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Seattle Times Documentation
The subject of Dr. Wollert's complaint against *The Seattle Times*: Entire series: "Price of Protection" http://seattletimes.com/flatpages/specialreports/civilcommitment/priceofprotection.html Specific to complaint: Short video teaser trailer, "Price of Protection" http://seattletimes.com/html/picturethis/2020312557_price_of_protection_videos.html First story in series, "State Wastes Millions Helping Sex Offenders Avoid Lockup" http://seattletimes.com/html/localnews/2017301107_civilcomm22.html, Accompanying video, "Unchecked Costs of Locking Away Sex Predators" http://video.seattletimes.com/1400835779001/price-of-protection-unchecked-costs-of-locking-away-sex-predators *The Seattle Times*: Clarification http://seattletimes.com/html/localnews/2017301107_civilcomm22.html [scroll to story end]
Wollert Exhibit H: *Times'* Neff response to Wollert

Washington News Council
Complaint against *The Seattle Times* from Dr. Richard Wollert
Documentation

WASHINGTON NEWS COUNCIL Complaint Form

COMPLAINANT INFORMATION RECEIVED (WNC USE): _____

Name: Richard Wollert

Signature: Richard Wollert Date: 3-27-13

Address: 602 E 31st ST Vancouver WA 98663

Phone: (Day) 360-737-7712 (Evening) 360-737-7712

Fax: 360-737-4156 Email: rwwollert@aol.com

You are / represent:

X Private Individual ___ Private Organization ___ Private Company
___ Public Official ___ Public Organization ___ Public Figure
___ Political Candidate ___ Government Agency ___ Other (Explain)

MEDIA INFORMATION

Media Name: Seattle Times

Address: 1120 John St, Seattle WA 98109

Media Category:

X Newspaper: (Circle one) (Daily) Weekly Community College
___ Television Station ___ Radio Station ___ Wire Service
___ Online News Service ___ Other (Explain) _____

Your Complaint Concerns:

___ News Story ___ News Analysis X Special Report
___ Column ___ Editorial ___ Letter to the Editor
___ Other (Explain) _____

Dates of Media Coverage: January 21-24, 2012 "Price of Protection"
(Please enclose photocopies or video / audio tapes if available.) — attached links in complaint letter

SPECIFICS OF COMPLAINT

Was story, in whole or in part, factually incorrect? X Yes ___ No
(If yes, please detail specific inaccuracies on a separate sheet.)

Was story: X Incomplete X misleading X sensationalized X biased
X inflammatory ___ racist/sexist ___ otherwise stereotyped X unfair
X other problem (Explain) See attached complaint letter (31 pages) + supporting exhibits

Were there ethical lapses by the media? (Check all that apply.)

X Did story wrongly damage your or your group's reputation?

X Was there a conflict of interest for reporter or media outlet?

____ Did reporter misrepresent him / herself in any way?

____ Was your confidentiality betrayed by any reporter or editor?

____ Did any reporter or editor break a promise to you?

____ Did media outlet invade your privacy?

____ Did media outlet fail to contact you for a story about you?

X Did media outlet fail to include balancing facts or information?

X Was a misleading impression created by layout, graphics, etc.?

____ Did media outlet deny access to you to respond to the story?

X Other lapses (Please explain): See attached complaint letter (31 pages) and supporting exhibits

Have you discussed complaint with media outlet? X Yes ____ No

If so, with whom? (Name, title, date) Jim Neff, David Boardman + their atty Feb 2012 – March 2013

What was the result? See attached complaint

Please summarize your complaint in narrative form, including specific inaccuracies or statements to which you object. (Attach separate sheet if necessary.)

See attached complaint

Mail to: Washington News Council, PO Box 3672, Seattle WA 98124-3672 Or fax to: 206-464-7902

Questions? Call 206-262-9793 or email us at info@wanewscouncil.org

WASHINGTON NEWS COUNCIL Waiver of Claims

Please read this form carefully before you sign it. If you do not understand it, consult an attorney before signing it. If the Washington News Council decides to hear your complaint, you may have an attorney accompany you but he or she may not speak for you at the formal complaint hearing.

I, Richard Wollert (print your name), understand that if the Washington News Council hears my complaint against The Seattle Times (name of media outlet), I may present matters that otherwise could be the basis of a claim before a court or a government agency.

I also understand that the media organization will be asked to appear voluntarily and may present information and defenses that otherwise could be evidence in a court or agency proceeding.

In consideration of the Washington News Council's agreement to consider my grievance and of the Seattle Times 's (media outlet) agreement to abide by the procedures of the Washington News Council in responding to my grievance, I hereby waive any and all claims or demands that I may now have or may hereafter have, of any kind or nature, before a government agency or before a court of law, including defamation actions arising out of or pertaining to the subject matter of my grievance against any person or corporation, including The Seattle Times (media outlet) and its employees and agents, or against any and all persons presenting information to the Washington News Council or against the Washington News Council, its members and employees for statements made during the proceedings or for the content of its decision or report.

If the Washington News Council or one of its committees finds this complaint unsuitable for adjudication, this waiver will cease to be binding.

Signature: Richard Wollert Date: 3-23-2013

Mail to: Washington News Council, PO Box 3672, Seattle WA 98124-3672 Or fax to: 206-464-7902

Questions? Call 206-262-9793 or email us at info@wanewscouncil.org

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Clinical and Consulting Psychologist

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March 27, 2013

John Hamer
Washington News Council
PO Box 3672
Seattle WA 98124-3672

Dear Mr. Hamer:

Please consider this a formal complaint about *The Seattle Times'* "Price of Protection" series on Sexually Violent Predator (SVP) civil commitment proceedings that was published as several videos and articles from January 21st through January 24th of 2012. This series of publications violated basic journalistic norms of fairness, accuracy, and balance in reporting on its major subject, the State of Washington's civil confinement system for SVPs, and by making false and defamatory references to me personally, my professional standing, and accomplishments and work in that system as a clinical and consulting psychologist for accused persons.

The Role of Christine Willmsen, the reporter:

Christine Willmsen, the reporter, violated journalistic best-practices ethics in her story by (1) developing a "favored source" relationship with a number of prosecutors and a state-allied psychologist who had previously engaged in defamatory or provocative behavior aimed at impeaching my professional credibility and otherwise interfering with my career; (2) unfairly conveying a negative view of defense professionals and a positive view of prosecution professionals; (3) neglecting to adequately inform readers about the critical importance of defense professionals to SVP proceedings; (4) neglecting to adequately moderate and counterbalance inaccurate and misleading opinions that her favored sources conveyed to her about my professional standing, habits, and accomplishments; (5) neglecting to moderate and counterbalance inaccurate and misleading statements and portrayals that she made about me in her story; (6) misinforming readers about my research on sex offenders; and (7) neglecting to disclose positive facts about me and my research that she obviously knew from interview responses, Freedom of Information Requests, trial observations, and access to my curriculum vitae.

Examples of Defamatory Statements in Print and Video:

The psychologist [has been] pushing his own science and theories. (Article, par. 38) … Dr. Wollert has been found . . .to be an outlier and come up with his own methodologies that

*are simply not sound science. (Video interview with AAG Brooke Burbank) … His reports are a gross misrepresen*tatio*n of risk – it's mumbo-jumbo," she said (Article, par. 59. quoting*

> *Dr. Amy Phenix, Ph.D., a professional competitor) … Wollert often finds himself under attack for his changing theories about recidivism and his self-made assessment tools. (Article, par. 57) … His opinion is that these individuals just simply don't or can't meet criteria. (Video, AAG Brooke Burbank, wrongly summarizing my views) … You look at the personal biases of an individual who makes his living offering one opinion … you know, essentially a one-note symphony (Video Trailer, King County Prosecutor David Hackett speaking while I am on witness stand)*

While the statements listed above may be the opinions of the reporter's prosecuting attorney sources and one State's expert psychologist, they are nonetheless inaccurate, and are not balanced by contradictory opinion and evidence the reporter had in hand, rendering this story unfair. I will discuss these statements and others in detail below under item VII of this complaint.

Engagement with *Seattle Times*:

When I complained to the *Times* about the series in February of 2012 my complaint was assigned to Ms. Willmsen's supervisor, Investigations Editor James Neff, for the purpose of resolution. I presented him with volumes of information supporting my complaint, but he dragged out our negotiations for months before *refusing to make any type of correction* and *threatening to file an Anti-SLAPP suit against me* if I were to pursue legal action. In the latter half of 2012 I retained a media attorney to negotiate a resolution with the *Times*. On late Friday afternoon March 22, 2013 it published the attached correction online followed by a print version (page A2) on March 24, 2013, fourteen months after I requested one (Exhibit A). The online correction at the bottom of the article does not show up when printed or by screen shot, however, and is only visible on the web, so I had to cut-and-paste it for Exhibit A.

My view continues to be that the *Seattle Times'* representation of the defense bar, and of my history, my character, my professional standing and conduct, and my research was unfair, inaccurate, and imbalanced. The management of the *Times* also did not adequately correct their publication in a timely way after they were provided with information that justified this. Finally, the limited correction they eventually published was inadequate and, indeed, calculated to mislead as will hereafter be shown (see pages 20-21). I am therefore writing to you and the Washington News Council to ask the WNC to review this dispute because I have been unable to reach a satisfactory resolution with the *Times* after more than a year of personal and legal negotiations. The journalistic and ethical lapses displayed by Ms. Willmsen, Editor Neff, and Managing Editor Boardman have not only caused me and my family extended grief and professional harm that continues over a year later, but have also violated the general public trust: Readers who rely on the *Seattle Times* to remain objective, truthful, and fair were misled. Worse yet, justice in future civil commitment trials may be threatened due to the widespread misinformation the *Seattle Times* disseminated to future jurors, judges, prosecutors, and defense attorneys who have read it.

The following items that are listed by Roman numerals refer to various facets of my complaint. The first four present an overview of the complaint and recount my contacts with Reporter Willmsen, my negotiations with Editor Neff, and an overview of the negotiations my attorney and I had with Editor Boardman and the *Times'* legal counsel. The fifth provides evidence that Ms. Willmsen's favored sources engaged in defamatory and provocative behavior towards me before they were featured in her series. The sixth provides evidence that Ms. Willmsen made the mistake of participating in an inappropriately close relationship with these biased sources in spite of their hostile stance. The seventh shows that Ms. Willmsen did not adequately fact-check the information that her favored sources gave her and did not

disclose facts she had that were at odds with the content of her story. The last item is an opinion of my own on the risks to citizens and the public trust that arise when newspapers and the State work together without disclosing their alliance.

Each item is followed by a narrative that points out errors of commission or omission by the *Times* that violated the principles of fairness, accuracy, and balance. These narratives also refer to exhibits A through X that are offered as evidence supporting my assertions.

I. Overview of the Complaint

The online link to the full "Price of Protection" series is at:
http://seattletimes.com/flatpages/specialreports/civilcommitment/priceofprotection.html

For over a year I negotiated with the *Seattle Times* to publish a comprehensive correction of false, misleading and defamatory statements made about me in the article headlined "State Wastes Millions Helping Sex Offenders Avoid Lockup" at
http://seattletimes.com/html/localnews/2017301107_civilcomm22.html , its accompanying video, "Unchecked Costs of Locking Away Sex Predators," at
http://video.seattletimes.com/1400835779001/price-of-protection-unchecked-costs-of-locking-away-sex-predators/, and its short video trailer at
http://seattletimes.com/html/picturethis/2020312557_price_of_protection_videos.html.

The story and videos in question contain numerous unfair, inaccurate, and unbalanced statements about me and about my research. The videos were also selectively and sensationally edited to demean me and to portray me in the most negative light possible.

Both article and videos omit critical information that would fully inform the public about the constitutional guarantees – particularly substantive due process and access to psychological experts who are independent of the State – in SVP civil commitment cases. Ms. Willmsen was therefore irresponsible in how she gathered her information and how she reported it by favoring and embracing the opinion and point-of-view of one side, the prosecutors who work for the State.

She also trivialized the importance of defense attorneys and experts retained by the defense by focusing on the cost of defending SVP cases and publishing agenda-driven "opinion" as truth. In the process she neglected to mention other facts and alternative opinions needed for honest balance, even though she had such evidence at hand.

Among the many facts she either overlooked or intentionally withheld, Ms. Willmsen failed to include specific examples of prosecution witness costs, although easily obtainable through public records, to provide a full and fair comparison to the defense expert costs she highlighted. For example, Dr. Douglas Tucker is a frequently retained prosecution expert in Washington who makes an income testifying throughout the country in SVP trials, as I and others do for the defense. In 2011, AAG James Buder successfully curtailed the ability of the defense to question Dr. Tucker about the presumed extraordinary fees he earned for the Darnell McGary trial. While this "motion in limine" is an attachment to Ms. Willmsen's series, it was not a highlight of the story's narrative as an example of excessive state spending or lack of transparency (see http://www.documentcloud.org/documents/283800-judges-problems-w-wollert.html.). Presumably, readers of this series should be aware of expert costs on *both* sides of the judicial process to have a fair and balanced picture on what the state spends to litigate SVP cases. Mr. Buder's motion to prohibit the defense from questioning Dr. Tucker about the fees he earned in the McGary case can be seen on page 2-3 of this document, along with the prosecution's motion against the

admission of testimony related to the MATS-1 actuarial instrument (Wollert, Cramer, Waggoner, Skelton, &Vess, 2010) that is routinely used by many experts (Exhibit B).

Many of the characterizations and criticisms that Ms. Willmsen published about me in the "Price of Protection" repeat arguments that prosecutors have raised in court for years during cross-examination. As part of her story they were simply recycled opinion and innuendo from what might be called the "Prosecutor's File for Impeaching Dr. Wollert in Court". There is a difference between a court of law and the *Times*' article, however. In a court of law these inaccuracies are zealously refuted by the defense on the basis of evidence. I was afforded no such protections in the *Seattle Times'* court of public opinion because Ms. Willmsen did not fact-check the information she was given and did not disclose positive information she had about me that would balance her perspective. Further, Editors Neff and Boardman refused to make *any* corrections to the record for 14 months. The correction that finally was published is misleading due to its omission of important clarifying details (see pages 20-21).

Ms. Willmsen, with the approval of her editors, appears to have willingly adopted the prosecutors' biased points of view and embraced them, rather than presenting facts from both sides of the story and letting readers interpret them. *The Seattle Times* consequently produced a sensational series that is not true investigative reporting but merely advocacy journalism: a black and white melodrama that casts prosecutors and their experts as the unerring good guys, while the defense and its experts are portrayed as opportunistic villains. Playing on the public's emotions of fear and hatred towards sex offenders, Ms. Willmsen exploited their understandable aversion to providing adequate constitutional safeguards to a reviled class of persons who have (1) already served their prison sentences but (2) are faced with life-long loss of liberty for crimes they *might* commit. She first appealed to a "lock 'em up and throw away the key" mentality by downplaying constitutional rights to substantive due process that all citizens are guaranteed. Having opened this door she ascribed only greedy motivations and questionable ethics to professionals who make an honest and earnest living providing quality professional evaluations and testimony to the defense side of the civil commitment equation.

II. Ms. Willmsen's Interactions with Me from February 2011 to January 2012

In the year or so that the "The Price of Protection" was being researched, Ms. Willmsen contacted me three times for an interview. The first was about February of 2011, when I was engaged in the first commitment trial of Jack Leck in Kitsap County, which resulted in a hung jury, a defeat for the State. Prior to her call Mr. Mike Adams, Chief Defender for the SVP unit of the Iowa State Public Defender's Office, informed me that she had called him and questioned him about my work, expertise, and impartiality. During their interview Mr. Adams told Ms. Willmsen that he found me highly qualified and impartial, and subsequently summarized the content of their interview in an email to me (Exhibit C). Ms. Willmsen, however, did not include any of Mr. Adams' views in her story. I was suspicious of her motives when she first contacted me because she failed to show any interest in my research, as most reporters do when they interview me. I also did not have a desire to interview with her because she did not tell me about her interview with Mr. Adams, which struck me as an omission that was at odds with good faith and transparency. So I asked her to contact me later.

The State wins well over 90% of all sex offender commitment trials. This is likely due to the animosity towards all sex offenders shared by the public and the corresponding belief that most sex offenders should be incarcerated even after they have completed their sentences. Since the first Leck trial ended in a hung jury, the Attorney's General Office was highly motivated to prevail in his second trial. Ms. Willmsen and her crew were videotaping my testimony while I was testifying at this trial in August of 2011. During a break I was talking with Leck's attorney Robert Naon when Ms. Willmsen again approached me for an interview. I hesitated after Attorney Naon expressed the view to Ms. Willmsen and myself that the

situation was a "set up." As I hesitated Ms. Willmsen turned to Mr. Naon and snapped, "You stay out of this." I found her demeanor towards Mr. Naon, a former prosecutor and civil servant, to be disrespectful and hostile. So I did not agree to an interview with Ms. Willmsen on this occasion.

The third time Ms. Willmsen contacted me was by phone in late January 2012, a few days before the "Price of Protection" was published. Again, she appeared to me to be condescending and excessively challenging. When I told her I would rather not do an interview she said in a mocking tone of voice, "Don't you want to know what people are saying about you?" I told her that I guess I would read about it soon enough and we ended the conversation.

Given the fact that Ms. Willmsen's final phone call to me came so close to her deadline, I doubt that she would have been able to make the extensive changes needed for fairness and accuracy had she sincerely and objectively considered the defense side, in general, and my side of the story, in particular. Also, since none of the positive or balancing information she received from other sources, as early as February 2011, made it into her narrative, I doubt that any information I might have provided her would have made a difference in her one-sided perspective.

Ms. Willmsen did not express an interest in my research to me. Nonetheless she emailed Assistant Attorneys General Tricia Boerger and Brooke Burbank on 1/19/2012 – two days before her series went to press – asking them to confirm some technical questions about the construction of the MATS-1, a risk assessment tool my colleagues and I developed (Exhibit D). It is telling that at the last minute Ms. Willmsen contacted two prosecutors who routinely try to impeach me in court – neither of whom are statisticians or competent psychological researchers – for information about my research, which is specialized and involves the application of complex statistical methods. This subject is outside their area of training and expertise. Furthermore, the chance of obtaining biased and inaccurate information from consultations with biased sources is high, and Ms. Willmsen took erroneous confirmations she was given by attorneys who have a stake in impeaching me and published them as though they were correct.

Turning to AAGs Boerger and Burbank as adequate sources on recidivism test construction reflected poor journalistic judgment. The questions Ms. Willmsen posed to them would have been answered if she had carefully read the peer-reviewed article on the MATS-1 that my colleagues and I published in a well-respected scientific journal in 2010 (Exhibit E, pp. 473-476 and Table 3 on p. 476). Alternatively, a simple email to me, to one of my MATS-1 research colleagues, or to some of the many psychologists who use the MATS-1 (Exhibit B) would certainly have been a more appropriate and less flawed method of fact-checking. Had Ms. Willmsen been polite, focused, and professional when she queried me, I would have been willing to reply to a question from her about the MATS-1 via email or in person. The answer from me or from one of my research colleagues who helped develop this actuarial instrument would have provided the corrections that were needed, whereas Ms. Burbank's and Ms. Boerger's confirmations that Ms. Willmsen published did not. Ms. Willmsen's email to prosecutors whose job it is to impeach me in court, and asking them to provide her with technical information about my research, suggests to me that she was, in effect, asking them: "Is this what you would like me to print about the MATS-1 and Dr. Wollert? Do you approve?" Forming such a close and subservient relationship in the course of writing a story that holds important liberty and reputational implications is obviously inappropriate.

I want to emphasize that I have often given interviews to reporters throughout my career and most have approached me to ask specifically about my research and have done so in a friendly, professional manner. If there is a deadline looming, I get back to them quickly. In light of Ms. Willmsen's demeanor, I wonder whether she wasn't intentionally offensive during her last contact with me so that she could falsely imply, as she did in the 60th paragraph of her article, that I declined to interview with her because I feared fair and objective inquiry about my risk assessment procedures? Overall, I believe I correctly perceived that

she was so eager to assist and please her prosecution sources that she lost good judgment and investigative impartiality.

During our initial discussions Editor Neff tried to blame some of the story's inadequacies on me for not interviewing with Ms. Willmsen. I do not find this to be a defense that vindicates poor investigative work marked by an unfair and unbalanced approach to the subject. A reporter does not have a license to defame a potential source or abandon best practices journalism after being denied an interview because she approached the source in a way that was rude, unfocused, or biased. Furthermore, it is the professional obligation of a responsible reporter to get the story correct through a variety of research means, if necessary. A competent investigative journalist in Ms. Willmsen's situation would have approached *all* potential sources with an attitude of objectivity, good will, and respect. This builds trust and rapport, which is effective for the elicitation of meaningful information that forms the basis for a fair, balanced and accurate story.

III. My Negotiations with Investigations Editor Neff, Who Did Not Recuse Himself Because of a Conflict of Interest, from February 2012 to May 2012

After the publication of the series I engaged in a futile four-month negotiation with Investigations Editor Neff in an attempt to obtain corrections that were necessary to provide a fair, accurate, and balanced story. To advise me on this initial process I retained a media attorney who has provided defense and plaintiff representation in defamation cases. He was able to guide my negotiations with Mr. Neff with a deep understanding of media viewpoint. We both trusted in the Times' self-proclaimed commitment to fair and accurate reporting and were confident I could negotiate a mutually satisfactory set of corrections by providing Mr. Neff with verifiable information attesting to my credentials and respected reputation as an academic, author, researcher and clinician. We also believed that Mr. Neff would be open to receiving other documents showing that various assertions and prosecutorial opinions presented as facts were wrong. I therefore sent him three elaborate letters, some with extensive attachments, documenting my objections as to how the series had portrayed me and describing the evidence that I had collected in support of my objections (Exhibit F). I also provided him with a copy of my curriculum vitae so that he could confirm my career for himself (Exhibit G).

Editor Neff, although obviously busy with his demanding job and a book he was in the process of writing, appeared patient and thorough in his interviews with me. He was in a clear conflict of interest, however, because he was Ms. Willmsen's immediate supervisor, actively participated in publishing Document Cloud materials for the "Price of Protection" series, and obtained court records that were cited in the series. He should have recused himself but did not. Journalistic best practices would require an uninvolved, un-conflicted *Seattle Times* senior official to receive and evaluate my correction request and the extensive materials I provided to support it.

After four months of negotiation with Editor Neff I received a letter from him in May of 2012 that flatly refused to make any corrections on the bases of the overwhelming body of evidence I submitted to him (Exhibits F and G) and threatening me with an anti-SLAPP suit and attorneys' fees if I were to pursue a legal resolution (Exhibit H). His letter also implied that I should be grateful that the *Seattle Times* had not damaged my reputation and practice even more since the *Times* had, in his opinion, even more "facts" that they chose not to publish. Editor Neff cited two examples: A good-natured play on my name ("Dr. Wallet") that some of my clients occasionally joked with me about in group therapy sessions over 10 years ago and an erroneous assertion that Dr. R. Karl Hanson made in an affidavit that prosecutors solicited from him in 2008 for the purpose of impeaching my credibility. Neither of these threatened "facts" could possibly be considered serious disclosures in that a number of my former clients would be willing to testify to both my self-deprecating sense of humor and therapeutic commitment – if necessary – and Dr. Hanson

is a research competitor who has not provided a similarly critical affidavit since my colleagues and I – including a widely respected statistician – filed counter-affidavits in response to his 2008 affidavit (Exhibit I).

Looking back on my negotiations with Editor Neff, my impression is that he decided to allude to the paper's power as a way of intimidating me rather than taking responsibility for a publication that was unfair, biased, and inaccurate. This decision compounded the *Times*' retreat from ethical practice.

IV. Formal Retention of Counsel in July of 2012 and Legal Negotiations Between Myself and the Seattle Times Until March of 2013

Neither I nor my first attorney considered Editor Neff's response to my request for corrections to be adequate. As a result, he referred me to another respected defamation attorney, John J. Walsh from NYC, to initiate formal legal negotiations with the *Seattle Times* and its counsel. After consulting with Mr. Walsh, I retained him to help me present a more assertive corrections argument to the *Seattle Times.*

Attorney Walsh sent a 17-page complaint to the Times on October 4, 2012, nearly nine months after the "Price of Protection" series had been published and about five months after my personal negotiations with Editor Neff proved fruitless. We introduced the possibility of legal action if mutually agreeable corrections and clarifications could not be reached. We also asked for reimbursement of Mr. Walsh's fees, which were considerable and would not have been necessary had Editor Neff provided an adequate correction to my initial, well-supported requests.

In spite of much effort, the negotiations with the *Seattle Times* went nowhere and I terminated discussions on 3/1/2013 without reaching a mutual agreement.

V. Washington prosecutors and a state-allied psychologist featured in Ms. Willmsen's story displayed hostile behavior towards me prior to her story.

The first sentence of my second paragraph (see The Role of Christine Willmsen) alleged that Washington prosecutors and a state-allied psychologist featured in Ms. Willmsen's story held antipathies towards me that predated her story. These antipathies are most likely related to a number of factors. One is that for the first 16 years of my career, from 1977 to 1993, I was a faculty member in psychology at four universities (Florida State University, Portland State University, University of Saskatchewan in Canada, Lewis & Clark College in Portland). Promoted to tenured full professor in 1983 I was awarded about $563,000 in competitive research grants from the U.S. National Institute of Mental Health, the Province of Saskatchewan, and the federal government of Canada. Another is that I have published 11 peer-reviewed articles, 1 book chapter, and 1 other article on sex offenders since 2001 that question the validity of the SVP concept, which lacks scientific confirmation in spite of the fact that the Washington legislature passed it almost 25 years ago. I have also given 19 trainings or presentations related to these issues since 2001.

My research has had multiple impacts on risk assessment. The MnSOST-R, a risk assessment tool by Dr. Douglas Epperson and the Minnesota Department of Corrections, was used widely in sex offender evaluations from 1996 to 2010. In 2002 and 2003 (Wollert, 2002; Wollert, 2003), I was the first to publish evidence in a peer-reviewed journal that its risk estimates were invalid because they were inflated. In the last few years the Minnesota DOC has developed a new test without Dr. Epperson's help to estimate recidivism. This new test, the MnSOST-3, differs greatly from the MnSOST-R and yields much lower estimates. In late 2011 the Minnesota DOC announced it was essentially recalling the MnSOST-R by replacing it with the MnSOST-3. Two Department members published a peer-reviewed article describing the MnSOST-3 and cited my criticisms as some of the reasons for developing it (Duwe & Freske, 2012).

I have also criticized the validity of the risk estimates of Static-99, another risk assessment tool developed primarily by Drs. R. Karl Hanson and David Thornton, in peer-reviewed articles (Wollert, 2006; Waggoner,

Wollert, & Cramer, 2008; Wollert et al., 2010). My criticisms have been followed by a revision of this tool called "Static-99R" (Helmus, Thornton, Hanson, & Babchishin, 2012). The peer-reviewed article describing Static-99R acknowledged (p. 93) that "the current study extends previous research … (… Wollert, 2006; Wollert et al., 2010)."

Over the last 30 years I have evaluated 1,000 sex offenders and personally treated about 3,000. I have given expert opinion and testimony in hundreds of courts. This testimony has been relied on and cited repeatedly. I have never been found to have testified falsely by any court or to have violated any ethical principles. I have also given thousands of lectures as a professor, trainer, and researcher, and no one has ever lodged a formal complaint with a university committee, ethics board, or administrative body that accused me of advocating for only one point of view or misrepresenting the field of psychology.

My experience and publication record make me an authoritative witness at commitment trials in Washington, where my practice is located, and in other jurisdictions. Several respondents to SVP proceedings have been found not to be SVPs as a result of my testimony and in several trials jurors been unable to reach a verdict.

Several committed respondents have also been granted new release hearings or trials on the bases of reports I authored that have been reviewed by District and Appellate Courts, or by the Washington State Supreme Court. Jack Leck's 2010 trial, for example, ended in a hung jury. In 2007 the Washington State Supreme Court ruled that Keith Elmore presented a prima facie case for release on the basis of an evaluation that I prepared and thus "established probable cause for a trial to decide whether he should be unconditionally released."

Ms. Willmsen's article focused on the Leck trial. It also featured conjoint negative commentary by Ms. Willmsen and AAG Burbank on the Elmore trial. I do not think that these events are coincidental as they appear to be an attempt at punishment. My impression is that I was the target of this punishment because I was associated with two events – Leck's deadlocked jury and Elmore's 2007 probable cause determination – that were setbacks for the AG's staff.

This background information indicates that there are no professional grounds for any animus towards me on the part of either prosecutors or Dr. Amy Phenix, a psychologist who testifies for the State. Nonetheless, the following items describe several events indicating that they have harbored a hostile attitude towards me for a number of years.

1. In October of 2003 AAG Krista Bush of the Washington State Attorney General's Office submitted a FOI request to Multnomah County asking for documents related to contracts for services that I had held with the County since 1994. The County responded by sending her an incomplete file that contained some but not all contract materials, drafts of reports, emails, and handwritten notes. This file included a "Mutual Settlement Agreement" signed by a County administrator and myself that, as permitted by the contract, ended my obligation to provide services to County clients (Exhibit J). The County agreed to pay me a lump sum of $10,000 plus the balance of payments for the fiscal year as part of what file notes described as a matter of "business." I was also indemnified by the County against future lawsuits that might arise from changing the contract and the County and I agreed to let go of the past by agreeing to "release each other … and all employees … from any and all … contract claims … they have ever had." Finally, the agreement stated that the termination was a "product of mutual negotiations."

On a number of occasions since obtaining this incomplete file, SVP prosecution attorneys have ignored the Mutual Settlement Agreement, which is a governing document, and used unofficial

documents from the file to wrongly imply, while cross examining me, that my contract with Multnomah County was unilaterally cancelled by the County. A prosecutor from the King County Prosecutor's SVP Unit, which was then supervised by Assistant Prosecutor David Hackett, attempted to do so in October of 2006 in the Curtis Pouncy trial.

2. In January of 2010 I signed a contract with the California Department of Mental Health to provide risk assessment training to the State's panel of Sexually Violent Predator (SVP) evaluators. On February 10, 2010 Assistant Attorney General Joshua Choate sent the Department an unsolicited letter on behalf of the Sexually Violent Predator Prosecution Unit of the Washington State Attorney General's Office to "strongly urge" the Department to break the contract that had been signed with me (Exhibit K). Washington attorney Robert Thompson, who defends SVP cases, told me that Mr. Choate disclosed to him that he was directed by his office to write this letter. AAG Brooke Burbank was Director of the SVP unit at that time.

   Sixty pages of attachments were included with Mr. Choate's letter, which was on the letterhead of the Washington State Attorney General's Office. One of these was a 2008 affidavit by Dr. R. Karl Hanson. Others included Findings of Fact for two bench trials (*In re Peterson*, Chelan County Superior Court Cause No. 07-2-00193-4; and *In re Fox*, Pierce County Superior Court Cause No. 01-2-07150-1) and a Memorandum of Opinion for a third bench trial (*In re Robinson*, Yakima County Superior Court Cause No. 97-2-03149-3).

   Among other things, the SVP Unit's letter stated that "This office … has closely followed (Dr. Wollert's) **ever-changing** (emphasis mine) methodologies … Dr. Wollert's long-held status as an **outlier** would seem an important consideration … Dr. Hanson wrote (that Dr. Wollert's) testimony contains some … **misrepresentations of statistics** … Courts around Washington (referring to *In re Peterson*, *In re Fox*, and *In re Robinson*) have repeatedly **chastised** Dr. Wollert's methods." The stated motive for sending this letter was the SVP Unit's fear that the Department's "endorsement will be used to harm the credibility of your own evaluators."

   In response to the AG's letter Seattle Attorney Timothy Ford filed a Tort Claim for $100,000 on my behalf with the Risk Management Division of the State of Washington (Exhibit L). The Claim included 9 Exhibits. Among those named as "persons involved in or witness to this incident" were Dr. Phenix, Assistant AAG Joshua Choate, and AAG Brooke Burbank.

   As described by Attorney Ford, the AG's letter to the California Department of Mental Health "contained false, misleading, and defamatory statements that were injurious to Dr. Wollert in his business and profession." Mr. Ford also countered each of the allegations Mr. Choate's letter that are emphasized in bold type with the following statements in quotation marks.

   - **Ever-changing** methodologies and an **outlier**. "Dr. Wollert has consistently applied accepted statistical methods to the prediction of future dangerousness, and his methodologies have been widely accepted and endorsed by others in the scientific and psychological community, and his work is held in esteem by the great majority of his scientific peers. See Exhibits 6 and 7 … He has published numerous research papers that have been accepted by and published in peer reviewed journals."

   - **Misrepresentations of statistics**. "Mr. Choate and his colleagues also knew or should have

known that the criticisms of Dr. Wollert … had been fully answered by other experts evidence (see Exhibit 6) and that those criticisms did not reflect the opinions of most qualified researchers in this field (see Exhibit 5). In addition, they knew or should have known that Dr.

Hanson had subsequently ceased his criticism of Dr. Wollert, acknowledged the validity of Dr. Wollert's use of Baysian analysis and his conclusions about the effect of age on sex offender recidivism. See Exhibit 8."

- **Chastised. "**Two of the three sets of Findings (Peterson and Fox) in which the letter says Dr. Wollert was 'chastised' by courts were drafted by the Attorney General's office. The third (Robinson) was a Memorandum Opinion in which a Court said Dr. Wollert's methodology was 'not generally accepted.' As Mr. Choate knew or should have known, all three of these decisions were appealed. Two of the cases are still pending on appeal. In the one that has been reviewed on appeal (Robinson), the appellate court declined to rely on the trial court's findings regarding Dr. Wollert's methodology. *Robinson v. State*, 2009 WL 31727797, 9 (Wash.App.Div.3 2009). Mr. Choate also knew or should have known that the Washington Court of Appeals had held it to be error for these same *Robinson* 'findings' to be used to impeach Dr. Wollert's testimony in another case, because they lacked foundation, were hearsay, and such use was 'unfair.' *In re Detention of Pouncy*, 144 Wn.App.609, 624-626, 184 P.3d 651 (2008), *affirmed* 2010 WL 817369 (Wash. Sup. Ct. 3/11/2010)."

  On March 20, 2010, long before the publication of the "Price of Protection," the Washington Supreme Court, referring specifically to my cross-examination in the Pouncy trial, filed a 7 to 0 decision that prohibited the introduction of Findings from Robinson, Fox, Peterson or any other Superior Court in Washington into other Superior Courts for the purpose of expert impeachment. In particular, the Supreme Court stated that such a practice amounts "to nothing more than allowing a judge (from another court) to impeach a witness … evidence of the findings of a judge in an unrelated trial should not be admitted, as such impeachment evidence is irrelevant, unduly prejudicial, and constitutes inadmissible hearsay … We affirm the Court of Appeals, reverse Pouncy's SVP determination, and remand for a new trial." This critical and balancing information was available to Ms. Willmsen, had she researched it. It was certainly known to her State AAG sources, who apparently failed to disclose this important unanimous Supreme Court decision to her.

3. On February 11, 2010, only a day after Mr. Choate completed his letter, it was forwarded to Dr. Phenix. Dr. Phenix distributed it (Exhibit M) on a list serve of California attorneys and psychologists after she was authorized to do so by AAGs Choate and Burbank with, according to Attorney Ford, the "intent to damage Dr. Wollert's reputation, and business expectations in Washington, California, and other states." Included in Exhibit M are an email exchange between Attorney Ford and Dr. Phenix, where she admitted receiving permission to distribute AAG Choate's letter by Brooke Burbank and an unsolicited supportive email on my behalf sent by Dr. Brian Abbott to the CA Dept. of Mental Health as a response to the Choate letter.

   At page 184 of an October 30, 2008 deposition prior to the trial of SVP respondent John Berry, Defense Attorney Michael Kahrs asked Dr. Phenix "so you're basically saying that Dr. Wollert is being unscientific in his publications"? She answered "yes."

In the case of the state and county attorneys, the foregoing inappropriate behaviors may be a matter of a myopic prosecutorial strategy: The goal of the prosecution is to win as many commitment trials as it can; my testimony and research sometimes impede realization of this goal, and the chances of reaching it will be improved by impeaching my reputation and research. Perhaps they stem from a complex competitive

relationship in the case of Dr. Phenix. Not only do we compete as expert witnesses but I have been critical of the Static-99, which she co-authored (Harris, Phenix, Hanson, & Thornton, 2003), and the MnSOST-R, which was developed by her husband Dr. Epperson.

During our negotiations I shared the cover letter of my Tort Claim with Editor Neff around the first of April as an example of his sources' hostile behavior to me that predated their relationship with Ms. Willmsen. He appeared genuinely surprised and admitted that this was new information that Ms. Burbank had not disclosed to him or Ms. Willmsen. On one occasion after this Editor Neff indicated that it "might be newsworthy" if I were to prevail in a bar complaint against Ms. Burbank. I indicated that "I don't want to deal with too many moving parts at one time." In a later conversation, however, Mr. Neff misremembered this exchange and said that "I thought you said you were going to file a bar complaint against Ms. Burbank." I reminded him that I had not yet made up my mind regarding this option.

Regardless of the specific reasons for the past or my plans for the future it is clear that I was the target of much unfair and malicious behavior for a number of years from the prosecutors I have mentioned and from Dr. Phenix before Ms. Willmsen cast them as featured characters in her "Price of Protection" series. She aligned herself with biased sources in spite of their obvious longstanding antipathy towards me. As a result her story became a potential vehicle for disseminating the latest installment in a line of defamatory harassment towards me that spans a many-year period. Ms. Willmsen insured that it served this purpose by neglecting to check the information her sources provided her and by not reporting information that was at odds with what her sources told her. The next two items present evidence supporting these allegations.

VI. Reporter Willmsen Participated in an Inappropriately Close Relationship with Biased Sources in Spite of Their Hostile Stance Towards Me.

During Jack Leck's second civil commitment trial Judge Hartman announced in court on Tuesday, August 9, 2011, that his "law clerk got a voice mail that indicates that a reporter from the Seattle Times is going to cover this case on Wednesday and Thursday and wants to bring along a photographer" (Exhibit N, T. 389: Ll. 5-9).
He then asked if both defense and prosecution attorneys want to "reflect on this for a while and take it up later this morning?" (Exhibit N, T. 389: Ll. 9-17). After a recess, the judge seemed to have forgotten his earlier plan. AAG Boerger, however, took the initiative to redirect his attention towards his earlier words by saying "Sorry your Honor. You indicated you wanted to hear from us with regards to the reporter from the Seattle Times. (Exhibit N, T. 443: Ll. 16-18)." Ms. Boerger went on to remind the judge that "you have some discretion" in the realm of how court proceedings might be documented (Exhibit N, T. 443: Ll. 18-24) but that she preferred videotaping over photography in the sense that "A photographer versus a videographer would be different in my mind. Photography with a camera possibly being distracting with the noise and things like that. But if it's a video, I think that can continue to roll with very little distraction" (Exhibit N, T. 443: Ll. 24-25; T. 444: 1-3)." Judge Hartman replied "I haven't, frankly – I've got a list of Bone-Club criteria. I don't know, if I place any restrictions on the photographer, if I have to make a record of that with the press present and issue findings and conclusions" (Exhibit N, T. 445: Ll. 1-5). AAG Boerger then told the judge, as though it were a coincidence, that "I've got Bone-Club here, Your Honor. I'll take a look at it over the lunch hour and ensure nothing needs to be made on the record (Exhibit N, T. 445: Ll. 9-11)." For reference, the State v Bone Club "open court factors" are well-explained in the following journal article: http://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1186/87WLR1203.pdf?sequence=1

I wonder how AAG Boerger just happened to have the Bone-Club factors so close at hand on August 9th unless she already knew that Ms. Willmsen was going to contact the judge's clerk about recording the Leck

trial on the days of my testimony. In all the trials at which I have testified over the years, reporters have been in attendance no more than 20% of the time, as is the press' right. Some courtrooms, like Clark County, have installed video cameras for routine documentation of *all* proceedings in a discrete way.

However, this was the first time during my years of testimony – Ms. Boerger's preference for videotaping over photography notwithstanding – that a reporter brought a news video crew into court to record only the testimony of a single expert. Recording my testimony, not the trial in general, was obviously of primary interest. It was therefore bad faith on Ms. Willmsen's part to pretend that she was at the Leck trial to do a story about SVP proceedings in general. Her real purpose was to cast me as the main character of a sensationalized online video and trailer she was producing for the *Seattle Times.* She also certainly did not tell me that she would portray me in the most false and negative light possible by highly selective editing of the videotapes that her film crew made of me.

On the morning of Wednesday, August 10, 2011, Ms. Willmsen appeared in court for the first time to request permission to record parts of the trial for a story she was "working on about the civil commitment process and how it works at trials like Mr. Leck's" (Exhibit N, T. 593: Ll. 1-3; also, more generally, see Exhibit N, T. 589-597). Ms. Willmsen's crew set up in direct line of sight and close to the jury and witness box on the two days of taping, which coincided with Mr. Leck's partial testimony, my direct testimony, and my cross-examination. The state's expert, Dr. Dale Arnold, who testified on the 8th and 9th, was not recorded or observed by the *Seattle Times* crew. In fact, most of the trial – which went from the 1st to the 16th – was not observed or recorded by Ms. Willmsen because she only attended the proceedings on the 10th and 11th when I testified.

Frankly, I doubt that Ms. Willmsen considered many other aspects of the Leck trial beyond my testimony. My reason for believing this is that my wife Michele ordered the full transcript of the Leck trial from court reporter Carisa Grossman on 8/13/2012. Ms. Grossman told her that she had only prepared one other transcript of this trial previously, in February of 2012, which was for the Appellate Court. Therefore, to my knowledge, there is no way that Ms. Willmsen could have analyzed the Leck trial in sufficient detail to obtain a fair, balanced, and accurate perspective regarding the goal she conveyed to the court of "understanding how (the civil commitment process) works at trials like Mr. Leck's."

Judge Hartman, at Attorney Naon's request, instructed Ms. Willmsen not to film the jury. In light of this directive it seems to me that AAG Boerger, after advocating to the judge for an unobtrusive recording method on August 9th, might have objected to the conspicuous placement of equipment and a recording crew in front of the members of the jury. Even more telling, Ms. Boerger offered to adjust the court's video monitor to guarantee that Ms. Willmsen had a clear view: "The one thing I will raise, Your Honor, I turned the screen slightly. Ms. Willmsen is going to try to view it from there. If the court or Mr. Leck has any problem viewing the screen, please let me know and I will turn it back towards Your Honor" (Exhibit N, T. 597: Ll. 17-22).

I have participated in hundreds of court hearings. My experience has been that prosecutors and defense attorneys pay little attention to the comforts of reporters. Instead they focus on trial matters and leave reporters to fend for themselves as long as they don't interfere with the proceedings at hand. AAG Boerger's efforts to insure a clear line of sight for Ms. Willmsen and the members of her video crew therefore struck me as extraordinarily solicitous. While Ms. Boerger indicated she would move the monitor screen if Judge Hartman or Mr. Leck requested it, I doubt that she would have run the risk of inconveniencing them unless she expected Ms. Willmsen's article to help the Attorney General's office in some way. At the time the AG's office was also promoting the passage of SB 6493. I therefore suspect that Ms. Boerger's behavior might have had some connection to achieving both this goal and impeaching me outside the courtroom.

The special relationship that Ms. Willmsen had established with the AG's office was also evident in an

event that occurred two days before "The Price of Protection" was published. On that occasion Ms. Willmsen sent AAG Burbank an email that included the video trailer preview link, encouraging her to "feel

free to pass around to others (Exhibit O)." I do not have any evidence that she sent a similar email to any of the defense attorneys or defense experts whom she contacted. She certainly didn't give me any advance notice of the trailer.

The existence of a special relationship was further evidenced on January, 23, 2012, two days after publication of the first installment of the series but a day before the fourth and final one, when AAG Burbank sent Ms. Willmsen an enthusiastic email punctuated with multiple exclamation points (Exhibit P). It read: "Excellent job on the articles!! You really rocked it! I have been getting tons of extremely positive feedback from all over. [Got a call from leg(islative) staff, not surprisingly they want to talk!!] I hope you are pleased; you really did an outstanding job and all your hartd (sic) work may really instigate some positive change!!" This email "thank you" – sent a day *before* the series was completely published – indicates that AAG Burbank was thrilled that some part of the AG's legislative agenda, which I believe was linked to AAG Boerger's solicitous and supportive court behavior, was getting the response she had hoped for.

There is, of course, nothing wrong with advocating legislative action. There is something seriously wrong, however, when a newspaper commits itself to this goal and publishes a biased story that unfairly and inaccurately demeans the defense community to whip up support for one-sided advocacy. I believe it is likely that Ms. Willmsen and the *Times* decided to help the SVP unit of the AG's office achieve some of its legislative goals. The SVP unit of the AG's office not only had an interest in passing certain legislation, however, but an unhealthy interest in impeaching my credibility outside the court. In committing itself to realizing one of these interests, the *Times* and Ms. Willmsen made a commitment to realizing the other as well. This explanation leads me to believe that the damage I suffered to my reputation and career as a result of the *Times* "Price of Protection" series should be viewed as the results of efforts between the AG's office and the *Times* that were closely coordinated.

VII. Ms. Willmsen and the Seattle Times Published False Statements (Examples in Italics) About Me In Print and Video Because She Did Not Adequately Check Information from Her Favored Sources and/or Withheld Information She Had that Contradicted These Statements

1a.	*The psychologist [has been] pushing his own science and theories. (Article, par. 38)*
1b.	*Dr. Wollert has been found . . .to be an outlier and come up with his own methodologies that are simply not sound science. (Video interview with AAG Burbank)*
1c.	*"His reports are a gross misrepresen*tation *of risk – it's mumbo-jumbo," she said (Article, par. 59. quoting Dr. Amy Phenix, Ph.D., a professional competitor)*
1d.	*Wollert often finds himself under attack for his changing theories about recidivism and his self-made assessment tools. (Article, par. 57)*
1e.	*His opinion is that these individuals just simply don't or can't meet criteria. (Video, AAG Brooke Burbank, wrongly summarizing my views)*
1f.	*You look at the personal biases of an individual who makes his living offering one opinion … you know, essentially a one-note symphony (Video Trailer, King County Prosecutor David Hackett speaking while I am on witness stand)*

Statements 1a. through 1f. are only some of the opinions that were unchallenged and presented as fact by Ms. Willmsen. Regarding statements 1a. through 1d., my testimony is based on up to date findings based on generally accepted science and theories. It draws not only on research published in peer-reviewed

journals by myself and many co-authors, but also on the research of psychologists and psychiatrists who work on other teams. My research appears in peer-reviewed journals, some of which have a 90% rejection rate. At a minimum, Ms. Willmsen and Mr. Neff knew much of this from reviewing my vita

(Exhibit G) and her attendance at and video recording of my testimony on August 10-11, 2011 in *State of Washington v Leck.*

It is also the case that Ms. Willmsen did not attempt to obtain positive court findings that would counterbalance the misleading and case-specific materials cited in Mr. Choate's defamatory letter to the California Department of Mental Health. Had she asked Mr. Adams, the Iowa Public Defender she interviewed, for example, he might have referred her to a 2010 decision by Story County District Court Judge William Pattinson in Case No. LACV 38974. Among the passages from Judge Pattinson's decision were the following:

> "I am personally familiar with Dr. Wollert, having presided at (the respondent's) 2009 final hearing … the State's experts (in their current reviews) concluded and opined that it was premature to release (the respondent) … Dr. Wollert, on the other hand, reached an entirely different conclusion … the evidence presented must meet a level of trustworthiness in order to rebut the statutorily-implemented presumption in favor of continued commitment … it has to be "reliable" … I should note here my own observation that the identification and rehabilitation of sexually-predatory individuals is not an exact science, and I would be highly suspicious of anyone who told me that it was. Accordingly, an expert is not a charlatan or a quack just because he or she disagrees with the State's medical personnel. While (the respondent) did not present Dr. Wollert's curriculum vitae, I am sufficiently familiar with this witness … based on my prior observations of him in my courtroom … to conclude that he is not a hired gun or otherwise unworthy of consideration. This gentleman has considerable experience in this field and it appears he has personally replicated studies that are used as part of the Static-99 protocol … the State likewise failed to present any background information to establish or bolster (the State's experts) credibility … I consider this evidence to be essentially in equipoise, or perhaps even tilted a bit in (the respondent's) favor … (a couple more pages of analysis are presented) … there is a sufficient amount of relevant and reliable evidence to warrant sending the issue to a jury."

Alternatively, Ms. Willmsen could have searched for counterbalancing information from other Washington courts. Had she done so she might have found the Opinion of the Division I Court of Appeals in the 2003 case of Bradley B. Ward (Docket number 54080-7-I). Among other things, that opinion stated that

> "The only issue is whether Dr. Wollert's report, if believed was sufficient to establish probable cause that Ward does not currently meet the definition of a sexually violent predator … *Dr. Wollert is an established expert of psychology and he submitted a very thorough report* (emphasis mine). He did not make conclusory statements. Rather, he backed up his conclusions with explanations, based on over 50 pages of detailed facts, regarding Ward's history of sexual violence and treatment, diagnostic tests, and scientific literature … Because Ward presented prima facie evidence establishing he is not a danger to society, due process requires he receive a full trial on whether he must remain committed as a sexually violent predator."

Regarding statements 1e. and 1f., Ms. Willmsen was sent two emails from the King County Prosecutor's office (Exhibit Q) and conducted an interview with Iowa defense attorney Mike Adams described by him in an email to me (Exhibit C). *All three of these sources documented the fact that I do, indeed, find persons to meet the SVP criteria, even though retained by the defense.* Ms. Willmsen kept their content to herself, however, instead of using them to correct AAG Burbank's and Prosecutor Hackett's erroneous assertions in her Video that I invariably find respondents to be non-SVPs. This was unfair, inaccurate, and very

unethical.

Beyond this, the fact that Ms. Willmsen felt the need to contact a defense attorney who occasionally

retains me in Iowa for a story about Washington's SVP costs suggests that she may have been simply "trolling for dirt". This out-of-state source portrayed me in a very positive light, however, which Ms. Willmsen and Editor Neff failed to publish. Mr. Adams' opinion and perspective would have provided the reader with a more balanced view of me had she included this important information in her article and video.

In contrast to my professional experience, which Ms. Willmsen readily misrepresented, she withheld comment on the experience of my counterpart in the Leck trial. Dr. Dale Arnold, a staff psychologist at Atascadero State Hospital in California, was retained by the prosecution. Dr. Arnold received all his degrees from Biola University (formerly known as the Bible Institute of Los Angeles), has never been a member of an academic faculty, and has done very little research, if any, within the last five years. None of Dr. Arnold's testimony about his career was observed or recorded by Ms. Willmsen. As I have already mentioned, it is doubtful that she even secured a copy of the court transcript to assist her accuracy as the court transcriber told my wife that she had only prepared one copy of it and that was for the Court of Appeals.

Editor Neff also knew because I informed him, that I had been vetted by and invited to the United States Sentencing Commission to testify about sex offenders to the Commissioners in February of 2012 because my trip to Washington, D.C., interrupted our negotiations. If the lawyers and judges of the Sentencing Commission concluded I was a competent enough expert to testify in a Report about sex offenders they submitted to Congress, I should be competent enough to testify in these matters elsewhere. My research is cited at many points in the Commission's Report and my testimony is summarized on pages D-8 through D-10. For reference, a link to this report is here:

http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Sex_Offense_Topics/201212_Federal_Child_Pornography_Offenses/Full_Report_to_Congress.pdf

It is hard to understand why Editors Neff and Boardman could not see that I was qualified to testify about Washington sex offenders. Why? Whatever the answer, I was denied the fair corrections I justifiably requested.

On the one hand, the *Seattle Times* depicted me in the Video as an "outlier" who ignored testimonial guidelines and "sound science" and in the article as a purveyor of "mumbo-jumbo." On the other it portrayed the testimony of Dr. Arnold in an uncritical light even though Ms. Willmsen was not present when Dr. Arnold testified and did not have a transcript of his testimony. The juxtaposition of these different treatments is striking. They clearly indicate that Ms. Willmsen ignored the comparative qualifications of Dr. Arnold and myself in the Leck trial and instead accepted her sources' biased and false views of me without conducting the full research needed to produce a fair and accurate video and story. Most important, the meaning that many *Times* subscribers derived from reading and viewing the "Price of Protection" was clearly defamatory. In response to the first article and video, for example, subscriber "jvonrock" posted on the website of the first article that his impression of the SVP civil commitment process was "Scum defending scum." Ms. Willmsen and the *Seattle Times* bear substantial responsibility for this sadly inflamed misunderstanding of the real state of affairs.

