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**STATE OF WASHINGTON
GRAYS HARBOR COUNTY SUPERIOR COURT**

In re the Detention of:

PATRICK TRUXILLO,

Respondent.

NO.

CERTIFICATION FOR
DETERMINATION OF
PROBABLE CAUSE

I, ROSE MCGILLIS, Assistant Attorney General for the State of Washington, am familiar with the investigation conducted by the Washington State Department of Corrections and various law enforcement agencies relating to Respondent, PATRICK BRYAN TRUXILLO.

Pursuant to RCW 71.09.030, the Attorney General for the State of Washington is filing this Petition at the request of the Grays Harbor County Prosecuting Attorney, GERALD FULLER.

Petitioner, State of Washington, sets forth the following in support of its Motion for the Determination of Probable Cause that Respondent, PATRICK BRYAN TRUXILLO, is a sexually violent predator pursuant to chapter 71.09 RCW et. seq.

I. SEXUALLY VIOLENT OFFENSE

Respondent, PATRICK BRYAN TRUXILLO, was born on August 10, 1967, and is now 47 years old. He has been convicted of a sexually violent offense as that term is defined in RCW 71.09.020(17). He currently is incarcerated by the Washington State Department of Corrections, and is scheduled for release on January 4, 2015.

1 **1. Rape in the First Degree and Burglary in the First Degree, Grays Harbor**
2 **Superior Court (No. 01-1-431-2), January 17, 2002.**

3 At approximately 2:30 a.m. on September 4, 2001, Mr. Truxillo forced his way into
4 the apartment of L.W., a 21 year-old female. Once inside the apartment, Mr. Truxillo pushed
5 the victim against the wall and covered her screaming mouth with his hand. During the
6 struggle, L.W. bit Mr. Truxillo's right hand thumb and index finger. He told her he was not
7 going to hurt her and then grabbed her by the shoulders and escorted her to the bed. The two
8 began to struggle for control until Mr. Truxillo ripped the victim's underwear at which point
9 the victim stopped physically resisting. L.W. told Mr. Truxillo no and told him to stop. She
10 asked him to put a condom on and he indicated that he did not have any diseases and would
11 not ejaculate inside of her. Mr. Truxillo raped the victim vaginally for approximately 35
12 minutes. While raping her, Mr. Truxillo told her "Oh, you're so beautiful, "It feels so good",
13 "I want you, I need you", and "I love you". L.W. indicated he was intoxicated and that she
14 got the impression he felt she was his lover.

15 At one point, the victim was allowed to use the bathroom under Mr. Truxillo's
16 supervision. While in the bathroom, she pushed the emergency button. The emergency
17 button when pushed buzzes outside of her room in the hallway and has a flashing light to let
18 her neighbors know that something may be wrong. After leaving the bathroom, he continued
19 to rape her for 10 minutes until a neighbor came to the door asking if she was okay. Mr.
20 Truxillo told her to tell the neighbor she was fine or he would hit her. The victim told the
21 neighbor she was okay. Mr. Truxillo turned off the alarm and then continued to rape the
22 victim for another five minutes. L.W. told him he had to leave because her mother would be
23 coming to her residence at 5:00 a.m. He started going through her belongings and picked up a
24 pair of purple satin underwear. He smelled the underwear and asked if he could have them.
25 The victim said yes and stuck them in the pocket of his sweatshirt after struggling to get his
26 sweatshirt tied around his waist. Mr. Truxillo had both alcohol and cocaine in his system at
the time of the incident. He then proceeded to go through her belongings again and pulled

1 out another pair of underwear with black elastic. He again asked if he could have them and
2 the victim said yes and he left her residence.

3 Mr. Truxillo was arrested on September 4, 2001, at the Flamingo Hotel in Aberdeen,
4 Washington where he was residing with his maternal grandmother. Upon serving a search
5 warrant officers discovered a duffle bag containing Mr. Truxillo's clothes, 7 adult
6 pornographic magazines, 1 pornographic videotape, 2 pairs of bikini style underwear later
7 identified as L.W.'s underwear and an additional pair of unidentified women's underwear.

8 Mr. Truxillo was charged with one count of Rape in the First Degree and one count of
9 Burglary in the First Degree. Due to concerns regarding his competency to stand trial, a
10 sanity commission was formed and proceedings were stayed pending evaluation by Robert W.
11 Powers, Ph.D. at Western State Hospital. In Dr. Powers' October 30, 2001 report, he opined
12 that Mr. Truxillo was competent to stand trial and diagnosed him with Malingering, Alcohol
13 Dependence and Cocaine Dependence on Axis I and Personality Disorder, not Otherwise
14 Specified with Antisocial Traits Axis II. Mr. Truxillo entered an Alford Plea to the charge of
15 Rape in the First Degree on the same date. On February 19, 2002, Mr. Truxillo was sentenced
16 to 160 months of incarceration, 36 to 48 months of community supervision, and given credit
17 for time served. He has been continuously incarcerated since September 4, 2001.

18 II. OTHER SEXUAL OFFENSES

19 Mr. Truxillo began committing other offenses rooted in inappropriate sexual behavior
20 at the age of 22 while residing in Arizona.

21 1. Attempted Sexual Assault and Kidnapping, Maricopa County Superior 22 Court, November 16, 1990.

23 On July 21, 1990, Mr. Truxillo pulled his vehicle over to the side of the road and
24 offered M.N., a 34 year-old female, a ride in his vehicle. Although Mr. Truxillo was a
25 stranger, M.N. acquiesced. While in the vehicle, Mr. Truxillo locked her door and grabbed her
26 arms to restrain her. She told him, "No, leave me alone" and he replied "No, I don't think so."

1 The victim attempted to call for help and Mr. Truxillo moved his arm around her neck and
2 squeezed to silence her voice. He demanded she move to the back seat of the vehicle. When
3 M.N. resisted, Mr. Truxillo applied more pressure to her neck so she complied fearing he was
4 going to “choke her to death”. M.N. got in the backseat and removed her pants and underwear.
5 As Mr. Truxillo was removing his shorts and climbing on top of her, the police responded to
6 the scene and prevented further action.

7 Mr. Truxillo was arrested and charged with one count of Attempted Sexual Assault and
8 one count of Kidnapping. He pled guilty and was sentenced to an unspecified length of
9 probation on November 16, 1990. He was discharged from probation on November 29, 1993.

10 **2. Sexual Assault and Kidnapping, Maricopa County Superior Court,**
11 **September 25, 1992.**

12 On February 20, 1992, S.E., a 30 year-old female, was walking through a parking lot
13 when Mr. Truxillo approached her and tried to sell her his jacket. She declined and walked
14 away. Mr. Truxillo followed her and asked the victim for a date. S.E. replied no and that she
15 was not interested. Mr. Truxillo then put his arm around her throat, pushed her to the ground,
16 and started choking her with one hand. The victim attempted to fight him off but he struck her
17 several times in the head. He then dragged her to another area and while choking her with one
18 hand he removed her pants and vaginally raped her.

19 Mr. Truxillo was charged with one count of Sexual Assault and one count of
20 Kidnapping. The charges were dismissed for unspecified reasons.

21 **3. Attempted Sexual Assault and Kidnapping, Maricopa County Superior**
22 **Court, December 24, 1997.**

23 On June 4, 1997, Mr. Truxillo grabbed S.W., a 29 year-old female, from behind as she
24 was crossing a parking lot. He pulled her by the hair behind a dumpster. As he was dragging
25 her, he kicked her in the back and punched her in the face repeatedly. He reached around the
26 front of her and began to unfasten her belt and pants. S.W. believed he was attempting to

1 sexually assault her and was able to fight him off. The victim's friend arrived and Mr.
2 Truxillo fled the scene.

3 Mr. Truxillo was charged with one count of Attempted Sexual Assault and one count
4 of Kidnapping, which was later dismissed. The Sexual Assault charge was dismissed due to a
5 Plea on Other. Mr. Truxillo was sentenced to prison that same day for the crime of Attempted
6 Robbery in the 2nd Degree in Maricopa County.

7 **III. OTHER OFFENSES AND PRISON VIOLATIONS**

8
9 Mr. Truxillo has an extensive history of nonsexual offending and substance abuse of
10 alcohol, marijuana, cocaine and LSD. Mr. Truxillo has been previously charged or convicted
11 of: Aggravated DWI (4/28/91); Larceny (12/24/91); Aggravated Assault (1/14/93); Shoplifting
12 (1/3/94); Trespassing in the 3rd Degree (10/13/96); Robbery in the 2nd Degree (10/17/96);
13 Disorderly Conduct (9/23/99); Criminal Damage (10/27/99); Malicious Mischief in the 3rd
14 Degree (8/19/01); Possession of Drug Paraphernalia (8/19/01); Assault in the 4th Degree
15 (8/19/01); and Attempted Theft in the 3rd Degree (8/19/01).

16 On August 15, 1992, prior to his current incarceration, Mr. Truxillo was infracted,
17 charged and convicted for Aggravated Assault a Class 5 Felony against a correctional office in
18 Maricopa County, Arizona.

19 Since his incarceration, Mr. Truxillo has spent a significant amount of time engaging in
20 improper conduct. Mr. Truxillo has received the following major infractions: Refusing Cell
21 Assignment; Refusing Cell Search; Display of Martial Arts; Strong-arming; Threatening;
22 Safety Violation; Throwing; Refusing a Direct Order; Four General Infractions with a 90 day
23 period; Failure to Comply with Sanctions; and Blocking a Security Device.

1 **IV. SEX OFFENDER TREATMENT**

2 Mr. Truxillo has not participated in any sex offender treatment or chemical
3 dependency programming following incarceration in Grays Harbor on September 4, 2001, for
4 Rape in the First Degree.

5 **V. SEXUALLY VIOLENT PREDATOR EVALUATION**

6 Dr. Brian W. Judd, a psychologist with extensive experience in the evaluation,
7 diagnosis, and treatment of sex offenders, conducted an initial assessment of Mr. Truxillo at
8 the request of the Joint Forensic Unit (JFU). A copy of Dr. Judd's curriculum vitae is attached
9 hereto as Exhibit 1. A copy of the June 22, 2014, report generated pursuant to Dr. Judd's
10 assessment of Mr. Truxillo is attached hereto as Exhibit 2 and is incorporated by reference.

11 Dr. Judd is familiar with RCW 71.09 and has previously conducted assessments of sex
12 offenders who are being considered for civil commitment pursuant to this statute and similar
13 statutes in other states. In conducting his assessment, Dr. Judd reviewed over 2424 pages of
14 records, including police reports, legal documents, health information, previous psychological
15 evaluations, and materials from the Department of Corrections relevant to Mr. Truxillo's
16 incarceration. Those records are the same as those upon which this certification is based. Mr.
17 Truxillo refused to meet with Dr. Judd for purposes of his evaluation. Dr. Judd conducted a
18 collateral interview with Mr. Truxillo's classification counselor, Mr. David Martin, on May
19 28, 2014, for his evaluation.

20 Dr. Judd reports that it is his opinion, to a reasonable degree of psychological
21 certainty, that Mr. Truxillo suffers from a mental abnormality and personality disorder.
22 Specifically, Mr. Judd diagnosed Mr. Truxillo with Schizophrenia Continuous; Other
23 Specified Paraphilic Disorder, Nonconsent, In a controlled environment; Alcohol Use
24 Disorder, In a controlled environment; Cannabis Use Disorder, In a controlled environment;
25 and Stimulant Use Disorder, In a controlled environment. Of these disorders, Dr. Judd reports
26 that Other Specified Paraphilic Disorder, Nonconsent, In a controlled environment qualifies as

1 a mental abnormality under RCW 71.09.020(8) as it predisposes him to engage in predatory
2 acts of sexual violence which endangers peer-aged females.

