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***VIA OVERNIGHT MAIL***

Clemency and Pardons Board  
Office of the Governor  
Legislative Building  
416 – 14th Avenue Southwest  
P.O. Box 40002  
Olympia, WA 98504-0002

**Re: Barry C. Massey, Jr.: Request for Reduction of Sentence  
Institution Number 942583**

Dear Clemency and Pardons Board:

In 1988, Barry Massey was convicted of the aggravated first degree murder of Paul Wang. Mr. Massey was an accomplice in a robbery that went terribly wrong and resulted in Mr. Wang's death. Mr. Massey was only 13 years old at the time of the crime and 15 when convicted. He received a mandatory minimum sentence of life imprisonment without the possibility of parole; to date, he is the youngest person in the country to serve such a sentence. Now, over 19 years after his incarceration, Mr. Massey has proven himself to be fully rehabilitated, of good moral character, and ready to reenter society.

For the reasons set forth below, Mr. Massey respectfully requests that this Board recommend that his sentence be reduced to 20 years, with a release date of January 10, 2007. Such a recommendation is appropriate for three reasons. First, Mr. Massey's exemplary conduct in prison as well as the educational, vocational and psychological skills he has developed, ensure that he will be a productive member of society. Second, although he takes full responsibility for Mr. Wang's death, Mr. Massey's age, lack of criminal record, and psychological capacity at the time of the crime cast doubt on the extent of his culpability. Because the trial court had no discretion when imposing Mr. Massey's sentence, this Board is the first entity to consider these factors. Third, a reduction in Mr. Massey's sentence would allow him to pursue his long-standing efforts at reaching out to troubled youth and, as a result, would provide a benefit to the community.

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The Board need not just rely on the arguments set forth in this letter, but may refer to the 28 letters of support, including those provided by members of the Department of Corrections and prison volunteers, many of whom have seen Mr. Massey's personal and emotional growth over the last 20 years. In addition, the Board may rely on recent actions by the Washington State Legislature and Governor Gregoire that demonstrate an evolving belief that sentences of life imprisonment may not be appropriate in cases like Mr. Massey's. Finally, the Board may rely on the personal statement of Mr. Massey, as he describes his growth during his years in prison and his efforts to come to terms with his role in taking Mr. Wang's life. In light of this information, we respectfully assert that a reduction in Mr. Massey's sentence to twenty years is appropriate.

### **I. Background<sup>1</sup>**

At the outset, it is essential to state that Mr. Massey takes full responsibility for Mr. Wang's death. *See Ex. 2.* Mr. Massey's acceptance of his role in this crime has led to his extraordinary growth during his incarceration.

In January 1987, Mr. Massey was 13 years old and in the 7th grade. Despite suffering from significant developmental deficiencies, the teachers and staff at Mr. Massey's school testified that Mr. Massey worked hard at his studies. Mr. Massey was cooperative and polite, accepting of guidance and authority, and non-aggressive. However, the difficulty he had in his classes made Mr. Massey feel awkward and inferior to his classmates. While in the 7th grade, Mr. Massey was befriended by a troubled older boy, Michael Harris. Although the 15 year old Mr. Harris had a reputation for being a bully, other students looked up to him. He was nice to Mr. Massey; the friendship made Mr. Massey feel more accepted by his peers at school and gave him the attention that Mr. Massey felt he was missing at home. The boys' friendship developed in a typical fashion – meeting after school to ride bikes, play sports, or work on Mr. Harris's paper route. Sadly, this friendship would end with the death of Mr. Wang.

Although initially the boys had a typical friendship, that changed in late 1986 when Mr. Harris convinced Mr. Massey to break into a home on Mr. Harris's paper route. Wanting to preserve his friendship, Mr. Massey agreed. He believed that they would simply be going

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<sup>1</sup> Absent a reference to a specific exhibit, the facts contained in this petition are taken from transcripts of Mr. Massey's declination hearing or the trials of Mr. Massey or Mr. Harris. Due to the volume of the transcripts, they are not included with this petition, but we can provide those documents if the Board believes that review of those materials would be helpful.

into the home to take a few items and then leave. In the course of the break-in, the boys were startled by the home owner, an elderly woman. As they attempted to flee the house, the boys knocked the woman over. They later anonymously called 911 to make sure she was not harmed. Thankfully, the woman was not seriously injured. Mr. Massey took nothing from the home; Mr. Harris took a few items, including a gun.

After the burglary, Mr. Massey shied away from Mr. Harris. The boys saw each other in school, however, and their friendship resumed. Again, they engaged in typical activities for boys their age. However, after school on Friday, January 9, 1987, Mr. Harris convinced Mr. Massey to spend the night at his house rather than go home. Mr. Massey had never stayed away from his home without permission. Indeed, his absence from home was so out of the norm that his mother searched for him and contacted the police to report Mr. Massey as missing. At some point in the night, Mr. Harris asked Mr. Massey to go to Steilacoom with him in the morning to take some items from a store. Mr. Massey thought that the boys would simply go into the store, take a few things, and leave. This idea was reinforced when Mr. Harris suggested they make ski masks so that they would not be recognized by the store owner.

Mr. Massey's understanding of what would happen did not materialize. Mr. Harris brought the gun he stole in the previous burglary, assuring Mr. Massey that it would only be used to scare the store owner. The boys went into the store but left because there were customers present. They returned a second time to see if anyone was inside; Mr. Massey believed that if no one was there they would leave again to put on their ski masks and return to take candy, soda, and fishing supplies. However, once inside the store, Mr. Harris walked to the counter, pulled the gun, and told the store owner, Mr. Wang, to freeze and give him money. Mr. Wang, who was standing behind the store counter, reached to open the register, and Mr. Harris shot him. Mr. Massey recalls hearing a second gun shot and seeing Mr. Wang disappear behind the counter.

Mr. Massey was unable to comprehend what had happened and felt like he was "caught in a dream, things were happening that were not supposed to happen." Ex. 2 at 2. He recalls being frozen in place until Mr. Harris yelled at him to start taking items from the store and place them outside. Mr. Massey started putting candy and other items in his pockets while Mr. Harris forced open the register and took the money inside, giving Mr. Massey a few coins. As Mr. Massey moved items out of the store, he saw Mr. Harris remove a fishing knife from a display and bend down behind the counter where Mr. Wang had fallen. Mr. Massey was unable to see what was happening because the counter was made of solid wood; he remembers: "It seemed like it wasn't happening and I didn't think there was anything I could do." Ex. 2 at 3.

