

JUN 30 2014

Ronald R. Carpenter  
Clerk

NO. 45162-0-II

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

---

PATHFINDER HOUSE, NANCY MEYER,  
TIM MEYER AND KERRI BROOKS,

Appellants,

and

STATE OF WASHINGTON,

Respondent.

---

REPLY BRIEF

---

GARY A. PREBLE, WSB #14758  
Attorney for Appellants

PREBLE LAW FIRM, P.S.  
2120 State Avenue NE, Suite 101  
Olympia, WA 98506  
(360) 943-6960  
Fax: (360) 943-2603  
gary@preblelaw.com

2014 JUL -2 PM 1:04  
COURT OF APPEALS  
DIVISION II  
STATE OF WASHINGTON  
BY PREBLE

**ORIGINAL**

## TABLE OF CONTENTS

I.	THE DSHS AND THE REVIEW OFFICER MISSTATE THE RECORD REGARDING HEATHER SILVA’S HEARSAY .....	1
A.	The State’s misquotation of the record .....	1
B.	The Review Officer’s misquotation of the record .....	3
II.	THE STATE MISSTATES MANY PORTIONS OF THE RECORD .....	4
III.	REPLY TO STATE’S LEGAL ARGUMENT .....	19
A.	Assignments of Error .....	19
1.	Challenging for first time on appeal .....	20
2.	Alleged absence of argument as to each assigned error .....	20
3.	Compliance with RAP 10.4(c) .....	20
B.	Grounds for Review under RCW 34.05.570(3) .....	21
1.	Unlawful procedure or decision- making process—(3)(c) .....	21
2.	Erroneously interpreted or applied law—(3)(d) .....	23
3.	Not supported by substantial evidence—(3)(e) .....	23
4.	The order is arbitrary and capricious—(3)(i) .....	25
C.	Appellants are entitled to attorney fees on appeal .....	25
IV.	CONCLUSION .....	25

## APPENDIX

Material Portions of Text - RAP 10.4(c) .....	Appendix A
Excerpts of testimony .....	Appendix B
Chronology of Interviews/Communication/Events - by Date .....	Appendix C
Chronology of Interviews/Communication/Events - by Person .....	Appendix D

## TABLE OF AUTHORITIES

### Washington Cases

<i>Campbell v. Bd. for Volunteer Firefighters</i> , 111 Wn. App. 413, 45 P.3d 216 (2002) .....	23, 24
<i>In re Marriage of Stern</i> , 57 Wn. App. 707, 789 P.2d 807 (1990) .....	21

### Washington Court Rules

CR 1 .....	20
RALJ 1.1(a) .....	20
RAP 1.1(a) .....	20
RAP 10.3(a)(5) .....	1, 6
RAP 10.4(c) .....	20

### Washington Statutes

RCW 34.05.570(3) .....	21
RCW 34.05.570(3)(c) .....	21
RCW 34.05.570(3)(d) .....	21, 23
RCW 34.05.570(3)(e) .....	23
RCW 34.05.570(3)(i) .....	25
RCW 4.84.350(1) .....	25
RCW 9A.76.040 .....	22
RCW 9A.76.080 .....	22

### Other Authorities

<a href="http://garbl.home.comcast.net/~garbl/stylemanual/qthrur.htm">http://garbl.home.comcast.net/~garbl/stylemanual/qthrur.htm</a> .....	3
---	---

### Key to Record Designations

CP	=	Clerks Papers
AR <sup>1</sup>	=	Appellate Record
AB	=	Appellate Brief
RB	=	Respondent's Brief
RO	=	Reviewing Officer

---

<sup>1</sup> Identified as BR in Appellate Brief.

- 1RP = Volume 1 Report of Proceedings, February 11, 2010
- 2RP = Volume 2 Report of Proceedings, February 12, 2010
- 3RP = Volume 3 Report of Proceedings, February 16, 2010
- 4RP = Volume 4 Report of Proceedings, April 20, 2010
- 5RP = Volume 5 Report of Proceedings, April 21, 2010
- 6RP = Volume 6 Report of Proceedings, April 23, 2010
- 7RP = Volume 7 Report of Proceedings, April 30, 2010
- 8RP = Volume 8 Report of Proceedings, June 7, 2010
- 9RP = Volume 9 Report of Proceedings, June 22, 2010

I. THE DSHS AND THE REVIEW OFFICER MISSTATE THE RECORD REGARDING HEATHER SILVA’S HEARSAY.

The State’s brief (RB) includes a “Counter statement of the Facts” at RB 2–30. RAP 10.3(a)(5), which requires “[a] fair statement of the facts . . . without argument,” is violated throughout the State’s “Counter statement”, particularly regarding Heather Silva’s hearsay out of which this entire case flows—her handwritten note on page four of Tyler’s assessment. AR 691.

Ms. Silva’s notation lists three different statements apparently attributed to “Karrie”, each separated by a dash, written accurately as follows:

“Tyler manipulated an other person into sexual unsavory things – he is “humping” him – We don’t feel comfortable w/ others being alone w/ Tyler”

By misquoting Silva’s note, both the AAG and RO support their own views of the record. The misquotations primarily concern the second dash.<sup>2</sup>

The State’s first misstatement regarding Silva’s note is that “Ms. Brooks reported to Ms. Silva” the words of the note. There is, however, no testimony that Ms. Brooks “reported” to Ms. Silva. The most to be said from AR 691 is that Ms. Silva wrote certain things after hearing Kerri speak. Neither Ms. Silva nor Tyler testified at the hearing, and the only testimony regarding AR 691 is from Ms. Brooks. RP 5:202:2–217:24.

A. The State’s misquotation of the record. At RB 4, the AAG wrote:

Ms. Brooks reported to Ms. Silva that Tyler “manipulated another person into sexual unsavory things—he is humping him and we

---

<sup>2</sup> Both the AAG and RO also replaced “w/” by “with” and added a period at the end.

don't feel comfortable with others being alone with Tyler." AR at 65, FF 11, AR at 691; 2 RP at 115 ll. 1-10.

The AAG made five errors in purporting to quote Silva's handwritten notation: (1) changing "an other person" to "another person"; (2) omitting the quotation marks around the word "humping"; (3) replacing the second dash by (4) adding the word "and"; and (5) omitting capitalizing the "W" in "We".

The effect of the AAG's error is to attempt to add certainty to the hearsay of Heather Silva's handwritten notation at AR 691.

- By replacing "– he is "humping" him – We don't feel comfortable" with "—he is humping him and we don't feel comfortable", the AAG attempted to link the term "humping" with the idea the appellants were uncomfortable having others alone with Tyler—suggesting the appellants knew Tyler might be "humping" others if left alone with them.

- By misquoting "an other" as "another", the AAG obfuscates the identity of the person Tyler manipulated. Kerri Brooks testified she prompted Tyler to tell Silva about being 18–19 years old and having been present when a 9-year-old girl cousin had "just happened to disrobe" in his presence. 5RP 210–211,<sup>3</sup> AR 417; 5RP 210:22–23. The AAG would like to suggest that 23-year-old Tyler, AR 687, manipulated *residents* into "sexual unsavory things" when the incident with his *cousin* had occurred 4 to 5 years earlier.

---

<sup>3</sup> The transcript, 5RP 210:6, states (emphasis added): "he said he -- *he* had just happened to disrobe". This writer has listened to the audio CD, and the actual testimony for April 21, 2010, at 5:26:57 was (emphasis added): "he said he -- *she* had just happened to disrobe".

• By removing the quote marks from the word “humping” the state attempts to add certainty to the meaning of Silva’s uncertain hearsay. 2RP 138:12–15. One purpose for putting quote marks around single words/terms is “to note an unfamiliar or unusual term on first reference.”<sup>4</sup> Because Silva did not testify, her meaning in using the word “humping” is unknown. AR 702 shows her uncertainty: “Possibly will need evaluation for sexually inappropriate behavior. Monitor behavior to see if behavior is appropriate.” She could have meant the “possible” need for evaluation was due to Tyler’s manipulating his cousin to disrobe, coupled with the uncertain meaning to her of “humping”. We may presume Silva, in not reporting to APS, did not have reasonable cause to believe sexual abuse or assault of a vulnerable adult had occurred. 1RP 81:12–15, 82:14–16. *See also*, Bills, 2RP 137:19–24.

B. The Review Officer’s misquotation of the record.

The RO also misquoted Silva’s hearsay, AR 691, in FF 11, AR 65:

“Tyler manipulated another person into sexual unsavory things – he is ‘humping’ him. We don't feel comfortable with other [or others] being alone with Tyler.”

The RO also made five errors in her purported quotation: (1) changing “an other person” to “another person”; (2) replacing the second dash by (3) adding a period; (4) replacing double quote marks around “humping” with single quote marks, and (5) misreading “others” to be more likely “other”.

The RO’s errors also attempt to add certainty to Silva’s hearsay showing

---

<sup>4</sup> <http://garbl.home.comcast.net/~garbl/stylemanual/qthrur.htm>.

a willingness to misread the record. The effect of the first change the RO made to Heather Silva's note is addressed, *supra*, at 2.

- By replacing the second dash with a period, the RO obscures Silva's notes as *three* separate statements separated by dashes, finding it easier to read it as *two* related sentences. Since Silva did not testify, changing what she did in fact write is arbitrary and capricious treatment of unclear hearsay.

- By replacing double quote marks around "humping" with single marks, it would appear the RO attempted to enhance Silva's credibility by showing her notes to be grammatically correct. And making "humping" an inner quote would also tend to reduce any suggestion Ms. Silva had used the quotation marks around "humping" to denote an unfamiliar term, *see* n. 4.

- By misreading<sup>5</sup> the word "others" to be more likely "other", the RO tends to suggest that Appellants' lack of comfort with Tyler being alone with other residents was because they knew Tyler had been "humping" Tommy rather than due to reasons unrelated to sexual conduct. 5RP 216:14–25.

## II. THE STATE MISSTATES MANY PORTIONS OF THE RECORD.

Space does not allow full response to the State's misstating the record.<sup>6</sup>

---

<sup>5</sup> The misreading can only with difficulty be seen as *unintentional*—the word "others" is quite clear and the word "other" does not fit well grammatically. Even if the RO's misreading/uncertainty is considered reasonable, it is further proof of the inherent unreliability of Silva's hearsay note at AR 691.

<sup>6</sup> **Misleading:** at RB 10, 1RP 45:1–6 (*see* 7–9); at RB 19, 4RP 158:3–15 (*see* 158:16–159:12); at RB 15, 5RP 87:13 (*see* 14–19, 47:1–8). **Wrong:** at RB 11, 1RP 114:9–116:25 (*see* 133:14–135:2); at RB , 1RP 76:1–4 (*see* 119:18–25); at RB 15, 5RP 78:2–25, 53:1, 54:1–20 (*see* 44:10–44:17), at RB 19 5RP 61:1–7, 64:4–23 (*see* 64:22–23).

1. The State, RB 4: “At the conclusion of the assessment on March 27, 2009, Ms. Silva’s recommendations included therapy, medication modification, and further psychiatric evaluations for ‘sexually inappropriate behavior’. [AR 702].<sup>7</sup>”

a. The record: In actuality, Heather Silva recommended several distinct things, separated by several lines each:

Initially 2X a month then 1X a month when stabilized  
Behavioral therapy for anger management  
  
Symptom Education  
Psychiatric Evaluation & Medication Modification  
Possibly will need evaluation for sexually inappropriate behavior.  
  
Monitor behavior to see if assessment is appropriate.  
Talk to Nancy Meyers (owner of Pathfinder House) to see if  
behavior necessitates call to APS & report if needed.

b. The State’s error: It is difficult to conceive the AAG’s statement is an honest, let alone fair, statement of the facts. RAP 10.3(a)(5). Heather Silva at AR 702 made only two unqualified recommendations: anger management and psychiatric evaluation for medication modification—the very things for which Tyler was taken to Sunrise Services in the first place. 6RP 21:3–22:10, 8RP 56:15–59:7, 7RP 129:23–130:18; AR 570; 687-688.

Unlike the State’s less than fair characterization, the third recommendation is that Tyler *possibly* will need an “evaluation” for sexually inappropriate behavior—and not a *psychiatric* evaluation as the AAG further misstates. Tyler’s behavior was also to be monitored and reviewed with Mrs. Meyer—prior to any evaluation. Only then would they know if an evaluation were recommended for sexually inappropriate behavior.

---

<sup>7</sup> Citations in the RB to the findings and conclusions of the RO, AR 61–107 are disregarded.

Silva's report does not conclude that any of Tyler's behaviors were in fact sexually inappropriate. And thus, her hearsay statement can not be seen as her statement that sexually inappropriate behavior had occurred.<sup>8</sup>

2. The State, RB 5: "Ms. Meyer said [to Bills] that Tyler was 'dry humping' Tommy. [2RP 126:15–127:5; 151:12–24]." RB 6: Bills "learned from Ms. Meyer . . . 'Tyler had been caught dry humping [Tommy] . . . [AR 530]."

a. The record: "Were those your words, the dry humping in quotes, or were those Nancy's words? A: I can't recall at this time. Q: Well, is there any significance to the fact that there are quotes around the words "dry humping"? A: Well, yes, there are significance. I believe that is what she told me. But unfortunately, I did not document that in my other notes." 2RP 126:24–127:6.

b. Further record: Q: And you don't recall the exact words she spoke to you, correct? A: I can only vouch for what is in my notes. 2RP 141:13–15.

Now, . . . you're telling me you don't remember what [Nancy] actually said about the inappropriate touching, did I understand you correctly? A: No. I cannot recall at this time what she specifically said. 2RP 126:25–127:4.

c. The State's error: (1) *Bills deferred to her notes*. The State does not make the "fair statement of the facts" required by RAP 10.3(a)(5). Ms. Bills' only spoke with Nancy for 10 minutes April 14, 2009, 2RP 117:4–7, 19–21, after Tyler's 50-minute session, 2RP 119:18–23, with Nancy present. 2RP 117:13–15. Bills' notes of the conversation 33 minutes after speaking with Nancy, AR 525, indicate nothing of a sexual nature but do quote Nancy as saying Tyler "inappropriately touched members of the household."

Ms. Bills testified on direct Nancy told her she had caught Tyler and Tommy in "sexually inappropriate conduct". 2RP 118:1–3. But when asked

---

<sup>8</sup> Nancy testified she had not seen Silva's assessment until receiving discovery in July, 2009, 9RP 112:25–113:2, 8RP 90:11–12 and Bills never testified she advised Nancy of its contents. 2RP 103–234. Silva's recommendation to review with Nancy was thus not followed.

a few questions later if Nancy had used the words “sexually inappropriate conduct,” Bills replied they were *not* Nancy’s words, they were in fact her own words. 2RP 119:1-4, 120:2-4. She said she would have to review her “event slip” for April 14 (AR 525) to “accurately state what [Nancy’s] words were or what I interpreted her words to be for that time,” 2RP 119:4-7. And she later stated she could only vouch for what was in her notes. 2RP 141:15.

Two days later on April 16, 2009, Bills filled out a Critical Incident report, Ex 6, stating Tyler was caught “dry humping” Tommy. AR 530. Bills could not recall if “dry humping” was her words or Nancy’s, but she believed Nancy had told her, though she had not documented it in the notes she made contemporaneously with her conversation with Nancy. 2RP 126: 23-127:6.

(2) *The AAG led Bills into mistaken testimony.* The AAG then asked a series of leading questions to get Bills to say there could have been no other source of the quoted words “dry humping” than Nancy Meyer. Bills went along uncritically with the AAG’s leading questions, telling her what the AAG wanted to hear. The AAG asked who Ms. Bills had spoken to about the “incident” as of the time she had written AR 529; she said her clinical director, APS and Nancy Meyer. After excluding the director and APS as the source, the AAG then asked the leading question: “So that information would have necessarily have come from Nancy?” 2RP 127:17-18. The objection was sustained, but Ms. Bills got the message. When the AAG asked, “So what is your understanding then of where you could have gotten this

information?” 3RP 128:7–8, Bills cooperated: “My understanding is that Nancy did say “dry humping” to me and that it was in my memory bank. And that is why I used, um, the term and put it in quotes.” 2RP 128:12–14.

Ms. Bills’ compliant responses to the AAG’s “straw man” leading questions were, however, incomplete—one of the risks of asking leading questions on direct. In fact, a mere two hours after speaking with Nancy Meyer on April 14, AR 525, 2RP 122:19–22, Ms. Bills had also spoken with Wesley Fullerton—prior to filling out the critical incident report on April 16.