3 Paraphilic Disorder is a paraphilia that is currently causing distress or impairment to
4 the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to
5 others. Paraphilia denotes any intense and persistent sexual interest other than sexual interest
6 in genital stimulation or preparatory fondling with phenotypically normal, physically mature,
7 consenting partners. Mr. Truxillo has a history of forcible confinement of females and
8 attempted rape of known and unknown females. His assaults entail the use of physical force
9 in order to obtain compliance of the victims. Mr. Truxillo's repetitive sexually assaultive
10 behavior while at liberty in the community and on supervision is indicative of the strength and
11 durability of his paraphilic arousal.

12 Dr. Judd also opines, to a reasonable degree of psychological certainty, that Mr.
13 Truxillo's mental abnormality and personality disorder cause him serious difficulty in
14 controlling his behavior, such that he is likely to engage in predatory acts of sexual violence if
15 not confined to a secure facility. In addition to his review of records, Dr. Judd employed
16 several risk assessment instruments to aid in assessing Mr. Truxillo's risk of recidivism. Some
17 of these risk assessment instruments were actuarial in nature, and others were not, but each of
18 the instruments used by Dr. Judd are generally used and relied upon by similarly situated
19 professionals.

20 In his risk assessment of Mr. Truxillo, Dr. Judd used two actuarial instruments: the
21 Static-99R, and the VRAG-R. Dr. Judd assessed Mr. Truxillo's risk using the Static-99R. Mr.
22 Truxillo's score of 7 falls at the 97th percentile. Offenders with Truxillo's score on the Static-
23 99R were charged or convicted of a new sexual offense at a rate of approximately 38% within
24 5 years of time at risk and 49% within 10 years of time at risk. This recidivism rate
25 underestimates an offender's actual risk, because most sexual crimes do not result in criminal
26 charges or convictions.

1 Dr. Judd also assessed Mr. Truxillo on the VRAG-R for violent recidivism, including
2 sexually violent recidivism. Mr. Truxillo received a prorated score of 33.55 placing him in Bin
3 9 at the 97th percentile. Mr. Truxillo's score on the VRAG-R actuarial instrument places him
4 in a category of offenders that were charged or arrested for a new violent offense, at a rate of
5 approximately 76% within 5 years of time at risk and 90% recidivism at 15 years of time at
6 risk.

7 In addition to using actuarial instruments, Dr. Judd employed empirically-derived
8 dynamic factors in his risk assessment. Specifically, Dr. Judd assessed Mr. Truxillo's risk
9 using the Hare Psychopathy Checklist-Revised 2nd Edition (PCL-R). Scores on the PCL-R
10 range from 0 to 40. Categorically, individuals obtaining scores of 30 and above are regarded
11 as being psychopathic and therefore at a significantly higher risk for violent and antisocial
12 recidivism. Mr. Truxillo obtained a prorated score of 28 on the PCL-R placing him in the in
13 the 76th percentile compared to North American male offenders and at the 82nd percentile
14 compared to North American male forensic psychiatric patients.

15 Dr. Judd also used the SRA-FV instrument which assesses psychological factors that
16 function as long term vulnerabilities for sexual offending that fall into three domains: *Sexual*
17 *Interests, Relational Style, and Self-Management*. The Total Need Score assigned Mr. Truxillo
18 was 4.19 which reflects a high level of need in each of the assessed domains. Mr. Truxillo's
19 score falls above the range of scores of those individuals identified as High Risk/Needs as
20 defined by the interpretative guide and offenders with this level of need are expected to have a
21 recidivism rate above that indicated by the Static 99R High Risk/Need norms. Based on the
22 assessment of psychological needs and vulnerabilities associated with sexual offending, Dr.
23 Judd opined that Mr. Truxillo has marked deficits in the domains of sexual and relational
24 interests and self-management.

25 Dr. Judd opined that in "conjunction with the static levels or risk and a lack of sex
26 offender specific treatment to address dynamic risk factors, Mr. Truxillo appears to constitute a

1 high level of risk for future offending, with no substantive reduction in risk for at least the next
2 13 years.” Accordingly, it is Dr. Judd’s expert opinion, to a reasonable degree of
3 psychological certainty, that Mr. Truxillo is likely to engage in predatory acts of sexual
4 violence if not confined to a secure facility.

5 Mr. Truxillo is due to be released to the community on January 4, 2015.

6 Under penalty of perjury under the laws of the State of Washington, I certify that the
7 foregoing is true and correct to the best of my knowledge.

8
9 RESPECTFULLY SUBMITTED this ____ day of December, 2014.

10 ROBERT W. FERGUSON
11 Attorney General

12
13 _____
14 ROSE K. MCGILLIS, WSBA #34469
15 Assistant Attorney General
16 Attorneys for Petitioner
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EXHIBIT 1

BRIAN W. JUDD, Ph.D., P.C.
501 Columbia NW, Suite A
Olympia, WA 98501
360.352.5351
Fax 360.352.5357

CURRICULUM VITAE

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EDUCATION:

Kansas State University	BS	Psychology/Anthropology	1980
University of Chicago	MS	Social Science	1983
University of Houston	MA	Psychology	1987
University of Houston	Ph.D.	Psychology	1989

MASTER'S THESIS: Topography of the 40 Hertz Evoked Potential in the Auditory and Visual Modalities

DOCTORAL DISSERTATION: Lateralization of Language in Traumatically Brain Injured Children

Jan. 1986 - July 1988
Clinical Internship in the Department of Psychiatry, University of Texas Medical School, Houston, Texas, and The Mental Health Section, Department of Pediatrics, The University of Texas M.D. Anderson Hospital and Tumor Institute, Houston, Texas. Internship program coordinated through the Clinical Neuropsychology Program at the University of Houston by Jack Fletcher, Ph.D.

EXPERIENCE:

Sept. 1983 - Jan. 1984
Clinical Practicum, Division of Neuropsychology, Medical Center Del Oro Hospital, Houston, TX

A Professional Corporation
Licensed Psychologist
Certified Sex Offender Treatment Provider
Clinical & Forensic Consultation & Assessment

Jan. 1984 - Sept. 1984	Clinical and Research Practicum, Transitional Learning Community, Galveston, TX
Sept. 1984 - May 1985	Clinical Practicum, Department of Psychology, Veterans Administration Medical Center, Houston, TX
Sept. 1984 - Sept. 1986	Research Associate, Regional Cerebral Blood Flow Laboratory, Department of Neurology, Baylor College of Medicine, Houston, TX
July 1988 - May 1989	Consultation & Assessment, Larry Pollock, Ph.D. and Associates, and HCA Medical Center Hospital, Houston, TX
May 1989 - March 1991	Coordinator of Outpatient Neuropsychology, Larry Pollock, Ph.D. and Associates, and HCA Medical Center Hospital, Houston, TX
March 1991- Oct. 1992	Staff Neuropsychologist New Medico Community Re-Entry Services of WA, Mountlake Terrace, WA
Oct. 1992 – January 2001	Psychological Consultant, Office of Disability Insurance, Renton, WA
January 1993 - Present	Private Practice, Olympia, WA
April 1993 - January 1998	Contract Neuropsychologist, Rehab w/o Walls Inc., Seattle, WA
March 1994 – 2000	Court Psychologist, West Seattle Psychiatric Hospital, Seattle, WA
May 1994 – November 2002	Affiliate Sex Offender Treatment Provider, State of Washington
June 1994 – January 2001	Contract Neuropsychologist, Green Mountain Rehabilitation Medicine, Bremerton, WA
January 1996 – January 2001	Court Psychologist, Harborview Hospital, Seattle, WA
January 1996 – May 2002	Court Psychologist, Snohomish County Evaluation and Treatment Facility and Steven's Hospital, Snohomish County, WA

January 1999 – Present Contract Psychologist, Special Commitment Center, Steilacoom, WA

November 2002 – Present Certified Sex Offender Treatment Provider, State of Washington.

April 2004 – May 2005 Contract Psychologist, Office of Disability Insurance, Olympia, WA.

August 2013 – Present Member, Pierce County Forensic Panel, Pierce County, WA.

PROFESSIONAL AFFILIATIONS:

Member:

American Psychological Association
American Psychology/Law Society
Association for the Treatment of Sexual Abusers (ATSA)
Board Member – Washington Association for the Treatment of Sexual Abusers (WATSA)

BIBLIOGRAPHY:

Published Articles in Peer Reviewed Journals:

Sinnett, E.R., Judd, B.W., Rissman, K., & Harvey, W.M. (1980). Temporal patterns of drug abuse by heroin addicts, International Journal of Addictions, 15, 1241-1248

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Book Chapters:

Meyer, J.S., Judd, B.W., Rogers, R.L. & Mortel, K.F. (1988). Control of hypertension, abstention from smoking, and surgical revascularization procedures improve cognition in different categories of multi-infarct dementia. In *Cerebral Vascular Diseases, 6*, World Federation of Neurology 13th Salzburg Conference, International Conference Series, Excerpta Medica, Amsterdam.

PRESENTATIONS:

Schrock, B., Thompson, N., & Judd, B.W. Changes in cognitive functioning in head injury following non-acute rehabilitation. Poster presentation at the International Neuropsychological Society, San Diego, CA, February, 1985.

Spydell, J.D., & Judd, B.W. Topography of 40 Hz evoked potential in the auditory modality. Poster presentation at the American EEG Society, Orlando, FL, October, 1985.

Meyer, J.W., & Judd, B.W. Cognitive performance correlates with cerebrovascular impairment in multi-infarct dementia. Platform presentation at the Congress of Neurology, New Orleans, LA, May, 1986.

Meyer, J.S., Judd, B.W., Rogers, R.L., & Mortel, K.F. Improved cognition after control of risk factors in multi-infarct dementia. Poster presentation at the American Neurological Association, Boston, MA, October, 1986.

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Ewing-Cobbs, L., Judd, B.W., & Miner, M.E. Lexical retrieval and intellectual function following traumatic brain injury in children. Platform presentation at the International Neuropsychological Society, Kissimmee, FL, February, 1990.

Judd, B.W., Ewing-Cobbs, L., Papanicolaou, A.C., Fletcher, J.M., & Miner, M.E. Lateralization of language following traumatic brain injury in children. Poster presentation at the International Neuropsychological Society, Kissimmee, FL, February, 1990.

Hart, S.D., Judd, B.W., & Boer, D.P. Actuarial risk assessment of sexually violent recidivism. Platform presentation to the Association for the Treatment of Sexual Abusers, Chicago, IL, November, 1996.

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Judd, B.W. Use of structured clinical techniques in evaluating risk of violent recidivism. Presentation to the Region III Parole Clinic, Los Angeles County, Los Angeles, CA, March, 1997.

Judd, B.W. Actuarial assessment of sexually violent recidivism. Presentation to the Los Angeles Roundtable On Sexual Offending, Los Angeles, CA, March, 1997.

Judd, B.W., What's New in Neuropsychology? Invited presentation to the Washington State Trial Lawyers Association, Seattle, WA, May, 1997.

Judd, B.W., & Hart, S.D. Actuarial and Clinical Risk Assessment of Violent Recidivism. Platform Presentation to the American Academy of Forensic Sciences, San Francisco, CA, February, 1998.

Judd, B.W. Neuropsychological Indices Associated with Domestic Abuse: Description of Preliminary Relationship. Invited presentation to the Kitsap County Bar Association, Port Orchard, WA, April, 1998.