My rebuttals to items 1a. through 1f., and other false or misleading statements that the *Seattle Times* made about me in Print and Video, are detailed in the elaborate letters and attachments I sent to Editor Neff (Exhibit F).

2. *Wollert had a contract with Oregon's Multnomah county to provide treatment to sex offenders on probation and parole. In 2001, the county criticized Wollert for incomplete*

	assessments, inadequate treatment guidelines and poor record keeping, and later cancelled his contract. (Article, par. 39)

As Item V indicated, in 2003 or 2004 AAG Krista Bush asked Multnomah County asking for documents related to my contracts with the County. The County sent her an incomplete file. In light of Ms. Willmsen's assertion in the Price of Protection series, cited above as point 2., I contacted Multnomah County Counsel Patrick Henry during my negotiations with Editor Neff to see if any party had recently submitted a FOI request for records related to my contracts with Multnomah County. Attorney Henry indicated that no such requests had been received. Therefore, on the basis of my own inquiries into the source of allegation 2., it became apparent that Ms. Willmsen did nothing to investigate it herself. Instead, she simply (1) accepted an incomplete file of documents from the Washington State Attorney General's Office that it received *nine years* earlier from Multnomah County and then (2) interpreted it in a pejorative light to fit the needs of her story. She did so in spite of the fact that the incomplete file in question – which I also have – indicates that Multnomah *County* neither criticized my performance nor cancelled my contract for poor performance.

Ms. Willmsen's assertion about my relationship with Multnomah County therefore shows a stunning departure from the journalistic principles of being fair, balanced, and accurate. It also points to a high level of reckless disregard for the truth.

The truth about my relationship with Multnomah County is that the County Department of Community Corrections awarded me a contract in 1994 to be the sole provider of evaluation and treatment services for indigent and other sex offenders under the supervision of county probation and parole officers. Over the next 7 years I organized well over a ten-fold increase in the County's capacity to treat sex offenders. In February 2001 some county employees who had no decision-making authority regarding performance of the contract drafted a program evaluation that claimed the program failed to accomplish certain objectives. One individual in this group was engaged in an extra-marital relationship with a member of my staff and wished to make sex offender referrals to him so that he could build up a competing practice.

The draft evaluation was without merit, however, because the tasks it proposed, such as exhaustive psychological evaluations, were economically prohibitive, outside the scope of the contract, and not contemplated when it was signed. The draft report also contained an unfounded criticism of group therapy, even though this and other procedures my clinic followed were specified in the signed contract and approved by Oregon's Mental Health and Development Disability Services Division (OMHDS), the state agency responsible for quality control.

The criticisms in the county employee draft were at odds with positive findings from earlier site visits of my clinic by the Department of Community Corrections and by OMHDS staff members. Despite the draft's criticisms I was awarded a three-year extension in May of 2001 by Multnomah County's decision-making executives after being given the highest score among many competitors who submitted contract proposals. During the extended period, in a change of procedure, county referrals to my clinic decreased as some probation and parole officers referred clients to other providers, including unlicensed therapists. In 2002, the decreased case load made the County contract financially untenable for my downtown Portland practice. I therefore negotiated a "Mutual Settlement Agreement" with the County that, as permitted by the contract, ended my obligation to provide services to County clients. The County agreed to pay me a lump sum of $10,000 plus the balance of payments for that fiscal year. I was also indemnified by the County against future lawsuits that might arise from changing the contract and the County and I

agreed to let go of the past by agreeing to "release each other … and all employees … from any and all … contract claims … they have ever had." Notably, the agreement (Exhibit J) stated, in the language of the contract, that the termination was a "product of mutual negotiations" and not a cancellation by "the

county" based on a failure to perform, as Ms. Willmsen alleged, even though the file she had had the mutual settlement agreement in it.

Editor Neff refused to print any correction during our initial four-month negotiation, maintaining that Ms. Willmsen's assertions about the Multnomah County contract were "substantially true" in spite of the signed Settlement Agreement. Editor Boardman reversed that stance somewhat and printed his attempt to "clarify" this error on 3/22/13 (Exhibit A). Even this attempted correction is inaccurate, misleading, and frankly mean-spirited because it still stresses the criticism of the self-interested county employees rather than the binding mutual agreement between me and the County for the reasons outlined above. After refusing to acknowledge any errors for 14 months, it seems to me that a conciliatory and accurate approach to resolving error after its recognition would be to negotiate a mutually- acceptable correction. Managing Editor Boardman did not do this, however.

Exhibit A therefore is an admission on the part of the *Times'* that mistakes were made in the "Price of Protection." The information in this complaint and its attachments show that the extent of these problems is much wider than has yet been acknowledged.

3a.	*In the Kitsap county courtroom, Wollert explained that his opinion was based on Leck's own statements that he no longer had fantasies about boys.* *Wollert was relying on Leck's words, even though he knew Leck was a habitual liar and had even been deceptive during the psychological evaluation.* *"I don't believe the intensity of the urges are what they were in the 1980s … I believe he has the ability to control his behavior," the psychologist said on the stand.* (Article, pars. 40-42)

This account of my testimony is also incomplete, a textbook example of unfair, inaccurate, and imbalanced reporting, perhaps deliberately so given that Ms. Willmsen had my entire testimony on the video she had recorded in August 2011. It is also false in implying that I "based" my opinion in this case solely on accepting the truth of Leck's statements. On the contrary, as I testified, I confronted Leck when I discovered that he lied to me during our interviews. At that point he truthfully disclosed the methods and subject matter of his internet searches for pornography. AAG Boerger even repeatedly stated during cross-examination that I had to "confront" Leck to demand truthful responses (Exhibit R, T. 646: Ll. 11-25; 648: Ll. 11-24; 658: Ll. 7-13; 936: Ll. 11-23; 742: Ll. 4-12). Testifying that I interviewed Leck seven times (Exhibit R, T. 753: Ll. 1-6), I made it clear that I was fully aware of Leck's internet searches for pornography as well as his habit of lying, and that I was not a naïve acceptor of the truth of whatever Leck told me. I further testified that I took these factors and many others, including age, into account in making my assessment.

In complete contrast to Ms. Willmsen's representation of my testimony at the Leck trial, I detailed and clarified the reasons for my opinions about him. This is obvious to anyone who studies the most relevant transcripts of the trial. Ms. Willmsen, however, focused only on the segment of the Leck trial that she videoed and did not cite to the transcript more broadly. She therefore either did not read the transcript in detail, which indicates a lack of balance on her part, or she avoided citing portions of the transcript that contradicted her story, which suggests a lack of fairness and accuracy.

By combining references to my income for only two years in its Video and in its Article with selectively edited Video snippets, the Video and the Article created a false impression in the minds of its readers of a

superficial, supercilious psychologist interested only in the money the State was paying me for my testimony.

The defamatory meaning that these materials immediately conveyed to readers about the defense bar, about defense experts in general, and about myself in particular was evident in an editorial published in the *Tacoma News Tribune* on 2/06/12 (Exhibit S). The article stated that "The *Times* found there's little oversight over expenditures to **defense** (emphasis mine) attorneys and psychological 'experts' – some of whom have **questionable credentials** (emphasis mine) and records." Ignoring prosecutorial problems the *News Tribune* unfairly diminished the status of all defense experts by putting quotes around the term 'expert.' Such a false indictment is a devastating blow to those who, like myself, have contributed to both due process in our courts and the safety of the community by building sex offender treatment programs and to the advancement of science by publishing peer-reviewed research on a yearly basis.

The *News Tribune* also urged legislators to "Target the wasteful, uncontrolled legal costs associated with sex offenders either trying to avoid civil commitment to the Special Commitment Center or to be released if they're already there." These excerpts show that even opinion leaders like the *News Tribune* interpreted the *Seattle Times'* series to mean that offenders who have completed their criminal sentences have little or no right to zealous legal representation for the purpose of securing their liberty. This interpretation violates the 14th amendment of the United States Constitution.

When criticized by several participants in an online chat discussion about the "Price of Protection" and its fact omissions on 1/25/2012 (Exhibit T), Ms. Willmsen expressed the view that "all the sex offenders facing civil commitment are entitled to a proper defense … they are entitled to an attorney and an expert." The live chat transcript that I printed (Exhibit T) used to be available at this link: http://seattletimes.com/flatpages/specialreports/civilcommitment/priceofprotectionchat.html

In this chat room conversation, Ms. Willmsen again misinformed readers about the Constitution, which promises SVP respondents the substantive due process guarantee of an effective, diligent, and zealous defense and impartial annual reviews in addition to the procedural due process guarantee of legal representation and an expert. She also neglected to point out that states that do not release residents when they are no longer mentally ill and dangerous find themselves at risk for Federal oversight. Washington State, in fact, was under a Federal injunction for 13 years (1994-2007) due to multiple constitutional violations found at the SCC:
http://seattletimes.com/html/localnews/2003637599_sexoffender27m.html

The Seattle Times has apparently removed this chat transcript from its website. Perhaps it did so in order to protect its story from additional revealed criticism.

I also seriously question the results of the *Times* and Ms. Willmsen's amateur venture into video production as an adjunct to reporting, as they produced a product that was more like propaganda than it was a truthful and informative documentary. The meaning of a wink on my part that is featured in the current version of the published Video without context or sound must be considered in depth. This gesture was also repeated at the end of the originally published Video as a slow motion close-up of my face, similar to something one might see in a sensational political ad designed to punctuate a negative point about the target subject to the viewer. Both my wife and I saw it, but my wife's reaction was to directly complain to Editor Neff about it in a timely way. She also complained to Attorney General Rob McKenna about it because AAG Burbank's opinions about me were featured in the Video without balance. The exaggerated wink at end of the original Video was removed shortly after these complaints without any reference by the *Times* that it had modified the Video. At first it was blurred and then the blur was

edited out. In his letter refusing to make any corrections, Editor Neff adamantly denied that a second and final wink ever existed. However, not only my wife and I saw it, but a couple of attorneys did, as well.

Regardless, either wink out of context gives the impression that I am disrespectful of the court process and that I am winking in acknowledgement that I am getting away with something, which is highly offensive to me and the ethical standards to which I consistently adhere. Although the *Times* has never indicated the point in the Leck trial where the wink occurred, I have carefully reviewed the transcript in an effort to determine when it occurred. On the basis of this review and from what I can recall, the wink was nothing more than a natural and automatic response at being misaddressed as "Dr. Hanson" for the second time by AAG Boerger (Exhibit U, T. 883: Ll. 19-20; 892: L. 16) The art of video-editing therefore transformed what was really a simple, friendly acknowledgement of human error by my cross-examining attorney into an insinuation that was I superficial and crafty, which is completely inaccurate. Attorneys and psychologists who know me tell me that the Video is so obviously manipulated that it reflects more negatively on the *Seattle Times* than it does on me because its sensationalism is so blatant. Nonetheless, readers who do not know me, like the editors of the *Tacoma News Tribune*, are very likely to assume the defamatory meaning implied by the Video.

4a.	*Using the Static 99 and his clinical judgment, Arnold said that Leck was in a moderate-to high-risk group, one with a up to 49 percent chance of reoffending over 10 years. (Article, par. 46)*
4b.	*Wollert disagreed. (Article, par. 47)*
4c.	*A skeptic of the Static 99, he modified it, removed key questions and called his new tool the MATS-1. (Article, par. 48)*
4d.	*For example, he removed the question asking if the victim was a stranger. With the Static 99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend.* (Article, par. 49)

Statement 4b. implies that I disagreed with everything in statement 4a. This is inaccurate in that both Dr. Arnold and I agreed that Mr. Leck fell in a high risk group. (Exhibit V, T. 304, Ll.: 9-11; 960: Ll.: 9-20).

Statements 4c. and 4d. are inaccurate for the reasons that I gave to Editor Neff on pages 6 through 10 of the attachment to the letter I sent to him on April 24, 2012 (Exhibit F). Regarding 4c., I basically indicated that the claim that I modified the Static-99 risk item battery or removed any item from it other than age is simply false. All of my colleagues who helped me develop the MATS-1 will attest to this, if necessary.

Statement 4d., which indicates that an actuarial risk item battery including a "stranger victim" will necessarily be more accurate than a battery without such an item, is also false. To explain this to Editor Neff I referred him to a table in a peer-reviewed scientific journal that published this finding (Exhibit F., Table 4, p. 478). The rest of my explanation can be found on page 7 of the attachment to my letter to Mr. Neff dated April 24, 2012 (also part of Exhibit F).

The most plausible explanation of error in the case of statement 4b. is that Ms. Willmsen did not read the trial transcripts or did not adequately edit her story. Either omission is a sign of recklessness.

The other errors in statements 4c. and 4d. are obviously due to Ms. Willmsen's over-reliance on AAGs Burbank and Boerger as sources of information. Ms. Burbank and Ms. Boerger are attorneys. They are not competent psychological researchers, statisticians, methodologists, or psychometricians. The January 19, 2012 email query (Exhibit D) that Ms. Willmsen sent to AAG Burbank about the Static-99 and the MATS-1 – where she sought information and called Ms. Burbank "a gem" – was directed to an inappropriate source. This choice, more poor judgment by Ms. Willmsen, degraded the accuracy of her

story because Ms. Burbank's response was "noise" rather than authoritative and reliable information. The fact that Ms. Willmsen referred to Ms. Burbank as a "gem" in her email is also further evidence of an overly close relationship between Ms. Willmsen, the Seattle Times, and employees of the SVP unit of the

Attorney General's Office.

5a.	*R. Karl Hanson, the creator of Static 99 from Ottawa, Ontario, has criticized Wollert's methods, saying he misrepresents statistics and hasn't done the research to validate his own theories. (Article, par. 50)*
5b.	*"More troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree," Hanson said in a 2008 affidavit in a Franklin County court case.* (Article, par. 51)

The affidavit Dr. Hanson provided in 2008, published in the Document Cloud for Ms. Willmsen's article by Editor Neff, was submitted in a commitment proceeding where Dr. Hanson, who lives in Canada, did not testify and was not cross-examined. Neither this nor any other details about this hearing were discussed in Ms. Willmsen's article even though the trial was in a Washington courtroom and a transcript of it must be available. In that hearing my research colleague Professor Emeritus Elliot Cramer, Ph.D., a distinguished statistician, a member of the American Statistical Association, and a Fellow in the Division on Evaluation, Measurement, and Statistics of the American Psychological Association, submitted an affidavit in response to the Hanson affidavit which rebutted its assertions (Exhibit I).

The *Seattle Times* Article did not publish Dr. Cramer's affidavit, allude to it, or include any citations from it. This is a glaring omission as far as fair and balanced journalism is concerned.

Ms. Willmsen also ignored all of Dr. Hanson's articles that were published *after* his 2008 affidavit. This included a 2009 article in which Dr. Hanson acknowledged the value of Bayesian analysis (Exhibit W, p. 402), the methodology I used to develop the MATS-1. Dr. Hanson has not renewed his 2008 affidavit or advanced similar criticisms even though he indicated in an email to me that Ms. Willmsen contacted him while she was writing her series. Since 2008, and easily researchable, Dr. Hanson has substantially changed his comments about my findings so that one of his most recent statements in a peer-reviewed publication (Helmus, Thornton, Hanson, & Babchishin, 2012) acknowledged that "(our) current study (p. 93) extends previous research attempts to develop post-hoc age adjustments to actuarial scales (… Wollert, 2006; Wollert et al., 2010) … Wollert and colleagues (2010) proposed and estimated age-stratified actuarial tables for Static-99 (p. 94) … age-stratified tables are a plausible solution in principle" (p. 94).

Dr. Hanson and I will undoubtedly continue to be fierce research competitors in the future and to have differences that can only be resolved as almost all scientific disputes are resolved – on the basis of evidence as we publish our research to our peers. However, his recent statements are consistent with Dr. Cramer's 2008 opinion that his 2008 affidavit was "obviously incorrect" in claiming that my analysis was fundamentally flawed.

Taken together, these circumstances strongly suggest that Ms. Willmsen simply took Dr. Hanson's 2008 affidavit from AAG Burbank and ran with it, with Editor Neff's approval. In the process she erred as a result of bias, ignoring the obvious fact that my disputes with Dr. Hanson are surrounded by a competitive context and subtle research issues that leave lay readers with a false portrayal of my research when our differences are not adequately explained.

Another point omitted from the series was the fact that my colleagues and I have asked Dr. Hanson to disclose his Static-99 data on many occasions. Such requests are customary in the scientific community, but the Static-99 team has consistently been unresponsive. Ms. Willmsen likely knew this or should have

known about this long-term conflict between me and Dr. Hanson, which certainly would influence his ability to be an objective commenter on my work.

Dr. Hanson and I may be research competitors, but there can be no doubt that each of us is advancing important and testable risk assessment ideas using our respective methodologies. That is how science is supposed to work – the best idea eventually wins. Real progress is possible when the restrictions on academic freedom are minimized. During our negotiations I emphasized to Editor Neff that the Seattle Times' perspective on my research amounted to an exercise in the suppression of academic freedom and free speech, and thus undermined our mutual interests. He apparently did not appreciate the significance of my cautionary comments.

6a.	*He also has offered unorthodox reasons why some sex offenders shouldn't be committed. Take the case of Keith Elmore, who assaulted and kidnapped a woman. Elmore had cannibalistic fantasies about eating a woman in order to become one; he even formally changed his name to Rebecca. (Article, par. 64).*
6b.	*"His sexual arousal came from fantasies of killing women, cutting up women and eating them," said Brooke Burbank, state assistant attorney general in charge of civil commitments. "Clearly he's an individual who had mental disorders and met the statute." (Article, par. 65)*
6c.	*The defense hired Wollert to evaluate Elmore. During their interview, the psychologist asked Elmore if he had ever killed a large animal or cut up a roast beef, court records show. Elmore replied no. Wollert later said one reason that Elmore didn't meet criteria for commitment was because he lacked the skills to carry out his fantasies of cutting up women. (Article, par. 66)*

Statement 6a. alleges that I have offered "unorthodox" reasons as to why some offenders are ineligible for commitment. The statement is unfair and accusatory because it provides absolutely no criteria that differentiate orthodox from unorthodox opinions. The most reasonable perspective is that orthodox opinions are related to the diagnosis of concern and based on research related to that diagnosis.

Mental health professionals almost universally rely on the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM) to reach diagnostic decisions. In the Elmore case the State proposed that Elmore suffered from Sexual Sadism. I have published a peer-reviewed article on Sexual Sadism in the *Journal of the American Academy of Psychiatry and the Law* with psychiatrist Dr. Allen Frances, M.D., Chair of the Task Force that developed the current DSM (Exhibit X). In our article Dr. Frances and I summarized previous research indicating that sexual sadists have a tendency to "rehearse" the acts they fantasize about committing (see "Fantasies and motivational States" on p. 411, Exhibit X).

At Elmore's trial I pointed out that I determined that he did not have the attitude, aptitude, or criminal skills to engage in sadistic rehearsal behavior on the basis of numerous interviews with him over several years. I also pointed out that Mr. Elmore's *only* offense in his entire life involved threatening behavior that did not escalate to sexual contact and that this behavior occurred a few months after he lost his job, his home burned down, his parents died, and his wife divorced him. These are stress-inducing events that are capable of affecting the mental state and behavior of a fair number of individuals.

This line of testimony was anything but unorthodox. On the contrary, it was supported by DSM diagnostic criteria and research and by the views of the Chair of the DSM Task Force. The statement in 6C above was clearly an attempt to ridicule me by singling out only one element of a complex and multi-faceted diagnostic tool and making it appear that I based my opinion on that sole factor.

Had Ms. Willmsen carefully reviewed the transcripts of Mr. Elmore's trial she would have been apprised of many of the foregoing facts. Instead of assiduous fact-checking I believe that she just relied on Ms. Burbank as her standard of truth. Ms. Burbank was necessarily a dubious source of information, however,

as she served as the prosecuting attorney at Mr. Elmore's sexually violent predator trial. Dr. Phenix was retained as the prosecution's expert.

Overall, I do not see how Ms. Willmsen could have fairly, impartially, and accurately assessed my testimony in the Elmore case without informing her readers more thoroughly about the DSM and Mr. Elmore's history.

VIII. Citizens and the Public Trust Are At Risk of Harm When Newspapers and the State Work Together Without Disclosing Their Alliance

I want to end this complaint with my own "editorial." There is a "story behind the story" with regards to the *Seattle Times'* "The Price of Protection" and here is what I believe it is:

Prosecutors like Brooke Burbank and David Hackett, although they have a special ethical obligation to be fair in their important roles as trusted arbiters of justice, have become increasingly frustrated by current and emerging scientific research and expert testimony provided by respected researchers like me because it has helped the defense win cases in court and on appeal. This research and testimony has also been used to release civilly committed SVPs who no longer meet the criteria for indefinite confinement. The prosecution's best defense is to discredit the science and experts behind this trend in an attempt to stem the tide. Prosecutors wanted to also support new legislation to help contain defense costs. In order to sell this to the legislature and to the public, however, they needed a sensational tale to grab their attention. If they can take down a few of the defense experts who frustrate their efforts the most in court while they advocate for legislative changes and cost containment, so much the better.

The state's prosecutors found a naïve and ambitious reporter, Christine Willmsen, who was more than eager to promote a biased agenda on their behalf, without questioning the evidence they handed her, their ulterior motives, or conducting enough of her own independent research. This win/win relationship has already resulted in the *Seattle Times* being given a Blethen Award for Enterprise Reporting in September of 2012 for the "Price of Protection." Such awards attract readers and promote the newspaper. At the same time, this unethical journalist/government alliance gave the prosecutors a golden opportunity to get a dishonest and agenda-driven message beyond the courtrooms, where it cannot be countered by the defense, and into the homes and minds of thousands of potential Washington jurors, influencing their opinions and threatening justice in future SVP court proceedings.

Rather than being an objective watchdog of the Attorney General's staff, as they should be with all government agencies, the *Seattle Times* joined forces with them to assist the state's prosecutors in their goal to unfairly influence public opinion and legislators against the defense and its experts, while helping to advocate for a new law, SB 6493, which was passed *after* "The Price of Protection" was published. This is not the only recent occasion when the Seattle Times has pursued such an alliance: In 2012 it purchased nearly $80,000 worth of ads supporting AG Rob McKenna's gubernatorial campaign.

Our court system is built on adversarial arguments that are heard within strict legal guidelines. There are ethical and competent research experts on both the defense and prosecution sides who are all part of the relevant scientific community. Any extra-judicial attempt by one side to gain advantage over the other by co-opting the press should be absolutely unacceptable to us all, no matter where our opinions lie on the SVP civil commitment spectrum. What made the ethical breaches of the *Seattle Times* and its staff easier for some to excuse and rationalize in this case, perhaps, was that the series focused on defendants who

are among the most hated and feared among us: those persons accused of violent sex offences who are facing lifelong loss of liberty through indefinite confinement over fears of what they might do in the future. Perhaps that is why the choice of headline in the first article so easily misleads readers from the

start: "State Wastes Millions Helping Sex Predators Avoid Lockup." Civil confinement is not "lockup." The US Constitutional protections under Washington's SVP law are mandated promises, not "waste" that can be cut at whim along with costs.

I want to emphasize that I truly believe that, for the most part, the *Seattle Times* and its reporters provide quality, responsible journalism to the public it serves. What caused "The Price of Protection" to fail the public trust so profoundly was Ms. Willmsen's unabashed favoritism toward her prosecution sources, her unquestioning acceptance of the information they gave her, her inability or refusal to objectively question their motives, and her intentional exclusion of important information from other sources that would have balanced the one-sided point of view she published about me, other experts and this controversial law. As a result, the public was denied a fair and accurate picture of the very complicated SVP litigation process because massive elements of the truth were left scattered, perhaps deliberately, on the *Seattle Times'* "cutting room floor."

Out-of-control government spending is certainly worthy to expose, but respected newspapers should do it with an objective eye and a balanced pen. The *Times'* unfair assault on the defense and its experts in "The Price of Protection" may have a chilling effect on free speech and academic freedom. Who will want to engage in the advancement of scientific research and the defense side of the judicial process if faced with such punishing defamatory attacks at the hands of agenda-driven reporters and their favored government sources, simply because they do not like the valid scientific findings and alternative opinion produced?

But that may have been the ultimate goal of Washington state prosecutors all along when they spoon-fed Christine Willmsen the misinformation she and her editor at *The Seattle Times* so obediently approved and published. Brooke Burbank and David Hackett's journalistic participation in the production of this one-sided tale was so extensive that they deserve a shared byline with the reporter.

Thank you for giving me an opportunity to have this complaint and its supporting documents objectively reviewed by the Washington News Council.

Sincerely,

Richard Wollert, Ph.D.

Enclosures

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Summary of Dr. Richard Wollert's Complaint to the Washington News Council that

The Seattle Times Violated Journalistic Ethics in its Series on "The Price of Protection"

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I. Background Information About the Price of Protection Series

1. The Seattle Times published a series titled the "Price of Protection" (POP) in January 2012 by Reporter Christine Willmsen. The project was preceded by a one-minute videotaped trailer and included articles, longer videotapes, and uploaded documents about Washington's sexually violent predator (SVP) laws and civil confinement system.

2. SVPs are persons the State seeks to civilly confine after they have paid their legal debt to society. It violates the U.S. Constitution to deprive Americans of their liberty in this way unless they are both ill and dangerous because of their illness. Those who are most reviled must be guaranteed this protection: There are otherwise no limits on who might become civil commitment candidates. So SVP proceedings hold great significance for civil rights.

   Many defense attorneys feel strongly that SVP laws violate the constitution while many prosecuting attorneys feel they are essential for the protection of public safety. SVP laws have divided the legal community: When I first began working on SVP cases in 1997 one attorney told me that SVP cases are fought with the emotional intensity reserved for death penalty cases. SVP laws have the capacity for exerting a similar polarizing effect on citizens outside the legal community.

3. The trailer, first video ("Unchecked Costs of Locking Away Sex Predators"), the first article ("State Wastes Millions Helping Sex Predators Avoid Lock-up"), and many uploaded documents violated basic journalistic norms of fairness, accuracy, and balance.

   The very titles of the video and article telegraphed their unfair, inaccurate, and unbalanced content in a variety of ways. One was by confusing "lock-up," which most people understand as incarceration, with post-incarceration confinement that often amounts to a life sentence. Another was by wrongly implying that all respondents to SVP petitions should be civilly-confined and that the State of Washington was "being soft" on SVP respondents by funding the costs of their defense; the truth is that the provision of an adequate and zealous defense is a constitutionally mandated obligation. Still another was by making the exaggerated claim that cost controls were totally absent and that any waste that occurred was attributable to defense sources – that is, those who "help" civil

commitment respondents "avoid lock-up." Overall, these sensationalistic and misleading headlines – followed by claims that "defense lawyers repeatedly delay trials" and "outspend prosecution almost 2-to-1" – served to gratuitously and unfairly denigrate and demean

defense attorneys and experts retained by the defense. Willmsen also did not inform readers of the critical role that defense attorneys and experts play in preserving the constitutionality of SVP laws.

I am a psychologist who is often retained by the defense in SVP cases. In addition to undermining the defense bar the foregoing videos and article depicted my character, professional standing, research, and clinical accomplishments in ways that were unfair, inaccurate, and imbalanced.

After negotiating with the Seattle Times for over a year regarding these issues I filed a complaint about the POP series with the Washington News Council. My complaint is over 200 pages long and consists of a 31-page letter and 24 exhibits. It implicates the Seattle Times and staff members of the Washington State Attorney General's Office and references some events that occurred about 10 years ago. Because of the complex and extensive scope of my full complaint I have compiled this summary and have inserted parenthetical citations to refer interested readers to further details contained at various locations in my complaint letter ("C. 3," for example, refers to details on page 3 of the complaint letter) and exhibits A through X ("ET" stands for Exhibit T). My summary also relies extensively on material that was included in an attachment to a letter I sent Seattle Times Investigations Editor Jim Neff on April 24, 2012. This letter has been filed in Exhibit F with two other letters I sent to Mr. Neff before April 24th. In my parenthetical citations the abbreviation "NA" precedes the page location of details included in the Neff Attachment.

This summary does not reference all the details included in my complaint. ***Copies of the complaint letter, the complete set of Exhibits, and the Neff attachment without the other materials in Exhibit F are available from the Washington News Council at …***

4. Part of my complaint contends that Series Reporter Willmsen developed an inappropriate favored source relationship with prosecutors from the Attorney General's (AG's) Office who have a history of harassing me and interfering with my practice outside the courtroom (C. 9-17, 25-26; ED, EK, EL, EM, EO, EP). For years they have also used a standard line of attack against me during cross-examination (C. 4, 11-13). Willmsen simply published these criticisms without refuting them with evidence in the way that defense attorneys do in a court of law (C. 2, 4-5). She therefore did not afford my reputation the protections that are available in a court of law: She instead assumed the materials and opinions given to her by her prosecutorial sources were true, did not adequately check their accuracy or integrity, and published a false and one-sided view of me. Willmsen also did not disclose positive information she had about me from my vita (C. 9-10, EG), her own Freedom of Information Requests (EQ), and her interviews (EC). Her journalistic methods were therefore unfair, unbalanced, inaccurate – and dishonest in the wealth of contradictory material she left out of her story. (C. 1, 4-5, 9-10)

5. Willmsen contacted me three times for an interview prior to the POP's publication (C. 3-7). The first was about February of 2011. Mike Adams, Chief Defender for the SVP unit of the Iowa State Public Defender's Office, told me she had called him about me (EC). She did not disclose this when she called me and failed to show any interest in my research. I was

not comfortable with her lack of transparency and focus, so I asked her to contact me later.

She approached me again in August of 2011when she was videotaping my testimony at Jack Leck's SVP trial. I was talking with Leck's attorney Robert Naon and Naon expressed the view that the situation was a "set up." I hesitated, and Willmsen turned to Naon and snapped, "You stay out of this." I found this rude. So I again declined to be interviewed.

She also phoned me in late January 2012, a few days before the POP was to be published. She did not refer to any figures or numbers from her article and presented herself as condescending and challenging. When I told her I would rather not interview she said in a mocking tone of voice, "Don't you want to know what people are saying about you?" I told her I guessed I would read about it and ended the call.

II. <u>Errors in the Price of Protection</u>

5. The following items document statements or portrayals from the POP series (C. 3-5) that I believe reflect unfair, unbalanced, and/or inaccurate journalistic practice.

5a. Willmsen alleged in paragraph (par.) 39 that **"Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders … In 2001, the county criticized Wollert … and later canceled his contract"** (C. 20-22; NA. 16-19). This allegation was based on an old (2002) and incomplete file of documents that Willmsen was given by the AG's Office (C. 11). A Mutual Release and Settlement Agreement in the file showed the allegation was untrue (EJ), but Willmsen did not mention this. She also did not contact Multnomah County to determine that her allegation was untrue.

5b. Willmsen alleged in par. 38 that **"(Dr. Wollert) … earned $1.2 million over two years as a defense expert … across the country, pushing his own science"** (C. 17-20; NA. 6). She did not balance out her report by mentioning that experts retained by the State receive similar levels of compensation (C. 4). She also criticized me for publishing research but did not criticize State experts in her article for having mediocre scholarship records (C. 20). Her claim that I **"push"** my **"own science"** is unfair and untrue. On the contrary, my testimony and scholarly presentations have always stemmed from mutual negotiation, not pressure. My vita (EG) also shows that many publications on which I am listed are not just my "own" because they are co-authored with other researchers. It was unfair of Willmsen not to mention either of these facts.

5c. Willmsen stated in pars. 50-51 that **"R. Karl Hanson, creator of Static-99 … (said in a 2008 affidavit that Wollert) misrepresents statistics and hasn't done the research to validate his own theories"** (C. 26-27, NA. 11-12). She neglected to warn her audience that Hanson's remarks might be biased because he is a research competitor and his 2008 affidavit was solicited by the AG's Office. Other facts Willmsen did not mention were that Hanson's declaration was disputed in a counter-declaration (EI) by University of North Carolina statistician Dr. Elliot Cramer (she did not upload or describe Cramer's extensive criticisms of Hanson), that Hanson's affidavit was outdated since he has not filed any similar declarations since then (C. 12), that my research on the issue Hanson focused on was published in a peer-reviewed scientific journal in 2010 (EE), and that Hanson published articles in 2009 (EW) and 2011 (C. 10, 31) reflecting greater agreement

in our views since his 2008 affidavit.

5d. Willmsen claimed in par. 48 that "**(Dr. Wollert) … removed key questions (from Static-99)"** (C. 26-27; NA. 6-10). This is inaccurate. I have never removed any questions or items from Static-99. This is clear from the 2010 article that is the most authoritative description of the MATS-1 (EE). Ms. Willmsen did not cite to this source, which was available in a peer-reviewed scientific journal. She relied instead on what Assistant Attorney General (AAG) Brooke Burbank told her (C. 6-7, 25). Burbank is a prosecutor, not a researcher. Willmsen's reliance on Burbank for information about the MATS-1 produced claims that were unfair and biased.

5e. Willmsen claimed in par. 49 that **"(Dr. Wollert) removed the (stranger victim) question (from Static-99 when he created the MATS-1) … With Static-99, a yes answer pushed an offender into a … higher risk (group)"** (C. 25, NA. 6-10). This is inaccurate because I did not remove any questions from Static-99 (see item 5d.). It is unfair because it wrongly implies that evaluees are more likely to fall into lower risk groups on the MATS-1 than Static-99 (C. 25). The 2010 MATS-1 article (EE), unreferenced in the POP series, explains why evaluees with high Static-99 scores are likely to have high MATS-1 scores.

5f. Willmsen claimed in pars. 58 and 59 that **"(Dr.) Amy Phenix … said Wollert almost always finds a way an offender doesn't meet criteria … (Wollert's) risk assessments are a gross misrepresentation of risk … it's mumbo jumbo."** (C. 12-14, 17, 28; NA. 4). This statement is unbalanced in that Willmsen did not tell her audience of reasons why Phenix's statements might be biased: She and I have testified on opposite sides in several cases, she is a Static-99 research competitor, and she is married to another researcher whose "MnSOST-R" test I have criticized in several publications. Citing Phenix without qualification or counterbalancing opinion is also unfair in that Willmsen did not define what Phenix meant by "mumbo jumbo" and did not cite any examples of what Phenix had in mind. Phenix has also acted maliciously towards me in the past by trying to interfere with a training contract I had with the State of California. Finally, Phenix's statement is an exaggeration in that she and I have agreed where we have evaluated the same respondent.

5g. Willmsen stated in par. 60 that **"Wollert declined to comment"** after she quoted a statement Phenix made about me in par. 59. This made it appear that Willmsen told me about Phenix's statement during an interview. This was imbalanced, inaccurate, and unfair: Willmsen never disclosed Phenix's statement and we never discussed Phenix at all (item 5).

5h. Willmsen claimed in par. 56 that "**Wollert often finds himself under attack for his changing theories of recidivism and his self-made assessment tools"** (C. 2, 17; NA. 10). My theories and tests are described in the peer-reviewed publications in my vita (EG) with Donaldson, Waggoner, Cramer, Skelton, and Vess. Their content proves my theories are not "changing" and my record of collegial publication shows my tests are not "self-made." Some have been included in reports to Congress and briefs to the U.S. Supreme Court. My vita also shows I have given 20 research presentations since 2001. These occasions were cordial interactions with defense attorneys, prosecutors, research

competitors, and colleagues who testify for both defense and prosecution. None included an element of attack or threat. This claim is false and unsubstantiated.

5i. Willmsen claimed in par. 57 that **"(As an example of Wollert's changing theories of recidivism and self-made assessment tools), in 2005 he testified that, according to his research, sex offenders older than 25 fit in a group that had less than a 50 percent chance of committing a new violent sex crime"** (NA. 10-11) This statement is unfair because it implies my position, which is based on research published in peer-reviewed journals in 2006 (EG) and 2010 (EE), is idiosyncratic and peer-rejected. This is not so: Helmus, Thornton, Hanson, and Babchishin reported the same result in the Appendix to a 2011 peer-refereed article (C. 31). Rather than being rejected, my 2005 assertion about age and recidivism has been replicated by others.

5j. Willmsen claimed in par. 64 that **"(In the case of Keith Elmore Dr. Wollert) … offered unorthodox reasons why some sex offenders shouldn't be committed"** (C. 27-28). In pars. 65 and 66 she quoted Burbank's view that "clearly (Elmore) … met the statute," and stated that it was unorthodox that I opined that one reason Elmore was unlikely to be a Sexual Sadist was that he had never killed or cut up a large animal and lacked the skills and aptitude to carry out the specific sadistic acts that he was charged with contemplating.

This passage is unfair because Willmsen did not define what she meant by "unorthodox testimony" as opposed to "orthodox testimony." The example she gave was unfair and inaccurate because my testimony was grounded in the most orthodox sources available: The Diagnostic and Statistical Manual of the American Psychiatric Association and the peer-reviewed scientific literature on Sexual Sadism (EX). Willmsen's description of the Elmore trial was also unbalanced because she focused on one issue she took out of context and ignored other testimony that was equally significant. In particular, she did not mention that I testified that my diagnostic opinion was based on many interviews over several years, that Elmore fell in a very low Static-99 risk group, that he was highly susceptible to interrogative suggestibility, that his <u>only</u> offense involved threatening behavior that did not escalate to sexual contact, and that this offense occurred shortly after he experienced many stressors (i.e., lost his job, home burned down, parents died, and wife divorced him). The problem of imbalance was exacerbated because Willmsen cited Burbank's opinion in the absence of any alternative and did not tell her audience why it might be biased: Burbank was the prosecutor in the Elmore case and had previously attempted to interfere with a training contract I had with the State of California.

5k. Willmsen stated in pars. 40-42 that **"(In Jack Leck's second trial) Wollert explained that his opinion was based on Leck's own statements … even though he knew Leck was a habitual liar and had even been deceptive during the psychological evaluation … (Wollert testified) 'I don't believe the intensity of the urges are what they were … he has the ability to control his behavior'"** (C. 22-23).

Willmsen's account of my testimony is another example of unfair, inaccurate, and imbalanced trial reporting. The unqualified statement that I "based" my opinion on "Leck's statements" even though I knew he had been "deceptive" is unfair and inaccurate. The truth, as the transcript of my cross-examination by AAG Boerger shows, is that I testified I confronted Leck when I learned of his deception. He then became more forthcoming. Testifying that I interviewed Leck seven times (Exhibit R, T. 753: Ll. 1-6), I

made it clear that I was fully aware of Leck's behavioral problems and did not regard his statements as the truth. In complete opposition to Willmsen's claim that I "based" my opinion on Leck's statements, at trial I described other factors I considered such as Leck's

advanced age, the fact his contact sex offenses occurred in the same time period, the fact that over 30 years had elapsed since then, and the risk implications of research on child pornography offenders for Leck's case. Some of the jurors in Leck's first trial obviously found these considerations credible in that they deadlocked over whether he was an SVP. Willmsen's reporting of the Leck trial was imbalanced because her story did not mention these factors or that jurors were deadlocked in Leck's first trial. Her glaring propensity towards erring by omission is underscored by the extent to which she left relevant material out of her story even though she observed my testimony in its entirety. Her apparent allegiance to pursuing a single story line is also evidenced by the fact that my testimony was the only aspect of the Leck trial that Willmsen fully recorded and observed.

5l. **"(Dr. Wollert's) opinion is that these individuals just simply don't or can't meet criteria"** (C. 2, 17, 19; NA. 3). Burbank alleges this in the video. Willmsen allowed this false assertion to stand even though she had received e-mails from the King County Prosecutor's Office and interview results from the Iowa State Public Defender's Office indicating I had found respondents to meet criteria (EC, EQ). This is lying by omission.

5m. **"You look at the personal biases of an individual who makes his living offering one opinion … a one-note symphony"** (C. 2, 17, 19; NA. 3-4). King County Asst. Prosecutor David Hackett alleges this in the trailer while a video is shown of me on the witness stand. Willmsen again lied by omission by withholding reference to the e-mails she had received from Mr. Hackett's office and her Iowa interview results (XC, XQ).

5n. **"(Dr. Wollert) is trying to develop tools and research projects that will support his opinion"** (C. 2, 17-20; NA. 3). Burbank alleges this in the video. Willmsen did not warn readers that Burbank is incompetent to offer such opinions about my motivation because she is neither a psychologist nor scholar. Her claim is also false. My vita indicates (EG) a history of scholarship and grant funding beginning in the late 1970's, 20 years before I began testifying in SVP cases. It shows I have published 50 papers in over 30 different sources. None of the editors of these sources has ever suggested I have tried to develop research projects to support opinions I give in court. Ms. Willmsen did not refer to my record of scholarship or the content of my vita. This is unfair and shows a lack of balance.

5o. **"Dr. Wollert has been found not to (follow court guidelines) and to be … an outlier and come up with his own methodologies that are simply not sound science"** (C. 2, 17-20, NA. 15). Burbank alleges this in the video. Willmsen did not give any defensible examples of Burbank's allegations. She uploaded some bench trial findings where judges concluded defendants were SVPs when I opined they were not, so this may have been her attempt at illustration. These uploads did not mean, however, I have been found not to follow court guidelines. They are also not unique to me because no expert's opinion will prevail in all cases and "judicial findings in other cases … are generally characterized as inadmissible hearsay." Such considerations led a Washington Appellate Court and the Washington Supreme Court to unanimously conclude in the *Curtis Pouncy* case that bench trial findings about an expert in once court cannot be used to impeach him in another. Willmsen did not tell her readers about this ruling. She also did not refer to decisions that lauded my work and did not mention that I have never been found to have violated

professional conduct codes. The range of colleagues with whom I have published and the accomplishments in my vita prove I am not an outlier or a practitioner of junk science.

Willmsen did not refer to these facts, to my record of scholarship, or to the content of my vita in her story. This shows its lack of fairness, balance, and accuracy.

5p. The video is selectively edited to make it appear I am winking from the witness stand in the Leck trial in a way that is smug, sly, and crafty. I have read the transcript of the trial and the wink clearly has nothing to do with such traits. It is a part of a set of reassuring gestures and remarks by me to AAG Tricia Boerger when she apologized and appeared flustered after she had twice referred to me as "Dr. Hanson" (C. 25-24, EU, ET). The video is unfair and inaccurate in that it did not include my verbal statements together with my nonverbal gestures.

III. <u>Damaging Effects of the Price of Protection</u>

6. The POP series has had damaging effects. It has conceivably tainted the jury pool against defense attorneys and experts. Two Washington attorneys, for example, canceled SVP testimony I was scheduled to give during the week of its publication. One indicated this was because he believed the series had a poisonous effect on jurors who were already impaneled. Other evidence of alienation within the larger community was a post on the Seattle Times' website that SVP trials involved **"scum defending scum"** (C. 20) and a subsequent Tacoma News Tribune editorial claiming that **"there's little oversight over expenditures to defense attorneys and psychological 'experts' – some of whom have questionable credentials and records"** (C. 23; E.S.)

R**e**garding my own practice, the number of inquiries I have received about working on SVP cases in Washington has declined greatly since the publication of the POP series.

Inaccuracies and imbalances in the series may also have imperiled substantive due process. At repeated points, for example, Willmsen misinformed readers that "offenders are entitled to a proper defense" (par. 28 and ET, also see C. 23) when it is a "zealous defense" that is actually required. Furthermore, citing Prosecutor Burbank, she claimed that "there's nothing in the constitution … that requires an individual be entitled to the best defense" (par. 102) without balancing the implications of this unqualified view by stressing the importance of following legal procedures that satisfy "strict scrutiny" where liberty interests are at stake.

Another concern I have is that the vituperative approach of the series towards my research – which has been published in well-respected journals and is widely cited – threatens to have a chilling effect on academic freedom and to discourage SVP research. These laws were adopted long ago but have yet to receive any clear scientific validation. Do we want to indefinitely implement legal concepts that have not withstood the rigors of adequate testing? I am sure we don't, but the venom expressed in the POP towards methods and findings the State dislikes encourages scientific passivity. Scientific passivity, in turn, solves nothing.

Attempts have also been made to introduce the POP into evidence in a state court in Illinois and federal court in North Carolina. Judges have ruled against the admissibility of

newspaper articles as evidence because they are "hearsay." This protects the integrity of the court's decision-making but arguing over the admissibility of the POP embarrasses and

frustrates prosecutors. The POP therefore serves to further alienate prosecutors and defense experts in SVP cases.

IV. Negotiations for Corrections with the Seattle Times from February to May of 1012

7. Within two weeks of the POP's publication my wife and I objected to Seattle Times Executive Editor David Boardman and to Washington State AG Rob McKenna about the inaccurate and defamatory content of the Price of Protection and the inappropriately close relationship between Ms. Willmsen and State prosecutors. Boardman assigned the task of reviewing our complaint to Editor James Neff. Neff was in a conflict of interest, however, because he was Ms. Willmsen's supervisor and contributed substantially to the POP series.

8. From February to May of 2012 I prepared volumes of information on my objections that I sent to Neff (EF). We initially exchanged e-mails and phone calls, but Neff wanted written documentation. I provided him with documentation that justified corrective action in February (EF), but he kept asking for more. I eventually hired a prominent media defense attorney to advise me in the preparation of these materials.

   I received a letter from Neff in May of 2012 that refused to make any corrections (EH). One line of reasoning he gave was that he thought some complaints were invalid because they had to do with "protected opinion" (p. 2, item 1, par. 1) and "public records" (p. 2, item 3, par. 1) or with events and statements that were insignificant (p. 1, pars. 2-3; p. 2, item 2) or irrelevant (p. 2, item 2; p. 2-3, item 4). Another was that, ignoring the concept of attainable accuracy and e-mail and interview evidence, he argued that Burbank's and Hackett's claims that I found 0% of respondents to be SVPs were "substantially true" (p. 2, item 1, par. 2) because I told him I found 20% to be SVPs. He also argued that Willmsen's allegation that "(Multnomah) County canceled (Wollert's) contract" was true (p. 3, item 5, par. 1) when the only evidence he and Willmsen relied on was an incomplete and outdated 10-year old file from the AG's Office that included a document indicating a Mutual Settlement was reached and that the County indemnified me and gave me a monetary payment beyond the contract. He implied that the Times' summary of my research was balanced, even though I was the only expert whose research was criticized, because "the POP did not describe the research … of …other psychologists named in the series" (p. 2, item 3, par. 1). Finally, Neff claimed that it was fair for the paper to rely on Hanson's outdated 2008 affidavit (p. 2, item 3, par. 2) because it could have included "much sharper criticism" from this source or an e-mail that was 10 years old (p. 1, par. 2). He argued that fairness was further preserved because "in the week before publication, Willmsen offered to go through all the facts, numbers, and quotes and quotes (in the story) to obtain your comment … but you declined" (p. 1, par. 2; p. 3, third par. from the end).

   At the end of his letter Neff threatened that the Seattle Times would file an Anti-SLAPP suit against me if "you decide to pursue further legal action."

V. Subsequent Negotiations with The Seattle Times to Secure an Adequate Correction

9. I was unsatisfied with Neff's response because he dragged out negotiations and his letter

was filled with self-serving rationalizations, inaccuracies, and *non sequiturs*. Neff also attempted to intimidate me when he should have been taking responsibility for a publication that was unfair, biased, and inaccurate.

My first attorney shared my perspective and referred me to another respected defamation attorney, John J. Walsh from NYC, to initiate formal legal negotiations with the *Seattle Times* and its counsel. This was very costly because it was necessary for Walsh to consult with me, analyze the POP series, review SVP laws, read research articles on sex offenders by myself and others, review my communications with Neff and hundreds of other pages in my file on this case, travel from New York to Seattle and back, and compile a 17-page letter summarizing my complaint. On October 4, 2012, nine months after publication of the POP and five months after my negotiations with Neff, Walsh sent this letter to Boardman. Walsh, Boardman, and I eventually met with the paper's counsel. Walsh and I proposed the wording for a satisfactory correction, and introduced the possibility of legal action if mutually agreeable corrections and clarifications could not be reached. We also asked for reimbursement of Mr. Walsh's fees. Boardman proposed correcting part of the passage pertaining to the Multnomah County contract and including a link to my vita at some point in the series.

I did not consider Boardman's proposed corrections to be proportionate to the errors in the series and the damage they caused. Further negotiations did not lead to a satisfactory resolution and Walsh and I terminated discussions with the Times on 3/1/2013.

VI. <u>Complaint to the Washington News Council</u>

10. On March 22, 2013 the Seattle Times corrected Willmsen's claims about the Multnomah County contract that were in par. 39 of the online version (EA). A "CLARIFICATION" notice was inserted after the last paragraph. This was an issue I had fruitlessly raised with Neff over a year earlier. A correction to Willmsen's article was also printed on page A2 of the paper on March 24, 2013.

    I found these corrections unsatisfactory and mean-spirited because they omitted important clarifying details (C. 20-22). They were also unsatisfactory from the standpoint of formatting for two reasons. One was that the content of the correction was not apparent to readers because the corrected text was not crossed out and presented alongside the changes to the text. The other is that the CLARIFICATION at the end of the article is only visible on the web: It is not included with the article when either the print icon or the screen shot option is used to print the article.

11. On March 27, 2013 I submitted a letter of complaint to the Washington News Council with 24 exhibits and asked the Council to formally review my complaint.

12. On April 5, 2013 WNC Executive Director John Hamer sent an e-mail to Boardman and me informing us that the WNC's Board of Directors had reviewed my complaint and formally adopted it for the WNC's process. He explained the WNC's procedures and asked Boardman to send me a written response within 10 days and to forward a copy to the WNC.

13. On April 12, 2013 I received the following 6 paragraph e-mail letter from Boardman:

(1) We are in receipt of your complaint to the Washington News Council. We have reviewed the 31-page document and see nothing in it that alters the position we have

expressed to you repeatedly over the past 14 months: We believe the "Price of Protection" series to be both fair and accurate. (2) As you know, we spent many hours over the past year listening to your complaints and allegations, and giving them careful and thorough consideration. When, in meetings with our respective attorneys, we agreed upon a single aspect of the series that needed to be clarified, we did so. (3) You will recall that in those discussions – in response to your assertion that we did not adequately capture the depth and breadth of your professional experience – we offered to post with the online version of the series a direct and prominent link to your *curriculum vitae* as you present it. You declined that offer. (4) Nearly all of what you include in the WNC complaint are issues we have already discussed with you. We disagree strongly with your assertions and conclusions, many of which reflect a deep misunderstanding of journalistic practice and a cynical view of our motives. (5) I am attaching here a letter dated May 25, 2012, to remind you and to demonstrate to the WNC that we handled your complaint in a considered and respectful manner. (6) At this juncture, we see no benefit in rehashing these points yet again, an effort that would surely take away from our ability to fulfill our public obligation to report the news.

14. On the one hand, Boardman's letter admitted that the Seattle Times made a factual error in par. 38 in how it described one event in my career and that it had also proposed to correct an imbalance by putting a link to my vita. On the other he reversed himself and claimed that the series was fair and accurate, that the paper was patient and thorough in considering my objections, and that it was responsive and proactive in making a single correction in a timely way. He therefore attributed my remaining dissatisfaction to "a deep misunderstanding of journalistic practice and a cynical view of our motives." He apparently sought to illustrate the paper's consideration of my complaints by attaching Neff's letter, which at two points asserted that any imbalances, unfair statements, or inaccuracies by Willmsen were my fault because I didn't interview with her.

15. I disagree with Boardman's views on several grounds. First, it is illogical to admit the paper discovered errors only after great persistence and expense on my part but to refuse to admit the possibility other errors might be found upon more extended and dispassionate examination. Second, the paper was not responsive to my complaints because the series was published on January 21, 2012, Neff refused to make any corrections in May, and Boardman proposed a couple of corrective steps many months later only after I had retained an attorney who pursued formal negotiations. Third, my analysis of Neff's letter (item 8) indicates the paper did not consider my objections thoughtfully, thoroughly, or logically. Furthermore, much of Neff's letter invoked legal defenses like "protected public opinion" whereas my objections were about journalistic ethics: Just because a paper can print almost anything in this Anti-SLAPP era without becoming subject to a successful defamation suit doesn't mean it should slight the concepts of balance, fairness, and accuracy. Neff's attempt to blame me for Ms. Willmsen's mistakes was also misguided in that no one should be obliged to talk with a reporter, especially one who is rude and nontransparent (item 5), to avoid being falsely pilloried. It is the reporter's responsibility, and not anyone else's, to insure all aspects of her story are balanced, fair, and accurate. Fourth, in the course of publishing dozens of behavioral and statistical papers that have been rigorously edited, I have had much personal experience grappling with the concepts

of balance (defined as the adequate consideration of relevant evidence), fairness (defined as weighting the evidence in proportion to its truth value), and accuracy (defined as evaluating the precision of a finding). As a clinician and chair of a psychologist

registration board I have also had to study ethical issues more broadly. This has led me to understand that many ethical concepts apply to almost all professional endeavors. The claim that I have a shallow understanding of the ethical aspects of journalistic practice is therefore just another example of the callous sense of license and entitlement the Times currently holds when it comes to making unfair, unbalanced, inaccurate, and damaging allegations.