(3) *Ms. Bills “memory bank” had faulty wiring.* More importantly, Bills admitted she had read Tyler’s Initial Assessment, AR 687–702, just that morning prior to meeting with Tyler at 2:00 p.m. and then speaking with Nancy. But Bills claimed she hadn’t remembered the word “humping,” AR 691, by the time she met with Tyler later that day, 2RP 142:1– 144:2—even though she was concerned about “humping” when she had first read the assessment. 2RP 134:9–135:110, 2RP 114:19–120:4. It strains credulity to claim great concern about Tyler’s behavior upon first reading the word but then to have forgotten the word hours a few after re-reading the assessment as she prepared for her very meeting with Tyler.

Bills’ strongest statement was she “believe[d]”— though she did not document—Nancy told her of “dry humping”. 2RP 127: 4–5. But she undermined that weak belief in later testifying, “I don’t assume anything.

Anything that is in my notes are things that have accurately been reported to me and that I then document.” 2RP 152: 15–17. No amount of fawning over Bills’ supposed credibility can hide that her memory bank had faulty wiring.

(4) *Bills’ own mind created “dry humping” out of “humping”*. When Bills read the word “humping” she assumed (and in fact believed) it meant some type of bodily contact in which one person was “thrusting upon another person” in a sexual manner. 2RP 135:1–10. Ms. Bills defined “dry humping” in the same terms: “Dry humping is thrusting -- one person thrusting upon another person with clothes on.” 2RP 151:12–20. To Ms. Bills, “humping” and “dry humping” meant the same and were interchangeable. When she read “humping” in the Initial Assessment, she took it to mean “dry humping”—and the term was in her memory bank from that point forward.

Bills testified falsely that Nancy told her about catching Tyler and Tommy in “sexually explicit conduct”. Bills pointing at Nancy as having said “dry humping” should be equally suspect. The state’s bald claim that Nancy told Bills the words “dry humping” is not a fair statement.

3. The State, RB 6: Ms. Bills spoke with Nancy about “reporting the incident of sexual abuse . . . [2RP 118:3–4]”.

a. The record: “[S]he told me that, um, she had caught Tyler and her son Tom in, um, sexually inappropriate conduct with each other. And I then asked her if she had reported this to the authorities . . .” 2RP 118:1–4

b. The State’s error: Everybody—even the RO—except Devora Bills, knew Nancy was in Disneyland when the incident occurred. *Cf.* AR 65. It is

not a fair statement of facts to claim Nancy told Ms. Bills about “the incident of sexual abuse” when Bills in the same breath testified Nancy said she caught Tyler and Tommy herself (though Nancy was two states away).

4. The State, RB 6–7: Ms. Meyer called Fullerton “to report . . . there had been an incident where Tyler had ‘humped’ Tommy. [3RP 140:11–141:25.]” RB 7: “[T]here had been an incident of ‘dry humping’ between Tyler and Tommy. [AR 712].”

a. The record: “[W]hat, if anything did [Nancy] tell you? A: She told me that Tyler needed to move from her home. And she mentioned an incident that had occurred between Tyler and her son. Q: And what was that incident? It was described that Tyler had [groped] and humped [Tommy] with his -- with their clothes on. . . . [T]hrough his clothing. Had rubbed his genitals against him. It was indicated, though, that they were both clothed.” 3RP 140:19–141:7

b. Further record: 3RP 141:8–21; 3RP 142:12–16, 144:16–145:4. *See Appendix B.*

c. The State’s error: The State selects one word, “humped”, out of context, disregarding contradictory information and Fullerton’s tendency to ascribe words to Nancy he subsequently admits she did not say. Much of Fullerton’s testimony is thus questionable. In fact, of all the sexual words he ascribed to Nancy are his own. Why should he be believed? What becomes clear is that he had an idea in his mind and attributed to the Meyers words he used to explain his own thoughts to himself.<sup>9</sup> And when cornered, he tried to explain his way out of it, both on direct, 140: 24–141–17; 144:16–145:12; and on cross, 178:11–179:3; 179:11–180:20; 208:14–19.

---

<sup>9</sup> In addition to making up words and changing his testimony, discussed *infra*, Fullerton’s style of speaking and testifying was not conducive to effective communication. He often did not answer questions directly. And he often used the passive voice, “which frequently leads to ambiguity and uncertainty.” *McClintock v. Gould*, 2013-Ohio-5117, 5 N.E.3d 1027 (Ohio Ct. App. 4th Dist. Lawrence County 2013). And that is just what happened here.

(1) The first time Fullerton quoted Nancy, he said she told him Tyler “groped . . . through [Tommy’s] clothing”, “humped . . . with their clothes on”, and “rubbed his genitals against him.” 3RP 140:21– 141:7.

(2) When asked if Nancy used the word “groped”, he acknowledged that word came from Devora Bills. 3RP 141:8–17. Had he not been asked further questions, his false testimony would have stood. On cross, he not only claimed he wasn’t quoting Nancy, he admitted it was possible he attributed to Nancy what Bills had said. 3RP 208:5–210:3.

(3) When asked if Nancy used the words “rubbed his genitals”, he said he would have to look at his notes. 3RP 142:12–16. Upon looking at his notes, he saw that Nancy did *not* use the words and acknowledged those words came from Devora Bills. 3RP 144:23–145:12. Had he not been asked further questions, his false testimony would again have stood.

Fullerton later again attributed the word “genitals” to both Nancy and Tim. When he was asked if they had used that word, getting a straight answer from him was like trying to put one’s finger on a tomato seed. Forced to admit that “genitals” was *not* in his notes, he finally came up with, “Um, they used the word ‘pants’,” admitting it also was not in the notes, 3RP 171:17–173:19, he wrote ten months earlier. Yet again, if he had not been further questioned, his false testimony about the Meyers would have stood.

(4) When asked if he heard the word “humped” from Nancy, he said “yes,” implying he heard it April 14. 3RP 141:18–21. But reading notes

of his first conversation with Nancy, Fullerton had to admit “humped” did *not* come from Nancy. Just as “rubbed his genitals” came from Bills, he had to admit “dry humped” came from Bills in speaking with her immediately after he spoke with Nancy. 3RP 144:23– 145:12. Again, had he not been asked further questions, Fullerton’s false testimony would have stood.

(5) In fact, Fullerton’s contemporaneous notes of his first conversation with Nancy only say: “it appears that” and Tyler had “some form of inappropriate sexual contact”. 3RP 145:2–3. An honest reading of Fullerton’s notes does not necessitate the conclusion Nancy even mentioned a sexual incident. When asked what Nancy told him on April 14, he said, “She told me that she had explained to Devora about the sexual incident that occurred.” But when asked “Did she use the word “sexual” incident?”, Mr. Fullerton replied, “I’m using those words.” 3RP 155: 17–23. Again, when he said Nancy on April 14 “had referenced the sexual incident that happened,” he was asked, “Again, your words ‘sexual incident’?” He replied, “Correct. Yes, I’m saying sexual incident.” 3RP 156:21–23.<sup>10</sup>

---

<sup>10</sup> Though his phone call from Nancy and subsequent call to Bills occurred on April 14, Fullerton did not enter his notes of the conversations (*see, c. Further record*, at p. ?) for about 24 hours. 3RP 157:16–158:12, 160:3–7. Thus, when he wrote, “It appears that Tyler had some form of inappropriate sexual contact,” 3RP 145:2–3, regarding his conversation with Nancy, he had already heard Devora Bills’ understanding that “the incident involved touching or rubbing of private areas and dry humping.” 3RP 145:7–9. This chronology is the likely explanation of Fullerton’s vague “it appears that”. He likely superimposed upon his note regarding Nancy information he had already heard from Bills. Attached Appendix C and D are compilations from the record that assist in understanding the case chronology.

(6) Fullerton testified he changed “dry humping” to “mock sex with clothes on,” 3RP 170:7–14, and “mock intercourse,” *id.*, 170:21—171:1.

(7) And Fullerton injected further confusion into the matter by revealing that what he understood to have happened was an impossible scenario. He claimed Tyler rubbed Tommy’s genitals, AR 745, with his hips, *id.*, from behind Tommy, 3RP 177:21–22, without using his hands, 3RP 171:17–18. Rather than acknowledge the physical impossibility of what he had described in writing, AR 745, Fullerton evasively said he wasn’t there. 176:17–177:11, 177:24–180:20. Interestingly, Fullerton’s confusion arose from his testimony that “Tyler rubbed his hips up against – against Tommy from behind”—but which was not found in his contemporaneous notes, 3RP 176:19–177:5. Similarly, as noted in item (5), *supra*, his testimony that he heard “humped” from Nancy was also not in his contemporaneous notes.

5. The State RB 7: “Ms. Meyer and Mr. Meyer both described the incident to Mr. Fullerton as sexual contact . . . [3RP 147:7–148:17].”

a. The record: “Q: So this last sentence here, ‘The victim claimed the perpetrator did not use his hands to touch his genital area, but rather rubbed him with his hips’, that information came from Nancy and Tim? A: Yes. Q: The previous information, where did that come from – the first two sentences above that. A: This description, uh, ‘Both perpetrator and victim were clothed at the time of the incident. No bodily penetration occurred. The victim did not consent to this act.’ I will say that Nancy and Tim confirmed this information. Um, ‘Client one allegedly touched the genital area of client two in the home and attempted mock intercourse’ -- I would -- although ‘mock intercourse’ is my language, I confirmed this information with Nancy and Tim on the 15<sup>th</sup>.” 3RP 145:24, 148:3–17.

b. Further record: 3RP 178:2–179:3; 3RP 167:4–168:23, 171:7. *See*, Appendix B.

d. The State's error: The AAG asked questions of Mr. Fullerton regarding Exhibit 37, the incident report he made to DDD Central Office in Olympia. AR 745, 3RP 145:20–148:17. The AAG's citation, however, is not a fair statement of the facts because, just as Fullerton changed his testimony on other points, *supra* at pp. 10–16, so he changed his testimony regarding what Nancy and Tim told him on April 15.

(1) On direct he appeared to quote Nancy and Tim, but he admitted on cross that Ex. 37, p 1, AR 745, was a “summary” and “compilation” and it was “not intended to quote anyone.” 3RP 178:19, 24–179:3. Perhaps more importantly, Fullerton admitted AR 745 was “based on the information that I received from Nancy and Devora Bills.” *Id.* He didn't even mention Tim.

(2) It appears his testimony that Nancy and Tim “confirmed” information, 3RP 148:13, 16, means not that they *made* affirmative statements but that they answered *his* questions about what Devora Bills had told him. As he stated, “I called Nancy and Tim for some more to clarify information that I heard and that what Nancy initially told me over the phone.” 3RP 142:5–7. Though the AAG claims Nancy and Tim described “sexual contact” to Fullerton, the only actual words Fullerton recorded in his handwritten notes of their conversation on April 15 that could describe the incident were “not prolonged,” “rubbed on back,” “helping him,” “dry humping” and “no hands involved.” 3RP 167:9– 168:23. All the rest was a mixture of Fullerton's and Bills' fertile imaginations, confirmatory bias and unquestioned assumptions.

(3) As to the term “dry humped” attributed to Tim<sup>11</sup> on April 15, Fullerton’s testimony is also ambiguous. At 3RP 142:8–11, he said Tim

described to me what had happened between Tyler and Tommy. He had said that Tyler had -- he referred to the word -- to the term “dry humping” to indicate that Tyler had dry humped Tommy.

The construction of the foregoing sentence is unusual and suggests Tim did not affirmatively state Tyler dry humped Tommy. Rather that appears to be Fullerton’s conclusion as to what Tim had said. Moreover, Fullerton did not ask Tim what he meant by the term he thought he heard. When it was suggested he didn’t know what Tim meant by the term, however, Fullerton was emphatic that he knew exactly what Tim meant. He stated, “I believe Tim knew that I understood what that meant, and that’s why he used that terminology.” 3RP 171:3–4. The nice thing about presumption is that one can avoid having to waste time with verification.

But Fullerton later testified to the contrary when asked if “dry humping” necessarily “include[d] bodily contact”, replying, “I don’t know.” 3RP 176:12–13. He tried to wiggle out of the contradiction by saying in the passive voice, “[I]t was edified by saying that Tyler rubbed his hips up against -- against Tommy from behind.” *Id.* at 20–22. Fullerton was forced to admit, however, that such words from Tim were not in his handwritten contemporaneous notes. 3RP 176:23–177:11.

---

<sup>11</sup> See discussion, *supra*, at p. 11 regarding whether Nancy used the term.

(4) The AAG says Tim and Nancy described “sexual contact” to Mr. Fullerton. Fullerton’s notes reflect that it was *Bills* who had described sexual contact to him prior to speaking with Nancy and Tim on April 15. 3RP 145:5–9. Fullerton’s predilection for adding his own words and his failure to ask Tim what he meant when he thought he heard him say “dry humping” lead to the conclusion that Fullerton’s testimony is not reliable.

6. The State, RB 8: “Ms. Meyer then reported to Detective Hagglund that when she returned, she learned that Brian stated he had observed Tyler ‘humping’ Tommy. [AR 564].”

a. The record: “B[rian] reported that he observed T[ylor] ‘humping’ on THOMAS.” AR 564.

b. Further record: “Did Nancy use that term [“dry humping”] with you? . . . Ms. Meyer relayed Brian’s report of Tyler humping on Tommy.” 3RP 80:21, 81:11–12.

c. The State’s error: As with Heather Silva’s notes, *see* pp. 1–4, *supra*, the AAG misquotes Hagglund as saying Nancy said “humping” when his testimony was that Nancy “relayed Brian’s report of Tyler *humping on* Tommy.”<sup>12</sup> (Emphasis added.) Hagglund implicitly denied Nancy had said “dry humping” because his answer was specifically in response to the

---

<sup>12</sup> And as with Silva’s notes, the RO also misuses the term “humping on”. Though the RO correctly quotes Hagglund, AR 69, n. 67, who alone used the term, she also falsely found the term was used by others. At AR 69, n. 63, the RO used “humping on” regarding “Mrs. Meyer’s reports to complainants”, by which the RO must mean Bills and Fullerton. In this way, the RO attempted to equate Hagglund’s “humping on” with Bills’ testimony (“dry humping” 2RP 128:12–13) and Fullerton’s testimony (“humped” 3RP 140:24). The RO also used “humping on” to misquote Morrison, who had said “humping”. AR 83, FF 50 (*cf.* text *with* n. 171, AR 711). By falsely claiming Nancy had said “humping on” to Bills, Fullerton and Hagglund, the RO attempts—either intentionally or as reflecting her cognitive dissonance—to harmonize the various terms attributed to Nancy (and Tim). In so doing, the RO can avoid having to consider that everyone else heard the term “the hump”, 8RP 110:23–111:7, never asking what was meant, and taking it to mean a sexually motivated act.

question if Nancy had used the term “dry humping”. 3RP 8018–22. By again misquoting, the state attempts to suggest that everyone was saying the same thing in purporting to quote Nancy, Tim and Kerri. *See*, n. 12.

In fact, everyone was not saying the same thing. Was it “humping on”? Was it “hump”? (Hochreiter, 1RP 133:5–7, 135:13–14.) Was it “humped”? (Hochreiter, 1RP 134:9–12, 149:14–15; Fullerton, 3RP 140: 24–25, 141:18–21, 208:6–10.) Was it “humping”? (Hochreiter, 133:22–23, 184:23–25, 185:18–186:1, [194:25], 207:7, 13, 3RP 106:17–18 [AR 568], 185:18–19 (“I believe everybody used the word ‘humping’ ”).) Was it “dry hump”? (Hochreiter, 1RP 120:1–2.) Was it “dry humped”? (Hochreiter, 1RP 136:6.) Was it “dry humping”? (Hochreiter, Bills, Morrison, Hagglund, Fullerton.) Or was it “the hump”, as the Appellants consistently testified?