Mr. Harris then directed Mr. Massey to flee the store with the stolen items. Unsure of what to do, Mr. Massey followed Mr. Harris up a hill along some railroad tracks where the boys dropped several items from the store. Mr. Harris also hid the gun. As they ran, Mr. Harris repeatedly told Mr. Massey not to say anything if he was caught because, unlike Mr. Massey, Mr. Harris would be in trouble due to his previous criminal record. They then walked out of the woods and hitched a ride in a passing truck. Shortly after driving away, a police officer pulled the truck over and removed Mr. Massey because he had been reported by his mother as a runaway. Mr. Harris was allowed to leave. By this time, another customer of Mr. Wang's store had called 911, and police were looking for the perpetrators. As the officer who had detained Mr. Massey was calling in that she had located the subject of a missing child report, a K-9 unit emerged from the woods and identified Mr. Massey. Mr. Massey was placed under arrest and transported to jail for booking and interrogation.

## **II. Mr. Massey Is Fully Reformed**

### **A. Difficulties in the Early Years of Mr. Massey's Incarceration**

Mr. Massey was initially incarcerated when he was only 13 years old. During that time and as he proceeded through trial, Mr. Massey was held at the Rehman Hall Juvenile Corrections Center. While there, Mr. Massey was provided with educational services; he was described by teachers there as being "a cooperative and dedicated worker" who made significant academic progress. A program coordinator from Rehman Hall described Mr. Massey as "a kind of kid who is willing to invest in people trying to help him." He further described Mr. Massey as someone who did very well and responded appropriately to authority while in detention. It was originally anticipated that Mr. Massey would remain in a juvenile facility even if convicted. At his declination hearing, the State called witnesses from the Department of Corrections and the Department of Health and Human Services, each of whom testified that due to his age, Mr. Massey would be placed in a juvenile detention facility regardless of whether he was sentenced as a juvenile or as an adult. In ordering that Mr. Massey be declined, the juvenile court judge relied upon that testimony. Unfortunately, it was inaccurate; upon sentencing, although he was only 15, Mr. Massey was placed immediately into an adult correctional facility.

Being transferred to an adult facility was a major setback for Mr. Massey. His limited mental capacity and emotional condition led to the difficulties that Mr. Massey would come to face during the early stages of his incarceration. When Mr. Massey was assessed for special education placement in fifth grade, the tests showed that Mr. Massey was functioning at only the second to third grade level. Psychological evaluations performed after Mr. Massey's

arrest also showed that he had developmental deficiencies with respect to his intellectual and emotional functions. *See Exs. 3-5.*

Shortly after his transfer, out of concerns about his "vulnerability to problems in the adult inmate population," a psychological evaluation was performed on Mr. Massey. It revealed that Mr. Massey, as to be expected from an immature 15-year old with developmental disabilities, was completely unprepared to be incarcerated with adults. One test suggested that Mr. Massey had a "high level[] of suggestibility" and might be "easily influenced by others in [his] peer group." It was also revealed that Mr. Massey had "an unusually high level of dependency for his age," and "significant concern[s] about personal safety." The evaluation also indicated that Mr. Massey might act in order to "evoke nurturance and protection." It was noted that Mr. Massey had a "pattern of 'fringe' involvement in deviant peer activities, associating with others as a means of peer acceptance and only occasionally taking part in anti-social activities as a sign of solidarity and support." Testing also indicated that Mr. Massey was depressed and "struggling intensely with existential 'meaning of life' issues, vacillating back and forth between a sense of personal integrity and personal regret." In conclusion, the psychologist predicted the following:

"[I]t is highly likely that Barry will remain vulnerable to more predatory inmates for some time. His maturity level is below that of his peers in both cognitive and social sophistication, and it could be expected that he would be seen as a target for sexual and other types of predators within the prison system at large."

\* \* \*

"Given the profile of a young man who would do just about anything for acceptance and/or to avoid abandonment, peer group influences become paramount in Barry's ability to make a reasonable adjustment to prison life."  
*See Ex. 5.*

While this behavior was predicted by a Department of Corrections' psychiatrist, at the time there was little empirical evidence regarding brain development of juveniles available. However, in subsequent years an established body of scientific literature has recognized that the brains of adolescents are physiologically different than the brains of adults. The American Medical Association has observed that the behavioral differences between adults and adolescents that have been long-recognized by the psychiatric community are in fact based on anatomical differences between the brains of adolescents and adults.

"Modern brain research technologies developed a body of data in the late 1990s ... that provides a compelling picture of the inner workings of the adolescent brain. Adolescents' behavioral immaturity mirrors the anatomical immaturity of their brains. To a degree never before understood, scientists can now demonstrate that adolescents are immature not only to the observer's naked eye, but in the very fibers of their brains."

Amicus Brief of the American Medical Society, et al., *Roper v. Simmons*, 543 U.S. 551, \*9-10 (2005) attached hereto as Ex. 6. These differences in adolescent brain development have a direct bearing on an adolescent's ability to control impulses, judge or understand future consequences, make moral judgments, and assess risks. *Id.* at 13-14.

In other words, even a juvenile that is functioning at a high level has a limited capacity to understand the consequences of his or her actions. Mr. Massey, however, was not functioning at a high level. He was not even functioning at a level commensurate with other children his age.

The transfer to an adult facility was terrifying for Mr. Massey. He was removed from Rehman Hall, strip searched, forced to leave all of his personal belongings, and then placed in the Intensive Management Unit ("IMU"), which is a solitary confinement setting. Because he was so young, the Department of Corrections felt it had no option other than to so segregate Mr. Massey for his own protection. As a result, Mr. Massey was kept in his cell, by himself, for 23 hours a day.

A short while later, Mr. Massey was transferred to the Monroe Correctional Complex Special Offender Center ("SOC"), where it was expected that he would be better protected. This change in environment did not materially improve the conditions of Mr. Massey's confinement; he was surrounded by mentally disturbed inmates who spent much of their time screaming or banging on their cell doors. As before, Mr. Massey was confined to his cell for 23 hours a day. After months of being held in solitary confinement in the SOC, Mr. Massey was desperate to get out of that environment. He was told by another inmate that if he got into a fight he would have to be transferred, so he punched another inmate.