Judd, B.W. Assessment of Domestic Abuse Recidivism. Presentation to the Region III Parole Clinic, Los Angeles County, Los Angeles, CA, September, 1998.

Judd, B.W. Actuarial and Clinical Risk Assessment of Violent Recidivism. Invited Presentation to Seattle Forensic Institute, Seattle, WA, October, 1998.

Judd, B.W. Efficacy of Treatment with Sex Offenders. Invited Presentation to Seattle Forensic Institute, Seattle, WA November, 2000.

Judd, B.W. Assessment of Child and Adolescent Psychopathy. Presentation to Jefferson County Department of Juvenile Services, Pt. Townsend, WA, March, 2001.

Judd, B. W. Long Term Psychological Vulnerabilities and Recidivism. Presentation to the King County Prosecuting Attorney and the Office of the Attorney General, Seattle, WA, March, 2012.

Judd, B. W. Paraphilic Coercive Disorder. Presentation to the King County Prosecuting Attorney and the Office of the Attorney General, Seattle, WA, March, 2012.

Judd, B. W. Integration of Psychological Need into Actuarial Risk Assessment. Presentation to the Washington Association for the Treatment of Sexual Abusers Fall Retreat, Chelan, WA, September 2012

SELECTED CONTINUING EDUCATION SEMINARS:

The Battered Spouse Syndrome as a Criminal Defense 03/93

Battered Woman and Rape Trauma Syndrome as Forensic Issues 03/94

Forensic Evaluations and the MMPI-2 03/94

Forensic Evaluations and Forensic Applications of the MMPI and MMPI-2 05/94

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Conference on Understanding the Anti-Social Personality	06/94
Detection of Distortion, Deception, and Malingering in the Witness, Victim, Defendant and Patient	11/94
The Ethics of Forensic Practice: Law, Ethics, and Professional Practice	11/94
Criminal Forensic Assessment: Exculpatory and Mitigating Defenses	01/95
Risk Assessment: Implications for Evaluation, Intervention and Decision-Making	01/95
Diagnostic and Structured Interviewing: Applications to Forensic Evaluations	01/95
Ethical Issues in Medicolegal Consultations	02/95
Neuropsychology in a Psychiatric Setting	02/95
Working Memory: An Interface Between Brain Organization and Cognition	02/95
Personal Injury Evaluation: Ethics, Practice and Case Law	02/95
The Role of the Psychologist in Death Penalty Litigation	02/95
Sexual Violence: Perpetrators & Victims	03/95
Practical Legal Research Techniques for Forensic Psychologists	03/95
Forensic Assessment of Juveniles	03/95
Forensic Neuropsychological Assessment	03/95
WSOSA Conference on Risk Assessment and Risk Management	05/96
Advanced Workshop on Application of the PCL-R	05/96
Criminal Responsibility Assessment: A Practical Guide	04/97
Mental Health Law Update	04/97
The Psychopathic Personality	04/97
Assessment of Violence Potential	04/97
Sexual Offender Profiling	12/98

08/14

Risk Assessment of Sexual Offenders	12/98
Assessment of Violent Juvenile Offenders	01/99
Childhood Trauma: Forensic Psychological Issues and Applications	01/99
Ethical Issues for the Forensic Practitioner	01/00
Assessment of Workplace Violence	01/00
Role of the Forensic Psychologist in Death Penalty Litigation	01/00
Sex Offender Re-Offense Risk Assessment	09/00
Assessing Psychopathy with the Hare Psychopathy Checklist – Revised	02/02
Assessing Violence Risk	02/02
Sexually Abusive Youth	02/02
Washington Association For The Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/04
Washington Association For The Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/05
Association For The Treatment of Sexual Abusers – Annual Conference, Salt Lake City, Utah. Adult Risk Assessment Track	11/05
Washington Association For The Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/06
Association For the Treatment of Sexual Abusers – Annual Conference, Chicago, Illinois.	09/06
Washington Association For The Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/08
Washington Association For the Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/09
Association for the Treatment of Sexual Abusers - Annual Conference, Dallas, Texas	10/09
Washington Association For the Treatment of Sexual Abusers - Spring Evaluation and Research Conference	02/10
Association for the Treatment of Sexual Abusers - Annual Conference, Phoenix, Arizona	10/10

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Washington Association For the Treatment of Sexual Abusers - Spring Evaluation and Research Conference	02/11
Association for the Treatment of Sexual Abusers - Annual Conference, Toronto, CN	11/11
Washington Association for the Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/12
Washington Association for the Treatment of Sexual Abusers – Fall Retreat	09/12
Association for the Treatment of Sexual Abusers – Annual Conference, Denver, CO	10/12
Washington Association for the Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/13
Washington Association for the Treatment of Sexual Abusers – Fall Retreat	10/13
Association for the Treatment of Sexual Abusers – Annual Conference, Chicago, IL	11/13
American Academy of Forensic Psychology – Comprehensive Assessment of Feigning in Forensic Settings, Ft. Lauderdale, FL	11/13
American Academy of Forensic Psychology – Challenges to Diagnostic Accuracy in Forensic Assessment, Ft. Lauderdale, FL	11/13
American Academy of Forensic Psychology – The MMPI-2-RF: An Advanced Workshop For Forensic Psychologists, Ft. Lauderdale, FL	11/13
American Academy of Forensic Psychology – Insanity Defense Evaluations, Ft. Lauderdale, FL	11/13
American Academy of Forensic Psychology – Assessment of Competency to Stand Trial Ft. Lauderdale, FL	11/13
Washington Association for the Treatment of Sexual Abusers – Spring Evaluation and Research Conference	02/14

TESTIMONY:

Qualified as an expert in: Superior Court, State of Washington
 Federal District Court

Areas of Established Competency:

- 1) Neuropsychological and Emotional Sequelae of Traumatic Head Injury
- 2) Civil Commitment - RCW 71.05
- 3) Assessment of Violence Risk and Risk of Recidivism

08/14

- 4) Juvenile Declines
- 5) Sexual Deviancy
- 6) Diminished Capacity
- 7) Competency To Stand Trial
- 8) Not Guilty By Reason of Insanity
- 9) Civil Commitment of Sexually Violent Predators – RCW 71.09

EXHIBIT 2

Brian W. Judd, Ph.D., P.C.
501 Columbia Street NW, Suite A
Olympia, WA 98501
360.352.5351
Fax 360 352.5357

JOINT FORENSIC UNIT

CIVIL COMMITMENT CLINICAL EVALUATION

NAME: Patrick Bryan Truxillo
DOB: 8/10/67
EDUCATION: 12th Grade
OCCUPATION: Unemployed
JURISDICTION: Grays Harbor County Superior Court
EVALUATOR: Brian W. Judd, Ph.D.
DATE OF REPORT: 6/22/14

REASON FOR REFERRAL:

Mr. Patrick Truxillo is a 46 y/o male with a history of attempted and completed sexual assaults against adult females. Mr. Truxillo was referred for evaluation for purposes of assessing whether he meets criteria as a '*sexually violent predator*' as defined in RCW 71.09.020 (18). For purposes of the current report 2424 pages of discovery were made available for review by the End of Sentence Review Committee and the Office of the King County Prosecuting Attorney. A collateral telephonic interview was conducted with Mr. Truxillo's classification counselor, Mr. David Martin on 5/28/14.^{1,2}

PROCEDURES:

The following records were relied upon in the preparation of this report:

- 1) Letter to Mr. Gerald Fuller, Grays Harbor Prosecuting Attorney, authored by Ms. Kimberly Acker and Ms. Anmarie Aylward of the End of Sentence Review Committee, dated 3/14/14, Bates Stamp 0001.
- 2) Washington State Patrol Identification and Criminal History Section, undated, Bates Stamp 0020-0023.

¹ Approximately 15 minutes in duration.

² Mr. Truxillo was initially approached by his classification counselor, Mr. David Martin on 4/24/14 and was provided with my *Informed Consent for Psychological Evaluation*. Mr. Truxillo declined to participate in the interview and included a handwritten statement (Bates Stamp 2423-2424) in which he asserted that he no longer constituted a threat to offend against women. I subsequently attempted to contact his therapist, Ms. Alicia St. John on 5/28/14. Ms. St. John initially declined to speak with me, but agreed to interview with me following receipt of a release from Mr. Truxillo. Included with the release was a copy of my *Informed Consent*, dated 6/4/14, in which Mr. Truxillo reversed his prior decision and agreed to participate in an interview. By mutual agreement with Ms. St. John, I arranged to travel to the Monroe Correctional Complex - Special Offenders Unit (MCC-SOU) on 6/16/14. Upon arrival, I briefly interviewed Mr. Truxillo at which time he retracted his consent. Mr. Truxillo then signed a copy of my *Informed Consent* noting that he was declining to participate in the interview. I informed Mr. Truxillo that I intended to contact Ms. St. John for purposes of interviewing her, which he acknowledged. Subsequent requests for contact with Ms. St. John on 6/16 and 6/17 have not been responded to as of this writing.

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P. Truxillo 002427

- 3) United States Department of Justice Federal Bureau of Investigation Identification Record, dated 4/24/02, Bates Stamp 0024-0027.
- 4) Criminal History Record, dated 1/29/13, Bates Stamp 0068-0077.
- 5) Washington State Department of Corrections Criminal History Summary authored by David Martin, CC-3, dated 2/7/03, Bates Stamp 0081.
- 6) Washington State Department of Corrections Criminal History Summary authored by David Martin, CC-3, dated 10/18/05, Bates Stamp 0082-0084.
- 7) Records for Case # 09-108831, dated 7/21/90, various authors, Bates Stamp 0085-0094. Mr. Truxillo was arrested for 1 count of Kidnapping and 1 count of Attempted Sexual Assault.
- 8) Records for Case # 216287, dated 8/15/92, various authors, Bates Stamp 0099-0109.
- 9) *State of Arizona vs. Patrick Bryan Truxillo* Complaint for Cause # 92-02925FE, dated 10/20/92, Bates Stamp 0110. Mr. Truxillo was charged with Aggravated Assault.
- 10) Records for Case # 20099977, various dates, various authors, Bates Stamp 0111-0138.
- 11) *State of Arizona vs. Patrick Truxillo*, Cause # 93-00310, dated 1/14/93, Bates Stamp 0143-0144. Mr. Truxillo entered a plea of No Contest to 1 charge of Aggravated Assault.
- 12) *State of Arizona vs. Patrick Bryan Truxillo* Violation of Probation; Guilt On New Charge in reference to Cause # 90-08557, dated 1/14/93, Bates Stamp 0145-0146.
- 13) *State of Arizona vs. Patrick Bryan Truxillo* Suspension of Sentence – Probation Granted for Cause # 93-00310, dated 2/26/93, Bates Stamp 0147-0150. Mr. Truxillo was sentenced to 6 months incarceration and 3 years probation.
- 14) Phoenix Police Department Report for Case # 61679189, various authors, dated 10/16/96, Bates Stamp 0156-0166.
- 15) Phoenix Police Department Report for Case # 61679336 authored by Officer Jason Milburn, dated 10/17/96, Bates Stamp 0167-0178.
- 16) Phoenix Police Department Report for Case # 70912202 authored by Officers Brian Hansen and Franklyn Robertson, dated 6/4/97, Bates Stamp 0180-0182.
- 17) Phoenix Police Department Report for Case # 70912202 authored by Officer Brian Warren, dated 6/4/97, Bates Stamp 0183-0188.
- 18) Aberdeen Police Department Officers Report for Case # 01-11367, dated 9/4/01, Bates Stamp 0192-0193.
- 19) Aberdeen Police Department, written statement of LMCW in reference to Case # 01-11367, dated 9/4/01, Bates Stamp 0198-0205.
- 20) Aberdeen Police Department Follow-Up Report for Case # 01-1136 authored by Officer Jon Hudson, dated 9/4/01, Bates Stamp 0234-0236.
- 21) Aberdeen Police Department Follow-Up Report for Case # 01-1136 authored by Officer W. B. Ellis, dated 9/5/01, Bates Stamp 0241.
- 22) Defendant Case History, dated 9/5/01, Bates Stamp 0243.
- 23) Aberdeen Police Department Follow-Up Report for Case # 01-1136 authored by Officer Jon Hudson, dated 9/5/01, Bates Stamp 0247-0249.
- 24) Aberdeen Police Department Follow-Up Report for Case # 01-1136 authored by Officer R. D. Ellis, dated 9/6/01, Bates Stamp 0254-0268.