Regarding my alleged cynicism, I think that this claim is also unfounded and untrue. I believe the overall motivation of the Seattle Times was well-intended and that the staff wanted to achieve a socially beneficial goal. Some reporting in the POP series was also of value. But the Times recklessly misadventured in choosing to vilify me and demean my career without any justification whatsoever. This was completely unnecessary to the purpose of achieving a socially beneficial goal and the only way it could be pursued was by violating journalistic ethics. The impact on me, my family, my career, and my profession has been devastating.

I therefore encourage the Seattle Times to participate in the WNC process so that it might explain how this particular subplot featuring me as the poster boy for all that is wrong with Washington's SVP laws – laws I had no hand in passing – became such a significant aspect of a series that could have been very informative but lost much of its promise by making up news rather than reporting it.

Elements of an Adequate Correction to the Seattle Times' "Price of Protection Series that Defamed Dr. Richard Wollert (examples of possible content are included in parentheses).

Richard Wollert, Ph.D.

1. Brief description of the purpose of the series (e.g., it was intended to review Washington's SVP laws and civil confinement system).

2. Brief reference to those elements of the series that included defamatory content (short trailer, first article, first video).

3. Brief citation of the topics covered in the defamatory elements (cost of civil commitment litigation, expert witness fees, research on risk assessment, content and style of expert witness testimony).

4. Admission that the defamatory elements, however referenced, contain inaccurate, unfair, and unbalanced statements and video depictions concerning Dr. Wollert (describe Dr. Wollert's role as that of an expert often retained by the defense in Washington SVP proceedings).

5. List examples of statements and portrayals that were inaccurate, unfair, and unbalanced (The following examples are included in the last document included in attachment E or in the complaint letter to the WNC: believes that no SVPs meet criteria, out of context video wink, his risk assessments are "mumbo jumbo," trying to develop research projects that will support his opinion, pushing his own science, removed key questions from Static-99, the MATS-1 puts sex offenders in lower risk categories than Static-99, Dr. Wollert is often under attack for changing theories of recidivism and self-made assessment tools, he misrepresents statistics, offers unorthodox theories why respondents are not SVPs, relies almost exclusively on what respondents tell him when he testifies, has been found not to follow court guidelines, is an outlier, comes up with his own methodologies that are not sound science, was fired from a contract by Multnomah County.)

6. Acknowledgment that Dr. Wollert and his wife contacted the paper shortly after the POP series was published. He objected to the foregoing allegations and requested corrections. The Wollerts negotiated with the paper for 14 months. The paper eventually unilaterally published a correction (describe the correction).

7. Statement that Dr. Wollert found that the paper's initial correction was incomplete and inadequate, and therefore requested further corrections.

8. Statement that the paper has investigated the series further and found other mistakes, and has concluded that the other statements and portrayals that Dr. Wollert objected to were substantially incorrect.

9. Statement that the paper's follow-up investigation pointed to a number of factors to which these mistakes were attributable. Cite these sources of error (uncritical acceptance of

opinions of attorneys who prosecute SVP cases and of psychologists retained by the prosecution; heavy reliance on outdated, biased, and misleading information provided by these sources; inadequate fact-checking; not disclosing evidence that contradicted the

views of favored sources; adoption of the mistaken assumption that sex offenders who have served their prison sentences do not deserve a truly diligent and zealous defense in civil commitment proceedings that have in many cases resulted in life-long confinement for what they might do rather than for what they have done; selective trial observation and videotape editing).

10. Acknowledgement of Dr. Wollert's strong professional qualifications, consistently ethical behavior, and high standing in the professional community (Dr. Wollert is a highly qualified, ethical, and well-respected expert whose work on sexual recidivism and psychosexual diagnoses has been well-received and accepted by the professional community. This is evidenced by ongoing publication of his research and opinions in peer-reviewed scientific journals and by his frequent presentations and trainings on the assessment of sex offenders at academic and professional meetings.)

11. Further acknowledgement of the importance of defense experts and the defense bar to preserving the constitutionality of sex offender civil commitment proceedings (Washington's civil confinement system could not operate in a constitutional manner without the availability of highly qualified and committed trial experts like Dr. Wollert to testify on behalf of accused persons who, in their opinion, do not meet the statutory criteria for confinement. It balances the record to emphasize that Dr. Wollert has found a number of respondents to meet the civil commitment criteria).

12. Statement of remorse (The Times regrets the incorrect portrayal of Dr. Wollert, his place in his profession and his work in the civil confinement system, and apologizes to he and his family for any harm done to his personal and professional reputation).

13. Publication of the statement at an appropriate location in the trailer, first videotape, and first article of the POP series, locations that will obviously come to the attention of even those readers who are just "skimming" these materials. The statement should be clearly identified with the words "Correction" or "Additional Corrections."

Exhibit A

Content of Seattle Times Correction

Title of the corrected article: "State wastes tnillions helping sex predators avoid lockup"

Notice at the top of the article:

Originally published January 21, 2012 at 6:00PM | Page modified March 22,2013 at 4:50PM

Corrected version

January 21, 2012 content of the corrected text (par. 39): "Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders on probation and parole. In 2001 the county criticized Wollert for incomplete assessments, inadequate treatment guidelines, and poor record keeping, and later canceled his contract."

March 22,2013 content of the corrected text: "Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders on probation and parole. In 2001, county employees criticized Wollert for incomplete assessments, inadequate treatment guidelines, and poor record keeping. The county and Wollert agreed to end the contract."

Note posted on March 22, 2013 at the end of the corrected article:

"CLARIFICATION: The original article, published Jan. 21,2012, stated that a consulting services contract between Richard Wollert and Multnomah County, Oregon, was cancelled by the county. In fact, the contract was cancelled by mutual agreement of the parties."

Exhibit B

Psychologists Who Have Used MATS-1 to Evaluate SVP Respondents and Jurisdictions in Which They Have Used It

	CA	FL	IL	10	MA	MO	NC AZ(FED)	NH	NY	WA	WI	AUS	
Brian Abbott, Ph.D.	X												
Roy Aranda, Psy.D., J.D.									X				
Len Bard, Ph.D.					X		X	X	X	X			
Natalie Brown, Ph.D.		X								X			
Dean Cauley, Ph.D.		X											
Ian Coyle, Ph.D.												X	
Courtney Endres, Psy.D.			X				X			X	X		
Chris Fisher, Psy.D.	X									X			
Karen Franklin, Ph.D.							X						
Diane Lytton, Ph.D.			X			X	X			X	X		
James Manley, Ph.D.										X			
Joe Plaud, Ph.D.					X		X		X				
Luis Rosell, Psy.D.			X	X		X	X	X		X	X		
Craig Rypma, Ph.D.			X	X							X		X
Hollida Wakefield, M.A.											X		
Kirk Witherspoon, Ph.D.			X	X									
Richard Wollert, Ph.D.	X			X			X			X			

Source: Declarations and personal e-mails

Cases in which the MATS-1 has been admitted at trial after *voir dire* or *motion in limine* hearings: Commonwealth of Massachusetts v. Petitioner in Suffolk County Case No. SUCR2008-11288 (April, 2011; Colleen Currie, attorney; expert: Dr. Plaud), State of Washington v. Tremayne Frances (May 2012; James Schoenberger, attorney; expert: Dr. Plaud), Commonwealth of Massachusetts v. Robert Allen (April2012; Sondra Schmidt, attorney; expert: Dr. Plaud). Cases in which the MATS-1 has been admitted at trial after a Frye or Daubert hearing: Commonwealth of Massachusetts v. Dennis Quintal (August 2012; Judge Bonnie McCieod; Marcia Kovner, attorney; expert: Dr. Bard). Cases in which the MATS-1 was admitted at trial after the Court rejected a motion for a Daubert hearing: U.S. v. Hamelin (December 2011; Judge Terrence Boyle, presiding; expert: Dr. Plaud). Information on the extent of use of the MATS-1 Use: Dr. Witherspoon (over 60 times in Illinois); Dr. Rosell (,,dozens of times"); Reply of the Federal Public Defenders' Office from the Eastern District of North Carolina in re Michael Woods ("over 30 times"

Exhibit C

From: Adams, Michael [SPD] [SPD] <MAdams@spd.state.ia.us>
To: rwwollert <rwwollert@aol.com>
Subject: Interview with Christine Willmsen
Date: Thu, Apr 19, 2012 2:49 pm

Dear Rich: Pursuant to your request, I am sending this email.

I had a lengthy telephone conversation with Ms. Willmsen on February 23, 2011 concerning the legal process involved in Iowa's Sexually Violent Predator Act. Among many other things, she asked me who we use as expert witnesses. I told her you, Howard Barbaree, Craig Rypma, Luis Rosell, Robert Prentky, and Steve Hart. She asked me how my unit selected experts in SVP matters. I told her that we hire an expert based on the specific issues involved in a case and the expert's unique qualifications as they relate to the issues in the case. I told her that we hire the most qualified persons in the field because an inferior expert does nothing for our client and damages our credibility as lawyers and as an organization. I told her in every case that I could remember, that our expert was more qualified than the expert used by the State.

We talked about experts telling us "no" or that they couldn't or wouldn't help our client. She asked if that ever happened and what we do when it does. I told her that it does happen, and in such cases we trusted our experts' opinions so we didn't feel uncomfortable not looking for a second or subsequent opinion. I told her that I believed that we had satisfied our obligation to our client by having them evaluated by a leader in the field.

With regard to saying "no" to our clients, she specifically asked if you had ever told me "no" about a client. I told her that you had on numerous occasions, and in fact, had just done so the week prior.

I hope this answers your inquiry. Should you require further information, please let me know.

Take care.

Mike

Michael H. Adams

Chief Public Defender

Special Defense Unit

401 East Court Avenue, Suite 150

Des Moines, Iowa 50309

Telephone: (515) 288-0578

Faxsimile: (515) 288-2020

Email: Madams@spd.state.ia.us

Exhibit D

Burbank, Brooke (ATG)

From: Burbank, Brooke (ATG)
Sent: Thursday, January 19, 2012 3:52PM
To: 'cwillmsen@seattletimes.com'
Subject: Fw: can you please see if this is correct with Tricia Boerger, I left message, but she didn't call back. It's specifiC to the leek case and the mats 1

From: Boerger, Tricia (ATG)
Sent: Thursday, January 19, 2012 03:41 PM
To: Burbank, Brooke (ATG)
Subject: RE: can you please see if this is correct with Tricia Boerger, I left message, but she didn't call back. It's specific to the leek case and the mats 1

Brooke,

The below is partially correct. In creating the MATS-1, Dr. Wollert modified the Static-99 by removing the age item and three other items from the Static-99. For example, he removed the item for having a victim who was a stranger. He also removed the item for having a victim who is unrelated to the offender. By doing *so*, the MATS-1 lumps together incest offenders with extra-familial offenders, despite the fact that studies have shown that these offenders have very different reoffense rates.

The slight distinction from the statem.ent below is this- the MATS-1 only has three risk categories -low, medium and high; whereas the Static-99 has four -low, low-moderate, moderate-high and high. So, while an offender with a score of 4 on the Static-99 would be in the moderate-high risk category, on the MATS-1, offenders with scores of 4 or higher are in the high risk group. So, it's not that removing the item appears to reduce the offender's risk, rather it is the "collapsing" of the risk categories such that the MATS-1 now includes individuals with scores from 2-5 in the "medium" risk category. On the Static-99, the recidivism rates for individuals with scores of 2 vary considerably from those with scores of 5. Yet, on the MATS-1, those individuals have all been lumped together, resulting in a less precise risk estimate.

Hope that helps. If not, feel free to give me a call.

Tricia

From: Burbank, Brooke (ATG)
Sent: Thursday, January 19, 2012 3:13PM
To: Boerger, Trida (ATG)
Subject: Fw: can you please see if this is correct with Tricia Boerger, I left message, but she didn't call back. Ifs specific to the leek case and the mats 1

Can you review and Jet me or cw know oif true?

From: Christine Willmsen [mailto:cwillmsen@seattletimes.com]
Sent: Thursday, January 19, 2012 03:06PM
To: Burbank, Brooke (ATG)
Subject: can you please see if this is correct with Tricia Boerger, I left message, but she didn't call back. It's specific to

the leek case and the mats 1

This is in the story:
A skeptic of the Static *99*, he modified it, removed key questions and called his new tool the MATS-1.
For example, he removed the question asking if the victim was a stranger. With the Static 99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend. Removing that question lowered the risk rates of some offenders.

Thanks you are a gem.

Exhibit E

Sexual Abuse: A Journal of Research and Treatment

http://sax.sagepub.com/

Recent Research (N = 9,305) Underscores the Importance of Using Age-Stratified Actuarial Tables in Sex Offender Risk Assessments

Richard Wollert, Elliot Cramer, Jacqueline Waggoner, Alex Skelton and James Vess

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On behalf of:
9
ATSA
Association for the Treatment of Sexual Abusers

Article

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22(4) 471-490

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Recent Research (N = 9,305) Underscores the Importance of Using Age-Stratified Actuarial Tables in Sex Offender Risk Assessments

Richard Wollert[1,2], Elliot Cramer[3], Jacqueline Waggoner[4], Alex Skelton[5], and James Vess[6]

Abstract

A useful understanding of the relationship between age, actuarial scores, and sexual recidivism can be obtained by comparing the entries in equivalent cells from "age stratified" actuarial tables. This article reports the compilation of the first multisample age-stratified table of sexual recidivism rates, referred to as the "multisample age stratified table of sexual recidivism rates (MATS-I)," from recent research on Static-99 and another actuarial known as the Automated Sexual Recidivism Scale. The MATS-1 validates the "age invariance effect" that the risk of sexual recidivism declines with advancing age and shows that age-restricted tables underestimate risk for younger offenders and overestimate risk for older offenders. Based on data from more than 9,000 sex offenders, our conclusion is that evaluators should report recidivism estimates from age-stratified tables when they are assessing sexual recidivism risk, particularly when evaluating the aging sex offender.

Keywords

age invariance, ASRS, sexual recidivism, Static-99, MATS-I

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Recent meta-analyses of the offender recidivism literature have identified static factors such as an offender's developmental history and prior criminal convictions that are empirically related to recidivism (Hanson & Bussiere, 1998; Hanson & Marton Bourgon, 2005). Following directly from this line of research, risk assessment instruments have been developed through an actuarial methodology that are demonstrably predictive of sexual or violent recidivism among adult male sexual offenders (Doren, 2002; Hanson, 2009; Quinsey, Harris, Rice, & Cormier, 1998). These actuarial instruments include the Violence Risk Appraisal Guide (Harris, Rice & Quinsey, 1993), the Sex Offender Risk Appraisal Guide (Harris et al., 2003; Quinsey et al., 1998), the Rapid Risk Assessment of Sexual Offense Recidivism (RRASOR; Hanson, 1997), the Static-99 (Hanson & Thornton, 2000), and the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R; Epperson et al., 1998; Wollert, 2002, 2003). At present, actuarial assessment is regarded as a core assessment methodology and one of only two acceptable or best-practice approaches to the forensic assessment of the sex offender (Hanson, Morton, & Harris, 2003).

In a separate but parallel literature, the relationship between advancing age and sexual recidivism has been studied extensively over the last 10 years. Describing this work in a recently published article, Barbaree and his colleagues (Barbaree, Langton, Blanchard, & Cantor, 2009, pp. 443-444) reported that

> A large body of evidence has recently accumulated indicating that recidivism in sex offenders decreases with the age of the offender at the time of his release from custody (Barbaree, Blanchard, & Langton, 2003; Fazel, Sjostedt, Langstrom, & Grann, 2006; Hanson, 2002, 2006; Lussier & Healey, 2010[1]; Prentky & Lee, 2007; Skelton & Vess, 2008; Thornton, 2006). These reductions in recidivism are consistent across studies (Barbaree & Blanchard, 2008) and are similar to reductions in recidivism (both violent and nonviolent) in the aging criminal (Hirschi & Gottfredson, 1983; Moffitt, 1993; Sampson & Laub, 2003). According to Wollert (2006), the aging effect has been recognized as one of the most robust findings in the field of criminology. In a seminal and influential article, Hirschi and Gottfredson (1983) pointed to the "invariance" of this relationship in that crime rates decreased with age for offender groups who (a) lived in different centuries, (b) came from different countries, (c) differed with respect to age and gender, (d) were at large in the community or incarcerated, and (e) committed different types of crimes (Wollert, 2006).

The first generation of actuarial instruments for sex offender risk assessment incorporated the age of offenders into the evaluation of risk through the inclusion of a single item. For example, the RRASOR, the Static-99 and the MnSOST-R included an item that added a point to the score of offenders who were released from custody prior to a critical age cut off(25 years of age for the RRASOR and Static-99; 30 years of age for the MnSOST-R).

This method of accounting for the age effect obviously does not make allowances for reductions in recidivism risk that occur after the critical cutoff age specified in the

item. For the RRASOR and Static-99, this means that age-related changes in recidivism occurring after the age of 25 will not be captured in the evaluation. In recognition of this fact, Helmus, Thornton, & Hanson (2009, October) have created a revised version of the Static-99 (Static-99R), incorporating a revised age item that adjusts for the age of the offender past age 60. According to their new age item, the item makes no adjust ment for age for offenders aged 35 to 39.9 at the time of their release from custody. For offenders 18 to 34.9, a single point is added to their Static-99 score. For the aging offender (ages 40-59.9 and ages 60 and older), one or three points are subtracted from the Static-99 score. Once an evaluator obtains a final actuarial score, no further con sideration of the age issue is made.

The present article proposes an alternative method of incorporating age into risk assessment procedures. Actuarial instruments always provide some type of "experi ence table" or formula from which empirically based recidivism percentages may be derived for specified follow-up periods for each actuarial score value. Once an evalu ator has obtained an actuarial score for an offender, she can usually look up the tabled values for that particular actuarial score to obtain an estimate of recidivism risk.

We believe that "age-stratified" experience tables, as proposed by Wollert (2006, p. 73), provide a particularly valuable resource that takes the effects of age on sexual recidivism into account. Two such tables have already been disseminated in peer reviewed articles. The first was compiled for the Static-99[2] (Hanson, 2006). This table is based on three times the number of offenders as the original Static-99's experience table (*N* = 3,425 in Hanson [2006] vs. 1,086 in Hanson & Thornton [2000]) and reports 5-year recidivism rates (see Hanson, 2006, Table 3) for four score levels (low [L] = 0-1 point, moderately low [ML] = 2-3 points, moderately high [MH] = 4-5 points, high [H] = 6 or more points) stratified by five age groups (18-24.9, 25-39.9, 40-49.9, 50-59.9, 60 years old and over). Consequently, the table includes 20 different cells (i.e., four score levels by five age groups equals 20 recidivism estimates). The base rate of sexual recidivism for all offenders in Hanson's age-stratified table was 12%.

The second age-stratified table was compiled by Skelton and Vess (2008) using the Automated Sexual Recidivism Scale (ASRS). The ASRS contains 7 of the 10 original Static-99 items (the three missing items code whether the examinee ever lived with a lover for at least 2 years, had any unrelated victims, or had any stranger victims). Tapping into an electronic database of a115,880 New Zealand sex offenders released from prison over a 15-year period, the ASRS assigns offenders to one of six discrete score groups (0, 1, 2, 3, 4, and 5 and above). This risk scoring system enables the combination of these groups into more inclusive subsets. For example, Table 3 in Skelton and Vess (2008) reported 18 sexual recidivism rates for three risk categories (low [L] = 0 points, medium [M] = 1-3 points, high [H] = tnore than 3 points), each with six age groups (less than 20, 20-30, 31-40, 41-50, 51-60, more than 60 years old). The base rate of sexual recidivism for all offenders in Skelton and Vess' age-stratified table was 9%.

Both of these empirically derived age-stratified experience tables confirm that recidivism declines with advancing age. A useful understanding of the relationship between age, actuarial scores, and sexual recidivism may therefore be obtained by

cotnparing the entries in these two tables and contrasting them with the entries from an experience table that has not been age stratified. Five preparatory steps should be taken to facilitate the comparisons and contrasts required by this type of study. The first would remove the age item from the scores entered in both tables so that age is not entered into the analysis twice. The second would subdivide offenders into com parable risk levels in both tables. The third would, to the extent possible, subdivide offenders into comparable age groups in both tables. The fourth would calculate the "likelihood ratio" (Mossman, 2006; Wollert, 2007; Wollert & Waggoner, 2009) for each test score in each age group for each table. Finally, the fifth would control for any differences in likelihood ratios and base rates.

The next five sections of this article describe the preparatory procedures we imple mented to undertake the foregoing comparisons. The sixth summarizes our data anal yses and results. In the concluding section, we discuss the statistical advantages of age-stratification for estimating recidivism risk and consider the implications of our findings and some of our analytical methods for risk assessment procedures, the devel opment of actuarial tests, and forensic testimony about actuarial data.

Step I: Removing the Age Item From Actuarial Scores

As noted earlier, the original Static-99 contained an age item that assigned an extra point to those who were younger than 25 years old at their release from custody. The ASRS contains this same age item. Inclusion of an age item was an attempt by the test developers to insure that the effects of aging on recidivism were incorporated in the actuarial instrument. The development of age-stratified experience tables for these instruments is as an alternative way of incorporating aging into the assessment process.

It is important to remove the age item from an actuarial instrument when this approach is used, otherwise, the age factor will be counted twice in the analysis. Retaining the age item in the test would then have the effect of assigning those who are under 25 years old to higher risk groups than appropriate, generating risk estimates that are too low for them. The top panel of Table 1 shows the original Static-99 age stratified experience table (Hanson, 2006) in which one extra point is assigned to each offender under 25.

The first three members of our team used a version of the formula for calculating conditional probability, described in Waggoner, Wollert, and Cramer (2008), to respec ify table entries in the age-stratified experience table reported by Hanson (2006). The bottom panel of Table 1 shows the effect of removing the extra point for being under 25 and the increases in the cell-wise recidivism rates that were subsequently obtained. This table shall hereafter be referred to as "Respecified Static-99" or, more concisely, as "RS-99."

Waggoner et al. (2008) used this probabilistic reasoning to respecify Static-99 scores (removing the age item) because frequency data were unavailable. Frequency data were available for the ASRS and our current team respecified the recidivism rates

Table 1. Five-Year Sexual Recidivism (R), Subdivided by Age and Risk Levels (L = Low, ML = Moderately Low, MH = Moderately High, H = High), for Static-99

	Age at release											
	18-24.9		25-39.9		40-49.9		50-59.9		60 and older		All ages	
Static-99 levels	*n*	*R*	*n*	*R*	*n*	*R*	*n*	*R*	*n*	*R*	*n*	*R*
Original results												
L	17	5.8[3]	486	6.7	321	5.5	159	2.5	112	0.0	1,095	5.3[3]
ML	275	7.6[3]	590	11.7	260	6.7	126	4.3	56	3.0	1,307	8.7[3]
MH	199	24.6[3]	321	24.3	124	13.8	63	19.4	25	4.8	732	21.4[3]
H	61	35.5[3]	116	37.5	71	25.7	32	24.3	11	9.1	291	31.6a
All levels	552	16.2	1,513	14.4	776	8.8	380	7.5	204	2.0	3,425	12.0
Respecified Static-99 results												
L	177	7.5[3]	486	6.7	321	5.5	159	2.5	112	0.0	1,255	5.6a
ML	216	12.8[3]	590	11.7	260	6.7	126	4.3	56	3.0	1,248	9.7[3]
MH	117	26.2[3]	321	24.3	124	13.8	63	19.4	25	4.8	650	21.4[3]
H	42	40.3[3]	116	37.5	71	25.7	32	24.3	11	9.1	272	32.4[3]
All levels	552	16.2	1,513	14.4	776	8.8	380	7.5	204	2.0	3,425	12.0

Note: The top panel shows the original results that were obtained when an extra point was given to each offender less than 25 years old. The bottom panel shows the results when the affected cells were respecified by not double-counting this point (RS-99). RS-99 = Respecified Static-99.
Source: Hanson (2006).
a. Denotes the affected cells.

for the two youngest offender groups by simply eliminating the dichotomous age item from the risk factor battery and recalculating the observed proportion of recidivists among the youngest offenders with low, medium, and high scores on the ASRS. The top panel of Table 2 shows the recidivism percentages originally reported by the last two members of our team (Skelton & Vess, 2008). The bottom panel shows the effect of removing this point and the increases in the cell-wise recidivism rates that were obtained.

Step 2: Standardizing the Risk Levels in Each Table

The age-stratified experience table described by Hanson (2006) for the Static-99 sub divided offenders into four risk level groups, whereas the table reported for the ASRS by Skelton and Vess (2008) subdivided offenders into three risk level groups. To stan dardize the number of risk levels between these two tables, we combined the RS-99 data for those offenders who had ML and MH scores, so that both tables had three levels of risk. By doing so, we created two tables with roughly equivalent proportions of offenders in each risk level for the RS-99 table and the ASRS table (low risk

Table 2. Sexual Reoffending by ASRS Risk Levels (L =Low, M =Medium, H =High) and Different Age Groups Showing the Number of Offenders (n) Released From New Zealand Prisons From 1990 to 2004 and the Percentage Who Recidivated (R)

	Age at release													
	<20		20-30		31-40		41-50		51-60		>60		All ages	
ASRS levels	*n*	*R*	*n*	*R*	n	*R*	*n*	*R*	*n*	*R*	*n*	*R*	*n*	*R*
L	0	oa	341	5.9[8]	668	4.9	561	3.0	402	2.0	363	3.0	2,335	4.0[8]
M	213	13.1[8]	1,051	13.0[8]	891	14.0	568	7.0	315	4.1	181	3.9	3,219	II.Oa
H	4	25.0[8]	99	26.3a	88	30.7	80	25.0	37	18.9	18	5.6	326	25.1[8]
All	217	13.4	1,491	12.3	1,647	11.2	1,209	6.4	754	3.7	562	3.4	5,880	9.0
Respecified results														
L	116	9.5[8]	581	?.Ia	668	4.9	561	3.0	402	2.0	363	3.0	2,691	4.5[8]
M	101	16.8[8]	861	14.6[8]	891	14.0	568	7.0	315	4.1	181	3.9	2,917	11.3[8]
H	0	a	49	26.5[8]	88	30.7	80	25.0	37	18.9	18	5.6	272	25.0[8]
All	217	13.4	1,491	12.3	I ,647	11.2	1,209	6.4	754	3.7	562	3.4	5,880	9.0

Note: The top panel shows the original results that were obtained when an extra point was given to each offender less than 25 years old. The bottom panel shows the results when the affected cells were respecified by not double-counting this point. ASRS =Automated Sexual Recidivism Scale.
Source: Skelton and Vess {2008).
a. Denotes the affected cells.

Table 3. Age-Wise sexual Recidivism Rates for Sex Offenders With Low (L), Medium (M), and High (H) Scores on the RS-99 Versus the ASRS (Based on the Bottom Panels of Tables I and 2)

RS-99 (L = 0 and I, M = 2 through 5, and H = 6 and above)					
	18-39.9	40-49.9	50-59.9	60 and older	All ages
L	6.8	5.5	2.5	0.0	5.6
M	16.6	8.9	9.0	4.0	13.7
H	38.6	25.7	24.3	9.1	32.4
All levels	14.9	8.8	7.5	2.0	12.0
ASRS (L = 0, M = I through 3, H = 4 and above)					
	18-40	41-50	51-60	More than 60	All ages
L	6.2	3.0	2.0	3.0	4.5
M	14.5	7.0	4.1	3.9	11.3
H	29.2	25.0	18.9	5.6	25.0
All levels	11.7	6.4	3.7	3.4	9.0

ASRS =Automated Sexual Recidivism Scale; RS-99 = Respecified Static-99.

included 32% and 40% of the number of offenders in each table respectively; moderate risk included 60% and 55%; high risk included 8.5% and 5.5%). The results of this step

are presented in Table 3.

Step 3: Standardizing the Age Categories in Each Table

The age-stratified experience table presented by Hanson (2006) and Waggoner et al. (2008) subdivided offenders into five age groups whereas the ASRS subdivided them into six age groups. To standardize the number of age groups to the greatest extent possible we combined the RS-99 data in Table 1 for those in the 18 to 24.9 age group with the data for the 25 to 39.9 group. This operation generated the first column in the top panel of Table 3. Then we combined the ASRS data in Table 2 for 18- and 19-year olds with the data for 20- to 30-year olds and 30- to 40-year olds, yielding the first column in the bottom panel of Table 3.

Step 4: Calculating the Likelihood Ratios for the Cells in Each Table

Doren (2004) compared the 5-year score-wise recidivism rates for the developmental cohorts of Static-99 (Hanson & Thornton, 2000) with other data sets he assembled so that they had base rates ranging from a low of 6o/o to a high of 40%. He claimed his analysis showed that "each 5-year recidivism percentage associated with a … Static-99 score was replicated" and that Static-99 "demonstrated a high degree of stability in those percentages even as the underlying recidivism base rates were varied from quite low to quite high" (p. 33). He also interpreted this finding to mean that sex offender evaluators "need not concern themselves about the underlying population base rate when high risk is shown" (p. 33).

Mossman (2006) disputed Doren's (2004) results. Drawing on Bayes's Theorem (Bayes, 1764), he pointed out that differences in score-wise risk percentages from one sample to another are due to the combined effects of(a) differences between the samples in their base rates and (b) differences between samples in the likelihood ratios for com parable scores. He also showed that the values of the likelihood ratios for Doren's high base rate cohorts were small and that his low rate cohorts had large likelihood ratios. The risk percentages for Doren's cohorts were therefore similar to one another and simi lar to the Static-99 developmental sample only because the potential of high rates for elevating risk estimates was neutralized by low likelihood ratios while the potential of low rates for reducing risk estimates was neutralized by high likelihood ratios.

Mossman (2006) also corrected Doren's (2004) exhortation to evaluators to assume that "base rates don't matter" when it comes to the interpretation of actuarial test scores. Specifically, he observed that "directly comparing percentages of offenders falling in each risk category of different samples is likely to be misleading if their respective likelihood ratios are not compared" (p. 43). Furthermore, since the power of a test score for differentiating sexual recidivists from nonrecidivists is reflected in likelihood ratios rather than risk percentages, Mossman recommended that "to appropriately evaluate the 'stability' of an assessment instrument's performance across populations and set tings . . . investigators should . . . isolate and examine the 'discriminative properties' (i.e., likelihood ratios) of the instrument alone, independent of the population or setting

specific 'base rate'" (p. 43).

Table 4. RS-99 and ASRS Likelihood Ratios for Each Risk and Age Group

		Age groups			
		18-39.9	40-49.9	50-59.9	60 & older
Risk groups		18-40	41-50	51-60	More than 60
Low	RS-99	0.42	0.59	0.31	0.68
Low	ASRS	0.50	0.46	0.51	0.89
Medium	RS-99	1.11	0.98	1.20	0.82
Medium	ASRS	1.27	1.11	1.12	1.15
High	RS-99	3.55	3.43	4.06	3.00
High	ASRS	3.10	4.91	6.10	1.70

Note: The first row of age groups are for RS-99. None of the values of equivalent pairs differed at the .5 level. ASRS =Automated Sexual Recidivism Scale; RS-99 = Respecified Static-99.

Following Mossman's (2006) logic, we calculated the likelihood ratios for each Static-99 score in each RS-99 age group and for each ASRS test score in each ASRS age group. Each of these calculations involved three steps. First, the "likelihood for recidivism" was obtained by dividing the number of recidivists in a given cell by the number of recidivists in the age group that included the cell. Second, the "likelihood for nonrecidivism" was obtained by dividing the number of nonrecidivists in the cell by the number of nonrecidivists in the age group. Third, the "age-wise likelihood ratio" was obtained by dividing the likelihood for recidivism by the likelihood for nonrecidivism.

During this analysis we noticed that the "60 and over" group reported by Hanson (2006) and Waggoner et al. (2008) included only 204 offenders. Furthermore, only 11 of these offenders had high scores and none recidivated who had low scores. These results concerned us because we were unable to calculate a likelihood ratio for older offenders with low Static-99 scores and also because we felt the likelihood ratios for older offenders might be unstable because of their small numbers.

We therefore contacted the members of the Static-99 research team, who provided us with 5-year follow-up data on 394 sex offenders in the 60 and over group (L. Helmus, personal communication, December 17, 2009). Twelve offenders in this group recidivated-four with high scores, four with medium scores, and four with low scores. There were also 382 nonrecidivists in this group-43 with high scores, 152 with medium scores and 187 with low scores. The recidivism rate was therefore 9% for older offenders with high scores (4/43 = 9%), 3% for older offenders with medium scores (41152 = 3%), and 2% for older offenders with low scores (4/187 = 2%).

The foregoing contribution enabled us to complete our analysis of the likelihood ratios for the ASRS and RS-99. Table 4 presents the comparable likelihood ratios for RS-99 and the ASRS. When we conducted tests for determining whether any pair of ratios differed from one another (Mossman, 2006),[3] we found no differences.

Step 5: Comparing Actuarial Tables While Controlling for Differences in Likelihood Ratios and Sexual Recidivism Rates

Although each cell entry in an actuarial table is typically calculated by simply dividing the number of recidivists by the number of offenders in the cell, each entry is also a conditional probability estimate (Donaldson & Wollert, 2008; Wollert, 2010 March). Generally, a conditional probability is written as $P(R+ | S)$ and read as the "observed probability of recidivism *(R+)* among those sex offenders who share a set of conditions (S) such that they are all a particular age and have been assigned a particular test score" (the vertical bar in the conditional probability term means "given that").

The similarity between two age-stratified tables may be assessed if sufficient prob ability data are available to support the compilation of two other tables of conditional probabilities. This is done by combining the base rate data from the first table with the likelihood ratios from the second and then combining the base rate data from the second table with the likelihood ratios from the first. The entries in these tables, which are independent of one another, may then be averaged to generate a "multisample age stratified table" and the averages in this table may then be contrasted with an age restricted table that has been compiled to reflect only score-wise recidivism rates. We used the following procedures to compile both tables in the present study.

1. We relied on RS-99 (the "all levels" row of the top panel of Table 3) to esti mate the base rate of recidivism for each age group and on the respecified ASRS (the bottom panel of Table 3) to derive the age-wise LRs and thus estimate the extent to which the scale discriminates between recidivists and nonrecidivists for each age and risk group.
2. Using Bayes's Theorem, we combined the age-wise recidivism rates from RS-99 with the likelihood ratios for the ASRS (see Table 4) to compile a table of conditional probabilities/risk percentages that controlled for age wise recidivism rates.[4] This age-stratified table is presented as the top panel of Table 5.
3. We repeated the foregoing steps, relying on the respecified ASRS (see the "all levels" row of the bottom panel of Table 3) to estimate the base rate of recidi vism for each age group and, on RS-99 (the top panel of Table 3), to derive the age-wise LRs (presented in Table 4). The age-stratified table generated by these operations is presented as the bottom panel of Table 5.
4. We averaged the cells in Table 5 that corresponded to one another, generating the multisample age-stratified table of sexual recidivism rates presented in Table 6. We refer to this table as the multisample age-stratified table of sexual recidivism rates (MATS-1) because it is the first multisample age-stratified table of sexual recidivism rates that we are aware of that has been compiled using our procedures.

Table 5. Estimated Recidivism Rates Based on Age-Wise Recidivism Rates and Likelihood Ratios From the RS-99 and ASRS

From RS-99 age rates and ASRS likelihood ratios				
	18-39.9	40-49.9	50-59.9	60 & over
L	9.8	4.2	3.9	1.8
M	21.7	9.7	8.3	2.2
H	40.3	32.0	33.1	3.3
All levels	14.9	8.8	7.5	2.0
From ASRS age rates and RS-99 likelihood ratios				
	18-40	41-50	51-60	More than 60
L	5.3	3.8	1.2	2.3
M	12.9	6.3	4.4	2.8
H	32.2	18.9	13.3	9.5
All levels	11.6	6.4	3.7	3.4

ASRS =Automated Sexual Recidivism Scale; RS-99 = Respecified Static-99.

Table 6. First Version of the Multisample Age-Stratified Table of Sexual Recidivism Rates, Obtained by Averaging the Estimated Recidivism Rates in Table 5

	Age groups			
Scores	18-39.9	40-49.9	50-59.9	60 & over
Low	7.6	4.0	2.6	2.0
Medium	17.3	8.0	6.4	2.5
High	36.2	25.5	23.2	6.4
All levels	13.2	7.6	5.6	2.7

5. We averaged the corresponding score-wise recidivism rates in the "all ages" columns of the top and bottom panels of Table 3 to derive a set of age restricted recidivism estimates. The age-restricted recidivism estimate was 5% for offenders with low scores, 12% for those with medium scores, and 29% for those with high scores.

Data Analysis

To justify averaging the cells in Table 5, we calculated the likelihood ratios for the RS-99R and ASRS for each test score when age groups were collapsed into those

Table 7. Likelihood Ratios for Younger Versus Older Sex Offenders for Each RS-99 and ASRS Score

	RS-99		ASRS	
Risk levels	Up to 40	More than 40	Up to 40	More than 40
Low	1.24	.74	1.41	.59
Medium	1.26	.56	1.33	.47
High	1.37	.63	1.24	.79

Note: All likelihood ratio tests reached the .05 level of significance. ASRS = Automated Sexual Recidivism Scale; RS-99 = Respecified Static-99.

who were younger than 40 versus those who were more than 40. Recidivism data for each instrument was therefore aggregated into six cells that reflected three score groups (high, medium, and low) and two age groups (younger and older). We adopted 40 as a break point because this was about the average age of sex offenders in RS-99 and the ASRS.

Then we calculated the "score-wise likelihood ratio" for each aggregated cell in three steps. The likelihood for recidivism was obtained first by dividing the number of recidivists in a given cell by the number of recidivists in the score group that included the cell. The likelihood for nonrecidivism was obtained next by dividing the number ofnonrecidivists in the cell by the number ofnonrecidivists in the score group. Finally, the score-wise likelihood ratio was obtained by dividing the likelihood for recidivism by the likelihood for nonrecidivism.

All other things being equal, those who have above average scores on an "external" (Hanson, 2006), "maturational" (Barbaree et al., 2009), "dynamic" (Olver, Wong, Nicholaichuk, & Gordon, 2007), or "cohort" (Abbott, 2009; Thornton & Helmus, 2009) risk factor that will truly enhance test performance will be more likely to recidi vate than those whose scores are below average. This predictive power, in tum, will be reflected in likelihood ratios that are greater than 1 for those with above average scores and likelihood ratios that are smaller than 1 for those with below average scores (Wollert, 2007). On the assumption that information about age enhances risk predic tion for all test scores, we tested whether the likelihood ratios for the younger offend ers were larger than the likelihood ratios for older offenders. All six of the tests in this analysis reached the .05 level of significance. The specific values of the various pairs of likelihood ratios that were compared are presented in Table 7.

After this we analyzed the extent to which recidivism estimates based on age and actuarial scores were more accurate than recidivism estimates based only on scores by compiling a series of line graphs that plotted the average estimated conditional probabilities presented in Table 5, broken down by age and score level, with the aver age score-wise recidivism rates of 5%, 12%, and 29%. These graphs are presented in Figure 1.

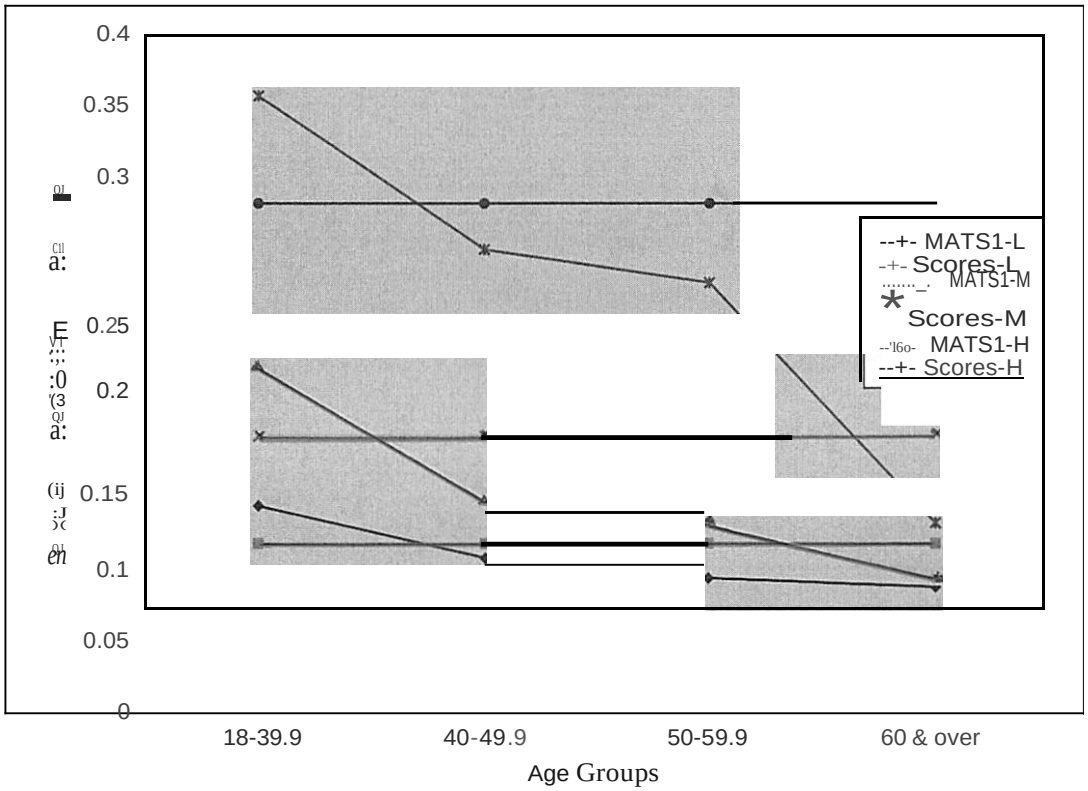

Figure I. Multisample age-stratified table of sexual recidivism rates (MATS-1) recidivism estimates based on age and actuarial scores (L = low, M = medium, H = high) are clearly more accurate than estimates based only on scores

It is clear from Figure 1 that the age invariance effect is a highly reliable phenomenon. It is also obviously the case that our age-stratified actuarial estimates recidivism more accurately than an age-restricted altemative, and that this effect is most evident for offenders in the high risk group.

Discussion

The foregoing research contributes in a number of ways to sex offender risk assessment and management. Consistent with the findings of Waggoner and her colleagues (Waggoner eta!., 2008), the results presented in Tables I and 2 emphasize the importance of eliminating the age item when age-stratified actuarial tables are compiled. Tables 3, 5, and 6 reconfirm the age invariance theory and suggest, consistent with Wollert's (2006) recommendations, that treatment and supervision resources should be concentrated on the youngest offender groups. Figure 1 shows that age-stratified actuarials such as the MATS-1 provide more accurate estimates of recidivism risk than age-restricted instruments, which overestimate the risk of recidivism for older offenders because they ignore the impact of desistance processes that occur throughout the life span (Lussier, Tzoumakis, Cale, & Amirault, 2010; Sampson & Laub, 2003, 2005) on criminal activity. Other advantages of the MATS-1 are that it covers an 8-year risk

period rather than a 5-year period and was derived from one data set for a convenience sample that includes cohorts from many different countries (the RS-99) and a second data set for a true exhaustive sample (the ASRS). The averaged 10-year sexual recidivism rate for the latter sample was 9%, which is consistent with the 5-year recidivism rate of7% that Wollert and Waggoner (2009) reported for a representative sample of 17,697 U.S. sex offenders who were released from incarceration.

Our analytical methodology also provides forensic experts with an algorithm for making a quantitative evaluation of the precise extent to which "a factor external to an evaluation scheme contributes information to risk assessment" (Hanson, 2006, p. 353). If the algorithm shows the likelihood ratio for a factor, "conditioned on all other known facts with regard to recidivism over some defined time interval" (Vrieze & Grove, 2010, p. 388), differs from 1.0, an evaluator may justifiably generate a recidivism estimate by combining the likelihood ratio with whatever base recidivism rate is most appropriate. She may also testify in court that it aids in the identification of sexual recidivists because it satisfies the "principle of all relevant evidence," which is fundamental to the use of inductive logic for reaching recidivism decisions.[5]

Helmus, Thornton, and Hanson (2009, October) have suggested that one may include age in logistic regression equations as an alternative to age-stratified tables for predicting the probability of recidivism. This would be an excellent solution if there were good reason to believe that the data followed a logistic curve which ranges from a probability of 0 to a probability of 1 and is symmetric about a probability of .5 (Pampel, 2000).

It is unjustified, however, to use the logistic curve or any other smooth function to predict the probability of recidivism unless the values that are used to do so reasonably correspond with the definition of a scale. Whether one refers to them as "scale values," "total points," or "scores," the Static-99 "risk categories" do not meet this criterion. Younger offenders, for example, are likely to be assigned a certain score based on items that reflect antisocial behavior whereas older offenders may get the same score because of items that reflect sexually deviant behavior (Barbaree et al., 2009). In addition, it is unreasonable to assume that the increase in risk that accompanies a one point increase for the large number of offenders with low scores (see Table 1) is the same for the small number of offenders with high scores.

Fitting a single logistic curve for different age groups is therefore inappropriate because the interaction between age, item content, and Static scores found by Barbaree and his colleagues suggests that substantially different curves need to be fit to different age groups. Furthermore, since most offenders have low scores, a logistic curve is likely to fit well at the low end of Static-99 but not at the high end that is typically more relevant for making decisions about release to parole or civil commitment.

In light of these and other limitations, a simpler and more accurate estimation method is to use the observed proportion of recidivists as estimates of the probability of recidivism. These are unbiased estimates of probabilities in a hypothetical underlying population and do not require investigators to adopt unjustified assumptions about some functional relationship with age. One can instead stratify Static-99 and ASRS

scores by age, compiling recidivism data in actuarial tables that report the percentage of released sex offenders who sexually recidivate for each age group. This method is easy for evaluators to understand, use, and explain to the court. Hanson and the mem bers of our research team have previously estimated the probability of recidivism by determining the observed proportion of recidivists in each cell of experience tables reported in several articles (Hanson, 2006; Hanson & Thornton, 2000; Skelton & Vess, 2008; Waggoner et al., 2008), and we recommend that this method be used today as well.

Our results might be questioned because of misconceptions about Bayes's Theorem. To estimate the conditional probabilities in our base-rate adjusted table we used equa tion (3), which is an explicit formulation of Mossman's (2006) suggestions for this type of analysis. Our fourth footnote sets forth a proof that equation (3) is a mathemati cal identity that follows directly from the definition of conditional probability. Nonetheless, a few sexual recidivism researchers have argued that "Mossman's (2006) corrections for variations in base rate are actually valid only when factors influencing the base rate are not associated with the actuarial items-an unlikely event" (Harris & Rice, 2007, p. 1648; also see Doren, 2006). These critics have yet to provide any math ematical justification for their position; and the fact that validity is a relative construct makes it meaningless without a very careful explication. Furthermore, many applica tions of Bayes's Theorem do not need to satisfy any of the assumptions that are typi cally discussed in relation to significance testing. In the case of our research, for example, it was possible to implement Mossman's procedures per equation (3) with minimal assumptions, because Hanson's 2006 research provided a complete set of data on base rates while Skelton and Vess' 2008 research provided a complete set of data on likelihood ratios. This and other advantages (Wollert, 2007) make Bayes's Theorem a simple and powerful method of analysis that can be very useful to clini cians and the courts for interpreting the meaning of actuarial data and for evaluating the adequacy of the procedures used to conduct sex offender risk assessments.

Overall, our research on one cohort of 3,425 sex offenders scored on RS-99 and another cohort of 5,880 sex offenders scored on the ASRS illustrates the stability of age-stratified actuarial tables for assessing sex offender recidivism risk and leads to the conclusion that age-restricted tables do not match the accuracy of age-stratified tables for predicting recidivism. Although further research will be necessary to isolate and verify which factors are the most efficient predictors of recidivism for different age groups, evaluators should report recidivism estimates from age-stratified or equivalent tables when they are assessing sexual recidivism risk, particularly when evaluating the aging sex offender (Barbaree, March 2010).

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Notes

1. Lussier and Healey's article was published in 2010. The correct current citation is included among our references.
2. The Static-99 includes items that take into account an offender's prior sex offenses and his sentencing history, violent nonsexual convictions, noncontact sex offense convictions, rela tionship to his victims, sex of his victims, marital status, and age.
3. We used the following formula described by Simel, Samsa, and Matchar (1991) and later used by Mossman (2006) to determine whether any pair of Static-99 and Automated Sexual Recidivism Scale (ASRS) discrimination or "likelihood ratios" differed from one another at the 95% confidence level:

$$LR_{L,U} = \mathrm{Exp}\left\{\mathrm{Ln}\ LR_i^+ \pm 1.96\sqrt{\left[\frac{1}{R_i^+} - \frac{1}{NR^+} + \frac{1}{R_i^-} - \frac{1}{NR^-}\right]}\right\} \quad (1)$$

   where *LRL.u* represents the upper and lower limits of the confidence interval for the ASRS ratio; Exp is a power of *e,* the base of the natural logarithm; Ln is the natural (Naperian) logarithm; R_i^+ is the number of recidivists in a cell defined by a particular age group and test score; R_i^- is the number of nonrecidivists in the cell of interest; *NR*+ is the total number of recidivists in the age group that includes the cell; and *NR*- is the total number of nonrecidivists in the age group that includes the cell. An example would best explain how equa tion (1) was applied to one of the tests we conducted in evaluating the likelihood ratios in Table 4. A total of 967 offenders from the ASRS database had medium scores and were 18 to 30 years of age at the time of their release. R_{-i}^+ was 144 because 144 offenders in this cell recidivated, and R_i^- was 823 because 823 did not. *NR*+ was 209 because 209 of all the offenders in the 18 to 30 group recidivated and *NR*- was 1,504 because 1,504 did not. The likelihood of recidivism for the cell of interest was therefore 144/209 = 0.689 and the likelihood ofnonrecidivism was 823/1,504 = 0.547. The age-wise likelihood ratio for this ASRS cell was therefore .689/.547 = 1.26. The likelihood ratio for the comparable cell in respecified Static-99 (RS-99) was 1.12. Applying formula (1}, the upper limit of the 95% confidence interval for the ASRS ratio was determined to be 1.584 and the lower limit was 1.002. The RS-99 ratio therefore did not differ from the ASRS ratio.
4. Two steps are involved in making this type of computation (Waggoner et al., 2008; Wollert, 2006; Wollert & Waggoner, 2009). The first is to calculate the "discrimination" or "likeli hood ratio" for each of the particular risk categories (e.g., L, M, and H in the bottom panel of Table 2) under each particular age group in one actuarial table by using the following equation:

$$LR^{-} = \frac{P(S|R-)}{P(S|R+)}, \qquad (2)$$

where *LR+* equals the accuracy, or "positive likelihood ratio," with which a particular risk category differentiates recidivists from nonrecidivists among all offenders who fall in a particular age group; *P(S | R+)* equals the percentage of all recidivists in the distribution of recidivists for a particular age group who are assigned to a particular risk category; and *P(S | R-)* equals the percentage of all nonrecidivists in the distribution of nonrecidivists for a particular age group who are assigned to a particular risk category. The second step consists of using an "odds ratio" version of the formula for the calculation of conditional probabilities, also known as Bayes's Theorem (Bayes, 1764), that combines the age-wise base rates from another actuarial table with the likelihood ratios from the first table. This formula is written as,

$$P\left(R^{+}|S\right) = \frac{\dfrac{P\left(R^{+}\right)}{1-P\left(R^{+}\right)} \times LR^{+}}{1+\left(\dfrac{P\left(R^{+}\right)}{1-P\left(R^{+}\right)} \times LR^{+}\right)}, \qquad (3)$$

where, per the last sentence of the second paragraph, *P(R+)* stands for the recidivism rate for a particular age group in the top panel of Table 3; and *P(R+ | S)* stands for the expected rate of recidivism on the condition that offenders of a particular age have been assigned to a particular risk category.

