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Court of Appeals  
Division III  
State of Washington  
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No. 97973-1

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

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IN RE PERSONAL RESTRAINT PETITION OF:

**ADAM BETANCOURT,**

PETITIONER.

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**PERSONAL RESTRAINT PETITION**

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**A. STATUS OF PETITIONER**

Adam Betancourt, Petitioner, challenges the Indeterminate Sentence Review Board's (ISRB) denial of parole. A copy of the ISRB's decision is attached. Mr. Betancourt (DOC #768174) remains imprisoned at Airway Heights Corrections Center.

**B. FACTS**

At the age of 16, Adam Betancourt participated with two peers in the murders of an elderly couple in Grant County, Washington. At his parole hearing, the ISRB considered the following.

*The Crimes*

In the early morning hours of May 21, 1997, Adam Betancourt, Donald Lambert (age 15) and Marcus "David" Wawers (age 15), armed themselves and walked to the home of an elderly couple. After they entered the victims' bedroom and found them both lying in bed, Mr. Betancourt and Mr. Lambert both began shooting at the victims. All three co-defendants then ran from the home.

Once outside, Mr. Betancourt and Mr. Lambert reloaded. They observed someone walking inside the house and both boys fired at this figure, later to be identified as the female victim.

Within a short time, all three co-defendants were arrested and charged, along with a minor female who had been aware of the planned offense.

*As a Child, Mr. Betancourt Endured Trauma and Abuse*

As the psychological evaluation and ISRB decision recite, Mr. Betancourt endured abuse and trauma as a child. Throughout his childhood, Betancourt was repeatedly beaten by his stepfather, a raging alcoholic who would begin beating him as soon as his mother left for work. She was also physically abused as were his sisters. He states that he was always angry and felt very alone.

After the abuse was discovered by the authorities, rather than leave her husband, Adam's mother sent Adam to live with his biological father. His father neglected him and after a short period, Adam had to return to his mother's house when his father began abusing him as well.

*Mr. Betancourt's Behavior in Prison Changed as He Matured*

Mr. Betancourt has incurred a total of 32 serious infractions during his incarceration. But his last serious infraction was in 2009. According to the DOC psychologist, Mr.

Betancourt “has managed to better self-regulate his behavior over the last seven years.” *Psychological Evaluation by Dr. Deborah Wentworth* (hereinafter *Wentworth*) at 7.

As the DOC psychological evaluation correctly noted Mr. Betancourt has participated “in almost every program available to him” in prison including numerous rehabilitative, vocational skills, and education classes. As a result, he has earned numerous certificates. He has worked as a custodian, stock clerk, maintenance helper, welder, print press operator and food packer/handler. His counselor noted Mr. Betancourt is not a problem on the living unit. He is helpful to staff and communicates well with staff and other inmates.

Mr. Betancourt has reconciled with family members, most significantly his father. The family credits Mr. Betancourt's reform as guiding them to more honest and transparent relationships with each other. Mr. Betancourt is currently engaged to be married to a registered nurse. This relationship developed slowly because she has three children. The family visits almost every weekend.

Mr. Betancourt reports he has now completely turned away from all drug activity and started a combatting gang violence

program at MCC. He states that he is occasionally harassed by gang members but is practiced at saying, "You stay on your side and I'll stay on my side," and is left alone. He also does not communicate with some of his nieces because their husbands are gang members. He draws a clear boundary between himself and them.

At the parole hearing, Mr. Betancourt explained what had changed since he came to prison and what caused the change. He said he had a mentor inside who explained to him that his negative actions in prison were continuing to harm people. He said a Victim Awareness Class he took was instrumental, as well. He stated prior to that he did not consider what the victims or survivors might feel. He now feels deeply remorseful for what he did and the pain he caused the family members. Additionally, in 2009, Betancourt overdosed on drugs and had to be resuscitated to survive. "He knew he had to change his direction away from drugs when he realized how much his gang activity and drug activity was controlling his life." *Wentworth*, p. 7.

By chance in prison, Mr. Betancourt met a relative of one of his victims and was able to express his remorse and regret.

The DOC psychologist further found that Mr. Betancourt has matured and learned skills of self-regulation during his time in prison through cognitive-behavioral programming and natural maturation. “His behavior and relationships have improved and are positive. He has several marketable skills which should enable him to find work. He is engaged to be married to a professional career woman with whom he has been transparent. They plan to marry when he is released. He has a solid extended family support system which he and they have managed to maintain over long distance and long term. He is pleasant and cooperative and receives positive supervisory reviews. He appears to be a strong and healthy young man. His faith is a source of strength and stability. He regularly participates in team sports and has quiet leisurely activities as well to keep him busy. He has succeeded in paths to good time recovery and is continuing in that process.” *Wentworth* at 8.

The only weaknesses identified in that report: never having lived or worked in the community as an adult, and not having adult relationships with family or friends as a free adult. These weaknesses are entirely due to the fact he has been in prison since age 16.

*Mr. Betancourt is a Low Risk to Reoffend*

Mr. Betancourt's risk to reoffend was described in the psychological evaluation completed by Dr. Wentworth. That evaluation concluded:

If based primarily on criminal & infraction history, Mr. Betancourt would be considered to be in the low moderate range for risk of reoffending after release. However, overall risk assessment may benefit from taking into consideration of dynamic factors such as nine years with no serious infraction and the lack of current biological/neurological development risk factors that were present as an adolescent and young adult. Under these parameters, and accounting for the results of the SAPROF, the risk of reoffending would best be seen as in the low to low-moderate range.

*Wentworth at 12.*

The Grant County Prosecutor's office submitted a letter stating their office recommended the original sentence of 600 months "be adhered to and stated they oppose any reduction in this." *Decision at 6.*

*The ISRB Denied Release*

The ISRB denied release. It concluded that Mr. Betancourt should not be released because he:

- Has not participated in sober support groups
- Used drugs while incarcerated
- Introduced drugs into the facility in 2009
- 32 serious infractions with the last in 2009
- Has served less than ½ of the sentence imposed

- Continues to incur negative behavior observations

*Decision* at 2.

The ISRB indicated that Betancourt can re-submit a petition for review in June of 2023. *Decision* at 7.

### **C. ARGUMENT**

Adam Betancourt challenges the ISRB's decision denying parole. To succeed on a PRP challenge of an ISRB decision, a petitioner must show that he is under unlawful restraint. RAP 16.4; *In re Pers. Restraint of Dyer*, 164 Wash.2d 274, 285, 189 P.3d 759 (2008) (*Dyer II*). "The ISRB abuses its discretion when it fails to follow its own procedural rules for parolability hearings or acts without consideration of and in disregard of the facts." *In re Pers. Restraint of Dyer*, 157 Wash.2d 358, 363, 139 P.3d 320 (2006) (*Dyer I*). Disregarding the evidence and supporting its decision with speculation and conjecture constitute an abuse of discretion. *Id.* at 369.

In this PRP, Betancourt argues that the ISRB's abused its discretion because there was no evidence to overcome the presumption of release establishing by a preponderance of the evidence that he was likely to reoffend even if released on

conditions. In addition, the ISRB denied release for reasons inconsistent with the statutory directive.