- 25) Aberdeen Police Department DNA Analysis Report for Case # 01-1136 authored by Mr. Jeremy D. Sanderson, dated 10/19/01, Bates Stamp 0337.
- 26) *State of Washington v. Patrick B. Truxillo* Information for Cause # 01-1-431-2 authored by Grays Harbor Deputy Prosecuting Attorney Gerald R. Fuller, dated 9/5/01, Bates Stamp 0362-0363. Mr. Truxillo was charged with Rape in the 1st Degree and Burglary in the 1st Degree.
- 27) *State of Washington v. Patrick B. Truxillo* Motion and Affidavit for Order and Warrant of Arrest for Cause # 01-1-431-2 authored by Grays Harbor Deputy Prosecuting Attorney Gerald R. Fuller, dated 9/5/01, Bates Stamp 0365-0368.
- 28) *State of Washington v. Patrick B. Truxillo* Order Appointing Sanity Commission and Staying Proceedings for Cause # 01-1-431-2, dated 10/15/01, Bates Stamp 0406-0407.
- 29) *State of Washington v. Patrick B. Truxillo* Competency, dated 1/17/02, Bates Stamp 0440. Mr. Truxillo was deemed competent to stand trial.
- 30) *State of Washington v. Patrick Truxillo* Statement of Defendant on Plea of Guilty for Cause # 01-1-431-2 dated 1/17/02, Bates Stamp 0442-0447.
- 31) *State of Washington v. Patrick Truxillo* Plea Agreement for Cause # 01-1-431-2, dated 1/17/02, Bates Stamp 0450-0453.
- 32) Forensic Mental Health Evaluation for Cause # 01-1-431-2 authored by Robert W. Powers, Ph.D., dated 10/30/01, Bates Stamp 0463-0470.
- 33) State of Washington Department of Corrections Pre-Sentence Investigation Report for Cause # 01-1-431-2 authored by Dale L. Dewey, CCO-III, dated 2/14/02, Bates Stamp 0476-0482.
- 34) Letter to the Sentencing Judge authored by Mr. Truxillo, dated 2/19/02, Bates Stamp 0486.
- 35) *State of Washington v. Patrick Bryan Truxillo* Judgment and Sentence for Cause # 01-1-431-2, dated 2/19/02, Bates Stamp 0488-0494. Mr. Truxillo was sentenced to 160 months of confinement on Count 1 and 36 to 48 months of community custody.
- 36) Letter to the Honorable Gordon Godfrey authored by Ms. Sue Shearer in reference to Cause # 01-1-00431-2; dated 9/23/02, Bates Stamp 0512-0513.
- 37) Letter to the Honorable Gordon Godfrey authored by Mr. Patrick Truxillo in reference to Cause # 01-1-431-2, dated 9/30/02, Bates Stamp 0515-0518.
- 38) Offender Chrono Report, entries from 2/12/02 to 3/11/14, various authors, Bates Stamp 0569-0614.
- 39) State of Washington Department of Corrections Classification Referral for 2/21/02 through 2/5/03 authored by David Martin, CC-2, dated 2/5/03, Bates Stamp 0633-0636.
- 40) State of Washington Department of Corrections Custody Review Full Version authored by CC David Martin, dated 5/6/13, Bates Stamp 0644-0647.
- 41) Department of Corrections General Infraction Report, dated 12/26/11, Bates Stamp 0655.
- 42) Department of Corrections General Infraction Report, dated 1/22/12, Bates Stamp 0658.
- 43) Department of Corrections General Infraction Report, dated 8/3/12, Bates Stamp 0689.

- 44) Department of Corrections Serious Infraction Report, dated 9/13/12, Bates Stamp 0712.
- 45) Department of Corrections Serious Infraction Report, dated 1/23/13, Bates Stamp 0726.
- 46) OMNI: Infraction Summary, dated 3/14/13, Bates Stamp 0732.
- 47) State of Washington Department of Corrections LSI-R Assessment, various authors, Bates Stamp 0745-0754.
- 48) Letter to Governor Gary Locke authored by Mr. Truxillo, dated 7/22/02, Bates Stamp 0880-0885.
- 49) Letter to Governor Gary Locke authored by Mr. Truxillo, dated 7/23-7/25/02, Bates Stamp 0886-0892.
- 50) Letter to President George Bush authored by Mr. Truxillo, undated, Bates Stamp 0911-0912.
- 51) Offender Re-Entry Community Safety Committee Review authored by A. Clark, dated 1/21/14, Bates Stamp 1271-1277.
- 52) Department of Corrections Primary Encounter Report authored by Raffael Boccamazzo, MA, dated 9/20/11, Bates Stamp 1411.
- 53) Department of Corrections Primary Encounter Report authored by Raffael Boccamazzo, MA, dated 9/19/11, Bates Stamp 1412.
- 54) 180 Day Involuntary Antipsychotic Hearing Minutes, dated 10/16/12, Bates Stamp 1486-1487.
- 55) Department of Corrections Mental Health Treatment Plan, dated 2/6/14, Bates Stamp 1525-1526.
- 56) Department of Corrections Mental Health Status Questionnaire completed by Cynthia Goins, Ph.D., dated 12/13/13, Bates Stamp 1534-1535.
- 57) Department of Corrections Mental Health Treatment Plan, dated 12/5/13, Bates Stamp 1536-1537.
- 58) Department of Corrections Mental Health Treatment Plan, dated 8/5/13, Bates Stamp 1545-1547.
- 59) Department of Corrections Mental Health Treatment Plan, dated 5/30/13, Bates Stamp 1555-1556.
- 60) Department of Corrections Mental Health Appraisal, dated 5/1/13, Bates Stamp 1561-1565.
- 61) Department of Corrections Mental Health Treatment Plan, dated 5/30/12, Bates Stamp 1602-1604.
- 62) Department of Corrections Primary Encounter Report authored by Arthur G. Davis, Ph.D., Bates Stamp 1628-1629.
- 63) Department of Corrections Multi-Disciplinary Treatment Plan, dated 2/22/12, Bates Stamp 1632-1634.
- 64) Department of Corrections Multi-Disciplinary Treatment Plan, dated 11/17/11, Bates Stamp 1648-1650.
- 65) Department of Corrections Multi-Disciplinary Treatment Plan, dated 8/18/11, Bates Stamp 1667-1669.
- 66) Department of Corrections Multi-Disciplinary Treatment Plan, dated 5/27/11, Bates Stamp 1679-1681.

- 67) Department of Corrections Multi-Disciplinary Treatment Plan, dated 11/9/10, Bates Stamp 1701-1704.
- 68) Department of Corrections Multi-Disciplinary Treatment Plan, dated 6/8/10, Bates Stamp 1722-1724.
- 69) Department of Corrections Multi-Disciplinary Treatment Plan, dated 3/23/10, Bates Stamp 1729-1731.
- 70) Department of Corrections Multi-Disciplinary Treatment Plan, dated 12/8/09, Bates Stamp 1737-1739.
- 71) Department of Corrections Multi-Disciplinary Treatment Plan, dated 9/22/09, Bates Stamp 1744-1746.
- 72) Department of Corrections Multi-Disciplinary Treatment Plan, dated 6/23/09, Bates Stamp 1748-1750.
- 73) Department of Corrections Multi-Disciplinary Treatment Plan, dated 3/24/09, Bates Stamp 1758-1760.
- 74) Department of Corrections Multi-Disciplinary Treatment Plan, dated 12/9/08, Bates Stamp 1761-1763.
- 75) Department of Corrections Mental Health Treatment Plan, dated 9/10/08, Bates Stamp 1765-1767.
- 76) Department of Corrections Mental Health Treatment Plan, dated 6/11/08, Bates Stamp 1768-1770.
- 77) Department of Corrections Mental Health Treatment Plan, dated 3/11/08, Bates Stamp 1771-1773.
- 78) Department of Corrections Mental Health Treatment Plan, dated 12/11/07, Bates Stamp 1777-1779.
- 79) Department of Corrections Mental Health Treatment Plan, dated 9/11/07, Bates Stamp 1781-1783.
- 80) Department of Corrections Mental Health Treatment Plan, dated 3/13/07, Bates Stamp 1787-1789.
- 81) Department of Corrections Mental Health Treatment Plan, dated 12/26/06, Bates Stamp 1791-1793.
- 82) Department of Corrections Mental Health Treatment Plan, dated 9/26/06, Bates Stamp 1795-1797.
- 83) Department of Corrections Mental Health Treatment Plan, dated 6/27/06, Bates Stamp 1798-1800.
- 84) Department of Corrections Mental Health Treatment Plan, dated 3/14/06, Bates Stamp 1803-1805.
- 85) Department of Corrections Mental Health Treatment Plan, dated 6/26/07, Bates Stamp 1808-1810.
- 86) Department of Corrections Mental Health Treatment Plan, dated 12/13/05, Bates Stamp 1811-1813.
- 87) Monroe Correctional Complex – Special Offender Unit 180-Day Involuntary Medication Hearing, dated 12/5/03, Bates Stamp 1832-1838.
- 88) Department of Corrections Involuntary Medication Report, dated 12/3/03, Bates Stamp 1840-1843.
- 89) Department of Corrections Involuntary Medication Report, dated 12/3/03, Bates Stamp 1844-1848.

- 90) Monroe Correctional Complex – Special Offender Unit 2nd 180-Day Involuntary Medication Hearing, dated 6/4/03, Bates Stamp 1850-1856.
- 91) Monroe Correctional Complex – Special Offender Unit Involuntary Medication Review authored by Rolf Kolden, MD, dated 5/28/03, Bates Stamp 1868-1869.
- 92) Monroe Correctional Complex – Special Offender Unit 180-Day Involuntary Medication Hearing, dated 12/4/02, Bates Stamp 1870-1887.
- 93) Monroe Correctional Complex – Special Offender Unit Initial Involuntary Medication Hearing, dated 11/18/02, Bates Stamp 1889-1895.
- 94) Monroe Correctional Complex Special Offender Unit authored by Rolf Kolden, MD, dated 11/7/02, Bates Stamp 1906-1907.
- 95) Monroe Corrections Center/Special Offender Unit Psychosocial History authored by Greg Miller, MSW, dated 10/25/02, Bates Stamp 1914-1921.
- 96) Monroe Correctional Complex Special Offender Unit Medication Review authored by Tom Greisamer, MD, dated 10/10/02, Bates Stamp 1923-1924.
- 97) Monroe Correctional Complex – Special Offender Unit Psychological Report: Intake authored by Diedra L. Clay, Psy.D., dated 5/2/02, Bates Stamp 1928-1930.
- 98) Monroe Correctional Complex Special Offender Unit Medication Review authored by Rolf Kolden, MD, dated 5/9/02, Bates Stamp 1931-1932.
- 99) Initial Psychiatrist Clinical Interview authored by Rolf Kolden, MD, dated 5/2/02, Bates Stamp 1933-1935.