7. The State, RB 9: Hagglund said Nancy said Tyler “owned up to it” [AR 564; 3RP 117:6–22] and “revealed to her what had happened”. AR 564.

a. The record: “Nancy also stated that Tyler revealed what occurred to her. Did I read that correctly? A: Yes. Q: And what did she specifically say? What were her words? A: I don’t recall what she specifically said.” 3RP 97:23–98:3.

b. Further record: 3RP 99:3–5, 17–100:1. *See*, Appendix B.

c. The State’s error: The State suggests Nancy told Hagglund Tyler admitted to sexual conduct. Hagglund, however, not only could not say what Tyler “owned up to” *was* sexual, but it could have been in fact *not* sexual.<sup>13</sup>

---

<sup>13</sup> Another observation regarding Hagglund’s notes, AR 564, is that he used the terms Nancy “explained”, “stated”, “also stated”, “said” and “also said” regarding Nancy’s statements to him. He also stated his own questions. But when Hagglund wrote of the incident in his

8. The State, RB 12: Ms. Meyer was interviewed alone in her office on the first day of the investigation and reported Tyler began having sexually inappropriate behaviors, ‘since two weeks after he moved in’. [1RP 78:16–18.]”

a. The record: Nancy said “Tyler said that he had been doing this since two weeks after he moved into the home. Q: Did Nancy say what ‘doing this’ meant? A: Sexual inappropriate behaviors--yes. Yes. Q: So Nancy told you that it was--Tyler had been engaging in sexual inappropriate behaviors since two weeks after he moved into the home, or is it your understanding - A: It is my understanding that’s what she meant.” 1RP 78:11–20.

b. Further record: 1RP 78:25–80:4. *See*, Appendix B.

c. The State’s error: The most Hochreiter says is her “understanding” Nancy told her of sexual behavior.<sup>14</sup> Not only does the record here show the state’s unfair statement of the record, it reveals the very first point at which Hochreiter imposed sexual meaning on the case and refused to proceed with a competent investigation. As soon as Tim heard Hochreiter say Nancy told her about Tyler behaving sexually, Tim got upset and took immediate corrective action. He called Nancy to tell Hochreiter she hadn’t said it.

---

conversation with Nancy, he did not attribute the statements to her as Nancy “said”, etc., nor did he state his question(s) on that point. Hagglund also spoke to Fullerton within a few hours of speaking with Nancy. Though he couldn’t recall specifics of that conversation, he testified, “The incident had been defined in my mind by [the previous] reports [from Davis and Fullerton] received by the Sheriff’s Office.” 3RP 100:14–101:3; AR 564, 563. Hagglund apparently dictated his notes almost 4 hours after speaking with Fullerton. AR 565. In light of (1) Hagglund’s admission that the information he received prior to speaking with Nancy had already defined the incident in his mind, (2) his intervening conversation with Fullerton, (3) the absence in his notes of specific references that Nancy “said” when describing the incident, and (4) his admission he could not say Nancy said Tyler revealed a sexual incident, it is not clear that Hagglund’s notes reflect Nancy’s words rather than Fullerton’s or Davis’.

<sup>14</sup> The words Hochreiter used suggests she failed to ask Nancy what she had meant by what she had said. This writer cannot recall any instance where an investigator asked the person interviewed what they meant by significant words they used. *See, e.g.*: 1RP 45:7–19, 1RP 115:9–116:18, 1RP 152:5–22, 2RP 220:3–10, 3RP 97:2–20, 1RP 128:15–22, 1RP 107:3–5, 1RP 98:23–99:5, 1RP 101:15–23, 103:20–21, 2RP 206:7.

The incompetency of Hochreiter's investigation can be seen in that she did not re-interview Nancy to see if there had been a misunderstanding. Hochreiter just said Nancy said she had not and never has said there had been a sexual incident. Hochreiter's arrogance and bias can be seen from her comment that Nancy "retracted" what she had told her. Even Hochreiter admits she "supposes" she makes mistakes, 1RP 88:23–25. Had she taken the time to sit down with Nancy and Tim regarding what may well have been a misunderstanding, Hochreiter could have ensured her investigation was based on facts and not just her "understanding". 1RP 78:20.

But that very morning Hochreiter had already (1) read the complaint; (2) had one long talk and two other conversations with Wesley Fullerton; (3) spoken to Devora Bills; (4) spoken to Tyler's father; and (5) spoken to Det. Hagglund. 1RP 122:7–126:25. And like Hagglund, for whom the incident was already "defined in [his] mind" from speaking to others before he met Nancy, 3RP 100:23–24, so Hochreiter had been talking to other people before she first spoke with Nancy. With so much gossip from everyone else, what need did Hochreiter have to ensure she accurately understood Nancy?

### III. REPLY TO STATE'S LEGAL ARGUMENT.

#### A. Assignments of Error.

As the State correctly notes, findings not objected to are verities on appeal, but its argument is incorrect the objections should be not considered.

### **1. Challenging for first time on appeal.**

Appellants at every appeal level argued the ALJ's (and RO's) credibility finding was the one error affecting all else. AR 25–26 [145–146]. “This case presents two divergent pictures. They both can’t be right.” CP 114, AB 25.

There appear to be no rules that apply to judicial appeals from administrative orders, *cf.* RAP 1.1(a), CR 1, RALJ 1.1(a); nor does RCW 34.05.510–598 address assignments of error. The cases cited by the State are inapplicable because they are not cases of appeal to superior court. Additionally, Appellants did submit objections to the superior court, CP 167–168. The RO's findings are not verities because almost all are objected to.

### **2. Alleged absence of argument as to each assigned error.**

Again, argument has been made at every level of appeal, *supra* at 23; *see*, AB 27–29, 34–36. Appellants have consistently stated the argument as to most errors hangs on the issue of credibility. Also, in correcting hereinabove some of the State's errors in purported factual recitations, further argument has necessarily been made. The court reviews the entire record, and the findings as to credibility affects virtually every finding. Moreover, addressing each specific finding would have been space-prohibitive.

### **3. Compliance with RAP 10.4(c).**

Error is assigned to at least part of almost every finding. RAP 10.4(c) states in relevant part: “. . . the party *should* type the material portions of the text out verbatim or include them by copy in the text or in an appendix to the

brief.” (Emphasis added.) The state acknowledges the rule is not mandatory. Since virtually every finding was challenged, AR 62–90, reference to that portion of the record is not cumbersome (except insofar as the RO’s findings are rather lengthy). Moreover, the Assignments of Error were drafted in such a way that in many cases the verbatim language of the finding in question was stated in the assignment itself. The nature of the appeal, based as it is upon credibility, does not require textual analysis of the findings. The thoroughness of the Assignments makes clear the facts appealed. The appellate court reviews the whole record. If the State’s witnesses are not deemed credible and the Appellants are, *see* AR 89–90, 331–332, then all findings to the contrary would fail. Nevertheless, Appellants cure the defect here in Appendix A, is a 28-page listing of the material portions of the Findings to which error is assigned. *In re Marriage of Stern*, 57 Wn. App. 707, 710, 789 P.2d 807 (1990). Any inconvenience to the court is obviated and the State, not having addressed the challenged findings, is not prejudiced.

B. Grounds for Review under RCW 34.05.570(3).

As noted by the State, grounds for judicial review are set forth in RCW 34.05.570(3). The State does not address the unlawful decision-making process of (3)(c), but only the erroneous interpretation of law of (3)(d). Appellant’s argument is that the RO violated both, which overlap here.

**1. Unlawful procedure or decision-making process—(3)(c).**

Appellant’s Brief (AB) 29–32, addresses the RO’s use of the wrong standard (substantial evidence) and limiting her “de novo” review to issues rather than also facts. Appellants also addressed the RO’s refusal to consider issues raised by Appellants in her purported “de novo review” of the record, AB 32–34, in particular Appellants’ sexual words chart. AB 34–36.<sup>15</sup>

Evidence of the RO’s disregard of Appellants’ arguments are her failure to include in her Review Decision and Final Order, AR 25–61, significant portions of Appellant’s Response to the Petition for Review: Attachment A, Objections to Findings & Conclusions in Initial Order, AR 273–282, referred to at AR 26; Attachment B, Origin of Sexual Words Used, AR 195–203, referred to at AR 29, 33. She also omitted Appendix A, 2009 Chronology of Events, AR 194, as well as the Contents and list of Attachments, AR 141–44.

The RO’s failure to address Attachment B in particular shows she paid no attention to the evidence regarding the State’s witnesses’ creative and prolific use of sexual words. How else can one explain the RO’s claim that Bills’ lie that Nancy caught Tyler “humping” Tommy—while Nancy was at Disneyland—was just a misunderstanding? FF13 at AR 65. If Bills had been prosecuted for false swearing, RCW 9A.76.040, her “unqualified statement of that which [she did] not know to be true [would have been] equivalent to a statement of that which . . . she [knew] to be false.” RCW 9A.76.080.

---

<sup>15</sup> This document, Attachment B, AR 195–203, was mis-labeled Attachment A at AB 34. It was submitted to the trial court as Revised Exhibit B, CP 169–179, to add record citations.

Significantly, the State’s argument fails to address the key evidence, *see*, AB 30, the RO used the wrong standard. Substantial evidence was the explicit standard as to whether the RO “left unchanged,” amended or struck ALJ findings, AR 62, or made her own “additional findings”. AR 62, 97–98.

**2. Erroneously interpreted or applied law—(3)(d).**

AB 29–34 also shows the RO’s unlawful procedure or decision-making, in not considering the whole record “anew” by disregarding Appellants’ issues, AB 32–34, was the result of an erroneous interpretation or application of RCW 34.05.464. The State claims the Appellants were not prejudiced. RB 40. Yet failure to consider the Appellants’ issues clearly prejudiced them.

**3. Not supported by substantial evidence—(3)(e).**

The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

RCW 34.05.570(3)(e). Throughout the appeals in this matter, Appellants have raised the issue of the insufficiency of the evidence. Appellants’ Response to State’s Petition for Review (AR 29–61 [150–193], 195–203, 273–282); Response to State’s Renewed Objection (AR 111–112); Appellant’s Trial Brief (CP 114–136); and Appellant’s Brief (AB 1–12, 25–29, 34–36). “The well-settled test for substantial evidence is a sufficient quantity of evidence to persuade a fair-minded person of the truth or correctness of the order.” *Campbell v. Bd. for Volunteer Firefighters*, 111

Wn. App. 413, 418, 45 P.3d 216 (2002) (internal quotations omitted). Though *Campbell* declined to adopt the federal formulation of the test which considers any evidence that “fairly detracts” from the evidence in support of the order, *id.*, it cannot apply to contradictory statements by a single witness.

Perhaps a better way to state it would be that a “fair-minded person” would not accept one statement from a witness as true when the witness made known false statements with the same confidence. Thus, review of the whole record would necessarily include review of a witness’ entire cross-examination as well as direct. And some contradictions or false statements would be such that the very credibility of a witness would be undermined.

The present case provides significant examples of witnesses saying two different things, which has been argued at every appeal. Foremost is Devora Bills’ false claim that Nancy Meyer told her she had “caught” or “walked in on” Tyler “humping” Tommy. Though Nancy was in California, Bills was adamant that Nancy was the one who caught them. *See*, AB 27; CP 129–130; AR 40–42 [AR 165–67]. And though Bills told Fullerton about “rubbing of private areas and dry humping,” 3RP 145:3–9, two days later she accused Tyler of rape, stating that because she was unsure what had occurred, she checked “rape” when she could have checked “sexual assault”, AR 529. *See*, AB 28; CP 129–130; AR 42–43 [AR 167–69]. And she waffled on whether Nancy said “humping”. AR 43–44 [AR 169–170]. *See also, supra*, pp. 6–10.

Would a fair-minded person believe Bills regarding Nancy when Bills

was so obviously wrong and disregarding of truth and accuracy on other important things? The same question can be asked about Fullerton, who kept testifying about things he had to retract, *supra*, 10–16. And Hochreiter, AB 34–36, AR 34–35, 45–46, 49–51, 54–58 [156–158, 170–172, 176–179, 183–190] demonstrates creation of “facts” to suit her beliefs, incompetent investigation and circular reasoning such that a fair-minded person would not be persuaded of the “correctness of the order”.

**4. The order is arbitrary and capricious—(3)(i).**

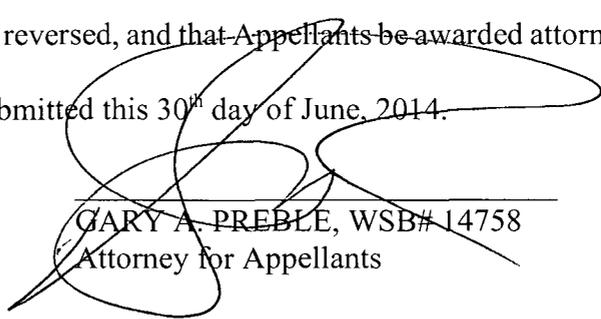
This also has been argued at every level of appeal of the Final Order, AB 29–34, CP 120–126, *supra*, 3–4, the clearest example of which was the RO saying Bills had misunderstood Nancy, *supra*, at 22. *See also*, the RO’s misquoting Silva, *supra*, p. 4. The RO’s refusal to consider the Appellants’ challenge to the ALJ’s findings was also arbitrary and capricious. AB 32–34.

C. Appellants are entitled to attorney fees on appeal.

The agency action was not substantially justified, RCW 4.84.350(1), because it was based on inadequate investigation, presumption and falsehood.

IV. CONCLUSION. Appellants request the Review Decision and Final Order be reversed, that Appellants’ license be reinstated, that the findings of neglect and abuse be reversed, and that Appellants be awarded attorney fees.

Respectfully submitted this 30<sup>th</sup> day of June, 2014.

  
GARY A. PREBLE, WSB# 14758  
Attorney for Appellants

**MATERIAL PORTIONS OF TEXT - RAP 10.4(c)**

*Assignments of Error are italicized - Text of identified Finding indented*

1. *That Nancy “ran” a home housing “several” residents with sexual deviancy problems.” FF1*

During her time with that agency she ran a 24-hour, secure community protection home which housed several residents with sexual deviancy problems.

2. *That Brian told Kerri something inappropriate occurred “between” Tyler and Tommy. FF6*

Brian came upstairs from the basement and told Ms. Brooks, who was in the kitchen, that something inappropriate was or had been going downstairs between Tyler and Tommy.

3. *That Kerri went downstairs and “sent Tommy upstairs.” FF6*

Ms. Brooks went downstairs to talk to Tyler and sent Tommy upstairs to talk to his father.

4. *That Kerri and Tim were told by Brian, Tyler, “and/or” Tommy about any sexual activity that had occurred. FF 7*

Ms. Brooks and Mr. Meyer were told by Brian, Tyler, and/or Tommy that Tyler had rubbed his private parts against Tommy, either while they were dancing or under other circumstances, in a manner that could be described as “dry humping” or mock intercourse.

5. *That Kerri and Tim were told about that Tyler had rubbed his private parts against Tommy while . . . dancing or under other circumstances. FF 7*

[See previous entry.]

6. *That Kerri and Tim were told about anything that could be described as “dry humping” or mock intercourse. FF 7*

[See previous entry.]

7. *That any sexual contact occurred between Tyler and Tommy. FF 7*

[See previous entry.] The contact did not appear to involve any touching with the hands or any contact under the clothing or skin-to-skin. The contact does not appear to have been forced, although the Appellants testified that Tommy could not consent to any sexual contact. Tommy could not consent to any sexual contact. Mr. Meyer testified that Tommy had the mental age of an eight-year-old child and was “asexual.”

8. *That Tim told Ms. Hochreiter that Tommy said he did not like Tyler rubbing himself on him. FF 7*

Mr. Meyer also told Ms. Hochreiter that Tommy said he did not like Tyler rubbing himself on him.

9. *That “the” or “this” sexual “incident” or “contact”, as stated in FF 7, and also in other places as “it”, “this act”, etc., occurred. FF 5, 7, 8, 9, 10, 11, 13, 14, 17, 18, 19, 21, 23, 25, 26, 27, 30, 34, 37, 44, 45, 47, 49, 50, 52, 54, 55, 56, 61.*

[See separate pages at end of Attachment]

10. *That Nancy scheduled appointment for Tyler as a result of learning of “the incident”. FF 9*

Mrs. Meyer learned of the incident when she returned home on February 27, 2009, . . . Mrs. Meyer followed up on the information by . . . scheduling an appointment for Tyler with Sunrise Services, a community mental health agency.

11. *That Kerri told Heather Silva the following words as a single statement: “Tyler manipulated another person into sexual unsavory things - he is ‘humping’ him. We don’t feel comfortable with other [or others] being alone with Tyler.” FF 11*

Ms. Brooks told Ms. Silva: “Tyler manipulated another person into sexual unsavory things -- he is ‘humping’ him. We don’t feel comfortable with other [or others] being alone with Tyler.” [See also Reply Brief at page \_\_\_\_]

12. *That it is more likely than not that Kerri made the above statement, even though Kerri denied making it. FF 11*

During her testimony, Ms. Brooks denied making this statement, but it is more likely than not that she did make this statement.

13. *That Kerri used the word “humping” with anybody. FF 11, 25*

[FF 11] Ms. Bills recalled that Mrs. Meyer had used the term “dry humping” to describe the conduct. . . . Mrs. Meyer was out of state on the day Brian came upstairs to tell Ms. Brooks of the interaction between Tommy and Tyler. [FF 25] Ms. Brooks was told: “Tyler’s humping Tommy,” The word “humping” was Ms. Brooks’ word . . . she used the words “dry humping.”