*The Law Imposes a Presumption of Release*

RCW 9.94A.730(1) permits a person convicted of a crime as a juvenile to petition the ISRB for early release after serving at least 20 years of confinement. Release under conditions the ISRB determines appropriate is presumptive, unless the ISRB determines by a preponderance of the evidence that, “despite such conditions, it is more likely than not that the person will commit new criminal law violations if released.” RCW 9.94A.730(3). The presumption of release applies in all cases after 20 years, regardless of the sentence imposed by the court.

In order to determine whether the presumption of release has been overcome, the statute directs the conduct of an evaluation “incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board.” *Id.* Mr. Betancourt participated in such an evaluation. That evaluation, which incorporated three risk assessment

instruments, found that Betancourt was a low risk of reoffense—a risk that could be further lowered with parole conditions.

This case is a near carbon copy of This case is a near carbon copy of *Matter of Brashear*, \_\_ Wn. App. \_\_, 430 P.3d 710 (2018).

In *Brashear*, the ISRB denied release despite the fact that the risk assessment found she was a low risk to reoffend, relying instead on her early prison infraction history, the impact of the crime, and the length of the original sentence. The Court of Appeal held:

Rather than focusing on the statutory presumption of release, her awareness of her crimes, her changed behavior, her assessed low risk to reoffend, and appropriate release conditions, the ISRB relied on Brashear’s underlying crimes, the impact of those crimes, and the small portion of her sentence served in denying her petition. These are not factors that guide the ISRB’s decision under RCW 9.94A.730(3).

*Brashear*, 430 P.3d at 715.

In *Brashear*, the ISRB denied release in part because she had served less than half of her original sentence. The Court of Appeals held that using the original sentence as a reason to deny parole directly conflicts with the statutory mandate. “The statute expressly contemplates that the offender will not serve more than 20 years of their sentence unless they are likely to reoffend. RCW

9.94A.730(3). The ISRB's reliance on Brashear's underlying crimes, their impact, and the portion of her sentence served conflicts with its statutory mandate to consider whether she is more likely than not to reoffend." *Id.* See also *Dyer I*, at 368 (the ISRB improperly dismissed evidence of Dyer's rehabilitation based on the facts of his underlying crimes).

Like in *Brashear*, the ISRB highlighted that one of its reasons for denying Betancourt's release was because he has served "less than ½" of the sentence imposed. This fact alone establishes that the ISRB abused its discretion.

However, the more critical error was the ISRB's decision to deny release where the evidence was insufficient to show that Mr. Betancourt was more likely than not to reoffend. Where the record does not establish a likelihood to reoffend, "the statute requires a release on appropriate conditions, not a second bite at the apple." *Brashear*, 430 P.3d at 716.

In *Brashear*, the ISRB acknowledged the risk assessment (which found that Brashear was a low risk to reoffend) but ignored that assessment and instead relied on the fact that Brashear had committed many infractions early in her prison term. The court held:

Brashear's behavioral turn around compared to her first 10 to 11 years in prison is probative of the maturation of a juvenile offender that the statute intended to identify, not probative that Brashear is likely to reoffend. The other direct evidence in the record that assesses Brashear's likelihood to reoffend is Dr. Wentworth's psychological evaluation. It suggests her likelihood to reoffend is low or very low. The ISRB abused its discretion by denying Brashear's release and not determining appropriate release conditions.

*Brashear*, 430 P.3d at 715–16. “Brashear’s behavioral turn around compared to her first 10 to 11 years in prison is probative of the maturation of a juvenile offender that the statute intended to identify, not probative that Brashear is likely to reoffend.” *Id.*

The ISRB took the same fundamentally flawed approach in this case. After making brief motion of the risk assessment, the ISRB decision repeats in various formulations the fact that Betancourt committed infractions until around a decade ago (within the range for developmental maturity and before the possibility of early release existed). Likewise, the ISRB's decision chooses to largely ignore the risk assessment but does not find that it is in error.

Consistent with the direction of the statute, Dr. Wentworth's evaluation incorporates three risk assessments

instruments. On the psychopathy scale (described as the “gold standard of predicting future risk”) Mr. Betancourt scored:

Very low, Level 1 of 5. No evidence of psychopathy or antisocial personality disorder.

*Wentworth* at 10. On the Violence Risk Assessment Guide or VRAG-R, Mr. Betancourt scored in the moderate risk group. However, Dr. Wentworth specifically noted that the VRAG is based on “static” or historical factors and are “unlikely to change” over the lifetime of an offender. Despite any maturation or internal changes. Because imply listing so-called “risk factors” tends to over-represent the negative factors in risk management, and poorly reflect factors that may mitigate risk, Dr. Wentworth also used the SAPROF (Structured Assessment of Protective Factors), an instrument that considers historical risk factors, but also takes into account “dynamic” factors—allowing for the prospect of change. “Mr. Betancourt scored in the moderate-high range of protective factors. These were evenly distributed between internal (historical and dynamic factors), motivational (be a positive member of society), and external factors (voluntary and imposed support systems).” *Id.* at 11 (emphasis in the original). Dr. Wentworth added that “other significant mitigating

factors” were present which further decrease risk including Betancourt’s increasing age, decreased frequency of institutional misbehavior, and criminogenic-related cognitive treatment” in prison. *Id.* at 11. Considering all three instruments, Dr. Wentworth concluded that Mr. Betancourt’s overall risk assessment should take into consideration “dynamic factors such as nine years with no serious infraction and the lack of current biological/neurological development risk factors that were present as an adolescent and young adult.” *Id.* at 12.

The ISRB decision also suggested that Betancourt continues to “incur negative behavioral observations,” an allegation affirmatively negated by the record. For example, the risk assessment noted: “Mr. Betancourt functions very well with other offenders and staff as noted by his programming as a teacher's aide. His performance reviews are consistently positive.” *Wentworth* at 7.

Finally, like in *Brashear*, the ISRB also failed to discuss any conditions associated with Betancourt’s release and why, despite appropriate conditions, he would be likely to reoffend.

**D. CONCLUSION AND PRAYER FOR RELIEF**

Based on the above, this Court should grant relief and remand to the ISRB with directions to release Mr. Betancourt after setting appropriate conditions of release.

DATED this 19<sup>th</sup> day of January 2019

Respectfully Submitted:

/s/Jeffrey Erwin Ellis  
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STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
**INDETERMINATE SENTENCE REVIEW BOARD**  
P.O. BOX 40907, OLYMPIA, WA 98504-0907

**DECISION AND REASONS**

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NAME: BETANCOURT, Adam  
DOC #: 768174  
FACILITY: Airway Heights Corrections Center  
DATE OF HEARING: June 26, 2018  
TYPE OF HEARING: LT JUVBRD  
PANEL MEMBERS: Lori Ramsdell-Gilkey, Jeff Patnode, Kecia Rongen and Elyse Balmert  
FINAL DECISION DATE: July 17, 2018

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This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a release hearing in accordance with RCW 9.94A.730. In preparation for the hearing, the Board reviewed Mr. Betancourt's ISRB file. Classification Counselor (CC) Ernest Lawrence provided a summary of programming, behavior and other relevant activities regarding Mr. Betancourt. Mr. Betancourt appeared in person and was not represented by an attorney as Mr. Ellis was unable to attend. The Board verified with Mr. Betancourt that it was his desire to proceed with the hearing as scheduled.