RISK ASSESSMENT:

For purposes of assessing Mr. Truxillo's risk of recidivism I utilized the Structured Risk Assessment - Forensic Version (SRA-FV), the Hare Psychopathy Checklist-Revised 2nd Edition (PCL-R),³ the Violence Risk Appraisal Guide – Revised (VRAG-R),^{4,5} and the Static-99R.^{6,7}

LEGAL STANDARD:

RCW 71.09.020 (18) defines a “sexually violent predator” as “...any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.”

My opinion is organized around three questions: A) Has Mr. Truxillo been “convicted of or charged with a crime of sexual violence?”; B) Does Mr. Truxillo suffer “from a mental abnormality or personality disorder?”; C) Is Mr. Truxillo, as a result of a

³ Hare, R.D. (2003). *Manual for the Psychopathy Checklist – Revised, 2nd Edition*. Toronto: Multi-Health Systems.

⁴ Rice, M.E., Harris, G.T., & Lang, C. (In press). Validation and revision to the VRAG and SORAG: The Violence Risk Appraisal Guide – Revised. *Psychological Assessment*.

⁵ The scoring guide was provided by Dr. Rice (personal communication, July 31, 2013).

⁶ Harris, A., Phenix, A., Hanson, R.K., & Thornton, D. (2003). *Static-99 Coding Rules Revised – 2003*. Ottawa: Canada. Department of the Solicitor General of Canada.

⁷ The revised instrument and scoring criteria were issued by Amy Phenix, Ph.D., Leslie Helmus, MA, and R. Karl Hanson, Ph.D. on 9/28/09. The revised scoring criteria and normative data are available at www.static99.org.

mental abnormality or personality disorder, "likely to engage in predatory acts of sexual violence if not confined in a secure facility?"

FINDINGS:

**A) Has Mr. Truxillo been "convicted of or charged with a crime of sexual violence?"
YES.**

Pursuant to RCW 71.09.020 (17) a "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection."

Mr. Truxillo has been charged and/or convicted of the following offenses which qualify as a "sexually violent offense" as defined in RCW 71.09.020 (17):

Charge	Date of Conviction	Jurisdiction
Attempted Sexual Assault Kidnapping	11/16/90	Maricopa County Superior Court
Sexual Assault Kidnapping	Dismissed	Maricopa County Superior Court
Sexual Assault Kidnapping	Dismissed	Maricopa County Superior Court
Rape in the 1 st Degree Burglary in the 1 st Degree	01/17/02	Grays Harbor Superior Court

CR1990-008557:⁸

Mr. Truxillo was initially charged with and convicted for the 7/21/90 kidnapping and attempted sexual assault of 34 y/o MN. According to police reports, "...on 7/21/90, a citizen flagged down police and reported a possible sexual assault in progress. He witnessed a woman struggling with a man in a car and said he heard the woman yelling, 'Leave me alone, Leave me alone.' Police responded and found the victim (age 34) in the back seat with Truxillo (age 22). When questioned the victim stated she was walking down the street and Truxillo, a stranger, pulled over and offered her a ride. She accepted and once in the car, Truxillo reached around her and locked the door. He grabbed her arms and restrained her. She told him, 'No, leave me alone' and he replied, 'No, I don't think so.' The victim attempted to call for help and Truxillo moved his arm around her neck and squeezed causing her 'voice to get horse [sic].' Truxillo told the victim, 'Let's go in the back seat.' At first she resisted but he applied more pressure so she complied fearing he was going to 'choke her to death'.⁹ The victim got in the back seat and removed her pants and underwear. Truxillo was removing his shorts and climbing on top of her when the police responded to the scene and 'shined the spotlight in the car preventing further action by the suspect.' Truxillo told the victim 'not to say anything' She clarified that he did not penetrate her, stating, 'He did not get that far.' Truxillo was arrested and booked."

Mr. Truxillo was arrested and charged with once count of Attempted Sexual Assault and one count of Kidnapping. Mr. Truxillo pled guilty and was sentenced on 11/16/90 to unspecified length of probation. Mr. Truxillo was discharged from probation on 11/29/93.

CR1992-002143:

On 2/20/92 victim SE, age 30, "...reported that she had been sexually assaulted by Truxillo (age 24). She stated that she had met Truxillo 'in passing' two months earlier. She learned his name was Pat; however, she was unable to provide any more information on his identity. She stated she had not seen him again until the evening of the assault. When questioned, the victim stated she was walking through a parking lot when Truxillo approached her and tried to sell her his jacket. She declined and walked away. He followed her and said he would walk with her. She told him that was not necessary and later told him not to accompany her. Truxillo asked the victim 'for a date'. She told him 'No', and said she was 'not interested'. She clarified to the officer she was not a prostitute. She stated Truxillo then put his arm around her throat, pushed her to the ground and started choking her with one hand. The victim struggled and attempted to fight Truxillo off. He struck her several times in her head. He then dragged her to another area, and while choking her with one hand, he removed her pants with his other hand and had vaginal intercourse with her. The victim was taken to the hospital. The report notes the medical examination indicted [sic] the victim had superficial abrasions

⁸ The narratives for CR1990-008557, CR1992-002143, and CR1997-006502A are taken verbatim from Washington Department of Corrections Risk Level III Notification of Sex Offender Release.

⁹ Consistent with MN's report, responding officers found red marks on her neck (Bates Stamp 0085).

on her body, bruising on her neck and sperm was present in her vagina. Truxillo was located in the area the same day.¹⁰ He was wearing clothes that the victim described, and was missing a pants drawstring that was found at the crime scene. The report notes he 'appeared to be extremely intoxicated' and uncooperative."

Mr. Truxillo was charged with 1 count of Kidnapping and 1 count of Sexual Assault. Charges were dismissed on 9/25/92 for unspecified reasons, although Mr. Truxillo was reincarcerated for probation violations related to CR1990-008557 (Bates Stamp 0130).

CR1997-006502A:

On 6/4/97 police responded to an emergency call of the attempted sexual assault of 29 y/o SMW. "The victim was located and found bleeding from a cut above her eye. She stated she was crossing through a parking lot when Truxillo (age 29) grabbed her from behind, and pulled her by her hair behind a dumpster. As he was dragging her, he kicked her in the back and punched her in the face repeatedly. He reached around the front of her and began to unfasten her belt and pants. He was able to remove her right pant leg and then lowered the shorts that he was wearing. The victim believed he was attempting to sexually assault her but she was able to fight him off. The victim yelled to her friend for help and when he arrived, Truxillo 'began to make up some story about him paying her money for what was taking place.' She yelled at Truxillo, 'you know you're lyin [sic] you were trying to rape me'. Truxillo then ran away and the victim called police. Another officer in the area located Truxillo nearby running through a parking lot and detained him. The victim positively identified him. Truxillo was arrested for Aggravated Assault. He was [subsequently] charged with one count of Kidnapping and one count of Attempted Sexual Assault. According to electronic court records, the Kidnapping charge was dismissed by 'prosecutors [sic] motion'. On 12/24/97, Sexual Assault [sic] charge was dismissed due to 'Plea on Other'. The same day, Truxillo was sentenced to prison for the crime Attempted Robbery 2nd Degree, Maricopa County Superior Court Cause CR1996-011181-A."

Cause # 01-1-431-2:

The official version of events is taken from the statement of LMW in reference to Case #01-11367 (Bates Stamp 0198-0205). After describing the events earlier in the evening of 9/3/01, LMW (DOB: 11/30/79) continued by writing, "At about 2:30 am on 9/4/01 I got off line, made sure my door was locked, fed the cat. I took my plants down and closed the blinds....I was just dozing off when I heard a knock on my door. It was a 'normal' knock and I thought it was my friend from upstairs, Erin...I sleepily went to the door and answered it without looking through the peephole. There was a man at the door. I didn't know him I [sic] said 'no' and closed the door. He had his right hand curled around the edge of the door. I might have closed his hand in the door. He was pushing the door open and I was pushing the door closed. He was able to get the door open. I told him no, get out [sic] no leave my place [sic] and just continued to tell him to

¹⁰ This is incorrect. Mr. Truxillo was arrested one week later on 2/27/92 (Bates Stamp 0128-0130).

leave. He said, 'I'm going to leave, I won't hurt you. I just want to talk.' He didn't leave...He pushed me against the hallway wall across from the bathroom. I let go of my blanket and started to struggle with him. I lifted my head up and screamed 2 or 3 times as loud as I could trying to wake my neighbors up. He put his right hand over my mouth. I bit down as hard as I could on his right hand between his thumb and index finger...I told him I wouldn't scream if he let me go. He backed off...I asked him if he was going to rape me and he said he wasn't going to hurt me...He stopped talking and grabbed me by my shoulders lightly and moved me to my bed and had me lay on the bed. I was diagonal, my head was between the center of the window and the headboard. I asked him to get a condom and told him they were in the bathroom in the mirror. He said, 'I don't have the drips, I don't have any diseases, I'm clean.' I told him I didn't want to get pregnant and he told me he wouldn't cum inside of me...He said he didn't need a condom that he wouldn't come inside of me and he began pulling my panties off. I kept my legs together to try to keep my panties on. I heard my panties rip and I just went limp. He pulled my panties off down my legs...He was trying to penetrate me with his penis. It was already erect and was [sic] trying to put his penis in my vagina. Something wasn't working and he said 'Please move up to the pillows' I moved because I didn't want him to hurt me...He put his penis inside my vagina. He started to thrust in and out and I stayed limp. He asked my name, I said M [sic]. He asked how old I was I said 21 [sic]...He continued thrusting I asked him how long (it was maybe 2 minutes into it). He said not long [sic]. This lasted 10 or 15 minutes then he moved me to the missionary position and he continued thrusting. This lasted about 15-20 minutes. I told him that I had to pee and he needed to hurry. He said that he would hurry. He moved me again. This time he was on his back and had me on top of him with my back facing him. His penis was in my vagina again. He had me lay down on top of him. After about a minute I told him I had to go to the bathroom, that he could go with me...I urinated and wiped as I stood up. He was going out the door and I flipped down the emergency switch. I could hear the buzzing from the alarm. He took me back to the bed and he got me into the first position again. About 10 minutes later someone knocked on the door. He asked who it was and I said I didn't know. The woman asked through the door if I was okay. I yelled as loud as I could, 'No, help me.' I could hear her telling someone else that she couldn't hear me. She asked again this time he told me to tell her I was okay or he would hit me. I yelled yes I'm okay [sic]. She told me my buzzer was on and I needed to turn it off. I said ok, I would. I tried to sound like I needed help through my tone of voice. He asked me where the switch was he [sic] went and couldn't find it. I told him again where it was and he turned it off. He told me that if I turned the buzzer on again he'd hit me. He got on top of me in the missionary position and I asked what time it was. He said 5 o'clock - I had told him that my mom was coming earlier, before I set the buzzer off. I told him again my mom was going to be there and told him he needed to leave. He said ok [sic] and he hurried up. About 5 minutes later he stopped again. I asked him if he was done. He said yes he was done and pulled out. He started to get dress and I told him he needed to 'get the fuck out.'...He started going through my stuff I asked him what he was doing and he said he was looking for something. I asked him what and he said nothing. He picked up my purple satin panties and smelled them. I said if you want those just take them and get the fuck out [sic]. He asked if he could have them. I said whatever just get out [sic]. He picked up his grey sweatshirt off the bed, tied it around his waist (after a bit of a struggle,

because he was drunk), he stuck the purple panties in the right pocket of the sweatshirt. He started going through my things again. I told him to get out, my mom was going to be here any minute. He pulled out another pair of my panties white with black elastic. He asked if I [sic] could have them I said yea whatever, just get out [sic]. He stuck them in the same pocket as the other pair...The whole time he was raping me he was saying things like 'Oh, you're so beautiful', 'It feels so good', 'I want you, I need you.' I asked him why he was doing this, he replied, 'Because I need you.' He also told me he was sorry he couldn't see me again...I think he was really drunk, he smelled really strong like box wine or something sweet like that. I got the impression that he felt I was his lover" (Bates Stamp 0199-0204).