Mr. Massey was transferred, and so at the age of 15, was placed in the general population of an adult prison. He was assaulted shortly thereafter and for his protection was again placed back in solitary confinement in the IMU until he turned 16. When he was released permanently into the general population, the predictions set forth in his psychological evaluation came to fruition. He learned quickly that to survive in the general population he would have to play along with the expectations of other inmates. Therefore, Mr. Massey

associated himself with hardened, older convicts and younger inmates who were involved in gang activity. Although he typically stayed on the periphery of the activities of these groups and never officially joined any gang, Mr. Massey did incur a number of infractions and lost focus on his education. Ultimately, as a result of several infractions in 1991 and 1992, he was sent to IMU at the Washington State Penitentiary in Walla Walla.

**B. Mr. Massey Accepts Responsibility for His Involvement in Mr. Wang's Death and for His Own Future**

While housed in Walla Walla's IMU, Mr. Massey spent time contemplating his involvement in Mr. Wang's death, his actions while incarcerated, and his future. Mr. Massey has explained the process he went through while in isolation:

"What I realized was that I needed to start accepting my role in the crime, accepting the fact that I had a hand in the death of a man. In my mind, I'm just as guilty as Mike because I was there. Since that time I have cried many times thinking about Mr. Wang's family, my family, breaking my mother's heart and what pain and suffering I have caused. As a child at the time of the crime and during the first few years in prison, I could not fully understand everything that was taking place. Growth does not occur overnight, but my realization in IMU was the first step in the growth process for me. It was a step to say I need to make some kind of change to get off my knees and do something with my life. Now, I understand the meaning of the loss of life and the consequences of a person's actions. So I believe I have a responsibility to myself, to Mr. Wang's family, and to society to give back. When you participate in taking something so precious, you've got to give back so much." Ex. 2 at 5.

When Mr. Massey emerged from IMU, he had accepted his responsibility for this crime and was determined to turn his life around. That determination led Mr. Massey over time to reject the negativity of prison life by maintaining a clean infraction record, obtaining an education and employment, and developing and participating in positive programming. As a result, he has earned the respect of guards, inmates, volunteers and his employers.

**1. Mr. Massey Has Been Infraction Free Since 1996**

Perhaps the clearest evidence of Mr. Massey's turnaround is his infraction record: he has had no infractions since 1996. Ex. B; Ex. 8. As a result, he has been classified to allow him to reside in the lowest possible level of security available for his conviction grade, and has

earned privileges available only to inmates who exhibit exemplary behavior. Mr. Massey's infraction record is particularly important because "[a]n offender's good behavior in prison is related to decreased recidivism and can be a useful indicator for reducing prison time without endangering public safety."<sup>2</sup>

Mr. Massey's good conduct has not gone unnoticed. Rather, guards, inmates, and volunteers have developed a deep level of respect for Mr. Massey. As Monroe Correctional Complex Superintendent Ken Quinn reports, at Mr. Massey's most recent classification review, he "was commended for his positive programming and infraction free behavior." Ex. 8. Superintendent Quinn further explained:

"Mr. Massey maintains a positive attitude and has become an effective role model for other offenders by his good example. Mr. Massey is a team player who communicates effectively and politely with staff as well as other offenders." *Id.*

That official behavioral report is echoed in the letters of several guards who have offered their personal opinions regarding Mr. Massey's request for clemency.<sup>3</sup> These guards describe Mr. Massey's conduct as "top notch," "respectful," and a "role model." *See, e.g.,* Exs. 12, 20. Other guards have explained their appreciation for Mr. Massey's conduct as follows:

- "Mr. Massey is one of the very few inmates that I will openly shake hands with. I give him that respect because I think he's earned it." Ex. 10.
- "Through Barry's good prison conduct he has managed to receive not one single disciplinary sanction in 10 years, which, in and of itself, is quite impressive by any standard. This is proof that Barry's actions and not just words convey his determination to make what life he has productive." Ex. 9.

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<sup>2</sup> Washington State Institute for Public Policy, *Sentences for Adult Felons in Washington: Options to Address Prison Overcrowding – Part II (Recidivism Analyses)* (July 2004) at 16-17. This study is available at <http://www.wsipp.wa.gov/>.

<sup>3</sup> Letters submitted by current and former correctional officers (Exs. 9 - 21) express the personal opinions of those officers and do not reflect the official position of the Monroe Correctional Complex or the Department of Corrections.

- "Having worked this unit for 20 plus years, I have come to know Barry as an inmate, person and man of his word. Barry is a role model inmate who set a positive example for all inmates by his actions, appearance and interaction with inmates and staff." Ex. 11.
- "I have known Massey for fifteen (15) years and have worked in his living unit for five (5) years. Massey has always treated me with respect and has never been a problem in the unit. ... Based on my observations and knowledge of inmate Massey, he treats other staff and inmates with the same respect." Ex. 13.
- "I have been employed for approx. 17 years as a correctional officer at Washington State Reformatory. During this time I have observed Inmate Massey, Barry #942583 grow into adulthood. He has matured into a responsible individual who stays out of trouble and works hard." Ex. 14.
- "Barry has grown tremendously since I have known him, to be someone who not only cares about the inmate population, but about staff as well. He again, is a positive role model for our population here at WSR." Ex. 15.
- "[Mr. Massey] is a reasonable man and that is the best I can say about anyone in the prison world, inmate or staff." Ex. 16.

Mr. Massey's positive behavior has also earned him the respect of his fellow inmates. *See* Exs. 29, 32. As such, Mr. Massey is considered an "invaluable resource" in assisting guards with the behavior of other inmates, particularly younger offenders. *See* Ex. 10. Mr. Massey's unique position has allowed him to positively influence safety and security in the prison. His former classification counselor reports that Mr. Massey "has become an inmate leader who is able to negotiate disputes between inmate groups." Ex. 16. To this end, Mr. Massey has been actively involved in the Concerned Lifers Organization, an inmate group that, along with outside volunteers, works with prison administrators to quell problems and improve conditions within prison facilities. The value of Mr. Massey's contribution in this regard is best expressed by the guards and volunteers who work directly with the inmate population:

- "I/M Massey's personal growth has been a pleasure to watch. He takes responsibility for himself in all aspects of his life. I have watched him mentor younger offenders with that being his 'creedo,' take responsibility for yourself. ... I/M Massey has the respect of both Staff and Inmates alike. I have asked his advice in the past on how to gain compliance with other offenders with the

least amount of resistance. This kind of assistance is not given out to staff by most Inmates, but, I/M Massey has enough self-confidence and ethics to help when asked." Ex. 17.

- "I am always impressed with how Barry is an inspirational leader among his peers and often he demonstrates a level of compassion and caring that serves to motivate others to do their best. He leads by example and is a definite asset to any group or organization he is involved with; a character trait that will ensure his continued success." Ex. 26.