14. *That Kerri used the words “sexual unsavory” with Silva. FF 11*

Ms. Brooks told Ms. Silva: “Tyler manipulated another person into sexual unsavory things . . .

15. *That the handwritten note on Ex 20 was made by Silva “during” the part of the interview dealing with possible criminal conduct. FF 11*

During the part of the interview dealing with possible criminal conduct, Ms. Brooks told Ms. Silva: . . .

16. *That Kerri told Silva Tyler was “humping” another person. FF 11*

Ms. Brooks told Ms. Silva: “. . . he is ‘humping’ him. . . .”

17. *That Exhibit 20 says they didn’t feel comfortable with “other” being alone with Tyler. FF 11*

The report of that appointment is Exhibit Dept. 20. . . . We don’t feel comfortable with other [or others] being alone with Tyler.

18. *In omitting from her finding that Heather Silva recommended that Tyler’s behavior be monitored to see if assessment for sexually inappropriate behavior would be appropriate. FF 12*

As part of her recommendations, Ms. Silva wrote that Tyler might need an evaluation for sexually inappropriate behavior, and suggested that someone should talk to Mrs. Meyer to see if his behavior should be reported to APS.

19. *That Devora Bills spoke with Nancy “before or after” her April 14, 2009 session with Tyler. FF 13*

In a private conversation, before or after the session, Mrs. Meyer told Ms. Bills . . . she spoke to Mrs. Meyer at 2:50 in the afternoon, after her counseling session with Tyler.

20. *That Bills testified Nancy told her “they” had caught Tyler. FF 13*

Mrs. Meyer told Ms. Bills that they had caught Tyler and her son Tommy engaging in sexually inappropriate conduct.

21. *That anyone “caught” Tyler and Tommy doing anything inappropriate. FF 13*

[See previous entry.]

22. *That Tommy engaged in any sexual conduct . FF 13*

[See previous entry.]

23. *That Tommy engaged in any inappropriate conduct FF 13*

[See previous entry.]

24. *That Tyler and Tommy were engaging in any sexual conduct. FF 13*

[See previous entry.]

25. *That Devora Bills accurately recalled that Mrs. Meyer had used the term “dry humping” to describe the conduct. FF 13*

Ms. Bills recalled that Mrs. Meyer had used the term “dry humping” to describe the conduct.

26. *That Nancy Meyer used the term “dry humping”. FF 13, 19*

[FF 13, see previous entry.] [FF 19] Mrs. Meyer essentially confirmed that Tyler had been caught “humping” Tommy . . . Mrs. Meyer told Detective Hagglund that Brian said that he saw Tyler humping on Tommy.

27. *That Nancy mentioned an incident between Tyler and another female resident. FF 13*

She also mentioned an incident between Tyler and another female resident who was no longer in the home, although the nature of that incident was not specified.

28. *That when Brian came upstairs he told Kerri of any interaction between anybody. [FF 13]*

Brian came upstairs to tell Ms. Brooks of the interaction between Tommy and Tyler.

29. *That the only thing Devora Bills misunderstood from Nancy was that it was Nancy who had “walked in on Tommy and Tyler while the contact was taking place.” FF 13*

Ms. Bills misunderstood at least some of what Mrs. Meyer told her, since Mrs. Meyer was out of state on the day Brian came upstairs to tell Ms. Brooks of the interaction between Tommy and Tyler. Ms. Bills thought Mrs. Meyer had said that she walked in on Tommy and Tyler while the contact was taking place. The remainder of her testimony is consistent with what the Appellants told the Department witnesses.

30. *That anyone walked on Tommy and Tyler while “the contact” was taking place. FF 13*

[See previous entry.]

31. *That the remainder of Bills’ testimony was consistent with what appellants told the Department witnesses. FF 13*

[See previous entry.]

32. *That any risk from Tyler mentioned by appellants was sexual. FF 13*

She also said: He hasn't done it with the guys who are bigger or more functioning than him." They were not concerned about the other residents since they were older, bigger, and functioned at a higher level, and thus were not at risk in their view.

33. *That any information from Nancy required a report to APS. FF 14, 19*

[FF 14] Ms. Bills reported the incident to Adult Protective Services, which forwarded the report to Residential Care Services. Ms. Bills based her report on information that she received from Mrs. Meyer. [FF 19] As a result of the reports to APS and RCS, a referral was made to local law enforcement. The basis of the referrals was Mrs. Meyer's reports to complainants that Brian had reported Tyler humping on Tommy.

34. *That Bills made her APS report 43 minutes after she spoke with Nancy. FF 14*

She made her report about 43 minutes after she spoke to Mrs Meyer.

35. *That the critical incident report Ms. Bills filed was based on what Nancy had told her. FF15*

April 16, 2009, Ms. Bills filed a critical incident report with the North Sound Mental Health Administration based on what Mrs. Meyer had told her.

36. *That Nancy told Devora Bills Tyler had raped Tommy. FF 15, R529*

[See previous entry.] [On the Critical Incident report, at AR 529, Bills checked the box for "Rape" to describe Tyler's conduct.]

37. *That Nancy told Devora Bills Tyler had been caught "dry humping" Tommy. FF 15, R530*

[See entry for Assignment 35.] [On the Critical Incident report, at AR 530, Bills wrote, "[Nancy] reported that Tyler had been caught 'dry humping' [Tommy]."]

38. *That Nancy told Devora Bills Tyler had touched Tommy's groin area through his pants. FF 15*

[See entry for Assignment 35.] [On the Critical Incident report, at AR 530, Bills wrote, "Tyler had also been reported to touch through his pants in the groin area."]

39. *That Nancy told Devora Bills Tyler had done similar sexual things to another resident. FF 15*

[See entry for Assignment 35.] [On the Critical Incident report, at AR 530, Bills wrote, "[Nancy] reported that a similar incident took place with another roommate".]

40. *That Nancy told anyone that Tyler had groped Tommy through his clothing. FF 17*

Mrs. Meyer . . . said Tyler had groped Tommy through his clothing . . .

41. *That Nancy told anyone that Tyler had rubbed his genitals against Tommy. FF 17*

Mrs. Meyer . . . said Tyler . . . had rubbed his genitals against him.

42. *That Fullerton heard the word “humped” from Nancy. FF 17*

On April 14, 2009, Mrs. Meyer called Mr. Fullerton . . . He heard the word “humped” from Mrs. Meyer.

43. *That Tim ever used the term “dry humping”. FF 17, 18*

[FF 17] Mr. Meyer used the term “dry humping” to indicate what Tyler had done to Tommy. [FF 18] When Mr. Fullerton asked them to clarify what had happened, Mr. Meyer told him it was dry humping. “Dry humping” was Mr. Meyer’s phrase.

44. *That Fullerton learned from Nancy or Tim that Tyler was a perpetrator. FF 17*

“Both perpetrator and victim are clothed at the time of the incident and no bodily penetration occurred. The victim did not consent to this act. The victim claims that the perpetrator — the victim claims that the perpetrator did not use his hands to touch his genital area, but rather rubbed him with his hips.” That information I got from — on the 15th clarifying what had taken place with Nancy [Mrs. Meyer] and Tim [Mr. Meyer].

45. *That Fullerton learned from Nancy or Tim that Tyler touched the genital area of Tommy in a way that could be described as “mock intercourse”. FF 17*

Provider was originally informed of the incident by their AFH resident and the victim at the end of February. Description of the incident. Client one, Tyler, allegedly touched the genital area of client two in the home in attempted mock intercourse with him in some fashion.” “Mock intercourse” is my language.

46. *That Fullerton learned from Nancy or Tim that Tommy was a victim. FF 17*

[See previous entry.]

47. *That Fullerton learned from Nancy or Tim that Tommy said Tyler had touched his genital area (in any manner). FF 17*

[See previous entry.]

48. *That Fullerton’s incident report (insofar as it was a mandatory report) was based on what Nancy or Tim had told him. FF 18*

Mr. Fullerton contacted the CRU, and filled out an incident report based on what he was told by the Meyers.

49. *That Det. Hagglund ever told Nancy what had specifically been reported. FF 19*

On April 21, 2009, Detectives Hagglund and Meyer [no relation] interviewed Nancy and Tim Meyer at Pathfinder House about the incident which had been reported to APS and RCS.

50. *That Det. Hagglund ever told Tim what had specifically been reported. FF 19*

[See previous entry.]

51. *That Det. Meyer interviewed or even spoke to Nancy. FF 19*

[See previous entry.]

52. *That Det. Meyer ever told Tim what had specifically been reported. FF 19*

[See previous entry.]

53. *That Nancy confirmed Tyler had been caught humping Tommy. FF 19*

Mrs. Meyer essentially confirmed that Tyler had been caught “humping” Tommy

54. *That Nancy confirmed Tyler owned up to humping Tommy when confronted. FF 19*

Mrs. Meyer essentially confirmed that Tyler had been caught “humping” Tommy and that he “owned up to it” when confronted by Mr. Meyer and Ms. Brooks.

55. *That Nancy told Hagglund that Brian said he saw Tyler humping Tommy. FF 19*

Mrs. Meyer told Detective Hagglund that Brian said that he saw Tyler humping on Tommy.

56. *That Brian was aware of an incident between Tyler and Tommy. FF 19*

The detectives tried to interview Brian but he said he didn’t remember the incident.

57. *That Devora Bills had obtained reportable information from Nancy Meyer. FF 19*

Detective Hagglund spoke to a person at Sunrise Services. He learned that the information they had obtained was not from a client, but from Mrs. Meyers. Ms. Bills was asked by Detective Hagglund why she had failed to report the incident.

58. *That Hagglund did not interview any resident. FF 19*

The detectives tried to interview Brian but he said he didn't remember the incident. . . . The detectives did not interview Tyler or any other resident.

59. *That the reason given by Det. Hagglund for ending the law enforcement investigation was absence of "clear evidence". FF 19*

The law enforcement investigation ended because there was not clear evidence of sexual assault.

60. *That the complaint from Tyler's father was the second complaint. FF 21*

The second complaint came in April 2009 from Tyler's father Joel concerning how his son was being treated after the incident between Tyler and Tommy.

61. *That Nancy testified at 8:20–21 she could not recall whether Hochreiter asked her questions [on April 23]. FF 23*

At the hearing, Mrs. Meyer could not recall whether Ms. Hochreiter asked her questions. n. 78: Transcript Vol. 8 p. 20-21.

62. *That there is any implication or inference that Nancy testified dishonestly as to having been interviewed by Hochreiter. FF 23*

Between them, they interviewed Mrs. Meyer, Mr. Meyer, Ms. Brooks, three of the residents (Tyler, Brian, and Mike) and Tyler's father. At the hearing, Mrs. Meyer could not recall whether Ms. Hochreiter asked her questions.

63. *That Kerri said to Ms. Crawford that "Tyler admitted to her that he rubbed his genitals against Tommy in mock intercourse." FF 25*

As to the reported incident, Ms. Brooks said that Tyler admitted to her that he rubbed his genitals against Tommy in mock intercourse.

64. *That Kerri told Ms. Crawford that Brian said "an incident was occurring downstairs". FF 25*

Ms. Brooks told Ms. Crawford that Brian had come upstairs and told her an incident was occurring downstairs.

65. *That after Brian came upstairs Kerri "called Tommy up from downstairs". FF 25*

She went over and called Tommy up from downstairs and asked Tommy what had occurred.

66. *That after Brian came upstairs Kerri "asked Tommy what had occurred." FF 25*

[See previous entry.]

67. *That Ms. Brooks was told: "Tyler's humping Tommy." FF 25*  
Ms. Brooks was told: "Tyler's humping Tommy."
68. *That Kerri said to Ms. Crawford: "Tyler's humping Tommy." FF 25*  
[See previous entry.] The word "humping" was Ms. Brooks' word, not Ms. Crawford's word.
69. *That Kerri called Tyler upstairs. FF 25*  
Ms. Brooks then called Tyler upstairs
70. *That Tyler asked Kerri, "Did Tommy rat me out?" FF 25*  
and Tyler's comment to her was "did Tommy rat me out?"
71. *That Kerri told Tyler that something was inappropriate. FF 25*  
Ms. Brooks told Tyler that it was inappropriate,
72. *That Kerri told Tim that anything sexual had occurred. FF 25*  
and then she told Mr. Meyer what had happened.
73. *That Kerri had any basis after talking with Tommy, Tyler and Tim on February 24, 2009 to believe anything sexual had occurred between Tyler and Tommy. FF 25*  
Ms. Crawford asked, Ms. Brooks why she did not report the incident to the CRU 1-800 number. Ms. Brooks responded that both men were fully clothed, so she did not think it constituted sexual assault.
74. *That Kerri stated on her own and not in answer to Ms. Crawford's question as to why she did not feel whatever Brian had deemed inappropriate had been a sexual assault. FF 25*  
[See previous entry.]
75. *That Kerri used the term "dry humping". FF 25*  
Ms. Brooks did not use the words "mock intercourse" — she used the words "dry humping."
76. *That Kerri told Ms. Crawford about any sexual abuse. FF 25*  
[See previous two entries.]
77. *That Tim found out about any sexual activity between Tyler and Tommy. FF 26*  
Ms. Hochreiter interviewed Mr. Meyer at the adult family home. He told her that when he found out about the incident between Tyler and Tommy he got pissed.

78. *That when Tim got “pissed” it was about sexual activity. FF 26*

[See previous entry.]

79. *That Tim thought or said to Ms. Hochreiter that Tyler had done anything sexual to Tommy. FF 26*

Mr. Meyer told Ms. Hochreiter that he did not want to report what Tyler had done because he felt that a report of sexual misconduct would create problems for Tyler in the future,

80. *That Tim thought Tyler had done anything reportable. FF 26*

[See previous entry.]

81. *That the behavior by Tyler that Tim told him he would not tolerate in the home and that was “complete bullshit” was sexual misconduct rather than mockery of Tommy. FF 26*

he thought that he had dealt with the incident by telling Tyler that such behavior would not be tolerated in their home. He said he told Tyler: “This is complete bullshit.”

82. *That Tim used the term “dry humping” with Ms. Hochreiter. FF 26*

Mr. Meyer used the words “dry humping.”

83. *That Tyler disclosed any sexual incident. FF 26*

He told Ms. Hochreiter that he had taken protective actions after Tyler disclosed the dry humping incident.

84. *That protective actions taken by Tim and Nancy had anything to do with sexual misconduct. FF 26*

[See previous entry.]

85. *That Tyler’s impulsive actions that Tim told him had to stop were sexual in nature. FF 26*

he told Tyler that his impulses had to stop

86. *That any talk Tim had with “the guys” about inappropriate touching was in response to any incident of sexual touching between residents and/or Tommy. FF 26*

[See previous two entries.] he had a talk with “the guys” about inappropriate touching.

87. *That any sexual touching occurred between residents and/or Tommy. FF 26*

[See previous entry.]

88. *That Tim ever discussed with or showed Ms. Hochreiter the concept of “dry humping”. FF 26*

Mr. Meyer did not tell Ms. Hochreiter what he meant by dry humping, but he showed her. Dry humping as he used it is thrusting the pelvis forward as if in intercourse, and that is what Mr. Meyer told Ms. Hochreiter that Tyler had done to Tommy. He demonstrated, including bodily contact with another person.

89. *That Tim demonstrated “dry humping” rather than the dance called “the hump”. FF 26*

[See previous entry.]

90. *That Tim told Hochreiter that Tyler had “dry humped” Tommy. FF 26*

[See previous entry.]

91. *That Tim’s demonstration of the dance “the hump” included any contact with another person. FF 26*

[See previous entry.]

92. *That Ms. Hochreiter never heard anyone mention Elvis in her investigation of Pathfinder House. FF 26*

Ms. Hochreiter never heard anyone mention Elvis.

93. *That Tim said or implied Tyler’s impulses were sexual. FF 27*

Mr. Meyer said that Tyler told him he got these impulses and couldn’t help acting on them.

94. *That either Tim or Kerri told Ms. Hochreiter there was physical contact between Tyler and Tommy. FF 27*

Both Mr. Meyer and Ms. Brooks told Ms. Hochreiter that there was physical contact between Tommy and Tyler.

95. *That Tim’s demonstration of an erection with his finger and saying Tommy had never had an erection was proof that Tim was talking about a sexual incident between Tyler and Tommy when Tim was responding to and refuting Ms. Hochreiter’s claim that something sexual had occurred. FF 27*

Mr. Meyer’s demonstration of an erection (using his finger) that Mr. Meyer and Ms. Brooks were talking about a sexual instance.