Mr. Truxillo was subsequently arrested on 9/4/01 at the Flamingo Hotel in Aberdeen, WA where he was residing with his maternal grandmother. Upon being advised of his rights, Mr. Truxillo requested the presence of a lawyer at which time officers discontinued questioning him (Bates Stamp 0233). Upon serving a search warrant officers discovered a duffle bag containing Mr. Truxillo's clothes, 7 adult pornographic magazines, 1 pornographic videotape, 2 pairs of bikini style panties later identified as belonging to the victim LMW, and an additional pair of unidentified women's panties (Bates Stamp 0247-0249).

On 9/5/01 Mr. Truxillo was charged with 1 count of Rape in the 1st Degree and 1 count of Burglary in the 1st Degree (Bates Stamp 0362-0363). Due to concerns regarding Mr. Truxillo's competency to stand trial, a sanity commission was formed and proceedings were stayed pending evaluation by Western State Hospital (Bates Stamp 0406-0407).

In a 10/30/01 report (Bates Stamp 0463-0470) Robert W. Powers, Ph.D. opined that Mr. Truxillo was malingering. Mr. Truxillo was returned to court and deemed competent to stand trial on 1/17/02 (Bates Stamp 0440). Mr. Truxillo entered an Alford Plea to the charge of Rape in the 1st Degree on the same date (Bates Stamp 0442-0448). On 2/19/02 Mr. Truxillo was sentenced to 160 months of incarceration, 36 to 48 months of community supervision, and given credit for time served (Bates Stamp 0488-0494). He has been continuously incarcerated since 9/4/01.

B. Does Mr. Truxillo "suffer from a mental abnormality or personality disorder?"
YES.

RCW 71.09.020 (8) defines a "mental abnormality" as "...a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others." RCW 71.09.020 (9) defines a "personality disorder" as "...an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment."

NON-SEXUAL OFFENDING:¹¹

Mr. Truxillo has an extensive history of nonsexual offending (Bates Stamp 0020-0023; 0068-0077; 0081). While Mr. Truxillo has no known juvenile history, prior to his index offense Mr. Truxillo has previously been charged and/or convicted of: Aggravated DWI (4/28/91); Larceny (12/24/91); Aggravated Assault (1/14/93) (Bates Stamp 0143-0144); Shoplifting (1/3/94); Trespassing in the 3rd Degree (10/13/96); Robbery in the 2nd Degree (10/17/96); Disorderly Conduct (9/23/99); Criminal Damage (10/27/99); Malicious Mischief in the 3rd Degree (8/19/01); Possession of Drug Paraphernalia (8/19/01); Assault in the 4th Degree (8/19/01), and; Attempted Theft in the 3rd Degree (8/19/01).

SUBSTANCE ABUSE HISTORY:

Mr. Truxillo has an extensive history of substance abuse (Bates Stamp 0751) including driving while intoxicated (Bates Stamp 0068-0077; 0751) and possession of drug paraphernalia (Bates Stamp 0020-0023). Records indicate a history of abuse of alcohol, marijuana, cocaine, and LSD. Of these drugs, Mr. Truxillo indicated consistent and preferential use of alcohol, marijuana, and cocaine.¹² In addition to adjudication for use of licit and illicit substances, Mr. Truxillo reported loss of jobs due to substance abuse and mandated substance abuse treatment while residing in Arizona. Mr. Truxillo continued to abuse licit and illicit substances until being arrested on Cause # 01-1-00431-2.

INCARCERATION COMPORIMENT:

Mr. Truxillo has had an extensive history of infractions pursuant to incarceration on Cause # 01-1-00431-2. Mr. Truxillo has received major infractions for: Refusing Cell Assignment (2/28/02; 3/6/02; 3/12/02); Strongarming (5/12/02; 8/10/02; 4/14/03); Refusing Cell Search (6/2/02); Display of Martial Arts (6/19/02); Threatening (11/18/02; 9/13/12; 1/23/13); Safety Violation (11/18/02; 1/26/03); Throwing (12/15/02; 10/30/03); 4 General Infractions within a 90 day period (2/14/04; 2/28/12; 8/15/12; 8/19/12);¹³ Refusing a Direct Order (3/13/12; 8/21/12); Failure to Comply with Sanctions (3/20/12; 3/23/12; 8/14/12; 8/21/12), and; Blocking a Security Device (10/16/12).

Prior to the current incarceration Mr. Truxillo was infraacted, charged, and convicted for aggravated assault against a correctional officer (Bates Stamp 0110; 0143-0144).¹⁴

¹¹ Aside from summaries, Arizona records detailing Mr. Truxillo's history of non-sexual offending have been largely omitted from discovery.

¹² Mr. Truxillo was reported as appearing drunk and smelling of alcohol at the time he committed the 9/4/01 index offense (Bates Stamp 0198-0205). He subsequently reported he had also used cocaine prior to commission of the index offense (Bates Stamp 0751).

¹³ Many of the general infractions pertained to non-compliance with treatment requirements, group participation, or maintaining a shower/hygiene log.

¹⁴ Records from Mr. Truxillo's prior incarcerations while residing in Arizona were not included in available discovery. As such, I do not regard the preceding section as providing a comprehensive overview of Mr. Truxillo's in-custody comporiment.

TREATMENT HISTORY:

Despite recommendations that Mr. Truxillo participate in both chemical dependency programming and sex offender treatment following incarceration on Cause # 01-1-00431-2, Mr. Truxillo has declined all programming (Bates Stamp 0645). Mr. Truxillo has been intermittently treatment non-compliant with regard to treatment of his mental illness thus requiring involuntary administration of medication (Bates Stamp 1486-1487; 1832-1838; 1850-1856; 1870-1887; 1889-1895).

SOCIAL HISTORY:

Information regarding Mr. Truxillo's social and developmental history are limited. For purposes of reconstructing Mr. Truxillo's background, I relied upon the 2/14/02 State of Washington Department of Corrections Pre-Sentence Investigation Report for Cause # 01-1-431-2 authored by Dale L. Dewey, CCO-III (Bates Stamp 0476-0482) and the 10/25/02 Monroe Corrections Center/Special Offender Unit Psychosocial History authored by Greg Miller, MSW (Bates Stamp 1914-1921).

Mr. Truxillo was born on 8/10/67 in Chicago, IL. Mr. Truxillo's mother married his step-father in when he was approximately 2 years of age and relocated to Louisiana. Due to his step-father's enlistment in the Air Force, Mr. Truxillo frequently relocated as a child and reportedly resided in Greece, Guam, Texas, California, Louisiana, and Arizona. Mr. Truxillo reported that he was primarily raised by his maternal grandmother, for whom he briefly served as a caregiver in later years.

Educationally and vocationally, little information is available. Mr. Truxillo completed the 12th grade in Cabrillo High School in Vandonburg Village [sic], CA¹⁵ and received his high school diploma on 6/13/85 (Bates Stamp 0644; 1915). Mr. Truxillo appears to have had a history of intermittent employment disrupted by substance abuse, repetitive incarceration and his mental illness (Bates Stamp 0751). Prior employment was described as unskilled and consisting of cleaning construction sites, construction work and odd jobs. Mr. Truxillo was last employed with a temporary agency in 1999. At the time of the 9/4/01 index offense Mr. Truxillo was being paid to take care of his maternal grandmother.

Mr. Truxillo reported that he has never been married and has never been involved in a monogamous relationship. He reported the longest duration of any romantic relationship was approximately 2 years.

Mr. Truxillo initially came to the attention of mental health professionals while incarcerated in the Maricopa County Jail in Phoenix, AZ between 1991 and 1993. Records suggest that he was prescribed Klonopin, Cogentin and Navane (Bates Stamp 1918). When not in custody, Mr. Truxillo attended mental health treatment which included medication management and monthly meetings with a psychiatrist. Mr. Truxillo reported his first frank decompensation occurred while incarcerated in 1994 and was

¹⁵ This constitutes a misspelling. Cabrillo High School is in Vandenberg Village, CA.

subsequently diagnosed with paranoid schizophrenia in 1997-1998 (Bates Stamp 1918). Prior to his current incarceration, Mr. Truxillo last took psychotropic medications in 1998.

CLINICAL INTERVIEW:

As noted at the outset of this report, Mr. Truxillo initially declined to meet with me for purposes of completing the evaluation (Bates Stamp 2420-2422). Mr. Truxillo subsequently retracted his 4/24/14 refusal on 6/4/14 and conveyed that he would participate in the interview.

When briefly seen on 6/16/14, Mr. Truxillo declined to participate in the interview. During our brief interaction, Mr. Truxillo's speech was clear, coherent and goal-directed. He demonstrated no difficulty with comprehension and did not appear to be responding to internal stimuli. Prior to departing the interview room, Mr. Truxillo reviewed and affirmed his statements regarding his risk for re-offense previously memorialized in a 4/24/14 letter (Bates Stamp 2423-2424).¹⁶

Records indicate that as of late 2013-early 2014 Mr. Truxillo's psychotic disorder was managed on Zyprexa (10 mgs) with relatively good symptom control.

DIAGNOSES:

Mr. Truxillo has an extensive history of diagnostic formulations due to the severity of his mental health disorders.¹⁷

Pursuant to incarceration on Cause # 01-1-00431-2 Mr. Truxillo was evaluated for his competency to stand trial.¹⁸ In a 10/30/01 report authored by Robert W. Powers, Ph.D., (Bates Stamp 0463-0470) Mr. Truxillo was diagnosed with Malingering, Alcohol Dependence, and Cocaine Dependence on Axis I, and Personality Disorder, Not Otherwise Specified with Antisocial Traits on Axis II (Bates Stamp 0468).

Following admission to the Monroe Correctional Complex, Mr. Truxillo was evaluated by Diedra L. Clay, Psy.D. In a 5/2/02 report (Bates Stamp 1928-1930), Dr. Clay diagnosed Mr. Truxillo with Schizophrenia, Paranoid Type, Cocaine Dependence, and Alcohol Abuse on Axis I (Bates Stamp 1929).

Throughout Mr. Truxillo's incarceration on Cause # 01-1-00431-2, he has been medication non-compliant requiring authorization for involuntary medications on at least 11 occasions between 2002 and 2013 (Bates Stamp 1271). Diagnoses have consistently

¹⁶ Due to Mr. Truxillo's decision to decline the interview and lack of response from his therapist, Ms. St. John, I have no information on Mr. Truxillo's current mental state or potential discharge plans. Diagnostic formulations in the succeeding section are based solely upon record review.

¹⁷ Due to Mr. Truxillo's intensive management and pharmacological requirements resulting in repetitive contact with mental health professionals, I am including a limited sampling of the diagnostic formulations. Additionally, there appears to be a high degree of diagnostic concordance amongst Mr. Truxillo's evaluating and treating professionals.

