recall the judge discussing this with Mr. Cearley either.
9. I do not recall having a conversation with Mr. Cearley where I asked him if he wanted to give up his right to an open and public trial in order for jurors to complete a confidential questionnaire that would be placed under seal.
10. During the testimony of the complaining witness, A.D.M., I recall she came into court accompanied by several “advocates.” I recall that the main advocate, Kris Carmenzind, sat in the front row right in front of A.D.M. During A.D.M.’s testimony, I recall this advocate made eye contact with her, causing A.D.M. to hesitate.
11. I also recall that when the jury walked out of the court room for one of the breaks, the complaining witness, A.D.M., was standing in the hallway holding her doll and surrounded by her advocates. I recall being bothered by this and bringing it to the attention of the court.

12. I also recall that there was an issue at some point and Mr. Cearley was told to delete a photograph he had taken outside of the court room. I do not recall being shown the photograph and I have a vague memory of this issue.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

12/10/12 Lacey, WA  
Date and Place

  
\_\_\_\_\_  
Timothy L. Healy