96. *That Kerri was present when Tim demonstrated an erection with his finger or when he demonstrated the dance “the hump” and that thus she knew there was sexual contact between Tyler and Tommy. FF 27*

[See previous entry.]

97. *That Nancy learned from Tim and Kerri something sexual had occurred between Tyler and Tommy when she was in California. FF 27*

Mrs. Meyer told Ms. Hochreiter she learned of the incident when she returned from Disneyland

98. *That any earlier statements of Nancy conflicted with her testimony that nothing sexual had happened between Tyler and Tommy. FF 27*

[See previous entry.] At the hearing Mrs. Meyer testified that there was nothing going on. This conflicts with her earlier statements

99. *That Tyler’s statements to Ms. Hochreiter were reliable when he was known to be a liar and had a motive to defend himself from Ms. Bills’ accusation that he had raped Tommy. FF 29*

When Ms. Hochreiter interviewed Tyler, he told her that Tommy continued to come downstairs and come into his room. He also told her that he was not the instigator. He told her that Tommy did lap dances on him and nobody would listen to him. Tyler used the term “lap dance.”

100. *That, if any thing called “lap dances” occurred, Nancy, Tim or Kerry had ever been told about them. FF 29*

[See previous entry.]

101. *That the term “lap dance” meant the same thing to Tyler as it did to Ms. Hochreiter. FF 29*

[See previous entry.]

102. *That Tyler meant the term “lap dance” to be sexual behavior. FF 29*

[See previous entry.]

103. *That there was unwanted sexually inappropriate behavior in the home. FF 29*

According to Ms. Hochreiter, the same problems existed if Tommy was the instigator because there was unwanted sexually inappropriate behavior going on in the home.

104. *That an obligation to report suspected abuse arose when Brian came upstairs and said there was something going on in the basement. FF 30*

Mr. Meyer and Ms. Brooks would have had an obligation to report as soon as Brian came upstairs and told Ms. Brooks that there was something going on in the basement.

105. *That Nancy said Tyler “preys on vulnerable people out in the community.” FF 30*

Mrs. Meyer told her that Tyler “preys on vulnerable people out in the community,”

106. *That Tommy wearing boxer shorts, constantly adjusting himself, touching himself and his shorts describes sexual behavior. FF 31*

Ms. Hochreiter also interviewed resident Brian. He told her that Tommy can be sexually inappropriate. He said Tommy would come downstairs wearing boxer shorts, and was constantly adjusting himself, touching himself and his shorts.

107. *That Tommy exposed his genitals to Brian due to the way he wore his boxer/basketball shorts. FF [31]*

There was conflicting testimony regarding whether Tommy wore boxer shorts, or basketball shorts. It does not matter which he wore, what matters is that Tommy was exposing his genitals to Brian, and Brian did not want to see that. He would sit on a chair in Brian’s room and his shorts would gape open and Brian would see things he did not want to see.

108. *That if Tommy exposed his genitals due to the way he wore his boxer/basketball shorts, it was not sexual nor intentional. FF [31]*

[See previous two entries.] Ms. Hochreiter testified that “sexually inappropriate” were Brian’s actual words.

109. *That if Tommy exposed his genitals by the way he wore his shorts was communicated to Nancy, Tim or Kerry. [FF 31]*

[Implicit in FF 31]

110. *That if Tommy was incapable of consenting to any sexual contact, FF 7, he was not capable of sexual behavior. FF 31*

He told her that Tommy can be sexually inappropriate. He said Tommy would come downstairs wearing boxer shorts, and was constantly adjusting himself, touching himself and his shorts. . . . Ms. Hochreiter had three residents describe to her the sexual behavior that occurred more than once

111. *That Brian or Mike described to Ms. Hochreiter what a lap dance was so that she knew what they meant. FF 31*

“Lap dance” were Michael’s actual words. According to Michael’s father, Michael had spent a lot of time in bars in his past, and he knew what a lap dance was.

112. *That Brian’s thinking Tommy’s touching himself was inappropriate meant Tommy’s actions were sexual. FF 32*

Brian also told his mother that Tommy would dance around and touch himself-- touch his privates. Brian felt that Tommy’s touching himself was inappropriate.

113. *That Nancy and/or Tim believed Tyler had initiated any sexual action toward Tommy. FF 33*

Tyler told him that he did not initiate the sexual incident that occurred with Tommy. And that Mr. and Mrs. Meyer would not believe him.

114. *That Nancy told Hochreiter different things on different days. FF 34*

The adults in the home (Mrs. Meyer, Mr. Meyer, and Ms. Brooks) were telling Ms. Hochreiter different stories on different days.

115. *That Nancy told Ms. Hochreiter that Tyler had been behaving in sexually inappropriate ways since two weeks after he came to the facility. FF 34*

Mrs. Meyer first told Ms. Hochreiter that Tyler had been behaving in sexually inappropriate ways since two weeks after he came to the facility.

116. *That Tim and Kerri told Hochreiter different things on different days. FF 34*

The adults in the home (Mrs. Meyer, Mr. Meyer, and Ms. Brooks) were telling Ms. Hochreiter different stories on different days.

117. *That Nancy and Tim told Ms. Hochreiter they did not keep sugar on the table. FF 35*

Mr. and Mrs. Meyer told Ms. Hochreiter that they did not keep sugar on the table, because the residents would eat it all of the time if it was out.

118. *That Nancy and Tim told Ms. Hochreiter they only allowed one glass of milk at breakfast. FF 35*

They told her that the residents have one glass of milk in the morning because their drinking of milk was out of control.

119. *That there is ample evidence in the record that food was unreasonably restricted by the appellants. FF 35*

There is ample evidence in the record, corroborated by consistent and similar reports from current and former residents, as well as their family members, to support a finding that access to food was unreasonably restricted by the Appellants.

120. *That raising the voice is yelling. FF 36*

Ms. Brooks testified that she raised her voice to speak with Tyler in order to get his attention. Raising her voice is yelling.

121. *That Kerri told Brian he was living in Mr. and Mrs. Meyer's house. FF 36*

She also testified that she explained to Brian that he was living in Mr. and Mrs. Meyers' house.

122. *That the developmentally disabled adults were reliable reporters or witnesses. FF 36, 37*

[Implicit in FF 36, 37]

123. *That developmentally disabled adults were more reliable reporters than Nancy, Tim and Kerri, as well as professional Jeannie Tull. FF 37*

[Implicit in FF 37]

124. *That Tim "got in scuffles" with Mike and "does not know how to calm himself." FF 37*

Michael told Ms. Hochreiter that he got into scuffles with Mr. Meyer and Ms. Brooks. "Scuffles" was the word used by Michael. He said that Mr. Meyer gets very upset and does not know how to calm himself.

125. *That Ms Hochreiter wrote the SOD on April 30, 2009. FF 38*

On April 30, 2009, the Department completed its adult family home licensing investigation and Ms. Hochreiter wrote a 7-page Statement of Deficiencies (SOD).

126. *In insinuating that Nancy was not directed by Ms. Crawford to call the Department hotline and the CRU, as well as to relieve Tim and Kerri of all duties in the AFH. FF 39*

Mrs. Meyer called the Department's hotline later that day reporting an allegation of non-consensual touching involving a resident. She also made a separate call to the CRU to report that Mr. Meyer and Ms. Brooks were verbally abusing residents of the home. At the hearing she claimed that she did this because Ms. Crawford told her to do so.

127. *That Nancy did not testify at the hearing that she was aware of allegations involving sex when Ms. Crawford advised her to call the CRU. FF 40*

She could not recall if Ms. Crawford advised her to report anything about sex. Yet, Mrs. Meyer called the CRU on April 30, 2009 to report non-consensual touching involving a resident. Her report to the CRU is more credible than her testimony at hearing.

128. *That Nancy admitted in Ex 12 that Tyler rubbed his private parts on her son Tommy. FF 44*

On May 12, 2009, Mrs. Meyer sent a letter to the IDR program manager requesting IDR in which she admitted that the incident that occurred in their home on February 23, 2009, “most likely” involved resident Tyler rubbing himself, “including his private parts,” on her son Tommy. She wrote that the incident was reported to Ms. Brooks by resident Brian.

129. *That “this issue” R557 was sexual abuse rather than impulsive behavior. FF 44*

[See previous entry.]

130. *That the meeting with the mental health therapist was not planned or “in the process” before Nancy went to California. FF 44*

She stated: “After we became aware of this issue, we made an appointment with Sunrise Community Mental Health to see if Tyler would qualify for mental health services, and made an appointment for him.” n. 155: At the hearing Mrs. Meyer testified that Tyler’s meeting with the mental health therapist was set before she went to Disneyland. Transcript Vol. 8 p. 58. This is in direct conflict with what she wrote in her letter which is Exhibit 12.

131. *That Nancy’s statement about future reporting was based on anything other than the SOD, Ex 7, 8. FF 44*

Mrs. Meyer wrote: “It is my opinion that neither abuse nor criminal assault occurred, however this incident does constitute inappropriate behavior between residents/household members. . . .However, in the future we will report matters of this nature to APS.

132. *That Nancy and Tim did not take steps after February 24, 2009 to keep Tommy upstairs and not allow Tommy to be alone with Tyler. FF 44*

Mrs. Meyer also wrote: “From the time we became aware of this incident, we also took vigorous steps to separate Tommy from Tyler until Tyler moved out.” Mr. Meyer testified at the hearing that they took no special steps ‘after February 23, 3009, as a result of the incident. Mrs. Meyer also testified to this. This directly contradicts what she wrote in Exhibit 12.

133. *That what Nancy wrote in Ex 12 was directly contradicted by the testimony of Tim and Nancy. FF 44*

[See previous entry.]

134. *That Nancy did not testify as to which incident she discussed with Devora Bills. FF 45*

The incident was brought up during his appointment with Devora Bills, Mental Health Therapist.” When asked by her attorney what “incident” she was talking about, Mrs. Meyers answered: “I don’t recall.”

135. *That Tim yelled at Mike when Mike had soiled his bed. FF 46*

This discussion was animated, and my husband is a big man, hard of hearing, and speaks loudly. You need to hear him to understand that he is loud without yelling.”

136. *That emphatic, animated, loud speaking is yelling. FF 46*

Emphatic, animated, loud speaking is yelling.

137. *That Tyler told Ms. Morrison the truth about him and Tommy and that Tommy did anything to Tyler. FF 50*

Tyler told Ms. Morrison that Tommy had been the instigator of the incident in February, and said that Tommy had pulled him down on the ground and started humping on him and wouldn’t let him up for some time.

138. *That Ms. Morrison’s leading questions and demonstration did not give Tyler ideas of what to say to her. FF 50*

Ms. Morrison asked for clarification of what Tyler meant by “humping.” She said: “Tyler, when you say humping, do you mean that Tommy came up to you, grabbed your body with his hands and held it against you, and thrust into you like this?” Ms. Morrison had her arms out and gyrated her body, including her pelvis. And Tyler said “yes.”

139. *That there is basis in the record that Tyler said Tommy snuck up behind him and grabbed him on any other occasion than in response to Ms. Morrison’s leading questions and demonstration. FF 50*

Tyler said that on at least one occasion, probably more than one occasion, Tommy had snuck up behind him and started humping him.

140. *That Ms. Morrison's reports or the RCPP panel findings were accurate as to the appellants. FF 51*

At the conclusion of her investigation, Ms. Morrison wrote three reports summarizing the results of her investigation regarding Mrs. Meyer, Mr. Meyer, and Ms. Brooks, and an additional finding of mental abuse against Ms. Brooks. These reports were submitted to a RCPP panel on September 28, 2009, which recommended findings of neglect of vulnerable adults against Mr. and Mrs. Meyer, and findings of neglect and mental abuse against Ms. Brooks.

141. *That it is more likely than not that [Nancy] made the statements attributed to her by Ms. Morrison. FF 52*

In her testimony at the hearing, Mrs. Meyer denied making most of the statements attributed to her by Ms. Morrison in Exhibit Dept. 25. It is more likely than not that she made the statements attributed to her by Ms. Morrison. Tyler left Pathfinder House at the end of April. Mrs. Meyer received the Statement of Deficiencies on May 7. Mrs. Meyer testified that she did not have any knowledge that there was an allegation of sexual contact between Tommy and Tyler until she received the Statement of Deficiencies. Yet she told Department representatives that she kept Tyler and Tommy apart after she learned of the incident. This statement only makes sense if Mrs. Meyer learned of the allegations before Tyler left the home.

142. *That Nancy kept Tyler and Tommy apart because she believed sexual contact had occurred between Tyler and Tommy on February 24, 2009. FF 52*

Mrs. Meyer testified that she did not have any knowledge that there was an allegation of sexual contact between Tommy and Tyler until she received the Statement of Deficiencies. Yet she told Department representatives that she kept Tyler and Tommy apart after she learned of the incident. This statement only makes sense if Mrs. Meyer learned of the allegations before Tyler left the home.

143. *That Nancy was not aware before Tyler left the home of Tyler mocking Tommy by "helping" him dance. FF 52*

[See previous entry.]

144. *That Nancy learned of any sexualized or reportable behavior between Tyler and Tommy. FF 54*

when Mrs. Meyer learned of the sexualized behavior between Tyler and Tommy, she did not report it to the Complaint Resolution Unit. . . . allegation of inappropriate sexual conduct including: immediately upon learning about it

145. *That Nancy did not make an effort to assure that all of the clients in her home were safe from any kind of sexual predatory behavior. FF 54*

She did not make an effort to assure that all of the clients in her home were safe from any kind of sexual predatory behavior.

146. *That Nancy demonstrated a pattern of neglect to five vulnerable adults who were residents at the home. FF 54*

Between about February 23, 2009 and April 30, 2009 you demonstrated a pattern of neglect to five vulnerable adults who were residents at the home.

147. *That Nancy knew of sexual abuse and did not appropriately report it. FF 54*

You failed over time to take any of several opportunities to notify the authorities of an allegation of inappropriate sexual conduct including: immediately upon learning about it

148. *That hearing an investigator's allegations is necessarily grounds to have a reportable obligation. FF 54*

. . . when told of your obligation by a mental health counselor, when told the incident was reportable by a department resource case manager.

149. *That Nancy had any need of putting protections in place concerning unwanted sexual contact or to ask for help from department staff so as to not neglect the vulnerable adults' health, wellbeing and safety. FF 54*

For over two months you demonstrated a pattern of neglecting the vulnerable adults' health, wellbeing and safety by not putting protections in place concerning unwanted sexual contact or asking for help from department staff.

150. *That Tim neglected vulnerable adults. FF 55*

Mr. Meyer was also found to have neglected vulnerable adults.

151. *That Tim learned that there had been a sexualized or reportable event in his home on February 23, 2009. FF 55*

Mr. Meyer learned that there had been a sexualized event in his home on February 23, 2009

152. *That Tim needed to implement interventions to protect the residents from potential sexual behavior. FF 55*

And no consistent implementation of interventions to protect the residents from further potential sexual behavior was made.

153. *That Tim demonstrated a pattern of neglect to five vulnerable adults who were residents at the home. FF 55*

Between about February 23, 2009 and April 30, 2009 you demonstrated a pattern of neglect to five vulnerable adults who were residents at the home.

154. *That Tim knew of sexual abuse and did not appropriately report it. FF 55*

You failed to take any of several opportunities to report an allegation of inappropriate sexual contact to the Department's complaint hotline and to law enforcement per mandatory reporting law

155. *That any inaction by Tim left the vulnerable adults at potential risk of abuse. FF 55*

This inaction left the vulnerable adults at potential risk of abuse.

156. *That Kerri neglected and abused vulnerable adults. FF 56*

Ms. Books was found to have neglected and abused vulnerable adults.

157. *That Kerri learned that there had been a sexualized or reportable event in his home on February 23, 2009. FF 56*

Ms. Brook's failure to report when she became aware of the allegation on sexual abuse on February 23, 2009.

158. *That Kerri was really nasty to everyone. FF 56*

The finding of verbal abuse was based on Tyler telling her that Ms. Brooks Was really nasty to everyone, including him.

159. *That Kerri chastised Michael about his laundry, and expressed anger at Tyler when he tried to help Michael with his laundry. FF 56*

That he saw Ms. Brooks chastise Michael about his laundry, and express anger at Tyler when he tried to help Michael with his laundry.

160. *That Kerri called Tyler a liar. FF 56*

That Ms. Brooks called Tyler a liar.