**CURRENT BOARD DECISION:**

Based on the burden of proof set out in RCW 9.94A.730 and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Mr. Betancourt is more likely than not to commit any new criminal law violations if released on conditions. Consequently, the Board finds Mr. Betancourt not releasable. Mr. Betancourt can re-submit a petition for review in June of 2023.

**NEXT ACTION:**

Submit a petition for review to the Board in June of 2023.

**REASONS FOR DECISION:**

This was a deferred decision following a full Board discussion using a structured decision-making framework that takes into consideration: the statistical estimate of risk, criminal history, release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.94A.730 the Board finds Mr. Betancourt is more likely than not to commit a new crime if released. Mr. Betancourt is determined to be not releasable based on the following:

- **Has not participated in sober support groups as recommended**
- **Used drugs throughout the majority of his incarceration**
- **Introduced drugs into the facility in 2009 which could have resulted in criminal charges**
- **Has served less than ½ of the sentence imposed**
- **32 serious infractions with the last in 2009**
- **Continues to incur negative behavior observations**

**RECOMMENDATIONS:**

Mr. Betancourt should attend sober support groups, Bridges to Life, remain infraction free, reduce negative behavior observations, and participate in any other programming available to him.

**JURISDICTION:**

RCW 9.94A.730, enacted in 2014, allows offenders who were under the age of 18 when they committed their crime(s) and were sentenced as adults to petition the Board for consideration of early release consideration after serving no less than 20 years of total confinement. Mr. Betancourt's petition resulted in the hearing on this date.

Adam Betancourt is under the jurisdiction of the Board on a December 23, 1997, conviction of Murder in the First Degree, Counts I and II, in Grant County under Cause #97-1-00295-1. His time start is December 24, 1997. His minimum term was set at 300 months on **each count, to be served consecutively** for a total of 600 months, from a Sentencing Reform Act (SRA) range of 240 to 300 months. His maximum term is Life. Mr. Betancourt has served approximately 244 months in prison, plus 217 days of jail time credit.

**OFFENSE DESCRIPTION:**

According to file material, Mr. Betancourt, at his age of 16, participated in the murders of an elderly couple in Grant County, Washington. In the early morning hours of May 21, 1997, Adam Betancourt, Donald Lambert (age 15) and Marcus “David” Wawers (age 15), armed themselves and walked to the home of an elderly couple who were well known in the community. They stopped at an outbuilding and stole a few items, then proceeded to the residence. They all entered through an unlocked sliding door. Mr. Betancourt and Mr. Lambert entered the victims’ bedroom and found them both lying in bed. Mr. Betancourt and Mr. Lambert both began shooting at the victims. All three co-defendants then ran from the home.

Once outside, Mr. Betancourt and Mr. Lambert reloaded their guns, then exchanged them with each other. Now Mr. Betancourt was armed with a rifle and Mr. Lambert had the handgun. They observed someone walking inside the house and both boys fired at this figure, later to be identified as the female victim. The victim made it to the telephone in the kitchen and called her adult son. While she was on the phone with him, Mr. Betancourt shot her through the window. Within a short period all three co-defendants were arrested and charged, along with a minor female who had been aware of the planned offense.

**PRIOR RISK RELATED/ CRIMINAL CONDUCT:**

Mr. Betancourt incurred no juvenile convictions prior to the current offense. According to the pre-sentence report he quit school in the 9<sup>th</sup> grade. He began using alcohol, meth, and marijuana at age 13. He does have an admitted history of gang involvement (Sureno) since his early teens.

**PROGRESS/BEHAVIOR:**

CC Lawrence stated Mr. Betancourt has completed the following courses/programming: Redemption; GED; Horticulture; Vocational Writing; Human Relations; Mathematics for the Trade; Astronomy; Algebra; Biology of Drug use; African American Studies; Math Prep; Business; Understand Family Violence; Literature and Society; Job Seeking Skills; Small Business Management Entrepreneur; Chemical Dependency Intensive Out-patient Treatment; Advanced Skill Building; Thinking for a Change; Bee Keeping; Dog Handler; Life Skills Computing; and Homebuilders Carpentry. He is currently a Teacher's Assistant in the Homebuilders program. While in prison he has previously worked as a custodian, stock clerk, maintenance helper, welder, print press operator and food packer/handler.

Mr. Lawrence noted Mr. Betancourt is not a problem on the living unit. He is helpful to staff and communicates well with staff and other inmates.

Mr. Betancourt has incurred a total of 32 serious infractions during his incarceration. Several were for fighting. His last serious infraction was in 2009. This involved the use of drugs. He had swallowed two small balloons, one with methamphetamine in it and the other with heroin. The balloons broke and he overdosed on the drugs. He admitted in today's hearing that he had planned on selling the drugs. He also stated that since that time he has not used drugs in any manner. He has nine positive behavior observation entries and 12 negative entries.

Mr. Betancourt stated after the overdose in 2009 he started to turn things around. He began distancing himself from the gang and was fully out of the gang by 2015. Prior to the overdose incident he was using drugs throughout much of his prison time. He stated he did not care about himself or anyone else and did what he wanted to. He completed Substance Abuse Treatment in 2016. Though sober support group participation was recommended, he has not participated in any sober support groups such as AA (Alcoholics Anonymous)/NA (Narcotics Anonymous) or

Celebrate Recovery since then. When asked why he had not done so he basically said he was busy with other programming.

Mr. Betancourt stated he met a woman who later became his wife through a fellow inmate. He indicated she was a drug user and a criminal just like him. They officially married in 2011 and he filed for divorce in 2014 or 2015 and it was final in 2016. He stated his wife was not happy with his decision to leave the gang and quit using drugs.

He is currently engaged to another woman he met in 2015 during this incarceration. He described her as a friend of an old cellmate. He stated she is law abiding and is employed as a phlebotomist. He stated he has disclosed all of his crimes and infractions to her. She has three daughters ages 20, 18, and 16. The 16 year old lives at home with her mother. Mr. Betancourt stated his first option would be to release to his fiancée. He stated he has a good relationship with her and her daughters. The Board advised Mr. Betancourt that we have seen few of these prison relationships work out once the inmate is released. The dynamics of the relationship changes and the adjustment is sometimes too much for either party to handle. He said that if he cannot live with his fiancée he does have a friend he can live with. He also stated his father and other family members are supportive of him.

The Board asked Mr. Betancourt what had changed since he came to prison and what has caused the change. He said he had a mentor inside who explained to him that his negative actions in prison were continuing to harm people. He said a Victim Awareness Class he took was instrumental, as well. He stated prior to that he did not consider what the victims or survivors might feel. He now feels deeply remorseful for what he did and the pain he caused the family members.

The Board asked Mr. Betancourt about a claim he had made of meeting with the victims' "grandson" while he was in prison. He described the incident of meeting a young man that he

apparently assumed was the grandson of his victims. He indicated at first they were friendly with each other until the other man discovered what Mr. Betancourt was in prison for.

The Board reviewed the Psychological Evaluation completed by Deborah Wentworth, PhD, this year. Several tests were conducted during an interview with Mr. Betancourt. The Hare Psychopathy Check List Revised (PCL-R) scored in the very low range for psychopathy and indicated his risk for reoffending is low. The VRAG-R predicts violence. Mr. Betancourt was described as a moderate risk for re-offense on this tool.