The following train of logic provides a mathematical justification for Equation (2):

If *O(R+)* stand for the odds of recidivism, then

$$O(R+) = \frac{P(R+)}{1-P(R+)} \qquad (a)$$

$$O(R+|S) = \frac{P(R+|S)}{1-P(R+|S)} \qquad (b)$$

Solving (a) and (b) for *P(R+)* and *P(R+ | S)* and simplifying gives

$$P\left(R^{+}|S\right) = \frac{O\left(R^{+}|S\right)}{1+O\left(R^{+}|S\right)} \qquad (c)$$

$$P\left(R^{+}\right)=\frac{O\left(R^{+}\right)}{1+O\left(R^{+}\right)} \quad \text{and}$$

A form of Bayes's Theorem, frequently used in medical applications, (see, for example, Mossman, 2006, p. 49) is written in terms of odds as,

$$O(R^+ \mid S) = O(R^+) \times LR^+ \qquad \text{(d)}$$

$$= \frac{P\left(R^+\right)}{1 - P\left(R^+\right)} \times LR^+ \text{ using (a).}$$

$$P(R+ \mid S) = \frac{O((+ \mid S)}{1+0\ R+\ S} \text{ from (c).}$$

$$\frac{\frac{P(R+)}{1-P(R+)} \times LR+}{1 + \left(\frac{P(R+)}{1-P\ R+}\right) \times LR+} \text{, using (d).}$$

As an example of applying equation (3) in the study at hand, suppose that a total of 77 offenders from the ASRS database recidivated who were 41 to 50 years old at the time of their release and 20 offenders in this recidivistic cohort had high actuarial scores. Also, further suppose that a total of 1,132 offenders from the ASRS database who were 41 to 50 years old did not recidivate and that 60 offenders in this nonrecidivistic cohort had high scores. If *R+* for this age group was reported to be 8.8% per the RS-99 (see the intersection of the fifth row and the fourth column in the top panel of Table 1), *P(R+* | S) for this cell in the new table would be 32% because

P(S | *R+)* = 20/77 = 0.260,
P(S | *R-)* = 60/1'132 = 0.053,
LR+ = .260/.053 = 4.91,
R+ll-R+ = 0.088/.912 = 0.096,
Numerator of equation (3) = 0.096 x 4.91 = 0.471,
Denominator of equation (3) = 1 + .471 = 1.471, and
P(R+ IS)= 0.471/1.471 = 0.320.

5. Vrieze and Grove (2010), who refer to this principle as "the total relevant evidence requirement," state that it is

> Generally formulated as follows: In drawing conclusions about a matter of fact, one is required to base conclusions on all evidence that is probabilistically relevant to the

> conclusion ...Relevant means here that the likelihood ratio ..., conditioned on all other known facts with regard to recidivism over some defined time interval, does not equal 1.0.
>
> Total means that all facts for which the conditional likelihood ratio is other than 1.0 must be considered . . . In practice, one confines attention to facts for which one knows the conditional likelihood ratio to be materially different from 1.0 (p. 388).

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Exhibit F

Richard Wollert, Ph.D.
Licensed Clinical Psychologist
P.O. Box 61849
Vancouver, WA 98663
360.737.7712

February 27, 2012

Mr. James Neff
Editor, Investigations Department
The Seattle Times
P.O. Box 70
Seattle, WA 98111

Dear Mr. Neff:

As you know, my wife Michele contacted the Seattle Times in late January expressing her concerns after she read the Times' series entitled "The Price of Protection." This project, the product of Times reporter Ms. Christine Willmsen and 14 others, included the following major components: (1) a one-minute multimedia videotape titled "Trailer: Price of Protection" that was distributed prior to other articles and videos; (2) a January 21,2012 feature-length article titled "State Wastes Millions Helping Sex Predators Avoid Lock-Up;" (3) a six-minute video titled "Price of Protection: Unchecked Costs of Locking Away Sex Predators;" (4) a January 22,2012 feature-length article titled "Waiting on Predator Island: Chronic Delays Drive Up Costs;" (5) a five-minute video titled "Price of Protection: Inside the Special Commitment Center;" (6) a January 23, 2012 feature-length article titled "Swayed by Psychologist, Jury Frees 'Monster' Who Attacks Again;" (7) a seven-minute video titled "Price of Protection: A Victim Speaks Out;" and (8) a January 24, 2012 feature-length article titled "Small Office Says It Can Save State Money on Sex-Offender Defense." It also included links to graphics, source documents, chat links, and a brief article dated January 21, 2012 titled "About the Price of Protection Project," which stated that "the Times focused its reporting primarily on defense costs." "Cost" was aptly used in this context to refer to the project's purpose because it was reflected in all but one of the titles of the major components of the project. It was also appropriate because the project's culminating article was about a cost-saving legislative proposal.

Although I am not a budget analyst or accountant, I was prominently featured in a number of components of the Price of Protection series. After Michele contacted the Times you contacted her. I then got in touch with you. At the outset of our first telephone conversation you told me that the Times was committed to correcting errors in its stories and you encouraged me to share any disagreements I had with what the series reported about me with you. We had the opportunity to talk with one another on two separate occasions by telephone for about two hours in early February. I also faxed ore-mailed you a number of documents, including a current copy of my curriculum vita, some Findings of Fact and a decision by a Washington Appellate Court, a copy of a 2008 declaration by University of North Carolina Professor Emeritus Elliot Cramer, Ph.D., a copy of a 2002 Mutual Settlement and Release Agreement between myself and the Multnomah County Department of Community Justice, a recent *Psychology Today* blog by DSM-IV-TR task force chair Dr. Allen Frances, M.D., and the agenda for an upcoming public

hearing on child pornography offenders to be held by the United States Sentencing Commission at which I was scheduled to testify at the Commission's request. You acknowledged receipt of these materials by e-mail and thanked me for sending them.

We reviewed some of my objections to the content of the January 21, 2012 article during our two telephone conversations, but not all of them. Although you suggested by e-mail that we talk further on February 13th I was unable to do so because I was scheduled to testify at a federal trial in North Carolina on the 14th and in front of the Sentencing Commission in Washington D.C. on the 15th. I let you know about these obligations in an e-mail I sent on the 11th that also discussed some passages from the first video that I found objectionable and my reasons for feeling this way. Unlike our earlier exchanges, you did not send me a follow-up to my e-mail.

On the 15th I sent you a second e-mail. In this e-mail I indicated that the prosecutor in the federal trial had introduced the Times article from January 21st into evidence at the North Carolina trial during cross-examination. I also shared my concerns with you that the interpersonal dynamics associated with the Price of Protection series were complex and that I feared they might have a chilling effect on academic freedom and the exercise of free speech. Again, you did not get back tome.

Since returning from my trip I have spent a week reviewing and analyzing the various components of Ms. Willmsen's project. On the basis of this thorough review and analysis I believe the following assertions about the various components of the Price of Protection series as they relate to me are reasonable and well-founded:

1. Ms. Willmsen erroneously alleged or insinuated that I lacked credibility as a testifying expert on the basis of measures that are invalid for this purpose. Such measures include, but are not limited to, Superior Court findings.

2. Ms. Willmsen erroneously alleged or insinuated that I was less credible as a testifying expert than other experts but did not present valid comparative data in support of this claim.

3. Ms. Willmsen erroneously alleged or insinuated that I was less credible as a testifying expert than other experts but did not adequately consider my training, experience, or accomplishments when she did so.

4. Ms. Willmsen reported misleading or false allegations that Assistant Attorney General Brooke Burbank and psychologist Dr. Amy Phenix made about me without adequately questioning the accuracy of their allegations.

5. Ms. Willmsen reported misleading or false allegations that Ms. Burbank and Dr. Phenix made about me without adequately considering the possibility that one or both of these sources might have had conflicted or malicious motives for doing so.

6. Ms. Willmsen erroneously insinuated that I am generally treated as a pariah and renegade by the professional community when she claimed that "Wollert often finds

himself under attack for his changing theories about recidivism and his self-made assessment tools."

7. Ms. Willmsen erroneously insinuated that I consistently let case-specific or situation• specific considerations dictate the content of my theories of recidivism when she claimed that "Wollert often finds himself under attack for his changing theories about recidivism."

8. Ms. Willmsen erroneously alleged that I do not consult or collaborate with other risk assessment researchers when she claimed that "Wollert often finds himself under attack for ... his self-made assessment tools."

9. Ms. Willmsen erroneously insinuated that I use unprofessional, idiosyncratic, and invasive methods of disseminating my research when she stated that "the Vancouver, Wash., psychologist has earned $1.2 million over two years as a defense expert in civil• commitment cases across the country, **pushing** his own science and theories" (emphasis and underlining added for the sake of clarity).

10. Ms. Willmsen erroneously insinuated that I do not draw on past research or the corpus of existing science when she stated that "the Vancouver, Wash., psychologist has earned $1.2 million over two years as a defense expert in civil-commitment cases across the country, pushing his own science and theories" (underlining added for the sake of clarity).

11. Ms. Willmsen erroneously alleged that I "removed key questions" from a risk instrument she referred to as "Static-99."

12. Ms. Willmsen erroneously alleged that I corrupted the operating characteristics of Static-99 in developing the MATS-1when she stated that "for example, he removed the question asking if the victim was a stranger. With the Static-99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend."

13. Ms. Willmsen erroneously insinuated that a 2008 affidavit by Dr. R. Karl Hanson is currently valid.

14. Ms. Willmsen erroneously alleged or insinuated that I had a contract with Multnomah County that was unilaterally cancelled by the County.

15. Ms. Willmsen erroneously alleged or insinuated that I had a contract with Multnomah County that the County cancelled for nonperformance of services.

16. Ms. Willmsen did not report information she had from an interviewee that contradicted a false statement by Ms. Burbank that "his opinion is ... that these individuals just simply don't or can't meet criteria."

17. Ms. Willmsen inappropriately edited the placement of my refusal to comment on her

story in such a way as to erroneously insinuate interactions between us that did not occur.

18. Ms. Willmsen and/or one or more of her assistants inappropriately edited the one-minute "trailer" about the Price of Protection series in such a way that it vilified me, and erroneously insinuated that (a) my judgment is tainted by personal bias; (b) I make a living by offering only one opinion; and (c) I have taken unfair advantage of the system that reimburses experts who work on SVP cases.

19. Ms. Willmsen and/or one or more of her assistants inappropriately edited the five• minute multimedia video associated with her first article in such a way that it erroneously insinuated that I am corrupt.

Overall, the description and titles of the various components of the Price of Protection Project show its explicit purpose was to achieve a better understanding of the costs of implementing Washington's SVP statutes. Ms. Willmsen lost sight of this purpose when she added irrelevant material that detracted from the project's quality. Many affidavits Ms. Willmsen called "source documents," for example, are regularly introduced by Assistant Attorneys General when I testify. In that setting they are refuted by the defense. In Ms. Willmsen's project, where there is no adequate system of rebuttal, it looks like the only reason for including these materials is to discredit me. This is unfair and biased, and far beyond the explicit purpose of the project.

Regardless of their cause, Ms. Willmsen's many errors have already had serious impacts. At a personal level, Ms. Willmsen's baseless allegations have been a source of great distress to my wife Michele, who has been with me for almost 40 years. I'm sure I don't need to tell you this, but when our loved ones are hurt we try to find something we can do to make it easier for them. That's why I've recently set everything else aside to complete my review. I have also encountered a number of difficulties in my practice that I hope will be short-lived.

Beyond these impacts the Price of Protection Project may wind up causing real civil liberty damage. The reason I say this is that I am one of the most prolific researchers on the limits of the SVP statutes. Seeing the Seattle Times' vicious and unjustified attack on me may lead colleagues who share similar interests to interrupt their own promising lines of research and analysis out of a fear they, too, will be subject to such attacks. The net effect will be to chill free speech, academic freedom, and the expansion of science in this important area.

I am therefore requesting that the Seattle Times disseminate a full and frank retraction of those portions of the Price of Protection Project that portray me inaccurately. I hope it will do so before the damage caused by the project is further compounded.

Thank you for your attention to this issue.

Sincerely,

Richard Wollert, Ph.D.

Richard Wollert, Ph.D.
Licensed Clinical Psychologist
P.O. Box 61849
Vancouver, WA 98663
360.737.7712

April2, 2012

Mr. James Neff
Editor, Investigations Department
The Seattle Times
P.O. Box 70
Seattle, WA 98111

Dear Mr. Neff:

Thank you for continuing to talk with me about corrections the Seattle Times might make regarding its references to me in its series titled "The Price of Protection." This project, the product of Times reporter Ms. Christine Willmsen and 14 others, included the following items: (A) a one-minute multimedia videotape titled "Trailer: Price of Protection" that was distributed before the rest ofthe series; (B) a January 21, 2012 feature-length article titled "State Wastes Millions Helping Sex Predators Avoid Lock-Up;" (C) a six-minute video titled "Price of Protection: Unchecked Costs ofLocking Away Sex Predators;" (D) a January 22, 2012 feature• length article titled "Waiting on Predator Island: Chronic Delays Drive Up Costs;" (E) a five• minute video titled "Price of Protection: Inside the Special Conunitment Center;" (F) a January 23, 2012 feature-length article titled "Swayed by Psychologist, Jury Frees 'Monster' Who Attacks Again;" (G) a seven-minute video titled "Price of Protection: A Victim Speaks Out;" (H) a January 24, 2012 feature-length article titled "Small Office Says It Can Save State Money on Sex-Offender Defense;" (I) graphics; (J) chat links; and source documents that included (K) Court Motions and Findings; (L) a Declaration by Dr. R. Karl Hanson, (M) a complete evaluation of Respondent Burt Daniels by Dr. Theodore Donaldson that was compiled under the guidelines of section 71.09 ofthe Revised Code of Washington, and (N) a brief article dated January 21, 2012 titled" About the Price ofProtection Project." The following is an inventory of documents that are most pertinent to the negotiations between you and I.

Item	Item Location
A.	http:l/video.seattletimes.com/1400695248001
B.	http://www.seattletimes.nwsource.com/html/localnews/2017301107_civilcomm22.html
C.	http://video. seattlethnes. com/_140083 577900_1/price-of-protection-unchecked-costs-of• locking-away-sex-predators/

K. http://www.documentcloud.org/documents/283800-judges-problem-w-wollert.html

L. http://www.docunlentcloud.org/documents/283864-hanson-declaration-against• wollert.htrnl

M. http://www.docmnentcloud.org/documents/284429-burtdaniels.httnl

N. http://seattletimes.nwsource.con1fhtml/localnews/2017301128 civilcommhow22.html

According to item N, "the Times focused its reporting primarily on defense costs." "Cost" was aptly used in this context to refer to the project's purpose because it was reflected in all but one of the titles of the major components of the project. It was also appropriate because the project's culminating article was about a cost-saving legislative proposal.

Although I am not a budget analyst or accountant, I was prominently featured in a number of components of the Price of Protection series. After my wife Michele contacted the Times to express her dismay over the series you contacted her. I then got in touch with you. At the outset of our first telephone conversation you told me that the Times was committed to correcting errors in its stories and you encouraged me to share any disagreements I had with what the series reported about me with you. We had the opportunity to talk with one another on two separate occasions by telephone for about two hours in early February. I also faxed ore-mailed you a number of documents, including a current copy of my curriculum vita, some Findings of Fact and a decision by a Washington Appellate Court, a copy of a 2008 declaration by University of North Carolina Professor Emeritus Elliot Cramer, Ph.D., a copy of a 2002 Mutual Settlement and Release Agreement between myself and the Multnomah County Department of Community Justice, a recent *Psychology Today* blog by DSM-IV-TR task force chair Dr. Allen Frances, M.D., and the agenda for an upcoming public hearing on child pornography offenders to be held by the United States Sentencing Commission at which I was scheduled to testify at the Commission's request. You acknowledged receipt of these materials by e-mail and thanked me for sending them.

You and I reviewed so1ne of my objections to the content ofthe January 21, 2012 article (item B) during our two telephone conversations, but not all of them. Although you suggested by e-mail that we talk further on February 13th I was unable to do so because I was scheduled to testify at a federal trial in North Carolina on the 14th and in front of the Sentencing Commission in Washington D.C. on the 15th. I let you know about these obligations in an e-mail I sent on the 11th that also discussed some passages from the first video that I found objectionable and my reasons for feeling this way.

On the 15th I sent you a second e-mail. In this e-mail I indicated that the prosecutor in the federal trial had introduced the Times article from January 21st (item B) into evidence at the North Carolina trial during cross-examination. I also shared my concerns with you that the interpersonal dynamics associated with the Price of Protection series were complex and that I feared they might have a chilling effect on academic freedom and the exercise of free speech.

After I returned from my trip in late February I sent you, Ms. Willmsen, and Executive Editor David Boardman a list of 19 erroneous allegations or insinuations about me that were contained in the trailer (item A), the first article (item B), and the first video of the Times' series (item C). I also discussed shortcomings in Ms. Willmsen's methods of investigation and reporting that were associated with these errors. I was particularly critical that Ms. Willmsen was over-reliant on prosecution resources such as Assistant King County Prosecutor David Hackett, Sexually Violent Predator Prosecution Unit Director and Assistant Attorney General Brooke Burbank, and psychologist Amy Phenix, Ph.D.

We talked on a couple of occasions after I returned from my trip in late February. In particular we discussed my concerns about the nonverbal messages in item A, editorial changes that were made to item C without further announcement, false allegations that were made about my research in item B, and the circumstances preceding and eventuating in the Mutual Settlement Agreement that I reached with Multnomah County in 2002. I also gave you 6 witnesses who would verify the details of these events as I reported them to you. One of these was Patrick Henry, who was the only representative of Multnomah County to sign our agreement and who still works for the County. Although you indicated that did not think you would be contacting any of these sources, I encouraged you to do so. I indicated that I would again review item C. You sent me an e-mail the first part of the week ofMarch 26thasking ifwe could set up an appointment for further discussion. I answered that I needed to be out of town, but that I would available on Monday the 2nd of April, and we agreed to contact one another by phone at 3 P.M.

As you know, I am certain that Ms. Willmsen and the Times staff have either intentionally or recklessly misrepresented me at many points in the Price of Protection series as an unscrupulous or incompetent sex offender evaluator or treatment provider and as an unscrupulous or incompetent expert SVP witness. I am also certain that Ms. Willmsen and the Times staff have either intentionally or recklessly misrepresented me at many points as an unscrupulous or incompetent researcher and practitioner of science. As my discussions with you have progressed I have increasingly come to believe that it might be helpful if I were to sharpen my focus on some of the specific errors that were made regarding each type of misrepresentation and to contrast them with the truth. This is the primary purpose for writing you today.

I have also faxed you a copy of a letter today that the Sexually Violent Predator Unit of the Washington State Attorney General's (AG's) Office sent to the California Department of Mental Health Sent in early 2010 after I had signed a contract with the Department to provide risk assessment training to the State's panel ofSVP evaluators. The purpose ofthe AG's letter, motivated by the SVP Unit's stated fear that the Department's "endorsement will be used to harm the credibility of your own evaluators," was to "strongly urge" the Department "to reconsider your decision to employ Dr. Wollert to train on behalf of the State of California." In response to the AG's letter Seattle Attorney Timothy Ford filed a Tort Claim on my behalf with the Risk Management Division of the State of Washington. Among those named as "persons involved in or witness to this incident" were Dr. Phenix and Joshua Choate and Brooke Burbank of the AG's Office. As described by Attorney Ford,

> *The letter contained false, misleading, and defamatory statements that were injurious to Dr. Wollert in his business and profession, which itfalsely represented asfactual*

representations about unot the opinion of this office, but rather, and more importantly, that of his peers."

On or about February 11, 2010, the letter was forwarded to Dr. Amy Phenix, Ph.D., a competitor of Dr. Wollert's. Shortly thereafter, Mr. Choate and Assistant Attorney General Brooke Burbank authorized Dr. Phenix to transmit the letter to numerous professional psychologists around the country. See Exhibits 2 and 3. This greatly magnified the damage caused by the false and defamatory statements in the letter.

This letter was sent for the stated intent to interfere with Dr. Wollert's contractual relations and business expectations with the California Department of Mental Health. Mr. Choate and Ms. Burbank authorized the dissemination of the letter by Dr. Phenix with intent to damage Dr. Wollert's reputation, business, and business expectations in Washington, California, and other states.

I am sending you the Tort Claim with the SVP Unit's letter so that you can fully understand the malice with which the SVP Unit has harassed me in the past. Hopefully, you will be able to appreciate that the Unit's readiness to serve as a source of information for the Price of Protection series draws on this malice and extends it from the past to the present. I also hope that the information in the Tort Claim will help you to accurately appraise the lack of credibility and integrity that is inherent in such sources. Impeachment of an expert witness in the court room, of course, is legitimate and part of the give and take of the adversarial system. Unjustified harassment of a citizen and researcher in his private life by the State through extrajudicial means, in contrast, interferes with freedom of speech, happiness, and the publication of good science.

With this in mind, please continue to evaluate the Times' stance with respect to how it has represented my professional status. I am virtually certain that Attorney General McKenna did not authorize the letter from the SVP Prosecution Unit to the California Department of Mental Health. It is also very likely that my Tort Claim was never brought to his attention. If it would be helpful feel free to ask Attorney General McKenna about both of these scenarios.

The following points list specific instances where the Times misrepresented me as an unscrupulous or incompetent sex offender evaluator or treatment provider and as an unscrupulous or incompetent expert SVP witness. The true state of affairs is described after each error.

1. The "trailer" tape for the series (item A) shows King County Assistant Prosecutor David Hackett speaking at this desk. After he states that "You look at the personal biases of an individual" the video portion of the tape shows me on the stand while the audio portion completes Mr. Hackett's sentence with the passage "who makes his living offering one opinion ... you know, essentially a symphony with one note."

   This portrayal of me as an expert who offers only one opinion is untrue. The truth is that I have offered many different opinions in SVP cases. Ms. Willmsen knows this as Mr. Mike Adatns from the Iowa State Public Defenders Office told her I had found one of his clients to meet the SVP criteria just one week before she interviewed him. I have also

obtained a copy of an e-mail from Jennifer Nelson-Ritchie of the King County Prosecutor's Office to Ms. Willmsen from February 25,2011 stating that "Wollert found that Steven Spellman met criteria." In another e-mail dated April!, 2011 Ms. Nelson-Ritchie apparently sent Mr. Willmsen "a New (to you) Wollert evaluation" from "the ... Franklin file" in which "Wollert indicates that Franklin MEETS criteria (emphasis in the original). I do not know what authority Ms. Nelson-Ritchie has to release portions of the file for a patient covered by Washington's mental health disclosure laws (RCW 70.02). The authority for requesting, accepting, and publishing such materials, as was the case for item M, is also unclear to me. Regardless, it is evident that Ms. Willmsen knew that I have found a number of SVP respondents to meet criteria yet falsely portrayed me as "making my living offering one opinion." Furthermore, regarding Mr. Hackett's insinuation that I am only interested in "making a living," I think it puts things in a more balanced light to point out that I met with my state representative Jim Moeller about five months ago for the sole purpose of discussing measures for controlling the costs of the civil cormnitment law. My suggestions ran counter to my financial interests, but I thought it was the right thing to do.

2. On item C Ms. Burbank states "Discussing Dr. Wollert and his methodology is a little bit more complicated. He simultaneously with doing sex offender evaluations ...*(a)* he is trying to develop tools and research projects that will support what his opinion is and his opinion is similar to Dr. Donaldson that these *(b)* individuals just simply don't or can't meet criteria."

   Both assertions *a* and *h* are false. Ms. Burbank has never ta1ked with me about what motivates me to conduct research. My career behavior, however, shows that I have had a habit of scholarship since the late 1970s. I carry out research because I want to learn new things, not because I want to support an opinion. My opinions come from my research, not vice versa. The information under item 1 is conclusive evidence that I do not believe that "these individuals just simply don't or can't meet criteria." The fact that Ms. Willmsen and her colleagues failed to take this evidence into account on two separate occasions indicates that this was by design rather than accident.

3. Paragraph 39 of item Breads as follows:

   > "Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders on probation and parole. In 2001, the county criticized Wollert for incomplete assessments, inadequate treatment guidelines and poor record-keeping, and later canceled his contract."

   Both of these allegations are false. Regarding the first allegation, my clinic was approved by the Oregon Division of Mental Health Services as a state-authorized mental health clinic. No individual or group of individuals employed by Multnomah County ever complained to the Division of Mental Health about the quality of the services offered through my clinic. Furthermore, no spokesman for the County ever sent me a formal complaint about the quality of the services that were offered through my clinic. Regarding the second allegation, the County did not ever cancel any contract that I held with the County. We reached a Mutual Settlement Agreement stating that "the parties ... agree that any court seeking to interpret this agreement shall construe it as a product of mutual negotiations and

preparation." I have also provided the Times with the names of six sources who will testify that my assertions regarding this item are true.

3. Paragraphs 58 and 59 of item Bread as follows:

> "Amy Phenix, a forensic psychologist in Pullman who over the years worked for both the state and defense attorneys, said Wollert almost always finds a reason why an offender doesn't meet criteria for commitment."
>
> " 'His reports are a gross misrepresentation of risk- it's mumbo jumbo,' she said."

Dr. Phenix's assertions are false. Dr. Phenix is unqualified to speak to this issue because she has no knowledge of the many cases where I have found respondents to be SVPs but have not been called upon to express this opinion. The information under item 1 also contradicts her assertion. Finally, Dr. Phenix and I have agreed a number of times on the risk level of the same respondents. It is illogical, given this fact, for her to contend that my reports are a gross misrepresentation of risk unless she believes the same thing about her own reports. I would be willing to provide the names of attorneys who would attest to the fact that Dr. Phenix and I have reached the same risk estimates in a number of cases.

At other points the Times' Price of Protection series portrayed me as an unscrupulous or incompetent researcher. These points are enumerated below.

1. Paragraph 38 of item Breads as follows:

> "Leek hired Wollert on the taxpayers' dime. The Vancouver, Wash., psychologist has earned $1.2 million over two years as a defense expert in civil commitment cases across the country, pushing his own science and theories. About half of his business comes from Washington."

It is false to say that I push my own science. I am typically invited to give my opinions at trial or provide workshops at professional conferences. I have never given a nonconference "training workshop" under contract with a for-profit continuing education business. My science is also not just my own in that, as my vita shows, I have written scientific and theoretical articles with many co-authors.

2. Paragraphs 56 and 57 of item B reads as follows:

> "Wollert often fmds himself under attack for his changing theories of recidivism and his self-made assessment tools."
>
> "For example, in 2005 he testified that, according to his research, sex offenders older than 25 fit in a group that had less than a 50 percent chance of committing a new violent sex crime."

It is false to assert that I find myself under attack, that my theories of recidivism are

unstable, that my assessment tools are self-made, or that I was unique in reporting that sex offenders who are over 25 have less than a 50 percent chance of committing a new violent sex crime. The truth is that I am held in high regard by my colleagues and consistently enjoy very cordial interactions with both defense and prosecution experts alike. Any reasonable person who reads the peer-reviewed articles in my vita on sexual recidivism (Wollert, 2006; Donaldson & Wollert, 2008; Waggoner, Wollert, & Cramer, 2008; Wollert, Cramer, Waggoner, Skelton, & Vess, 2010) would also have to conclude that I have pursued a stable set of recidivism theories. It would be wrong to conclude that my assessment tools are self-made in that my peer-reviewed articles show that these tools are a product of collaborative effort. I was not unique in reporting that sex offenders who are over 25 have less than a 50 percent chance of committing a new violent sex crime: I was just the first to do so. Helmus, Thornton, Hanson, and Babchishin reported the same thing in the Appendix to their 2010 paper.

3. Paragraphs 48, 49, and 52 of item Bread as follows:

> "A skeptic of the Static-99, he modified it, removed key questions and called his new tool the MATS-1.
>
> "For example, he removed the question asking if the victim was a stranger. With the Static-99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend."

It is false to say that I removed any questions from Static-99 or that an offender scored on the MATS-1 would be pushed into a lower risk group than would be the case if he were scored on Static-99. The truth is that I did not remove any questions from Static-99 in the two data sets that became the MATS-I. Dr. Alex Skelton ofthe New Zealand Department of Corrections was the only person who removed questions from Static-99 (Skelton & Vess, 2006; Skelton & Vess, 2008) when he created the Automated Sexual Recidivism Scale (ASRS). Regarding Static-99, Dr. Hanson (2006, p. 345) also "retained (subjects) for analysis if data were available concerning age at release, survival time to sexual recidivism, and <u>7 of the 10 Static-99 scores.</u>" Our research team showed, however, that Dr. Skelton's procedures for question reduction did not decrease test accuracy (see Table 4 ofWollert et al., 2010); the removed questions have thus never been of critical or "key" importance to Static-99. We also adjusted the "cutting scores" on the MATS-1 to comport with the Static-99 cutting scores. Those who obtained a score of"4+" onMATS-1, for example, fell in the "High Score" category while offenders had to get a score of 6+ on Static-99 to fall in this category. About the same percentage of offenders obtained High Scores on the MATS-1 and Static-99.

4. Paragraphs 50 and 51, referenced to a 2008 declaration by Dr. Karl Hanson (item L), read as follows:

> "R. Karl Hanson, the creator ofStatic-99, Ontario, has criticized Wollert' s methods, saying he misrepresents statistics and hasn't done the research to validate his own theories."

> " 'More troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree,' Hanson said in a 2008 affidavit in a Franklin County case."

It is false to say that I misrepresent statistics, that I haven't done the research to validate my own theories, or that Dr. Hanson is in strong disagreement with my analysis. I understand from e-mails with Dr. Hanson that Ms. Willmsen called him about his 2008 declaration, which was answered at the time by counter-declarations from myself and statistician Dr. Elliot Cramer from the University ofNorth Carolina. Ms. Willmsen did not balance her reporting by including either of these documents in her article, but it is a fact that Dr. Hanson subsequently ceased his criticisms of me and also of Bayesian analysis. In a 2009 article (p. 402) he acknowledged the value of Bayesian analysis by stating that "the estimated probability of the disorder being present is influenced by the base rate in the sample as well as by the discriminative capacity of the indicators (i.e., the Bayesian posterior probabilities; Akobeng, 2006)." It is also the case that my colleagues and I validated our theories in 2010 (Wollert et al.) by using the largest sample of sex offenders ever included in an actuarial study of age and recidivism (n=9,305). Regarding the level of disagreement between Dr. Hanson and myself, the recidivism rates in the MATS-I table from the Wollert et al. 2010 article comport with the rates in the Static-99R table of the very recent article by Hehnus, Thornton, Hanson, and Babchishin. The following passages from the Helmus article also indicate that Hanson refers to his new study as one that "extends" the research I began in 2006, agrees with my findings and risk assessment proposals, and now only disagrees with "specific proposals" that may be resolved through data analysis rather than rhetoric.

> *In the context of applied risk assessment, the current study extends previous research attempts to develop post-hoc age adjustments to actuarial scales (Barbaree et al, 2007, 2009; Wollert, 2006, Wollert et al, 2010). Although we agree with the previous researchers that age adds incrementally beyond certain static actuarial scales and should be incorporated into risk assessments, we disagree with their specific proposals.*

> *More recently, Woller! and colleagues (2010) proposed and estimated age-stratified actuarial tablesfor Static-99. Although age-stratified tables are a plausible solution in principle, their proposal is less efficient and precise than our revisions, with no promise of improved accuracy. Furthermore, their estimates require assumptions about the stability of likelihood ratios (assumptions that we do not share). Separating recidivism tables by age cohort also leads to small sample sizesfor offenders above 60, reducing the reliability of the estimates. We believe our revisions are superior because they were based on real data with complete information (i.e., no missing items), specified follow-up periods, and estimated recidivism ratesfor <u>each</u> score.*

5. On item C AAG Burbank states that "In order for an expert to testify or to hold an opinion

> and relay that opinion to the jury they have to follow certain guidelines. Dr. Wollert has been found not to do so and to be ... to be an outlier and come up with his own methodologies that are simply not sound science."
>
> This conjunctive statement is false in both its totality and its parts. I have never been sanctioned by any court or found by any court to have testified falsely. I have never been sanctioned, disciplined, or found to have violated the Ethical Principles and Code of Conduct for Psychologists or any other code of professional conduct. My vita shows I am not an outlier in that I have been a professor at four universities and authored articles and papers with a large number of co-authors. Other evidence that proves I am not an outlier is that 17 doctoral level colleagues provided declarations to this effect as attachments to my 2010 Tort Claim. The fact that I have published 31 articles in peer-refereed journals and have been awarded $562,000 in competitive research grants from sources such as the U.S. National Institute of Mental Health is conclusive evidence that my methodologies are based on sound science.

My wife and I sincerely believe that the Times meant well when it sought to examine the cost and accounting issues related to the implementation of Washington's SVP laws. As responsible citizens we simply do not understand how it became caught up in simultaneously launching a baseless *ad hominem* attack that had nothing to do with the stated purpose of the series. Whatever the cause, the Price of Protection series has gratuitously harmed us both fmancially and emotionally. Some substantial corrective effort needs to be made by the Times to address these issues. You and I have discussed what Ibelieve this effort would entail if undertaken in a ti.tnelyway.

We hope that it will be possible to amicably reach this objective.

Thanks again for your efforts towards this end.

Sincerely,

Richard Wollert, Ph.D.

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April 24, 2012

Mr. James Neff
Editor, Investigations Department
The Seattle Times
P.O. Box 70
Seattle, WA 98111

Dear Mr. Neff:

Since early February we have been discussing my concerns over statements about me that appeared in the Seattle Times' Price of Protection project that was authored by reporter Ms. Christine Willmsen and several other staff members. In the course of our discussions I have sent you a couple of letters that summarized my views. The first, dated February 27, 2012, provided a broad perspective. The second, dated April 2, 2012, focused on more specific issues. I have also sent you several documents in support of various assertions I shared with you. Finally, once at your request and once on my own initiative, I proposed alternative wordings for a correction that the paper might wish to publish.

In an e-mail to me dated Apri116, 2012, you reiterated what you told me in our first telephone conversation in February- that is, that "the Times is always interested in correcting any factual statements in its publications." Then you requested that

> *If there are specific factual errors in those public records that you believe were false, please state where in the articles the statements appear and provide us with sufficient corrective information, so that we can consider whether a correction is appropriate.*

I appreciate your invitation, not to say the significant amount of time you have already taken to talk with me about my concerns. In response to your latest request I have invested many hours drafting the attached document and reviewing it with counsel. It represents the point by point articulation you requested of the false statement of facts and defamatory impressions that are evident under a fair review of the Seattle Times' series. Beside each point I have summarized data that attest to the validity of my assertions. At several places I suggest how the paper's statements might be corrected.

I also appreciate the commitment the Seattle Times shares with other reputable news organizations to correcting the record in the case of errors. In my previous letters I believe I have made it clear that I am willing to resolve this matter on the basis of an adequate correction that is located in the section of the Times that is customarily reserved for this purpose. That this is my interest is reflected in the fact that I have not raised the issues of retraction or apology.

Overall, however, I do need to make a decision in the near future as to how I will proceed from here. The attachment shows that Ms. Willmsen transgressed the boundaries of fairness, due caution, and accuracy with respect to the statements she reported about my history as a treatment provider and my status as an expert and researcher. In light of her position with the Seattle Times I think it most appropriate for the paper to take the lead in correcting her errors.

Thank you for considering my request and the facts in my attachment.

Sincerely,

Richard Wollert

Cc: David Boardman, Executive Editor

Enclosures

Description of the Publication in Question

The "Price of Protection" projects included the following items: (A) a one-minute multimedia videotape titled "Trailer: Price of Protection" that was distributed before the rest of the series; (B) a January 21, 2012 feature-length article titled "State Wastes Millions Helping Sex Predators Avoid Lock-Up;" (C) a six-minute video titled "Price of Protection: Unchecked Costs of Locking Away Sex Predators;" (D) a January 22, 2012 feature-length article titled "Waiting on Predator Island: Chronic Delays Drive Up Costs;" (E) a five-minute video titled "Price of Protection: Inside the Special Commitment Center;" (F) a January 23, 2012 feature-length article titled "Swayed by Psychologist, Jury Frees 'Monster' Who Attacks Again;" (G) a seven-minute video titled "Price of Protection: A Victim Speaks Out;" (H) a January 24, 2012 feature-length article titled "Small Office Says It Can Save State Money on Sex-Offender Defense;" (I) graphics; (J) chat links; and source documents that included (K) Court Motions and Findings; (L) a Declaration by Dr. R. Karl Hanson, (M) a complete evaluation of Respondent Burt Daniels by Dr. Theodore Donaldson that was compiled under the guidelines of section 71.09 ofthe Revised Code of Washington, and (N) a brief article dated January 21,2012 titled "About the Price of Protection Project." The errors described in the table below may be found in the following items.

Item	Item Location
A.	http://video.seattletimes.com/140069524800_1
B.	http://www.seattletimes.nwsource.com/html/localnews/20_17301107_civilcomm22.html
C.	http:l/video.seattletimes.com/1400835779001/price-of-protection-unchecked-costs-of-locking-away-sex-predators/
K.	http://www.documentcloud.org/documents/283800-judges-problem-w-wollert.html
L.	http://www.documentcloud.org/documents/283864-hanson-declaration-against-wollert.html
M.	http://www.documentcloud.org/documents/284429-burtdaniels.html
N.	http://seattletimes.nwsource.com/html/localnews/20_17301128_civilcommhow22.html

The table below is a point by point articulation of the false statement of facts and defamatory impressions about Dr. Richard Wollert that are evident upon a fair review of the Seattle Times' Price of Protection series. Data are summarized beside errors that attest to their lack of validity. Key words and concepts have been highlighted with bold fonts. Suggestions are made at several places as to how these errors might be corrected.

Summary of Corrections

1. Dr. Wollert has, in fact, found a substantial percentage of respondents to SVP petitions to be SVPs.

2. Dr. Wollert has never disrespected the legal process.

3. Dr. Wollert is a respected and responsible scientist whose research has been published in well-known professional journals and is relied on by many professional colleagues.

4. Dr. Wollert has never been sanctioned by any court or found to have violated any ethics code.

5. No Multnomah County official who authorized Dr. Wollert to provide treatment services for the County has ever criticized Dr. Wollert. Multnomah County has also never canceled a contract held by Dr. Wollert.

I. Errors About Dr. Wollert's Integrity as an Expert Witness		
Location	Description of Errors	Evidence and Theories for the Commission of Error; Statement of Correction
ltemC (video)	Washington State Assistant Attorney General Brooke Burbank states "Discussing Dr. Wollert and his methodology is a little bit more complicated. He simultaneously with doing sex offender evaluations ... he is trying to develop tools and research projects that will support what his opinion is and his opinion is similar to Dr. Donaldson that these individuals just simply don't or can't meet criteria." Error. The content of this segment wrongly asserts that Dr. Wollert has not found any respondents to be SVPs.	An e-mail dated February 25, 2011 from Jennifer Nelson-Ritchie of the King County Prosecutor's Office to Christine Willmsen, Seattle Times reporter who was responsible for the project, stated that "Wollert found that Steven Spellman met criteria." (Attachment available) Another e-mail from Ms. Nelson-Ritchie to Ms. Willmsen, dated April!, 2011, indicated that Mr. Nelson-Ritchie was sending Ms. Willmsen "a New (to you) Wollert evaluation" from "the ... Franklin file" and stated that "Wollert indicates that Franklin MEETS criteria" (emphasis in the original; Attachment available). Before she became an Assistant Attorney General Ms. Burbank was employed by the King County Prosecutor's Office for many years and prosecuted SVP respondents. As a result of this experience she knew or should have known of the opinions that Dr. Wollert gave in both of the foregoing cases.
Item A (video)	The "trailer" tape shows King County Assistant Prosecutor David Hackett speaking at this desk. After he states that "You look at the personal biases of an individual" the video portion of the tape shows Dr. Wollert on the stand while the audio portion completes Mr. Hackett's sentence with the passage "who makes his living offering one opinion ... you know, essentially a	On February 23, 2011 Ms. Willmsen held a telephone interview with Mr. Michael Adams, Chief Public Defender for the Special Defense Unit of the Iowa State Public Defender's Office. She asked Mr. Adams if any experts retained by his office ever told attorneys there that their clients met the SVP criteria. She also asked if Dr. Wollert had ever offered such an opinion. Mr. Adams replied Dr. Wollert had done so "on numerous occasions, and in fact, had just done so the week prior." Mr. Adams documented his conversation with Ms. Willmsen immediately after its conclusion and further summarized its content in an e-mail to Dr. Wollert dated April19, 2012 (Attachment available).

	symphony with one note." Error: The content and context of this segment wrongly assert that Dr. Wollert has not found any respondents to be SVPs.	
ItemB 58-59	"Amy Phenix, a forensic psychologist in Pullman who over the years worked for both the state and defense attorneys, said Wollert almost always finds a reason why an offender doesn't meet criteria for commitment." Error: This quote greatly under-estimates the number of respondents Dr. Wollert has found to be SVPs.	Ms. Willmsen personally observed Dr. Wollert's testimony in the trial of Jack Leek. Dr. Wollert was cross-examined by Assistant Attorney General Tricia Boerger. Almost invariably in her cross-examinations of Dr. Wollert Ms. Boerger clarifies that he has found 20% to 25% of the respondents he has evaluated to be SVPs. Correction 1. "Dr. Wollert has, in fact, found a substantial percentage of respondents to SVP petitions to be SVPs."
ItemC	The very last scene of this video portrayed Dr. Wollert as winking from the witness stand in a highly exaggerated manner.	Evidence. Dr. Wollert, his wife, and others used the internet to access the videotape in question. They viewed that videotape that ended with the scene that has been described. The videotape that is currently posted on the internet does not include the scene in question. The scene in question was deleted from the video after Dr. Wollert's wife described it in a letter she wrote to the Attorney General's Office. This indicates that one or more of the paper's employees realized that the nonverbal

		message it conveyed was inaccurate. Dr. Wollert has always retained his independence as an expert and has never disrespected the legal process. Attorneys who have retained Dr. Wollert will testify to this fact (see Mr. Adams' e-mail).
	Error. This depiction misrepresented Dr. Wollert as an expert who is biased because of commitment to a party other than the court. It also indicated that he lacks respect for the court.	Correction 2. "Dr. Wollert has never disrespected the legal process."

II. Errors About Dr. Wollert's Research Methods and Status as a Researcher		
Location	Description of Errors	Evidence and Theories for the Commission of Error; Statement of Correction
ltemC	Ms. Burbank states "Discussing Dr. Wollert and his methodology is a little bit more complicated. He simultaneously with doing sex offender evaluations ... he is trying to develop tools and research projects that will support what his opinion is." (Note: The sentence after this passage in bold was focused on as the first item under section I)	Ms. Burbank has no special knowledge to opine on this question because she has never discussed Dr. Wollert's research motivations with him. Ms. Willmsen also had Dr. Wollert's vita (Attachment available). Dr. Wollert's vita shows a habit of scholarship since the 1970s. This habit predates his involvement in SVP cases as an expert witness by almost 20 years. He carries out research because he wants to learn new things, not because he wants to support an opinion. His opinions come from both his research and experience, not vice versa. They are also formed from the research and experience of other authoritative sources.
ltemB 38	"The Vancouver, Wash., psychologist has earned $1.2 million over two years as a defense expert in civil commitment cases across the country, pushing his own science and theories."	Dr. Wollert is invited to give his opinions at trial or presentations at professional conferences. His testimony and scholarly presentations have always been the product of mutual negotiation rather than unilateral pressure by Dr. Wollert. He has never given a nonconference "training workshop" under contract with a for-profit continuing education business. Dr. Wollert's vita proves his research is not "his own" but a product of collaboration with many different co-authors who will also testify to this fact.
ltemB 48-49	"A skeptic of the Static-99, he modified it, removed key questions and called his new tool the MATS-1. "For example, he removed the question asking if the victim was a stranger. With the Static-99, a yes answer	An actuarial system consists of a risk item battery and an actuarial table. Static-99 is one risk item battery. Static-99 was developed by Drs. Karl Hanson and David Thornton. The Automated Sexual Recidivism Scale (ASRS) is another risk item battery. The ASRS was developed by Drs. Alex Skelton and his colleagues from the New Zealand Department of Corrections by removing three questions from the Static-99 risk item battery. Dr. Wollert has never removed an' key uestions from the Static-99 risk item battery. This fact is

	pushed an offender into a group that was considered a higher risk to reoffend."	repeatedly confirmed by peer-refereed publications (Skelton & Vess, 2006; Skelton & Vess, 2008; Waggoner, Wollert, & Cramer, 2008; Wollert, Cramer, Waggoner, Skelton, & Vess, 2010). Dr. Wollert and his colleagues developed one system for assigning offenders to High, Medium, and Low Groups on the basis of their ASRS scores. They developed another system for assigning offenders to these groups on the basis of their Static-99 scores. These systems were developed so that about the same percentage of offenders who had High, Medium, and Low Static-99 scores also had High, Medium, and Low ASRS scores. Those who obtain an ASRS score of "4," for example, are assigned to the "High" group while those with a Static-99 score of "6" are also assigned to this group. Dr. Wollert and his colleagues have tested whether the accuracy of their ASRS scoring system for predicting recidivism differed from the accuracy of the Static-99 scoring system. Their tests, published in a peer-reviewed scientific journal (see Table 4 from Wollert et al., 2010) indicated that the two scoring systems were equally accurate. This, in turn, means that Dr. Skelton did not remove any key items from Static-99 when he developed the ASRS. It also suggests that removal of the items was justified because they were unreliable or redundant with other items. After developing and testing these different scoring systems Dr. Wollert and his colleagues compiled the MATS-I actuarial table. The MATS-1 is not a risk item battery. It is an actuarial table that was derived by combining data from an ASRS actuarial table with data from a Static-99 actuarial table. It reports recidivism rates for different age groups with High, Medium, or Low scores on either the Static-99 risk item battery or the ASRS risk item battery. Because alternative scoring systems have been developed an evaluator can enter the MATS-1 after scoring an offender on either the Static-99 risk item battery or the ASRS risk item battery.

This explanation shows that MATS-1 does not supplant the Static-99 risk item battery and it is clearly an error to claim that "with the Static-99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend."

On January 19,2012, two days before the Price of Protection series went to press, Ms. Willmsen sent the following e-mail to Ms. Burbank (Attachment):

> *Can you please see if this is correct with (Assistant Attorney General) Tricia Boerger, I left message, but she didn't call back It's specific to the Leek case and the MATS-I.*
>
> *This is in the story:*
>
> *A skeptic of the Static-99, he modified it, removed key questions and called his new tool the MATS-I. For example, he removed the question asking if the victim was a stranger. With the Static-99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend Removing that question lowered the risk rates of some offenders.*
>
> *Thanks you are a gem.*

Ms. Burbank sent this e-mail to Ms. Boerger, who replied with the following e• mail that Ms. Burbank sent to Ms. Willmsen.

> *Brooke:*
>
> *The below is partially correct. In creating the MATS-I, Dr. Woller! modified the Static-99 by removing the age item and three other items*

		from the Static-99. For example, he removed the itemfor having a victim who was a stranger. He also removed the itemfor having a victim who is unrelated to the offender. By doing so, the MATS-I lumped together incest offenders with extra-familial offenders, despite thefact that studies have shown that these offenders have very different reoffense rates. *The slight distinctionfrom the statement below is this- the MATS-I only has three risk categories -low, medium and high, whereas the Static-99 hasfour -low, low-moderate, high-moderate-high and high. So, while an offender with a score of 4 on the Static-99 would be in the moderate• high risk category, on the MATS-I, offenders with scores of 4 or higher are in the high risk group. So, it's not that removing the item appears to reduce the offender's risk, rather it is the "collapsing" of the risk categories such that the MATS-I now includes individuals with scores from 2-5 in the "medium" risk category. On the Static-99, the recidivism ratesfor individuals with scores of 2 vary considerablyfrom those with scores of 5. Yet on the MATS-I, those individuals have all been lumped together, resulting in a lessprecise risk estimate.* *Hope that helps. If not,feel free to give me a call.* Several statements in these e-mails are important for understanding the circumstances surrounding the Times series. The use of the term "gem" in the first e-mail reflects a potentially inappropriate close relationship between Ms. Willmsen and Ms. Burbank, whom Ms. Willmsen relied on as a primary source of information. The second e-mail reflects an inappropriate reliance for psychometric information by Ms. Willmsen on Ms. Boerger, who is a prosecutor rather than a measurement expert. At the start of her first paragraph Ms. Boerger indicated that the passage Ms. Willmsen sent Ms. Burbank was wrong because she

		referred to it as only "partially correct." Then, unfortunately, she inaccurately described Dr. Wollert's role vis a vis the Static-99 in the same way that Ms. Willmsen inaccurately described it in the first two sentences of her proposed passage. At the start of her second paragraph Ms. Boerger again indicated that corrections were warranted when she attempted to describe a "slight distinction from the statement below." In the course of doing so she didn't address Ms. Willmsen's third sentence as to whether "a yes answer pushed an offender into a group that was considered a higher risk to reoffend." She focused on her fourth sentence instead, warning Ms. Willmsen that "it's not that removing the item appears to reduce the offender's risk." Faced with an impending deadline and limited information, Ms. Willmsen apparently decided to delete the fourth sentence of her proposed passage. What she retained was still inaccurate, however.
Item B 56-57	"Wollert often finds himself under attack for his changing theories of recidivism and his self-made assessment tools." "For example, in 2005 he testified that, according to his research, sex offenders older than 25 fit in a group that had less than a 50 percent chance of committing a new violent sex crime."	Dr. Wollert's theories of sexual recidivism and his assessment tools are set forth in his peer-reviewed articles listed in his vita (Wollert, 2006; Donaldson & Wollert, 2008; Waggoner, Wollert, & Cramer, 2008; Wollert, Cramer, Waggoner, Skelton, & Vess, 2010). The content of these articles prove that his theories are not "changing." Their authorship also proves that his assessment tools are not "self-made." The word "often" means "frequently." The word "attack" means "criticize strongly or in a hostile manner." Dr. Wollert has given many workshops about his theories of recidivism and assessment tools in recent years and has freely interacted with defense attorneys, prosecutors, and colleagues who testify for both the defense and the prosecution. The allegations that Dr. Wollert often finds himself under attack is simply false and unsubstantiated. On the contrary, Dr. Wollert's interactions are consistently cordial and respectful at conferences, workshops, and other extrajudicial proceedings.

		Similarly, Dr. Wollert's recidivism and assessment articles are widely cited by other researchers, who typically recognize their positive contributions to the field. Seventeen doctoral level professionals have signed affidavits, attached to Dr. Wollert's 2010 Tort Claim, declaring that he is a well-respected researcher and that they regard his research as authoritative. The MATS-I has also been used by at least 11 psychologists in 10 different jurisdictions. These facts prove that Dr. Wollert's colleagues strongly support both the theoretical and applied aspects of his program of research. A complete understanding of the example cited by the Times highlights the unifying effect that Dr. Wollert's research has had on the field and disconfirms the paper's theory that his research has somehow resulted in his isolation. Dr. Wollert has not been unique in reporting that sex offenders over 25 have less than a 50 percent chance of committing a new violent sex crime: Helmus, Thornton, Hanson, and Babchishin reported the same thing in the Appendix to their 2011 peer-refereed article. Rather than a hostile and critical reception, Dr. Wollert's 2005 assertion about age and recidivism has therefore been accepted and confirmed in the peer-reviewed publications of his colleagues.
ltemL 50-51	"R. Karl Hanson, the creator of Static-99, Ontario, has criticized Wollert's methods, saying he misrepresents statistics and hasn't done the research to validate his own theories." " 'More troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree,' Hanson said in a 2008 affidavit in a Franklin County case."	Ms. Willmsen included a 2008 declaration by Dr. Karl Hanson that criticized Dr. Wollert and Dr. Wollert's use of Bayesian research methods among her source documents. However, she did not consider facts that might call into question Dr. Hanson's declaration. One fact that Ms. Willmsen neglected to mention was that Dr. Hanson has been a research competitor of Dr. Wollert's since the publication of an article by Dr. Wollert in 2006 on the Static-99 and other actuarials. It is only reasonable to suspect that the competitive nature of their relationship might bias Dr. Hanson's criticisms.