¹⁸ Standards for 'incompetency' are defined by RCW 10.77.010(15).

included Schizophrenia, Paranoid Type, Body Dysmorphic Disorder and Polysubstance Dependence on Axis I, with no diagnosis on Axis II (Bates Stamp 1271; 1525).¹⁹

On 5/13/13, the American Psychiatric Association issued the DSM-5.²⁰ In reworking the diagnostic criteria for schizophrenia, the 5 subtypes included in the DSM-IV-TR were dismissed and the diagnostic nomenclature was reworked. Current diagnostic nomenclature states, "*The characteristic symptoms of schizophrenia involve a range of cognitive, behavioral, and emotional dysfunctions, but no single symptom is pathognomonic of the disorder. The diagnosis involves the recognition of a constellation of signs and symptoms associated with impaired occupational or social functioning. Individuals with the disorder will vary substantially on most features, as schizophrenia is a heterogenous clinical syndrome. At least two Criterion A symptoms must be present for a significant portion of time during a 1-month period or longer. At least one of these symptoms must be the clear presence of delusions (Criterion A1), hallucinations (Criterion A2), or disorganized speech (Criterion A3). Grossly disorganized or catatonic behavior (Criterion A4), and negative symptoms (Criterion A5) may also be present*" (p. 100). In addition to the preceding, "*Schizophrenia involves impairment in one or more major areas of functioning (Criterion B)*" (p. 100).

Review of Mr. Truxillo's case history following incarceration on Cause # 01-1-00431-2 reveals a pattern of hallucinations and paranoid delusions (Bates Stamp 0566; 0576; 0578, 0610) which have been prominent since admission to the Washington Correction Center and the Special Offenders Unit on 2/25/02 and 4/29/02, respectively (Bates Stamp 1933-1935). Symptoms have persisted to current (Bates Stamp 1525-1526). In addition to the positive symptoms of hallucinations and delusions, Mr. Truxillo has demonstrated a lack of insight into his illness thus requiring involuntary administration of medication (Bates Stamp 1486-1487; 1832-1838; 1850-1856; 1870-1887; 1889-1895) and avolition, manifesting in poor hygiene and grooming.

Given the wealth of observations and the consistency of Mr. Truxillo's presentation, he clearly meets criteria for Schizophrenia, Continuous (295.90).²¹

¹⁹ Axial diagnoses described above employed the structure of the DSM-IV-TR. Please see: American Psychiatric Association (2000). *Diagnostic and Statistical Manual of Mental Disorders (4th ed. Text Revision)*. Washington DC: Author. Mr. Truxillo has generally not been given an Axis II diagnosis of Antisocial Personality Disorder (301.7) due to the absence of elements of a Conduct Disorder prior to age 15 and the more likely presumption that Mr. Truxillo's antisocial behavior occurred during the course of schizophrenia.

²⁰ American Psychiatric Association (2013). *Diagnostic and Statistical Manual of Mental Disorders (5th Edition)*. Washington DC: Author.

²¹ Mr. Truxillo has also been diagnosed with Body Dysmorphic Disorder (300.7) due to persisting preoccupation with the shape of his head and a belief that it is deformed. While I considered this diagnosis, I am not convinced that this constitutes a disorder independent of schizophrenia, as the latter may include somatic delusions. In differentiating body dysmorphic disorder from schizophrenia, the DSM-5 states, "*Appearance-related ideas or delusions of reference are common in body dysmorphic disorder; however, unlike schizophrenia or schizoaffective disorder, body dysmorphic disorder involves prominent appearance preoccupations and related repetitive behaviors, and disorganized behavior and other psychotic symptoms are absent (except for appear beliefs, which may be delusional)*" (p. 246). Given the severity of Mr. Truxillo's schizophrenic disorder, I am deferring a diagnosis of Body Dysmorphic Disorder at the present time.

In addition to dismissing the multi-axial format of the preceding editions, the APA substantially reworked the domain of paraphilic disorders. Specifically, the DSM-5 now distinguishes between a “paraphilia” and a “paraphilic disorder”, stating, “*The term paraphilia denotes any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners. In some circumstances, the criteria ‘intense and persistent’ may be difficult to apply, such as in the assessment of persons who are very old or medically ill and who may not have ‘intense’ sexual interests of any kind. In such circumstances, the term paraphilia may be defined as any sexual interest greater than or equal to normophilic sexual interests. There are also specific paraphilias that are generally better described as preferential sexual interests than as intense sexual interests*” (p. 685). In contrast, “*A paraphilic disorder is a paraphilia that is currently causing distress or impairment to the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to others. A paraphilia is a necessary but not a sufficient condition for having a paraphilic disorder, and a paraphilia by itself does not necessarily justify or require clinical intervention. In the diagnostic criteria set for each of the listed paraphilic disorders, Criterion A specifies the qualitative nature of the paraphilia (e.g. and erotic focus on children or on exposing the genitals to strangers), and Criterion B specifies the negative consequences of the paraphilia (i.e., distress, impairment, or harm to others). In keeping with the distinction between paraphilias and paraphilic disorders, the term diagnosis should be reserved for individuals who meet both Criteria A and B (i.e., individuals who have a paraphilic disorder). If an individual meets Criterion A but not Criterion B for a particular paraphilia – a circumstance that might arise when a benign paraphilia is discovered during the clinical investigation of some other condition – then the individual may be said to have that paraphilia but not a paraphilic disorder*” (p. 685-686).²²

Other Specified Paraphilic Disorder (302.89) is applied when the individual presents with, “*...symptoms characteristic of a paraphilic disorder that cause clinically significant distress or impairment in social, occupational, or other important areas of functioning predominate but do not meet the full criteria for any of the disorders in the paraphilic disorders diagnostic class. The other specified paraphilic disorder category is used in situations in which the clinician chooses to communicate the specific reason that the presentation does not meet the criteria for any specific paraphilic disorder. This is done by recording ‘other specified paraphilic disorder’ followed by the specific reason (e.g. ‘zoophilia’). Examples of presentations that can specified using the ‘other specified’ designation include, but are not limited to, recurrent and intense sexual arousal involving telephone scatologia (obscene phone calls), necrophilia (corpses),...*” (p. 705).

Mr. Truxillo has a history of forcible confinement of females (Bates Stamp 0085-0089; 0112-0115; 0180-0182), rape (Bates Stamp 0112-0115; 0198-0205), and attempted rape (Bates Stamp 0085-0089; 0182-0185) of known, (Bates Stamp 0112-0115) and

²² The scope of paraphilic disorders identified in the DSM-5 maps closely on the range of disorders identified by the DSM-IV-TR. The principle difference is the breakout of the DSM-IV-TR category of Paraphilia, Not Otherwise Specified (302.9) into Other Specified Paraphilic Disorder (302.89) and Unspecified Paraphilic Disorder (302.9). Additionally, with the exception of Pedophilic Disorder (302.2) each of the paraphilic disorders now has “*In full remission*” or “*In a controlled environment*” specifiers.

unknown (Bates Stamp 0085-0089; 0182-0185; 0198-0205) females. Assaults entailed the use of physical force in order to obtain the compliance of the victims (Bates Stamp 0085-0089; 0112-0115; 0180-0182). Mr. Truxillo continued to engage in the assaultive behavior despite a prior history of sanctioning, culminating in the 9/4/01 home invasion and sexual assault of LMW. Mr. Truxillo's repetitive sexually assaultive behavior while at liberty in the community and on supervision is indicative of the strength and durability of his paraphilic arousal. In the absence of treatment to mitigate or address dynamic factors associated with his offending, I believe Mr. Truxillo meets criteria for Other Specified Paraphilic Disorder, Nonconsent, In a controlled environment (302.89). Moreover, I regard this disorder as meeting criteria for a "mental abnormality" as defined by RCW 71.09.020(8) insofar as this disorder preferentially disposes Mr. Truxillo to engage in predatory acts of sexual violence which endangers peer-aged females.²³

The DSM-5 defines Alcohol Use Disorder as, "A problematic pattern of alcohol use leading to clinically significant impairment or distress, as manifested by at least two of the following, occurring within a 12-month period: 1) Alcohol is often taken in larger amounts or over a longer period than was intended; 2) There is a persistent desire or unsuccessful efforts to cut down or control alcohol use; 3) A great deal of time is spent in activities necessary to obtain alcohol, use alcohol, or recover from its effects; 4) Craving, or a strong desire or urge to use alcohol; 5) Recurrent alcohol use resulting in a failure to fulfill major role obligations at work, school, or home; 6) Continued alcohol use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol; 7) Important social, occupational, or recreational activities are given up or reduced because of alcohol use; 8) Recurrent alcohol use in situations in which it is physically hazardous; 9) Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol; 10) Tolerance, as defined by either of the following: a) A need for markedly increased amounts of alcohol to achieve intoxication or desired effect; b) A markedly diminished effect with continued use of the same amount of alcohol; 11) Withdrawal, as manifested by either of the following: a) The characteristic withdrawal syndrome for alcohol (refer to Criteria A and B of the criteria set for alcohol withdrawal, pp. 499-500); b) Alcohol (or a closely related substance, such as a benzodiazepine) is taken to relieve or avoid withdrawal symptoms" (p 490-491).²⁴

Mr. Truxillo has an extensive history of polydrug abuse (Bates Stamp 0751), resulting in a history of adjudication for alcohol-related offenses (Bates Stamp 0068-0077; 0751) and possession of drug paraphernalia (Bates Stamp 0020-0023). Additionally, Mr. Truxillo was intoxicated at the time of his index offense (Bates Stamp 0198-0205) and had reportedly used cocaine (Bates Stamp 0751). While demonstrating a pattern of polydrug abuse and a history of failed substance abuse treatment (Bates Stamp

²³ LMW reported that at the conclusion of the 9/4/01 rape, Mr. Truxillo took 2 pairs of her panties as he left the residence (Bates Stamp 0203). Following his arrest later on the same day, Mr. Truxillo was found to be in possession of both pairs of panties he had taken from the victim, plus an additional pair of women's panties, suggesting the possibility of an unknown victim (Bates Stamp 0248). While I considered an additional diagnosis of Fetishistic Disorder (302.81) there is insufficient evidence for the disorder based upon the seized property.

²⁴ The diagnostic criteria for Cannabis Use Disorder and Stimulant Use Disorder are identical to Alcohol Use Disorder and will not be repeated.

0751), records indicate preferential use of alcohol, marijuana and cocaine (Bates Stamp 0751). As such, Mr. Truxillo meets criteria for Alcohol Use Disorder, In a controlled environment (303.90), Cannabis Use Disorder, In a controlled environment (304.30), and Stimulant Use Disorder, In a controlled environment (304.20).

The DSM-5 defines a personality disorder as, “*an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture. This pattern is manifested in two (or more) of the following areas: 1) Cognition (i.e., ways of perceiving and interpreting self, other people, and events); 2) Affectivity (i.e., the range, intensity, lability, and appropriateness of emotional response); 3) Interpersonal Functioning; 4) Impulse Control: B) The enduring pattern is inflexible and pervasive across a broad range of personal and social situations. C) The enduring pattern leads to clinically significant distress or impairment in social, occupational, or other important areas of functioning. D) The pattern is stable and of long duration, and its onset can be traced back at least to adolescent or early adulthood. E) The enduring pattern is not better explained as a manifestation or consequence of another mental disorder. F) The enduring pattern is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition (e.g., head trauma)*” (p. 646-647).

The DSM-5 defines Antisocial Personality Disorder (301.7) as a, “... *pervasive pattern of disregard for and violation of the rights of others occurring since age 15 years, as indicated by three (or more) of the following: 1) Failure to conform to social norms with respect to lawful behaviors as indicated by repeatedly performing acts that are grounds for arrest; 2) Deceitfulness, as indicated by repeated lying, use of aliases, or conning others for personal profit or pleasure; 3) Impulsivity or failure to plan ahead; 4) Irritability and aggressiveness, as indicated by repeated physical fights or assaults; 5) Reckless disregard for the safety of self or others; 6) Consistent irresponsibility, as indicated by repeated failure to sustain consistent work behavior or honor financial obligations; 7) Lack of remorse, as indicated by being indifferent to or rationalizing having hurt, mistreated, or stolen from another*” (p. 659). Moreover, the disorder entails that the individual is at least 18 years of age and that there is evidence of a Conduct Disorder prior to the age of 15 years and that the antisocial behavior does not occur exclusively in the course of schizophrenia or bipolar disorder.