## **2. Mr. Massey Obtained an Education**

Although he had no formal schooling after leaving Rehman Hall, Mr. Massey worked with a tutor to prepare for testing for his General Educational Development ("GED") in Basic Adult Education. To obtain his GED, Mr. Massey was required to pass SAT tests in math, writing, reading comprehension, science, and history. Mr. Massey attempted the GED tests several times coming just shy of passing, but never gave up his effort. He was awarded his GED certificate on August 23, 1996. Ex. 22.

Mr. Massey continues to take advantage of educational opportunities made available through the DOC and volunteer groups. For example, he has participated in several training programs offered by the DOC to develop positive attributes and conflict management skills, including the Alternatives to Violence Program, Anger and Stress Management classes, Breaking Barriers workshops, and Leonard Shaw seminars. *See, e.g.,* Exs. 23-24. In addition, Mr. Massey has taken several correspondence courses, cultural awareness classes, and an African American history class. Participation in basic adult education programs and these types of cognitive-behavior trainings have been found to significantly reduce recidivism rates upon release.<sup>4</sup>

## **3. Mr. Massey Has Been Very Active in Positive Programming**

Along with obtaining his GED, Mr. Massey has also been actively engaged in developing and participating in positive programming offered through the DOC. This programming has been extremely important in Mr. Massey's development. As one guard reports, "As [Mr. Massey]

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<sup>4</sup> Washington State Institute for Public Policy, *Evidence-Based Adult Corrections Programs: What Works and What Does Not* (Jan. 2006) at 5-6 (hereinafter "*Adult Corrections Programs*"). This study is available at <http://www.wsipp.wa.gov/>.

has grown older and more mature, he has taken the information learned in his programming and applied it to his life." Ex. 10.

In 1997, Mr. Massey joined DOC officials and like-minded inmates in developing the Youth Program, an educational outreach program for middle and high school students. *See* Ex. 25. Mr. Massey was selected to work on the Youth Program when the need to reach out to middle-school aged children was identified. Because he was only 13 when he was incarcerated, prison officials believed that Mr. Massey was uniquely qualified to show students how their own lives could actually be affected by poor decision making. Since 1997, Mr. Massey has served as a panelist on the program; in that role he has met with student groups approximately 3 to 4 times per month for almost ten years. Again, Mr. Massey's involvement in the Youth Program has earned him the respect of the guards and volunteers who know him:

- "Many years ago, Barry was one of the original inmates involved in creating a Youth Awareness Program that is still in effect to this day. This program has touched hundreds of troubled youth. I have sat in these programs and listened to Barry talk to the kids. He has a genuine concern in what he says and the message he tries to get across to the youth who come in for the programs." Ex. 11.
- "Of all of the programming Mr. Massey has participated in, none is as important as the Youth Program he leads each week. This program's sole purpose is to educate kids about life behind bars, and keep them from making poor choices that may send [them] to prison. Who knows how many kids Mr. Massey has saved from his own current situation. It would have been easy for him to just do his time and not care, but instead he has reached out to help and educate people. For this he should be commended." Ex. 10.
- "Through [the Youth Program] Barry is able to share his story and his mature understanding, as it now is, of the choices he has made and the effects of his choices. Barry does not address these youths with a 'scared straight' approach, but rather through an approach of understanding and caring in an effort to aid and guide our youth so as to help them have a chance at a productive future." Ex. 9.

As a panelist in the Youth Program, Mr. Massey speaks to students about responsible decision-making, peer pressure, and the significant real-life consequences for inappropriate behavior. The program is highly successful. One teacher described the program as being

"the best educational field trip, real-life type of program he has ever seen" and further noted that his students felt the message imparted by Mr. Massey was important and inspiring. Ex. 27. Another teacher, who has brought teenagers in to participate in the Youth Program for over a decade, describes the importance of Mr. Massey's participation:

"Barry Massey has been a vital part of the reformatory's Youth Program. I have listened to Barry on numerous occasions over the past twelve years and have always been impressed by his honesty, sincerity, and his ability to communicate effectively with my students. Barry has been able to articulate the issues surrounding his own incarceration and crime and punishment, in general, using specific examples from his own experiences. His time with my students has always had a very real and meaningful impact on them and remained with them long after they've left the prison and graduated Monroe High School. On visits back, several graduates have asked about Barry, always wanting to know how he's doing in his life." Ex. 28. *See also* Ex. 29.

The Youth Program is but one of many positive programming opportunities that Mr. Massey has taken advantage of while incarcerated. He has also been a leader in the Concerned Lifers Organization, which is designed to work with prison administration and inmates to address important issues at the institution. Ex. 30. He has also served on the Black Prisoners Caucus, a role which led to his involvement in designing the Youth Program as well as other classes and cultural awareness activities available to the inmate population. He has participated in the Prison Awareness Project ("PAP"), through which he has led discussions for prisoners, volunteers, and community members in an attempt to inform and educate prisoners and those affected by the prison system about a variety of complex issues. One volunteer for the PAP program describes Barry as "a quiet, positive influence in his actions and willing participation." Ex. 33. *See also* Exs. 31-32. He has also participated in a similar program organized by Seattle University for students interested in pursuing careers in criminal justice. Mr. Massey considers this programming an opportunity not just to improve his own life, but to provide information to "other inmates who are also looking to improve themselves." Ex. 2 at 8.

#### **4. Mr. Massey Received Job Training and Excels in Available Employment Opportunities**

Mr. Massey has held a number of jobs since his transfer to an adult facility, including working as a porter, in the kitchen and laundry room, and as a custodian. Mr. Massey has received a Certificate in Custodial Service Operations from Walla Walla Community College. Ex. 34. Mr. Massey also worked for private prison industries as a garment maker

from 1996 to 1997 and for a sheet metal fabricator from 1997 to 2004. Mr. Massey "is highly regarded and considered a hard working, dependable and trustworthy employee/inmate." Ex. 10. That reputation is well earned. For example, in 2004, a pending lawsuit made it likely that prison industries would be shut down; as such, Mr. Massey faced losing his job. Rather than simply waiting to see what the outcome of the lawsuit would be, Mr. Massey volunteered to do yard work at the prison and requested a second job so that he could continue working in the interim. Although he was unable to obtain a second job due to prison policy, he was commended for his desire to retain a full work program. Ex. 35. His work ethic is apparent to the guards and volunteers who observe his behavior:

- "Barry is an exceptional person with tremendous character and highly placed principals that guide all of his personal and professional conduct. He has always demonstrated an outstanding commitment to excel and achieve both personally and academically that results in positive outcomes for himself and the people who he works with." Ex. 26.
- "I/M Massey's work ethic is evident when you look at his work record at Elliott Bay Mfg. I/M Massey took great pride in his job. I/M Massey takes every job and task given to him seriously and makes every effort to give 100% to it's success." Ex. 17.