161. *That when Brian dropped something and it broke, Kerri became very angry at him and told him to go downstairs and followed him downstairs and continued to criticize him. FF 56*

Brian told Ms. Morrison that when he dropped something and it broke, Ms. Brooks became very angry at him and told him to go downstairs. And she followed him downstairs and continued to criticize him.

162. *That Kerri called Brian a baby when he cried. FF 56*

When he cried, she called him a baby.

163. *That Kerri yelled at Brian and scares the wits out of him. FF 56*

Brian told Ms. Morrison that Ms. Brooks yelled at him, and that she “scares the wits out of me.”

164. *That Brian’s statements to Ms. Morrison about Kerri were spontaneous and not the result of leading questions or mistaken assumptions by Ms. Morrison. FF 56*

[Implicit in FF 56 in three prior entries.]

165. *That Kerri demonstrated a serious disregard the health, well-being and safety of five vulnerable adults who lived at the adult family home. FF 56*

Between about February 23, 2009 and April 30, 2009 you demonstrated a serious disregard for the health, well-being and safety of five vulnerable adults who lived at the adult family home

166. *That Kerri ever became aware of inappropriate sexual conduct in the home. FF 56*

she became aware of the allegation on sexual abuse on February 23, 2009.

167. *That any inaction by Kerri left the vulnerable adults at potential risk of abuse. FF 56*

The inaction left the vulnerable adults at potential risk of abuse.

168. *That sometime between July 1, 2008 and April 30, 2009, Kerri verbally and mentally abused three vulnerable adults by ridiculing them and yelling at them. [FF 56]*

Sometime between July 1, 2008 and April 30, 2009, you verbally and mentally abused three vulnerable adults by ridiculing them and yelling at them.

169. *That Tyler had no motive to lie in light of his lying when he is accused of something and when he had been falsely accused of rape by his own therapist. FF 58*

If Tyler told her that someone touched him inappropriately, she would believe him.

170. *That Tommy had been or had told anybody that he had been touched sexually inappropriately. FF 58*

If Tommy told her that someone touched him inappropriately, she would believe him.

171. *That Tommy had touched Tyler sexually without consent. FF 58*

If Tyler touched Tommy sexually without consent, that would meet Ms. Tull's definition of a sexual assault.

172. *That there was any humping, lap dances, or rubbing of one's genitals on another by anyone toward any resident of Pathfinder AFH. FF 58*

If a resident in an adult family home told her that another resident was being sexually inappropriate, she would report that. If someone told her that there was humping going on she would report that. If a resident told her that a resident was doing lap dances to another resident she would report that. If a resident told her that a resident was rubbing his genitals on another resident, she would report that.

173. *That any sexually inappropriate acts occurred on February 23, 2009. FF 59*

Appellants denied making any statements showing that they were aware that something of a sexual nature had occurred on February 23, 2009

174. *That hearsay by Ms. Silva who did not testify can be the a for any finding in the hearing. FF 59*

This conflicts with earlier statements made by the Appellants to others, including Sunrise Services employees Heather Silva

175. *That appellants made statements to Heather Silva, Devora Bills, Robbie Hochreiter, Roberta Crawford, and Skagit County Detective Ben Hagglund that they were aware of any sexually inappropriate conduct in the AFH. FF 59*

they concluded that nothing significant appeared to have happened between Tyler and Tommy, at least nothing more than the type of disagreements that they often had. This conflicts with earlier statements made by the Appellants to others, including Sunrise Services employees Heather Silva and Devora Bills, Department investigators Robbie Hochreiter, and Roberta Crawford, and Skagit County Detective Ben Hagglund.

176. *That appellants' stories ever changed. FF 59*

After Mrs. Meyer received the Statement of Deficiencies, the Appellants' stories began to change.

177. *That Heather Silva, Devora Bills, Robbie Hochreiter, and Roberta Crawford accurately heard and interpreted what the appellants said to them. FF 59*

This conflicts with earlier statements made by the Appellants to others, including Sunrise Services employees Heather Silva and Devora Bills, Department investigators Robbie Hochreiter, and Roberta Crawford

178. *That Tommy doing a dance called “the hump” and doing Elvis impersonations was a new topic after the investigations began. FF 59*

They also began to talk about Tommy doing a dance called “the hump” and doing Elvis impersonations. Neither a dance called “the hump” nor Elvis impersonations were given as explanations for Tommy’s conduct in the earlier stages of the Department’s investigation.

179. *That the appellants did not realize the need to explain their use of the term “the hump” of Tommy’s Elvis impersonations due to the gross distortions and misunderstandings of the investigators. FF 59*

By July 9, 2009, when they were interviewed by Ms. Morrison, and in their testimony at the hearing, the Appellants denied making any statements showing that they were aware that something of a sexual nature had occurred on February 23, 2009, and maintained that the statements attributed to them by others were either never made or were gross distortions of what they had said.

180. *That the totality of the evidence supports a finding that the statements attributed to the Appellants by Department witnesses were made and were accurately documented. FF 60*

Based upon the totality of the evidence, he determined that the evidence supports a finding that the statements attributed to the Appellants by Department witnesses were made and were accurately documented.

181. *That the Review Judge made an independent review of the evidence. FF 60*

The Review Judge agrees with this assessment, based on her independent review of the evidence, and giving due consideration to the ALJs opportunity to view the demeanor of the witnesses.

182. *That earlier misunderstood or misquoted statements are more reliable than later statements made when all the facts had been revealed to the Appellants. FF 61*

The statements made by the Appellants were not hearsay. Some were made closer in time to the incident, some were made during the time period when the Department alleges the Appellants should have reported contact between Tommy and Tyler, and these statements were more credible than their later, conflicting, testimony.

183. *That there was an instance of sexual contact between Tommy and Tyler on February 23, 2009, or that Mr. Meyer and Ms. Brooks learned of it that day. FF 61*

As told by the Appellants at the outset of the investigation, there was an instance of sexual contact between Tommy and Tyler on February 23, 2009. Mr. Meyer and Ms. Brooks learned of it that day.

184. *That Mrs. Meyer scheduled a counseling appointment for Tyler in response to an incident of inappropriate sexual conduct. FF 61*

In response to the incident, Mrs. Meyer scheduled a counseling appointment for Tyler

185. *That Tim made all three responses listed in FF 26. FF 61*

Mr. Meyer made the three responses outlined in Finding of Fact 26

186. *That Kerri told Heather Silva of any incident of inappropriate sexual conduct in the AFH. FF 61*

Ms. Brooks told Heather Silva Of the incident on March 27, 2009.

187. *That the Appellants had determined on a course of denying that any incident of inappropriate sexual conduct occurred. FF 61*

the Appellants had determined on a course of denying that the incident occurred.

188. *That appellants had to deny statements they made to others verbally and in writing. FF 61*

This meant that they had to deny statements they made to others verbally and in writing.

189. *That appellants intentionally testified falsely or incorrectly. FF 61*

By the time of the RCCP investigations in July, the Appellants had determined on a course of denying that the incident occurred. This meant that they had to deny the follow-up precautions they made. This meant that they had to deny statements they made to others verbally and in writing. At hearing, this meant that they “forgot” a number of conversations, even while “remembering” contemporaneous conversations.

190. *That the appellants’ initial statements were at odds with their later statements. FF 61*

Their initial statements, both verbal and written are more credible than their later denials.

## ASSIGNMENT OF ERROR 9

9. That “the” or “this” sexual “incident” or “contact”, as stated in FF 7, and also in other places as “it”, “this act”, etc., occurred. FF 5, 7, 8, 9, 10, 11, 13, 14, 17, 18, 19, 21, 23, 25, 26, 27, 30, 34, 37, 44, 45, 47, 49, 50, 52, 54, 55, 56, 61.

### **Material Portions of Text (Findings of Fact) for AE 9**

5. The incident which is at the center of this case took place on Monday, February 23, 2009. . . .

7. . . . The contact did not appear to involve any touching with the hands or any contact under the clothing or skin-to-skin. The contact does not appear to have been forced, although the Appellants testified that Tommy could not consent to any sexual contact. . . . It is also not clear whether this type of incident was an isolated incident or had happened between them in the past. Both Mrs. Meyer and Ms. Brooks made statements to other witnesses, such as Ms. Bills and Ms. Hochreiter that it had occurred before, although it was not clear what exactly had occurred before.

8. Neither Mr. Meyer nor Ms. Brooks reported this incident to the Department’s hotline, to anyone who worked for the Department or with the residents, or to law enforcement. . . .

9. Mrs. Meyer learned of the incident when she returned home on February 27, 2009, and talked to her husband and Ms. Brooks about how things had gone in her absence. . . .

10. Mrs. Meyer did not report the incident to the Department’s hotline, or to Adult Protective Services (APS), or law enforcement until April 30, 2009.

11. . . . During the part of the interview dealing with possible criminal conduct, Ms. Brooks told Ms. Silva: “Tyler manipulated another person into sexual unsavory things -- he is ‘humping’ him. We don’t feel comfortable with other [or others] being alone with Tyler.” During her testimony, Ms. Brooks denied making this statement, but it is more likely than not that she did make this statement.

13. . . . During the part of the interview dealing with possible criminal conduct, Ms. Brooks told Ms. Silva: “Tyler manipulated another person into sexual unsavory things -- he is ‘humping’ him. We don’t feel comfortable with other [or others] being alone with Tyler.” During her testimony, Ms. Brooks denied making this statement, but it is more likely than not that she did make this statement. . . . Ms. Bills thought Mrs. Meyer had said that she walked in on Tommy and Tyler while the contact was taking place. . . . She notes Mrs. Meyer’s words: “[Tyler] inappropriately touched members of the household.” Ms. Bills told Mrs. Meyer that it was her duty as a mandated reporter to report this to the authorities. Mrs. Meyer said that since the February incident they had not allowed Tommy to be alone with Tyler. She also said: He hasn’t done it with the guys who are bigger or more functioning than him.” . . .

14. Shortly after the session, Ms. Bills reported the incident to Adult Protective Services, which forwarded the report to Residential Care Services. . . . She also told Mrs. Meyer she would be reporting the incident and that Tyler would, as a result, be removed from her home pending an investigation.

17. Mrs. Meyer mentioned an incident to him, and said that the incident occurred between Tyler and her son Tommy. The incident described was that Tyler had humped Tommy with their clothes on. . . .

. . . the incident was described by the adult family home” provider and mental health therapist by a telephone interview during separate calls on April 14,2009. The incident was reported after the perpetrators first visit with a mental health therapist on 4-14. Provider was originally informed of the incident by their AFH resident and the victim at the end of February. Description of the incident. . . . Client one, Tyler, allegedly touched the genital area of client two in the home in attempted mock intercourse with him in some fashion.” “Both perpetrator and victim are clothed at the time of the incident and no bodily penetration occurred. The victim did not consent to this act.

18. . . . Mrs. Meyer told Mr. Fullerton that the incident between Tyler and Tommy happened in February. He was surprised to learn that it did not happen a day or two prior to when Mrs. Meyer told him about it. She also told him that after the incident they would not leave Tommy alone with Tyler. . . .

19. . . . On April 21, 2009, Detectives Hagglund and Meyer [no relation] interviewed Nancy and Tim Meyer at Pathfinder House about the incident which had been reported to APS and RCS. . . . She denied that there had been any similar incidents in the past. The detectives tried to interview Brian but he said he didn’t remember the incident. . . . Ms. Bills was asked by Detective Hagglund why she had failed to report the incident.

21. . . . The second complaint came in April 2009 from Tyler’s father Joel concerning how his son was being treated after the incident between Tyler and Tommy.

23. On April 23, 2009, Ms. Hochreiter began her investigation of the incident with a home visit to Pathfinder House. . . . Mrs. Meyer: “. . . stated in interview on 4/29/09 she found out about the incident when she returned to the AFH on 2/27/09. She stated her husband (Staff B) had taken care of the situation. . . .

25. . . . As to the reported incident, Ms. Brooks said that Tyler admitted to her that he rubbed his genitals against Tommy in mock intercourse. . . . Ms. Brooks told Tyler that it was inappropriate, and then she told Mr. Meyer what had happened. Ms. Crawford asked, Ms. Brooks why she did not report the incident to the CRU 1-800 number. Ms. Brooks responded that both men were fully clothed, so she did not think it constituted sexual assault. . . .

26. Ms. Hochreiter interviewed Mr. Meyer at the adult family home. He told her that when he found out about the incident between Tyler and Tommy he got pissed. . . . he thought that he had dealt with the incident by telling Tyler that such behavior would not be tolerated in their home. . . .

27. . . . Neither Mr. Meyer nor Ms. Brooks reported the incident. . . . Mrs. Meyer told Ms. Hochreiter she learned of the incident when she returned from Disneyland and immediately contacted Sunrise Services for an appointment for Tyler. . . .

30. Ms. Hochreiter was concerned that the Appellants did not seem to understand that they needed to report the sexual incident to the Department. . . .

34. . . . At the time of the incident that is the focus of this proceeding, Tyler had been in the home for about a year.

37. . . . Tyler also complained about his treatment by staff after the incident and after receiving the eviction notice. . . .

44. . . . Mrs. Meyer sent a letter to the IDR program manager requesting IDR in which she admitted that the incident that occurred in their home on February 23, 2009, “most likely” involved resident Tyler rubbing himself, “including his private parts,” on her son Tommy. She wrote that the incident was reported to Ms. Brooks by resident Brian. She went on to say that they did not report the incident because they felt that while what had occurred was inappropriate it did not constitute sexual abuse or assault. She stated: “After we became aware of this issue, we made an appointment with Sunrise Community Mental Health . . . Mr. Meyer testified at the hearing that they took no special steps ‘after February 23, 3009, as a result of the incident. . . .

45. . . . The incident was brought up during his appointment with Devora Bills, Mental Health Therapist.” . . .

47. . . . law enforcement should have been contacted by the home about the incident on February 23, 2009. . . .

49. . . . Brian told her he didn’t remember the incident . . .

50. Tyler told Ms. Morrison that Tommy had been the instigator of the incident in February . . .

52. . . . Yet she told Department representatives that she kept Tyler and Tommy apart after she learned of the incident. . . .

54. . . . Ms. Morrison recommended the finding because when Mrs. Meyer learned of the sexualized behavior between Tyler and Tommy, she did not report it to the Complaint Resolution Unit. She did not report it to the case manager. . . .

. . . immediately upon learning about it, when told of your obligation by a mental health counselor, when told the incident was reportable by a department resource case manager. . . .

55. . . . You failed to take any of several opportunities to report an allegation of inappropriate sexual contact to the Department's complaint hotline and to law enforcement per mandatory reporting law . . .
56. . . . Ms. Brook's failure to report when she became aware of the allegation on sexual abuse on February 23, 2009. . . .
- . . . failing to notify the authorities of allegations of inappropriate sexual contact. . . .
61. . . . Some were made closer in time to the incident, some were made during the time period when the Department alleges the Appellants should have reported contact between Tommy and Tyler, and these statements were more credible than their later, conflicting, testimony. As told by the Appellants at the outset of the investigation, there was an instance of sexual contact between Tommy and Tyler on February 23, 2009. Mr. Meyer and Ms. Brooks learned of it that day. They told Mrs. Meyer of the incident when she returned from a trip on February 27, 2009. In response to the incident, Mrs. Meyer scheduled a counseling appointment for Tyler, and Mr. Meyer made the three responses outlined in Finding of Fact 26, Ms. Brooks told Heather Silva Of the incident on March 27, 2009. By the time of the RCCP investigations in July, the Appellants had determined on a course of denying that the incident occurred. . . .

## FURTHER RECORD CITATIONS

### Page 11, item 4:

“Q: Did Nancy use the word “groped”? A: Nancy gave me the number of the mental health worker -- the therapist. Gave me her name in order to follow-up with more information. She had told me that after that she could provide me with more information. Um, as to your question, I think with respect to the word “groping”, I think I may have heard that from when that -- when that word first was uttered to me, I know specifically I heard it from, um -- from the mental health therapist. But I don’t recall specifically if I heard that from Nancy. Q: Okay. And what about the word “humped”? Did you hear that from Nancy? A: Yes, and also from Tim Meyer on the following day when speaking with him. 3RP 141:8–21.

“Q: Okay. Your testimony also was, um, with regard to your conversation with Nancy that Tyler had rubbed his genitals against him. Were those Nancy’s words? The “rubbed his genitals”? A: I would have to look back on my notes. . . . Q: So again, my question was your testimony was you spoke to Nancy on the 14th A: Uh huh. Q: of April 2009. And she indicated that Tyler had rubbed his genitals against him, meaning Tommy. And my question is did Nancy use the word “rubbed his genitals” or was that your, um, own terminology? A: According to my entries here, the first entry regarding the phone call from Nancy Meyer, it says that, ‘Received a phone call from AFH provider Nancy Meyer informing of an incident that allegedly took place between Tyler and another DD client living at the home. It appears that Tyler had some form of inappropriate sexual contact with the other client . . . ’ ” 3RP 142:12–16, 144:16–145:4.