The Grant County Prosecutor's office submitted a letter stating their office recommended the original sentence of 600 months be adhered to and stated they oppose any reduction in this.

The Board also considered the numerous letters of concern, as well as many of letters of support that were submitted on Mr. Betancourt's behalf.

LRG:jas

July 10, 2018

July 17, 2018

July 24, 2018

cc: Institution  
Adam Betancourt  
File  
Jeffrey Ellis, Attorney



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

TO: Full Board

FROM: LRG (Jody)

RE: Betancourt, Adam DOC #768174

Panel recommends: Not releasable.

Next action: Submit a petition for review in June of 2023.

Agree	Disagree
Lori Ramsdell-Gilkey 7/16/18 Jeff Patnode 7/16/18 Elyse Balmert 7/16/18 Kecia Rongen 7/17/18	

**WASHINGTON STATE DEPARTMENT OF CORRECTIONS**  
**PSYCHOLOGICAL EVALUATION**

**FOR THE**  
**INDETERMINATE SENTENCE REVIEW BOARD**

NAME: Adam Betancourt	EXAMINER: Deborah Wentworth, PhD	
DOC: 768174	EXAM DATES: Jan. 24, 2018	
DOB: 12/30/1980	REPORT DATE: Jan 26, 2018: Amended for clarity 5/9/2018	
AGE: 37 years 1 month	ERD: 5/4/2041	RESIDES: AHCC

**Reason for Referral**

Mr. Betancourt has been referred for a psychological evaluation by Chief Psychologist Dr. Lou Sowers on behalf of the Indeterminate Sentence Review Board (ISRB) which requires a fully-instrument supported evaluation to be used in Mr. Betancourt's upcoming .100 hearing to meet the requirements of ESSB 5064 before the Board. The purpose of this assessment is to provide a written evaluation of the current behavior and risks that may assist the Board in determining the potential for re-offense, violence risk, capacity to function in a less restrictive environment, and/or whether Mr. Betancourt's rehabilitation is complete and he may be considered appropriate for parole in terms of his risk to himself, DOC and the community.

**Dissemination of Information**

This psychological report provides information to be available to the Indeterminate Sentence Review Board, the End of Sentence Review Committee, risk management specialists, and care providers within DOC who have a need to know in order to effectively manage the inmate within the Department Of Corrections. Disclosure and dissemination of this report shall be in accordance with RCW 70.02 and DOC Policy 640.020. It shall not be released to individuals outside DOC without the inmate's written consent or unless otherwise authorized by law.

The data enclosed is part of a psychological evaluation and assessment performed for specific psychological and legal purposes and is intended to be used by persons specifically trained and qualified in psychological assessment techniques including but not limited to clinical interviews, psychological test instruments, psychological raw test data interpretation, meaningfulness of raw test data, and validity and reliability measures. Instruments employed are copyrighted by the publisher and protected by the ethical

guidelines of licensed psychologists and may not be released without the consent of the publisher, and/or the offender, or in response to a court order, other appropriate legal action, law or statute.

### **Consent**

Mr. Betancourt was advised of the purpose of this evaluation and departmental policy regarding information practices in plain language and in writing. I explained that I am not his treating therapist and that the information gathered from this interview would be gathered and reported to the Board for use in his hearing. His written consent to participate was obtained on DOC Form 13-386 and placed in his health care records. He repeated back to the examiner that he understood that his participation is voluntary and that he may ask questions or refuse to answer a question. He understands the limits of confidentiality. The inmate may request to review a copy of this evaluation. BEFORE receiving his copy, the inmate must attend an interpretive meeting with the author, a licensed psychologist, or licensed psychologist designee. A treating psychologist or qualified psychological associate may review this report with the offender without giving him or her a copy of the report to keep in his or her possession. This report shall not be disclosed by the offender in a group treatment setting.

### **Description of Risk Assessment and limitations**

A Risk assessment involves a systematic review of past aggressive behaviors, looking specifically at the antecedents of the behavior, as well as the degree of harm and context in which the behavior occurred. This review is combined with assessment tools specifically for evaluation of past behavior and its impact on future behavior. Whether a person will act aggressively is a function of a variety of factors that include history, personal disposition, and situational variables that cannot all be known in advance. Mental Health professionals often over predict aggression and statements concerning an individual's potential for future risk become less valid over time and must be revisited periodically to consider dynamic or changeable factors. Recently, there are research based instruments that use structured professional judgment to review risk reducing or mitigating factors which are included in this report. Despite these limitations, it is possible to consider available current and historical clinical data to identify and form an opinion regarding risk of future violence and make recommendations on ways in which risk may be reduced.

Current literature in risk assessment best practices, shows that it is important to identify who the person was at the time of the incident crime; e.g., their age and developmental maturity. The importance of these factors are identified in the conclusion of one organizations presentation at the 2012 National Conference of State Legislators: "Findings by the Mac-Arthur Foundation's Research Network on Adolescent Development and Juvenile Justice show that adolescent brains do not fully develop until about age 25, and the immature, emotional and impulsive nature characteristic of adolescents makes them more susceptible to committing crimes. Studies also have shown that juveniles who commit crimes or engage in socially deviant behavior are not necessarily destined to be adult criminals." (Trends in Juvenile Justice State Legislation: June 2012 National Conference of State Legislators. P.3).

Research presented by Dr. Dahl from the University of Pittsburgh Departments of Psychiatry and Pediatrics (2008) elaborates on the more specific connections between these developmental processes and the multitude of ways they affect an individual's functioning. He writes that, "The capacities for competent self-control of behavior and emotions encompass a set of slow, gradual processes that continue to develop through the late teenage years and into the twenties. Such dramatic changes create challenges in the

integration of cognitive and emotional processes in ways that place demands on the functional neural circuits that are critical for mediating arousal, orientation, attention, and affect (e.g., limbic regions) as well as for regulating and integrating these drives in the generation of long-term, goal-directed behaviors (e.g., regions of prefrontal cortex)."

Dr. Dahl goes on to summarize what the research findings show as important areas of impact on an adolescent's functional behavior. "These findings suggest that adolescents engage relatively fewer prefrontal regulatory processes than adults when making decisions—in ways that may make adolescents more prone to risk taking in certain situations. More generally, engaging less prefrontal cognitive control may permit a relatively greater influence from affective systems that influence decision making and behavior which, in turn, increases adolescent vulnerability to some social and peer contexts that activate strong feelings."

The importance of these factors is also recognized/validated by our legal system. In a Committee Report and Recommendations made to the Joint Legislative Task Force on Juvenile Sentencing Reform (Dec. 2014) it was presented that "The Miller opinion was the third in a series of three major pronouncements addressing the issue of proportionality of criminal punishment for youthful offenders. In all three cases, the United States Supreme Court, relying on substantial and compelling brain science, as well as 'emerging standards of decency' concluded that children who commit crimes, even horrific crimes, must be sentenced in a manner that recognizes their youth, culpability and capacity to change."

This current assessment reflects efforts to incorporate measures of static, maturational, and dynamic factors that the Board may want to consider in their decision making process. It is important to note that science has not advanced to the point of being able to precisely predict future risk of violence/recidivism for any one individual; rather observations are offered based on what we have learned about behavior within large groups of people that we see as having similar characteristics and factors. Whether a person will act aggressively is a function of a variety of factors that include history, personal disposition, and situational variables that cannot all be known in advance.