Mr. Massey's work ethic was also greatly appreciated by his former employer. Bernie Dobson, Vice President of Operations for Elliot Bay Metal Fabricating, Inc. has described Mr. Massey as a "valued employee" whose performance was "more than satisfactory" and "excellent." In addition, he reports that Mr. Massey "always showed respect for his employer and fellow employees and seemed to always have a smile on his face no matter how much pressure he was under." Mr. Dobson has indicated that should Mr. Massey be granted clemency, he would be willing to hire Mr. Massey as a fabricator for his business. Ex. 36.

Currently, Mr. Massey works in the prison's Recreation Department teaching a fitness class and maintaining the fitness facilities. The officer who oversees the fitness department describes Mr. Massey as being dedicated to his classes and providing a high level of instructional quality. Ex. 18. In addition, this officer considers Mr. Massey a valued employee for the following reasons:

"Inmate Massey has conducted himself in an exemplary manner, following directions, rules and regulations established by the department and the institution without hesitation. Inmate Massey is dependable, coming in on

days off or when called upon when needed without any questions or hesitation." Ex. 19.

Another officer concurred in that assessment:

"[Mr. Massey] is currently assigned to work at the WSRU fieldhouse and does an outstanding job in maintaining the equipment and ensuring the cleanliness in his area of responsibility. Inmate Massey needs little supervision in the myriad of tasks that he is assigned to." Ex. 18.

This position has been a perfect fit for Mr. Massey, as it allows him an outlet to avoid the negativity inherent in a prison environment, as well as another means to positively influence the lives of others. He enjoys the position because "[n]ot only does the class serve as a great health aide for the inmate population, but it improves overall self-esteem and personal empowerment." Ex. 2 at 8. If granted clemency, Mr. Massey intends to pursue a career in personal training. As such, to improve his skills in that position he has enrolled in a correspondence course in personal training. Upon the completion of that course, he will take an additional correspondence course on nutrition. As with basic adult education, participation in such vocational education training has been found to reduce recidivism upon release.<sup>5</sup>

#### **5. Mr. Massey Has Maintained a Strong Support System**

Although he has been incarcerated for over 19 years, Mr. Massey has maintained a strong support system outside of prison throughout that time. While housed in Rehman Hall during his trial, personnel at that facility noted that Mr. Massey had a tremendous amount of visitors and significant support from his family. After Mr. Massey was transferred to an adult facility, that support continued. His family has kept close ties with Mr. Massey through regular phone calls and visits. As a result of Mr. Massey's positive behavior and clean infraction record, his family members have been allowed extended weekend visits with him. Most recently, Mr. Massey was allowed to attend and speak at his grandmother's funeral; such opportunities are rarely granted and reflect the great level of respect and trust Mr. Massey has garnered.

The access that Mr. Massey and his family have had has been essential to maintaining their family ties. Of course, should Mr. Massey's sentence be reduced, his family intends to

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<sup>5</sup> *Adult Corrections Programs* at 7.

continue to assist Mr. Massey. *See* Exs. 37-41. For example, his uncle, David Bonds, will provide Mr. Massey with housing and support until he has sufficient funds saved to live independently. Ex. 37.

The strength of Mr. Massey's support network is so unique that Village of HOPE, an agency that provides prevention and intervention services to people involved in the criminal justice system, is using that support network as a model for its program participants. Village of HOPE consultant Willie Williams stated:

"I have met with a number of people in his network and it is clear to me that [Mr. Massey] has earned their support through years of faithful service and commitment in the MCC community and by the way he has handled the difficult journey that he is on." Ex. 26.

Mr. Massey's support network extends beyond his family to include prison employees, volunteers, and community members. Along with the various guards and volunteers listed above, Mr. Massey has occasionally been contacted by community members who hear of his circumstances and have offered him support. *See, e.g.*, Ex. 42. Occasionally, Mr. Massey is contacted by community members seeking his help. For example, last year a single mother whose child was at risk of becoming entangled in gang activity wrote Mr. Massey asking if he would consider being her child's pen pal. He accepted the invitation and has developed a positive relationship with the young man, through which he encourages him to make appropriate choices and pursue his education. *See* Ex. 43. Should Mr. Massey be granted clemency, he intends to continue that relationship as well as the strong relationships he has developed with the family and friends who make up his support network.

### **III. Mr. Massey's Culpability for the Crime Is Limited**

Mr. Massey's development and rehabilitation have been remarkable. An essential piece of that process has been taking responsibility for Mr. Wang's death. As one officer has explained, he has not done so lightly:

"...I have had several opportunities to talk to him about his crime and what happened on that day. He has always been open and honest about it, never ducking his responsibility in what happened. I believe he is truly remorseful for what took place that day and wishes he could go back in time and stop it from happening." Ex. 10.

What makes Mr. Massey's acceptance of responsibility particularly noteworthy is his limited culpability in the crime. Mr. Massey was tried as an adult under two theories: both that he

was the principal and, in the alternative, under an accomplice liability theory. In the summer of 1988 he was convicted; the jury provided only a general verdict and so did not distinguish which theory it was applying to Mr. Massey. Mr. Massey does not ask this Board to question the jury's verdict. Rather, he includes this review of the evidence because he understands that the Board will review not just whether he is reformed but will also look to his level of participation in the crime and to changes in the law since the crime was committed to determine whether a reduction in his sentence is appropriate.

**A. Mr. Massey Did Not Expect Anyone to be Harmed**

There is no question that when Mr. Massey entered into the marina store in 1987 he believed that he and Mr. Harris would be stealing items from the store. What Mr. Massey did not know, and did not have the capacity to understand, was that anyone would be harmed.