---

---

### Page 15, item 5:

“Q: Didn’t you say that [Client 1] ‘allegedly touched the genital area’ that those words were not from my client, Nancy Meyer? Did you say that earlier? A: That is not a quotation of her. . . . Q: Okay. A: This information I gathered from Nancy and from the mental health worker. It’s a compilation of that information. Q: And so the term ‘genital area’ could be -- could have been from the mental health worker, Devora Bills rather than Nancy, correct? A: Again, this -- this incident report represents my

summary of what took place, based on the information that I received from Nancy and from Devora Bills. Q: Okay. A: It's not intended to quote anyone. 3RP 178:2-179:3

Fullerton's handwritten notes of his April 15 conversation with Nancy and Tim contain the words: "main room downstairs . . . not prolonged . . . 'rubbed on back' . . . 'helping him' . . . 'dry humping' . . . no hands involved." 3RP 167:4-168:23, 171:7.

---

---

**Page 19, item 7:**

"Q: So you did not -- you did not recall what apparently Tyler had revealed, correct? A: Correct. . . Q: Nancy also stated that Tyler revealed what occurred to her. And so what occurred could be something that did not include sexual abuse, isn't that correct? A: Yes. Q: So this statement that Nancy also stated that Tyler revealed what occurred to her did not -- does not -- you cannot say that that means that she said that Tyler revealed that sexual abuse occurred, correct? A: Correct." 3RP 99:3-5, 17-100:1.

---

---

**Page 20, item 8:**

A: As I continued my investigation that day, Nancy left the home. . . . And [Tim] kept asking me. I said I am finding some problems in that, uh, you all have told me about an incident between Tyler and Tommy that was sexual in nature. And those need to be reported to the Department. And I said that Nancy said to me that he had said he'd been doing it since two weeks after moving in. And Tim got upset about that and said, "She wouldn't say something like that. I know she wouldn't say that." And then he left. . . . [A]round five minutes later, he returned with a portable phone in his hand and he said, "Nancy wants to talk to you about that statement that he's been doing this since two weeks after he moved in here." So I talked to Nancy on the phone and she said, "I didn't say that. I would never have said that." Um, so she retracted what she said. 1RP 78:25-80:4.

# Chronology of Interviews/Communication/Events

SORT BY DATE-TIME

*Italics in a name column identifies person contacted. Italics in the time column denotes approximate time.*

Date in 2009	Time	PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Mar 27		Sunrise - Silva	Kerri and Tyler	[2:133-38]	20	687-702	Silva did intake. Record citation is Bills' discussion of Intake.
Apr 7	8:43 am	Sunrise - Bills	Nancy		21	703	Left message for Nancy.
Apr 14	2:00 pm	Sunrise - Bills	Tyler	2:139	22	704	Bills' notes from first meeting with Tyler.
[Apr 14]	2:50 pm	Sunrise - Bills	Nancy	2:145-52	3	525	"Nancy described Tyler's behavior as very much improved" . . .
[Apr 14]	3:33 pm	Sunrise - Bills	APS	2:145-50	3	525	Made report to Adult Protective Services.
[Apr 14]		APS	Sunrise - Bills		3	525	Bills mentioned returning Adult Protective Services call.
[Apr 14]	4:00 pm	Nancy	Fullerton	3:144-45, 155-156			Called re giving Tyler 30-day notice due to Bills' "clinical judgment" he was not appropriate for AFH; gave Bills' number for details.
[Apr 14]	4:45 pm	Sunrise - Bills	APS	2:145-50	3	525 564	Returned call to Adult Protective Services, left anonymous message.
[Apr 14]	4:50 pm	Fullerton	Sunrise - Bills	2:172-74 3:145, 159	3	525	Call from Fullerton, 15-20 minutes.
[Apr 14]	5:05 pm	Sunrise - Bills	SOTP	2:129	22	704	Left message for SOTP to make appointment for Tyler at Fullerton's request and under Bills' clinical judgment.
Apr 15		Nancy	Fullerton		4	526-77	Letter to Fullerton giving Tyler a 30-day notice to vacate on Bills' recommendation. No mention of sexual incident.
[Apr 15]		Fullerton	DDD	3:178-79	37	745-49	Fullerton filed Central Office Incident report.
Apr 16	8:39 am	Sunrise - Bills	Fullerton		35	739	Returned call to Fullerton, left voicemail to consult on incident. [Date is incorrectly stated as 3/13/2009. But compare Ex 6, 529]
[Apr 16]	8:50 am	Sunrise - Bills	North Sound Mental Health Administration	2:149-55	6	529	Bills filled Critical Incident Report quoting Nancy as having said "dry humping" and checking box to report "Allegation of rape".
[Apr 16]	10:35 am	Sunrise - Bills	SOTP		22	704	Scheduled psychosexual evaluation for Tyler on May 6, 2009.
[Apr 16]		RCS	SCS Hagglund		13	563	SCS received complaint from Residential Care Services.

## APPENDIX C

Date in 2009	Time	PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
[Apr 16]	1:59 pm	Sunrise - Bills	APS Davis, Larry		13	564	Second anonymous complaint from female.
Apr 17	3:17 pm	SCS Hagglund	Fullerton	3:41, 3:182-83	13	563	Left message for Fullerton, who said he left a one for Hagglund.
[Apr 17]	3:25 pm	DSHS/DCFS	SCS		13	562	Skagit County Sheriff's Office
[Apr 17]		SCS Hagglund	Duncan, Rod		13	563	Left message for Fullerton's boss.
Apr 21		SCS Hagglund	APS Davis, Larry		13	564	Left message for Larry Davis.
[Apr 21]	9:00 am	APS Davis, Larry	SCS Hagglund	3:42	13	564	Larry Davis left message stating he was relaying 4:40 pm, Apr 14 complaint from anonymous female and another call at 1:59 pm, Apr 16.
[Apr 21]	9:08 am	SCS Hagglund	Nancy	3:42-3, 94-98	13	564	Interview regarding report to CRU. Mostly general questions regarding AFH.
[Apr 21]	9:08 am	SCS Meyer	Tim	3:43-4, 86-97	13	565	Hagglund testified about Det. Meyer's interview with Tim.
[Apr 21]		SCS Hagglund	Brian		13	565	Brian could not remember anything.
[Apr 21]		SCS Hagglund	Tommy		13	565-66	Spoke to Tommy briefly.
[Apr 21]	11:30 am	SCS Hagglund	Fullerton	3:100	13	565	Hagglund received voice mail from Fullerton.
[Apr 21]	12:35 pm	SCS Hagglund	Fullerton	3:100-01	13	565	
Apr 23	8:30 am	Hochreiter	Fullerton	1:123, 125			Hochreiter has a long talk with Fullerton.
[Apr 23]	9:10 am	Hochreiter	Sunrise - Bills	1:123, 125, 133			
[Apr 23]	9:30 am	SCS Hagglund	Hochreiter	3:103, 106-11	13	566	Hagglund received voice mail from Hochreiter.
[Apr 23]	9:57 am	Fullerton	Hochreiter	1:125			
[Apr 23]	10:08 am	SCS Hagglund	Hochreiter	1:125	13	566	
[Apr 23]	10:48 am	Hochreiter	Fullerton	1:126			
[Apr 23]	10:53 am	SCS Hagglund	Fullerton	3:100-01	13	566	
[Apr 23]	11:20 am	Hochreiter	Haggen, Joel	1:126	8	542-43	
[Apr 23]	12:25 pm	Hochreiter	Nancy	1:126-27			Spoke to Nancy for 5 minutes when she first got to AFH.
[Apr 23]	12:30 pm	Hochreiter	Kerri	1:127	8	545	

## APPENDIX C

Date in 2009	Time	PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
[Apr 23]	12:45 pm	Hochreiter	Nancy	1:127, 131			Hochreiter said she talked to Tim and Nancy together all three times she was there.
[Apr 23]		Hochreiter	Tim	1:127-8, 131, 134-5	8	541	Hochreiter said she talked to Tim and Nancy together all three times she was there.
Apr 28	1:25 pm	SCS Hagglund	Hochreiter		13	566	
[Apr 28]		Hochreiter	Sunrise Services	1:129			[Presume spoke to Bills.]
Apr 29		Hochreiter	Tyler		8	541	
[Apr 29]		Hochreiter	Brian		8	541-45	
[Apr 29]		Crawford	Kerri	3:25-29			
[Apr 29]		Crawford	Nancy	3:29-30			Spoke to Nancy during closed record review.
[Apr 29]		Hochreiter Crawford	Nancy and Tim	3:30-32	8	541-45	Spoke to Tim and Nancy together.
Apr 30		Hochreiter	Mike		8	541-45	
[Apr 30]		Hochreiter	Brian		8	541-45	
[Apr 30]	4:14 pm	SCS Hagglund	Sunrise - Bills		13	567	Left message for Bills.
May 01		Hochreiter	Nancy and Tim				Stop Placement Order delivered.
[May 01]		Nancy	Crawford		5	528	Nancy wrote Crawford that Tim and Kerri would not provide care.
[May 01]	11:40 am	Sunrise - Bills	SCS Hagglund	3:73	13	567	Voice mail from Bills.
[May 01]		SCS Hagglund	Sunrise - Van Buren	3:74	13	567	Left message for Van Buren.
[May 01]	12:07 am	SCS Hagglund	Sunrise - Bills	3:73	13	567	
[May 01]		SCS Hagglund	Sunrise - Bills	3:74	13	567	Hagglund spoke with Bills about RCW requirements.
[May 01]	1:13 pm	SCS Hagglund	Sunrise - Van Buren	3:74	13	567	
[May 01]	1:33 pm	SCS Hagglund	Sunrise - Bills	3:74-84, 149	13	567	Hagglund offered Bills chance to make report to law enforcement. Bills said Nancy had caught Tyler dry-humping Tommy.
[May 01]	2:50 pm	SCS Hagglund	Hochreiter	3:106-13	13	568	Hochreiter told Hagglund that she interviewed Tyler, and that he was vague and did not remember anything.
May 05		SCS Hagglund	Fullerton	3:100	13	568	Hagglund left voicemail for Fullerton.

## APPENDIX C

Date in 2009	Time	PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
May 06		Fullerton	SCS Hagglund	3:100	13	568	Fullerton left voice mail with Hagglund.
May 07		Crawford Hochreiter	Nancy and Tim	3:18 9:83-84			SOD delivered by Hochreiter and Crawford. Tim and Nancy testify was first knowledge of allegations. [Kerry at horse camp.]
May 08	3:20 pm	SCS Hagglund	Fullerton	3:100	13	568	Voice mail from Fullerton.
May 12	10:19 am	SCS Hagglund	Fullerton		13	568	Fullerton told Hagglund Pathfinder not closed permanently.
[May 12]		Nancy	IDR	9:83-84	12	557	Letter to IDR [Kerri unavailable. Still at horse camp.]
May 15	9:43 am	SCS Hagglund	Hochreiter	3:103, 106-11	13	569	Hagglund spoke with Hochreiter. He received SOD by fax.
Jun 02		Nancy	IDR		14		Notes for IDR meeting.
Jun 19		Morrison	Pathfinder House		25	710	Unannounced visit. No one home.
Jul 08		Morrison	Brian	2:177-79	25 29 33	712, 723, 734	Went to Brian's sister's home to do interview.
[Jul 08]		Morrison	Haggen family		33	734	Phone interview
[Jul 08]		Morrison	Mike	2:43	33	735	Mike declined to speak with Morrison.
Jul 09		Morrison	Troy		33	735	
[Jul 09]		Morrison	Larry	2:45, 50-55	33	735	
[Jul 09]		Morrison	Tyler	2:61-65	25 29 33	711, 723, 733-34	
[Jul 09]		Morrison	Tim	2:194-207	25	713-14	
[Jul 09]		Morrison	Nancy	2:207-15	29	724, 736	
[Jul 09]		Morrison	Kerri	2:179-94	33		
Jul 22		Morrison	Sunrise - Bills	2:20	25 29	711, 723	
[Jul 22]		Morrison	SCS Hagglund		25 29 33	712, 723, 733	
Jul 28		Morrison	Fullerton	2:59-60	25	712	

## APPENDIX C

# Chronology of Interviews/Communication/Events

PERSON SORT BY DATE-TIME

*Italics in a name column identifies person contacted. Italics in the time column denotes approximate time.*

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 14		APS	<i>Sunrise - Bills</i>		3	525	Bills mentioned returning Adult Protective Services call.
[Apr 14]	3:33 pm	APS	<i>Sunrise - Bills</i>	2:145-50	3	525	Made report to Adult Protective Services.
[Apr 14]	4:45 pm	APS	<i>Sunrise - Bills</i>	2:145-50	3 13	525 564	Returned call to Adult Protective Services, left anonymous message.
Apr 16	1:59 pm	<i>APS Davis, Larry</i>	<i>Sunrise - Bills</i>		13	564	Second anonymous complaint from female.
Apr 21	9:00 am	APS Davis, Larry	<i>SCS Hagglund</i>	3:42	13	564	Larry Davis left message stating he was relaying 4:40 pm, Apr 14 complaint from anonymous female and another call at 1:59 pm, Apr 16.
[Apr 21]		<i>APS Davis, Larry</i>	<i>SCS Hagglund</i>		13	564	Left message for Larry Davis.
[Apr 21]		<i>Brian</i>	<i>SCS Hagglund</i>		13	565	Brian could not remember anything.
Apr 29		<i>Brian</i>	<i>Hochreiter</i>		8	541-45	
Apr 30		<i>Brian</i>	<i>Hochreiter</i>		8	541-45	
Jul 08		<i>Brian</i>	<i>Morrison</i>	2:177-79	25 29 33	712, 723, 734	Went to Brian's sister's home to do interview.
Apr 29		<i>Crawford</i>	<i>Kerri</i>	3:25-29			
[Apr 29]		<i>Crawford</i>	<i>Nancy</i>	3:29-30			Spoke to Nancy during closed record review.
[Apr 29]		<i>Crawford Hochreiter</i>	<i>Nancy and Tim</i>	4:30-32	8	541-545	Spoke to Tim and Nancy together.
May 01		<i>Crawford</i>	<i>Nancy</i>		5	528	Nancy wrote Crawford that Tim and Kerri would not provide care.
May 07		<i>Crawford</i>	<i>Nancy and Tim</i>	3:18 9:83-84			SOD delivered by Hochreiter and Crawford. Tim and Nancy testify was first knowledge of allegations. [Kerri at horse camp.]
Apr 15		<i>DDD</i>	<i>Fullerton</i>	3:178-79	37	745-49	Fullerton filed Central Office Incident report.
Apr 17	3:25 pm	<i>DSHS/DCFS</i>	<i>SCS</i>		13	362	Skagit County Sheriff's Office

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 17		Duncan, Rod	SCS Hagglund		13	563	Left message for Fullerton's boss.
Apr 14	4:00 pm	Fullerton	Nancy	3:144-45, 155-156			Called re giving Tyler 30-day notice due to Bills' "clinical judgment" he was not appropriate for AFH; gave Bills' number for details.
[Apr 14]	4:50 pm	Fullerton	Sunrise - Bills	2:172-74 3:145, 159	3	525	Call from Fullerton, 15-20 minutes.
Apr 15		Fullerton	DDD	3:178-79	37	745-49	Fullerton filed Central Office Incident report.
[Apr 15]		Fullerton	Nancy		4	526-77	Letter to Fullerton giving Tyler a 30-day notice to vacate.
Apr 16	8:39 am	Fullerton	Sunrise - Bills		35	739	Returned call to Fullerton, left voicemail to consult on incident. [Date is incorrectly stated as 3/13/2009. But compare Ex 6. 529]
Apr 17	3:17 pm	Fullerton	SCS Hagglund	3:41, 3:182-83	13	563	Left message for Fullerton, who said he left a one for Hagglund.
Apr 21	11:30 am	Fullerton	SCS Hagglund	3:100	13	565	Hagglund received voice mail from Fullerton.
[Apr 21]	12:35 pm	Fullerton	SCS Hagglund	3:100-01	13	565	
Apr 23	8:30 am	Fullerton	Hochreiter	1:123, 125			Hochreiter has a long talk with Fullerton.
[Apr 23]	9:57 am	Fullerton	Hochreiter	1:125			
[Apr 23]	10:48 am	Fullerton	Hochreiter	1:126			
[Apr 23]	10:53 am	Fullerton	SCS Hagglund	3:100-01	13	566	
May 05		Fullerton	SCS Hagglund	3:100	13	568	Hagglund left voicemail for Fullerton.
May 06		Fullerton	SCS Hagglund	3:100	13	568	Fullerton left voice mail with Hagglund.
May 08	3:20 pm	Fullerton	SCS Hagglund	3:100	13	568	Voice mail from Fullerton.
May 12	10:19 am	Fullerton	SCS Hagglund		13	568	Fullerton told Hagglund Pathfinder not closed permanently.
Jul 28		Fullerton	Morrison	2:59-60	25	712	
Apr 23	11:20 am	Haggen, Joel	Hochreiter	1:126	8	542-43	
Jul 08		Haggen family	Morrison		33	734	Phone interview
Apr 23	8:30 am	Hochreiter	Fullerton	1:123, 125			Hochreiter has a long talk with Fullerton.
[Apr 23]	9:10 am	Hochreiter	Sunrise - Bills	1:123, 125, 133			
[Apr 23]	9:30 am	Hochreiter	SCS Hagglund	3:103, 106-11	13	566	Hagglund received voice mail from Hochreiter.