## **Sources of Information**

### **Interviews:**

Mr. Betancourt was interviewed and tested on January 24, 2018 in a private mental health office at Airway Heights Correctional Center for approximately 2 1/2 hours of face to face time. Additional time was spent reviewing the central file, administering tests, scoring instruments and preparing this report. There are no previous evaluations completed for Mr. Betancourt available at this time.

It should be noted that English is considered a second language for Mr. Betancourt. While his mother spoke both English and Spanish as a Texas, his father spoke only Spanish and Spanish was the primary language spoken at home. He began speaking English more frequently when he entered Kindergarten. He has a slight Spanish accent when speaking and feels proficient in English. This may have caused some barriers and lack of confidence in his abilities which will be described in more detail under "education."

### **Review of Records**

Review of DOC Central Files

Review of DOC Medical Files  
Review of DOC Electronic Files (OMNI)

**Psychological Tests Used:**

Bender-Gestalt  
Trails A & B  
Draw a Clock  
Rey 15 item Memory Test

**Risk Assessment Instruments Used:**

PCL-R, per embedded assessment in clinical interview (Psychopathy Check List-Revised)  
VRAG-R (Violence Risk Assessment Guide-Revised)  
SAPROF (Structured Assessment of Protective Factors)

**Criminal History/Offense Behavior:**

Quoted in most recent CCR Statement taken from Criminal History Summary dated 06/26/1998:

Betancourt and his two codefendants, in the early morning hours of 05/21/1997, entered the victims' residence and while the victims lay in bed, Betancourt and one of his codefendants began firing .22 caliber rounds at them. After they had expelled all of the .22 caliber rounds from their firearms, they ran outside, exchanged guns, and reloaded. Betancourt was outside the bedroom window when he saw someone get up from the bed and go toward the bedroom door. He fired another shot through the bedroom window at the figure. He then saw the person exit the hallway, heading towards the kitchen, and fired a shot through the window next to the sliding glass door while his codefendant fired more shots towards the victim. They then went to the southwest corner of the house where they could see the female victim trying to use the telephone. Betancourt's codefendant fired nine more shots from his firearm and Betancourt fired a single round. The female victim was later found dead with the telephone handset in her hand. The male victim was discovered semi-conscious by police responders but later died at the hospital.

There are no records of prior arrests.

**Relevant Personal History:**

**Developmental History:** *Positive parental influence is a behavioral control that inhibits anti-social behavior and is a source of pro-social modeling.*

Mr. Betancourt was the fourth child and first son born to married parents in Quincey, WA. Either before or shortly after his birth his parents separated and divorced. He has three older sisters. He has no direct knowledge about his mother's pregnancy with him, but he believes he may have been developmentally delayed. His three older sisters used to laugh at him and tease him that he was "adopted, dumb, didn't walk or talk until he was three years old etc." He grew up believing he was stupid. This may have been childhood picking upon a younger brother and had no real basis in fact, but he is not sure. His sisters have more recently said he was a normal kid.

Throughout his early childhood and through middle school, Mr. Betancourt was being very badly beaten by his mother's next husband. He states that his stepfather was a raging alcoholic and would begin beating him as soon as his mother left for work. She was also physically abused as were his sisters. He states that he was always angry and felt very alone. His mother and sisters had a tight connection with each other. His sisters would sometimes laugh when he was beaten. He states that his mother knew of the abuse, but was in denial about how bad it was for him. He recalled one time where he woke up at a neighbor's house two days after a particularly bad incident and didn't know how he had gotten there. Mr. Betancourt's family life was characterized by poverty and few resources or activities outside of surviving.

Mr. Betancourt found inclusion in team sports and joined every team that he could to avoid going home. He found a few protective coaches and teachers who tried to help him. He enjoyed team sports because he was recognized for his skills, contributed to the team and the team felt like a family. His wrestling coach was a particularly helpful mentor because he believed he was not dumb, stupid or worthless. He had one English teacher who would take a small group of kids to movies or high school basketball games to broaden their horizons beyond the limitations of their poverty and circumstances.

He states that a teacher found him working afterschool with the school janitor and placed a hand on his back, saying it was time to go home. She noticed his painful wince and pulled up his shirt and saw evidence of his mistreatment. She reported it to the principal the police were called, and his parents called. The authorities told his mother she had to make a choice to kick her husband out and protect her child or send her child away. According to Mr. Betancourt, his mother elected to send her son to live with his biological father. (She explained later that they were living in her husband's home and couldn't afford to live elsewhere.)

His disinterested father was more attentive to his new family and, again, Mr. Betancourt felt left out again. He had to return to his mother's house when his father began abusing him as well.

**Education:** *Overall academic achievement is related to stability and a crime free lifestyle.*

He began kindergarten and first grade where he began to learn and use English primarily. He states he was held back in first grade because he could not read or speak English and never caught up with his age-mates. He states that he never fit in or felt like he belonged at home or at school. Mr. Betancourt turned to anger and fighting to solve his problems at school. He was suspended for fighting every year of junior high and high school. He began turning to alcohol, marijuana and gang membership to belong somewhere which eventually resulted in the instant offense.

He left school in the 11<sup>th</sup> grade and earned a GED while incarcerated. He states that he didn't really read and write until he taught himself in prison. This information is supported by his entry testing done in Feb. 1998 when his IQ was assessed as average, but he had third grade reading and math functioning and his language mechanics were assessed at second grade level.

**Work:** *Employment is a primary socialization structure in our culture. Lack of consistent employment reflects a higher risk for or return to criminal behavior. A history of poor job performance and attitude signifies a dis-regard for pro-social reinforcement.*

Mr. Betancourt has no employment history in the community given his age at the time of his arrest.

He has acquired several marketable skills while in prison which include carpentry, home building, custodial, food handling and kitchen skills.

**Military:** None due to his age at the time of his arrest.

**Medical:** There do not appear to be any medical conditions that might impact his placement in camp, work release, or in the community. Please see his medical record for further information.

**Substance Abuse:** *A history of substance abuse is a high risk factor for criminal behavior. Substance abuse erodes significant pro-social bonds that contribute to an increased criminal risk to recidivate. It may facilitate or instigate criminal behavior.*

Mr. Betancourt began using alcohol and marijuana on an almost daily basis to belong to his gang associates and be viewed as a tough guy. He used alcohol on the day of the instant offense, but does not believe he was drunk at the time of the offense. He continued to use these substances while incarcerated until he had a serious medical incident in 2009 when he ingested drug-filled balloons which "exploded in his stomach" and he had to be resuscitated at the hospital. This incident caused him to seriously consider the direction he was headed and he turned his life around and gave up all substance abuse, serious infractions, and gang activity. He has completed several chemical dependency treatments to include Biology of Drug use, SA INT OUT, and CD on 12/2016.

**Finances: Savings/Spending:** *Financial Stability and self-sufficiency are pro-social. Poor money management are considered stressors which may be indicative of anti-social attitudes or precipitators of inappropriate ways to obtain money.*

Mr. Betancourt has almost \$600.00 in mandatory savings, \$50.00 in spending. He sends money home to his finance to combine with some of her savings for a release fund of about \$800.00 He states that his aunt has about \$600.00 saved for him and his father has about \$1,000.00 saved for his release for transportation and housing needs. He manages his needs on a small personal budget and will have adequate funds for a successful transition to the community.