Prior to his declination hearing, Mr. Massey was evaluated by two psychologists, one retained in his defense and one retained by the probation department on behalf of the probation officer. Both concluded that Mr. Massey was psychologically incapable of being the principal. The psychologist retained by the probation officer explained:

"From the information which I received, from Dr. Muscatel's evaluation and my own, Barry does not fit the pattern of those committing homicide. He lacks the sophistication and imagination to plan such an act. He is not antisocial." Ex. 3 at 4.<sup>6</sup>

Evidence of Mr. Massey's limited capability is bolstered by the scientific research completed in the past ten years regarding juvenile brain development. As detailed above, juvenile brains are anatomically different from adult brains; those differences result in a decreased ability in juveniles to understand the consequences of their actions or assess the risks of their behavior. The lack of brain development in teenagers coupled with Mr. Massey's developmental deficiencies directly link to the degree of Mr. Massey's culpability in this crime.

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<sup>6</sup> In contrast, Mr. Harris had a history of violent and aggressive behavior. According to the boys' teachers, Mr. Harris had been on a "binge or a rage" in the days before the murder. These teachers described Mr. Harris's assault of a 7th grade girl that he believed had told on him and a fight in which Mr. Harris slammed another child to the ground repeatedly. Shortly before the murder, Mr. Harris vandalized a store owner's car after being kicked out of the store. Further, a psychologist who examined Mr. Harris shortly after the murder opined that Mr. Harris "lack[ed] remorse for hurting ... another person."

Mr. Massey's decision to participate in a robbery in order to maintain a friendship was a poor choice made by a very unsophisticated boy. What scientific evidence now provides is a greater understanding of how Mr. Massey, at age 13, could not have fully comprehended the risks or consequences associated with that choice.

What we now know about juvenile brain development has led the State of Washington to join a growing chorus of voices in the scientific and legal community that recognize that juveniles are less culpable for their crimes and are not deserving of the same sentences imposed on adults for those crimes. In the spring of 2005, the people of Washington, through a unanimous vote by the Washington legislature, passed a law amending RCW 9.94A.540 and eliminated the mandatory minimum sentences under that statute for juveniles tried as adults. In doing so, the Legislature made specific findings regarding the culpability of juveniles that it enacted into law. Section 1 of the statute states as follows:

"The legislature finds that emerging research on brain development indicates that adolescent brains, and thus adolescent intellectual and emotional capabilities, differ significantly from those of mature adults. It is appropriate to take these differences into consideration when sentencing juveniles tried as adults. The legislature further finds that applying mandatory minimum sentences for juveniles tried as adults prevents trial court judges from taking these differences into consideration in appropriate circumstances." EHB 1187, § 1(1).

EHB 1187 passed the entire legislature unanimously and was signed into law just five short months after it was initially proposed.<sup>7</sup> We encourage the Board to follow the decision of the Washington Legislature and Governor Gregoire who, by passing EHB 1187, recognized that the brain of an adolescent is not the same as the brain of an adult, and that juvenile brain development is an appropriate factor to consider when analyzing whether a sentence is just.

**B. Mr. Massey did not comprehend the consequences of providing a false confession**

Brain development research also provides insight into Mr. Massey's initial decision to take sole responsibility for not just a robbery that he intended to commit, but also a homicide that

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<sup>7</sup> See CH. 47, 59<sup>th</sup> Leg. Session Law 1187 (2005) (introduced January 18, 2005; passage in House by vote of 97 to 0; passage in Senate by vote of 49 to 0; signed into law by the Governor on May 13, 2005).

he did not expect. That decision clearly reflects his inability at that time to comprehend the consequences of his actions. Ironically, the only evidence suggesting that Mr. Massey was the principal to the homicide, rather than an accomplice, were statements made by Mr. Harris and Mr. Massey himself. Because those statements are critical to analyzing Mr. Massey's culpability, we address them and related evidence for the Board's consideration. Given the importance of the boys' statements, Mr. Massey has retained Northwestern University School of Law Professor Steven A. Drizin, a nationally known and respected expert on false and problematic confessions who has previously testified in front of this Board.<sup>8</sup> Professor Drizin's analysis and conclusions are detailed in his expert report, attached hereto as Exhibit 7.

In his report, Professor Drizin explains that "the best way to determine a confession's trustworthiness is to evaluate the fit between the suspect's post-admission narrative (the account the suspect gives after he admits to the crime) and the objectively knowable facts of the crime (the underlying crime facts and the derivative evidence)." Ex. 7 at 8. Further, research has shown that juveniles and people with limited mental capabilities are more prone to make false confessions. *See id.* at 6-7. Both false confession indicators are implicated in this case.

Upon his arrest, Mr. Massey made a series of statements designed to protect Mr. Harris. When interrogated by the police, Mr. Massey attempted to shield Mr. Harris from responsibility and claimed that he, not Mr. Harris, both shot and stabbed the victim. However, "[c]onfessions are only as strong as the evidence which corroborates them." *Id.* at 12. Mr. Massey's initial confession does not match the forensic evidence developed by police officers. First, blood matching Mr. Wang's was found on Mr. Harris's pants. The State argued at Mr. Harris's trial that the blood "belonged to Paul Wang." No blood was found on any of Mr. Massey's clothing. The medical examiner testified that having blood on one's pants would be an indicator that the person was in close proximity to the victim at the time of the crime. Further, hand swab paraffin tests conducted on Mr. Massey shortly after his arrest did not connect him with the gun used to shoot Mr. Wang, and Mr. Massey's fingerprints were on neither the gun nor the knife that was used to stab Mr. Wang. Additionally, Mr. Massey's height at the time of the crime, the size of the counter over which

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<sup>8</sup> It should be noted that Mr. Massey does not argue, nor does Professor Drizin conclude, that the interrogating officer engaged in any misconduct in obtaining Mr. Massey's confession. Mr. Massey, like many other people, give false or partially false confessions without pressure from the police. *See* Ex. 7 at 11.

he would have had to reach to shoot Mr. Wang, and the proximity of the gun to Mr. Wang, all corroborated the theory advanced by the State in Mr. Harris's trial that Mr. Harris was the shooter, making him the principal in the robbery of the marina store and the murder of Mr. Wang.

In addition to the forensic evidence, Mr. Massey's statement is also questionable because he did not know critical details that the principal would have known. According to Professor Drizin, when a confessor did not participate in the specific actions about which he is confessing, and therefore lacks personal knowledge of the facts of the crime:

"...he will be forced to either guess or to claim a lack of knowledge. When he does, he will often make mistakes. His confession will often be riddled with errors and lacking in specifics. If his narrative fits poorly with the crime facts, fails to corroborate known information and provide unknown information and contains errors about information he should have known if he was involved in the crime, his confession is unreliable and quite possibly false." *Id.* at 8.