A second omission was that Dr. Hanson's 2008 declaration was disputed by three counter-declarations. Dr. Wollert filed one of these. Another was filed

by University of Portland Associate Professor Dr. Jaqueline Waggoner. Dr. Waggoner teaches graduate-level research design. Still another was filed by University of North Carolina Professor Emeritus Dr. Elliot Cramer. Dr. Cramer taught doctoral-level statistics courses to clinical psychology students for almost 30 years.

Ms. Willmsen did not describe the content of any of these counter• declarations to balance her reliance on Dr. Hanson's declaration or by including even one of them among her source documents.

Ms. Willmsen also did not mention that Dr. Hanson has not filed any declarations criticizing Dr. Wollert since 2008. Although Dr. Wollert has learned from Dr. Hanson that Ms. Willmsen contacted him while working on the Price of Protection project she did any report any new criticisms of Dr. Wollert by Dr. Hanson. This, by itself, suggests that Dr. Hanson's stance towards Dr. Wollert is less critical than it was in 2008.

Other lines of evidence point to the same conclusion. In a 2009 article (p. 402) Dr. Hanson acknowledged the value of the type of Bayesian analysis used by Dr. Wollert by stating that "the estimated probability of the disorder being present is influenced by the base rate in the sample as well as by the discriminative capacity of the indicators (i.e., the Bayesian posterior probabilities; Akobeng, 2006)."

A comparison of Dr. Wollert's and Dr. Hanson's recent publications provides irrefutable statistical evidence for the convergence of their findings. In 2010 Dr. Wollert and his colleagues compiled the MATS-I from the largest sample of sex offenders ever included in an actuarial study of age and recidivism (n=9,305). The full-sample actuarial table for the MATS-I (Table 6)

		was published in a peer-refereed journal. In 2011 Dr. Hanson's research team published a full-sample actuarial table of recidivism rates for Static-99R (see the Appendix ofHelmus, Thornton, Hanson, and Babshishin, 2011). The results are substantially the same. The text of this recent publication by Dr. Hanson's research team also underscores this convergence. In the following passages from this article, for example, Dr. Hanson and his colleagues refer to their new study as one that "extends" the research Dr. Wollert began in 2006, agrees with Dr. Wollert's risk assessment findings, and now only disagrees with "specific proposals" that may be resolved through data analysis rather than rhetoric. *In the context of applied risk assessment, the current study extends previous research attempts to develop post-hoc age adjustments to actuarial scales (Barbaree eta/, 2007, 2009; Wollert, 2006, Wollert et al, 2010). Although we agree with the previous researchers that age adds incrementally beyond certain static actuarial scales and should be incorporated into risk assessments, we disagree with their specific proposals.* *More recently, Wollert and colleagues (2010) proposed and estimated age-stratified actuarial tablesfor Static-99. Although age-stratified tables are a plausible solution in principle, their proposal is less efficient and precise than our revisions, with no promise of improved accuracy. Furthermore, their estimates require assumptions about the stability of likelihood ratios (assumptions that we do not share). Separating recidivism tables by age cohort also leads to small sample sizes for offenders above 60, reducing the reliability of the estimates. We believe our revisions are superior because they were based on real data with complete information (i.e., no missing items), specified follow-up*

		periods, and estimated recidivism ratesfor *each* *score.* The foregoing publication at no point alleges that Dr. Wollert misrepresents statistics, hasn't done the research to validate his theories, or that Dr. Hanson strongly disagrees with Dr. Wollert's analysis. Rather, Dr. Hanson acknowledges that "age-stratified tables are a plausible solution." It is inaccurate and needlessly divisive to report that critical statements from a 2008 declaration are currently valid when they are obviously contradicted by much more recent statistical and textual evidence.
	Error. The foregoing material misrepresents Dr. Wollert as an irresponsible and results-oriented researcher whose methods and findings are rejected by most of his peers.	Correction #3. "Dr. Woilcrt is a respected and respons ible scientist whose research has been published in well-known journals an d is relied on by many professional colleagues."

III. Errors About Dr. Wollert's Integrity as Both an Expert and a Researcher		
Location	Description of Errors	Evidence and Theories for the Commission of Error; Statement of Correction
Item C	Ms. Burbank states that "In order for an expert to testify or to hold an opinion and relay that opinion to the jury they have to follow certain guidelines. Dr. Wollert has been found not to do so and to be ... to be an outlier and come up with his own methodologies that are simply not sound science."	Dr. Wollert has never been sanctioned by any court or found by any court to have testified falsely. He has never been sanctioned, disciplined, or found to have violated the Ethical Principles and Code of Conduct for Psychologists or any other code of professional conduct. Dr. Wollert's vita shows he is not an outlier in that he has been a professor at four universities and authored articles and papers with a large number of co• authors. Other evidence that proves he is not an outlier is that 17 doctoral level colleagues provided declarations to this effect as attachments to his 2010 Tort Claim. The facts that Dr. Wollert has published 31 articles in peer-refereed journals and has been awarded $562,000 in competitive research grants from sources such as the U.S. National Institute of Mental Health are conclusive evidence that his methodologies are based on sound science.
	Error. This is a conjunctive statement that is false in both its totality and its parts. Correction #3 addresses the false assertion about Dr. Wollert's status as a researcher. The remaining error is remedied by Correction #4.	Correction #4. "Dr. Wollert has never been sanctioned by any court or found to have violated any ethics code."

IV. Errors About Dr. Wollert's History as a Treatment Provider		
Location	Description of Errors	Correction and Evidence Supporting the Commission of Error
ItemB 39	"Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders on probation and parole. In 2001, **the county criticized** Wollert for incomplete assessments, inadequate treatment guidelines and poor record-keeping, and **later canceled his contract."**	In 2003 Assistant Attorney General Krista Bush requested various items "relating to Dr. Wollert's service contract" with the Multnomah County Department of Community "from 1997 to the present." In December of2003 Multnomah County Attorney Agnes Sowell sent Ms. Bush a 300-page set of materials. These materials consisted of a) hand-written notes; b) internal e-mails and unsigned documents; c) proposed but unfinalized reports; d) miscellaneous invoices, client census data, and referral records; and e) a few signed documents. The signed documents included only f) a June 1996 Service Agreement between Dr. Wollert and Multnomah Department of Community Corrections signed by Dr. Wollert and Multnomah County Chair Beverly Stein, Multnomah County Director of Community Corrections Tamara Holden, Multnomah County Department of Community Corrections Senior Program Development Specialist Tichenor McBride, and Assistant Counsel for Multnomah County Jacqueline Weber (pp. 15, 110); g) a December 1999 Services Contract between Dr. Wollert and Multnomah County signed by Dr. Wollert and County Chairperson Beverly Stein, Multnomah County Department of Community Corrections Director Elise Clausen, and Assistant Counsel for Multnomah County Jacqueline Weber (p. 41); and h) a May 2002 Mutual Release and Settlement Agreement (p. 9) signed by Dr. Wollert, Attorney David Miller, and Multnomah County Assistant Attorney Patrick Henry. The following observations put the information in the 2003 file obtained by Ms. Bush into perspective. • It contains many positive comments about Dr. Wollert's performance as a treatment provider.

		• It is incomplete in that it did not include the superior scores that reviewers gave Dr. Wollert's 1999 contract proposal or any of the many documents that Dr. Wollert submitted to various county employees from 1999 to 2002. • It is old, with the last formal document it contains being signed in May of 2002. • The most recent entry in the file was made by county employee K. Trieb, who inserted a note in it that described a communication from Mr. Henry to Ms. Bush on May 14, 2003. According to that note (p. 170), Mr. Henry apparently told Ms. Bush that the Mutual Release and Settlement Agreement was the product of a "business decision" the County made after "we tried to negotiate but couldn't come to an agreement." • Item 4 of the Mutual Settlement in the file (pp. 7-9 of Attachment) states that "The County and Wollert agree that this Release and Settlement Agreement is a product of their mutual negotiation and preparation and shall not be deemed to have been prepared or drafted by either side. The parties further agree that any court seeking to interpret this agreement shall construe it as a product of mutual negotiations and preparation." The Multnomah County Attorney's Office is the custodian of the records for Dr. Wollert's contract. On April19, 2012 Dr. Wollert contacted Multnomah County Assistant Attorney Patrick Henry to inquire as to whether any public records requests or media requests had been submitted to the Attorney's Office by the Seattle Times or by Ms. Willmsen. Mr. Henry indicated that the Office had not received any records requests or media requests regarding the contract.

The information provided by Mr. Henry indicates that the sole source for

		the Times' and Ms. Willmsen's assertion that the County criticized Dr. Wollert was the file obtained in 2003 by Ms. Bush. That file indicates that the only County officials who authorized Dr. Wollert to provide treatment services on behalf of the County were Multnomah County Chair Beverly Stein, Multnomah County Director of Community Corrections Tamara Holden, Multnomah County Department of Community Corrections Senior Program Development Specialist Tichenor McBride, Assistant Counsel for Multnomah County Jacqueline Weber, and Multnomah County Department of Community Corrections Director Elise Clausen. None of these officials, or any counterparts who succeeded them, ever criticized Dr. Wollert. Furthermore, the file obtained by Ms. Bush does not include any letters to Dr. Wollert that officially reprimanded him or cautioned him in anyway. Dr. Wollert was also licensed by the Oregon Board of Psychologist Examiners as a clinical psychologist and his clinic was approved by the Oregon Division of Mental Health Services as a state-authorized mental health clinic. The purpose of these agencies was to enforce quality control standards and review malpractice complaints. No individual or group of individuals employed by Multnomah County ever complained to the Division of Mental Health or to the Oregon State Board of Psychologist Examiners about the quality of the services offered through Dr. Wollert's clinic. The information provided by Mr. Henry indicates that the sole source of the Times' and Ms. Willmsen's assertion that Multnomah County canceled Dr. Wollert's contract was the file obtained in 2003 by Ms. Bush. The Settlement Agreement shows, however, that the Dr. Wollert's contract was not canceled. Mr. Henry's statements to Ms. Bush confirm that this was the case. In March of2012 Dr. Wollert also discussed this issue with Attorney Miller, who also stated that the Settlement Agreement was a mutual negotiation between Dr. Wollert and the County rather than a unilateral decision on the part of the County.

Description of Errors About Dr. Richard Wollert in the Price of Protection Project

	Errors: This passage wrongly asserts that one or more persons authorized to speak on behalf of Multnomah County criticized Dr. Wollert's contract performance. It also wrongly asserts that the County canceled a contract that was held by Dr. Wollert.	In March of 2012 Dr. Wollert gave Ms. Willmsen's supervisor Mr. Jim Neff the names or telephone numbers of six sources of information who would correct Ms. Willmsen's error. None of these sources have been called. **Correction #5. "No Multnomah County official who authorized Dr. Wollert to provide treatment services for the County has ever criticized Dr. Wollert. Multnomah County has also never canceled a contract held by Dr. Wollert."**

Summary of Corrections	
1.	Dr. Wollert has, in fact, found a substantial percentage of respondents to SVP petitions to be SVPs.
2.	Dr. Wollert has never disrespected the legal process.
3.	Dr. Wollert is a respected and responsible scientist whose research has been published in well-known professional journals and is relied on by many professional colleagues.
4.	Dr. Wollert has never been sanctioned by any court or found to have violated any ethics code.
5.	No Multnomah County official who authorized Dr. Wollert to provide treatment services for the County has ever criticized Dr. Wollert. Multnomah County has also never canceled a contract held by Dr. Wollert.

Exhibit G

VITA

RICHARD WOLLERT, Ph.D.

November 2012

Current Contact Information

Richard Wollert, Ph.D.
P.O. Box 61849
Vancouver, WA 98666-1849
360.737.7712 or 503.757.7712

e-mail: rwwollert@aol.com
web site: richardwollert.com

Personal Data

Birthdate: 11121145. Married. U.S. citizen. Veteran, U.S. Navy.

Educational History

Ph.D. in Clinical Psychology, Indiana University, 1977.
Internship in Medical Psychology at the Oregon Health Sciences University, 1976-1977.
B.S. in Business Administration, University of California, 1967.

Summary of Professional Experience

Position	Activities and Major Accomplishments
Research Professor of Psychology (nonsalaried) Washington State University Vancouver 2010	Collaborate with psychology faculty, mentor students, provide guest lectures, and serve as a resource for forensic psychology.
Member Mental Health, Law, and Policy Institute Simon Fraser University 2009	The Mental Health, Law, and Policy Institute at Simon Fraser University was established in 1991. The purpose of the Institute is to promote interdisciplinary collaboration in research and training in areas related to mental health law and policy. The primary participating academic units are the Dept. of Psychology and the School of Criminology at Simon Fraser University. In addition to fostering interdisciplinary collaboration among academic departments, a primary purpose of the Institute is to facilitate research and training in government and community agencies.
Richard Wollert, Ph.D. Independent Practice 2002-2010	Since 2002 I have provided psychological services as a solo private practitioner specializing in the assessment and treatment of sex offenders. In the area of assessment I evaluate respondents who are the subjects of sexually violent predator proceedings and often consult or testify as to their status on the criteria that define

this construct. I have been retained in over 100 such cases in seven states (Washington, California, Iowa, Illinois, Massachusetts, New Jersey and Wisconsin). In the area of treatment I held a contract from 2002 through 2009 with the Federal Probation Services to provide mental health services to offenders convicted of federal sex offenses and to defendants accused of federal sex offenses who are awaiting adjudication by the federal courts. I also devote a substantial amount of time conducting research on the sexually violent predator construct. My publications on this and other issues are listed below in Section II.

Director
Richard Wollert, Ph.D.
and Associates
1991-2002

Founded an outpatient mental health clinic specializing in the treatment of sex offenders and families impacted by sexual misconduct. Developed all treatment and administrative systems necessary for clinic operations. Prepared and updated a 140-page treatment manual and a policies and procedures manual. Installed a comprehensive system of quality controls. Supervised three full• time clinical staff, two administrative staff, and four contractors in providing services to an average caseload of 300 clients, many with special needs or minority backgrounds. Developed a staff benefit package including health care and retirement. Consulted intensively with parole officers and family services staff. Awarded several multi-year service delivery contracts. Supervised site reviews by outside agencies. Submitted a successful application to the State Mental Health Division to have the program certified as a mental health clinic. Sold the clinic to a colleague in 6/02 in the interest ofreconfiguring my practice.

Director/Tenured Professor
Graduate Program in
Counseling Psychology
Lewis & Clark College
1988-1993

Directed a program offering degrees in school and counseling psychology supported by seven full-time faculty, two administrative staff, and 30 adjunct faculty. Prepared the program budget and course schedule. Evaluated faculty performance. Developed new courses and restructured a semester-based curriculum to accommodate the quarter system. Coordinated program marketing and student admissions. Supervised the placement of students in practica settings and coordinated related evaluations. Submitted a successful application to the Oregon State Counselor's Board to have the program's curriculum accredited as meeting the requirements for counselor licensure.

Full Professor (with tenure) Psychology Department University of Saskatchewan 1983-1988	Taught psychology courses. Supervised master's theses and doctoral dissertations. Supervised graduate students in clinical practica. Participated in faculty governance. Founded and directed the Saskatchewan Self-Help Development Unit. Prepared and submitted research and service grant proposals. Awarded grants by various provincial and federal agencies to study self-help groups and sexual abuse. Gave workshops, presented papers, published several articles. Directed the Doctoral Training Program in Clinical Psychology (87-88).
Assistant/Associate Professor Psychology Department Portland State University 1978-1983	Taught psychology courses. Supervised master's thesis work. Supervised graduate students in clinical practica. Participated in faculty governance. Directed the Psychology Clinic (80-82). Prepared and submitted research grant proposals. Awarded a two• year grant by NIMH to study depression. Gave workshops, presented papers, published several articles. Awarded tenure.
Research Associate Regional Research Institute For Human Services PSU School of Social Work 1978-1983	Prepared and submitted research grant proposals. Awarded a three-year grant by NIMH to study self-help groups. Supervised a six-person research team. Gave workshops and published several articles.
Assistant Professor Psychology Department Florida State University 1977-1978	Taught psychology courses, supervised graduate student thesis work, supervised graduate students in clinical practica, presented convention papers, and submitted articles for publication. Received favorable faculty evaluations in a tenure-track position.

SECTION I: DETAILS OF EDUCATIONAL ACTIVITIES

Instructional Responsibilities as a Faculty Member

During my 16-year career as a faculty member I taught the following courses at the graduate (G) and undergraduate (U) levels: Abnormal Psychology (G,U), Clinical Psychology (U), Personality Psychology (G,U), Theories and Techniques of Psychotherapy (G), Social Support and Self-Help Groups (G,U), Developmental Psychology (U), Psychology of Adjustment (U), Group Psychotherapy (G), Fundamentals of Research Design (U), and Assessment and Psychodiagnosis (G). All of these courses required the selection of instructional resources, preparation of course materials, presentation of lectures, and grading of student performance. I also served as the primary research advisor for a number of graduate students who were awarded the Ph.D. or M.A. in clinical psychology and regularly supervised graduate students enrolled in practica training.

SECTION II: DETAILS OF RESEARCH AND SCHOLARLY WORK

Major Research Grants and Contracts-Principal Investigator:

Development of a Model Farm Family Self-Help Support Program. Agriculture Canada and Saskatchewan Agriculture. Project period: 6/88-12/89. Total award: $42,000.

> Activities: Initiated and evaluated self-help groups addressing the adjustive needs of farm families.

Feasibility Assessment for Initiating a Women's Self-Help Resource Center. Secretary of State, Canadian Government. Project period: 2/88-6/88. Total award: $15,000.

> Activities: Conducted a needs assessment for a) establishing a women's self-help center as part of the Saskatchewan Self-Help Development Unit and b) evaluating the impact of the center's activities on its clientele.

A Literature Review of the Psychological Treatment of Child Sexual Abuse. National Health Research and Development Program, Canadian Government. Project period: 10/87-1/88. Total award: $18,000.

> Activities: Compiled a library of materials on the treatment of child sexual abuse and prepared a review paper describing the interventions that have been developed and their impact.

The Effect of Self-Help Membership on Health Status and Health Services Utilization. National Health Research and Development Program, Canadian Government. Project period: 10/86-4/87. Total award: $3,000.

> Activities: Members of health and mental-health oriented self-help groups were compared to chronic and acute patient controls on measures of health status and utilization.

An Organizational Analysis of Self-Help Clearinghouses. Saskatchewan Health Research Board. Project period: 9/86-8/87. Total award: $15,000.

> Activities: Surveyed all existing self-help clearinghouses to document their structural characteristics and community health implications. Site visits were also conducted of different clearinghouse models throughout North America.

Development and Evaluation of a Directory of Saskatchewan Self-Help Groups. Health and Welfare Canada. Project period: 3/86-2/88. Total award: $23,000.

> Activities: Compiled a directory of all self-help groups in the province of Saskatchewan and evaluated the impact of this intervention on self-help referral rates.

The Effects of Leadership Training on Self-Help Group Functioning and the Health Behavior of Group Members. Saskatchewan Health Research Board. Project period: 9/84-9/86. Total award: $55,000.

> Activities: Organized a leadership training program around the self-help fair concept and evaluated the effects of participation in this program on group processes and the health behaviors and attitudes of group members.

Urban Self-Help Groups and Mental Health Services. U.S. National Institute of Mental Health, No. R01 MH33671. Project period: 2/80-6/83. Total award: $271,536.

> Activities: Operationalized a self-help clearinghouse serving a catchment area of one million people. Used this service to drive basic research on a) helping processes, b) group efficacy, and c) the effects of collaborative exchanges between human services professionals and self-help groups.

Continuity Between Clinical And Subclinical Depression. U.S. National Institute of Mental Health, No. R01 MH33716. Project period: 3/1180-5/31/83. Total award: $120,690.

> Activities: Replicated and extended to clinical depressives a set of cognitive and behavioral findings originally obtained with subclinical depressives. Separate comparison groups of nondepressives, subclinical depressives, and nondepressed psychiatric disorders were also included.

Self-Help Approaches to Epilepsy Management. Submitted to National Institutes of Health(U.S. Government), August 1979. A site review team recommended funding this proposal, but I withdrew it after awards were made for the two preceding proposals.

Other Research Grants and Contracts:

I have received eight competitive small grants averaging $1,500, and have been program evaluator on a $42,000 Health and Welfare Canada project entitled "Personal Involvement in Learning" (K. McNaughton, principal investigator). As a graduate student I was a research assistant on a $140,000 project funded by the U.S. National Institute of Mental Health entitled "Self-Help Groups as Mental Health Resources" (L. Levy, principal investigator). During my tenure as Director of the Graduate Program in Counseling Psychology at Lewis & Clark College, I submitted a couple of grants to different agencies. The titles of my proposals were as follows:

> A Proposal for Establishing a Self-Help Center Serving the Pacific Northwest (1989). Annual level of funding requested: $650,000.
>
> A Proposal for Establishing a National Center for Research and Knowledge Dissemination on Self-Help Groups (1989). Annual level of funding requested: $820,000.

Publications and Recent Papers and Trainings

Wollert, R. & Waggoner, J. (forthcoming). Partially specified actuarial tables and the poor performance of Static-99R. Accepted for presentation at the 2013 Annual Meeting of the American Psychology-Law Association (Division 41 of the American Psychological Association).

Wollert, R. (2012, October 25). Hebephilia: Weed diagnosis in the botanical garden ofDSM? Participated in an expert witness capacity at a mock trial held at the 2012 Meeting of the American Academy of Psychiatry and the Law, Montreal, Canada. A description of the trial may be accessed at http://forensicpsychologist.blogspot.com.

Wollert, R. (2012, October 19). An introduction to the use of Bayes's Theorem in sex offender risk assessment and psychodiagnosis (symposium chair). Presented at the 2012 Conference of the Association for the Treatment of Sexual Abusers.

Frances, A. & Wollert, R. (2012). Sexual Sadism: Avoiding its misuse in sexually violent predator evaluations. *Journal of the American Academy of Psychiatry and the Law, 40, 409-416.*

Wollert, R. & Zander, T. (July 25-26, 2012). Evaluating diagnostic status and risk assessment in sexually violent person commitment cases. Presented at the Interdisicplinary Skills and Strategy Summit sponsored by the Wisconsin State Public Defenders Office, Milwaukee, Wisconsin.

Wollert, R., Waggoner, J., & Smith, J. (2012). Federal child pornography offenders do not have florid offense histories and are unlikely to recidivate. In B. Schwartz (Ed.), *The Sex Offender, Volume VII* (pp. 2-1 to 2-21). Kingston, N.J., Civic Research Institute.

Wollert, R. (2012, February 15). The implications of recidivism research and clinical experience for assessing and treating federal child pornography offenders. Testimony presented to the United States Sentencing Commission: Washington, D.C.

Wollert, R. & Cramer, E. (2011d). The constant multiplier assumption misestimates long-term sex offender recidivism rates. *Law and Human Behavior.* doi: 10.1037/h0093924

Wollert, R. (2011). Paraphilic Coercive Disorder does not belong in DSM-5 for statistical, historical, conceptual, and practical reasons [letter to the editor]. *Archives of Sexual Behavior,* doi: 10.1007/s10508-011-9814-5

Wollert, R. & Cramer, E. (2011c). Five-year sex offender recidivism rates do not accurately estimate long-term rates. Presented at the 2011 convention of the Association for the Treatment of Sex Offenders, Toronto, Canada.

Wollert, R. & Cramer, E. (2011b). Sampling extreme groups invalidates research on Pedohebephilia: Implications for DSM-5. Presented at the the 2011 convention of the Association for the Treatment of Sex Offenders, Toronto, Canada.

Wollert, R. & Cramer, E. (201la). Sampling extreme groups invalidates research on the Paraphilias: Implications for DSM-5 and sex offender risk assessments. *Behavioral Sciences and the Law, 29,* 554-565.

Wollert, R., Cramer, E., Waggoner, J., Skelton, A., & Vess, J. (2010). Recent research (N=9,305) underscores the importance of using age-stratified actuarial tables in sex offender risk assessments. Sexual Abuse: A Journal of Research and Treatment, 22,471-490.

Wollert, R. Adequate Hypothesis Testing and Bayesian Computations Promote Unbiased and Ethically-Defensible Sex Offender Evaluations. Invited presentation delivered in Oslo, Norway, at the September 2010 Biennial Conference of the International Association for the Treatment of Sex Offenders.

Wollert, R. (chair), Waggoner, J., Rypma, B., Rypma, C., & Caldwell, M. [symposium paper presented at the 2010 convention of the American Psychological Association (APA)]. Juvenile Offenders Are Ineligible for Civil Commitment as Sexual Predators.

Wollert, R. (chair), Caldwell, M., Rypma, B., Rypma, C., & Waggoner, J. [symposium Power Point presented at the 2010 convention of the American Psychological Association (APA)]. Juvenile Offenders Are Ineligible for Civil Commitment as Sexual Predators.

Wollert, R. (March 9, 2010). The Use of Probability Mathematics in Sexually Violent Predator Evaluations. Training sponsored by the California Department of Mental Health Sex Offender Commitment Program, Seaside, CA. Available at http://www.richardwollert.com. .

Wollert, R. (November 10, 2009). The Use of Probability Mathematics When Testing Diagnostic and Recidivism Theories in Sex Offender Evaluations. Training presented to the clinical staff of the Iowa Civil Commitment Unit for Sex Offenders, Cherokee, Iowa.

Wollert, R. W., Waggoner, J., & Smith, J. (2009, October). Child Pornography Offenders Do Not Have Florid Offense Histories and Are Unlikely to Recidivate. Poster presented at the annual meeting of the Association for the Treatment of Sexual Abusers (ATSA), Dallas, TX.

Wollert, R. & Waggoner, J. (2009). Bayesian computations protect sexually violent predator evaluations from the degrading effects of confirmatory bias and illusions of certainty: A reply to Doren and Levenson (2009). Sexual Offender Treatment, 1(1), 1-26.

Waggoner, J., Wollert, R., & Cramer, E. (2008). A re-specification of Hanson's 2006 Static-99 experience table that controls for the effects of age in a sample of 552 young sex offenders. Law. Probability. and Risk, *l*,305-312.

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Wollert, R. (2007). Poor diagnostic reliability, the Null-Bayes Logic Model, and their implications for sexually violent predator evaluations. Psychology, Public Policy, and Law, U(3), 167-203.

Wollert, R. & Waggoner, J. (October, 2007). A Re-specification of Hanson's 2006 Static-99 Experience Table that Controls for the Effects of Age in a Sample of 552 Young Sex Offenders. Presented in San Diego at the 2007 ATSA conference.

Wollert, R. (August, 2007). Validation of a Bayesian Method for Assessing Sexual Recidivism Risk. Presented in San Francisco at the annual American Psychological Association conference.

Donaldson, T. & Wollert, R. (May, 2007). A Mathematical Proof and Example That Bayes's Theorem is Fundamental to Actuarial Estimates of Sexual Recidivism Risk. Presented in Vancouver, Canada, at the 2007 conference of the Western Psychological Association (WPA).

Wollert, R. (May, 2007). Cross-Validation of a Bayesian Method for Assessing Sex Offender Recidivism Risk. Presented in Vancouver, Canada, at the annual WPA conference.

Wollert, R. (2006). Low base rates limit expert certainty when current actuarial tests are used to identify sexually violent predators: An application of Bayes's Theorem. Psychology, Public Policy, and Law, 12, 56-85.

Wollert, R., Lytton, D., Waggoner, J., & Goulet, M. (November, 2005). Competent use of actuarial tests requires understanding sample-wise variations in both recidivism and test accuracy. Paper presented in Salt Lake City, Utah, at the annual ATSA convention.

Wollert, R. (April, 2005). An application of Bayes's Theorem to age-wise sexual recidivism rates. Paper presented at the annual convention of the Western Psychological Association. Portland, OR.

Waggoner, J. & Wollert, R. (April, 2005). Elimination of familial offenders inflates the MnSOST-R's estimated efficiency. Paper presented in Portland, OR at the annual WPA convention.

Wollert, R. (2003). Additional flaws in the Minnesota Sex Offender Screening Tool- Revised: A response to Doren and Dow. Journal of Threat Assessment, 2.(4), 65-78.

Wollert, R. (2002). The importance of cross-validation in actuarial test construction: Shrinkage in the risk estimates of the Minnesota Sex Offender Screening Tool-Revised. Journal of Threat Assessment, 2_, 87-102.

Wollert, R., Weber, C., & West, W. (2001). A forensic human services approach to developing and evaluating outpatient treatment programs for special needs sex offenders. Paper presented at the Annual Region II Conference of the American Association for Mental Retardation, Oct. 15-16, Palm Springs, CA.

Wollert, R. (2001). An analysis of the argument that clinicians under-predict sexual violence in civil commitment cases. Behavioral Sciences and the Law, 19, 171-184.

Wollert, R. (1999-2000). Curriculum development for training about self-help groups: Rationale and realizations. International Journal of Self-Help and Self Care, 1, 69-77.

Mittelstaedt, W. H. & Wollert, R.. (1991). Blame and the development of depressed mood. Canadian Journal of Behavioral Science, 23, 1-11.

Wollert, R. (1990). A Review of the Treatment-Oriented Literature on Incest (Monograph). Ottawa, Canada: National Clearinghouse on Family Violence.

Wollert, R. (1990). Self-help clearinghouses: An overview of an emergent system of human services for promoting mutual aid. InT. Powell (ed.), Working with Self-Help Groups, pp. 254-266. Silver Spring, MD: NASW Press.

Hewitt, P., Mittelstaedt, W., & Wollert, R. (1989). Validation of a measure of perfectionism. Journal ofPersonality Assessment, 53, 133-144.

Nicholaichuk, T., & Wollert, R. (1989). The effect of self-help on health status and health services utilization. Canadian Journal of Community Mental Health, .8_, 17-29.

Wollert, R. (1988). An evaluation of a communications training program within a group of sexually abusive families. Community Mental Health Journal, 24, 229-235.

Wollert, R. (1988). Self-help clearinghouses in North America: A survey of their structural characteristics and community health implications. Health Promotion, 2, 377-386.

Wollert, R., & Rowley, J. (1987). Concurrent and longitudinal patterns among sanctions, attributions, and mood. Journal of Personality and Social Psychology, 53, 608-613.

Wollert, R. (1987). A clinically-grounded evaluation of attributional theories of depression and psychotherapy. Canadian Psychology, 28,218-227.

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Wollert, R. (1987). Human services and the self-help clearinghouse concept. Canadian Journal of Community Mental Health, §, 79-90.

Wollert, R. (1987). A comparative study of the concurrent validities of the Sanctioning and Attributional Style Questionnaires for predicting scores on the Beck Depression Inventory (abstract). Canadian Psychology, 28 (2a), no. 671.

Miller, S., & Wollert, R. (1987). Report on the Second Meeting of Self-Help Clearinghouse Directors (31pp). Ottawa,Ontario: Canadian Council on Social Development.

Wollert, R. (1986). Interpersonal group psychotherapy: Outpatient treatment for incest offenders. Vis a Vis, 1(3), 6.

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Wollert, R. (1986). An information and referral model for improving community utilization of self-help groups. Information and Referral, 1(2), 1-16.

Wollert, R., & Miller, S. (1985). Self-help fairs: Promoting mutual assistance at the community level. Initiative, 2, 3-4.

Wollert, R. (1985). Expectancy structures and expectancy research (abstract). Canadian Psychology, 26, no. 567.

Wollert, R. (1985). An information and referral model for improving self-help group utilization. Resources in Education, no. CG010864.

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Wollert, R.W., & Barron, N. (1983). Avenues of collaboration between mental health professionals and self-help groups. In D.L. Pancoast, P. Parker, and C. Froland (eds.), Rediscovering Self-Help: Its Role in Social Care, pp. 105-123. Beverly Hills, CA: Sage.

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Wollert, R.W., Knight, B.G., & Levy, L.H. (1980). Make Today Count: A collaborative model for professionals and self-help groups. Professional Psychology, 1980, II, 130-138.

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Kimball, S., & Wollert, R.W. (1980). Human Autoerotic Practice (book review). Journal of Personality Assessment, 44, 436-438.

Wollert, R.W. (1979). Expectancy shifts and the expectancy confidence hypothesis (two experiments). Journal of Personality and Social Psychology, 37, 1888-1901.

Wollert, R.W., & Buchwald, A.M. (1979). Subclinical depression and performance expectations, evaluations of performance, and actual performance. Journal of Nervous and Mental Disease, 167, 237-242.

Wollert, R.W. (1978). A survey of sexual attitude reassessment and restructuring seminars. The Journal of Sex Research, 14,250-259.

Wollert, R.W., Knight, B.G., & Levy, L.H. (1978). A model for the establishment of productive relationships between professionals and mental health-oriented self-help groups. Resources in Education, no. 159569.

Wollert, R.W. (1978). Professional collaboration with self-help groups. Proceedings of the Portland State Conference on Networks, I, 168-181.

Other Presentations at Professional Conferences and Colloquia

American Psychological Association (5 papers), Canadian Psychological Association (5),
Western Psychological Association (5), Southeastern Psychological Association (2),
Federal, Provincial, State, and Local Meetings (20)

Editorial Contributions

Editorial board, Journal of Abnormal Psychology, 1981-89; Editorial board, Canadian Journal of Community Mental Health,1986-89; Guest reviewer, Psychology, Public Policy, and Law: 2007-2010, 2012; Guest reviewer, Sexual Abuse: 2007-2008; Guest reviewer, Journal of Forensic Psychology: 2012; Guest reviewer, Sexuality Research and Social Policy, 2012.

SECTION III: DETAILS OF CLINICAL TRAINING AND EXPERIENCE

Overview of Clinical Activities

I have provided extensive services to sex offenders in both Oregon and Canada. In Oregon, from 1979 to 1983, I delivered about 12 hours of clinical services per week to this clientele in the form of psychotherapy, psychological evaluations, organizational consultations, and court testimony. In Saskatchewan, Canada, from 1983 to 1988, I developed a sex offender treatment program that served a total of over 400 clients, frequently appeared as an expert witness in court hearings, and gave over 20 workshops across the province on treating sex offenders. Upon returning to Oregon I established a third sex offender program, Wollert and Associates, based on relapse prevention principles. In the course of developing it I generated many descriptive materials, wrote my own treatment manual (now in its third edition), implemented an array of computerized client-tracking systems, and developed a systematic, thorough, and cost-effective approach to intake evaluations. At one point this program served over 300 clients and provided services under separate contracts with the federal government and Community Justice Departments from Multnomah, Marion, Clackamas, and Washington Counties.

From 1993 to 2002, as a result of a competitive review of proposals, the Multnomah County Department of Community Justice selected Wollert and Associates to provide treatment to the bulk of indigent sex offenders under the Department's supervision. Because of the diverse needs of this group, our clinic was constantly challenged to develop new services. Therefore, in addition to our mainstream orientation and long-term therapy programs, we developed special services for women, young offenders, monolingual Hispanic-Americans, those with physical disabilities, those who suffered from a serious mental illness or developmental disability, and clients whose sexual problems overlapped substance abuse or anger management difficulties. We also offered a no- fee support group to family members of clients and a no-fee drop-in group for clients advanced to a self-managed phase of treatment.

To insure rigorous supervision, a special system for keeping records of all treatment sessions was installed, records were reviewed by a clinical supervisor, each staff member was required to participate in a supervision meeting at least once a week, and treatment plans for all active clients were updated every three months. Case management meetings were also held on a regular basis with parole officers and with a staff member from the Multnomah County Association for Retarded Citizens who provided social work services to many of our special needs clients. A 100-page paper describing and evaluating this program was presented at the 200 1 Region II Conference of the American Association for Mental Retardation.

In February of 1997 Wollert and Associates was certified as a noninpatient provider of mental health services by the Oregon State Mental Health Division. This certification was renewed at the end of 2000. In June of 2002 I transferred the ownership of my clinic serving Multnomah County to my colleague Casey Weber, MS, LPC. I have continued in practice as a sole practitioner since June 2002, providing evaluation and treatment services pursuant to a contract I have held with the federal government since 1999. I have also been retained as an expert witness in over 150 Sexually Violent Predator civil commitment cases from 6 states.

Professional Credentials

National Register, Health Providers in Psychology (Canada), 1986-88.
Registered Psychologist in Sakatchewan, 1984-88.
Licensed Clinical Psychologist in Oregon, 1979-84; 1988-present.
Licensed Clinical Psychologist in Washington, 2009-present.
Courtesy License as a Clinical Psychologist in Alaska, 2011.

Clinical Training

Postdoctoral supervisors: Wallace Kennedy, Ph.D., Florida State University; Walter Klopfer, Ph.D., Portland State University.
Internship in Medical Psychology, University of Oregon Health Sciences University, 1976-77.
Traineeship in Clinical Psychology, Indianapolis Veteran's Administration Hospital, 1973-74.
Practica training, Psychology Department at Indiana University, 1972-76.

Other Consulting Work Undertakenfor Fees:

Sexually Violent Predator Evaluations, with various attorneys from Washington, Iowa, Wisconsin, Massachusetts, California, and Illinois, 1997-2007.
Oregon Department of Justice, Indigent Defense Services, 1990-96, 300 hours per year.
Saskatoon Mental Health Centre, psychological services, 1986-88, 100 hours per year.
Saskatchewan Dept. of Social Services, psychological services, 1984-88, 600 hours per year.
City of Gresham, personnel selection and policy analysis, 1982-83, 75 hours.
Raleigh Hills Alcohol Treatment Center, treatment planning, 1982, 160 hours.
Washington County Corrections Department, psychological services, 1981-83, 100 hours.
Brief assignments: Saskatchewan Legal Aid Commission, Salvation Army, Oregon Department of Justice, Providence Hospital, Mult. Co. District Court, Oregon Children's Services Division.

Presentations on Clinical Issues at Invited Workshops

Oregon Criminal Justice Association, 2000, 1 hour.
Oregon Department of Juvenile Justice, 2000, 1 hour.
Oregon Sex Offender Supervisory Network, 1993, 2 hours.
Clackamas County Corrections, 1991, 2 hours.
Clark County Corrections, 1991, 2 hours.
Oregon Health Sciences University (Medical Psychology), 1990, 2 hours.
Multnomah County, Public Defenders Office, 1990, 2 hours.
Washington County Corrections, 1990, 2 hours.
Multnomah County Corrections, 1990, 2 hours.
Sask. Community Corrections, Saskatoon, 1987, 2 hours.
Sask. Community Corrections, Moose Mountain, 1986, 8 hours.
MacNeill Family Clinic, Saskatoon, 1986, 2 hours.
Child Abuse Council, Prince Albert, 1985, 3 hours.

West Central Crisis Centre, Kindersley, 1985, 2 hours.
Social and Psychiatric Services, Weybum, 1985,4 hours.
University Hospital, Saskatoon, 1985, 7 hours.
Psychological Society of Saskatchewan, Saskatoon, 1985, 1 hour.
Public and Separate School Systems, Regina, 1985, 5 hours.
Child and Youth Services, Regina, 1985, 12 hours.
Justice Advisory Council, The Battlefords, 1985, 2 hours.
Regional Psychiatric Center, Saskatoon, 1985, 2 hours.
Sask. Police College, Saskatoon, 1985, 5 hours.
Sask. Police College, Regina, 1985, 5 hours.
Mental Health Center, Saskatoon, 1985, 1 hour.
Canadian Assn. of Police Chiefs, Kindersley, 1984,2 hours.
Child Abuse Council, Saskatoon, 1984, 1 hour.
Child Abuse Council, Saskatoon, 1984, 6 hours.
Northwest Child Abuse Conference, Portland, 1983, 2 hours.
Providence Hospital, Portland, 1981, 2 hours.
Oregon Psychological Association, Portland, 1980, 4 hours.
St. Vincent's Hospital, Portland, 1979, 2 hours.
YWCA, Portland, 1979,2 hours.

SECTION IV: DETAILS OF ACADEMIC ADMINISTRATIVE EXPERIENCE AND SERVICE TO THE PROFESSION AND THE COMMUNITY

Supervisory Experience in Academic Settings

Directed the Graduate Program in Counseling Psychology at Lewis & Clark College, 1988-91.
Directed the Ph.D. program in clinical psychology at the University of Saskatchewan, 1987-88.
Founded and directed the Self-Help Development Unit at the University of Saskatchewan, 1984-87.
Founded and directed the Saskatoon Sex Offender Treatment Program, 1984-88.
Reorganized and directed the PSU Psychology Clinic, 1980-82.
Simultaneously directed two large NIMH grants at PSU requiring the supervision of 10 staff and 10 volunteers, 1981-83.

Committee Work at the College or University Level

Graduate Admissions Committee, Lewis & Clark, 1988-91.
Program Directors Committee, Lewis & Clark, 1988-91.
Dean's Advisory Council, Lewis & Clark, 1991.
Curricular Oversight Conunittee, Lewis & Clark, 1989-91.
Handicapped Learner Committee, Lewis & Clark, 1989-90.
Marketing Committee, Lewis & Clark, 1988-91.
Faculty Coordinating Committee, Lewis & Clark College, 1989.
Continuing Professional Education Committee, Lewis & Clark, 1988-89.
Faculty Governance Committee, Lewis & Clark, 1988-89.
Research and Scholarly Resources Committee (chair), U of S, 1985-88; author of major report on committee activities issued in May, 1988.
Human Subjects Research Review Committee (chair), PSU, 1979-83. Biomedical Research Support Committee, PSU, 1981-83.
Campus Mental Health Committee, PSU, 1980-81.

Participation in Community Organizations

Legislative Committee, Oregon Psychological Association, 1988-90.
Chair, Board of Psychologist Examiners, Province of Saskatchewan, 1987-88.
Deputy Health Minister's Consultation on Provincial Mental Health, Saskatchewan, 1986.
Saskatoon Child Abuse Council, 1984-88.
Saskatchewan Sociohealth Research Steering Committee, 1984-86.
Multnomah County Mental and Emotional Disabilities Advisory Council, 1982-83.
Social Issues Committee, Oregon Psychological Assn., 1979-80.
Executive Board, American Association of University Professors, 1979-80.

Community Education

Organized a one-day consultation in Saskatoon in 1988 between human services providers and the Special Advisor to the Minister of Health and Welfare Canada on Child Sexual Abuse.

Participated in the International Conference on Health Promotion (sponsored by the World Health Organization) held in Ottawa in 1986.

Organized a two-hour symposium on "Self-Help Groups and the Practice of Psychology", given at the 1986 meeting of the Canadian Psychological Association.

Organized workshops in Regina and Prince Albert on professional collaboration with self-help groups, 1985-86.

Presented invited addresses on self-help groups to the following organizations: Saskatchewan Provincial Advisory Committee on Mental Health, Saskatchewan Dept. of Health, Saskatchewan Dept. of Social Services, Saskatchewan Public Health Assn., Saskatoon Community Health Unit, Portland Psychological Assn., Oregon Psychological Assn., Oregon Health Sciences University, Regional Research Institute at PSU.

Community Action

Compiled an annotated catalogue of resources available from self-help clearinghouses in North America, distributing it through the Canadian Council on Social Development.

Compiled a comprehensive directory of Saskatchewan self-help groups and distributed it to all groups and social services agencies in the province, 1985-87.

Organized self-help fairs in Saskatoon, Regina, and Prince Albert in which over 100 groups participated, 1984-86.

Planned and supervised the operation of a self-help information service in Portland that was coordinated with Tri-County Information and Referral Services, 1979-83. The resulting directory of self-help groups is still updated and distributed by the United Way.

Provided no-fee consultations to self-help groups and founded groups for incestuous families, gamblers, and cardiac patients.

Professional Associations

International Society for Bayesian Analysis, 2008-11
Assn. for the Treatment of Sex Abusers, 1995-01
Psych. Society of Saskatchewan, 1984-88
Oregon Academy of Prof. Psychologists, 1979-83
Canadian Psychological Assn., 1983-88
American Psychological Assn., 1978-2011
Oregon Psych. Assn., 1978-83, 1988-91
Western Psychological Assn., 1976-83

Other Professional Involvements

Moderator, Special Interest Group Meeting on Bayesian Approaches to Sex Offender Risk Assessment and Psychodiagnosis, November, 3, 2011,2011 ATSA Conference.
Participant, Scheduled Discussion on Child Pornography, U.S. Sentencing Commission, September 26, 2011.
Member, National Advisory Council for the Center for Self-Help Research, 1989-91. Program Accreditation Site Visitor Roster, American Psychological Assn., 1986-88. Program Accreditation Site Visitor Roster, Canadian Psychological Assn., 1986-88.

Other Career-Relevant Employment Experience

Lieutenant, U.S. Navy, 1968-70. Market Analyst, Kaiser Aluminum, 1967-68.

Exhibit H

May 25, 2012

Richard Wollert, Ph. D.
P.O. Box 61849
Vancouver, WA 98666

Dear Dr. Wollert:

This letter is a response to your most recent letter (April 24, 2012), in which you allege that Seattle Times reporter Christine Willmsen "transgressed the boundaries of fairness, due caution, and accuracy" in her series about the high costs of state's civil-commitment program, including costs of defense experts such as yourself.

I believe that the parts of this four-day series (and accompanying videos) that described you were fair. During my review of the research gathered by our reporter, I noted a fair amount of material in public records that was quite critical of you—for example, a reference to you as "Dr. Wallet"—that wasn't included in our series. Also, in the week before publication, reporter Willmsen offered to go through all the facts, numbers and quotes from other parties in the stories, in order to obtain your comment and observations, but you declined to be interviewed. In short, I strongly believe that we made extra efforts to treat you fairly.

You make another accusation that is also completely unfounded: that "one or more of the paper's employees" deleted part of an online Seattle Times video that you claim showed you "winking in an exaggerated manner" at the end of a 6-minute video story. (You told me the video of your wink appeared to be a slow-motion version of a moment midway through the video in which you wink at the camera in a normal way while in court.) You claim this deletion occurred after your "wife described it in a letter she wrote to the Attorney General's office."

As I told you on the phone, your claim sounded farfetched and made no sense to me. I did further research, however, including talking to online staff and consulting server logs. What you claim to have happened could not have happened. There was no post-publication editing or changing of the video, as you allege. The only explanation we could come up with, and it is only a guess, is that perhaps you had problems with the live streaming of the video in your browser on your computer in Vancouver.

You and I have spent hours on the phone, going over your grievances, and I have spent many more hours thinking about your requests and going through the voluminous public records that the reporter collected for this series. You proposed five corrections. I'd like to go through them now and tell you why we won't be able to satisfy your demands. (Your suggested corrections are bolded.)

1. **"Dr. Wollert has, in fact, found a substantial percentage of respondents to SVP petitions to be SVPs."**

As your letter notes, you object to the quoted opinions of two lawyers, one with the King County Prosecutor's Office, the other with the state Attorney General's office. The King County prosecutor described you as someone "who makes his living offering one opinion…you know, essentially, a one note symphony." The state lawyer said that Dr. Wollert's "opinion is and his opinion is similar to Dr. Donaldson that these individuals just simply don't or can't meet criteria." These statements are protected opinions of public officials.

Furthermore, in your comments to me, you said that in the vast majority of your examinations—80 percent—you find the offender *not* to be a sexually violent predator. You have provided no list of names or data to back up your percentage, but even so, we believe the story fairly and accurately described your behavior as a defense expert. Thus, to the extent these would be considered factual statements, their gist is accurate and they are substantially true.

2. **"Dr. Wollert has never disrespected the legal process."**

Nowhere in the four-part series or videos do we say you disrespected the legal process. You are demanding this correction because you contend we wanted to show you being disrespectful with a slow-motion video "wink" in the courtroom. This wink is not and was not in the video (addressed above).

3. "Dr. Wollert is a respected and responsible scientist whose research has been published in well-known professional journals and is relied upon by many professional colleagues."

The statements from others who were critical of your work were taken from public records or are clearly opinions. As I pointed out to you, after you complained that we didn't detail your scholarship, the "Price of Protection" also did not describe the research activities or publication records of Drs. Donaldson, Hanson, Phenix, Boer, Halon and the other psychologists named in the series. In addition, I believe we were fair in how we used the criticism of you coming from experts on the other side. For example, in part one of the series, we reported:

> R. Karl Hanson, the creator of Static 99 from Ottawa, Ontario, has criticized Wollert's methods, saying he misrepresents statistics and hasn't done the research to validate his own theories. "More troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree," Hanson said in a 2008 affidavit in a Franklin County court case.

We did not include much sharper criticism from Hanson found in the affidavit, which said that you provided

> "statements that are demonstrably false. These false statements include both misrepresentations of facts as well as misrepresentations of statistics and research methods. Furthermore, Dr. Wollert does not aid the audience in judging the weight that should be given to his various assertions because he fails to distinguish between peer supported professional opinion and his own speculations."

4. "Dr. Wollert has never been sanctioned by any court or found to have violated any ethics codes."

The stories do not say you have been sanctioned by any court. The stories do not say you have violated any ethics codes.

5. "No Multnomah County official who authorized Dr. Wollert to provide treatment services for the County has ever criticized Dr. Wollert. Multnomah County has also never canceled a contract held by Dr. Wollert.

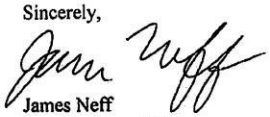
Part one of the series said: "In 2001, the county criticized Wollert for incomplete assessments, inadequate treatment guidelines and poor record keeping." This is true, based on my review of public records created by Multnomah County employees. You seem to be splitting hairs in making the point that the county employees who found the inadequacies were not the same ones who earlier had "authorized Dr. Wollert to provide treatment services." Your three-year contract with Multnomah was ended early, within about one year, after the above inadequacies were pointed out to you, and you and the county could not agree on a solution.

Before publication of the series, we tried to engage in dialogue with you about the information contained in these articles. Afterward, we talked repeatedly with you to determine the basis for your criticisms. We now have responded to a list of allegations in your recent letter. The series was fair and accurate. The articles were built on public records and the statements and opinions of public officials. Reporting on information in public records and on the statements and opinions of public officials is "absolutely privileged," as well as protected by the First Amendment.

In your letter, you said, "I do need to make a decision in the near future as to how I will proceed from here." If you do decide to pursue legal action, you should be warned that we will defend vigorously and will request an award of attorneys' fees and statutory damages against you in accordance with the Washington Anti-SLAPP Law, RCW 4.24.525.

Dr. Wollert, I know this letter must be disappointing to you. Best of luck in your future endeavors.

Sincerely,



James Neff
Investigations Editor

Cc: David Boardman

Exhibit I

Under penalty of perjury, I Elliot M. Cramer do hereby declare:

I am Elliot M. Cramer. I am Professor Emeritus in the *L. L. Thurstone Psychometric Laboratory* of the *Department of Psychology at the University of North Carolina at Chapel Hill.* I am an applied statistician and quantitative psychologist and am a Fellow of the Association for Psychological Science. I was previously a Fellow of the Division on Evaluation, Measurement, and Statistics of the American Psychological Association. I am also a member of the American Statistical Association.

My background

I received a B.S. degree in mathematics from the *Massachusetts Institute of Technology* and went on to receive an M.A. degree in Experimental Psychology at the *Johns Hopkins University.* I then spent two years as a mathematician at the Biometrics Branch of the *National Institutes of Health,* serving as their first scientific computer programmer. I worked with virtually every statistician there and, as a result, decided on a change of specialization. I returned to Johns Hopkins for a year as an NIH fellow, receiving a PhD in Experimental Psychology but immediately began a career in Applied Statistics. I was a Professor in the Psychology Department of the *University of North Carolina* for 29 years where I taught and did research, primarily in applied statistics. I have taken many advanced training courses in Statistics and was a visiting scholar for a semester at the *Stanford University Department of Statistics.* I have published in major statistical journals including *Biometrics, Journal of the American Statistical Association, Technometrics, The American Statistician,* and *Psychometrika.*

I have been a consultant in statistical methods to many organizations and individuals involving psychological and other applications. I have been a legal consultant and have been qualified as an expert in statistics and psychology in a number of cases, testifying for both plaintiff and defendant. I have testified in three sexually violent predator civil commitment trials and expect to testify in at least two more this year. I am a manuscript reviewer for the journal *Sexual Abuse.*

At the *University of North Carolina* I taught a required graduate course in advanced statistical methods as well as courses for those specializing in quantitative methods. In the course of teaching hundreds of clinical psychology PhD students, it has been my experience that among psychology graduate students, clinical students have the least interest in statistical methods, being more oriented towards clinical practice rather than research. Their typical training consists of one or two courses in statistics.