### **Current Functioning/Behavior**

#### **Program Participation:**

It appears that Mr. Betancourt has participated in almost every program available to him. These include: Thinking4Change (teaching assistant for this course), understanding family violence, literature and society, teacher aide, custodian I, II, III; carpentry-vocational, astronomy, horticulture, vocational writing, human relationships, mathematics for trades, business, food service, packagers & handlers, advanced skill building, redemption, SA INT OUT, small business entrepreneur, job seeking skills, African-American studies.

He has certificates for the following:

Victim Awareness education program, employment safety program, food program hazard analysis critical point training, reintegration program, personal beliefs in reintegration, group therapy, excellent apologizing skills, really listening, outstanding achievement in reintegration programming, and others. Please see the most recent custody facility plan for further details.

**Infractions:**

Since his incarceration in December of 1997, he has received a total of 50 infractions. Of these 44 are serious with the last serious infraction occurring on 11/3/2009 (test results not reported until 2010). He has incurred six general infractions since 2010. The last four general infractions were for the new Stand for count policy. Mr. Betancourt has managed to better self-regulate his behavior over the last seven years. His desistance began when he turned 29 years of age which is noted in Dr. Dahl's developmental timetable for achievement of maturity levels.

**Peer Relationships/Community Support:** *A satisfying family or marital relationship indicates pro-social relationships and ties that are negatively correlated with criminal risk. Uncaring, negative, or hostile relationships with relatives who have contact indicate poor social and problem solving skills and a lack of pro-social modeling. A lack of pro-social companions means a diminished opportunity to observe pro-social models and no reinforcement for pro-social behaviors. The presence of criminal acquaintances and/or friends is associated with an opportunity for pro-criminal modeling which is considered a major risk factor.*

Mr. Betancourt functions very well with other offenders and staff as noted by his programming as a teacher's aide. His performance reviews are consistently positive. He has one former cell mate who is functioning very well in the community over the last many years and is on his visit list. This man has now married with a family and works as a journeyman electrician. He is supportive and reinforces Mr. Betancourt's positive, pro-social behavior.

Mr. Betancourt has reconciled with family members, most significantly his father. The family credits Mr. Betancourt's reform as guiding them to more honest and transparent relationships with each other.

Mr. Betancourt is currently engaged to be married to a registered nurse. He met her through his pro-social friend mentioned above. This relationship developed slowly because she has three children and didn't want a problematic relationship. He states that he has fully disclosed his criminal history to her. They will wait to marry until he is released so that their marriage can begin when he can fully participate in the marriage and family. He states that he has become very close to her 16 year old daughter. This family visits almost every weekend.

**Criminogenic Thinking/Orientation/Judgment/Insight/motivation:** *A criminal value orientation is strongly associated with future criminal behavior, antisocial personality disorder, and psychopathic tendencies. Poor attitude and sentiments about the conviction, sentence, and/or supervision tend to indicate antisocial values. A lifestyle, predicated on sensation seeking, and general acceptance of criminal orientation, is associated with poor social and behavioral controls in the future.*

Mr. Betancourt states that he decided to turn his life around and become pro-social following two major events. One occurred in 2009 when he ingested drugs which exploded in his stomach and he required resuscitation to survive. He knew he had to change his direction away from drugs when he realized how much his gang activity and drug activity was controlling his life. He states he has now completely turned away from all drug activity and started a combatting gang violence program at MCC. He states that he is occasionally harassed by gang members but is practiced at saying, "You stay on your side and I'll stay on my side," and is left alone. Further evidence of his seriousness of purpose is that he does not communicate with two of his nieces because their husbands are gang members. He draws a clear boundary between himself and them.

The second event occurred when he was in the IMU at some point and encountered the grandson of his victims. The two men talked about being from the same small town and the other man mentioned a crime that had occurred many years ago when his family members had been killed. Mr. Betancourt realized that the man was talking about his crime and states, "It broke me." He told the other man that it was him and he regretted taking their lives. The other man stated that he couldn't forgive him, but didn't see him as a killer at that time. Mr. Betancourt again stated his sorrow and that he understood not being forgiven. This gave Mr. Betancourt an unforgettable window into the impact of his actions on others for many years.

### **Strengths/Weaknesses:**

Mr. Betancourt has matured and learned skills of self-regulation during his time in prison through cognitive-behavioral programming and natural maturation. His behavior and relationships have improved and are positive. He has several marketable skills which should enable him to find work. He is engaged to be married to a professional career woman with whom he has been transparent. They plan to marry when he is released. He has a solid extended family support system which he and they have managed to maintain over long distance and long term. He is pleasant and cooperative and receives positive supervisory reviews. He appears to be a strong and healthy young man. His faith is a source of strength and stability. He regularly participates in team sports and has quiet leisurely activities as well to keep him busy. He has succeeded in paths to good time recovery and is continuing in that process.

His weaknesses include never having lived or worked in the community as an adult. He has also not had adult relationships with family or friends as a free adult.

### **Goals and Plans for the Future:**

Mr. Betancourt would like to release to his fiancée's address if possible. He would like to obtain work building homes and doing carpentry. If necessary, he states he would take any job available to become financially independent as soon as possible. He would like to give back to the community by volunteering his skills in the community to projects such as Habitat for Humanity. He would like to reunite with family and build pro-social relationships. He states that he would like to work with at-risk youth so that he might prevent even one person from getting into trouble like he did.

**Leisure and Recreation:** *An excess of idle time or discretionary time presents an added dimension of risk. Recent, regular involvement in a group of pro-social individuals is considered risk reductive. Hobbies and other leisure activities that are service oriented are also ameliorating to risk.*

Mr. Betancourt plays handball and basketball with other offenders, although he has back out of basketball more recently because he believes it was getting to competitive, so he exercises more in the yard. He meditates for an hour each morning, reads his Bible, and keeps a daily journal. He maintains almost daily contact with his extended family. He also enjoys watercolor painting.

### **Clinical Interview: Mental Status Examination**

Mr. Betancourt presents on time for his appointment. He is a 37 year old white man standing about 5' 10" tall with a muscular build, weighing about 180 pounds. He is clean and neatly groomed with closely trimmed hair and beard. He wears eyeglasses during this interview. He is fully oriented on all spheres. He is pleasant and cooperative and quickly establishes rapport with good eye contact and attention. His speech is normal in rate, tone, and volume. He expresses emotion congruent with the content of his

language and with a normal range of feeling. His vocabulary and sentence structure reveal an above average level of intelligence. His speech is organized and forward thinking and he does not appear to be attending to internal stimuli. His attention and memory appear to function normally. He denies having suicidal, self-harm, or harm-to-others thoughts.

He reports his sleep and appetite are normal. His energy level is good and he attends yard and gym. There is no sign of a thought disorder or delusional thinking. His insight and judgment appear to be very good as to his crime and responsibilities.