Records indicate that Mr. Truxillo first received antipsychotic medications in 1991 or 1992 and reported his first positive symptoms of schizophrenia in 1994 while incarcerated in Arizona (Bates Stamp 1933-1935). Records suggests Mr. Truxillo’s antisocial conduct predates the onset of frank symptoms of his psychotic disorder as denoted by the kidnapping and attempted rape of MN on 7/21/90 (Bates Stamp 0068-0077; 0085-0089). In addition to assaultive behavior predating the frank expression of a psychotic disorder, Mr. Truxillo also demonstrates a constellation of traits associated with Antisocial Personality Disorder. These traits include: impulsivity (Bates Stamp 0560; 0750; 0751; 0754); irritability and aggressiveness both in the community (Bates Stamp 0020-0023; 0068-0077) and in-custody (Bates Stamp 0110; 0732); irresponsibility (Bates Stamp 0560; 0750; 0754), and; lack of remorse (Bates Stamp 0561; 0754). As

such, I believe there is an evidentiary basis for diagnosing Antisocial Personality Disorder (301.7). This diagnosis is therefore offered on a provisional basis.²⁵

In summary, Mr. Truxillo meets current diagnostic criteria for: Schizophrenia, Continuous (295.90); Other Specified Paraphilic Disorder, Nonconsent, In a controlled environment (302.89); Alcohol Use Disorder, In a controlled environment (303.90); Cannabis Use Disorder, In a controlled environment (304.30), and; Stimulant Use Disorder, In a controlled environment (304.20). Antisocial Personality Disorder (301.7) constitutes a provisional diagnosis at the current time. Of these disorders, I regard Other Specified Paraphilic Disorder, Nonconsent, In a controlled environment (302.89) as meeting criteria for a "mental abnormality" as defined by RCW 71.09.020(8).

C) Is Mr. Truxillo as a result of a mental abnormality or personality disorder "likely to engage in predatory acts of sexual violence if not confined in a secure facility?"
YES.

PCL-R:

Mr. Truxillo was assessed with the PCL-R, 2nd Edition. Factor analysis of the PCL-R yields 2 main factors and 4 facets. Broadly, Factor 1 is comprised of 8 items which load on interpersonal traits broadly described as selfishness, callousness, lack of empathy, and remorseless use of others. Factor 2 is comprised of 10 items pertaining to an unstable antisocial lifestyle and social deviance. Scores on the PCL-R range from 0 to 40. Categorically, individuals obtaining scores of 30 and above are regarded as being psychopathic and therefore at a significantly higher risk for violent and antisocial recidivism. In addition, scores on the PCL-R can be viewed dimensionally such that individuals obtaining higher scores on the measure are at a relatively higher risk of violent recidivism compared to individuals obtaining lower scores.

I assigned Mr. Truxillo a prorated score of 28²⁶ on the PCL-R placing him at the 76th percentile compared to North American male offenders and at the 82nd percentile compared to North American male forensic psychiatric patients.

Need Assessment:

The Structured Risk Assessment (SRA) framework identifies relatively enduring psychological factors that function as long-term vulnerabilities for sexual offending. These factors are individually predictive of sexual recidivism.²⁷ They are sometimes called *need factors* since assessment of them indicates the appropriate focus of treatment

²⁵ A definitive diagnosis would require identification of elements of a Conduct Disorder prior to age 15 and delineation of antisocial conduct predating the onset of schizophrenia.

²⁶ Technically, 27.8. I chose to omit Item 12, 'Early Behavioral Problems' due to the absence of developmental records. I also omitted Item 13 'Lack of Realistic Long-Term Goals' due to the absence of a clinical interview.

²⁷ Mann, R., Hanson, K. & Thornton, D. (2010). Assessing Risk for Sexual Recidivism: Some Proposals on the Nature of Psychologically Meaningful Risk Factors. *Sexual Abuse: A Journal of Research and Treatment*, 22, 191-217..

needed to reduce risk. Need factors consistent with the SRA framework have incremental predictive validity relative to Static-99 and therefore function as external risk factors.²⁸

The Forensic Version of SRA-Need Assessment,²⁹ an instrument developed by David Thornton Ph.D., was used to evaluate Mr. Truxillo. The SRA-FV assesses psychological factors that function as long-term vulnerabilities for sexual offending that fall in three domains: *Sexual Interests*, *Relational Style*, and *Self-Management*.³⁰

The Total Need Score assigned Mr. Truxillo was 4.19. This score reflects a high level of need in each of the assessed domains. This score falls above the range of scores of those individuals identified as High Risk/Needs as defined by the interpretative guide provided by the author of the instrument.³¹ Regardless of the level of preselection, offenders with this level of need are expected to have a recidivism rate above that indicated by the Static 99-R High Risk/Need norms.

Static-99R:

In 9/09 the authors revised the Static-99 thereby creating the Static-99R.³² The revision was conducted in an effort to improve the sensitivity of the instrument to age related declines in recidivism. Whereas the Static-99 was scored from 0-12, the Static-99R scores range from -3 to 12.³³

Percentile data were taken from 4 samples of Canadian sex offenders which were reweighted to approximate the distribution of all convicted sex offenders in Canada. These percentiles appear highly stable in international comparisons with large, relatively representative samples in Sweden and California. Compared to other adult male sex offenders, Mr. Truxillo's Static-99R score of 7 falls at the 97th percentile.³⁴

Research has found that relative risk associated with different Static-99R scores to be consistent even when the overall base rate of recidivism varies across samples. Risk ratios for Static-99R scores were based on 8 samples of sexual offenders from Canada, the United States, the United Kingdom, Austria, and Sweden (n = 4,037). The analyses were based on routine (i.e., relatively unselected) correctional samples. The recidivism

²⁸ In fact, the AUC for various measures of psychological needs is comparable to the AUC for commonly used actuarial measures such as the Static-99R and the VRAG-R.

²⁹ Thornton, D. & Knight, R. (2013). Construction and validation of SRA-FV Need Assessment. *Sexual Abuse: A Journal of Research and Treatment*. DOI:10.1177/1079063213511120.

³⁰ Consistent with current training and professional guidance, in order to determine which set of Static-99R norms are applicable in Mr. Truxillo's case, it is necessary to assess the degree to which he shows these relatively enduring psychological risk factors.

³¹ The SRA-FV range associated with High Risk/Needs norms is 3.3 to 3.5. As such, Mr. Truxillo's currently assessed level of need substantially exceeds the range of scores associated with this grouping.

³² Helmus, L., Thornton, D., Hanson, R. K., & Babschishin, K. M. (2011). Improving the predictive accuracy of Static-99 and Static-2002 with older sex offenders: Revised age weights. *Sexual Abuse: A Journal of Research and Treatment*. Advance online publication. doi:10.1177/1079063211409951.

³³ Theoretically, a married offender over the age of 60 who committed an incestuous act with a related female victim and had no prior convictions for non-sexual or sexual violence could receive a score of -3 on the Static-99R.

³⁴ Technically, the 97.2 percentile. Relative to the standardization samples, Mr. Truxillo's score of 7 falls between the 95.6th and the 98.6th percentile.

rate for sex offenders with the same score as Mr. Truxillo would be expected to be 5.25 times higher than the recidivism rate of the typical sex offender (defined as a median score of 2).

Thirty-eight percent of individuals with scores similar to Mr. Truxillo recidivated within 5 years of time at risk³⁵ and 49% within 10 years of time at risk.³⁶

VRAG-R:

Mr. Truxillo's risk for violent recidivism, including sexually violent recidivism, was assessed with the recently issued VRAG-R.^{37,38} Mr. Truxillo received a prorated score of 33.55 placing him in Bin 9 at the 97th percentile.³⁹ Seventy-six percent of individuals with similar scores recidivated at 5 years of time at risk and 90% recidivated at 15 years of time at risk.

In summary, while absolute recidivism rates from the standpoint of "more probably than not" (RCW 71.09.020 (7)) are discordant across the Static-99R and the VRAG-R, the density of Mr. Truxillo's psychological needs suggests that the recidivism rates associated with the Static-99R are conservative estimates of his future risk. In light of the density of Mr. Truxillo's psychological needs and the absence of sexual deviancy treatment, I believe that Mr. Truxillo's risk for recidivism meets the statutory standard required by RCW 71.09.020 (7).

SUMMARY AND CONCLUSIONS:

Mr. Patrick Truxillo is a 46 y/o male currently incarcerated on Rape in the 1st Degree. Between 1990 and 2001, while at liberty in the community, Mr. Truxillo had a history of sexually assaulting previously unknown females or females that with whom no prior substantial personal relationship existed. This sexually assaultive pattern of conduct persisted despite a prior history of conviction and sanctioning.

Assessment of psychological needs and vulnerabilities associated with sexual offending indicate that Mr. Truxillo has marked deficits in the domains of sexual and relational interests, and self-management. In conjunction with static levels of risk and a lack of sex offender specific treatment to address dynamic risk factors, Mr. Truxillo appears to constitute a high level of risk for future offending, with no substantive

³⁵ 33.1% to 42.9% at the 95% confidence interval.

³⁶ 41.4% to 55.9% at the 95% confidence interval.

³⁷ Please see Footnote 4 for the citation.

³⁸ I chose to use the VRAG-R over the SORAG as the latter measure was standardized on 288 offenders. The VRAG-R was standardized on 1,261 offenders. AUC for the entire sample was .758. For the subsample of 745 sex offenders, the VRAG-R yielded an ROC of .738, compared to an AUC of .719 for the VRAG and .727 for the SORAG. As such, the VRAG-R demonstrated comparable or greater predictive validity for the sample of sex offenders than either the VRAG or SORAG.

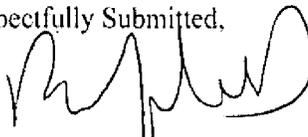
³⁹ I chose to omit Item 2 'Elementary School Maladjustment' and Item 10 'Conduct Disorder Indicators' due to an absence of reliable records or summaries from Mr. Truxillo's developmental years. Prorating of the missing items was performed in accordance with the established procedures. Please see pages 164-165 of: Quinsey, V.L., Harris, G.T., Rice, M.E., & Cormier, C.A. (2006). *Violent Offenders: Appraising and managing risk* (2nd ed.). Washington, DC: American Psychological Association.

reduction in risk for at least the next 13 years, well in excess of the duration of community supervision on Cause # 01-1-00431-2.

OPINION:

I hold the opinion that Mr. Truxillo meets the statutory definition of a "*sexually violent predator*" as defined in RCW 71.09.020 (18) due to the existence of a history of "*sexually violent offenses*" as defined in RCW 71.09.020 (17), the presence of a "*mental abnormality*" as defined in RCW 71.09.020 (8) and a probability of recidivism which exceeds the statutory definition of "*more probably than not*" as defined in RCW 71.09.020 (7).

Respectfully Submitted,



Brian W. Judd, Ph.D.

Licensed Psychologist

Washington License 1522

Certified Sex Offender Treatment Provider 171

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

6/22/14, Olympia, WA
Date and Location


Signature

THIS IS THE END OF THE FORENSIC
PSYCHOLOGICAL EVALUATION