R. K Hanson and the STATIC-99

I am very familiar with the STATIC-99 scale developed by R. Karl Hanson and have relied on his work in my court testimony. In his 1999 paper, STATIC 99: Improving Actuarial Risk Assessments for Sex Offenders, he "compared the predictive accuracy of three sex offender risk assessment measures", noting that the "STATIC-99 showed moderate predictive accuracy for both sexual recidivism" and violent recidivism with a correlation of .33. This correlation is moderate at most, accounting for only about 10% of the variation in sexual recidivism. It is comparable to the predictive validity of the SAT in predicting first year college scores. This suggests that the STATIC-99 would be useful as a screening device but not as a selection device.

My first reaction to the STATIC-99 scale was that it was quite crude, with most of the items such as age being dichotomous. I was very interested to see Hanson's later 2006 paper, "Does STATIC-99 Predict Recidivism Among Older Sexual Offenders?" which I first read under the earlier more appropriate title "The Validity of STATIC-99 with Older Sexual Offenders." In this paper he looked at a sample of 3,425 sexual offenders, three times as many as his original 1999 paper where he had only 1301 cases. Obviously this later paper is substantially more reliable than the earlier paper. Hanson stated "Recent research has suggested that its (STATIC-99) methods of accounting for the offenders' ages may be insufficient to capture declines in recidivism risk associated with advanced age.... Older offenders, however, had lower sexual recidivism rates than would be expected based on their STATIC-99 risk categories. Consequently, evaluators using STATIC-99 should consider advanced age in their overall estimate of risk." I do not see how anyone could disagree with this conclusion. His colleague and co-author, David Thornton, recently said "It is generally accepted that on average, recidivism rates decline with age. This effect isn't fully allowed for by Static-99. Hanson (2006) demonstrates this in a large multi-sample analysis."

In addition to providing estimated recidivism rates, the 2006 paper gave confidence intervals, providing a margin of error for these rates, similar to what is stated in election polling. Clearly this is the definitive paper on the STATIC-99. I was puzzled by Hanson's statements in his paper that "Evaluators using STATIC-99 should consider advanced age as one factor in their overall estimate of risk. How best to consider age remains unresolved by the current study.... the stability of these estimates are unknown until they have been replicated in independent samples." Evidently Hanson does not realize that the purpose of the confidence intervals which he has provided (evidently for the first time in his work on the STATIC-99) IS to provide evidence of stability. In his Declaration, Dr. Wollert states that he was told by Hanson that "he did not think the confidence interval approach was very helpful for SVP statutes." Evidently these confidence intervals were computed by someone else with more expertise.

It is obvious to me (as it would be to any statistician) "how best to consider age." One should "consider age" by using the tables that Hanson has provided in his 2006 paper. The tables in the original STATIC-99 paper are obsolete because they are based on a much smaller sample and because they do not take age into account. My opinion has been reinforced by Richard Wollert's replication using independent data and Bayesian methods; he has obtained virtually the same results as Hanson.

I think that Hanson's work in developing and validating the STATIC-99 is excellent, but I am appalled by his recent criticisms of the work of Dr. Richard Wollert. Hanson is a clinical psychologist and my understanding is that his graduate student interests were in psychotherapy and psychopathology. Reviewing his resume, it is apparent that he has been quite prolific but he has never published in the statistical literature nor is there evidence that he has expertise in statistics. His criticism are all the more surprising since Wollert's paper confirms the results given by Hanson in his 2006 paper on the effects of age on recidivism. Contrary to Hanson's statements, Wollert's work is very sound from a statistical point of view. I see no evidence that Hanson has the statistical competence to criticize Wollert's work. This is confirmed by Hanson's statistical errors in his declaration to the Court.

Dr. Hanson's criticisms of Dr. Richard Wollert

I first learned of Dr. Richard Wollert's work when I was doing research for my first commitment trial. I was impressed by his evident statistical sophistication and I have kept in contact with him during the past year. He has a remarkable knowledge of statistical methods for a clinical psychologist as demonstrated in his publications. He has considerable statistical facility which is particularly reflected in his use of Bayesian methods. I have found his papers interesting and instructive, but they have served primarily to reinforce my views of the limited predictability of the STATIC-99 and the importance of taking age into account in making evaluations. This view was derived from Hanson's own work. For someone age 40-50 scoring in the high range on the STATIC-99, Hanson's results show that about 25% of those convicted will recidivate in five years. In other words, three individuals will be misidentified for every one that is correctly identified. For someone in the moderately high group this ratio becomes six to one.

Hanson's naivete with regard to statistics is illustrated by the 2007 meta-analysis paper he cites. Hanson's 1999 paper on the STATIC-99 states that the STATIC-99 has only "moderate predictive accuracy" as evidenced by a correlation of .33 with sexual recidivism. Similarly, the STATIC-99 coding manual (2003) states that "The weaknesses of the STATIC-99 are that it demonstrates only moderate predictive accuracy". In the more recent meta-analysis paper, Hanson now claims that "it is possible to conduct psychologically informed risk assessments ... of high predictive accuracy". This contradiction between what he said before (and has repeated) and what he says now is explained by his lack of expertise in statistics resulting in errors and misleading statements. In his meta-analysis paper, Hanson writes "The d statistic was selected because it is less influenced by recidivism base rates than correlation coefficients- the other statistic commonly used in meta-analyses." As Wollert and others have pointed out, the reason it is so difficult to predict recidivism is BECAUSE of the low base rate. You cannot get around this by using a statistic that is insensitive to base rates. The "d statistic" Hanson uses is inappropriate since one cannot control the base rate. Hanson's more recent conclusion is wrong; it is NOT possible to conduct risk assessments "of high predictive accuracy".

Specific comments on R. Karl Hanson's Declaration

5. "Dr. Wollert's testimony contains some ... statements that are demonstrably false. These false statements include both misrepresentations of facts as well as misrepresentations of statistics and research methods"

I know of no such statements in Dr. Wollert's work. I find Hanson's claim outrageous and slanderous. I do not believe, in view of Hanson's limited expertise, that he is qualified to make such a judgment.

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6. "Dr. Wollert's most serious error is that the method he proposed to mathematically adjust actuarial risk prediction ... is incorrect. ... Such adjustments only make sense when age is unrelated to Static-99 scores.... The adjustments made by Dr. Wollert in this case have the effect of underestimating recidivism rates."

This is absolutely false; there is no such assumption and Dr. Wollert produces almost exactly the same age adjusted estimates that Hanson produced in his 2006 paper. In Hanson's own paper he

says that "evaluators using STATIC-99 should consider advanced age in their overall estimate of risk."

---

7. "The available research has demonstrated that age is related to Static-99 scores.... It indicates that the older offenders were different from the younger offenders even when they were younger."

This is absurd; it is impossible to say what older offenders were like "when they were younger" except to say that they were younger. The very small differences Hanson observes in Static-99 scores may not even be statistically significant. The average score he reports for the 18-24.9 group is biased because he adds 1 to their Static-99 score for being under 25. When using his new tables, 1 should not be added for being under 25.

---

8. "Dr. Wollert, based on data I present, uses age to estimate new (lower) recidivism rates for older sexual offenders.... Dr. Wollert's method ... uses Bayes' theorem .... This theorem is false when the variables used to adjust the recidivism base rates are correlated with scores on the assessment measure."

Hanson stated on page 2 of his declaration that Bayes theorem is true "by definition". Bayes theorem is true because it is simply a relation between probabilities. There is no assumption that "age is unrelated to Static-99 scores". Were this so, there would be nothing to adjust. The adjustment depends on there being such a correlation. The point is to show just how Static-99 scores are related to age. This is what BOTH Hanson and Wollert have done in their papers.

---

9. "Dr. Wollert's method of adjusting the actuarial scores produce numbers without any substantive meaning, and artificially reduces the recidivism rate for older offenders. In Appendix A, attached, I demonstrate how Bayes' theorem can be used to produce a completely false recidivism rate"

In fact, Dr. Wollert's produces numbers that are very close to the numbers in Hanson's tables. He has offered independent evidence of the validity of Hanson's own age-adjusted tables. If Hanson's statement here is correct, he is criticizing his own work. Hanson has blundered in Appendix A, reinforcing the suggestion that he lacks statistical competence.

Hanson has stated that Bayes' theorem is true "by definition". This is obvious since it is simply a relationship between conditional and unconditional probabilities in a bivariate table. The theorem is also true for estimated probabilities when these estimated probabilities are obtained from a bivariate frequency tables such as found in Appendix Six of Hanson's original Static-99 paper. Hanson has provided an example of it's validity in the first part of his Appendix A. Obviously the validity of his computations does not depend on the special nature of the bivariate table; the computations must be valid for ANY bivariate frequency table.

In Static-99 Appendix six, the five year recidivism rate for a score of 6+ is .39. This is exactly what Prob(recidl6+) means, the probability of being a recidivist, given that one obtains a score of

6+. The Bayes computation must yield this result for ANY bivariate table that includes this mean entry. Hanson's first computation used the whole table and obtained the correct value of .39. His second computation used a "subsample", dropping off the first four rows corresponding to Static-99 scores of 0, 1, 2, and 3; this gave Hanson a new restricted frequency table to base his computations on. Any new computations for Bayes Theorem must be based on THIS table and use no other information. Hanson's computation for the second table gave an incorrect value of .49 instead of .39 and Hanson claimed that this "demonstrates how Bayes' theorem can produce meaningless numbers". What it actually shows is that Hanson has made a computational error and the only problem is to find the error.

Dr. Wollert discovered that Hanson made two errors; first, he added the sample sizes 190, 100, and 129 in column two ofHanson's Appendix Six and obtained 519 instead of419. Secondly, he mistakenly used numbers from outside the restricted table.

Hanson wrote

Prob(recidl6=) = (.256)(.254) / [(.256)(.254) + (.089)(.746)] = .49

Hanson did not say where the numbers .256 and .089 came from, but they could only have come from the equations

P(6+jrecid) = 50/195 = .256

and

P(6+1nonrecid) = 79/891 = .089

in his first computation where 891+195 = 1086, the sample size of the full table, rather than the restricted table which MUST be used for the second computation. Curiously, Hanson seems to recognize that he has used the wrong numbers when he says "Such distortions are only observed when the overall sensitivity and specificity are used." In other words the results are correct if the proper values of P(6+lrecid) and P(6+jnonrecid) are used. He then goes on to say "To use Bayes' theorem, it is necessary to establish that the factors used to change the base rate are either unrelated to the relative recidivism risk of individuals, *or* are uncorrelated with the actuarial measure." Evidently he believes that *either* is sufficient but he has nowhere demonstrated that *either* is a requirement. All he has shown is that if you make a computational error and use the wrong values of P(6+lrecid) and P(6+1nonrecid), you get incorrect results.

---

10. "Dr. Wollert states that 'Wollert recently duplicated Hanson's results ... with an independent sample of3,106 subjects.... the correlation between Hanson's and Wollert's results is .97, which shows the results of these studies closely parallel one another.' Dr. Wollert is suggesting that he has either cross-validated research presented in my 2006 article."

This is PRECISELY what Dr. Wollert has done. I find it incredible that Hanson does not realize that Dr. Wollert is supporting what Hanson himself has done.

---

11. "I noted that 'although it is possible to compute numeric estimates of the combined effect of Static-99 and advanced age, ... the stability of these estimates will be unknown until they have been replicated in independent samples.' ... more troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree with it."

Hanson does not seem to understand that the confidence intervals reported in HIS paper DO provide information on the stability of HIS estimates. The obvious conclusion of Dr. Wollert's paper is that he agrees with Hanson's results since, using independent data and another method of analysis, he arrives at almost identical results. Hanson may disagree with the method of analysis (although he is not competent to do so) but he CANNOT disagree with the results since they are virtually the same as his own.

---

12. "The effect of age on sexual recidivism risk has not been resolved in the scientific community."

I believe that there is almost universal consensus (including Hanson's own statement below) that recidivism goes down with age. His colleague and co-author recently said as much as noted above.

---

13. "Even if advanced age has some relationship to reduced recidivism (a position I believe to be true), it is merely one factor among many that could influence recidivism risk beyond that measured by Static-99."

Obviously, as Hanson himself has stated, it should be taken into account and the obvious way is to use Hanson's new tables which are based on three times the sample size of his old tables.

---

14. "In summary, I believe that it is the role of evaluators to estimate recidivism rates based on the average recidivism rates for members of the class that the offender most closely resembles .... For purposes of Static-99, those estimates should be determined by reference to Appendix Six in the Static-99 scoring manual."

This view is obviously incorrect for reasons I have stated above.

I have written Dr. Hanson four times, requesting data from his paper, *Does STATIC-99 Predict Recidivism Among Older Sexual Offenders?*. He has declined twice, saying that "I do not see how the requested information would advance our understanding." and "You have not convinced me of the merits of your request.". After two days, I have not yet received a reply to my third request. I believe that my request is reasonable and well justified. The correspondence is attached.

Conclusions:

Hanson has unjustifiably criticized Dr. Wollert's work on statistical grounds when Hanson has substantially less statistical competence than Dr. Wollert. In particular, the paper that Hanson severely criticizes produces results that are consistent with Hanson's own published work, but from a Bayesian perspective. Hanson produces an example which he claims shows that "Bayes' theorem can produce meaningless results". Because of an addition error and a conceptual error, he obtains the wrong answer. When properly done, both of his examples support what Dr. Wollert has done. Hanson says "The estimate of the recidivism rates should be those observed in actual recidivism studies, and not those generated by arithmetic manipulations based on incorrect assumptions." Both Dr Wollert and I agree. Hanson further says "those estimates should be determined by reference to Appendix Six in the Static99 scoring manual." Dr. Wollert and I believe that these estimates should be based on Table 3 of Hanson's 2006 paper which is based on three times the sample size of the earlier tables and which takes age into account in a more proper manner than Hanson's original paper. A further point in favor of this is the fact that Dr. Wollert has replicated these estimates with an independent sample and a different valid methodology.

_____

Elliot M. Cramer
Chapel Hill, North Carolina
March 12, 2008

Exhibit J

COPY

MUTUAL RELEASE AND SETTLEMENT AGREEMBN·r

FOR AND IN CONSIDERATION of the payment to Dr. Richard

MAY 1 6 2002 Wollert, Ph.D., in his individual capacity and as the Director ofWollert and Associates (hereinafter referred to as "Wollert"), of the sum of TEN THOUSAND AND N0/100 ($10,000.00) DOLLARS, and of payment of the balance due under Multnomah County Services Contract No. 0010618 (hereinafter referred to as the "Contract") for the fiscal year ending June 30, 2002 in equal monthly installments, by Multnomah County (hereinafter referred to as the "County") insettlement of disputed claims, Wollert and the County mutually agree as follows:

1. Release. The County and Wollert hereby release and forever discharge each other, and all of their officials,. officers, employees and agents, from any and all rights of action, claims, demands, wage claims, contract claims, employee benefit claims, statutory claims, civil rights claims, civil service claims, attorney fees claims, and any other charges, claims or expenses, lmown and unknown, which they have ever had, now have, or hereinafter may have, whether arising in contract or tort, in any way arising out of any contractual relationship they have or have had, including claims in relation to the Contract, or the termination of that relationship, or any other events occurring at any time up to and including the date Wollert executes this Mutual Releas and Settlement Agreement; provided, however, that this provision shall not limit them from filing a lawsuit for the sole purpose of enforcing the rights under this Agreement.

2. The County and Wollert·Agree. The County and Wollert agree as follows:

a. The $10,000 payment referred to above shall be made within three weeks after the Release and Settlement Agreemept is fully executed by Wollert;
b. County will indemnify, defend and hold hannless Wollert from and against all liability, loss and costs, including attorney fees, relating to, arising out of or resulting from all claims or actions alleging that a harm, loss, or injury was caused at least in part by the transition of an offender served under the Contract (hereinafter referred to as "client" or "clients") to a different provider;
c. The County will begin transitioning clients it chooses to transfer as soon as the Release and Settlement Agreement is signed by both parties. All clients the County chooses to transfer will be transferred to new

Release and Settlement Agreement

providers by June 30, 2002. Wollert shall provide services required under the Contract to clients while clients remain in his care and the contract is still in force;

d. The County will identify a contact within the County (hereinafter referred to as the "Transition Coordinator") who will work with Wollert to transition clients to a new provider;

e. At the time clients are transitioned to a new provider, Wollert will provide the County with documentation detailing the clients' treatment goals; progress in meeting the goals, assignments completed, and their risk to the community;

f. Wollert will maintain clients' charts and files for seven years after clients leave his care and will provide the County with access to the files upon request. Wollert will provide copies, at no charge to the County, of file materials requested by the Transition Coordinator;

g. Wollert and the County will mutually cooperate with the Parole and Probation Officers as they transition clients to a new provider;

h. If Wollert applies with the County to be an approved sex offender treatment provider, his application will be analyzed using the same criteria used in reviewing the applications of other treatment providers; and

1. The Contract will terminate on June 30, 2002.

3. Nonadmission of Liability. It is expressly understood that this release, and any consideration for it, does not in any way constitute an admission of liability or wrongdoing on the part of either party, any such liability being expressly denied, and that this release is entered into solely in compromise of disputed claims in order to bring about a resolution of such claims, the validity of which is expressly denied by each party.

4. Mutual Drafting. The County and Wollert agree that this Release and Settlement Agreement is a product of their mutual negotiation and preparation and shall not be deemed to have been prepared or drafted by either party. The parties further agree that any court seeking to interpret this agreement shall construe it as a product of mutual negotiations and preparation.

5. Knowing Release. All parties hereto declare that they fully understand the terms and provisions of this Release and Settlement Agreement and voluntarily accept the terms and provisions for the purpose of making a compromise, adjustment and settlement of all disputed matters. The parties

hereto declare that prior to the execution of this Release, they apprised themselves of sufficient relevant data and advice of legal counsel in order that they might intelligently exercise their own judgment in deciding whether to execute this Release and Settlement Agreement.

6. Entire Agreement. This Release and Settlement Agreement constitutes the sole, entire and complete agreement between the parties and that no promises, inducements or agreements not herein expressed have been made and that the terms of this agreement are contractual and not a mere recital.

THE UNDERSIGNED STATE THAT THEY HAVE *RELI\D* THIS RELEASE AND SETTLEMENT AGREEMENT IN ITS ENTIRETY AND NO PROMISE, INDUCEMENT, OR AGREEMENT NOT HEREIN EXPRESSED HAVE BEEN MADE TO THEM, THAT THIS RELEASE AND SETTLEMENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO, THAT THEY VOLUNTARILY AND KNOWINGLY ACCEPT ITS TERMS AND PROVISIONS AND THAT THEY HAVE BEEN ENCOURAGED TO SEEK LEGAL COUNSEL TO EXPLAIN ITS TERMS AND CONDITIONS.

Dated this *IS* ay of May, 2002, at Portland, Oregon.

Richard Wollert, Ph.D

Approved as to form:

David Miller
Miller & Wagner, LLP

Approved on behalf of Multnomah County, Oregon By:

Patrick W. Henry
Assistant County Attorney
Mul1nomah County, Oregon

Exhibit K

Rob McKenna
ATTORNEY GENERAL OF WASHINGTON
800 Fifth Avenue #2000 • Seattle WA 98104-3188

February 10, 2010

Andrea Javist, LCSW
Staff Services Manager
California Department of Mental Health
Sex Offender Commitment Program

Re: **Decision to Permit Dr. Richard Wollert to Conduct a DMH Sponsored Training Program**

Dear Ms. Javist,

I am writing on behalf of the Washington State Attorney General's Office – Sexually Violent Predator Prosecution Unit to express this Unit's great disappointment regarding the decision to permit Dr. Richard Wollert to conduct a training session for forensic psychologists who are employed by the State of California. I have been provided your name as a point of contact regarding that decision. If you are not the appropriate person to receive this correspondence, I ask that you please forward this correspondence to the appropriate individual.

Since 1990, the Sexually Violent Predator Unit of the Attorney General's office has handled the prosecution of SVP cases in 38 of Washington State's 39 counties. Dr. Wollert, who resides in Vancouver, Washington, is one of the most frequently retained psychologists by the Washington defense bar. As such, this office has had many dealings with Dr. Wollert through the years, and has closely followed his ever-changing methodologies. As the years have passed, consistency is only found in Dr. Wollert's on-going failure to operate in a manner sanctioned by the psychological community. I recognize the value of dissenting opinion in any scientific field, and I certainly recognize the need for fairness and integrity when making decisions regarding the civil commitment of sex offenders. However, Dr. Wollert's long held status as an outlier would seem an important consideration when deciding whether to permit him to train others.

That Dr. Wollert is blindly driven by his own idiosyncratic agenda is not the opinion of this office, but rather, and more importantly, that of his peers. For example, while commenting on Dr. Wollert's work in the Washington SVP case *In re the Detention of Robinson*, Yakima County Superior Court Cause No. 97-2-03149-3, Dr. Dennis Doren wrote,

> "In all of the work I have conducted, supervised, was consulted about, read about, or heard testimony concerning within the realm of sexual offender civil commitment

> evaluations, I have never heard any other person besides Dr. Wollert use or attempt to use the methodology he espouses in his declaration as described above. In fact, I have never seen this methodology used in any aspect of my practice of psychology in any area at all, whether within or outside the civil commitment assessment field."

3/7/08 Doren Declaration at 4-5.

Dr. Doren went on to explain that he does not use Dr. Wollert's methodology because, "it is not a methodology that represents any kind of standard approach in the field. Stated otherwise, the methodology is novel at best, unique to Dr. Wollert, and clearly not generally accepted in the field of psychology as applied to any type of diagnostic assessment including the sexual offender civil commitment area." *Id.* at 4-6.

A similar view of Dr. Wollert's practices was offered by Dr. Karl Hanson in the Washington SVP case *In re the Detention of Davenport*, Franklin County Superior Court Cause No. 99-2-50349-2. Dr. Hanson is a co-creator of the Static-99 and Static-2002 risk prediction instruments, and a leader in the field of sex-offender recidivism prediction. When asked to comment on Dr. Wollert's method of risk prediction in 2008, Dr. Hanson wrote,

> "[Dr. Wollert's] testimony contains some statements that are true by definition (e.g. Bayes' theorem), some statements that are consistent with widely held professional opinion, some statements that are debatable, and some statements that are demonstrably false. These false statements include both misrepresentations of facts as well as misrepresentations of statistics and research methods. Furthermore, Dr. Wollert does not aid the audience in judging the weight that should be given to his various assertions because he fails to distinguish between peer supported professional opinion and his own speculations."

2/27/08 Hanson Declaration at 4-5.

Dr. Hanson's comments raise the question of whether, prior to your decision to retain him, Dr. Wollert provided you enough information to determine whether his training will be supported by more than his own speculations. It has been made clear that taking an oath and appearing in court do not serve to restrain Dr. Wollert from injecting personal agenda into serious matters such as civil commitment proceedings. Indeed, Courts around Washington State have repeatedly chastised Dr. Wollert's methods.[1] Thus, it seems equally clear that the inherent obligation of anyone you call upon to provide training to give correct and unbiased information will also be ignored by Dr. Wollert.

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[1] *See* Finding of Fact, Conclusions of Law, and Order Re: Bench Trial, *In re Peterson*, Chelan County Superior Court Cause No. 07-2-00193-4 at 5-6; Fact, Conclusions of Law, and Order of Commitment, *In re Fox*, Pierce County Superior Court Cause No. 01-2-07150-1 at 8-11; Fact, Conclusions of Law, and Order Re: Bench Trial, *In re Robinson*, Yakima County Superior Court Cause No. 97-2-03149-3 at 15 (pertinent excerpts of these documents are enclosed).

Wasting no time in utilizing your decision for personal gain, Dr. Wollert testified this week in a Washington SVP trial that he will be soon be training state evaluators on how to conduct SVP evaluations. During that same testimony, Dr. Wollert testified that the alleged SVP was no longer a pedophile because he only molested his most recent victim two times over the course of two years. That figure was presumably based on the fact that the alleged SVP had been convicted of two counts of Assault in the Third Degree against that victim. In fact, both the victim and the alleged SVP reported that the alleged SVP would "rub" the victim's "private areas" on a nearly daily basis during that two year period. When this was pointed out to Dr. Wollert, he testified that his opinion remained unchanged because Dr. Wollert was unsure what was meant by rubbing the victim's private areas. During his deposition, the alleged SVP stated the reason he repeatedly fondled this young girl was "to stimulate himself." The transcript of the alleged SVP's deposition testimony had previously been provided to Dr. Wollert for his review.

In Washington, once a SVP is civilly committed, the law mandates that he or she can become eligible for release if their condition changes through treatment. However, as is the case in California, many of the committees decline to participate in the treatment center's sex offender treatment program. Inexplicably, failure to participate in treatment does not prevent Dr. Wollert from routinely opining such individuals have "changed through treatment." This is because Dr. Wollert has, of his own accord and in spite of a clear legislative directive to the contrary, concluded that "treatment," as referred to in the Washington statute, "includes, but is not limited to, such different interventions as psychotherapy, skills training, pharmacotherapy, social support, inspirational modeling, maturation, response inhibition, rest, recreation, reflection, adequate health care, and scientific advances that inform the processes by which SVPs and non-SVPs are identified."[2] Thus, Dr. Wollert appears to recognize the need to provide the court with evidence of a change in condition as a result of treatment participation, and he then purposefully defines the concept of treatment so broadly that it encompasses virtually every activity associated with human life.

Thus, according to Dr. Wollert, treatment of individuals previously identified as having a mental disorder that makes them likely to commit acts of predatory sexual violence could consist solely of a good night's sleep, or playing a pick up basketball game, or going to the dentist, or simply getting a little older. Using Dr. Wollert's reasoning, if a committed SVP went to bed in a bad mood, and awoke in good humor, Dr. Wollert could well conclude that the committed person's condition had changed through treatment. Such evaluations routinely cost the State of Washington a minimum of five to ten thousand dollars.

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[2] The quoted language is taken from a recent evaluation conducted by Dr. Wollert, and filed in the matter of *In re Keeney*, Walla Walla County Superior Court Cause No. 04-2-00752-7. Using the above self-created and all encompassing definition of the word treatment, Dr. Wollert concluded that Keeney, a nonparticipant in treatment, has indeed undergone a change in condition. This conclusion was drawn without specifying what the "change" actually was.

ATTORNEY GENERAL OF WASHINGTON

These are a small percentage of the many examples of Dr. Wollert's questionable practices that could be provided to you upon request. In short, Dr. Wollert's agenda-driven methodologies disgrace his profession, and what he perceives as your endorsement will be used to harm the credibility of your own evaluators. With the above information as context, I strongly urge you to reconsider your decision to employ Dr. Wollert to train on behalf of the State of California. As the training session remains a month away, there is still time to revisit your decision.

Sincerely,

JOSHUA L. CHOATE
Assistant Attorney General – Team Leader
Sexually Violent Predator Unit
(206) 464-6430
(800) 345-2793

JLC:jd
Enclosure

Exhibit L

705 Second Avenue
Suite 1500
Seattle, Washington
98104-1748

Tel 206.623.1604
Fax 206.343.3961

March 18, 2010

BY CERTIFIED MAIL

Office of Financial Management
Risk Management Division
General Administration Building, Room 300
210 - 11th Avenue S.W.
P.O. Box 41027
Olympia, WA 98504-0127

Enclosed please find a Tort Claim filed on behalf of Dr. Richard Wollert. Please acknowledge receipt of this Claim by return mail. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

Timothy K. Ford

TKF:lt
Enclosure

cc: Dr. Richard Wollert

CLIENT COPY

Washington News Council
Complaint against *The Seattle Times* from Dr. Richard Wollert
Documentation

STANDARD TORT CLAIM FORM

General Liability Claim Form #SF 210

For Offical Use Only

No.

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the State of Washington. Some of the information requested on this form is required by RCW 4.92.100 and may be subject to public disclosure. Pursuant to the new law, Standard Tort Claim forms cannot be submitted electronically (via e-mail or fax).

PLEASE TYPE OR PRINT IN INK

Mail or deliver original claim to

Office of Financial Management
Risk Management Division
General Administration Building, Room 300
210 11th Avenue SW
Post Office Box 41027
Olympia, Washington 98504-1027

Business Hours: Mon. - Fri. 8:00 a.m. - 5:00 p.m.
Closed on weekends and official state holidays.

CLAIMANT INFORMATION

1. Claimant's name: Wollert (*Last name*) Richard, Ph.D. (*First*) (*Middle*) 11/21/1945 (*Date of birth (mm/dd/yyyy)*)

2. Current residential address: 602 E. 31st St., Vancouver, WA 98663

3. Mailing address (if different): c/o Timothy K. Ford, 705 2nd Ave. #1500, Seattle, WA 98104

4. Residential address at the time of the incident (if different from current address):
same as above

5. Claimant's daytime telephone number: _____ (*Home*) (206) 622-1604 (Attorney) (*Business*)

6. Claimant's e-mail address: c/o Attorney timf@mhb.com

INCIDENT INFORMATION

7. Date of the incident: 2/10/2010 (*mm/dd/yyyy*) Time: _____ ☐ a.m. ☐ p.m. (*check one*)

8. If the incident occurred over a period of time, date of first and last occurrences:
from _____ (*mm/dd/yyyy*) Time: ____ ☐ a.m ☐ p.m. (*check one*) to _____ (*mm/dd/yyyy*), Time: ____ ☐ a.m ☐ p.m. (*check one*)

9. Location of incident: See Attachment
(*State and county*) (*City, if applicable*) (*Place where occurred*)

10. If the incident occurred on a street or highway:

N/A
(*Name of street or highway*) (*Milepost number*) (*At the intersection with or nearest intersecting street*)

11. State agency or department alleged responsible for damage/injury:

Office of the Attorney General - Sexually Violent Predator Unit

12. Names, addresses and telephone numbers of all persons involved in or witness to this incident:
~~Joshua Choate and Brooke Burbank, Office of the Attorney General 800 5th Ave. #2000, Seattle, WA 98104 (206)464-6430; Andrea Javist, California Department of Mental Health, 1600 9th St., Sacramento, CA 95814; Amy Phenix, 630 Quintana Road, Morro Bay, CA 93442; see also Ex.2.~~

13. Names, addresses and telephone numbers of all state employees having knowledge about this incident:
See paragraph 12, above.

14. Names, addresses and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

Brian Abbott, Ph.D., 111 N. Market Street, Suite 300, San Jose, CA (408)451-8465--defamation and damages

Dr. Robert Halon, 2092 McCollum St., San Luis Obispo, CA 93405 (805) 544-5870--defamation and damages

See also Exhibits 2, 4 and 6.

15. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See Attachment.

16. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom?

No.

17. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

N/A

18. Please attach documents which support the claim's allegations.

19. I claim damages from the State of Washington in the sum of $ 100,000.00 .

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant, by the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

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

Signature of Claimant Attorney

3/18/10 Seattle, WA.
Date and place (residential address, city and county)

Form SF 210 (July 2009)

ADDENDUM TO TORT CLAIM FOR DEFAMATION AND MALICIOUS INTERFERENCE WITH BUSINESS RELATIONS

Location of Incident: King County, Washington; Sacramento and San Luis Obispo Counties, California; see also Exhibit 2.

Description of the Incident:

On February 10, 2010, Assistant Attorney General Joshua Choate, claiming to be acting on behalf of the Washington State Attorney General's Office, wrote a letter to Andrea Javist, of the California Department of Mental Health. A copy of the letter is attached as Exhibit 1. The letter contained numerous derogatory statements about Dr. Wollert. It was sent with the intent to cause the California Department of Mental Health to break a contract it had with Dr. Wollert for a training session to be scheduled in the State of California in March, 2010, and to interfere with his business relations.

The letter contained false, misleading, and defamatory statements that were injurious to Dr. Wollert in his business and profession, which it falsely represented as factual representations about "not the opinion of this office, but rather, and more importantly, that of his peers."

On or about February 11, 2010, the letter was forwarded to Dr. Amy Phenix, Ph.D., a competitor of Dr. Wollert's. Shortly thereafter, Mr. Choate and Assistant Attorney General Brooke Burbank authorized Dr. Phenix to transmit the letter to numerous professional psychologists around the country. See Exhibits 2 and 3. This greatly magnified the damage caused by the false and defamatory statements in the letter.

This letter was sent for the stated intent to interfere with Dr. Wollert's contractual relations and business expectations with the California Department of Mental Health. Mr. Choate and Ms. Burbank authorized the dissemination of the letter by Dr. Phenix with intent to damage Dr. Wollert's reputation, business and business expectations in Washington, California and other states.

The letter stated and implied that Dr. Wollert employs unscientific methods and has engaged in professional misconduct. It said that Dr. Wollert utilized "ever-changing methodologies," so that "consistency is only found in Dr. Wollert's on-going failure to operate in a manner sanctioned by the psychological community," and he is "blindly driven by his own idiosyncratic agenda." In fact, Dr. Wollert has consistently applied accepted statistical methods to the prediction of future dangerousness, and his methodologies have been widely accepted and endorsed by others in the scientific and psychological community, and his work is held in esteem by the great majority of his scientific peers. See Exhibits 6 and 7. Dr. Wollert has maintained licensure as a psychologist in Washington, Oregon, and Saskatchewan, Canada, and is a member of a number of professional psychological organizations. See Exhibit 5. He has never been sanctioned, disciplined or found to have violated the Ethical Principles and Code of Conduct for Psychologists or any other code of professional conduct. He has published numerous research papers that have been accepted by and published in peer reviewed journals. *Id.*

The letter also stated and implied that Dr. Wollert gives false testimony as a witness in court and conveys inaccurate and untrue information as a teacher and trainer. The letter states: "It has been made clear that taking an oath appearing in court do not serve to restrain Dr. Wollert from injecting personal agenda into serious matters such as civil commitment proceedings," that he had been "chastised" by Courts, and that it was "clear that the inherent obligation of anyone you call upon to provide training to give correct and unbiased information will also be ignored by Dr. Wollert." In fact, Dr. Wollert's expert opinion and testimony have been cited and relied upon by many Courts, in Washington, in other states, and in the federal system. Dr. Wollert has never been sanctioned or found by any court to have testified falsely.

Two of the three sets of Findings in which the letter says Dr. Wollert was "chastised" by courts were drafted by the Attorney General's office. The third was a Memorandum Opinion in which a Court said Dr. Wollert's methodology was "not generally accepted." As Mr. Choate knew or should have known, all three of these decisions were appealed. Two of the three cases are still pending on appeal. In the one that has been reviewed on appeal, the appellate court declined to rely on the trial court's findings regarding Dr. Wollert's methodology. *Robinson v. State*, 2009 WL 3172797, 9 (Wash.App. Div. 3 2009). Mr. Choate also knew or should have known that the Washington Court of Appeals had held it to be error for these same *Robinson* "findings" to be used to impeach Dr. Wollert's testimony in another case, because they lacked foundation, were hearsay, and such use was "unfair." *In re Detention of Pouncy*, 144 Wn.App. 609, 624-626, 184 P.3d 651 (2008), *affirmed* 2010 WL 817369 (Wash. Sup. Ct. 3/11/2010).

Mr. Choate and his colleagues also knew or should have known that the criticisms of Dr. Wollert by two state-retained expert witnesses quoted at pages 1 and 2 of the letter (Dr. Dennis Doren and Dr. Karl Hanson) had been fully answered by other expert evidence (see Exhibit 6) and that those criticisms did not reflect the opinions of most qualified researchers in this field (see Exhibit 5). In addition, they knew or should have known that Dr. Hanson had subsequently ceased his criticism of Dr. Wollert, acknowledged the validity of Dr. Wollert's use of Baysian analysis and his conclusions about the effect of age on sex offender recidivism. See Exhibit 8. They also knew or should have known that Dr. Doren had submitted an article containing his criticisms of Dr. Wollert's work to a respected, peer reviewed journal, PSYCHOLOGY, PUBLIC POLICY, AND LAW, but that Journal declined to publish the article so he published a modified version of it on an e journal instead. See Exhibit 9.

Dr. Wollert has been a professor at four colleges and has given thousands of lectures in that capacity, as well as many papers and trainings. See Exhibit 5. He has never been the subject of any formal complaint that the content of any of his lectures or trainings were incorrect or biased, and Mr. Choate had no basis for asserting otherwise.

This is a summary only. Further investigation into the background and dissemination of this letter will likely uncover additional evidence of the State's liability and of Dr. Wollert's damages.

Exhibit M

From: Lana Holladay <lholladay@charter.net>
To: 'Al Fricke' <alfricke@pacbell.net>; 'Amy Phenix' <amy@amyphenix.com>; barrie@barrieglen.com; 'Beryl Davis' <drberyl@sbcglobal.net>; 'Bruce Yanofsky' <doctoryanofsky@sbcglobal.net>; 'Christopher Matosich' <Bigsky8@pacbell.net>; 'Christopher North' <cnorth@dc.rr.com>; 'Clark Clipson' <clarkclipson@hotmail.com>; 'Craig Updegrove' <cupdegrove@charter.net>; 'Dale Arnold' <darnold5834@aol.com>; 'Dana Putnam ' <surfdoc@charter.net>; 'Dawn Starr' <drstarr@charter.net>; 'Debra Inman' <bluesky@napanet.net>; 'Dennis Shephard' <mdodoc@aol.com>; 'Donald Viglione' <dviglione@alliant.edu>; 'Doug Korpi' <douglaskorpi@mac.com>; 'Elaine Finberg' <Finnberg@sbcglobal.net>; 'Gary Zinik' <gzinik@aol.com>; 'Harry Goldberg' <hgoldbergphd@aol.com>; 'Hy Malinek' <malinek@aol.com>; 'Jack Vognsen' <jackvognsen@gmail.com>; 'Jeffrey Davis' <jeffreydavisphd@gmail.com>; 'Jeremy Coles' <JeremyColesPhD@yahoo.com>; 'John Hupka' <drjohnhupka@yahoo.com>; 'Kathy Longwell' <kathylongwell@sbcglobal.net>; 'Kent Franks' <kfranks193@aol.com>; 'L.C. Miccio-Fonseca' <lcmf@cox.net>; 'Lisa Jeko' <ljeko@earthlink.net>; 'Mark Miculian' <memphd@msn.com>; 'Mark Patterson' <c.m.patterson@comcast.net>; 'Mark Schwartz' <pacpsy@aol.com>; 'Mary Jane Alumbaugh' <mjalumb@sbcglobal.net>; 'Michael Musacco' <KernPsych@arrival.net>; 'Michelle Reed' <mreed819@aol.com>; 'Mohan Nair' <nairhouse@yahoo.com>; 'Nancy Rueschenberg ' <nanruesch@yahoo.com>; 'Richard Romanoff' <romanoff@ucla.edu>; 'Robert M. Brook' <brookdmh@aol.com>; 'Robert Owen' <rowen01@charter.net>; 'Shoba Sreenivasan' <Shoba.Sreenivasan@med.va.gov>; 'Susan Ferrant' <susanferrant@att.net>; 'Thomas MacSpeiden' <macspeidenphd@nethere.com>; 'Wendy Weiss' <wwpsych@jps.net>; 'Wesley Maram' <drmaram@orangepsych.com>; 'Annamaria Anthony' <draanthony@yahoo.com>; 'Craig Teofilo' <craigteofilo@yahoo.com>; 'Eric Fox' <erikfox@yahoo.com>; 'Eric Simon' <ericsimon@yahoo.com>; 'Jeff Gould' <jeffgouldmd@yahoo.com>; 'Jesus Padilla' <padillajes@earthlink.net>; 'Koreen Hudak' <koreenhudak@hotmail.com>; 'Marianne Davis' <mariannephd@yahoo.com>; 'Mark Wolkenhauer' <mwpsy@msn.com>; 'Richard Geisler' <dickgeisler@aol.com>; 'Robbin Broadman' <rbroadman@pol.net>; 'Steve Jenkins' <sjenkins12@hotmail.com>; 'William Damon' <wddamon@ca.rr.com>; 'Andrea Shelley' <andreashelley@mac.com>; 'Carolyn Murphy' <cmurphyphd@tcsn.net>; 'Charles Flinton' <caflinton@flinton.info>; 'Dan Sussman' <sussmandan@earthlink.net>; 'David Walsh' <drdavidwalsh@aol.com>; 'Garret Essres' <gaessres@yahoo.com>; 'George Grosso' <zhar-e@cybersurfers.net>; js@cybersurfers.net; 'Larry Wornian' <lwornian@aol.com>; mselby@calpoly.edu; 'Nancy Webber' <newebber@sbcglobal.net>; 'Samantha Smithstein' <ssmithstein@gmail.com>; 'Eve Maram' <dreve@orangepsych.com>; 'James Barker' <drmu08phd@yahoo.com>; 'Kimberly Smith' <kimsmith-22@sbcglobal.net>; 'Laljit Sidhu' <dr.sidhu@sbcglobal.net>; 'Mark Koetting' <koetting@hotmail.com>; 'Mark Scherrer' <scherrermark@yahoo.com>; 'Preston Sims' <prestonsims@att.net>; 'Robert Cassidy' <erobertcassidy@gmail.com>; 'Roger Karlsson' <rogerkarlsson45@hotmail.com>
Sent: Thu, Feb 11, 2010 8:27 pm
Subject: FW: Dr. Richard Wollert's upcoming appearance at a DHM training session

Dear Colleagues,

I thought you might be interested in the letter from the SVP unit at the Attorney General of Washington sent to DMH administration about the upcoming training by Dr. Wollert. I have been given permission to distribute it.

My best, Amy

From: Higgins. Kevin (DA) [mailto:HigginsK@sacda.org]
Sent: Thursday, February 11, 2010 4:52 PM
To: Amy Phenix
Subject: FW: Dr. Richard Wollert's upcoming appearance at a DHM training session

I thought that you would find this interesting.

Kevin Higgins
Deputy District Attorney
Mental Health Litigation Unit
Office of the District Attorney
County of Sacramento

From: Choate, Joshua (ATG) [mailto:JoshuaC1@ATG.WA.GOV]
Sent: Thursday, February 11, 2010 3:58 PM
To: svplistserv@cdaa.org
Subject: FW: Dr. Richard Wollert's upcoming appearance at a DHM training session

Dear colleagues,
Attached is a (belated) letter sent on behalf of the SVP unit of the Washington State Attorney General's Office to Ms. Andrea Javist regarding the selection of Dr. Richard Wollert to train DMH evaluators. I thought it might also be worth sending a copy to you all as well. If we in Washington can be of further assistance with issues pertaining to the training or with trial strategy issues pertaining to Dr. Wollert, please feel free to contact me.
Joshua Choate
Assistant Attorney General - CRJ/SVP
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104
(206) 389-3075

From: Choate, Joshua (ATG)
Sent: Wednesday, February 10, 2010 5:07 PM
To: 'andrea.javist@dmh.ca.gov'
Subject: Dr. Richard Wollert's upcoming appearance at a DHM training session
Dear Ms. Javist,
Attached is a letter regarding the decision to permit Dr. Richard Wollert to conduct an upcoming training of DMH psychologists. I hope it is useful to you as you continue to evaluate that decision. If you have any questions or comments concerning the letter, or if I may provide you with any additional information, please contact me using the information below.
<<Ltr to Javist 02-10-10.pdf>>
Thank you for your consideration,
Joshua Choate
Assistant Attorney General - CRJ/SVP
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104
(206) 389-3075

From: Amy Phenix
To: Tim Ford
Subject: RE: Letter regarding Dr. Richard Wollert
Date: Monday, March 08, 2010 10:13:48 AM

Mr. Ford,

I was given permission by Brook Burbank and Josh Chote (the author) of the letter.

My best, Amy Phenix.

From: Tim Ford [mailto:TimF@MHB.com]
Sent: Monday, March 08, 2010 9:46 AM
To: amy@amyphenix.com
Cc: lhollady@charter.com; Tim Ford
Subject: Letter regarding Dr. Richard Wollert
Importance: High

Dear Dr. Phenix,

I am an attorney in Seattle, Washington. Dr. Richard Wollert has asked me to advise him regarding a letter written by a Washington Assistant Attorney General to Andrea Javist of the CDMH dated February 10, 2010. I understand that letter was sent to you, and then forwarded by you to a number of colleagues with an e mail that said you had "been given permission to distribute it." Could you please let me know by whom you were given that permission?

Please feel free to contact me, directly or through counsel, at the number or address below. Thank you.

Tim Ford
MacDonald Hoague & Bayless
705 Second Avenue #1500
Seattle, Washington 98104
206 622 1604
timf@mhb.com

From: Andrea Javist [mailto:Andrea.Javist@dmh.ca.gov]
Sent: Monday, February 15, 2010 9:47 AM
To: brian@dr-abbott.net
Subject: RE: Choate letter regarding Dr. Wollert

Hi Brian,

Thanks for forwarding the email string on to me. I appreciate your feedback and really cannot comment beyond that. Our plans for the training have not changed. Thanks again. Andrea

---

From: Brian R. Abbott, Ph.D. [brian@dr-abbott.net]
Sent: Monday, February 15, 2010 4:51 AM
To: Andrea Javist
Subject: Choate letter regarding Dr. Wollert

Andrea-

I am writing to you after I read the letter from Mr. Choate from the AG's office in Washington regarding Dr. Wollert. It is difficult to find words to describe his outrageous conduct in maligning Dr. Wollert in his attempt to sabotage the DMH training. What I find most disturbing about Mr. Choate's letter is that he expects DMH to accept his ad hominem attacks of Dr. Wollert as valid, for DMH to hold a kangaroo court, and to prohibit Dr. Wollert from conducting the training. I hope you see Mr. Choate's biased attack for what is. I am writing this email to shed some additional light on the subject.

I am not sure if you are aware of the distribution of Mr. Choate's letter so I attached the email trail that was part of the email I received containing his letter. Mr. Choate sent the letter to you by email on February 10, 2010 at 5:07 P.M. The next day he sent the latter to the California District Attorney's Association SVP listserv. As you will see from what he wrote in his email, there may be some collusion between the CDAA and Mr. Choate in writing theletter, as Mr. Choate states, "If we in Washington can be of further assistance with issues pertaining to the training or with trial strategy issues pertaining to Dr. Wollert, please feel free to contact me." At minimum, the email along with the letter he attached to CDAA suggests a motive of trying to discredit Dr. Wollert so that if DMH stopped him from training this act could be used against Dr. Wollert in future cross examination. Within four minutes of the letter being posted to the CDAA SVP listserv, Keith Higgins sent the letter addressed to you to Amy Phenix. Dr. Phenix in turn distributed the letter over the California SVP evaluator listserv within four hours of receiving it. I can only imagine how some on the panel are responding to the letter and Dr. Phenix distributing Mr. Choate's letter appears to be an attempt to sabotage the training and to take advantage of the controversy over DMH bringing in defense evaluators to provide training. If Mr. Choate was truly concerned about Dr. Wollert's "minority opinion," then why send the letter he wrote to the CDAA and why would the CDAA send it to Dr. Phenix. One has to question the motives of the parties involved in this behind the scenes shenanigans to stop Dr. Wollert from providing the training.

As to Dr. Wollert having a "minority opinion" not widely held by the psychological community or SVP evaluators, I think Mr. Choate left out some important facts. Mr. Choate cites Dr. Hanson as offering opinions indicating Dr. Wollert's use of Bayes Theorem is not accepted in the field. There are two major problems with this assertion.

First, Dr. Hanson supported his opinion in the Davenport case with a miscalculation of his own data. Dr. Wollert corrected the error and it supported using Bayes Theorem. I have the declaration showing this if you would like to see it. Second, within the past two months, Dr. Hanson authored an article in a peer reviewed journal on diagnosing paraphilias where he references the use of Bayes Theorem and base rates in determining diagnostic accuracy. These are the very subjects Dr. Wollert will present in the DMH training. So, if we accept Mr. Choate's assertions about Dr. Wollert then we must now presume Dr. Hanson is in the fringes of professional opinion in diagnosing paraphilic condition. Dr. Hanson references the very same issues about diagnostic certainty written about by Dr. Wollert in 2006. Dr. Wollert's 2006 article on this topic was published in one of the most prestigious psychological journals (Psychology, Public Policy, and Law). Dr. Doren submitted a rebuttal to Dr. Wollert's paper and the same journal rejected it for publication. If Dr. Doren's rebuttal represented mainstream thinking in psychology or in the SVP arena as asserted by Mr. Choate then why did the journal reject Doren's paper for publication? Dr. Wollert will be presenting on diagnostic certainty using Bayes Theorem as an invited speaker at the international conference conducted by the International Association for the Treatment of Sexual Offenders in Norway. This hardly seems to be a fringe group. Dr. Wollert also presented a peer reviewed paper at the 2007 American Psychological Association National Conference using Bayes Theorem to show the effect of advancing age in reducing sexual recidivism when using the Static-99. I would hardly say the APA is a fringe organization. These accomplishments by Dr. Wollert recognize his important contributions to the field of psychology in general and in particular to the area of SVP diagnostic and risk assessment.

Mr. Choate also fails to point out that Bayes Theorem is standard curricula in doctoral schools of psychology in terms of teaching probability theory. Dr. Wollert has used a theory that has been around since the 1790's to illustrationg problems in diagnostic certainty and predictive accuracy specific to the SVP law. Other than the opinions of Drs. Doren and Hanson, none of which were peer reviewed papers but instead declarations secured by prosecuting attorneys for which the writers were paid for their opinions, Mr. Choate cites no peer reviewed published literature to support Dr. Wollert having a "minority opinion." During medieval times, believing the world was round was considered a minority opinion. It seems that Mr. Choate would like the SVP panel and DMH to continue to believe the world is flat, as well as relegating academic freedom and scientific inquiry and debate to the dark ages.

I would be happy to discuss this matter further with you. You can contact me on my cell phone at (831) 801-6287.

Best Regards,

Brian R. Abbott, Ph.D.
Licensed Clinical Psychologist
PSY 18655

111 N. Market Street, Suite 300
San Jose, CA 95113

Exhibit N

August 9, 2011

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KITSAP

3

4 STATE OF WASHINGTON,

5 Plaintiff,

6 vs. No. 08-2-01852-2

7 JACK LECK II, COA No. 42573-4-II

8 Defendant.

9

VERBATIM REPORT OF PROCEEDINGS VOLUME III

12

August 9, 2011

14 Honorable Russell W. Hartman

15 Department No. 6

Kitsap County Superior Court

16 APPEARANCES

17 For the State: Tricia Boerger

Assistant Attorney General

19 For the Respondent: Robert Naon

Attorney at

20 Law

21 The Respondent: Jack Leek II

22

23 CARISA GROSSMAN, CCR, RPR

OFFICIAL COURT REPORTER

24 KITSAP COUNTY SUPERIOR COURT

614 DIVISION STREET

25 PORT ORCHARD, WA 98366

(360) 337-7140

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August 9, 2011

24

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THE COURT: Are there any things that

2 counsel wants to address before we begin?

3 MS. BOERGER: No, Your Honor.

4 MR. NAON: No, Your Honor.

COURT: All right. My law clerk got

THE

6 voice mail that indicates that a reporter from the

7 Seattle Times is going to cover this case on

8 Wednesday and Thursday and wants to bring along a

9 photographer. The courtroom is, of course, an open

10 public place and the reporter will be welcome. As a

11 judicial officer, I have some discretion with the

12 issue of photography, and I wanted to address that to

13 the parties this morning so that we can respond to

14 the Times with what the ground rules will be before

15 they appear on Wednesday or Thursday.

16 Do you want to reflect on this for a while

17 and take it up later this morning?

18 MR. NAON: Yes.

THE COURT: All right. Thank you.

Jury please.

21

(The following occurred in the

presence of the jury.)

THE COURT: Everybody can have a seat.

24 Before we resume with Dr. Arnold's examination, one

25 of the jurors has asked the bailiff to get his

1 glasses out of the jury room.

JUROR: I can see okay until --

THE COURT: That's all right. We'll wait

4 until he's back.

JUROR: Thank you.

THE COURT: Go ahead, Mr. Naon.

7 MR. NAON: Thank you, Your Honor.

8

9 **CROSS-EXAMINATION (continued)**

10 BY MR. NAON:

11 Q. Good morning, Dr. Arnold.

12 A. Good morning.

13 Q. Dr. Arnold, you've read a lot of pages regarding this

14 case?

15 A. Yes.

16 Q. And you've read a lot of evaluations of Mr. Leek?

17 A. Yes.

18 Q. They go back to what, about 1970, an evaluation when

19 he was in the Navy?

20 A. Yes.

21 Q. And through the Department of Corrections, I think

22 the last one was by Richardson back in November

23 of '05?