### **Psychological Test Findings:**

*It is important to note that this individual was evaluated in a prison setting under conditions that may be less than ideal for psychological testing. Therefore, any results from the test scores should be used only as one part of case formulation about the examinee. The psychologist chooses tests depending upon the information needed to complete the clinical and risk assessment. The battery of tests selected and the opinions regarding risk status are based on the training, experience, skill, judgment, and expertise of this licensed psychologist and not on any particular test, historical information, or record.*

### **Cognitive Functioning:**

Mr. Betancourt was administered the Bender-Gestalt test as a simple introduction to assessments and to ascertain any inclination to skew results in a negative or more sick fashion. It is also a good screener for perceptual difficulties. His reproductions indicated a willingness to cooperate and give reasonable effort with this evaluation process. He performed within normal limits on the Bender-Gestalt, Trails A & B, and Draw a Clock which indicates that he functions adequately for the purposes of this evaluation. Previous testing records indicate that Mr. Betancourt functions at the average level of cognitive function.

### **Risk Assessment:**

*A central feature of this evaluation is to render an opinion regarding Mr. Betancourt's risk for future dangerousness in terms of criminal recidivism, violence and/or sexual re-offense. Assessing any individual's risk for engaging in future violent behavior is an inherently difficult task, as the scientific literature attests. This is particularly the case where the information is either incomplete or deliberately concealed. Mental health professionals can make use of a large and growing body of empirical literature for identifying risk-elevating factors.*

*Because risk-elevating factors,-particularly the dynamic factors-change over time with or without intervention, risk assessment updates are necessary to insure accuracy and guard against decision-making based on outdated information.*

<b>Year</b>	<b>Test</b>	<b>Results</b>
	<b>Clinical Assessment</b>	
1/2018	PCL-R	Very low, Level 1 of 5. No evidence of psychopathy or antisocial personality disorder.
	<b>Forensic Risk Assessment</b>	
1/2018	VRAG-R	Bin 6 of 9. Moderate risk to reoffend. On average, 34% reoffended within 5 years and 62% reoffended within 12 years.

**The Hare Psychopathy Check List-Revised (PCL-R)** is currently the gold standard of predicting future risk by using levels of psychopathy as the major predictor. The PCL-R “provides a dimensional score that represents the extent to which a given individual is judged to match the ‘prototype psychopath.’” The higher the score, the closer the match, and the confidence that the individual has psychopathic tendencies. The lower the score, the less likely the individual has a personality disorder that might reflect an added risk of re-offending. It is also considered dynamic and reflects changes in risk levels prior to and subsequent to treatment. Therefore, it is recommended to re-administer periodically.

Mr. Betancourt scored in the very low (non-psychopath) range for psychopathy. His risk for reoffending is low based upon the absence of psychopathy indicators and antisocial personality disorder is unlikely.

#### **VRAG-R**

The VRAG-R is a well researched 12-item actuarial scale designed to predict violent recidivism. This includes the identification of potential sexual offenses previously assessed separately with a related instrument the Sex Offender Risk Appraisal Guide (SORAG). Scores on the VRAG-R are largely based upon Static information related to major life events (marital status, age at index crime, elementary school maladjustment, criminal history, etc.) at, or prior to, the time of the offender’s Index offense in 1997. As such, scores generated by this instrument are unlikely to change significantly when re-administered over time. Also note that the recent revisions of the VRAG to the VRAG-R, the SORAG for sex offenders was combined with the VRAG to obtain one useful instrument. The PCL-R is no longer required to score the VRAG-R which employs only the Facet 4 questions that address antisociality.

Mr. Betancourt’s score places him in Bin 6 of nine equally distributed bins which compare his score with a norm group of offenders. Offenders with similar scores on average recidivated at 34% within five years and 60% on average within 12 years. His score places him at the 60th centile. This could be described as a moderate risk to reoffend.

## Protective or Risk Reducing Factors:

Because Risk Factors tend to over-represent the negative factors in risk management, and poorly reflect factors that may mitigate risk, the SAPROF (Structured Assessment of Protective Factors) was developed in Holland in 2004, was published in the United States in 2012, is a structured clinical judgment instrument based upon what research has hypothesized to be relevant factors that may reduce or protect from future risk behaviors. Items on the SAPROF are scored as absent, possible, or present based on information from the past six months and the current plans regarding the near future. The dynamically based SAPROF score is combined with a risk score and the result is thought to present a more accurate picture of the current function of the subject and is considered valid for the next 12 months, providing that the context stays the same. The developers state that the combined score adds to the predictive power of risk-only tools. Mr. Betancourt scored in the moderate-high range of protective factors. These were evenly distributed between internal (historical and dynamic factors), motivational (be a positive member of society), and external factors (voluntary and imposed support systems.)

Other significant mitigating factors that indicate possible reduction in risk include: increasing age, decreased frequency of institutional misbehavior, and criminogenic-related cognitive treatment also apply to Mr. Betancourt.

Taking into consideration Mr. Betancourt's very low score on the PCL-R, his moderate score on the VRAG-R and the moderate-high score on protective factors which are dynamically based, the result is on a more probable than not combined score of low level of risk to reoffend violently. This is projected to be a more balanced representation of his current risk level based upon both static and dynamic factors.

## Summary:

*The risk estimates made in this assessment are based on an anamnestic model (a formulation that takes the offender's clinical and social history, and individual behavioral risk patterns into account), not on tests alone. It is a violation of the Ethical Guidelines Psychologists to base risk decisions solely on test results. The anamnestic model of the offender's behavior is constructed on the basis of the offender's past behavior, current behavior, test results, available collateral information, and presentation on clinical interview.*

Current literature in Risk Assessment Best Practices asks questions such as: Who the person "is" in terms of gender, age, and developmental growth currently as well as at the time of the Instant Crime; What the person "has done" in terms of their criminal activities; What the person "has" in terms of psychiatric conditions that might increase or decrease risk; and What has been "done to" the person in terms of abuse, neglect, or familial actions. These questions are used as a format for understanding a person's level of risk.

The question of who a person "is," can be reviewed from perspective of past & current functioning.

While nothing can excuse the tragic loss of life; awareness of the factors affecting the inmate's behavior might help one evaluate how he could be a part of such activities and whether similar current conditions exist that could influence behaviors if sentencing was modified. As elaborated on above Mr. Betancourt was approximately 16 1/2 years old when he committed these crimes. Information presented earlier in this report suggests that Mr. Betancourt would have been chronologically and emotionally in the middle of completing important developmental processes. He appeared to be lacking key

developmental/environmental supports that often protect an individual from bad choices/behaviors during these vulnerable times. Factors shown to decrease chances of engaging in risky behavior include presence of a loving & supporting adult relationship, connection to positive peer groups/influences, and sense of academic success. His childhood had been abusive and chaotic. His family of origin was abusive and dangerous at times for him, including suffering concussions and periods of unconsciousness at the hands of his stepfather. He found it difficult to form attachments which continued to influence his lack of warmth and trust in others. Also important to this review was the examination of the inmate's records while in prison which are also elaborated on above. Mr. Betancourt reported that over the years when he was first imprisoned, he was angry, alone, and figured he would never get out. His behavior reflected these beliefs and involved frequent verbal defiance of authority, refusing to comply, and drug infractions.