Such is the case with Mr. Massey's statements. During his interrogation, Mr. Massey claimed that Mr. Wang was stabbed twice. However, Mr. Wang was stabbed seven times. Because Mr. Massey, who was standing across the room, could not see through the wooden counter, he could not give the police an accurate description of what had occurred. When asked in a later statement, Mr. Massey was unable to describe where Mr. Wang had been shot. He inaccurately stated that he shot the victim in the leg when Mr. Wang was actually shot in the chest. When pressed, Mr. Massey indicated that he was unsure of where the victim was initially shot. Again, the counter blocked Mr. Massey's view of the shooting, and, as a result, he was unable to accurately take the blame for the crime.

The inconsistencies between Mr. Massey's statements and the physical evidence of the crime are the hallmarks of a false confession and lead to the conclusion that the statements were unreliable. *See id.* at 12-13. Perhaps this is why at Mr. Harris's trial the State took the position that Mr. Massey's statements should be deemed inadmissible because there was not sufficient corroborating evidence to indicate that the statements were trustworthy.

It is difficult to comprehend why an individual might falsely confess to a murder. Significant research in recent years has shown that false confessions are not unusual, and are particularly prevalent amongst juveniles and individuals with mental deficiencies, due to the limited ability of those populations to comprehend the consequences of making a false statement. *Id.* at 6-8. This is especially true for the youngest juveniles. Studies have shown that juveniles

aged 13-15 are more likely to falsely confess than older juveniles. *Id.* at 7. In one study, 78% of 12 to 13 year olds who were innocent of what they had been accused, signed false confessions when prompted. *Id.* at 7-8. At the time Mr. Massey gave his confession, he was 13 years old and had the mental age of only 9.9 years. *See* Ex. 3 at 2. Professor Drizin has opined that "Mr. Massey's low intelligence was also a risk factor for false confessions." Ex. 7 at 11-12. Further, the character traits revealed through psychological testing (that he was passive, conforming, naïve, and easily manipulated) were precisely those "that would make him vulnerable to falsely confessing." *Id.* at 12.

Mr. Massey's decision to take the blame was not unusual, as one typical reason for falsely confessing is a desire to protect a friend or loved one. *Id.* at 11, 13. The willingness for juveniles to waive their rights and to falsely confess is linked to what we have now learned about juvenile brain development: juveniles who do so are "primarily concerned about their immediate predicament and only secondarily worried about the long-term consequences of their decision." *Id.* at 7. This is in keeping with Mr. Massey's decision to falsely confess:

"I was thinking that if I could tell them a story it would be over with and I could go home. I knew Mike had been in trouble before and that I hadn't, so I took the blame because I thought I was helping Mike and I didn't know what else to do. I just said what I felt would please them and help Mike, even to the point of substituting myself in for Mike. I wanted to protect Mike because I thought he was my friend, but I don't think at that time in my life that I knew what friendship meant." Ex. 2 at 3.

Apart from Mr. Massey's statement, the only other evidence to suggest that Mr. Massey was the principal was a statement given by Mr. Harris in which he claimed he had been an unwitting participant in both the robbery and murder. That attempt to shift the blame to Mr. Massey was untrustworthy, and the State itself argued that the statement was unreliable at Mr. Harris's trial:

"I urge the Court not to close its mind to the fact that that statement is nothing more than a culmination of statements that Michael Harris gave to get himself out of this, to paint himself in as small a role as possible. And in looking at his statement, the Court must be aware that it has to be viewed with a look to all the circumstances and all the nuances surrounding the case."<sup>9</sup>

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<sup>9</sup> The prosecution also stated:

In fact, at Mr. Harris's trial, the State took the position that "as to the first of those scenarios that Michael actually stabbed or shot the victim, Paul Wang, the [S]tate submits to you that the clear implication, the clear logic, the circumstances and common sense would indicate to us that Michael Harris did involve himself in the stabbing and shooting."<sup>10</sup>

Additionally, the State produced evidence at Mr. Harris's trial that Mr. Harris himself admitted to shooting Mr. Wang. During his interrogation, Mr. Harris slipped up and, in response to a question said, "After *I* shot the dude?" Unfortunately, when a transcript of this statement was introduced against Mr. Massey at his declination hearing, it read "After he shot the dude?" The tape and transcript of Mr. Harris's statement was not clarified until after Mr. Massey had been declined and his counsel did not bring the admission into evidence at Mr. Massey's trial. Even without that correction, however, Mr. Harris's attempt to shift blame to Mr. Massey were unreliable. Mr. Harris confessed to at least one other inmate at the juvenile hall. When asked by the juvenile what had happened, Mr. Harris stated that he had shot and stabbed the store owner, that he would not allow Mr. Massey to leave, and that he placed the blame on Mr. Massey because he believed that the boys would each only serve half a sentence if convicted together. Unfortunately, this was not the first incident in which Mr. Harris attempted to place blame on another boy. Two years earlier, Mr. Harris was found to have a stolen gun in his possession while in a mall. When questioned by police, he attempted to place blame for the possession of the weapon and the burglary where the weapon was obtained on another teenager who was uninvolved in either incident.

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"Michael Harris has made inconsistent statements concerning the involvement of himself and the involvement of Barry Massey. Not only is this evidence of a motive by Michael Harris, but it helps sort out who's doing what. Michael Harris is not only on the run now but has been on the run in the past, and the fact that he is out there, the more independent of the two on the run for the second time, gives the Court some indication as to the relative positions of these two are. It's essential."

Further, the State argued that given inconsistencies in Mr. Harris's statements to the police, "the Court has to view with some concern Michael Harris' statement that Barry Massey did everything in this particular case" and that "there's every indication that [Mr. Harris is] minimizing his own involvement in the crime."

<sup>10</sup> As with Mr. Massey, the State tried Mr. Harris as both the principal and accomplice, arguing that it need not show who the actual shooter was.

Absent the statements of Mr. Massey and Mr. Harris, there is no evidence to suggest that Mr. Massey was the principal in this crime. However, at his trial, the jury was instructed that Mr. Massey should be found guilty of aggravated murder if Mr. Harris had premeditated the murder, even if Mr. Massey had not.<sup>11</sup> Washington law now endorses the common sense notion that a defendant's sentence cannot be increased by an aggravating factor based solely on the mental state of a co-defendant. *In re PRP of Howerton*, 109 Wn.App. 494, 501-02 (2001). This law was not clarified until after Mr. Massey's trial. While Mr. Massey could still have been found guilty as an accomplice of first degree murder, today aggravating factors could not be applied to Mr. Massey based on Mr. Harris's mental state. Absent the application of the aggravating factors, the trial judge would not have been required to sentence Mr. Massey to the mandatory minimum sentence of life without the possibility of parole. Rather, his trial judge would have been able to consider mitigating factors, such as Mr. Massey's age, developmental deficiencies, and lack of criminal record when determining what sentence in that range was appropriate.