24 A. Actually, the last one would have been by Dr. Wollert

25 in 2010.

1 the presence of the jury.)

2

3 THE COURT: Counsel, if you could over the

4 recess, if you could give me a projection of how much

5 longer you think we'll be with Dr. Arnold.

6 Are any of your witnesses available today,

7 Mr. Naon?

MR. NAON: Yeah. Mr. Leek.

THE COURT: All right. Okay. Then also at

10 the end of the recess, I want to chat with you about

11 the issue of a newspaper photographer in the

12 courtroom. Thank you.

(Recess.)

THE COURT: Jury please. Just a moment

Go ahead, Ms. Boerger.

MS. BOERGER: Sorry, Your Honor. You

17 indicated you wanted to hear from us with regards to

18 the reporter from the Seattle Times. The state

19 generally takes the position as Your Honor knows,

20 the Bone-Club case out there that the courtroom

21 must be open to the public and that would include

22 reporters. Photographers, with the exceptions as

23 Your Honor indicated, you do have some discretion in

24 that realm. A photographer versus a videographer

25 would be different in my mind. Photography with a

1 camera possibly being distracting with the noise and
2 things like that. But if it's a video, I think that
3 can continue to roll with very little distraction.
4 And so my only concern would be depending on whom
5 they're filming, which I think the reporters are
6 pretty good at not necessarily filming the jury and
7 asking them to avoid including the jurors in any
8 video. But other than that, it's open courtroom, and
9 I think they can be in here as long as it's not
10 distracting.
THE COURT: I understand that.
Mr. Naon?
MR. NAON: Well, I am disturbed -- I mean,
14 I'm grateful for open press the impact this might
15 have on the jury. I recognize that's not something
16 the court is directed to consider, but it's certainly
17 a huge concern I have whether it's going to
18 whether the fact of the jury now knows that this is
19 somehow being covered by the press. They will be
20 able to tell that, I presume, if there's a camera
21 permitted, that it's going to impact them. We would
22 ask the court, at least direct any photographer not
23 to take a picture of Mr. Leek's face.
THE COURT: All right. Thank you.
Customarily, the courtrooms are open public

1 places. I haven't, frankly-- I've got a list of
2 Bone-Club criteria. I don't know, if I place any
3 restrictions on the photographer, if I have to make a
4 record of that with the press present and issue
5 findings and conclusions. It would be my
6 inclination, however, to instruct the photographer
7 not photograph Mr. Leek's face or the jurors. But,
8 otherwise, not to impose any restrictions.
9 MS. BOERGER: I've got Bone-Club here, Your
10 Honor. I'll take a look at it over the lunch hour
11 and ensure nothing needs to be made on the record.
THE COURT: All right. Thank you.
Jury, please, I think.
Mr. Naon, do you have anything to add?
MR. NAON: No, Your Honor.
THE COURT: Approximate time with
17 Dr. Arnold?
18 MR. NAON: I don't know. I don't think I'll
19 get done now that it's to ten to 11:00. I doubt I'll
20 get done this morning. Certainly get done by the
21 break this afternoon.
22 THE COURT: Is Dr. Wollert going to be here
23 tomorrow?
MR. NAON: Yes, he is.
THE COURT: All right. Counsel also have to

1 remember to give the jury an opportunity to ask
2 questions when counsel are done.
3 MS. BOERGER: I have it posted in as many
4 places as I can and have asked the clerk's assistance
5 as well, Your Honor.
6
7 (The following occurred in the presence of the jury.)
8 THE COURT: Have a seat.
9 Go ahead, Mr. Naon.
MR. NAON: Thank you, Your Honor.
11 BY MR. NAON:
12 Q. Dr. Arnold, yesterday you mentioned something about a
13 three-part development in actuarials?
14 A. Third generation?
15 Q. Third generation. What's a third generation?
16 A. It's incorporating. Well, not actuarials, but risk
17 assessment. So the third generation of risk
18 assessment would include both actuarials and dynamic
19 or psychological risk factors.
20 Q. Are you familiar with a recent article by Genevieve
21 Parent and colleagues, including Raymond Knight, that
22 appeared in *Criminal Justice and Behavior* earlier
23 this year?
24 A. Can you tell me the title?
25 Q. It's the "Assessment of Long-Term Risk of Recidivism

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KITSAP

3

4 STATE OF WASHINGTON,

5 Plaintiff,

6 vs. No. 08-2-01852-2

7 JACK LECK II, COA No. 42573-4-II

8 Defendant.

9

VERBATIM REPORT OF PROCEEDINGS VOLUME IV

12

August 10, 2011

Honorable Russell W. Hartman

Department No. 6

Kitsap County Superior Court

15

APPEARANCES

16

For the State: Tricia Boerger

Assistant Attorney General

18 For the Respondent: Robert Naon

Attorney at Law

19

20 The Respondent: Jack Leek II

21

22

CARISA GROSSMAN, CCR, RPR

23 OFFICIAL COURT REPORTER

KITSAP COUNTY SUPERIOR COURT

24 614 DIVISION STREET

PORT ORCHARD, WA 98366

25 (360) 337-7140

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2 August 10, 2011

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1 THE COURT: We're joined this morning by a
2 person from the press. Would you like to introduce
3 yourself.

MS. WILLMSEN: Hi, I'm Christine Willmsen
5 with the ~~Seattle Times.~~
6 THE COURT: Okay. Courtrooms are open
7 public places. There's a presumption that the press
8 is invited and you are welcome.
Are there any requests by counsel with
10 respect to the press's presence?
11 MS. BOERGER: Your Honor, on the state's
12 behalf, we had previously discussed this and I
13 discussed this with Ms. Willmsen, my only request
14 that the jury not be filmed, and they indicated they
15 do not and will not do that. That's the state's only
16 request.

THE COURT: Thank you. Mr. Naon?

MR. NAON: Well, as the court has noted from
19 time to time, this is very much a hybrid case. And
20 while certainly under the bench and bar rules, press
21 rules, criminal cases are certainly open and subject
22 to certain restrictions the court may impose. Just
23 want to know for the record, under the mental health

24 rules, the proceedings are presumed to be closed.

25 This is very much the issue that's -- the issue here,

1 it is very much like the ultimate issue considered in
2 a mental health case. Same thing, whether Mr. Leek
3 because of a mental abnormality presents a likely
4 that's the same issue that's in play under 71.05,
5 just your normal involuntary commit proceeding, which
6 would be closed. Obviously, our preference is this
7 matter be closed to the press because of the
8 sensitivity of the material. But we recognize that
9 this kind of proceeding hasn't been specifically
10 addressed under the rules. We leave it to the court.
11 We did indicate yesterday we did not want Mr. Leek's
12 picture.
THE COURT: Thank you.
One of the provisions in General Rule 16 is
15 that prior to imposing any limitations in the
16 courtroom, the judge shall hear from any party other
17 -- and from any other person who's present about the
18 issue.
19 Did you want to address Mr. Naon's concern?
MS. WILLMSEN: Yes, Your Honor. I'd like to
21 point out a couple things that we believe is
22 important in this.
One is that obviously we do object to any
24 effort to prohibit photography, videography.
25 Obviously this is an open courtroom. This is a story

1 we're working on about the civil commitment process,
2 how it works at trials like Mr. Leek's. If there's
3 any concerns on your part, Your Honor, be aware that
4 this will not be appearing in the next couple weeks
5 even. It will be much later after this jury has
6 concluded and determined the outcome of this, so that
7 won't be an issue. We never shoot jurors. That's
8 not an issue either. And at this point, we're
9 unaware of any evidence regarding any prejudice
10 arising from the courtroom photography from Mr. Leek.
11 We look at *State v. Bone-Club* where there's five
12 criteria that Mr. Leek probably should meet to
13 exclude photography as well as the access of the
14 public. I don't see that that has happened. And
15 Mr. Leek has not shown any compelling interest
16 justifying a ban on the photography. This is civil
17 commitment of a potentially sexually violent
18 predator. So far has been determined to be open
19 courtroom access. There's been media coverage of
20 Mr. Leek's previous convictions in the past. And the
21 public, we believe, has the important role of being
22 able to witness it.
The other thing is, you're well aware of, is
24 outside this courtroom in the hallway is an area
25 where we can shoot photography and videography. To

1 be honest with you, I don't think that's -- would
2 cast as good a light of Mr. Leek as him on the stand.
3 So we obviously have the option of doing that if we
4 are denied the ability to cover him on the stand.
5 And so I want you to think of that too, Your Honor,
6 as far as if that's a concern for you.
7 We just we believe there hasn't been a
8 case made by Mr. Leek that we should be denied video
9 and photography.
10 THE COURT: All right. Thank you very much.
11 MS. WILLMSEN: Thank you.
12 THE COURT: This is a civil commitment
13 proceeding, although under a different set of
14 statutes that address mental health commitments,
15 although mental health is an element of the standard
16 that the state has to meet in order to commit
17 Mr. Leek.
18 However, the legislature has not seen fit to
19 close these proceedings, and I think that it is
20 appropriate, and that there is no reason demonstrated
21 why they shouldn't be open to the public just as
22 would any other civil trial. And in fact, the public
23 has been welcome to attend throughout this
24 proceeding. In that sense, it's clearly not
25 appropriate to impose any restriction of press

1 coverage on this proceeding. That leaves only the
2 issue of whether the press is free to photograph
3 Mr. Leek. I don't see any basis under the *Bone-Club*
4 criteria to preclude that either, for a couple of
5 reasons.
6 One, as was alluded to by the reporter, the
7 press has a right outside the courtroom to photograph
8 him, and that's an area where I have no control. The
9 only place I have any authority is in the open public
10 courtroom, and then only if I can impose restrictions
11 and appropriately should impose restrictions only if
12 it's necessary to ensure that the jury stays focused
13 on resolving the case based only on the evidence and
14 the law. I don't think that's related one way or
15 another to Mr. Leek's images, his photograph.
The other thing I would note is that
17 Mr. Leek is a sex offender. He is required to be
18 registered on those occasions when he's not in
19 custody. And I think his image is probably already
20 part of the public domain in that process.
So the press, of course, as I indicated
22 before, welcome to be here. The only restriction
23 will be that they should not take any image of any
24 member of the jury.
Counsel, are we ready to go?

1 MR. NAON: Your Honor, I was going to say.
2 I did speak to the people from the Times, and they
3 indicated they would not under any circumstances be
4 contacting members of the jury after the case.
5 Perhaps that can -- with their permission, I guess,
6 if the court can communicate that to the jury.
7 THE COURT: Well, Ms. Boerger?
8 MS. BOERGER: Your Honor, I don't believe
9 there's any authority for the court to impose any
10 restrictions on that or even necessarily put that
11 onto the record. It's up to the jurors. The jurors
12 can actually contact the press if they elect to. So
13 I don't think that's a restriction that should be
14 imposed. I appreciate the reporter's indication of
15 that, but I don't think that's something the court
16 should necessarily get involved in. It's up to the
17 jurors, after they're released, what they choose as
18 long as they don't discuss their deliberations.
19 THE COURT: Mr. Naon?
MR. NAON: Well, Your Honor, I think people
21 who read the newspaper are aware that sometimes
22 jurors, following the particular case, are sometimes
23 contacted by the press. Why did you do this? Why
24 did you do that? And this is not going to be one of
25 those cases apparently. And I think that would --

1 it's important to Mr. Leek for the jury to know that,
2 however they come out on this case, they're not going
3 to be contacted to give their reasons. They can
4 certainly contact the press if they want to give
5 information. They're not going to be --
6 THE COURT: Mr. Naon, I think it's only
7 appropriate to give the same instruction that I
8 always give to the jurors when I dismiss them at the
9 end of the case and excuse them from their oath as
10 juror. At that point they're free to discusses their
11 experiences as a juror if they wish or not. That
12 will be the instruction here.
13 Are we otherwise ready to go?
14 MS. BOERGER: Yes, Your Honor.
15 MR. NAON: Yes, Your Honor.
16 THE COURT: All right. Jury please.
17 MS. BOERGER: The one thing I will raise,
18 Your Honor, I turned the screen slightly.
19 Ms. Willmsen is going to try to view it from there.
20 If the court or Mr. Leek has any problem viewing the
21 screen, please let me know and I will turn it back
22 towards Your Honor.
23 THE COURT: Thank you. Are you going to
24 start with Mr. Leek, Mr. Naon?
25 MR. NAON: Yes, Your Honor.

Exhibit 0

Burbank, Brooke (ATG)

From: Burbank, Brooke (ATG)
Sent: Thursday, Jan1.1ary 19, 2012 1:25 PM
To: 'cwillmsen@seattletimes.com'
Subject: Re: Here is the short trailer for the series... feel free to pass around to others

Looks great!!!

From: Christine Willmsen [mailto:cwillmsen@seattletimes.coml
Sent: Thursday, January 19, 2012 12:45 PM
To: Burbank, Brooke (ATG)
Subject: Here is the short trailer for the series••. feel free to pass around to others

http:/!video.seattletimes.com/1400695248001/

MW-00006
PRR-2012-00175

Exhibit P

Burbank, Brooke (ATG)

From: Burbank, Brooke (ATG)
Sent: Tuesday, January 24, 2012 7:50AM
To: 'cwillmsen@seattletimes.com'
Subject: Re: ESRC - JFU STATISTICS 2003-201O.xlsx

Will do.

From: Christine Willmsen [mailto:cwillmsen@seattletimes.coml
Sent: Monday, January 23, 2012 03:49 PM To: ·Burbank, Brooke (ATG)
ject: RE: ESRC- JFU STATISTICS 2003-2010.xlsx

Thanks Brooke. Iappreciate your cooperation. Let me know asap if there's any bills that may be introduced or other proposed changed you are hearing about that Ican track down for follow-up stories.

From: Burbank, Brooke (ATG) [mailto:BrookeB@atq.wa.gov]
Sent: Monday, January 23, 2012 3:15. PM To: Christine Willmsen
Subject: Re: ESRC- JFU STATISTICS 2003-2010.xlsx

Excellent job on the articles!! You really rocked itIIhave been getting tons of extremely positive feedback from all over. (Got a call from leg staff, not surprisingly they want to talk!!) Ihope you are pleased; you really did an outstanding job and all your hartd work may really instigate some posiitve change!!

From: Christine Willmsen [mailto:cwillmsen@seattletimes.com]
Sent: Friday, January 20, 2012 10:16 AM To: Burbank, Brooke (ATG)
Subject: FW: ESRC- JFU STATisnCS 2003-2010.xlsx

From: Williams, Jennifer J. (DOC) [mailto:JenniferJ.Williams@DOC.WA.GOV]
Sent: Friday, June 24, 2011 4:42 PM To: Christine Willmsen
·cc: Acker, Kimberly M. (DOC); Peterson, Terrina D. (DOC); Lewis, Chad S. (DOC)
Subject: ESRC- JFU STATISTICS 2003-2010.xlsx

<<ESRC- JFU STATISTICS 2003-2010.xlsx>>

Attached are the statistics that you requested regarding DOC End of Sentence

Review Committee and subcommittee review under RCW 71.09.

The population of offenders incarcerated in DOC is an average for the calendar year. The number referred to SVP subcommittee and the number referred for SVP Forensic Psych. Evaluation may not include the same offender. Many times the process carries over from year to year. These numbers are the cases reviewed by ESRC during the year in question.

If you have any more questions please let us know.

MW-00002
PRR-2012-00175

Exhibit Q

Nitura, Myralynn

From: Nelson-Ritchie, Jennifer
Sent: Friday, February 25, 2011 2:54 PM
To: 'cwillmsen@seattletimes.com'
Subject: Wollert transcript

Attachments: Trial H[redacted] 07-28-04.pdf

Here is cross in the D[redacted]H[redacted] case. just FYI. It looks like we only got the cross transcribed.

H[redacted] was a chiropractor who molested his child patients...

It also states that Wollert found that S[redacted] S[redacted] met criteria in 1998 (he's a rapist). I will do some more research on that.

Whew! As Wollert states in the Pouncy transcript, "it floweth over".

Thanks,
JNR

Trial H[redacted]
07-28-04.pdf (4 ...

Jennifer Nelson-Ritchie
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Paralegal
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(206) 205-0670
(206) 205-8170 FAX
Mailstop: ADM-PA-0000

"I think that's very unfortunate to have on e-mail." David Viniar

Mitura, Myralynn

From: Nelson-Ritchie, Jennifer
Sent: Friday, April 01, 2011 3:57 PM
To: 'Christine Willmsen'
Subject: New (to you) Wollert evaluation

I found it tucked in the R[redacted] F[redacted] file. It's from 1999. I will start a new stack.

In the report, Wollert indicates that F[redacted] MEETS criteria, he even has a paraphilia NOS diagnosis...

JNR

Jennifer Nelson-Ritchie
King County Prosecutor's Office
Sexually Violent Predator Unit
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"I think that's very unfortunate to have on e-mail." David Vinian

Exhibit R

1 Q. Who is Dr. Wollert?
2 A. He's our expert witness.
3 Q. He's an expert witness for you, correct?
4 A. Yes.
5 Q. Do you view Dr. Wollert as an adversary as well?
6 A. No.
7 Q. But you lied to Dr. Wollert when you talked to him in
8 2010 about whether you were searching for images of
9 boys in 2003, didn't you?
10 A. Yes.
11 Q. You told Dr. Wollert the same thing you told
12 Dr. Arnold, that you weren't searching for images of
13 boys because you didn't want to spark that interest
14 again, didn't you?
15 A. Yes.
16 Q. In fact, Dr. Wollert had to confront you in January
17 of this year about why you lied to him previously in
18 the fall about what you were doing in 2003, didn't
19 he?
20 A. Yes.
21 Q. You admitted to Dr. Wollert that you hadn't been
22 truthful with him, didn't you?
23 A. Yes.
24 Q. You admitted to Dr. Wollert that you were purposely

25 searching for child pornography in 2003, right?

1 Q. Okay. Who else was using it?
2 A. Linda Multanen one time.
3 Q. Okay.
4 A. And that was during the day.
5 Q. Do you think Linda Multanen caused any of the images
6 of child pornography to be put on that computer?
7 A. No.
8 Q. Do you feel that you were responsible for the images
9 found on that computer?
10 A. Yes.
11 Q. Now you also admitted in January when Dr. Wollert
12 confronted you about lying to him previously, that
13 you created three e-mail addresses that were found on
14 the computer at World Peace Ambassadors, the
15 *bitriangle@hotmail.com* address or username that you
16 talked about, *michaelkolkman@hotmail.com,* but you
17 also admitted to being *thailee2@hotmail.com.* That
18 wasn't one you brought up a little earlier today.
19 Were you also *thailee2@hotmail.com?*
20 A. Yes.
21 Q. Now, you only admitted this in January of this year
22 when Dr. Wollert confronted you, particularly about
23 being *thailee2;* is that correct?
24 A. Yes.
25 Q. Previously in December of 2010, a month earlier when

1 A. No.
2 Q. I also asked you during a deposition in 2010 whether,
3 when you found images of child pornography, you were
4 trading it or sending it to others. You denied both
5 of those things, correct?
6 A. Yes.
7 Q. Now today you admit that, in fact, you were sending
8 images of child pornography to others; is that
9 correct?
10 A. Yes.
11 Q. And you admitted this after being confronted by
12 Dr. Wollert in January of this year, correct?
13 A. Yes.
14 Q. I'm going to turn your attention to what's previously
15 been admitted as Petitioner's Exhibit 41. I'll
16 enlarge this so you can see it a little bit better.
17 Now, you see in the upper left-hand corner of
18 that exhibit the *bitriangle@hotmail.com* inbox, do you
19 see that?
20 A. Yes.
21 Q. And this is from MSN Groups to *bitriangle;* is that
22 correct?
23 A. Yes.
24 Q. And the date of this e-mail is April 18, 2003,
25 correct?

1 telephone interview that you told me about when I
2 deposed you the following day on January 28th of this
3 year.
4 A. All right. Did I send you a -- an interview?
5 Q. Yes, you did, and they're in Tab 4 of your binder if
6 you would like to refer to that for ease of time,
7 Dr. Wollert.
8 A. All right.
9 Q. The very first page of Tab 4 of your binder there.
10 A. Yes. Oh, right. Sure.
11 Q. Do you recall this conversation on January of this
12 year?
13 A. Yes.
14 Q. You had this conversation with him, according to what
15 you told me the next day in our deposition, because
16 you wanted to confront him about why he had lied to
17 you previously about what he was searching for on the
18 Internet; is that correct?
19 A. Yes.
20 Q. And he told you in January that he actually had been
21 looking for images of boys because he had a sexual
22 interest in it; isn't that correct?
23 A. Yes.
24 Q. Now, you also indicate in your report that he was
25 likely looking at the images of child pornography due

1 contact with Teddy at any time, anywhere, was not
2 true, was it Mr. Leek?
3 A. True.
4 Q. Now, in January when Dr. Wollert interviewed you, you
5 admitted that you lied to him when searching for
6 child pornography on the Internet, correct?
7 A. Yes.
8 Q. When he asked you why, you told him that when you
9 start getting in trouble with the law, you come up
10 with excuses and minimizations; is that what you said
11 to him, Mr. Leek?
12 A. Yes. That is true.
13 Q. Now, you admit that you will have a sexual interest
14 in children for the rest of your life; is that
15 correct?
16 A. Possibility, yes, but not an urge. I will never
17 touch a child sexually again.
18 Q. Mr. Leek, I'm just asking you a question to admit
19 that you will have a sexual interest in children for
20 the rest of your life, correct?
21 A. There might be.
22 Q. In fact, you've admitted that if you were shown a
23 picture of a nude 12-year-old boy, that you would
24 have an interest in that photograph, correct?
25 A. Yes.

1 Q. And have you consulted or interviewed Mr. Leek?
2 A. I have.
3 Q. On how many occasions?
4 A. Let's see. I interviewed him in person at the SCC
5 twice. And I interviewed him by telephone on five
6 occasions.
7 Q. Okay. Do you have an opinion as to whether or not
8 Mr. Leek suffers from a mental abnormality as defined
9 in the SVP law?
10 A. I do.
11 Q. What's your opinion?
12 A. He doesn't suffer from a mental abnormality.
13 Q. Does he suffer from any mental illness described in
14 the DSM?
15 A. Antisocial personality disorder.
16 Q. Okay. In your opinion, why does it not reach the
17 definition of mental abnormality for purposes of the
18 law?
19 A. Well, for a number of reasons.
20 Antisocial personality disorder is not
21 significantly related in a clinical sense, in a
22 meaningful sense it's not related to sexual
23 recidivism. Lots of studies will show that.
24 And the rate of antisocial personality disorder
25 among individuals who are incarcerated is on the

Exhibit S

The News Tribune

Don't waste state funds on predators' 'blank check' defense

LAST UPDATED: FEBRUARY 6TH, 2012 12:22 AM (PST)

As state lawmakers grapple with how to close a $1 billion-plus budget gap, one place they've been looking for savings is the Special Commitment Center for violent sex predators on McNeil Island.

Some legislators want to save money by moving the sec to a mainland site, cutting out the extra expense involved with ferrying to and from the island. But no community is clamoring to host 284 dangerous sex predators, and even if an existing facility could be found it likely would require expensive renovation and security upgrades.

A recent Seattle Times series suggests another strategy: Target the wasteful, uncontrolled legal costs associated with sex offenders either trying to avoid civil commitment to the sec or to be released if they're already there.

Those costs- about $12 million a year- eat up nearly a quarter of the SCC's $50 million annual budget. That money- paid by the Department of Social and Health Services- could otherwise be spent far better on such priorities as education and human services.

The Times found that there's little oversight over expenditures to defense attorneys and psychological "experts"- some of whom have questionable credentials and records. And because they're paid by the hour, they have little incentive to dispose of cases in a timely fashion. They often drag on for years, with the defense seeking continuance after continuance. Often that means

ought into handle cases and re-evaluate offenders- and be paid for redoing work done by the previous attorneys and experts.

The state Office of Public Defense has proposed one idea: Let it take over the defense costs statewide. OPD says it could provide centralized financial oversight and do away with expensive hourly billing- saving taxpayers about $1 million annually. The agency could contract with defense lawyers to provide services for a defined yearly salary of up to
$98,000.

That idea has caught the interest of state Sen. Debbie Regala, D-Tacoma, who serves on the OPD board. She has introduced SB 6493, which she told the Times "moves us forward to more accountability."

Clearly action is needed to get costs under control. Incredibly, the "blank check" payout system has never been audited. That must happen- soon. The state's most violent sex offenders are entitled to legal representation, but there's nothing in the state or federal constitutions that says they should get the most expensive defense public money can buy.

Exhibit T

Washington News Council
Complaint against *The Seattle Times* from Dr. Richard Wollert
Documentation

Christine Willmsen:
Thanks everyone for joining the live chat. This is Christine Will
the Seattle Times ready to answer your questions about the four-
Share

12:02 Christine Willmsen:

Here is a question from a reader that came in before the li

I have so far been enthralled with your well-written, infor
as this subject hits very close to home for my family. I ca
far if the expert, Donaldson, is still practicing and is cont
If so, how can that be?? It's more than my mind can com
why the defense is so diligently representing a client that
repeat offender. I know they have a duty to represent thei
they decide to stop and just cut their losses? I don't under
defense. What's in it for the experts to 'win' the case? It c
it is then how do they sleep at night? These convicted cri
example, that pedophilia is a 'personality disorder' is mad
questions but for now will keep reading your investigatio
tough subject but I am so glad you are writing it, please k
please keep writing the truth, thank you!
Rebecca B.
Seattle
Share

12:03 Christine Willmsen:
Rebecca,
Thanks for reading the series. Beyond making r
offenders, psychologists I interviewed said the
study of why and who might reoffend. Each ps
a different interpretation what constituted a m
Share

12:03 Comment From Paige Garberding
I sent you three questions and would appreciate hearing
Share

12:04 Christine Willmsen:
Paige,
I just saw them coming in. I'll will try to answer them
Share

12:05 Comment From mousetrap
Hi Christine
Share

12:05 Christine Willmsen:
Mousetrap,
I saw your question and will respond shortly. Thanks.

Share

12:06 Christine Willmsen:
You haven't mentioned Todd Bowers, who helped write many of the laws dealing with civil commitment and who prosecutes most cases, outside of King County. He has stacked the deck, so to speak. God help a man he prosecutes. That man will never see freedom again. The SCC is an excuse to incarcerate a man after he has served the sentence the state assigns him. As you state in your excellent piece, there is no real treatment for them. In twenty years only eight have been released.

Have you investigated the living situation inside the SCC. Do you know that the residents are not paid minimum wage for the work they perform? Do you know that they are not provided free medical or dental care unless they can prove they are indigent? Necessities such as soap and toothpaste must be purchased? That there are no educational opportunities on site? That all information divulged to counselors as part of treatment can and will be used against them in court. HIPAA rules do not apply.

Have you, or anyone calculated the number of murderers who complete their sentences and murder again? There is no SCC for them, is there? As you point out in your report, many men at the SCC are and will always be a risk to society. But all of them have completed their sentences as ordered by the courts.

Someday someone with real means will hire world class attorneys to challenge this terrible injustice. When that occurs, it will cost the state billions of dollars in compensation to the men and women who have been deprived of their lives illegally at the SCC. Let's see what that does to the budget.

Respectfully,

Mousetrap

Share

12:06 Christine Willmsen:
Mousetrap:
Thanks for the comments. As part of the series I was only able to touch on how the residents live at the Special Commitment Center. I'm sure there are more stories out there to cover that deal with the living conditions and what opportunities offenders have while being detained. When I talked to sex offenders at the SCC they shared the fact that they were very distrustful of the counselors and staff. Genevieve Alvarez, the videographer on the project, was able to capture how some of the residents live in the video. Feel free to check it out at: http://video.seattletimes.com/1400834558001/price-of-protection-inside-the-special-commitment-center/

Share

12:06 Comment From Paige Garberding
Please remind your readers that our Constitutions require defense attorneys to diligently represent their clients.

Share

12:07 Christine Willmsen:
Paige,
You are absolutely right. All the sex offenders facing civil commitment are entitled to a proper defense. They are entitled to an attorney and expert.

Share

12:08 Christine Willmsen:
Is the current state wide budget crisis contributing to less civil commitment petitions being filed ? How many convicted SCC offenders have been released and stayed out of trouble? Have u read the jan 24 wash.supreme court decision IN THE DETENTION OF CHERRY ? Will u continue to pursue and encourage the WA STATE AUDITOR to audit the fraud and waste u expose ?

Scott Otto
Okanagan

Share

12:09 Christine Willmsen:

Scott,

I didn't see fewer petitions for civil commitment filed in the past couple years. It can change year to year depending on how many sex offenders are set for release from prison and what psychologists find when doing an evaluation. As I talked with prosecutors and the state's attorney general office it was clear to me that none of them would sacrifice the safety of communities in order to deal with the state's budget crisis. I hope to follow up on the auditor's investigation regarding employees getting paid for work they didn't do.

Share

12:10 Christine Willmsen:
How many times have you read the commitment statute and all the case law interpreting it? 2) How many SVP legal specialists, in other words, defense attorneys who do SVP cases, have you interviewed and how much time have you spent interviewing them? 3)How much time have you spent studying the Rules of Professional Responsibility and case law interpreting them that govern criminal defense attorneys?

Share

12:10 Christine Willmsen:
These questions come from Paige Garberding from Seattle

Share

12:11 Christine Willmsen:

I have spent close to a year working on this story. I interviewed mutiple defense attorneys, read about the statute (I feel like I have it memorized) and combed through many appellate and supreme court decisions.

Share

12:13 Comment From Andy Robertson
These types of cases are some of the most complex, intense, and difficult matters to defend. I am an attorney, and work in criminal defense, and admire greatly anyone with the skills and strength to handle these matters, particularly given that a lifetime in prison hangs in the balance. Do you really feel it is responsible to "cut the budget" for this critical and Constitutionally mandated work by providing the job to salaried attorneys at a reduced rate? Or to question every minute of time spent in this critical work by combing over defense attorney spending?

Share

12:15 Christine Willmsen:

Andy,
Thanks for you thoughts. I do think taxpayers have right to review work done by defense in these cases. Everyone needs to be accoutable. It's not my call to determine any budget cuts. It's unknown if and how the Legislature will deal with this complicated issue.

Share

12:15 Comment From Pete MacDonald
Hello and thank you for being available for this discussion. Please try to get to my questions. They provide an opportunity for you to give a more balanced perspective.

Share

12:16 Christine Willmsen:
Pete,
Not sure what questions you asked in advance, but I'm more than willing to answer some of them now.

Share

12:16 Comment From mousetrap
what is the recent decision regarding Cherry?

Share

12:19 Christine Willmsen:
I'm not totally up on the Gary Cherry case, but can tell you that both the prosecution and the defense agreed he should be free without restrictions but a judge in the case disagreed so Cherry continued to be under supervision. It was frustrating for the Attorney General's Office and the defense because they wanted him to be free. It was a case where both sides agreed, which is rare.

Share

12:20 Christine Willmsen:
Here is a question from Cheryl,
BTW, I lived on Vashon Island where one of the elevator girl's mom lived during the Curtis Thompson trial, and at the time of his vile crime spree tht immpacted so many lives. The victims are brave to have testified, and, sadly if our society possessed a zero tolerance for sex offenders he might have been kept in jail for life.

My question is: What is the role pornography played in Curtis Thompson's life? What role in general does gonzo, or rape/torture, porn play in the escalating violence against women and childlren? How is extreme rape/torture porn affecting society? If there is so much research on the detriments of rape/torture porn, why can't we at least make the industry

of filmed sex (prostitution with a camera on the room) conform to existing legal requirements that it currently lacks, such as the ability to prevent juveniles fromm accessing hardcore porn. "I am 18" is insufficient due diligence to meet legal standards.

If torture/porn were made of men, it would look identical to gitmo, and there is hue and outcry against that. What impact on the human brain and attitudes towards woman occurs upon viewing violent sexual images and what is the statistical significance of porn watchers/prostitute buyers with any subsequent likeliness to act violently against women especially with supposed intimate partners outside the paid industry?

Thanks. It is discouraging to see a focus on the $ cost of keeping these predators and not broaden the discussion to the $ cost on society as a result of violent rapes of women/children to them and their families and communities.

Why do we always limit our discussion to the heinous acts of these extremely violent predators and not of the larger social questions, such as impact of use of violent pornography on individuals like Curtis Thompson.

Thanks, its hard to not be triggered by this case.

Cheryl
Seattle
Share

12:21 Christine Willmsen:
Cheryl,
I didn't look at the issue of pornography in the series. But I agree with you, there is a cost to victims that can't be measured in dollars.
Share

12:21 Comment From Jim Thomsen
Christine, thanks for an excellent series of stories. Do you have any sense of the extent of the power that lawmakers have to enact reforms on this issue? With many proposed state budget cuts, the answer is often, "We don't have the authority to make those changes — we're bound by federal mandate, or by collective bargaining, or by a judge's ruling." Are the laws that govern this issue all within the purview of state lawmakers to make changes? Or are their hands tied to some extent?

Share

12:22 Christine Willmsen:
Jim,
The state is in a bit of a bind. They must give a proper defense, but they also have to contain costs. The legislature can act on this issue - one proposal out there is to have the state office of public defense take over the legal costs so there can be better oversight and cost savings.

Share

12:23 Comment From Doug Vavrick
Ms. Willmsen: I'd estimate that over 75% of all continuance orders that are signed by judges in RCW 71.09 proceedings are "Agreed", meaning the continuance is sought by or agreed to by both the prosecution and by the defense. Your story characterizes these continuances as a delay tactic used by respondents to unnecessarily drive up costs. How did you reach this conclusion given that most continuances are agreed?

Share

12:24 Christine Willmsen:
Doug,
When I interviewed prosecutors they said in the past they would fight continuances by defense and judges would still grant them. They said they got tired of trying to convince the judge the sex offender needed to go to trial. I will note that some of the delays have been due to scheduling conflicts of experts and attorneys on both sides.

Share

12:26 Christine Willmsen:
Here is one of Pete McDonald's questions:
Why have you failed to report that the Washington Administrative Code was amended effective June 4, 2011, to limit expert costs to $10,000 for a commitment evaluation? (See WAC 388-885-010 & 016)

Share

12:27 Christine Willmsen:
Pete,
If you look at today's story it explains the recent caps on evaluations by psychologists regarding sex offenders.
www.seattletimes.com/priceofprotection

Share

12:28 Comment From Thomas Shapley
Christine, may I add, in response to Mousetrap, to set the record straight, the courts have unconditionally released eight individuals from the SCC through treatment. The courts have released a total of 81 SCC residents, on the grounds that they did not meet or no longer met sexually violent predator criteria.

Share

12:29 Christine Willmsen:

For everyone joining us - Thomas Shapley, communications director at the department of social and health servies, is adding a good point.

Share

12:30 Christine Willmsen:
Here is a quick and important question from Lea:
Has there been a study of the amount of money that has been Saved as a result of civil commitment? In other words, do we have an estimate of how much money has been saved in court costs, criminal investigations, attorney fees, victim/family services, counseling, administrative costs, work time, etc.as a result of civilly detaining repeat sex offenders? Seems like a worthwhile and feasible study.

Lea
Tacoma, WA

Share

12:31 Christine Willmsen:
Lea,
Unfortunately there's no way of knowing the amount saved as a result of civil commitment. Based on my reporting, I believe the program has saved potential victims from sex offenders who were at a high risk of reoffending.

Share

12:31 Comment From mousetrap
Thank you for the clarification, I was not aware of the number. I wonder what changed the courts mind.

Share

12:33 Comment From Jennifer
In your stories, there were many reader comments on how longer, indeterminate sentences for offenders should eliminate the need for SVP. I would like to see some possible follow up coverage on the current ISRB and why, if longer, indeterminate sentences were supposed to start limiting SVP candidates, why this has not happened.

Share

12:35 Christine Willmsen:
Jennifer,
The comments have been great to see and I appreicate the feedback. There is an Indeterminate Sentencing Review Board that deals with some sex offenders. But there

are hundreds of sex offenders being released each year that dont' fall under that umbrella. They are evaluated to determine if they met criteria for civil commitment.

Share

12:36 Christine Willmsen:
James asked a question:
Why don't you name the Superior Court judges. I'd like to who's sealing court records and who's unsealing them?

James Parsons

Ballard

Share

12:38 Christine Willmsen:
James,

There were numerous judges who inappropriatly sealed documents, so we didn't name them all. Here is a link to the sealing we put on document cloud:
http://www.documentcloud.org/documents/284908-downing-unsealing.html

Share

12:41 Comment From Doug Vavrick
I will humbly suggest that if the continuances are agreed to by the prosecutors, that means the prosecutors aren't exactly fighting the issuance of a continuance order. It seems rather self-evident to me.

Share

12:43 Comment From Richard Packard
If I may jump in, here. This is for Lea in Tacoma, who asked about the possible savings from crime prevented. This is obviously a very difficult question because you are trying to estimate something based on the absence of an event. However, it is possible to come up with a reasonable guess. On the WSIPP website (the research body for the legislature), there are two studies that can help with it. The first http://www.wsipp.wa.gov/pub.asp?docid=07-06-1101 gives the follow up criminal histories for 135 offenders who were looked at for commitment, but not committed, over six years. That will tell you what a sample of similar, though presumably somewhat lower risk offenders did when free. The second study http://www.wsipp.wa.gov/pub.asp?docid=10-04-1201 gives economic costs associated with particular types of crime. One could extrapolate from these two studies and at least get what is probably a ball-park estimate for your question.

Share

12:44 Christine Willmsen:

Richard Packard is a forensic psychologist from Bainbridge Island. He has worked for both the state and the defense in civil commitment cases.

Share

12:46 Comment From Amy Muth
Hi, Christine. You argue that defense attorney legal costs are out of control. I have seen this argument made in the death penalty context as well. However, what gets lost on the public is that there isn't really a way to quantify prosecution legal costs, because they have staff attorneys who are paid salaries to do this work (and they are not required to track their time), and law enforcement officers who can go out and gather evidence and investigate, and again, those are salaried officials who do not need to track their time. (I note that you also fail to mention that the private attorneys who take these cases take them at less than 1/3 of what a private pay attorney charges to represent these offenders--meaning that they are taken at a loss.) Based on the lack of data available to compare legal costs between the prosecution and defense effectively, on what basis do you conclude that the legal costs are unreasonable? Keep in mind that in King County, the SVP unit is staffed by many senior deputy prosecuting attorneys, whose salaries top out at substantially more than the public defenders on the other side.

Share

12:49 Christine Willmsen:

Amy,
Most of the data I gathered was provided by the Department of Social and Health Services, which had costs for both sides. They have said they haven't been as accountable as they should be when scruntinizing bills.

Share

12:50 Comment From Duane Wright
The graphic on Tuesday (map of the US, with number of people in Civil Commitment, by state) gave the impression that the distribution of violent sexual offenders varies greatly by state (eg. Florida lead all states). I suspect that is not the case. Do you have any idea why the large variance?

Share

12:52 Christine Willmsen:
Hi Duane,
The states vary on how they use civil commitment. Population may have something to do with it also. For example Florida had 942 sex offenders committed as of 2007 vs. 305 in Washington state.

Share

12:52 Comment From Jennifer
SVP respondents have a right to speedy trial within 45 days of the filing of the case. It seems to me that if they really wanted to go to trial, they could. The respondent is the one giving up his/her rights each time, it's THEIR move...no matter if it is agreed to by

the State or not.

Share

12:53 Comment From Reisha Lee
My question is regarding those convicted sex offenders in our community - who monitors them once they are released? Are they all supposed to register as sex offenders? And what happens if they do not register? (I know of a guy who has multiple convictions, released and isn't even registered and is caring for minor children).

Share

12:55 Christine Willmsen:
Reisha,
It depends on any conditions that a sex offender may be required to follow after being released. Some who have been civilly committed are sent to "less restirictive alternative" living. Others are set free into the community, but are required to register as sex offenders. If they aren't registering they can be charged for "failure to register" and be incarcerated again.

Share

12:57 Christine Willmsen:
Another question from Pete McDonald,
1. Why have you failed to report on the systemic abuses by prosecutors, including the AG's office and King County, who have routinely hired second experts with taxpayer dollars when the first expert gives an opinion they disagree with?

Share

12:59 Christine Willmsen:
Pete,
I mention in the story that both sides have gone "expert shopping" in an effort to find a psychologist that helps their case. The use of multiple experts on the defense side stood out based on my reporting and the documents. I found several cases in which three or four experts were hired by defense just in King County alone.

Share

1:00 Comment From Reisha Lee
Who do you report their failure to register to?

Share

1:01 Christine Willmsen:
Reisha,
You can call your local sheriff's office to report someone who's failed to register.

Share

1:04 Comment From David Hackett
Pete would have to admit that in the few cases where prosecutors have sought a "second opinion," we have always disclosed the dissenting first opinion for defense use. Unlike the defense, the prosecution is constitutionally and ethically bound to disclose expert opinions that are contrary to their postion in court.

Share

1:05 Comment From Reisha Lee
thank you

Share

1:06 Christine Willmsen:

David Hackett is a king county prosecutor in charge of civil commitments.

Share

1:06 Christine Willmsen:
Thanks everyone for joining the live chat. I hope I was able to answer some of your questions. Feel free to email me at cwillmsen@seattletimes.com for any further thoughts or questions.
In case you didnt' read the entire series including the three videos, check out the project's page at www.seattletimes.com/priceofprotection

Share

1:06

Exhibit U

1 Q. And it's "incremental predictive validity," correct?
2 A. That's what it says.
3 Q. When it says a list of authors, the very last one
4 listed there is Thornton 2002; do you see that?
5 A. Right.
6 Q. And that's actually Thornton's article on the SRA
7 back in 2002, correct?
8 A. That's correct.
9 Q. All right. So what this paragraph is saying is that
10 although existing actuarial scales may be superior to
11 what has been discussed here as clinical judgment --
12 A. Right.
13 Q. They can't actually take into consideration all
14 potentially relevant risk factors, right?
15 A. That's what it says.
16 Q. Okay. So they're citing that studies have found that
17 including a range of external risk factors adds
18 predictive validity to the Static-99. What are
19 "external risk factors," Dr. Hanson -- Dr. Wollert,
20 I'm sorry.
21 A. They say -- what they say is several studies have
22 found that including a range of factors adds
23 incremental predictive validity. This is a statement
24 on their part. That's not a fact.
25 Q. My question, Dr. Wollert is: What are external risk

1 the data. Contacted Alex Skelton and Jim Vess, and I
2 said, I'm interested in your data set. We talked
3 about it back and forth. I saw some difficulties in
4 it. And I said, I'd like to clean these up and could
5 we use it? They were very amendable to that. We're
6 still working on that data set.
7 In fact, they asked me to work on a larger data
8 set for violent recidivism that the Department of
9 Corrections in --
10 MS. BOERGER: Objection, Your Honor.
11 Nonresponsive.
12 THE COURT: Sustained as to the last part of
13 his answer.
14 Your next question, please.
15 BY MS. BOERGER:
16 Q. Dr. Hanson -- I'm sorry. Dr. Wollert, did you have
17 the actual underlying data from Hanson's numbers in
18 his 2006 article, the 3,400 offenders that you talked
19 about?
20 A. No. We had the coded data. His reported reliability
21 for that was quite high, so I took him at his word.
22 Q. But you didn't have the underlying data?
23 A. You don't have to do that when you have high
24 reliability.
25 Q. But you asked him for it, didn't you?

Exhibit V

August 8, 2011

1 wouldn't count. So you have to be very careful
2 when you're scoring these things because they'll
3 have, again, very specific definitions.
4 So it would appear that you scored Mr. Leek as Q
. a seven on the Static-99R; is that correct?
5 Yes.
6 So now, what does a score of seven mean to you?
A
.
Wha
7 Q. t do you do with that then?
8 The score of seven -- so basically, if you get a
9 score of six or above, that's associated with the
A
. high-risk group. And so that tells you that, in
10 general, he scored higher than most sexual
11 offenders scored on this instrument.
12 Where did that come from? That doesn't appear to
13 be listed on Exhibit 21. Where does that
14 Q. information, where are you drawing that from?
15 That's from the manual.
16 All right. Go ahead. So he's associated with the
17 A.
18 Q
.
19 high-risk group as a Then what; what else
seven.
20 does it tell you?

21 A. Then you would basically look at what's --people
22 who scored a seven who were studied and followed
23 for recidivism, what percentage reoffended. And
24 then it gives you a percent of recidivism that he
25 would be linked to.

1 Q. You had talked about the left column being the
2 category low, medium, and high; is that correct
3 Dr. Wollert, is that what's represented here?
4 A. Yes.
5 Q. The row along the top are the age groups: 18 to 39,
6 40 to 49, 50 to 59, and then 60 and over; is that
7 correct?
8 A. Yes.
9 Q. And so you indicated that based upon your score of
10 four-plus for Mr. Leek, he would be in the age range
11 of 50 to 59, and he would be on the high row of those
12 scores; is that correct?
13 A. Yes.
14 Q. So according to this, he would be in the highest
15 category of risk on the left side of your MATS-1
16 table, correct?
17 A. Right.
18 Q. He can't go any higher, doesn't matter what his score
19 is, he's as high as you can get on your MATS-1?
20 A. Yeah. Same with Static-99.
21 Q. Okay. So according to this, his risk of reconviction
22 or rearrest, or being charged with a new offense -
23 sorry -- being charged or convicted of a new offense
24 is 23 percent; is that correct?
25 A. Yes.

Exhibit W

Arch Sex Behav (2010) 39:401-404
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ORIGINAL PAPER

Dimensional Measurement of Sexual Deviance

R. Karl Hanson

Published online: 24 November 2009

Abstract There are at least three approaches by which psychopathology can be described in terms of dimensions. Each approach involves counting the number and severity of symptoms, but these scores have distinct meanings based on whether the latent construct is considered to be categorical or dimensional. Given a categorical construct, dimensions can index eilher diagnostic certainty or symptom severity. For inherently dimensional constructs, the severity of the symptoms is essentially isomorphic with the underlying latent dimension. The optimal number of dimensions for describing paraphilias is not known, but would likely include features related to problems in sexual self-regulation, the diversity of paraphilic interests, and the overall intensity of sexual drive and expression. Complex measures of these (and related) dimensions currently exist, but simplified criteria are needed for routine communication among diverse mental health professionals. Establishing these criteria would requires professional consensus on the nature of the latent dimensions, as well as reliable assessment of the core constructs using non-arbitrary scales of measurement.

Keywords Assessment · Paraphilias · Dimensional measurement · DSM-Y

Introduction

Psychopathology can be conceptualized both in terms of categories and in terms of dimensions. Most existing nosonomies are written in terms of categories, despite the oft-cited difficulties with categorical descriptions of human behavior (Brown & Barlow, 2009; Maser et al., 2009; Slade, Grove, & Teesson, 2009). Categories are justified to the extent that (l) symptoms are organized in distinct and predictable patterns, (2) the antecedents and course of the disorder are distinctive and predictable, (3) the symptom pattern is linked to a theoretically coherent account of their development, expression, and course, and (4) changes in the severity of the disorder can be observed by deliberate manipulation of the causal factors aniculated in the theoretical model. The final criterion is necessary to distinguish syndromes or symptom patterns that are purely descriptive from identifiable disorders that are responsible for causing the symptoms.

None of the existing paraphilic disorders fully meet the criteria for being categorically distinct disorders. Pedophilia is perhaps the leading contender, given its distinctive expression and predictable course (e.g., early onset, high stability; Seto, 2008). There is little consensus, however, concerning the cause of pedophilia. As well, it is common for individuals demonstrating sexual interest in children to have other paraphilic interests (Abel, Becker, Cunningham-Rathner, Mittelman, & Rouleau, 1988; Raymond, Coleman, Ohlerking, Christenson, & Miner, 1999). Phallometric profiles of men whose strongest response involve children typically show substantial responses to other age and gender categories (Lalumiere & Harris, 2008). Tn contrast, the profiles of typical heterosexual or homosexual males are highly differentiated, with strong responses to adults of their prefen·ed gender and little response to other categories (Suschinsky, Lalumiere, & Chivers, 2009).

Dimensionality of Psychopathology

In order to consider dimensions of psychiatric symptoms, it is necessary to first consider what these dimensions represent. l

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will discuss three possible meanings: (I) diagnostic confidence, (2) symptom strength, and (3) latent dimensions.

Diagnostic Confidence

Even if a disorder is a true type or category, it is rare to have pathognomonic signs that, by themselves, determine the presence or absence of the disorder. Instead, clinicians are required to infer the disorder from indicators, which are usually (but not necessarily) symptoms. One way of dimensionalizing diagnosis is to report the probability that the disorder is present given a particular set of indicators. For example, based on sexual convictions involving three unrelated boys, self-reported exclusive sexual interest in adult females, and never lived with a lover by the age of 40, an evaluator may say that the patient has a 85% chance of having pedophilia (with confidence intervals of 76 to 92%). The percentages, of course, are fictitious, but could be empirically established given a "gold standard" against which to evaluate the discriminative properties of the diagnostic indicators. An example of such an actuarial approach to diagnosis is the Screening Scale for Pedophilic Interest developed by Seto and Lalumiere (2001). In general, the more symptoms observed, the greater likelihood of the disorder being present. Note, however, that the estimated probability of the disorder being present is influenced by the base rate of the disorder in the sample as well as by the discriminative properties of the indicators (i.e., Bayesian posterior probabilities; Akobeng, 2006).

Symptom Strength

Another sense in which diagnoses can be dimensionalized is in terms of symptom strength. A group of patients may all have the same disorder, but some may have it worse than others. As well, the severity of symptom expression may change over time (e.g., in response to treatment). For a general discussion of dimensional measurement in DSM-V, see Helzer et al. (2008). This conceptualization assumes two decisions: Does the patient have the disorder? And, if so, at what level of severity? The criteria used would be different for the two decisions, and evaluators would also have to consider the extent to which the severity of the symptoms was related to specific disorders. For example, the severity of impairment from intrusive deviant sexual thoughts could be related to the severity of the paraphilia as well as to the severity of a co-morbid anxiety disorder.

Latent Dimensions

There is a third sense of dimensionality that also should be considered. It is plausible that certain disorders are best described as the extreme expressions of inherently continuous distributions. For these disorders, there are no absolute criteria to determine pathology from normal; the dividing line is determined by professional and community consensus concerning the extent to which the behavioral patterns are sufficiently extreme to be problematic. Although dimensional definitions are vulnerable to criticisms of being arbitrary, explicit criteria usually allow evaluators to reliably classify most cases as problematic or non-problematic, with relatively few contentious cases. An example of a well-studied dimensional construct would be an antisocial lifestyle, which at the extreme end is described as psychopathy (Guay, Ruscio, Knight, & Hare, 2007).

It would be sensible to diagnosis dimensional constructs using both the number of different symptoms, as well as their intensity and duration. Note that, in practical terms, there is substantial overlap for all three conceptualization. In all three approaches, clinicians count the number of symptoms (indicators) and judge their intensity. In the first version, high numbers of intense symptoms are considered to increase diagnostic certainty; in the second version, the symptoms are considered to measure the severity of the disorder, provided, of course, that the patient first meets a preliminary set of criteria establishing that the disorder is present; in the third conceptualization, the symptoms are largely isomorphic with the disorder itself: patients with more extreme symptoms are considered to be worse on the latent dimensional construct than patients with fewer symptoms.

Dimensions of Sexual Deviance

Given the above considerations, I will propose three dimensions potentially relevant for the diagnosis of paraphilias: (I) sexual self-regulation, (2) atypical sexual interests, and (3) overall intensity of sexuality.

Sexual Self-Regulation

Sexual self-regulation could be defined as the ability to manage sexual thoughts, feelings, and behavior in a manner that is consistent with self-interest and that protects the rights of others (minimum criteria for being "prosocial"). The lowest levels of sexual self-regulation will involve indiscriminate, disorganized sexual behavior. The next lowest level would involve ineffective attempts to regulate sexual behavior. At this stage, the patient would self-identify problems with sexual behavior, which may not necessarily be seen for the most highly disorganized cases. The positive end of the continuum would be expressed by individuals who feel satisfied with their sexual behavior, their behavior respects the rights of others, and their strategies for self-control are sufficiently well developed to be perceived as effortless (no struggles). A number of sexual self-regulation scales are available (e.g., Carnes, 1989; Coleman, Miner, Ohlerking, & Raymond, 2001; Kalichman &

Rompa, 1995), which include items related to self-identified struggles with sexual impulses, sexual activities in response to negative affect, and a history of high risk sexual behavior (e.g., unprotected sex with prostitutes).