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
[Apr 23]	9:57 am	Hochreiter	Fullerton	1:125			
[Apr 23]	10:48 am	Hochreiter	Fullerton	1:126			
[Apr 23]	10:08 am	Hochreiter	SCS Hagglund	1:125	13	566	
[Apr 23]	11:20 am	Hochreiter	Haggen, Joel	1:126	8	542-43	
[Apr 23]	12:25 pm	Hochreiter	Nancy	1:126-27			Spoke to Nancy for 5 minutes when she first got to AFH.
[Apr 23]	12:30 pm	Hochreiter	Kerri	1:127	8	545	
[Apr 23]	12:45 pm	Hochreiter	Nancy	1:127, 131			Hochreiter said she talked to Tim and Nancy together all three times she was there.
[Apr 23]		Hochreiter	Tim	1:127-8, 131, 134-5	8	541	Hochreiter said she talked to Tim and Nancy together all three times she was there.
Apr 28		Hochreiter	Sunrise Services	1:129			
[Apr 28]	1:25 pm	Hochreiter	SCS Hagglund		13	566	
Apr 29		Hochreiter	Tyler		8	541	
[Apr 29]		Hochreiter	Brian		8	541-45	
[Apr 29]		Hochreiter Crawford	Nancy and Tim	3:30-32	8	541-45	Spoke to Tim and Nancy together.
Apr 30		Hochreiter	Mike		8	541-45	
[Apr 30]		Hochreiter	Brian		8	541-45	
May 01		Hochreiter	Nancy and Tim				Stop Placement Order delivered.
[May 01]	2:50 pm	Hochreiter	SCS Hagglund	3:106-13	13	568	Hochreiter told Hagglund that she interviewed Tyler, and that he was vague and did not remember anything.
May 07		Hochreiter	Nancy and Tim	3:100 9:83-84			SOD delivered by Hochreiter and Crawford. Tim and Nancy testify was first knowledge of allegations. [Kerri at horse camp.]
May 15	9:43 am	Hochreiter	SCS Hagglund	3:103, 106-11	13	569	Hagglund spoke with Hochreiter. He received SOD by fax.
May 12		IDR	Nancy	9:83-84	12	557	Letter to IDR [Kerri still at horse camp.]
Jun 02		IDR	Nancy		14		Notes for IDR meeting.
Mar 27		Kerri and Tyler	Sunrise - Silva	[2:133-38]	20	687-702	Silva did intake. Record citation is Bills' discussion of Intake.

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 23	12:30 pm	Kerri	Hochreiter	1:127	8	545	
Apr 29		Kerri	Crawford	3:25-29			
May 7		Kerri		9:83-84			At horse camp. Not available when SOD delivered.
May 12		Kerri		9:83-84			Still at horse camp. Still unavailable when IDR letter drafted.
Jul 09		Kerri	Morrison	2:179-94	33		
Jul 09		Larry	Morrison	2:45, 50-55	33	735	
Apr 30		Mike	Hochreiter		8	541-45	
Jul 08		Mike	Morrison	2:43	33	735	Mike declined to speak with Morrison.
Jun 19		Morrison	Pathfinder House		25	710	Unannounced visit. No one home.
Jul 08		Morrison	Brian	2:177-79	25 29 33	712, 723, 734	Went to Brian's sister's home to do interview.
[Jul 08]		Morrison	Haggen family		33	734	Phone interview
[Jul 08]		Morrison	Mike	2:43	33	735	Mike declined to speak with Morrison.
Jul 09		Morrison	Troy		33	735	
[Jul 09]		Morrison	Larry	2:45, 50-55	33	735	
[Jul 09]		Morrison	Tyler	2:61-65	25 29 33	711, 723, 733-34	
[Jul 09]		Morrison	Tim	2:194-207	25	713-14	
[Jul 09]		Morrison	Nancy	2:207-15	29	724, 736	
[Jul 09]		Morrison	Kerri	2:179-94	33		
Jul 22		Morrison	Sunrise - Bills	2:20	25 29	711, 723	
[Jul 22]		Morrison	SCS Hagglund		25 29 33	712, 723, 733	
Jul 28		Morrison	Fullerton	2:59-60	25	712	

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 7	8:43 am	Nancy	Sunrise - Bills		21	703	Left message for Nancy.
Apr 14	2:50 pm	Nancy	Sunrise - Bills	2:145-52	3	525	"Nancy described Tyler's behavior as very much improved" . . .
[Apr 14]	4:00 pm	Nancy	Fullerton	3:144-45, 155-156			Called re giving Tyler 30-day notice due to Bills' "clinical judgment" he was not appropriate for AFH; gave Bills' number for details.
Apr 15		Nancy	Fullerton		4	526-77	Letter to Fullerton giving Tyler a 30-day notice to vacate on Bills' recommendation. No mention of sexual incident.
Apr 21	9:08 am	Nancy	SCS Hagglund	3:42-3, 94-98	13	564	Interview regarding report to CRU. Mostly general questions regarding AFH.
Apr 23	12:25 pm	Nancy	Hochreiter	1:126-27			Spoke to Nancy for 5 minutes when she first got to AFH.
[Apr 23]	12:45 pm	Nancy	Hochreiter	1:127, 131			Hochreiter said she talked to Tim and Nancy together all three times she was there.
Apr 29		Nancy	Crawford	3:29-30			Spoke to Nancy during closed record review.
[Apr 29]		Nancy and Tim	Hochreiter Crawford	3:30-32	8	541-45	Spoke to Tim and Nancy together.
May 01		Nancy and Tim	Hochreiter				Stop Placement Order delivered.
May 01		Nancy	Crawford		5	528	Nancy wrote Crawford that Tim and Kerri would not provide care.
May 07		Nancy and Tim	Crawford, Hochreiter	3:100, 18 9:83-84			SOD delivered by Hochreiter and Crawford. Tim and Nancy testify was first knowledge of allegations. [Kerri at horse camp.]
May 12		Nancy	IDR	9:83-84	12	557	Letter to IDR [Kerri at horse camp.]
Jun 02		Nancy	IDR		14		Notes for IDR meeting.
Jul 09		Nancy	Morrison	2:207-15	29	724, 736	
Apr 16	8:50 am	North Sound Mental Health Administration	Sunrise - Bills	2:149-55	6	529	Bills filled Critical Incident Report quoting Nancy as having said "dry humping" and checking box to report "Allegation of rape".
Jun 19		Pathfinder House	Morrison		25	710	Unannounced visit. No one home.
Apr 16		RCS	SCS Hagglund		13	563	SCS received complaint from Residential Care Services.
Apr 17	3:25 pm	SCS	DSHS/DCFS		13	562	Skagit County Sheriff's Office
[Apr 17]	3:17 pm	SCS Hagglund	Fullerton	3:41, 3:182-83	13	563	Left message for Fullerton, who said he left a one for Hagglund.
[Apr 17]		SCS Hagglund	Duncan, Rod		13	563	Left message for Fullerton's boss.

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 21		SCS Hagglund	APS Davis, Larry		13	564	Left message for Larry Davis.
[Apr 21]	9:00 am	SCS Hagglund	APS Davis, Larry	3:42	13	564	Larry Davis left message stating he was relaying 4:40 pm, Apr 14 complaint from anonymous female and another call at 1:59 pm, Apr 16.
[Apr 21]	9:08 am	SCS Hagglund	Nancy	3:42--3, 94-98	13	564	Interview regarding report to CRU. Mostly general questions regarding AFH.
[Apr 21]		SCS Hagglund	Brian		13	565	Brian could not remember anything.
[Apr 21]		SCS Hagglund	Tommy		13	565-66	Spoke to Tommy briefly.
[Apr 21]	11:30 am	SCS Hagglund	Fullerton	3:100	13	565	Hagglund received voice mail from Fullerton.
[Apr 21]	12:35 pm	SCS Hagglund	Fullerton	3:100-01	13	565	
Apr 23	9:30 am	SCS Hagglund	Hochreiter	3:103, 106-11	13	566	Hagglund received voice mail from Hochreiter.
[Apr 23]	10:08 am	SCS Hagglund	Hochreiter	1:125	13	566	
[Apr 23]	10:53 am	SCS Hagglund	Fullerton	3:100-01	13	566	
Apr 28	1:25 pm	SCS Hagglund	Hochreiter		13	566	
Apr 30	4:14 pm	SCS Hagglund	Sunrise - Bills		13	567	Left message for Bills.
[Apr 30]	4:14 pm	SCS Hagglund	Sunrise - Bills		13	567	Left message for Bills.
May 01		SCS Hagglund	Sunrise - Van Buren	3:74	13	567	Left message for Van Buren.
[May 01]	11:40 am	SCS Hagglund	Sunrise - Bills	3:73	13	567	Voice mail from Bills.
[May 01]	12:07 am	SCS Hagglund	Sunrise - Bills	3:73	13	567	
[May 01]		SCS Hagglund	Sunrise - Bills	3:74	13	567	Hagglund spoke with Bills about RCW requirements.
[May 01]	1:13 pm	SCS Hagglund	Sunrise - Van Buren	3:74	13	567	
[May 01]	1:33 pm	SCS Hagglund	Sunrise - Bills	3:74-84, 149	13	567	Hagglund offered Bills chance to make report to law enforcement.
[May 01]	2:50 pm	SCS Hagglund	Hochreiter	3:106-13	13	568	Hochreiter told Hagglund that she interviewed Tyler, and that he was vague and did not remember anything.
May 05		SCS Hagglund	Fullerton	3:100	13	568	Hagglund left voicemail for Fullerton.
May 06		SCS Hagglund	Fullerton	3:100	13	568	Fullerton left voice mail with Hagglund.
May 08	3:20 pm	SCS Hagglund	Fullerton	3:100	13	568	Voice mail from Fullerton.

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
May 12	10:19 am	SCS Hagglund	Fullerton		13	568	Fullerton told Hagglund Pathfinder not closed permanently.
May 15	9:43 am	SCS Hagglund	Hochreiter	3:103, 106-11	13	569	Hagglund spoke with Hochreiter. He received SOD by fax.
Jul 22		SCS Hagglund	Morrison		25 29 33	712, 723, 733	
Apr 21	9:08 am	SCS Meyer	Tim	3:43-4, 86-97	13	565	Hagglund testified about Det. Meyer's interview with Tim.
Apr 14	5:05 pm	SOTP	Sunrise - Bills	2:129	22	704	Left message for SOTP to make appointment for Tyler at Fullerton's request and under Bills' clinical judgment.
Apr 16	10:35 am	SOTP	Sunrise - Bills		—	739	Scheduled psychosexual evaluation for Tyler on May 6, 2009. [Exhibit not admitted.]
Mar 27		Sunrise - Silva	Kerri and Tyler	[2:133-38]	20	687-702	Silva did intake. Record citation is Bills' discussion of Intake.
Apr 7	8:43 am	Sunrise - Bills	Nancy		21	703	Left message for Nancy.
Apr 14	2:00 pm	Sunrise - Bills	Tyler	2:139	22	704	Bills' notes from first meeting with Tyler.
[Apr 14]	2:50 pm	Sunrise - Bills	Nancy	2:145-52	3	525	"Nancy described Tyler's behavior as very much improved" . . .
[Apr 14]	3:33 pm	Sunrise - Bills	APS	2:145-50	3	525	Made report to Adult Protective Services.
[Apr 14]		Sunrise - Bills	APS		3	525	Bills mentioned returning Adult Protective Services call.
[Apr 14]	4:45 pm	Sunrise - Bills	APS	2:145-50	3 13	525 564	Returned call to Adult Protective Services, left anonymous message.
[Apr 14]	5:05 pm	Sunrise - Bills	SOTP	2:129	22	704	Left message for SOTP to make appointment for Tyler at Fullerton's request and under Bills' clinical judgment.
[Apr 14]	4:50 pm	Sunrise - Bills	Fullerton	2:172-74 3:145, 159	3	525	Call from Fullerton, 15-20 minutes.
Apr 16	8:39 am	Sunrise - Bills	Fullerton		35	739	Returned call to Fullerton, left voicemail to consult on incident. [Date is incorrectly stated as 3/13/2009. But compare Ex 6, 529]
[Apr 16]	8:50 am	Sunrise - Bills	North Sound Mental Health Administration	2:149-55	6	529	Bills filled Critical Incident Report quoting Nancy as having said "dry humping" and checking box to report "Allegation of rape".
[Apr 16]	10:35 am	Sunrise - Bills	SOTP		—	739	Scheduled psychosexual evaluation for Tyler on May 6, 2009. [Exhibit not admitted.]
[Apr 16]	1:59 pm	Sunrise - Bills	APS Davis, Larry		13	564	Second anonymous complaint from female.

## APPENDIX D

Date in 2009	Time	SORT BY PERSON	CONTACT	Citation			Notes/Comments
				Vol:Pages	Ex	Appellate Record	
Apr 23	9:10 am	Sunrise - Bills	Hochreiter	1:123, 125, 133			
Apr 28		Sunrise Services	Hochreiter	1:129			[Presume spoke to Bills.]
May 01	11:40 am	Sunrise - Bills	SCS Hagglund	3:73	13	567	Voice mail from Bills.
[May 01]	12:07 am	Sunrise - Bills	SCS Hagglund	3:73	13	567	
[May 01]		Sunrise - Bills	SCS Hagglund	3:74	13	567	Hagglund spoke with Bills about RCW requirements.
[May 01]	1:33 pm	Sunrise - Bills	SCS Hagglund	3:74-84, 149	13	567	Hagglund offered Bills chance to make report to law enforcement. Bills said Nancy had caught Tyler dry-humping Tommy.
Jul 22		Sunrise - Bills	Morrison	2:20	25 29	711, 723	
Apr 21	9:08 am	Tim	SCS Meyer	3:43-4, 86-97	13	565	Hagglund testified about Det. Meyer's interview with Tim.
Apr 23		Tim	Hochreiter	1:127-8, 131, 134-5	8	541	Hochreiter said she talked to Tim and Nancy together all three times she was there.
Apr 29		Tim and Nancy	Hochreiter Crawford	3:30-32	8	541-45	Spoke to Tim and Nancy together.
May 01		Tim and Nancy	Hochreiter				Stop Placement Order delivered.
May 07		Tim and Nancy	Crawford, Hochreiter	3:18, 100 9:83-84			SOD delivered by Hochreiter and Crawford. Tim and Nancy testify was first knowledge of allegations. [Kerri at horse camp.]
Jul 09		Tim	Morrison	2:194-207	25	713-14	
Apr 21		Tommy	SCS Hagglund		13	565-66	Spoke to Tommy briefly.
Jul 09		Troy	Morrison		33	735	
Mar 27		Tyler and Kerri	Sunrise - Silva	[2:133-38]	20	687-702	Silva did intake. Record citation is Bills' discussion of intake.
Apr 14	2:00 pm	Tyler	Sunrise - Bills	2:139	22	704	Bills' notes from first meeting with Tyler.
Apr 29		Tyler	Hochreiter		8	541	
Jul 09		Tyler	Morrison	2:61-65	25 29 33	711, 723, 733-34	
May 01		Sunrise - Van Buren	SCS Hagglund	3:74	13	567	Left message for Van Buren.
[May 01]	1:13 pm	Sunrise - Van Buren	SCS Hagglund	3:74	13	567	

## APPENDIX D