As of the filing of this petition, Mr. Massey has served over 19 years since his arrest. He is now 32 years old; if his sentence is not reduced he will likely spend an additional 50 to 60 years in prison. Such a sentence is not in keeping with changes and clarifications in Washington law subsequent to his conviction. Further, given his limited culpability in the crime, such a sentence is not just. Mr. Massey has already served more than a first degree murder sentence.<sup>12</sup> Therefore, the Board and Governor Gregoire may acknowledge that

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<sup>11</sup> The error in these instructions was compounded by the State's argument during Mr. Massey's trial attempting to explain accomplice liability. These arguments emphasized that the jury could punish Mr. Massey based on the actions of his co-defendant.

"What does it mean to be an accomplice? Well, he told you that an accomplice is somebody that assists or aids or helps or encourages whatever criminal activity he's being involved with, or whatever element of the crime that you're worried about. What does that mean exactly? It means that the defendant himself, Barry Massey, in those areas where the judge tells you accomplice liability applies, *he doesn't have to be the one to have done whatever it is.*"

<sup>12</sup> The mandatory minimum sentence for first degree murder is 20 years. However, due to the passage of EHB 1187, today when a juvenile is tried as an adult for first-degree murder, a sentencing judge is not required to impose the mandatory minimum sentence that would be applied to an adult, but may consider mitigating factors and impose a lesser sentence. However, even if Mr. Massey had

Mr. Massey can and will be a productive member of society and evidence that his limited mental capacity rendered him less culpable for the crime, while still ensuring that he has been punished in a manner and for a period of time deemed appropriate for one convicted of murder.

#### **IV. A Reduction in Sentence Would Benefit the Community**

There can be no doubt that Mr. Massey's young age at the time of the crime, childhood spent in prison, and remarkable rehabilitation make him truly rare. Those life experiences, and the significant time he has already dedicated to educating young people, make him uniquely qualified to positively effect the most at-risk populations of youth in Washington communities. There is no doubt that the need is great. *See, e.g., Ex. 44.* Recent studies also show that youth are less likely to become involved in delinquent or truant behavior where community coalitions exist which provide exposure to good adult role models and settings which encourage positive behavior.<sup>13</sup>

Therefore, Mr. Massey, along with Village of HOPE, request that a reduction of sentence be awarded in conjunction with a commitment by Mr. Massey to assist Village of HOPE or similar organizations in creating and implementing "community educational sessions that address violence and gang involvement at their root." Ex. 26. Willie Williams, a consultant for Village of HOPE, became interested in working with Mr. Massey on this project after seeing Mr. Massey speak publicly several times. He explains that he was "awe struck by the level of honesty and regret that [Mr. Massey] has not only articulated, but demonstrated for what he has done during the time of his present incarceration." *Id.* Mr. Massey's ability to convey his life story has led another prison volunteer to describe him as someone who "so profoundly affected [her] with his story, his composure, and his compassion" that she chose to become a volunteer at the prison for several years.

Even with Mr. Massey's ability to convey his life story, it is clear that the endeavor he and Village of HOPE seek to undertake will be no small task. However, Mr. Massey has the disposition to take on such a challenge:

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been sentenced within the standard adult sentencing range, given his earned time and good time, he could have been eligible for release after serving between 12 and 13 years.

<sup>13</sup> Numerous studies regarding such programming are available through the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention at <http://www.wsipp.wa.gov/>. *See also* "Helping America's Youth – Risk and Protective Factors," at <http://www.helpingamericasyouth.gov/background-factors.cfm>.

- "I/M Massey has spent his incarceration at WSRU trying to better himself with all the things I have mentioned in this letter. To better yourself in such a negative environment is not an easy thing. I/M Massey has accomplished that." Ex. 17.
- "Barry has grown and learned a lot about himself, he is knowledgeable and considerate to others feelings, he has always maintained a positive attitude no matter what challenges him." Ex. 11.
- "Regardless of his situation he is mature, enthusiastic and knowledgeable. ... He consistently maintains a positive attitude regardless of his situation." Ex. 18.
- "His personal success as a man is the culmination of some failures, some mistakes, some false starts, some confusion also but his determination to keep on going anyway. Ex. 21.
- "Barry has a personal resolve for self improvement and finding the silver lining in life's setbacks. I can easily say I would choose Barry over many others I know to guide me through moments of frustration and discouragement. He can handle extreme adversity with patience, resolve, and a healthy balance between determination and compromise. ... I also believe our society stands to benefit significantly from the possible contributions such a courageous and resilient person has to offer." Ex. 32.
- "I have literally watched this young man for the past 17 years grow up and mature before my very eyes. As I reflect on how he has been able to rise above the negativity that surrounds him. I can honestly say that I am proud of the man that he has become." Ex. 9.

This type of commitment to provide community services is particularly appropriate because of Mr. Massey's passion for helping at risk youth. As he has explained:

"I believe the work I am doing in this area is invaluable and that I am part of a community of at-risk children. I will continue to talk with middle and high school children as well as at risk youths if I am given clemency. I would especially like to work on the Village of Hope program with Willie Williams. I am excited about that program because it is directed toward prevention. I

know I can continue to make a difference in the lives of many people once given the chance." Ex. 2 at 6.

**V. Conclusion**

The people of Washington, through their constitution, have given the Governor the power to recognize the public interest in granting a reduction in a sentence. The public interest is implicated in this case. Not only has Mr. Massey shown that he is successfully rehabilitated and ready to rejoin society, but both scientific and legal developments have shown that a reduction in Mr. Massey's sentence is just. We leave you with the words of Officer Shane Zey, whose sentiments perhaps best reflect why a reduction in sentence is proper:

"If Barry Massey were to be granted clemency and moved in next door to me, I would greet him with open arms and welcome him to the neighborhood and not lose a minute of sleep over it. Award him clemency. Give him a chance. He has paid for his crime and he's earned it!" Ex. 10.

Thank you for your consideration of Mr. Massey's request for clemency.

Sincerely,



Brendyn P. Ryan



Beth A. Colgan  
Columbia Legal Service



Charles C. Sipos