Atypical Sexual Interests

The second dimension is the extent of atypical sexual interests. Defining such interests has always been a sensitive topic, but there is a continuum with some individual much more likely to be interested in, and to engage in, diverse sexual activities than others. Although most heterosexual and homosexual men are exclusive in their sexual interests, it is quite common for those who engage in one type of paraphilic behavior to report other paraphilic behaviors (e.g., Abel et al., 1988; Heil & English, 2009). Consequently, it would be possible to create a dimen sion ranging for multiple paraphilias to exclusive interest in ("normal") sexual behavior with consenting adults. Existing measures that assess the diversity of sexual interests include the Clarke Sex History Questionnaire (Langevin & Paitich, 2002) and the Wilson Sex Fantasy Questionnaire (Wilson, 1978).

Intensity of Sexuality

Another simple dimension would be to rate the degree of sexual interest and activity from "very low" to "very high." Although it would be possible to count orgasms (a Ia Kinsey), a better approach would be to evaluate the degree to which sexuality consumes resources that otherwise could be devoted to other, more productive activities (love, work, family). This definition would also be consistent with an evolutionary model in which the successful use of finite resources isjudged accord ing to reproductive fitness.

Although complex measures of these dimensions currently exist, simplified criteria are needed for routine communication among diverse mental health professionals. The professional community would need to agree as to the meaningful grada tions of the latent dimensions-a consensus which has yet to be achieved. In the future, however, it may be possible to com municate using phrases such as the patient has "moderate problems with sexual self-regulation" or "high levels of para philic sexual interests."

Conclusion

I believe that describing deviant sexual behavior according to the dimensions proposed would provide a more useful and truer description of patients' problems than does the current categorical approach involving discrete paraphilias. Although the dimensions proposed are plausible, consider-able more research is needed to establish their validity and clinical utility.

Given the overlap between sexual self-regulation and the intensity of sexual activity (Uingstrom & Hanson, 2006), for example, it may also be possible to combine these dimen sions, leaving two relevant dimensions: paraphilic interests and sexual self-regulation. Alternately, there may be only one dimension related to sexuality-the degree of paraphilic inter ests. Issues concerning sexual self-regulation may be more accurately described as part of a core dimension of low self control/general self-regulation.

Identifying the most appropriate dimensional structure requires professional consensus on the nature of the latent dimensions, as well as reliable assessment of the core con structs using non-arbitrary scales of measurement (Blanton & Jaccard, 2006; Michell, 1990). Support for distinct dimensions (or categories) would be provided by theoretical models artic ulating their origins in biology and experience. As well, meta analyses of large, empirical studies would be needed to exam ine the stability of the proposed latent clusters and factors. This work is never definitive. Nevertheless, it is work worth doing.

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Exhibit X

ANALYSIS AND COMMENTARY

Sexual Sadism: Avoiding Its Misuse in Sexually Violent Predator Evaluations

Allen Frances, MD, and Richard Wollert, PhD

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), Task Force has recently rejected the proposal to include coercive paraphilia as an official diagnosis, reaffirming that rape is a crime and not a mental disorder. We hope this will discourage what has been the inappropriate practice of giving rapists the made-up diagnosis of paraphilia, NOS, nonconsent, to facilitate their psychiatric commitment under sexually violent predator (SVP) statutes. Losing the paraphilia, NOS, option has tempted some SVP evaluators to overdiagnose sexual sadism, which is an official DSM mental disorder. To prevent this improper application and to clarify those rare instances in which this diagnosis might apply, we present a brief review of the research on sexual sadism; an annotation of its definitions that have been included in the DSM since the Third Edition, published in 1980, and in the International Classification of Diseases, Tenth Edition (lCD-I 0); and a two-step process for making a diagnostic decision. Rape and sexual sadism have in common violence, cruelty, and a callous indifference on the part of the perpetrator to the suffering of the victim, but they differ markedly in motivation. Rapists use violence to enforce the victim's cooperation, to express aggression, or both. In contrast, in sexual sadism, the violence, domination, and infliction of pain and humiliation are a preferred or necessary precondition for sexual arousal. Only a small proportion of rapists qualify for the diagnosis of sexual sadism.

JAm Acad Psychiatry Law 40:409-16, 2012

Since 1990, many states and the federal government have enacted legislation allowing for the postprison civil commitment of what is assumed to be "a small but extremely dangerous group" of offenders who are referred to as either sexually violent redators (SVPs) or sexually dangerous persons.[1-] Although the wording of these statutes varies slightly from one jurisdiction to another, "Such laws generally include four elements: (i) a history of sexual offenses, (ii) a mental abnormality, (iii) volitional impairment, and (iv) as a result of mental abnormality, the individual is likely to engage in acts of sexual violence" (Ref. 4, p 31). In this context, a mental abnormality is a legally defined term that refers to a mental illness that makes a person sexually dangerous beyond his control.

Psychiatrists and psychologists are often retained to evaluate whether a respondent to a postprison civil commitment petition may be classified as an SVP because he satisfies all of the foregoing elements that define it. No convincing body of published scientific evidence indicates, however, that mental health pro fessionals can reliably differentiate SVPs from more typical recidivists who may be sexually dangerous but lack a mental abnormality. The terms volitional im pairment and sexual dangerousness have also never been adequately operationalized for use by evalua tors.5 Finally, the assumption that volitional impair ment causes sexual dangerousness has never been confirmed.

These uncertainties threaten the credibility of ex perts who testify in SVP trials.[6] As a result, experts invariably claim that their opinions are supported by systems that are only indirectly related to sexual dan gerousness but have the advantage of being authori tative in the sense that they are accepted by the sci entific community.

The Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric *Asso* ciation is undoubtedly the single source of authority most widely cited in SVP evaluations. Our personal experience attests to this, in that we have read hun dreds of such evaluations and have never encoun tered one that has omitted referencing at least one of the modern DSMs, which thus far include DSM- 111,7 DSM-IIIR,[8] DSM-IV,[9] and DSM-IV-TR.[10]

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Disclosures of financial or other potential conflicts of interest: Dr. Frances was Chair of the DSM-JV Task Force.

Other systems, such as *bonafide* actuarial measures[11] for the estimation of sexual recidivism are certainly authoritative. Even they, however, are not cited universally.

Unfortunately, evaluators in SVP cases have frequently misrepresented the content of the DSM. In previous papers that have discussed the history and rationale of SVP laws, we have been particularly critical of the misuse of two unofficial and makeshift diagnostic labels: paraphilia, not otherwise specified (NOS), nonconsent, and paraphilia, NOS, hebephilia.[12-16] One purpose in writing these papers was to encourage evaluators to refrain from using invented diagnostic labels to shoehorn respondents into a position where they could be incarcerated for life without just cause after having already paid their debt to society. Another was to discourage the Task Force that is currently revising DSM-IV-TR from considering diagnoses that are invalid and will almost certainly damage the reputation of the DSM and the mental health professions by mistakenly turning crimes into mental disorders.

Recently, according to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) web site,[17] a proposal to add paraphilic coercive disorder as an official diagnosis was placed on hold. This development is an important one, in that paraphilic coercive disorder is nothing more than a variation of paraphilia, NOS, nonconsent. It may also be a turning point for correcting the misuse of the DSM in SVP evaluations, reversing the previous misguided acceptance of paraphilia, NOS as a qualifying diagnosis for making a mental abnormality determination.

Faced with this development, evaluators who are prone to overclassifying respondents as SVPs may begin to assign the diagnosis of sexual sadism more frequently to rapists.

The problem with the use of sexual sadism in the use of paraphilia, NOS, nonconsent, and SVP evaluations is different from the problem with infliction of pain has the goal of sexual arousal and is not merely incidental to the act of rape.

In the next section of this article we briefly discuss the history of the sexual sadism construct and summarize the results of published research on it. Then, we annotate sections of the several editions of the DSM and the lOth revision of the World Health Organization's International Classification of Diseases (ICD-I0)[18] that, taken together, define this paraphilia. Finally, we discuss two guidelines that we believe evaluators should follow to prevent the misapplication of the diagnosis of sexual sadism. Overall, we encourage evaluators to differentiate sexual sadists from rapists carefully, to analyze the viability of nonsadistic explanations for sexual violence, and to adhere closely to the diagnostic heritage and framework provided by present and past versions of the DSM and the ICD.

A Brief History of Sexual Sadism and Summary of Research Findings

Various criminal, literary, and political figures over the past 400 years have been characterized as practitioners of sadism, which was named after the Marquis de Sade, an 18th century aristocrat, libertine, author, and revolutionary.[19-22] von Krafft Ebing[21] and Stekel were the first mental health professionals to describe sexual sadism from a clinical perspective. Most of the efforts of later researchers have focused on examining cases of specific individuals drawn from easily accessible populations,[21-25] groups of sex offenders who have been given the diagnosis of sexual sadism,[26-33] and groups that included sex murderers.[25-27,34-41] Researchers have less frequently collected epidemiological data[1,42,43] or surveyed practitioners.[24,44,25,26,35]

paraphilia, NOS, hebephilia. Unlike these latter terms, sexual sadism is one of the eight specific[652] paraphilias that are included as official categories in the DSM and a di agnosis that, combined with sufficient impairment and a predisposition to

sexual violence, constitutes a mental abnormality. The overdiagnosis of sexual sa dism results from insufficient understanding of the DSM requirement that it be used only when the

Analyses of the sexual sadism construct – · have emphasized von Krafft-Ebing's thesis that "mastering and possessing an absolutely defenseless human object … is part of sadism" [Ref. 35, 20].

28/46

Complementing this focus, other analyses[1] have cited his definition of sadism as:

> The experience of sexual, pleasurable sensations (including orgasm) produced by aces of cruelty, bodily punishment afflicted on one's person or when witnessed by ochers, be rhey animals or human beings. It may also consist of an innate desire ro humiliate, hurt, wound, or even destroy others in order, thereby, ro create sexual pleasure in oneself [Ref. 46, p 5].

Published research on sexual sadism that is rele vant to SVP evaluations has documented crime scene

behavior, fantasies, and motivations that relate to sadistic behavior and the prevalence and reliability of the diagnosis. The following paragraphs summarize the results of these efforts.

Crime Scene *Behavior*

The case history references cited in the first para graph of this section indicate that severe sexual sadists tend to be planful and emotionally detached. They also intentionally torture and humiliate their victims, restrain and abduct them, and subject them to a va riety of highly intrusive sexual acts that frequently include anal intercourse and bondage.

Fantasies *and Motivational* State

Sexual sadists have told various interviewers that they fantasized about how they would offend before their crimes and often tried out, or rehearsed, their behavior.[34] Frequently depressed or angry before offending, they elicit fearful reactions from vic tims and often engage in self-provocation that stim ulates an escalation in their aggressive behavior.

Prevalence Rates

Estimates of cases of sexual sadism, in general, vary as a function of the setting where data are collected and the practices and preferences of diagnosticians in those settings. Rates are low, however. No visits for sexual sadism were reported, for example, in an anal ysis of close to a half billion visits to U.S. outpatient medical clinics.[20] Somewhere between two and six percent of those who were seen at outpatient clinics that treat paraphilic disorders reported problems with sadism; this was the least frequent complaint of those for all paraphilias.[1 32 42] The estimated rate was only slightly higher (6.4%) for about 2,000 sex offenders detained under the SVP civil commitment laws in seven states.[43] It has been reported to be for its identification.[5 15 49-51] The reliability of sex ual sadism in everyday forensic practice is likely to be open to question because of the disorder's low prev alence, documented in the previous section. A few investigators who have reported favorable diagnostic reliability coefficients presented evaluators with sets of case history vignettes for sex offenders and asked that th be identified as either sadists or nonsa dists.[31 2] Their vignettes included an unrealistically high percentage of sadists, however, and evaluators had to choose from only two diagnostic options. Such IJrocedures generate inflated reliability coefn- c1ents.[16] 0t h er Investigators, using t h e same m fl a- tiona methods, found poor diagnostic agree ment.[9 30 44] They concluded that agreement is unlikely because both nonsadistic and sadistic rapists control, humiliate, assault, and hurt their victims, and the DSM criteria require inferences about ab stract states (e.g., offender motivation, arousal,

gratification) that are subjective and unreliable. Taken together, the prevalence and reliability re search on sexual sadism indicates that diagnosticians who do not use very stringent diagnostic criteria to identify this disorder will be subject to error (Ref. 5, p 198).

An Annotation of the DSM and lCD-I 0 Diagnostic Criteria

Table 1 shows the criteria sets for sexual sadism included in DSM-III, DSM-IIIR, DSM- IV, DSM IV-TR, and ICD-10. Changes have been made to this framework over the years, but von Krafft- Ebing's conception is evident, in that the defining character istics of sexual sadism are recurrent and intense sadis

substantially higher (from 10°/o to 81o/o) in offenders[54] who have been hospitalized or incarcerated after mur

tic fantasies, urges, and behaviors that require the infliction of psychological or physical suffering as a preferred or obligatory pattern of sexual arousal. The following phrases from the DSM-IV-TR text that precede the criteria also refer to the urges for "mastering and possessing an absolutely defenseless human" emphasized by Kraff-Ebbing:

> …[T]he sadistic fantasies usually involve having complete control over the victim, who is terrified by anticipation of the impending sadistic act …. Sadistic fantasies or acts may involve activities that indicate the dominance of the person over the victims (e.g., forcing the victim to crawl or keeping the victim in a cage). They may also involve restraint, blindfolding, paddling, spanking, whipping, pinching, beating, burning, electrical shocks, rapes, cutting, stabbing, strangulation, torture, mutilation, or killing [Ref. 10, p 573].

Members of this small group are unlikely to be the subject of SVP petitions, however, because of the long-term nature of their confinements. DSM-IIIR states that less than 10 percent of all rapists engage in sexual sadism (Ref. 8, p 288).

Diagnostic *Reliability*

Diagnostic certainty is a function of a disorder's prevalence rate and the accuracy of the criteria used

Table 1 Criteria Sets for Sexual Sadism From the DSM and ICD-10

Criteria from DSM-IW

(1) On a nonconsenting partner, the individual has repeatedly and intentionally inflicted psychological or physical suffering in order to achieve sexual excitement.

(2) With a consenting partner, a repeatedly or exclusive mode of achieving sexual excitement combines humiliation with simulated or mildly injurious bodily suffering.

(3) On a consenting partner, bodily injury that is extensive, permanent, or possibly mortal is inflicted in order to achieve sexual excitement.

Criteria from DSM-JIIR[8]

A. Over a period of at least six months, recurrent intense sexual urges and sexually arousing fantasies involving acts (real, not simulated) in which the psychological or physical suffering (including humiliation) of the victim is sexually exciting to the person.

B. The person has acted on these urges, or is markedly distressed by them.

Criteria from DSM-IV[9]

A. Over a period of at least six months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving acts (real, not simulated) in which the psychological or physical suffering (including humiliation) of the victim is sexually exciting to the person.

B. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Criteria from DSM-IV-TR[10]

A. Over a period of at least six months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving acts (real, not simulated) in which the psychological or physical suffering (including humiliation) of the victim is sexually exciting to the person.

B. The person has acted on these urges with a nonconsenting person, or the sexual urges, or behaviors cause marked distress or interpersonal difficulty.

Criteria from ICD-10[18]

A preference for sexual activity which involves the infliction of pain or humiliation. If the subject prefers to be the recipient of such stimulation this is called masochism. If the provider, sadism.

It is useful to assess an SVP respondent against the content of previous DSMs and the ICD-10, not just the current version of the DSM. Unfortunately, the Sexual Disorders section ofDSM-IV-TR is the most incomplete and poorly written in the entire manual. A particularly egregious oversight is that valuable wording was omitted for differentiating rapists from sexual sadists that was included in previous DSMs. The relevant text from DSM-IIIR, which elaborates on points introduced in DSM-III, stated that:

> *Rape or other sexual assault* may be committed by people with this disorder. In such instances the suffering inflicted on the victim is far in excess of that necessary to gain com pliance, and the visible pain of the victim is sexually arous ing. In most cases of rape, however, the rapist is not moti vated by the prospect of inflicting suffering, and he may even lose sexual desire while observing the victim's suffer ing. Studies of rapists indicate that fewer than 10 percent have sexual sadism. Some rapists are apparently sexually aroused by coercing or forcing a nonconsenting person to engage in intercourse and are able to maintain sexual arousal even while observing the victim's suffering. How ever, unlike the person with sexual sadism, such people do not find the victim's suffering sexually arousing [Ref. 8, pp 287-8; emphasis in the original].

Rather than including the foregoing passage, DSM-IV and DSM-IV-TR contained identical pas sages that emphasized the importance of differenti ating paraphilias from sexual interests of a nondini cal nature and from nonparaphilic disorders. Regarding this differentiation, DSM-IV-TR pointed out that:

> A Paraphilia must be distinguished *.from nonpathological use ofsexualfantasies, behaviors, or objects as a stimulusfor sexual excitement in individuals without a Paraphilia.* Fantasies, behaviors, or objects are paraphiliac only when they lead to clinically significant distress or impairment (e.g., are oblig atory, result in sexual dysfunction, require participation of nonconsenting individuals, lead to legal complications, in terfere with social relationships).
>
> In *Mental Retardation, Dementia, Personality Change Due to a General Medical Condition, Substance Intoxication,* a *Manic Episode* or *Schizophrenia,* there may be a decrease in judgment, social skills, or impulse control that, in rare in stances, lead to unusual sexual behavior. This can be distin guished from a Paraphilia by the fact that the unusual sexual behavior is not the individual's preferred or obligatory pat tern, the sexual symptoms occur exclusively during the course of these mental disorders, and the unusual sexual acts tend to be isolated rather than recurrent and usually have a later age onset [Ref. 10, p 568; emphasis in the original].

The introduction to Chapter V of the ICD-10 describes the block of disorders that includes sado masochism, which combines the concept of sadism with that of masochism, as "a variety of conditions and behavior patterns of clinical significance which tend to be persistent and appear to be the expression of the individual's characteristic lifestyle and mode of relating to himself and others." This theme, taken together with the view that sadomasochism consists

of a "preference for sexual activity which involves the infliction of pain or humiliation" (Ref. 18, § F65.5), supports the views articulated in DSM- III and -IV-TR that sexual sadism involves urges that are very strong in the sense of being "necessary" (Ref. 7, p 266) and "preferred or obligatory" (Ref. 10, p 568). As Table 1 indicates, however, the ICD criteria do not clearly differentiate between sadomasochism as a paraphilia and the enactment of sexual scripts that seem to fit its definition but are harmless and care fully orchestrated simulations among the large num ber of consenting and unimpaired adults who find

these pursuits to be sexually gratifying.[20]. The ICD criteria for sadomasochism and a number of other disorders of sexual preference have conse quently been cited as:

> … pathologizing, stigmatizing, and discriminating, against individuals who engage in alternative sexual prac· rices .... Indeed, Sweden recently took the step of remov· ing transvestism, fetishism, and sadomasochism from its official list of diseases and mental disorders [Ref. 20, p 325].

Guidelines for SVP Evaluation

Great care is necessary in evaluations performed as part of SVP civil commitment proceedings if they are to reach the high level of confidence necessary to justify a recommendation of likely lifetime incarcer ation. To reduce diagnostic errors, we recommend that evaluators document that they have carefully completed a two-step assessment.

Step I: Provide Affirmative E.vidence for the Diagnosis

The evaluator must first document that the of fender has the required features of sexual sadism as these are defined by the content of the current DSM and its predecessors. For those cases in which a rapist admits to being sexually aroused preferentially by the suffering of his victim, the diagnosis of sexual sadism is relatively straightforward. Unfortunately, knowing the implications of such an admission, most sadists are likely to deny having any kind of paraphilic arousal pattern. The evaluator may rely on other ev idence to infer the presence of sexual sadism, but should always be cautious, given the possible the infliction of pain. These behaviors should be per sistent and characteristic of the individual's sex life rather than occasionally present or present only un der the influence of alcohol or other substances.

Step 2: Differential Diagnosis

An evaluator who claims that a respondent to an SVP petition meets the criteria for sexual sadism must testify to being reasonably certain that this di agnosis is present. Such certainty requires consider ing and ruling out all the many other much more common motivations for rape. Evaluators occasion fallibil ity and unreliability of inference. Evidence

may in clude preoccupation with pornography having vivid themes of sadistic violence, possession of sadistic de vices, routinely forcing sadistic behavior on his part ner during intercourse, and frequent inability to be come aroused in sexual relations that do not include

ally make the mistake of assuming that all violence and infliction of pain associated with a sexual offense are diagnosable as sexual sadism. In doing so, they fail to appreciate that sexual sadism is a very specific dis order that is almost never seen in clinical practice and is extremely rare, even in forensic settings, except among sexual and serial murderers. They may also overlook that violence, humiliation, and the inflic tion of pain are inherent aspects of the crime of rape.[19] Rapists are routinely violent and callous, but very few are sadists. The more common contexts of rape are an antisocial personality pattern of criminal ity, the use of disinhibiting substances, the use of poor judgment and social skills, or the presence of psychoses or other mental disorders; an attempt to establish status in a relationship; or an expression of anger, cruelty, or revenge against women. Other rapes are committed under the guise of a date, by a gang of perpetrators, by an opportunist, or primarily for monetary gain.

Further, per our foregoing DSM annotation, paraphilias like sexual sadism "must be distinguished from the *nonpathological use ofsexualfantasies, behav iors, or objects as a stimulus for sexual excitement* in individuals without a Paraphilia" (Ref. 10, p 568, emphasis in the original). Sadomasochistic foreplay among consenting adults therefore does not count as sexual sadism.

We also indicated in our annotation that DSM IV-TR requires evaluators to consider and rule out the possibility that violent or cruel behavior might better be explained as the result of more common disorders. These disorders include "Mental Retarda tion, Dementia, Personality Change Due to a Gen eral Medical Condition, Substance Intoxication, a Manic Episode, or Schizophrenia" (Ref. 10, p 568).

Discussion and Conclusions

Unlike rape, sexual sadism is an official DSM-IV diagnosis that, if applied properly, is a legitimate qualifying mental disorder in SVP cases. Unfortunately, it is easy to confuse the rare, preferred, and specialized violence of sadism with the common, occasional, and nonspecific violence of rape. Failing to make this crucial distinction is likely to lead to considerable confusion and inaccurate diagnostic practices.

Some evaluators may be tempted to switch from paraphilia, NOS, nonconsent to sexual sadism, now that it is becoming widely known and accepted that the former has no standing within the diagnostic system. To prevent this from happening, evaluators must rely on the information from DSM, Third Edition through DSM, Fourth Edition, to understand the steps that are involved in making an accurate diagnosis, to stringently apply all relevant qualifiers and criteria, and to avoid steps that might result in misuse of the DSM. Otherwise, well-intentioned but misguided evaluators may wind up misclassifying many nonsadistic rapists with an incorrect diagnosis of sexual sadism.

Unless the great differences between rape and sexual sadism are kept in mind, sexual sadism may become the next misunderstood and misleading fad diagnosis used to misclassify rapists to facilitate SVP commitment. Sexual sadism applies only to a very small minority of rapists. Rapists and sadists are superficially similar, but fundamentally different. Both rapists and sadists are often violent toward their victims but with different motivations. The goal of the rapist's violence is to rapidly and thoroughly control the victim to insure sexual compliance. For the majority of rapists, violence and control are primarily tools to force a nonconsenting person to have sex. By definition, rape is nonconsensual sex that would occur only under conditions of overt or threatened violence.

In contrast, the sadist has a more specific motivation. His stereotyped and often diabolical violence and his demeaning control are the main event of the sex act that fulfill deeply held and sexually arousing fantasies and sexual urges that are recurrent and intense rather than infrequent

Rapists and sadists are both routinely cruel and nonempathic. Both also show a lack of concern regarding the impact of their attack on the victim. Here again, they have different motivations. For the sadist, the sexual excitement is enhanced by, or may exclusively reside in, being dominating and cruel in a way that elicits pain. For the rapist the pain inflicted is more incidental, seen perhaps indifferently as necessary collateral damage, not as the goal of the sex act. The rapist and the sadist both lack a conscience to inhibit hurting others, but only the sadist requires pain as a sexual stimulant. Rape is always a heinous, ugly, violent, and cruel crime. But the violence and cruelty that are part of all rapes should not be confused with the internally motivated violence and cruelty of sexual sadism that requires causing the victim pain to generate excitement.

This distinction must be clearly appreciated, and a positive diagnosis must be supported with strong confirmatory evidence. Otherwise, virtually all rapists could receive a mental disorder diagnosis of sexual sadism and be subjected to SVP commitment on the basis of a faulty diagnosis. This prospect runs counter to specific research results indicating that older rapists are unlikely to recidivate.[54] It also flies in the face of Supreme Court rulings[55] and isolated. For the sadist, sex would not be

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nearly so exciting and might not be possible at all if
it were not accompanied by violence that elicits pain, humiliation, and suffering in the victim.

the constitutionality ofSVP statutes only on the con dition that rape and other forms of sexual violence that qualify for civil commitment must result from a predisposing mental disorder that can be reliably dis tinguished from common criminality: sexual sadism does not explain most coercive sex and most rapes should not be mislabeled as sexual sadism.

Psychiatric diagnoses have the unfortunate ten dency to run in fads.[57] A hundred years ago the most common diagnoses were conversion disorder and neurasthenia. Fifty years ago pseudo neurotic schizo phrenia was particularly popular. Twenty years ago, there was an outbreak of multiple personality disor der amid public hysteria about alien abductions. The fad of diagnosing rape as a mental disorder under the rubric paraphilia, NOS, nonconsent, is about 15 years old and seems finally and mercifully to have run its course. It is in the nature of fads to seem compel ling at the moment and then to fade into history. Some SVP evaluators, feeling the loss of paraphilia NOS, nonconsent, may be tempted to substitute the DSM-IV-TR-authorized diagnosis of sexual sadism in its place. A clear understanding of DSM criteria and the many subtle considerations necessary to

make a differential diagnosis will nip this potential fad in the bud.

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Series teaser trailer: Price of Protection

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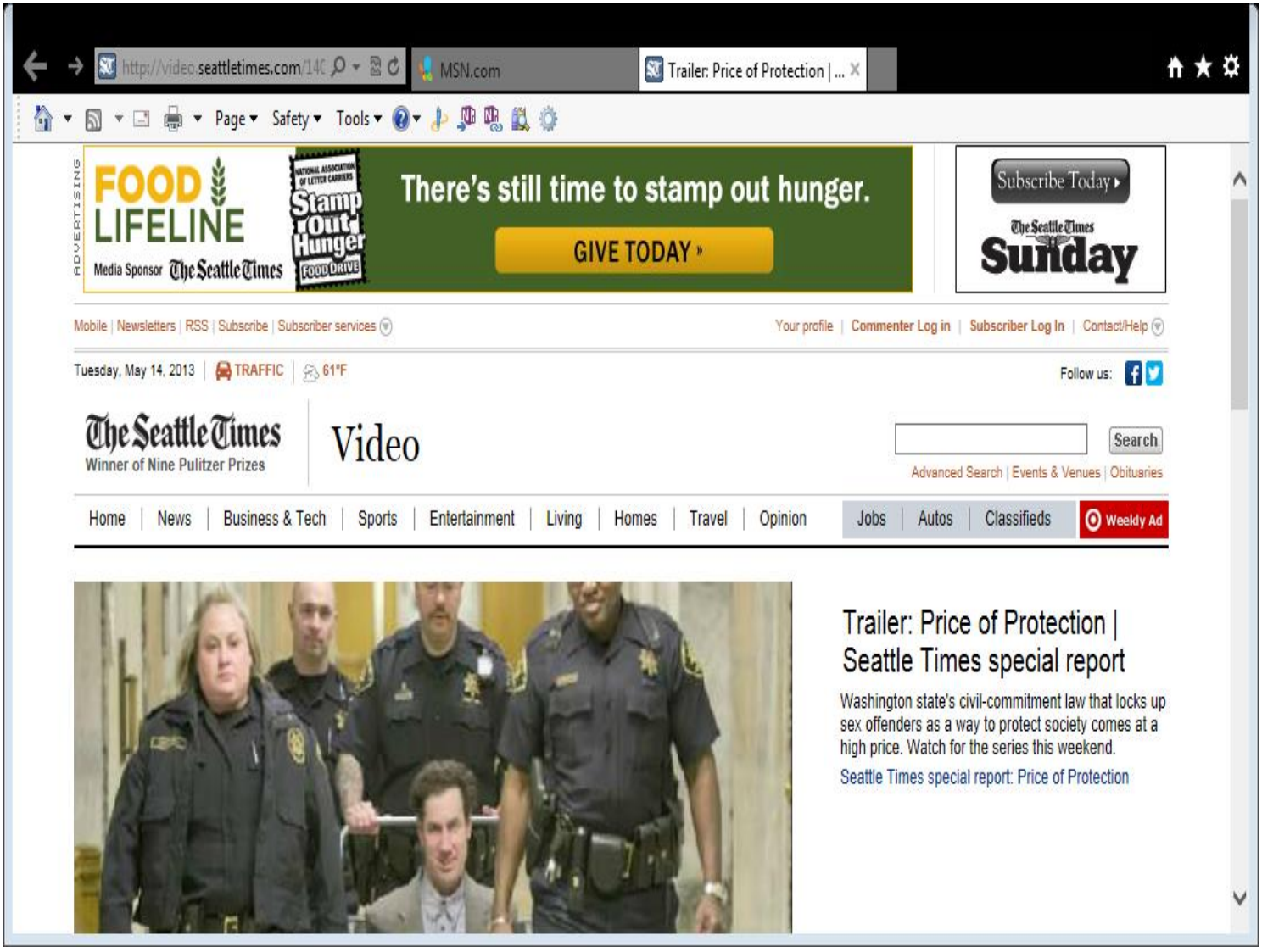


GENEVIEVE ALVAREZ AND CHRISTINE WILLMSEN / THE SEATTLE TIMES

Washington state's civil-commitment law that locks up sex offenders as a way to protect society comes at a high price. View more from the Seattle Times Special Report 'Price of Protection'.

Originally published January 21, 2012 at 6:00 PM | Page modified March 22, 2013 at 4:50 PM

Corrected version

PRICE OF PROTECTION

DEAN RUTZ / THE SEATTLE TIMES

Almost 300 of the state's worst sex offenders live in the Special Commitment Center on McNeil Island. They've already served prison terms but are locked up indefinitely to protect society.

Washington state is wasting millions to help sex predators avoid lockup

In the Special Commitment Center on McNeil Island, almost 300 sex offenders are detained indefinitely. The program protects society from predators. But it has been plagued by runaway legal costs, a lack of financial oversight and layers of secrecy, The Seattle Times has found.

More in the series:

- Update: Troubles persist on predator island (Dec. 2012)
- Update: High court changes mind on sex offenders (May 2012)
- Update: Bill passes to overhaul defense costs (March 2012)
- Sex offenders' legal costs were kept secret from public
- About the series

DEAN RUTZ / THE SEATTLE TIMES

The civil-commitment program's annual budget is about $50 million, which includes operation of the center on McNeil Island, along with legal costs that take almost a quarter of the budget.

Waiting on predator island: Chronic delays drive up cost of sex offenders' court cases

Sex offenders who face civil commitment at McNeil Island routinely postpone their trials for years, driving up costs and wasting state money. In King County, each case can cost up to $450,000.

More in the series:

- Update: Troubles persist on predator island (Dec. 2012)
- Sex offenders could get trials annually, driving up the legal bills
- Predator island: source documents
- Chat rewind: Reporter answers reader questions
- About the series
- Credits

DEAN RUTZ / THE SEATTLE TIMES

"I don't know what I would have done if I was a juror and presented with the same information," says Bernadette McDonald, who was raped by Curtis Thompson after a King County jury declined to send him into the civil-commitment program.

Victim speaks out: 'I truly think he's evil and a monster'

In October 2003, a King County jury had to decide if repeat rapist Curtis Thompson should be freed from prison or committed to a sex-predator lockup on McNeil Island. Persuaded by the words of forensic psychologist Theodore Donaldson, the jurors set Thompson free. But 10 months later, he attacked four more women, killing one.

More in the series:

- Worst case: source documents
- Chat rewind: Reporter answers reader questions
- About the series
- Credits

DEAN RUTZ / THE SEATTLE TIMES

David Hackett, King County prosecutor in charge of civil commitment, stands behind piles of paperwork that represent just slightly more than two cases.

Tiny office says it can save state money on sex-offender defense

Washington has extensive problems with the legal bills of sex offenders who face indefinite lockup at the Special Commitment Center on McNeil Island. The state Office of Public Defense says it could save taxpayers $1 million annually if it took over defense costs statewide.

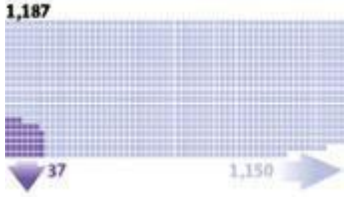
More in the series:

- Challenges: source documents
- Chat rewind: Reporter answers reader questions
- About the series
- Credits

- Video: 'I truly think he's evil and a monster,' rape victim says

- Video: What life is like inside the Special Commitment Center

- Video: Controversial program comes with runaway legal costs



- Graphic: How a sex offender gets committed to McNeil Island

Washington News Council
Complaint against *The Seattle Times* from Dr. Richard Wollert
Documentation


May 1989

Repeat offender rapes, mutilates boy

Repeat sex-offender Earl Shriner rapes and sexually mutilates a 7-year-old Tacoma boy, sparking widespread public outrage.

- Timeline: Evolution of Washington's civil-commitment program

Definition of Civil Commitment:

Who can be confined? To be indefinitely housed at the Special Commitment Center, an offender must meet the legal definition of a "sexually violent predator": "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." — *Source: Revised Code of Washington*

State wastes millions helping sex predators avoid lockup

Washington's civil-commitment program that shields society from the worst sex offenders is burdened with unchecked legal costs and secrecy, The Seattle Times has found.

By Christine Willmsen

Seattle Times staff reporter

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DEAN RUTZ / THE SEATTLE TIMES

On McNeil Island: The state's worst sex predators live in the Special Commitment Center. They've already served prison terms but are locked up indefinitely to shield society. Some commitment cases stretch out years, racking up bills for public defenders and psychologists.

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PRICE OF PROTECTION

Video: Unchecked costs of locking away sex predators

Video: Inside the Special Commitment Center

Video: A victim speaks out

Part One: Expert Costs

State wastes millions on sex-predator legal bills

Sex offenders' legal costs were kept secret from public

Timeline: Evolution of Washington's troubled civil-commitment program

Graphic: How a sex offender gets committed to McNeil Island

Expert costs: source documents

Part Two: Predator Island

Waiting on predator island: Chronic delays drive up cost

Sex offenders could get trials annually, driving up the legal bills

U.S. map: Where sex predators are detained

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Swayed by a psychologist, jury frees 'monster' who attacks again

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Across the bone-chilling waters of the Puget Sound, far from any schoolyard or nightclub, sits a small island reachable only by a high-security ferry.

Two miles inland, behind coils of concertina wire, the state of Washington detains its most reviled and dangerous citizens — child molesters, compulsive rapists, sexual sadists — all with a litany of crimes, addictions and mental disorders.

Here on McNeil Island in the Special Commitment Center, some 280 sex offenders who've already fulfilled their prison sentences continue to be locked up indefinitely as a way to protect society.

That protection, known as civil commitment, comes at a high public price.

In 1990, Washington became the first state to pass a civil-commitment law, detaining offenders who are deemed by a judge or a jury to be too dangerous to set free.

Since then, the controversial program has been plagued by runaway legal costs, a lack of financial oversight and layers of secrecy, The Seattle Times has found.

The state has little or no control over the $12 million a year in legal bills — nearly one-quarter of the center's budget. This results in overbilling and waste of taxpayer money at a time when the agency overseeing the center, the Department of Social and Health Services (DSHS), faces deep budget cuts.

The civil-commitment law has created a cottage industry of forensic psychologists who have been paid millions of dollars for evaluating sex offenders and testifying across the state.

The Times determined that the busiest and best-paid experts include two psychologists who were fired in California, another who has flown here at state taxpayer expense from his New Zealand home, and one who has been paid $1.2 million over two years, some of it for work on cases in which judges questioned his credibility.

Defense teams have hired multiple psychologists — each charging tens of thousands of dollars — for a single case. In at least eight King

County cases, the public paid for three or more forensic experts to evaluate the offender or testify for the defense. The state typically hired one expert. Both sides accuse each other of expert shopping.

Defense lawyers repeatedly delay trials, seeking continuances and appeals, which push costs up. In King County, it takes on average 3.5 years for a commitment case to go to trial; several have taken close to a decade. Meanwhile, offenders are held at McNeil Island, by far the most expensive confinement in the state at $173,000 a year per resident.

It takes up to $450,000 in legal costs to civilly commit a sex offender in King County. Defense outspends prosecution almost 2-to-1, says David Hackett, prosecutor in charge of civil commitments.

How some of the money is spent is a mystery. King County judges, at the request of defense attorneys who cited lawyer-client privilege, have indefinitely sealed hundreds of documents authorizing funds for defense experts. The Times fought successfully to get many of these records unsealed, which included psychologists' names and their fees.

Hackett said the program needs a financial overhaul. "It's a morass," he said. "We've left the door to the candy store wide open."

Public fear, outrage

In the woods near Tacoma in 1989, a repeat sex criminal named Earl Shriner raped a 7-year-old boy, severed his penis, choked him and left him in the dirt, barely alive.

The grisly crimes outraged the public. Shriner had been released two years earlier after serving 10 years for kidnapping and sexually assaulting two teenage girls. At the time, some officials warned he was too dangerous to be freed.

Largely in response to the Shriner case and another case in which a Seattle woman was raped and killed by a sex offender in a work-release program, lawmakers in Olympia passed the 1990 Community Protection Act. It allowed the state to use the civil courts to confine the most dangerous sex offenders. Nineteen other states have since passed legislation modeled on Washington's law.

"It's a highly controversial law," said Kelly Cunningham, superintendent of the McNeil Island facility. "You are talking about restricting someone's freedom after they have served their prison sentence, not for what they have done, but for what they might do."

Advocates of the law say it is designed to protect the public from the worst of the worst — sex offenders who, if released, would rape, molest and even kill.

Despite being upheld by the U.S. Supreme Court, civil commitment has faced continuous attacks. Critics call it double jeopardy, punishing

a person twice for the same crime, a grave violation of constitutional rights.

A public defender in Snohomish County, Martin Mooney, who handles commitment cases, says the entire process is flawed. He said legislators wrote a law that creates a broad, new definition of mental illness that applies to sex offenders, then uses psychologists to forecast who might reoffend.

"It's asking psychologists to be able to accurately say who are really the dangerous guys and who aren't. And I don't think they can do it accurately either way," Mooney said.

"There are experts, on both sides, who have taken pure advantage of this," he said. "Now who do I ultimately blame? Olympia. They signed up for it."

Theodore Donaldson, 84, a psychologist who has been paid millions over the years testifying for Washington and California sex offenders, agrees that experts have taken advantage of the law.

"Two cottage industries have resulted from this law: the experts that can sprinkle their holy water, and the tools to measure risk assessments," he said.

The state tries to lock away only those sex offenders it believes are most dangerous. In 2010, of the 1,187 up for release from prisons and mental institutions, just 17 were referred for civil commitment, according to the Department of Corrections.

The Attorney General's Office handles all the civil-commitment cases except for King County's, where the Prosecutor's Office litigates them. The county has about 30 percent of all commitment cases.

Offenders are entitled to a proper defense. If they are indigent, which almost all are, the public pays for their defense lawyers, paralegals, psychological experts and investigators.

Kenneth Chang, a public defender who represents sex offenders in King County, said defense costs may appear higher, but the defense has more work to do than the state.

"The state's case comes packaged; our case we have to create from scratch," he said.

And until recently, this pool of money appeared to be limitless, with forensic experts naming their price.

How high is the risk?

In a Kitsap County courtroom several months ago, Richard Wollert, a gray-haired psychologist with a bushy mustache, smiled at the jurors, then softly talked to them about a repeat child molester facing civil commitment.

Wollert said that Jack Leck, at one time, may have suffered from pedophilia, a personality disorder in which the person is sexually attracted to children, but he now no longer had it.

Leck had sexual contact with seven boys in the 1980s in Alaska, and lived behind bars off and on throughout his adult life. Seven months after his release in 2002, Bremerton police caught him with dozens of images of child pornography on a computer at an office where he did volunteer work.

In court, Leck, a tall, thin man who gave his age as 59, admitted to jurors he still had an interest in boys but that he would never again touch that "forbidden fruit."

Civil commitment is basically a two-step process. A psychologist must first determine if someone like Leck suffers from a mental abnormality or personality disorder. And if so, determine whether it makes him more likely than not — more than 50 percent — to commit a sexually violent act in the future.

The state's expert, Dale Arnold, a California psychologist, explained to the jury that Leck did suffer from pedophilia and believed Leck would likely find new victims if he wasn't locked up.

Leck hired Wollert on the taxpayers' dime. The Vancouver, Wash., psychologist has earned $1.2 million over two years as a defense expert in civil-commitment cases across the country, pushing his own science and theories. About half of his business comes from Washington.

Wollert had a contract with Oregon's Multnomah County to provide treatment to sex offenders on probation and parole. In 2001, county employees criticized Wollert for incomplete assessments, inadequate treatment guidelines and poor record keeping. The county and Wollert agreed to end the contract.

In the Kitsap County courtroom, Wollert explained that his opinion was based on Leck's own statements that he no longer had fantasies about boys.

Wollert was relying on Leck's words, even though he knew Leck was a habitual liar and had even been deceptive during the psychological evaluation.

"I don't believe the intensity of the urges are what they were in the 1980s. ... I believe he has the ability to control his behavior," the psychologist said on the stand.

In his evaluation of the offender, Wollert credited Leck for not obtaining child pornography for the past eight years. But Leck had been confined to prison or the Special Commitment Center the whole time.

Psychologists have no precise way to determine if any specific offender will commit a violent sex crime in the future, but the law hinges on this. Experts on both sides typically rely on a 10-question assessment tool, the Static 99 and its updated versions, to provide the best guidance on risk. It is the most widely used and accepted tool to evaluate adult male sex offenders.

Psychologists score offenders on criteria such as age, number of sex crimes and sex of the victim. That score is plugged into an actuarial chart that shows recidivism rates of groups of previously convicted sex offenders with similar characteristics. Washington's criteria for commitment includes that the offender be more likely than not to commit a new violent sex crime.

Using the Static 99 and his clinical judgment, Arnold said that Leck was in a moderate- to high-risk group, one with an up to 49 percent chance of reoffending over 10 years.

Wollert disagreed.

A skeptic of the Static 99, he modified it, removed key questions and called his new tool the MATS-1.

For example, he removed the question asking if the victim was a stranger. With the Static 99, a yes answer pushed an offender into a group that was considered a higher risk to reoffend.

R. Karl Hanson, the creator of Static 99 from Ottawa, Ontario, has criticized Wollert's methods, saying he misrepresents statistics and hasn't done the research to validate his own theories.

"More troubling is that he appears to be relying on my research to suggest that I agree with his analysis, when in fact I disagree," Hanson said in a 2008 affidavit in a Franklin County court case.

Using his MATS-1, Wollert told the jury that Leck fit a category of offenders who have only a 23 percent risk of reoffending over an eight-year period.

After hearing from the dueling experts, the jury decided — Leck needed to be committed to McNeil Island.

In a phone interview, Leck scoffed at what taxpayers had to dole out for experts to predict the odds that he would commit future sex crimes. Wollert's bill came to $121,000 for this trial and Leck's previous mistrial, Kitsap County invoices show. The Attorney General's Office said its experts billed about $45,000.

"It would have been cheaper if they would have hired a gypsy and some fortune tellers," Leck said. "I would have had just as much luck."

"Mumbo jumbo"

Wollert often finds himself under attack for his changing theories about recidivism and his self-made assessment tools.

For example, in 2005 he testified that, according to his own research, sex offenders older than 25 fit in a group that had less than a 50 percent chance of committing a new violent sex crime.

Amy Phenix, a forensic psychologist in Pullman who over the years has worked for both the state and defense attorneys, said Wollert almost always finds a reason why an offender doesn't meet criteria for commitment.

"His reports are a gross misrepresentation of risk — it's mumbo jumbo," she said.

Wollert declined to comment.

In two Washington civil-commitment cases, judges found that Wollert's testimony lacked credibility.

Chelan County Superior Court Judge Chip Small criticized Wollert for a lack of objectivity in a 2009 case. "Dr. Wollert testified that if an individual were to commit 100 rapes over greater than a six-month period they still would not likely fit the definition of paraphilia (deviant sexual disorder)," Small wrote.

Wollert was paid about $60,000 in that case, Chelan County records show.

He also has offered unorthodox reasons why some sex offenders shouldn't be committed. Take the case of Keith Elmore, who assaulted and kidnapped a woman. Elmore had cannibalistic fantasies about eating a woman in order to become one; he even formally changed his name to Rebecca.

"His sexual arousal came from fantasies of killing women, cutting up women and eating them," said Brooke Burbank, state assistant attorney general in charge of civil commitments. "Clearly he's an individual who had mental disorders and met the statute."

The defense hired Wollert to evaluate Elmore. During their interview, the psychologist asked Elmore if he had ever killed a large animal or cut up a roast beef, court records show. Elmore replied no. Wollert later said one reason that Elmore didn't meet criteria for commitment was because he lacked the skills to carry out his fantasies of cutting up women.

Wollert was paid more than $60,000 over several years in the case.

Messy billing system

No judge, county administrator or state official can have a complete picture of the costs, which creates leeway for defense experts to bill for questionable expenses.

Legal bills are funneled through three different government agencies. A county judge approves an order for a defense expert, which sometimes is sealed. Then the defense expert submits an invoice not to the judge but to county officials where the trial is taking place. The county pays the expert, then later gets reimbursed those costs by the state Department of Social and Health Services.

When the Times asked for legal costs of particular sex offenders, DSHS couldn't provide it due to its accounting system and the way it processes invoices.

Cath Repp, who retired as a financial analyst at the Special Commitment Center, said county court administrators weren't scrutinizing invoices, which often included bills from multiple lawyers and psychologists with no itemization. "It got too difficult to track," said Repp, who sometimes caught errors. "Some of the explanations are cryptic ... it's hard to know what they were for."

This multitiered pay system has never been audited.

"We're not being as accountable as we should be with taxpayer dollars," said Cunningham, the center's superintendent since 2009.

"One of the struggles we've had is the fact that we're required to pay for all the legal costs. ... It puts us in a precarious situation — when you push back, you can be accused of interfering with due process."

The Times reviewed a sampling of itemized defense bills in King County, and found that nine out of 15 invoices had inconsistencies or errors. When comparing bills for conference calls between psychologists and lawyers, the lengths of time and many of the dates didn't match.

This discrepancy also was found in bills submitted by defense psychologist Wollert and lawyer Robert Naon, who defended Leck in Kitsap County. Wollert was paid thousands of dollars for consulting with Naon on dates that the lawyer didn't include in his invoice. And Naon was paid for conference calls that Wollert didn't report on his invoice.

"I underbilled significantly," Naon said. "I tried to reflect it accurately; maybe I got some dates wrong."

After being told about the discrepancies, the judge in the case is now looking into the bills.

With no one agency overseeing the legal costs, Burbank said, "it's essentially a blank check. ... Experts are billing the court, the court is approving it and DSHS is forced to pay it.

"It's just a free-for-all."

Recycled evaluations

With little control or oversight on costs, attorneys have hired forensic experts who submit inflated bills, recycle evaluations, and even live half way around the world.

Douglas Boer, a psychologist in New Zealand, has worked as a defense expert in at least eight King County commitment cases.

In a 2009 case, Boer made nearly $29,000 for his work for Bob Pugh, who had been convicted of two cases of child molestation and admitted to molesting 10 other children. Boer wrote that Pugh didn't meet criteria for civil commitment because "he admitted to the sexual interactions, but added that he did not find the interactions sexually stimulating."

Pugh lost his case.

Robert Halon, a psychologist from California, overbilled the state in 2009 for a first-class flight and a $1,074 car rental, records show. In this instance, a Special Commitment Center financial analyst caught the overcharge.

Halon said he was unaware of state limits for travel reimbursement. "I send in receipts and then they pay or they don't," he said.

Halon's practices have been called into question before. His license was on probation for 2 ½ years in 1999 after he failed to report suspected child abuse, according to records of the California Board of Psychology.

He and another psychologist, Theodore Donaldson, were fired in 1996 from a contract with the California Department of Mental Health to conduct civil-commitment evaluations.

Donaldson "had problems with clinical diagnosis, report writing skills, risk assessments and clinical conclusions," Phenix, their supervisor at the time, later said.

Shortly thereafter, Donaldson and Halon sent a letter to California public defenders, offering their services as civil-commitment experts.

They have worked exclusively for the defense since.

Donaldson's business flourished. By 2007, he testified, he had performed 459 evaluations in California, and rarely found offenders needing civil commitment. In Washington, he had completed 80 evaluations and determined none of the offenders required commitment. Donaldson, of Florence, Ore., said he made about $390,000 in 2008.

The Times studied several of Donaldson's evaluations in Washington cases and found instances in which he used the same wording in large sections of different reports, sometimes just changing the offender's name. For example, large chunks of a 2007 evaluation of a King County rapist appeared word for word in the reports for three other offenders.

"It's unethical," Phenix said. "It's the same argument for every case."

Donaldson acknowledges his evaluations are similar. "The parts that are redundant deal with the legal issues and the science issues," he said.

In one of Donaldson's invoices, he billed $1,200 for eight hours of interviewing an offender. But his written report said the interview lasted for only four hours.

Donaldson said that bill likely reflected a time he included travel as part of his charge for interviewing. "I was careful not to double-bill for anything," he said. While invoices for state experts aren't typically as high as for the defense, some have stood out. Harry Hoberman, a psychologist from Minnesota, charged $22,000 to evaluate a sex offender and write a report in 2008, according to DSHS records.

"Cadillac" defense?

Another reason that legal costs have been so high is that judges have allowed defense attorneys to hire several experts, at public expense, for a single case. The prosecution typically hires one expert.

The general rule for those facing civil commitment: They are entitled to a lawyer and a forensic expert. But a judge may approve additional lawyers and experts.

In Pierce County, for example, jurors couldn't decide whether Jeffrey Wilson, who had molested several young girls, should be civilly committed. When the case was refiled, Wilson's lawyers hired five experts at a cost of more than $77,000 in 2008 and 2009, DSHS records show.

Two of those experts, an Edmonds psychologist and a Canadian therapist, billed for tens of thousands of dollars in costs not permitted by

state rules, such as creating a community based support group for Wilson in lieu of being confined to McNeil Island. DSHS objected to those costs but a judge ordered the agency to pay most of the bill, $45,000.

Attorneys representing Wilson would not comment.

Burbank said many sex offenders like Wilson have gotten a "Cadillac" defense. "There's nothing in the constitution or any due-process that requires an individual be entitled to the best defense or multiple experts or the most expensive defense," she said.

One King County commitment case with multiple defense experts involved Lawrence Williams, who started raping women at 14.

Williams' lawyers hired at least four experts. They hired both Donaldson and Halon in summer 2003. On the same day in January 2004, a judge approved two more experts, one from New York, the other from New Jersey.

The court approved $21,280 for Donaldson and $19,765 for Halon.

Last summer, the state, with Cunningham's help, enacted legislation limiting each side to one expert per civil-commitment case. But Burbank said the change likely will do little to curb costs because defense attorneys can still hire more experts with a judge's approval.

Porn, coke smuggled in

Despite the four experts, Williams lost his case and was committed in 2004. A year later, hoping to get out, he hired a new expert, Stephen Hart, a Canadian forensic psychologist who charges one of the highest rates, $437 an hour.

He wrote that Williams suffered from a personality disorder, but had abstained from drugs and any sexually deviant behavior while confined, and qualified to live in a setting with fewer restrictions.

But Williams had duped his expert. With the help of a commitment center staffer and a nurse, Williams sneaked porn videos into the center, federal court records show. He also paid a guard to smuggle in crack cocaine.

Williams was caught and is serving a nine-year drug sentence in federal prison. When he completes his time, he will return to the most expensive confinement in the state, McNeil Island.

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CLARIFICATION: The original article, published Jan. 21, 2012, stated that a consulting-services contract between Richard Wollert and Multnomah County, Oregon, was cancelled by the county. In fact, the contract was terminated by mutual agreement of the parties.