Again, the research finds that individuals in these child and youth situations are going to be more at risk for negative behaviors. Although not excusing any delinquent behaviors, Dahl (2008) reminds us of the strong influence these biological/neurological processes can have: "These findings suggest that adolescents engage relatively fewer prefrontal regulatory processes than adults when making decisions—in ways that may make adolescents more prone to risk taking in certain situations. More generally, engaging less prefrontal cognitive control may permit a relatively greater influence from affective systems that influence decision making and behavior which, in turn, increases adolescent vulnerability to some social and peer contexts that activate strong feelings."

The question of who the inmate is currently, recognizes that he is now 37 years old and has experienced growth and maturation over time. Evidence in his records validate Mr. Betancourt's report of having made significant changes in many areas including: elimination of violent & destructive behaviors; disconnection from negative & anti-social peer influences; increasing presence of positive peer relations; and in establishment of daily structure that includes employment, education, and coping activities. He has also participated in cognitive-behaviorally based programming and all other programming available to him.

Significant changes in behavior/attitude reportedly began slowly occurring 2009. He has not had any serious infractions, assaults, or drug violations since 2009 over the last nine years. He began making these changes before the possibility of release existed. Whether the changes are of sufficient duration, quantity, or quality to warrant reconsideration of sentencing is a legal decision to be determined by the Board.

If based primarily on criminal & infraction history, Mr. Betancourt would be considered to be in the low-moderate range for risk of reoffending after release. However, overall risk assessment may benefit from taking into consideration of dynamic factors such as nine years with no serious infraction and the lack of current biological/neurological development risk factors that were present as an adolescent and young adult. Under these parameters, and accounting for the results of the SAPROF, the risk of reoffending would best be seen as in the low to low-moderate range. Whether the changes/factors are of sufficient duration, quantity, or quality to warrant reconsideration of sentencing is a legal decision to be determined by the Board.

The question of what a person "has," can be defined by the diagnosis of any mental health disorders that could increase/decrease one's risk for recidivism or violence. These could include major mental disorders (e.g., Mood, Anxiety, or Psychotic Disorders), Personality disorders (Antisocial Personality Disorders, etc.),

and/or Substance Abuse disorders. This individual has not met the criteria for a personality disorder. Current testing verified that he has no clinical concerns at this time.

A last question, asking what has been "done to" the person, is consistent with the findings of the National Research Council's Panel on the Understanding and Control of Violent Behavior. They concluded that whether or not the person was raised in a pathological family environment and whether the individual was physically abused can correlate as risk factors for future violence. Mr. Betancourt's history informs that as a young child he was repeatedly severely beaten. Intervention by law enforcement and educators were not successful. He continued experiencing abuse and neglect from his stepfather and his mother choosing not to protect him, but sent him to his neglectful father. He felt very angry, disconnected and unaccepted by family & appropriate peers. He expressed disregard for social limits and rules; associating primarily with peers having negative influence on him; and participating in illegal activities. See Dahlbeck, 2014 for a more thorough treatment of this issue.

Overall, the results of this evaluation suggest that Mr. Betancourt is at "low" risk to reoffend violently in the community as measured by the instruments and clinical evaluation done on this date. Measures utilizing primarily static factors place him at a low to low-moderate risk. Records documenting improved functioning and maturation over time (combined with results from the SAPROF) suggest that, for this particular individual, the overall risk level could be viewed as more in the "low" range. Taking into account maturational and dynamic risk factors is consistent with the legal and clinical findings elaborated on earlier in this report. Whether these risk estimations & factors are sufficient to justify changes in sentencing (or a release to less restrictive levels), however, is not a scientific/clinical question and is respectfully deferred to the Board.

### **Recommendations:**

*The current assessment reflects efforts to incorporate measures of static and dynamic factors that the Board may want to consider in their decision making process. It is important to note that science has not advanced to the point of being able to precisely predict future risk of violence/recidivism for any one individual; rather observations are offered based on what we have learned about behavior within large groups of people that we see as having similar characteristics and factors. Whether a person will act aggressively is a function of a variety of factors that include history, personal disposition, and situational variables that cannot all be known in advance.*

Mr. Betancourt became involved with criminal and inappropriate behavioral at a very early age. Research is clear that his neurological & biological mechanisms would have been underdeveloped; and would have been inadequate at a time that he would be more susceptible to negative outside influences and re-enforcers. Risk for problems was heightened by the lack of healthy associations/relationships; the lack of positive peer influences from school or siblings; and by the use of drugs/alcohol and persons committing criminal activities. Based upon this history, the following recommendations are proffered.

Mr. Betancourt may be a reasonable candidate for transitioning to a less restrictive setting at this time. It would be beneficial to work his way through lower custody levels and work release so that his adjustment to re-entry issues can be monitored. Decisions regarding Mr. Betancourt's placement in a Camp setting should be based on medical considerations. Mr. Betancourt's rule breaking is considerably less than earlier in his incarceration and there is no behavioral indicator of escape risk.

Mr. Betancourt is less likely to engage in criminal activity in the presence of strong family and positive peer connections. Efforts should be made to insure adequate access and support of family members and positive peer activities; and to assist with relationship issues that often occur during major transitions.

Mr. Betancourt is less likely to engage in criminal activity in the presence of participation in regular employment which provides financial self-sufficiency and limits unstructured time is recommended. The structure of meaningful work will be important to his successful transition to the community. He has several marketable skills which will enable him to succeed. Useful employment that provides financial resources, structures time as well as pro-social contacts and opportunities is highly recommended.

Mr. Betancourt is less likely to engage in criminal activity in the presence of mandatory ongoing external supervision and monitoring to be required by the legal system as well as various support systems. If released to the community, this structure could include regularly scheduled appointments with his community custody officer.

Mr. Betancourt is less likely to engage in criminal activity in the presence of continued requirements to abstain from alcohol or other drugs. He has completed chemical dependency treatment. He is used to having external constraints beginning as an adolescent in prison, and the presence of continued constraints might provide ongoing awareness appropriate to reinforce the internal commitment to abstinence already verbalized by the inmate. Participation in AA or NA meetings may help him make the transition to the community and foster positive and proactive relationships.

In the community, Mr. Betancourt should be closely monitored for abuse of substances, including random urinalysis screening for all common substances of abuse, especially alcohol and drugs since this is indicated in his history. Strategically, some urinalyses and breathalyzer screening should be done the day following a previously tested monitoring, just to make sure that celebration of a clean test has not taken place. Any indication of his abusing alcohol should precipitate his being evaluated for need for treatment services and for following the treatment recommendations from that evaluation.

With the submission of this report, my evaluation of Mr. Betancourt is complete. Please do not hesitate to contact me if there are any questions.

*Deborah Wentworth, PhD*

Deborah Wentworth, PhD  
Psychologist 4, Evaluator for the  
Indeterminate Sentence Review Board

VERIFICATION OF PETITION BY COUNSEL

I declare under penalty of perjury under the laws of the State of Washington that I am the attorney for the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

January 19, 2019//Portland, OR

/s/Jeffrey Erwin Ellis

**ALSEPT & ELLIS**

**January 19, 2019 - 1:25 PM**

**Filing Personal Restraint Petition**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** Case Initiation  
**Trial Court Case Title:** St of Wa Vs Adam Betancourt  
**Trial Court Case Number:** 97-1-00295-1  
**Trial Court County:** Grant Superior Court  
**Signing Judge:**  
**Judgment Date:**

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